

## Transferring or Eliminating a Registered Office, or Transferring a Records Office as an Agent

Thank you for your request on how to transfer or eliminate a company's registered office or transfer a company's records office under sections 39, 40 and 41 of the *Business Corporations Act*.

**Note:** These instructions must be read in conjunction with the applicable section of the *Business Corporations Act* (see **Appendix A**).

### PART A

#### TRANSFER OF REGISTERED OFFICE BY AGENT Section 39 of the Business Corporations Act

An applicant agent who is NOT a director or officer for the company, but who is authorized by the company to maintain the registered office of the company at the person's residence or place of business, may apply to the registrar to transfer the location of the registered office of the company to the British Columbia residence of a director or officer of the company.

**Note:** If the applicant agent is unable to locate the British Columbia residence of a director or officer, the applicant agent can apply to the court under section 40 of the *Business Corporations Act* to have the registered office of the company eliminated.

See instructions in **Part B** of this package on how to apply to eliminate the registered office.

#### STEP ONE

At least 21 days before submitting an application to the registrar for filing to transfer the registered office of the company, the applicant agent must provide to the director or officer of the company a notice in writing advising they will make an application to the registrar unless, within 21 days after the date of the notice, the company files with the registrar a notice of change of address under section 35 to transfer the location of the registered office.

The applicant agent must also specify in the written notice, the British Columbia residence address of the director or officer as the address to which the location of the registered office is to be transferred by the application made to the registrar.

**Note:** Section 39(5) of the *Business Corporations Act* states that an applicant agent who is unable to ensure receipt by the director or officer of the written notice may apply to the court for an order of substituted service of that notice and may serve that notice in accordance with any order made in response to that application.

If, within the 21 days the company files a notice of change of address for the registered office, then the applicant agent does not need to make the application to the registrar. The process is stopped here.

If the notice of change of address is not filed by the company, move to **Step 2** below.

#### STEP 2

If the company fails to file a notice of change of address, the applicant agent can proceed to submit for filing with the registrar an **Registered Office Transfer** (FORM 03 COM). An affidavit must be provided concurrently with the application that specifies the requirements outlined in section 39(4) of the *Business Corporations Act* (see **Appendix A**).

**Note:** Section 39(6) of the *Business Corporations Act* states a director or officer who has received a written notice from the applicant agent advising of the proposed transfer of the registered office may apply to the court for an order that the location of the registered office not be transferred to the residence of the director or office.

#### STEP 3

When the registrar receives and accepts the application and affidavit for filing along with the appropriate fees (see **Part D**), and provided the court does not order otherwise, the registered office will be transferred to the residence address specified in the application at the beginning of the day following the date on which the application and affidavit are filed.

The registrar will provide confirmation of the transfer of registered office to the applicant agent and to the company at the new registered office address.

## PART B

### ELIMINATION OF REGISTERED OFFICE BY AGENT Section 40 of the Business Corporations Act

#### STEP 1

If the applicant agent is unable to locate the British Columbia residence of any of the directors or officers for the company, the applicant agent may apply to the court to eliminate the registered office of the company.

The application to the court must be accompanied by an affidavit of the applicant agent as to the steps taken to locate the directors and officers of the company.

The court may, if satisfied that no director or officer can, after reasonable efforts, be located, make the order it considers appropriate, including an order that the registered office of the company be eliminated on the terms and conditions that the court considers appropriate.

If the court makes an order that the registered office of the company be eliminated, the order is to set out the manner in which records may be served on, and mailed, delivered, sent, provided and furnished to the company.

#### STEP 2

If the court makes any order that the registered office be eliminated, the applicant agent must promptly file with the registrar a **Registered Office Elimination** (FORM 04 COM) concurrently with a copy of the entered court order.

#### STEP 3

When the registrar receives and accepts the application and the court order for filing along with the appropriate fees (see **Part D**) the registered office of the company is eliminated at the beginning of the day following the date on which the notice and court order are filed.

