

Business Group Profile

Brody Wilkinson's Business Group represents a diverse group of clients in a range of services from entity formation to daily business operations to complex commercial transactions. Our clients include privately held businesses, family offices, financial institutions, real estate developers and investors, energy providers, public companies with specialized needs, health care providers, entrepreneurs and charitable organizations. We assist these clients in areas such as financing, contracts, taxation, lending, workouts and reorganizations, business disputes, commercial real estate investment, employment and employee benefits.

We act as general counsel to many clients and, as such, coordinate and handle all legal needs throughout the lifecycle of the business, including choice of business entity, key contracts with third parties, joint ventures and strategic alliances, corporate governance, mergers and acquisitions, and transactions with third-party lenders and investors, such as venture capital and private equity firms. In addition, the firm serves as local counsel to out-of-state companies and law firms on Connecticut-oriented commercial transactions in such areas as mergers and acquisitions and lending.

The Business Group is particularly adept at serving the special needs of closely-held and family businesses. For these clients, we collaborate with our experienced trusts and estates attorneys to create sophisticated legal strategies designed to both obtain and preserve wealth. We also counsel these clients with respect to business succession planning. Entrepreneurs benefit greatly from the strong working relationship between the firm's Business, Dispute Resolution and Trusts & Estates Groups as the inception and development of a business present unique planning opportunities.

While the majority of our clients are based in Fairfield County, throughout Connecticut and New York (where several of our attorneys are admitted to practice), our geographic reach extends beyond these borders, when necessary, through strategic affiliations such as our membership in the International Society of Primerus Law Firms.



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Southport Harbor photo by Diana DeLucia

Company Compliance Check-Up Service

Scope of Service

BRODY WILKINSON'S BUSINESS GROUP

has developed a Company Compliance Check-Up service in response to new Connecticut legislation which significantly increased the risks of improper entity maintenance for companies doing business in the State. This service, which is offered to Connecticut entities and foreign entities doing business in Connecticut, benefits our business clients in two ways. First, it ensures that they are in compliance with their obligations to file annual reports and hold annual meetings. Second, it frees them to focus on more substantive business matters. The following information provides a description of the Company Compliance Check-Up service as well as a summary of the new legislation.

Now that it has become even more important to maintain minute books and file annual reports, a designated attorney from Brody Wilkinson's Business Group will manage and facilitate proper compliance with entity maintenance requirements for participating business clients.

Our attorneys will:

- **Review the current status of the company's minute books & annual reports & the client's responses to our Company Compliance Questionnaire**
- **Provide reminder notices in advance of annual report filing deadlines & annual meeting requirements for the company**
- **Prepare & file the annual report required by the State of Connecticut**
- **Prepare annual meeting minutes or consent resolutions in lieu of meetings for the election of directors & officers of the company**

In addition to the compliance requirements of the new Connecticut law, it is also important that our clients be properly authorized to do business in all jurisdictions in which they are transacting business. If a company is transacting business in a state other than where it was formed, it is required to make certain filings (which vary by state) or it may incur penalties and fees (which also vary by state). Finally, if a Connecticut company is transacting business using a name

other than the name that is registered with the Connecticut Secretary of the State, it must also file a trade name certificate or it may incur penalties and fees. As part of our Company Compliance Check-Up service, we will provide preliminary advice and recommendations in connection with these other company filing and record-keeping requirements (however, preparation of required documentation would be subject to a separate billing arrangement).

Fee Schedule

We are pleased to offer this service to clients at an annual flat fee of \$350. This fee is exclusive of the applicable State of Connecticut filing fees and does not include the preparation of consents for transactions other than the election of directors and officers nor does it include filings with other states. If any services beyond the scope of the Company Compliance Check-Up are requested, we will gladly provide you with an estimate for that additional work. For more information about the service, please contact the attorney who you regularly work with at Brody Wilkinson.

Connecticut Amplifies Importance Of Proper Entity Maintenance: New Legislation Summary

On June 6, 2014, Governor Dannel P. Malloy signed into law "An Act Concerning the Integrity of The Business Registry." Among other things, the Act authorizes the Connecticut Secretary of the State to (1) dissolve or terminate a Connecticut business entity's existence or (2) revoke an out-of-state business entity's authority to conduct business in Connecticut, if the entity fails to file its Annual Reports. Under existing Connecticut law, business entities (whether organized under Connecticut law or authorized to conduct business in Connecticut) are obligated to file Annual Reports with the

Secretary on or before each anniversary of the date of the applicable entity's organization. The new Act, which became effective on January 1, 2015 and which the Connecticut Secretary of the State will begin to implement in the spring of 2016, applies to various business entities, including corporations, LLCs and limited partnerships. Under the Act, the Secretary can dissolve a Connecticut corporation, LLC or limited partnership if the entity's Annual Report is more than one year past due. The Secretary can also revoke the authority of an out-of-state business entity to conduct business in Connecticut at any time after the entity fails to file its Annual Report.

Maintaining the entity's existence ensures the intended tax and liability limitation laws apply to the entity and its owners. If the entity's existence is terminated, owners could be held personally liable for the debts and other obligations of the entity, including the entity's tax obligations, and, alternatively, the business assets of the entity could be made subject to the personal tax liability of its owners. Also, an entity that has been dissolved (or which has had its authority to do business in the State revoked) by the Secretary would be: (i) unable to sue or defend a lawsuit, (ii) at risk of losing its right to use its entity name, and (iii) limited in its ability to enforce contracts entered into by it. In short, the entity could lose most of the benefits for which it was formed.

Filing annual reports is just one of the obligations required by law to maintain the entity's separate legal status and avoid personal liability. It is also important for business entities to maintain proper records in order to confirm that the company formalities have been observed. This is particularly true for Connecticut corporations that are specifically required by Connecticut law to hold annual shareholder and director meetings. Moreover, in the course of conducting audits, IRS agents routinely request copies of an entity's books and records. This new Act amplifies the importance of proper entity maintenance and increases the risks for entities that fail to do so.