

2021 -- S 0343

=====
LC001305
=====

STATE OF RHODE ISLAND

IN GENERAL ASSEMBLY

JANUARY SESSION, A.D. 2021

—————
A N A C T

RELATING TO COMMERCIAL LAW -- GENERAL REGULATORY PROVISIONS --
FILING OF ASSUMED NAME

Introduced By: Senators Quezada, and Calkin

Date Introduced: February 25, 2021

Referred To: Senate Commerce

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 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 with 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: ~~the~~

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

1 address or addresses of the person or persons. ~~The certificate shall be executed and sworn to by the~~
2 ~~person or persons so conducting or intending to conduct the business, before some person~~
3 ~~authorized to administer oaths,~~ the email address of the person or persons, and the North American
4 Industry Classification System (NAICS) code.

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

8 (i) For purposes of this chapter, the term "distinguishable upon the record" means the
9 standard used by the department of state in its name availability guidelines for domestic entities.

10 (b) Whenever this chapter requires a certificate to be executed and acknowledged, such
11 requirement is satisfied by either:

12 (1) The formal acknowledgement by any individual signing the certificate that it is his or
13 her act and deed or the act and deed of the corporation, and that the facts stated therein are true.
14 This acknowledgement must be made before an individual who is authorized by the law of the
15 place of execution to take acknowledgement; or

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

20 **6-1-2. Indexes -- Filing fee -- Certified copies as evidence.**

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

27 **6-1-3. Corporations -- Partnership names.**

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

34 SECTION 3. Chapter 6-1 of the General Laws entitled "Filing of Assumed Name" is

1 hereby amended by adding thereto the following sections:

2 **6-1-1.1. Definitions.**

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

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

6 (2) "Department" means the department of state.

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

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

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

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

16 (7) "Signature" or "Signed" or "Executed" means an original signature, facsimile, or an
17 electronically transmitted signature submitted through a medium provided and authorized by the
18 secretary of state.

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

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

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

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

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

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

31 **6-1-5. Changes in registration -- Filing notice of change.**

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

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

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

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

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

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

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

11 **6-1-6. Failure to file.**

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

17 **6-1-7. Renewal or cancellation.**

18 (a) The municipality shall require the bi-annual renewal of trade names and establish a
19 process for renewing trade names. Any such renewal process must allow persons to renew their
20 trade name at the same time they are required to renew their business license, if applicable.

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

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

1 the municipality.

2 (2) The municipality may cancel a trade name unless, within sixty (60) days of sending the
3 notice required under this subsection, the person notifies the municipality in writing not to cancel
4 the person's trade name, files a restoration statement pursuant to § 6-1-8 and pays any applicable
5 revival fee.

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

8 **6-1-8. Restoration statement.**

9 If any person or persons shall fail to file a bi-annual report, it may file a restoration
10 statement and pay a twenty-five dollar (\$25.00) revival fee. The restoration statement shall include:

11 (1) The name under which the business is, or is to be, conducted or transacted;

12 (2) The true or real full name or names, both the first name and surname, of the person or
13 persons conducting or transacting the business;

14 (3) The post office address or addresses of the person or persons conducting business;

15 (4) The email address of the person or persons conducting business; and

16 (5) The North American Industry Classification System (NAICS) code.

17 SECTION 4. This act shall take effect on January 1, 2023.

=====
LC001305
=====

EXPLANATION
BY THE LEGISLATIVE COUNCIL
OF

A N A C T

RELATING TO COMMERCIAL LAW -- GENERAL REGULATORY PROVISIONS --
FILING OF ASSUMED NAME

1 This act would make amendments necessary to use the term "trade name" rather than
2 "assumed name", for purposes of the commercial law chapter on filing an assumed name, and
3 provides for the administration and regulation of the use of trade names.

4 This act would take effect on January 1, 2023.

=====
LC001305
=====