

§ 57D-7-02. Consequences of transacting business without authority.

(a) No foreign LLC transacting business in this State without permission obtained through a certificate of authority may maintain any proceeding in any court of this State unless the foreign LLC has obtained a certificate of authority prior to trial. An issue arising under this subsection must be raised by motion and determined by the trial judge prior to trial.

(b) A foreign LLC failing to obtain a certificate of authority as required by this Chapter is liable to this State for the years, including any partial year, during which it transacted business in this State without a certificate of authority in an amount equal to all fees and taxes that would have been imposed by law on the foreign LLC had it duly applied for and received such permission, plus interest and all penalties imposed by law for failure to pay such fees and taxes. In addition, the foreign LLC is liable for a civil penalty of ten dollars (\$10.00) for each day, but not to exceed a total of one thousand dollars (\$1,000) for each year, including any partial year it transacts business in this State without a certificate of authority. The Attorney General may bring actions to recover all amounts due this State under the provisions of this subsection. The clear proceeds of civil penalties provided for in this subsection shall be remitted to the Civil Penalty and Forfeiture Fund in accordance with G.S. 115C-457.2.

(c) Notwithstanding subsection (a) of this section, the failure of a foreign LLC to obtain a certificate of authority does not impair the validity of its acts or prevent it from defending any proceeding in this State.

(d) The Secretary of State shall require every foreign LLC transacting business in this State to comply with the provisions of this Chapter. The Secretary of State may conduct such investigations as may be necessary to ascertain compliance by foreign LLCs with this Chapter. (2013-157, s. 2.)