

2019 -- H 5681

LC001543

STATE OF RHODE ISLAND

IN GENERAL ASSEMBLY

JANUARY SESSION, A.D. 2019

A N A C T

RELATING TO COMMERCIAL LAW - GENERAL REGULATORY PROVISIONS

Introduced By: Representatives Shanley, Casimiro, and Mendez

Date Introduced: February 27, 2019

Referred To: House Corporations

(Secretary of State)

It is enacted by the General Assembly as follows:

1 SECTION 1. The title of Chapter 6-1 of the General Laws entitled "Filing of Assumed  
2 Name" is hereby amended to read as follows:

3 ~~CHAPTER 6-1~~

4 ~~Filing of Assumed Name~~

5 CHAPTER 6-1

6 FILING OF TRADE NAME

7 SECTION 2. Sections 6-1-1, 6-1-2 and 6-1-3 of the General Laws in Chapter 6-1 entitled  
8 "Filing of Assumed Name" are hereby amended to read as follows:

9 **6-1-1. Filing of business name required.**

10 (a) No person or persons shall carry on or conduct or transact business in this state under  
11 any ~~assumed trade~~ trade name, or under any designation, name, or style, corporate or otherwise, other  
12 than the real name or names of the individual or individuals conducting or transacting business,  
13 unless the person or persons shall file in person, by mail or electronically, ~~in~~ the office of the  
14 town or city clerk in the town or city in which the person or persons conduct or transact, or intend  
15 to conduct or transact, business, ~~a~~ an executed certificate stating:

16 (1) Sole proprietorship or general partnership: ~~the~~ The name under which the business is,  
17 or is to be, conducted or transacted, and the true or real full name or names, both the first name  
18 and surname, of the person or persons conducting or transacting the business, with the post office  
19 address or addresses of the person or persons and the NAICS code. ~~The certificate shall be~~

1 ~~executed and sworn to by the person or persons so conducting or intending to conduct the~~  
2 ~~business, before some person authorized to administer oaths.~~

3 (2) The trade name which shall be distinguishable upon the records of the trade name  
4 registry from the name of any trade name on file within the municipality where the registration  
5 will be recorded.

6 (i) The municipality may establish guidelines for defining the term “distinguishable upon  
7 the record” for the administration of this chapter.

8 (b) Whenever this chapter requires any certificate to be executed and acknowledged, such  
9 requirement is satisfied by either:

10 (1) The formal acknowledgment by any individual signing the certificate that it is his or  
11 her act and deed or the act and deed of the corporation, and that the facts stated therein are true.  
12 This acknowledgment shall be made before an individual who is authorized by the law of the  
13 jurisdiction of where the execution to take acknowledgment; or

14 (2) The signature, without more, of the individual or individuals signing the certificate, in  
15 which case the signature or signatures constitutes the affirmation or acknowledgment of the  
16 signatory, under penalties of perjury, that the certificate is that individual's act and deed or the act  
17 and deed of the corporation, and that the facts stated therein are true.

18 **6-1-2. Indexes -- Filing fee -- Certified copies as evidence.**

19 The ~~several town and city clerks of this~~ secretary of state shall keep ~~alphabetical indexes~~  
20 an online register of all persons filing certificates and of all names or styles assumed, referred to  
21 in this chapter, and, for the indexing and filing of the certificates, the town and city clerks shall  
22 receive for the benefit of the town or city a fee of ten dollars (\$10.00) each. A copy of the  
23 certificate, duly certified to by the town or city clerk in whose office the certificate shall be filed,  
24 shall be presumptive evidence in all courts in this state of the facts contained in the certificate.

25 **6-1-3. Corporations -- Partnership names.**

26 This chapter shall in no way affect or apply to any duly registered or qualified, domestic  
27 or foreign corporation, limited liability company, limited liability partnership or limited  
28 partnership duly organized under the laws of this state, ~~or to any corporation or limited~~  
29 ~~partnership organized under the laws of any other state and lawfully doing business in this state,~~  
30 or to any partnership or joint venture, the name or designation of which includes the true or real  
31 surname of at least one individual who is a partner or joint venturer.

32 SECTION 3. Chapter 6-1 of the General Laws entitled "Filing of Assumed Name" is  
33 hereby amended by adding thereto the following sections:

34 **6-1-1.1. Definitions.**

1 For purposes of this chapter, the following definitions apply:

2 (1) "Business" means an occupation, profession, or employment engaged in for the  
3 purpose of seeking a profit.

4 (2) "Department" means the department of the secretary of state.

