



Options for Tough Times: The Process of Dissolution

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 - ✓ Be unable to afford legal services.
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Options for Tough Economic Times

In this series, we've discussed a number of options nonprofits may consider in response to these tough economic times:

- Part 1: Mergers & Asset Sales
- Part 2: Insolvency & Bankruptcy
- Part 3: Dissolution

Why Consider Dissolution?

- Loss/lack of funding
 - Government grants reduced
 - Donations reduced
- Unable to meet obligations/budget
 - Unable to pay employees, rent, other obligations
 - Clearly behind on budget and cuts not realistic
- Mission completion, failure, or has become impossible or impracticable

Before deciding to dissolve:

- Involve key stakeholders in discussion
 - Board
 - Staff
 - Major funders
 - Outside advisors (e.g., consultants, legal counsel, accountants)
- Consider
 - Alternative solutions (e.g., merger, asset sale),
 - Assets, liabilities, and obligations that may be affected or implicated by dissolution
 - Is bankruptcy necessary?

Dissolution Process: Overview

Georgia law has specific steps that must be followed:

1. Approve resolution to dissolve and plan for dissolution
2. Notify Attorney General (AG) of intent to dissolve
3. Submit Notice of Intent to Dissolve to county legal newspaper
4. Submit Notice of Intent to Dissolve to Secretary of State
5. Commence wind-down of corporation
6. File Articles of Dissolution and complete closing

IRS & Other Steps

At the end of the Dissolution Process, additional steps:

1. File final Form 990
2. Inform GA DOL, DOR
3. Close EIN

Step 1: Approval to Dissolve

- Organization board (and members, if any) must approve resolution to dissolve and plan for dissolution
- Refer to articles of incorporation and bylaws for voting requirements for dissolution and arrange necessary meeting(s)
 - Sale of substantially all assets
- Draft board resolution and plan of dissolution for board approval
 - **If the corporation has assets:** assets must be transferred to another § 501(c)(3) with a similar mission or sold and the funds donated to another § 501(c)(3) with a similar mission
 - Plan must identify list of § 501(c)(3)s that will receive assets and list the assets
 - Confirm § 501(c)(3)'s want the assets
 - Pick who will be the 2 or more people to oversee wind-down and dissolution

Step 1: Approval to Dissolve (cont.)

- If the corporation has members, draft member resolution for member approval
 - ✓ If member approval is required, then board approving and recommending dissolution to membership
 - ✓ Member resolution should match board resolution and use same plan of dissolution
 - ✓ Check articles/bylaws and state law for requirements
- Hold meeting(s) and approve resolution(s) and plan of dissolution

Step 2: Notice to AG of Intent to Dissolve

- Complete and submit by mail Notice of Intent to Dissolve including:
 - Letter to Attorney General describing:
 - Organization's assets, programming, and funds
 - The plan to distribute these items
 - How these items were valued
 - To whom the items and/or the funds from items' sale are being donated and why (e.g., similar missions, target populations)
 - Details matter → show the assets will continue to serve the public good
 - Attach copy of board resolution and/or member resolution and plan of dissolution
 - Attach GA Notice of Intent to Dissolve form

Step 3: Notice to Legal Newspaper

- After submitting notice to Attorney General, submit Notice of Intent to the legal newspaper in the corporation's county of incorporation
- Notice must run for two consecutive weeks beginning 10 days after the newspaper receives notice
- \$40 publication fee

Step 4: Complete the Notice of Intent to Dissolve

- **Begin this step after EITHER:**
 - **Receiving a positive response from AG or**
 - **If no response, after waiting a total of 30 days from submitting notice**
- This is an ONLINE electronic form on the GA Secretary of State Corporations Division website
- You will need:
 - Organization's login information for Secretary of State website
 - Date of board resolution approval
 - Date dissolution will be effective
 - No fee
- Organization will receive acknowledgement from the Secretary of State's office within 7-10 business days
- After receiving acknowledgement: begin wind-down process

Step 5: Commence Wind-Down of Corporation

- **Begin this step after EITHER:**
 - Receiving a positive response from AG or
 - If no response, after waiting a total of 30 days from submitting notice
- Need to be organized and thoughtful about process
- 2 or more people identified in Plan oversee this process
- Wind-down (shutting down business/disposing of assets) may include:
 - Informing stakeholders of wind-down;
 - Terminating operations or transferring them elsewhere;
 - Collecting assets & disposing of properties according to Plan of Dissolution;
 - Terminating utilities and other services;

- Wind-down (shutting down business/disposing of assets) may include (cont.):
- Exiting physical location/lease or selling/transferring buildings;
 - Notifying government agencies as appropriate and applicable;
 - Discharging or making provisions for discharging liabilities;
 - Finalizing and closing financial books & bank accounts;
 - Disposing of any known claims by notifying claimants in writing of the dissolution proceedings
 - Doing every other act necessary to wind-up and liquidate the corporation's activities and affairs

Notifying Georgia Governmental Agencies

- Important part of wind-down process:
 - ✓ If had employees, close out account with GA Department of Labor
 - ✓ Close out accounts with GA Department of Revenue

Step 6: File Articles of Dissolution

- File Articles of Dissolution online after:
 - Receiving acknowledgement from Secretary of State;
 - Completing wind-down and transfer of assets, if any;
 - Closing bank accounts;
 - Notifying government agencies;
 - Winding down any other business operations, contracts, etc.
- No fee

Step 7: Notify the IRS

- Form 990:
 - File a final Form 990 stating the organization has been terminated
 - If the corporation dissolves prior to the end of its fiscal year, it files a **short year** return
 - If not, the form is due 15th day of 5th month after the end of the corporation's fiscal year.
- Close the EIN account with IRS by mail:
 - State the reason for closing your account
 - Include complete legal name of entity, its EIN, and the mailing address
 - If possible, include a copy of initial EIN Assignment Notice

Considerations & Tips

- At minimum, 60-day process; often at least 120 days
- Pay attention to very particular requirements for GA Secretary of State
- Pick people for wind-down/dissolution who are detail-oriented and will follow through

Additional Resources

- Alternatives to Dissolution
 - Webcast: [Mergers & Asset Sales](#)
 - Webcast: [Insolvency & Bankruptcy](#)
- Webcast: [Hiring and Firing](#)

Questions?

For More Information:

If you would like more information about the services of Pro Bono Partnership of Atlanta, contact us at:

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