The registrar will provide confirmation of the elimination of the registered office to the company and deliver the confirmation in the manner set out in the court order.

## PART C

### TRANSFER OF RECORDS OFFICE BY AGENT Section 41 of the Business Corporations Act

An applicant agent who is NOT a director or officer for the company, but who is authorized by the company to maintain the records office of the company at the person's residence or place of business, may apply to the court to transfer the location of the records office of the company to the British Columbia residence of a director or officer of the company.

If the applicant agent is unable to locate the British Columbia residence of a director or officer, the applicant agent will not be able to proceed with the transfer of the records office.

If the applicant agent is able to locate the British Columbia residence of a director or officer, then the process continues. Proceed to **Step 1**.

#### STEP 1

At least 21 days before filing the application with the court to transfer the records office of the company, the applicant agent must provide to the director or officer of the company a notice in writing advising they will make an application to the court unless, within 21 days after the date of the notice, the company files with the registrar a notice of change of address under section 35 to transfer the location of the records office.

The applicant agent must also specify in the written notice, the British Columbia residence address of the director or officer as the address to which the location of the records office is to be transferred by the application made to the court.

If, within the 21 days the company files a notice of change of address for the records office, then the applicant agent does not need to make the application to the court. The process is stopped here.

If the notice of change of address is not submitted for filing by the company, move to **Step 2** below.

#### STEP 2

If the company fails to file a notice of change of address, the applicant agent may apply to the court to transfer the location of the records office to the residence of the director or officer of the company who was provided the written notice in **Step 1**.

The application to the court must be accompanied by an affidavit of the applicant agent that specifies the requirements outlined in section 41(4) of the *Business Corporations Act* (see **Appendix A**).

**Note:** Section 41(5) of the *Business Corporations Act* states a director or officer who receives the notice referred to in subsection (2) may apply to the court for an order that the location of the records office not be transferred to the residence of the director or officer.

### STEP 3

If the court makes an order that the records office be transferred, the applicant agent must promptly submit to the registrar for filing a **Records Transfer** (FORM 05 COM) concurrently with a copy of the entered court order.

### STEP 4

When the registrar receives and accepts the application and the court order for filing along with the appropriate fees (see **Part D**) the transfer of the records office takes effect when the application and court order are filed.

The registrar will provide confirmation of the transfer of the records office to the company at its registered office address.

## PART D

### FEES

#### To file an Application to Transfer Registered Office:

To file the Affidavit	\$20
<u>To file the Form 3</u>	<u>\$20</u>
<b>Total:</b>	<b>\$40</b>

#### To file a Notice of Elimination of Registered Office:

To file the Court Order	\$20
<u>To file the Form 4</u>	<u>\$20</u>
<b>Total:</b>	<b>\$40</b>

#### To file a Notice of Transfer of Records:

To file the Court Order	\$20
<u>To file the Form 5</u>	<u>\$20</u>
<b>Total:</b>	<b>\$40</b>

All filings are processed on a first-come, first-served basis unless you pay an additional priority fee. *If you wish the filings to be processed on a priority basis, an additional \$100 will be required.* If the filings are being submitted on a priority basis, clearly indicate on both the envelope and the filings that the submission is a priority.

A priority service is considered completed when the document is filed or the service request is completed. Turnaround is usually within 24 hours.

**Note:** If a document to be filed has errors and requires correction, then those corrections must be made and returned to this office within the 24 hour period to maintain priority status.

Send your documentation, with cheque or money order payable to the Minister of Finance, by mail to:

Corporate Registry  
PO Box 9431 Stn Prov Govt  
Victoria BC V8W 9V3

or by courier to:

Corporate Registry  
200 - 940 Blanshard Street  
Victoria BC V8W 3E6

### ADDITIONAL INFORMATION

For information regarding completion of your documentation, contact the Corporate Registry at 1 877 526-1526. Corporate Registry staff cannot provide legal or business advice.

