



820372

LEGISLATIVE ACTION

Senate	.	House
Comm: RCS	.	
04/06/2017	.	
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The Committee on Rules (Stargel) recommended the following:

Senate Amendment (with title amendment)

Delete lines 48 - 202
and insert:

4. If the registrant is a business entity that was required to file incorporation or similar documents with its state of organization when it was organized, such entity must be registered with the division and in active status with the division; provide its Florida document registration number; and provide its federal employer identification number if the entity has such a number.



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12 5.-(d) Certification by at least one registrant the
13 ~~applicant~~ that the intention to register such fictitious name
14 has been advertised at least once in a newspaper as defined in
15 chapter 50 in the county in which ~~where~~ the principal place of
16 business of the registrant is or applicant will be located.

17 6.-(e) Any other information the division may reasonably
18 deem necessary to adequately inform other governmental agencies
19 and the public as to the registrant persons so conducting
20 business.

21 (b) Such registration statement shall be accompanied by the
22 applicable processing fees and any other taxes or penalties owed
23 to the state.

24 (c) With respect to a general partnership that is not
25 registered with the division, its partners are the registrants
26 and not the partnership entity. With respect to a general
27 partnership that is registered with the division, the
28 partnership is the registrant and it must be in active status
29 with the division at the time the registration is filed.

30 (4) CANCELLATION AND REREGISTRATION CHANGE OF OWNERSHIP.-If
31 a registrant ceases to engage in business under a registered
32 fictitious name, such registrant the ownership of a business
33 registered under this section changes, the owner of record with
34 the division shall file a cancellation with the division and
35 reregistration that meets the requirements set forth in
36 subsection (3) within 30 days after the cessation occurs the
37 occurrence of such change. If such cessation is in connection
38 with a transfer of the business or, with respect to a general
39 partnership that is not registered with the division, is in
40 connection with a transfer by a general partner of all or any



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41 part of the general partner's partnership interest and, as a
42 result, a new person will engage in business under the
43 registered fictitious name, such new person may reregister the
44 name pursuant to subsection (3) at the same time as the
45 cancellation is filed.

46 (5) TERM.—

47 (a) A fictitious name registered under this section shall
48 be valid for a period beginning on the date of registration or
49 reregistration and expiring on December 31 of the 5th calendar
50 year thereafter, counting the period from registration or
51 reregistration through December 31 of the year of registration
52 or reregistration as the first calendar year.

53 (b) Each renewal under subsection (6) is valid for a period
54 of 5 years beginning on January 1 of the year following the
55 prior registration expiration date and expiring ~~of 5 years and~~
56 ~~expires~~ on December 31 of the 5th calendar year.

57 (6) RENEWAL.—

58 (a) Renewal of a fictitious name registration shall occur
59 on or after January 1 and on or before December 31 of the
60 expiration year. Upon timely filing of a renewal statement, the
61 effectiveness of the name registration is continued for 5 years
62 as provided in subsection (5).

63 (b) In the ~~last~~ year that a ~~of the~~ registration is to
64 expire, the division shall notify the ~~owner or~~ registrant of the
65 fictitious name registration of the upcoming expiration of the
66 fictitious name no later than September 1. If the ~~owner or~~
67 registrant of the fictitious name has provided the division
68 ~~department~~ with an electronic mail address, such notice shall be
69 by electronic transmission. If the business is a general



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70 partnership that is not registered with the division and, thus,
71 there is more than one registrant for the fictitious name, the
72 division need only notify one of the registrants.

73 (c) If a registrant ~~the owner~~ of the fictitious name
74 registration fails to timely file a renewal and pay the
75 appropriate processing fees on or before ~~prior to~~ December 31 of
76 the year of expiration, the fictitious name registration
77 expires. The division shall remove any expired or canceled
78 fictitious name registration from its records and may purge such
79 registrations. Failure to receive the notice ~~statement~~ of
80 expiration ~~renewal~~ required by paragraph (b) shall not
81 constitute grounds for appeal of a registration's expiration or
82 removal from the division's records.

83 (d) If a registered fictitious name is prohibited by
84 subsection (14) at the time of renewal, the fictitious name may
85 not be renewed.