5 (3) "Electronic transmission" means any form of communication, not directly involving  
6 the physical transmission of paper, that creates a record that may be retained, retrieved, and  
7 reviewed by a recipient, and that may be directly reproduced in paper form by such a recipient  
8 through an automated process.

9 (4) "Filing" means delivered to the secretary of state in either paper format or electronic  
10 transmission through a medium provided and authorized by the secretary of state.

11 (5) "Municipality" means and includes any city or town within the state.

12 (6) "Person" means any individual, partnership, limited liability company, or corporation  
13 conducting or having an interest in a business in the state.

14 (7) "Signature" or "signed" or "executed" means an original signature, facsimile, or an  
15 electronically transmitted signature submitted through a medium provided and authorized by the  
16 secretary of state.

17 (8) "Trade name" means a word or name, or any combination of a words or names, used  
18 by a person to identify the person's business which:

19 (i) Is not, or does not include, the true and real name of all persons conducting the  
20 business; or

21 (ii) Includes words which suggest additional parties of interest such as "company," "and  
22 sons," or "and associates."

23 (9) "True and real name" means:

24 (i) The last name of an individual coupled with the first name, middle names, initials, or  
25 any combination thereof;

26 (ii) The designation or identifying name by which an individual is best known and called  
27 in the business community where that individual transacts business, if this is used as that  
28 individual's legal signature.

29 **6-1-5. Changes in registration - Filing notice of change.**

30 (a) A notice of change must be filed with the municipality when a change occurs in:

31 (1) The true and real name of a person conducting a business with a trade name registered  
32 under this chapter; or

33 (2) Any mailing address or email address set forth on the registration or any subsequently  
34 filed notice of change.

1 (b) A notice of cancellation must be filed with the municipality when use of a trade name  
2 is discontinued.

3 (c) A notice of cancellation, together with a new registration, must be filed before  
4 conducting or transacting any business when:

5 (1) An addition, deletion, or any change of person or persons conducting business under  
6 the registered trade name occurs; or

7 (2) There is a change in the wording or spelling of the trade name since initial registration  
8 or renewal.

9 **6-1-6. Failure to file.**

10 No person or persons carrying on, conducting, or transacting business under any trade  
11 name shall be entitled to maintain any suit in any court of this state until such person or persons  
12 have properly completed the registration as provided for in § 6-1-2. Failure to complete this  
13 registration shall not impair the validity of any contract or act of such person or persons and shall  
14 not prevent such person or persons from defending any suit in any court of this state.

15 **6-1-7. Renewal and cancellation.**

16 (a) The municipality shall require the renewal of trade names and establish a process and  
17 fee of ten dollars (\$10.00) for renewing trade names. Any such renewal process may not require  
18 renewals of trade names more often than annually and must allow persons to renew their trade  
19 name at the same time they are required to renew their business license, if applicable.

20 (b) The municipality may cancel a person's trade name upon request of the person the  
21 trade name is registered to. The municipality may also provide for the cancellation of trade names  
22 under circumstances as defined by the municipality by rule, which may include failure to renew a  
23 trade name under a renewal process as may be established by the municipality under the authority  
24 of subsection (c)(1) of this section.

25 (c)(1) The municipality must make a reasonable effort to notify a person that the  
26 municipality intends to cancel the person's trade name. This notice is not required when a request  
27 for cancellation of a trade name is received by the municipality from the person the trade name  
28 was registered to or the person's authorized representative. The municipality may comply with  
29 this subsection either by mailing the notice to the person's last known address on record with the  
30 municipality or by providing the notice electronically instead of by mail. Such electronic notice  
31 may be sent by email to the person's last known email address on record with the municipality.  
32 However, if the municipality sends a notice by email and is notified that the email is  
33 undeliverable, the municipality must resend the notice by mail to the person's last known address  
34 on record with the municipality.

1           (2) The municipality may cancel a trade name unless, within twenty (20) days of sending  
2 the notice required under this subsection, the person notifies the municipality in writing not to  
3 cancel the person's trade name and pays any applicable renewal fee.

4           (d) The municipality may remove any canceled trade names from its database of trade  
5 names.

6           SECTION 5. This act shall take effect on July 1, 2020.

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EXPLANATION  
BY THE LEGISLATIVE COUNCIL  
OF  
A N A C T  
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1           This act would require a person or persons who transact business under a trade name to  
2 register with a municipality, provide more extensive information when filing and to notify the  
3 municipality when the trade name is changed or discontinued.

4           This act would take effect on July 1, 2020.

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