**Business Corporations Act (SBC 2002) Chapter 57**

## Part 2 – Incorporation

## Division 4 – Company Offices

Section 39 – Transfer of registered office by agent

Section 40 – Elimination of registered office

Section 41 – Transfer of records office by agent

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**Transfer of registered office by agent**

- 39** (1) In this section, “applicant agent” means a person
- (a) who is not a director or officer of the company, and
  - (b) who is authorized by the company to maintain the registered office of the company.
- (2) An applicant agent who maintains the registered office of a company may apply to the registrar, in an application to transfer registered office in the form established by the registrar, to transfer the location of the registered office to the British Columbia residence of a director or officer of the company.
- (3) At least 21 days before submitting an application under subsection (2) to the registrar for filing, the applicant agent must, subject to subsection (5), provide to the director or officer referred to in subsection (2) a notice in writing
- (a) advising that the applicant agent will make an application under this section unless, within 21 days after the date of the notice, the company files with the registrar a notice of change of address under section 35 to transfer the location of its registered office, and
  - (b) specifying the British Columbia residence address of the director or officer as the address to which the location of the registered office is to be transferred by the application.
- (4) An applicant agent must provide to the registrar, concurrently with submitting the application to the registrar for filing, an affidavit of the applicant agent
- (a) confirming that subsection (3) has been complied with,
  - (b) proposing that the registered office be located at the residence address specified, under subsection (3) (b), in the notice referred to in that subsection,
  - (c) describing that residence address as a mailing address and as a delivery address,
  - (d) providing the reasons for the applicant agent’s belief that the proposed location, as described, is the residence of the director or officer referred to in the application, and
  - (e) providing proof
    - (i) that the director or officer referred to in the application received the notice referred to in subsection (3), or
    - (ii) in a case to which subsection (5) applies, that the applicant agent complied with the court order made under that subsection.
- (5) An applicant agent who is unable to ensure receipt by the director or officer of the notice referred to in subsection (3) may apply to the court for an order of substituted service of that notice and may serve that notice in accordance with any order made in response to that application.
- (6) A director or officer who receives the notice referred to in subsection (3) may apply to the court for an order that the location of the registered office not be transferred to the residence of the director or officer.
- (7) The registered office of the company is transferred to the residence address specified in the application under subsection (2) at the beginning of the day following the date on which the application is filed with the registrar.

- (7.1) If a company to which subsection (7) applies has a notice of articles, the company's notice of articles is, at the time that its registered office is transferred, altered to reflect that transfer.
- (8) After the registered office of a company is transferred under this section, the registrar must
  - (a) furnish to the company,
    - (i) if the company has a notice of articles, a certified copy of the notice of articles as altered, or
    - (ii) in any other case, confirmation of the transfer of the registered office, and
  - (b) furnish a copy of the notice of articles or the confirmation, as the case may be, to the applicant agent.

