§404. Assumed or fictitious name of corporation

1. Assumed name; defined. As used in this section, "assumed name" includes a trade name, the name of a division not separately incorporated and not used in conjunction with the real corporate name and any name other than the real name of a corporation, except a fictitious name.
[PL 2003, c. 344, Pt. B, §50 (AMD).]

2. Fictitious name; defined. As used in this section, "fictitious name" is a name adopted by a foreign corporation authorized to transact business in this State because its real name is unavailable pursuant to section 401.
[PL 2001, c. 640, Pt. A, §2 (NEW); PL 2001, c. 640, Pt. B, §7 (AFF).]

3. Authorized to transact business. Upon complying with this section, a domestic or foreign corporation authorized to transact business in this State may transact its business in this State under one or more assumed or fictitious names.
[PL 2001, c. 640, Pt. A, §2 (NEW); PL 2001, c. 640, Pt. B, §7 (AFF).]

4. File statement indicating use of assumed or fictitious name. Prior to transacting business in this State under an assumed or fictitious name, a corporation shall execute and deliver for filing, in accordance with section 121, a statement setting forth:

A. The corporate name; [PL 2003, c. 344, Pt. B, §51 (AMD).]

B. That it intends to transact business under an assumed or fictitious name; [PL 2001, c. 640, Pt. A, §2 (NEW); PL 2001, c. 640, Pt. B, §7 (AFF).]

C. The assumed or fictitious name that it proposes to use; [PL 2003, c. 344, Pt. B, §51 (AMD).]

D. If the assumed name is not to be used at all of the corporation's places of business in this State, the locations where it will be used; and [PL 2003, c. 344, Pt. B, §51 (AMD).]

E. If the corporation is a foreign corporation:

(1) The jurisdiction of incorporation; and

(2) The date on which it was authorized to transact business in this State. [PL 2003, c. 344, Pt. B, §52 (NEW).]

A separate statement must be executed and delivered for filing with respect to each assumed or fictitious name that the corporation proposes to use.
[PL 2003, c. 344, Pt. B, §§51, 52 (AMD).]

5. Compliance required. Each assumed or fictitious name must comply with the requirements of section 401.
[PL 2001, c. 640, Pt. A, §2 (NEW); PL 2001, c. 640, Pt. B, §7 (AFF).]

6. Enjoin use of assumed or fictitious name. If a corporation uses an assumed or fictitious name without complying with the requirements of this section, the continued use of the assumed or fictitious name may be enjoined upon suit by the Attorney General or by any person adversely affected by the use of the assumed or fictitious name.
[PL 2001, c. 640, Pt. A, §2 (NEW); PL 2001, c. 640, Pt. B, §7 (AFF).]

7. Enjoin use despite compliance. Notwithstanding its compliance with the requirements of this section, the use of an assumed or fictitious name may be enjoined upon suit of the Attorney General or of any person adversely affected by such use if:

A. The assumed or fictitious name did not, at the time the statement required by subsection 4 was filed, comply with the requirements of section 401; or [PL 2001, c. 640, Pt. A, §2 (NEW); PL 2001, c. 640, Pt. B, §7 (AFF).]

B. The assumed or fictitious name is not distinguishable on the records of the Secretary of State from a name in which the plaintiff has prior rights by virtue of the common law or statutory law of unfair competition, unfair trade practices, common law copyright or similar law. [PL 2001, c. 640, Pt. A, §2 (NEW); PL 2001, c. 640, Pt. B, §7 (AFF).]

The mere filing of a statement pursuant to subsection 4 does not constitute actual use of the assumed or fictitious name set out in that statement for purposes of determining priority of rights.
[PL 2001, c. 640, Pt. A, §2 (NEW); PL 2001, c. 640, Pt. B, §7 (AFF).]

8. Terminate use of assumed or fictitious name. A corporation may terminate an assumed or fictitious name by executing and delivering, in accordance with section 121, a statement setting forth:

A. The name of the corporation; [PL 2003, c. 344, Pt. B, §53 (AMD).]

B. That it no longer intends to transact business under the assumed or fictitious name; and [PL 2001, c. 640, Pt. A, §2 (NEW); PL 2001, c. 640, Pt. B, §7 (AFF).]

C. The assumed or fictitious name it intends to terminate. [PL 2001, c. 640, Pt. A, §2 (NEW); PL 2001, c. 640, Pt. B, §7 (AFF).]
[PL 2003, c. 344, Pt. B, §53 (AMD).]

SECTION HISTORY

PL 2001, c. 640, §A2 (NEW). PL 2001, c. 640, §B7 (AFF). PL 2003, c. 344, §§B50-53 (AMD).

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