86 (7) EXEMPTIONS.—A business formed by an attorney actively
87 licensed to practice law in this state, by a person actively
88 licensed by the Department of Business and Professional
89 Regulation or the Department of Health for the purpose of
90 practicing his or her licensed profession, or by any
91 corporation, limited liability company, partnership, or other
92 business ~~commercial~~ entity that is ~~actively~~ organized or
93 registered and in active status with the division ~~Department of~~
94 ~~State~~ is not required to register its name pursuant to this
95 section, unless the name under which business is to be conducted
96 differs from the name as licensed or registered.

97 (8) EFFECT OF REGISTRATION.—Notwithstanding ~~the provisions~~
98 ~~of~~ any other law, registration under this section is for public



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99 notice only, and does not give ~~gives~~ rise to a ~~ne~~ presumption of
100 the registrant's rights to own or use the name registered, nor
101 does it affect trademark, service mark, trade name, or corporate
102 or other business entity name rights previously acquired by
103 others in the same or a similar name. Registration under this
104 section does not reserve a fictitious name against future use.

105 (9) PENALTIES.—

106 (a) If a business fails to comply with this section,
107 neither the business nor the person or persons engaging in the,
108 ~~its members, and those interested in doing such~~ business may ~~not~~
109 maintain any action, suit, or proceeding in any court of this
110 state with respect to or on behalf of such business until this
111 section is complied with. An action, suit, or proceeding may not
112 be maintained in any court of this state by any successor or
113 assignee of such business on any right, claim, or demand arising
114 out of the transaction of business by such business in this
115 state until this section has been complied with.

116 (b) The failure of a business to comply with this section
117 does not impair the validity of any contract, deed, mortgage,
118 security interest, lien, or act of such business and does not
119 prevent such business from defending any action, suit, or
120 proceeding in any court of this state. However, a party
121 aggrieved by a noncomplying business may be awarded reasonable
122 attorney ~~attorney's~~ fees and court costs necessitated by the
123 noncomplying business.

124 (c) Any person who fails to comply with this section
125 commits a noncriminal violation as defined in s. 775.08
126 ~~misdemeanor of the second degree, punishable as provided in s.~~
127 ~~775.082 or~~ s. 775.083.



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128 (10) POWERS OF DIVISION ~~DEPARTMENT~~.—The division ~~Department~~
129 ~~of State~~ is granted the power reasonably necessary to enable it
130 to administer this section efficiently and,~~7~~ to perform the
131 duties herein imposed upon it.

132 (11) FORMS.—Registration, cancellation, and renewal shall
133 be made on forms prescribed by the division ~~Department of State~~,
134 which may include the uniform business report, pursuant to s.
135 606.06, as a means of satisfying the requirement of this
136 section.

137 (12) PROCESSING FEES.—The division ~~Department of State~~
138 shall charge and collect nonrefundable processing fees as
139 follows:

140 (a) For registration of a fictitious name, \$50.

141 (b) For cancellation or cancellation and reregistration of
142 a fictitious name, \$50.

143 (c) For renewal of a fictitious name registration, \$50.

144 (d) For furnishing a certified copy of a fictitious name
145 registration document, \$30.

146 (e) For furnishing a certificate of status, \$10.

147 (13) DEPOSIT OF FUNDS.—All funds required to be paid to the
148 division ~~Department of State~~ pursuant to this section shall be
149 collected and deposited into the General Revenue Fund.

150 (14) PROHIBITION.—A fictitious name registered as provided
151 in this section may not contain the following words,
152 abbreviations, or designations:

153 (a) "Corporation," ~~or~~ "incorporated," ~~or the abbreviations~~
154 "Corp.," or "Inc.," unless the person or business for which the
155 name is registered is incorporated or has obtained a certificate
156 of authority to transact business in this state pursuant to ~~part~~



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157 ~~of~~ chapter 607 or chapter 617.

158 (b) "limited liability company," "LLC," or "L.L.C.," unless
159 the person or business for which the name is registered is
160 organized as a limited liability company or has obtained a
161 certificate of authority to transact business in this state
162 pursuant to chapter 605.

163 (c) "limited liability partnership," "LLP," or "L.L.P.,"
164 unless the person or business for which the name is registered
165 is registered as a limited liability partnership or has obtained
166 a certificate of authority to transact business in this state
167 pursuant to s. 620.9102.

168

169 ===== T I T L E A M E N D M E N T =====

170 And the title is amended as follows:

171 Delete lines 13 - 16

172 and insert:

173 concerning penalties for violations; specifying
174 additional terms that