### **Elimination of registered office**

- 40**
- (1) In this section, "applicant agent" has the same meaning as in section 39 (1).
  - (2) If an applicant agent for a company is unable to locate any of the directors or officers of the company, the applicant agent may apply to the court to eliminate the registered office of the company.
  - (3) An application under subsection (2) must be accompanied by an affidavit of the applicant agent as to the steps taken to locate the directors and officers of the company.
  - (4) On an application under subsection (2), the court
    - (a) may, if satisfied that no director or officer can, after reasonable efforts, be located, make the order it considers appropriate, including an order that the registered office of the company be eliminated on the terms and conditions that the court considers appropriate, and
    - (b) must, if the court makes an order that the registered office of the company be eliminated under paragraph (a) of this subsection, set out, by order, the manner in which records may be served on, and mailed, delivered, sent, provided and furnished to, the company.
  - (5) If the court orders that the registered office be eliminated under subsection (4), the applicant agent must promptly file with the registrar a notice of elimination of registered office in the form established by the registrar and a copy of the entered order.
  - (6) The registered office of a company is eliminated at the beginning of the day following the date on which the notice of elimination of registered office is filed with the registrar.
  - (7) If a company to which subsection (6) applies has a notice of articles, the company's notice of articles is, at the time that its registered office is eliminated, altered to reflect that elimination.
  - (8) After the registered office of a company is eliminated, the registrar must furnish to the company,
    - (a) if the company has a notice of articles, a certified copy of the notice of articles as altered,
    - or
    - (b) in any other case, confirmation of the elimination of the registered office.
  - (9) The service of records on and the mailing, delivering, sending, providing or furnishing of records to a company that has had its registered office eliminated under this section may be effected in the manner ordered by the court under subsection (4) (b), and any reference in this Act to serving a record on, or mailing, by ordinary or registered mail, delivering, sending, providing or furnishing a record to, the registered office of a company is, if that company has had its registered office eliminated under this section, deemed to be a reference to the manner ordered by the court under subsection (4) (b).

### **Transfer of records office by agent**

- 41**
- (1) In this section, "applicant agent" means a person
    - (a) who is not a director or officer of the company, and
    - (b) who is authorized by the company to maintain the records office of the company.
  - (2) An applicant agent who maintains the records office of a company may apply to the court to transfer the location of the records office to the British Columbia residence of a director or officer of the

- company if, at least 21 days before filing the application with the court, the applicant agent provides to that director or officer a notice in writing
- (a) advising that the applicant agent will make an application under this section unless, within 21 days after the date of the notice, the company files with the registrar a notice of change of address under section 35 to transfer the location of its records office, and
  - (b) specifying the British Columbia residence address of the director or officer as the address to which the location of the records office is to be transferred by the application.
- (3) Unless, within 21 days after the date of the notice referred to in subsection (2) of this section, the company files with the registrar a notice of change of address under section 35 to transfer the location of its records office, the applicant agent may apply to the court to transfer the location of the records office to the residence of the director or officer of the company to whom the notice referred to in subsection (2) of this section was provided.
- (4) An application under subsection (3) must be accompanied by an affidavit of the applicant agent
- (a) confirming that subsection (2) has been complied with,
  - (b) proposing that the records office be located at the residence address specified, under subsection (2) (b), in the notice referred to in that subsection,
  - (c) describing that residence address as a mailing address and as a delivery address,
  - (d) providing the reasons for the applicant agent's belief that the proposed location, as described, is the residence of the director or officer referred to in the application, and
  - (e) providing proof that the director or officer referred to in the application received the notice referred to in subsection (2).
- (5) A director or officer who receives the notice referred to in subsection (2) may apply to the court for an order that the location of the records office not be transferred to the residence of the director or officer.
- (6) If, on an application under subsection (3), the court orders that the records office be transferred, the applicant agent must promptly submit to the registrar for filing,
- (a) a notice of transfer of records in the form established by the registrar to confirm that the records kept at the company's records office have been physically transferred to the new location of the records office ordered by the court, and
  - (b) a copy of the entered order.
- (7) A transfer of the records office of a company under this section takes effect when the notice of transfer of records referred to in subsection (6) is filed with the registrar.
- (8) If the company to which subsection (7) applies has a notice of articles, the company's notice of articles is, at the time that the transfer of its records office takes effect, altered to reflect that transfer.
- (9) After the records office of a company is transferred under this section, the registrar must furnish to the company,
- (a) if the company has a notice of articles, a certified copy of the notice of articles as altered,  
or
  - (b) in any other case, confirmation of the transfer of the records office.



Telephone: 1 877 526-1526 www.bcreg.ca

Mailing Address: PO Box 9431 Stn Prov Govt Victoria BC V8W 9V3

Courier Address: 200 - 940 Blanshard Street Victoria BC V8W 3E6

INSTRUCTIONS:

Please type or print clearly in block letters and ensure that the form is signed and dated in ink.

