

NEW YORK'S PUBLICATION REQUIREMENTS: DEPARTMENT OF STATE'S POSITION ON "SUSPENDED" STATUS

The alternative (limited liability) entity provisions in New York, effective June 1, 2006, require that a Certificate of Publication be completed by the entity, executed under penalties of perjury, and filed with the Department of State along with the affidavits of publication from the newspapers **within 120 days after establishment of business.**

New York's limited liability entity statutes indicate that failure to meet the publication requirement will result in suspension of the entity's "authority to carry on, conduct or transact business" in New York.

The New York Department of State continues to take the position that they will not note "suspended" status in their records or on status certificates for entities that have not complied with the requirements.

Clients have told us they are uncertain regarding what "suspension" actually means and have expressed concern about giving legal opinions that involve NY limited liability entities that have failed to meet the publication requirement. To ascertain whether or not the requirements have been met, we suggest obtaining a long form subsistence ("Good Standing") certificate from NY which will show whether the required Certificate of Publication has been filed. Since the cost of a long form certificate in NY is the same as a short form certificate, NCR has made it a policy to always obtain long form certificates in NY unless clients specifically request the short form. You may also want to obtain certified copies of the Certificate of Publication and corresponding affidavits of publication to ensure the new statutory requirements have been satisfied.

To download NCR's chart comparing the current and previous New York publication requirements, [click here](#).

To download NCR's memo summarizing the current publication requirements (includes links to the text of the new provisions), [click here](#).

Please note that this memo is for information purposes only and is not to be taken as legal advice.

NCR will continue to keep clients informed of important news related to New York's publication requirements. If you have any questions or if you need assistance in arranging publication, contact your NCR corporate specialist.