

Foreign Corporations—Corporations—Filing—Articles of Incorporation.

It is the intent of section 6651, R.C.M. 1921, that the location of the principal place of business of a corporation is an indication to the public of the county wherein a copy of the articles of incorporation would be filed, and therefore the corporation should file the same with the county clerk of the county wherein it has taken up its new location.

William Powers, Esq.,
Secretary of State,
Helena, Montana.

June 6, 1927.

My dear Mr. Powers:

You have requested my opinion on the following question:

“The Avery Power Machinery Co., a foreign corporation, entered Montana May 11, 1926, and designated its principal place of business as Billings, Montana, filing a certified copy of its articles of incorporation with the county clerk of Yellowstone

county as provided in section 6651, R. C. M. 1921. This corporation has now removed its office and maintains its principal place of business in Cascade county. Is it necessary for it to file a certified copy of its articles of incorporation with the county clerk of that county?"

Section 6651, supra, provides in part as follows:

"All foreign corporations or joint stock companies, except foreign insurance companies and corporations otherwise provided for, organized under the laws of any state, or of the United States, or of any foreign government, shall, before doing business within this state, file in the office of the secretary of state, and in the office of the county clerk of the county wherein they intend to carry on business, a duly authenticated copy of their charter, or articles of incorporation, and also a statement, verified by oath of the president and secretary of such corporation, and attested by a majority of its board of directors, showing: * * *

There is no specific provision of our statute requiring a corporation, upon transferring its principal place of business after having complied with the provisions of the above section, to file a certified copy of its articles of incorporation with the county clerk wherein its new place of business is located. However, the very purpose of the act itself would indicate that this was necessary.

In the case of *Manhattan Trust Co. v. Davis*, 23 Mont 273, our supreme court said:

"The purpose of the legislation is to compel a foreign corporation desiring to avail itself of the privilege of doing business within the state to submit itself to the jurisdiction of the courts of the state, and to advise the public of its condition, so that those willing to deal with it may be informed of its affairs, by inquiring at the recorder's office where its location has been taken."

Our law does not require a foreign corporation to file a certified copy of its articles of incorporation in each of the counties of the state, and it is evident that it was the intent of the legislature that the location of the place of business of the corporation would be an indication to the public as to the county in which said certified copy would be filed and it is also apparent that the word "intend", as used in said section, was inserted because it was assumed that the corporations had not yet established a place of business in the state and therefore the real intention of the legislature was that a certified copy of the articles of incorporation should be filed in the office of the county clerk of the county "wherein they carry on business" instead of "wherein they intend to carry on business."

Hence, this corporation, having changed its place of business to Cascade county, is not now complying with the provisions of section 6651, supra, as a certified copy of its articles of incorporation are not on file with the county clerk of the county where they are now carrying on

business. To hold otherwise would be to destroy the very purpose of this provision.

It is therefore my opinion that the corporation in question should file a certified copy of its articles of incorporation in the county wherein it is now maintaining and carrying on its principal place of business.

Very truly yours,

L. A. FOOT,
Attorney General.