- Item B Enter the name exactly as shown on the Certificate of Incorporation, Amalgamation, Continuation or Change of Name.
Item C Enter the full name of the applicant agent, being the person who, prior to the filing of this application, maintained the registered office of the company at the person's residence or place of business.
Item E The delivery address must be for a location in BC that is accessible to the public between 9 a.m. and 4 p.m. on business days for the delivery of records.
Item F If the applicant agent is a corporation or firm, this form must be signed by an authorized signing authority for the corporation or firm.

Effective Date:

The transfer of registered office will take effect at the beginning of the day (12:01 a.m. Pacific Time) following the date on which this notice is filed.

Filing Fee: \$40.00

Submit this form and affidavit with a cheque or money order made payable to the Minister of Finance, or provide the registry with authorization to debit the fee from your BC OnLine Deposit Account. Please pay in Canadian dollars or in the equivalent amount of US funds.

Freedom of Information and Protection of Privacy Act (FOIPPA): Personal information provided on this form is collected, used and disclosed under the authority of the FOIPPA and the Business Corporations Act for the purposes of assessment.

OFFICE USE ONLY - DO NOT WRITE IN THIS AREA

A INCORPORATION NUMBER OF COMPANY

B NAME OF COMPANY

C FULL NAME OF APPLICANT AGENT LAST NAME FIRST NAME MIDDLE NAME

CORPORATION OR FIRM NAME

D MAILING ADDRESS OF APPLICANT AGENT

PROVINCE POSTAL CODE

E ADDRESSES OF REGISTERED OFFICE PROPOSED FOR THE COMPANY DELIVERY ADDRESS OF REGISTERED OFFICE PROPOSED FOR THE COMPANY

PROVINCE POSTAL CODE

BC

MAILING ADDRESS OF REGISTERED OFFICE PROPOSED FOR THE COMPANY

PROVINCE POSTAL CODE

BC

F CERTIFIED CORRECT - I have read this form and found it to be correct.

I also confirm that the affidavit referred to in section 39(4) of the Business Corporations Act is being submitted to the registrar for filing concurrently with this application.

NAME OF APPLICANT AGENT SIGNATURE OF APPLICANT AGENT DATE SIGNED YYYY / MM / DD

X



Telephone: 1 877 526-1526 www.bcreg.ca

Mailing Address: PO Box 9431 Stn Prov Govt Victoria BC V8W 9V3

Courier Address: 200 - 940 Blanshard Street Victoria BC V8W 3E6

INSTRUCTIONS:

Please type or print clearly in block letters and ensure that the form is signed and dated in ink.

Item B Enter the name exactly as shown on the Certificate of Incorporation, Amalgamation, Continuation or Change of Name.

Item C Enter the full name of the applicant agent, being the person who, prior to the filing of this notice, maintained the registered office of the company at the person's residence or place of business. If the applicant agent is a corporation or firm enter the name of the corporation or firm.

Item E If the applicant agent is a corporation or firm, this form must be signed by an authorized signing authority for the corporation or firm.

Effective Date:

The elimination of registered office will take effect at the beginning of the day (12:01 a.m. Pacific Time) following the date on which this notice is filed.

Filing Fee: \$40.00 Submit this form and court order with a cheque or money order made payable to the Minister of Finance, or provide the registry with authorization to debit the fee from your BC OnLine Deposit Account. Please pay in Canadian dollars or in the equivalent amount of US funds.

Freedom of Information and Protection of Privacy Act (FOIPPA): Personal information provided on this form is collected, used and disclosed under the authority of the FOIPPA and the Business Corporations Act for the purposes of assessment. Questions regarding the collection, use and disclosure of personal information can be directed to the Manager of Registries Operations at 1 877 526-1526, PO Box 9431 Stn Prov Govt, Victoria BC V8W 9V3.

OFFICE USE ONLY - DO NOT WRITE IN THIS AREA

★ PLEASE ENTER THE COMPANY EMAIL ADDRESS FOR CORRESPONDENCE

A INCORPORATION NUMBER OF COMPANY

B NAME OF COMPANY

C NAME OF APPLICANT AGENT

LAST NAME

FIRST NAME

MIDDLE NAME

CORPORATION OR FIRM NAME

D MAILING ADDRESS OF APPLICANT AGENT

PROVINCE

POSTAL CODE

E CERTIFIED CORRECT - I have read this form and found it to be correct.

I also confirm a copy of the entered order of the Supreme Court of British Columbia eliminating the registered office of this company is submitted to the registrar for filing concurrently with this notice.

NAME OF APPLICANT AGENT

SIGNATURE OF APPLICANT AGENT

DATE SIGNED

YYYY / MM / DD

X



RECORDS TRANSFER

BUSINESS CORPORATIONS ACT, section 41

Telephone: 1 877 526-1526 www.bcreg.ca

Mailing Address: PO Box 9431 Stn Prov Govt Victoria BC V8W 9V3

Courier Address: 200 - 940 Blanshard Street Victoria BC V8W 3E6

INSTRUCTIONS:

Please type or print clearly in block letters and ensure that the form is signed and dated in ink.

Item B Enter the name exactly as shown on the Certificate of Incorporation, Amalgamation, Continuation or Change of Name.

Item C Enter the full name of the applicant agent, being the person who, prior to the transfer of the records referred to in this notice, maintained the records office of the company at the person's residence or place of business. If the applicant agent is a corporation or firm enter the name of the corporation or firm.

Item E The delivery address must be for a location in BC that is accessible to the public between 9 a.m. and 4 p.m. on business days for the delivery of records. The address must not be a post office box.

Item F If the applicant agent is a corporation or firm, this form must be signed by an authorized signing authority for the corporation or firm.

Filing Fee: \$40.00 Submit this form and court order with a cheque or money order made payable to the Minister of Finance, or provide the registry with authorization to debit the fee from your BC OnLine Deposit Account. Please pay in Canadian dollars or in the equivalent amount of US funds.

Freedom of Information and Protection of Privacy Act (FOIPPA): Personal information provided on this form is collected, used and disclosed under the authority of the FOIPPA and the Business Corporations Act for the purposes of assessment. Questions regarding the collection, use and disclosure of personal information can be directed to the Manager of Registries Operations at 1 877 526-1526, PO Box 9431 Stn Prov Govt, Victoria BC V8W 9V3.

OFFICE USE ONLY - DO NOT WRITE IN THIS AREA

A INCORPORATION NUMBER OF COMPANY

B NAME OF COMPANY

C FULL NAME OF APPLICANT AGENT

LAST NAME FIRST NAME MIDDLE NAME

CORPORATION OR FIRM NAME

D MAILING ADDRESS OF APPLICANT AGENT

PROVINCE POSTAL CODE

E ADDRESSES OF THE NEW LOCATION OF THE COMPANY'S RECORDS OFFICE

DELIVERY ADDRESS OF THE NEW LOCATION OF THE COMPANY'S RECORDS OFFICE

PROVINCE POSTAL CODE

BC

MAILING ADDRESS OF THE NEW LOCATION OF THE COMPANY'S RECORDS OFFICE

PROVINCE POSTAL CODE

BC

F CERTIFIED CORRECT - I have read this form and found it to be correct.

I also confirm all of the records that were maintained by the applicant agent on behalf of the company, at the applicant agent's residence or place of business, have been physically transferred to the new location of the company's records office ordered by the Supreme Court of British Columbia, a copy of which order is submitted to the registrar for filing concurrently with this notice.

NAME OF APPLICANT AGENT

SIGNATURE OF APPLICANT AGENT

DATE SIGNED

YYYY / MM / DD

X