

Amendment No. 1

COMMITTEE/SUBCOMMITTEE ACTION

ADOPTED \_\_\_\_\_ (Y/N)  
 ADOPTED AS AMENDED \_\_\_\_\_ (Y/N)  
 ADOPTED W/O OBJECTION \_\_\_\_\_ (Y/N)  
 FAILED TO ADOPT \_\_\_\_\_ (Y/N)  
 WITHDRAWN \_\_\_\_\_ (Y/N)  
 OTHER \_\_\_\_\_

1 Committee/Subcommittee hearing bill: Careers & Competition  
 2 Subcommittee

3 Representative White offered the following:

4

5 **Amendment (with title amendment)**

6 Remove everything after the enacting clause and insert:

7 Section 1. Section 865.09, Florida Statutes, is amended to  
 8 read:

9 865.09 Fictitious name registration.—

10 (1) SHORT TITLE.—This section may be cited as the  
 11 "Fictitious Name Act."

12 (2) DEFINITIONS.—As used in this section, the term:

13 (a) ~~(b)~~ "Business" means any enterprise or venture in which  
 14 a person sells, buys, exchanges, barters, deals, or represents  
 15 the dealing in any thing or article of value, or renders  
 16 services for compensation.

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17        ~~(b)-(e)~~ "Division" means the Division of Corporations of  
18 the Department of State.

19        ~~(c)-(a)~~ "Fictitious name" means any name under which a  
20 person transacts business in this state, other than the person's  
21 legal name.

22        (d) "Registrant" means a person who registers a fictitious  
23 name with the division.

24        (3) REGISTRATION.—

25        (a) A person may not engage in business under a fictitious  
26 name unless the person first registers the name with the  
27 division by filing a registration ~~sworn statement~~ listing:

28        1.(a) The name to be registered.

29        2.(b) The mailing address of the business.

30        3.(c) The name and address of each registrant ~~owner and,~~  
31 ~~if a corporation, its federal employer's identification number~~  
32 ~~and Florida incorporation or registration number.~~

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

40        5.(d) Certification by at least one registrant ~~the~~  
41 ~~applicant~~ that the intention to register such fictitious name

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42 has been advertised at least once in a newspaper as defined in  
43 chapter 50 in the county in which ~~where~~ the principal place of  
44 business of the registrant is or applicant will be located.

45 ~~6.(e)~~ Any other information the division may reasonably  
46 deem necessary to adequately inform other governmental agencies  
47 and the public as to the registrant persons so conducting  
48 business.

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

52 (c) If the registrant is a general partnership that is not  
53 registered with the division, its partners are the registrants  
54 and not the partnership entity. If the registrant is a general  
55 partnership that is registered with the division, the  
56 partnership is the registrant and it must be in active status  
57 with the division.

58 (4) CANCELLATION AND REREGISTRATION CHANGE OF OWNERSHIP.-  
59 ~~If the ownership of a business registered under this section~~  
60 ~~changes, the owner of record with the division~~ a registrant  
61 ceases to engage in business under a registered fictitious name,  
62 such registrant shall file a cancellation with the division and  
63 ~~reregistration that meets the requirements set forth in~~  
64 ~~subsection (3) within 30 days after~~ the cessation occurs the  
65 ~~occurrence of such change.~~ If such cessation is in connection  
66 with a transfer of the business and, as a result, a new person

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67 will engage in business under the registered fictitious name,  
68 such new person may reregister the name pursuant to subsection  
69 (3) at the same time as the cancellation is filed.

70 (5) TERM.—

71 (a) A fictitious name registered under this section shall  
72 be valid for a period beginning on the date of registration and  
73 expiring on December 31 of the 5th calendar year thereafter,  
74 counting the period from registration through December 31 of the  
75 year of registration as the first calendar year.

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

80 (6) RENEWAL.—

81 (a) Renewal of a fictitious name registration shall occur  
82 on or after January 1 and on or before December 31 of the  
83 expiration year. Upon timely filing of a renewal statement, the  
84 effectiveness of the name registration is continued for 5 years  
85 as provided in subsection (5).

86 (b) In the ~~last~~ year that a ~~of the~~ registration is to  
87 expire, the division shall notify the ~~owner or~~ registrant of the  
88 fictitious name registration of the upcoming expiration of the  
89 fictitious name no later than September 1. If the ~~owner or~~  
90 registrant of the fictitious name has provided the division

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91 ~~department~~ with an electronic mail address, such notice shall be  
92 by electronic transmission.

93 (c) If a registrant ~~the owner~~ of the fictitious name  
94 registration fails to timely file a renewal and pay the  
95 appropriate processing fees prior to December 31 of the year of  
96 expiration, the fictitious name registration expires. The  
97 division shall remove any expired or canceled fictitious name  
98 registration from its records and may purge such registrations.  
99 Failure to receive the notice ~~statement~~ of expiration ~~renewal~~  
100 required by paragraph (b) shall not constitute grounds for  
101 appeal of a registration's expiration or removal from the  
102 division's records.

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

106 (7) EXEMPTIONS.—A business formed by an attorney actively  
107 licensed to practice law in this state, by a person actively  
108 licensed by the Department of Business and Professional  
109 Regulation or the Department of Health for the purpose of  
110 practicing his or her licensed profession, or by any  
111 corporation, limited liability company, partnership, or other  
112 business ~~commercial~~ entity that is actively organized or  
113 registered and in active status with the division ~~Department of~~  
114 ~~State~~ is not required to register its name pursuant to this

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115 section, unless the name under which business is to be conducted  
116 differs from the name as licensed or registered.

117 (8) EFFECT OF REGISTRATION.—Notwithstanding ~~the provisions~~  
118 ~~of~~ any other law, registration under this section is for public  
119 notice only, and does not give ~~gives~~ rise to a ~~no~~ presumption of  
120 the registrant's rights to own or use the name registered, nor  
121 does it affect trademark, service mark, trade name, or corporate  
122 or other business entity name rights previously acquired by  
123 others in the same or a similar name. Registration under this  
124 section does not reserve a fictitious name against future use.

125 (9) PENALTIES.—

126 (a) If a business fails to comply with this section,  
127 neither the business nor the person or persons engaging in the  
128 ~~its members, and those interested in doing such~~ business may ~~not~~  
129 maintain any action, suit, or proceeding in any court of this  
130 state with respect to or on behalf of such business until this  
131 section is complied with. An action, suit, or proceeding may not  
132 be maintained in any court of this state by any successor or  
133 assignee of such business on any right, claim, or demand arising  
134 out of the transaction of business by such business in this  
135 state until this section has been complied with.

136 (b) The failure of a business to comply with this section  
137 does not impair the validity of any contract, deed, mortgage,  
138 security interest, lien, or act of such business and does not  
139 prevent such business from defending any action, suit, or

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140 proceeding in any court of this state. However, a party  
141 aggrieved by a noncomplying business may be awarded reasonable  
142 attorney ~~attorney's~~ fees and court costs necessitated by the  
143 noncomplying business.

144 (c) Any person who fails to comply with this section  
145 commits a noncriminal violation as defined in s. 775.08  
146 ~~misdemeanor of the second degree~~, punishable as provided in ~~s.~~  
147 ~~775.082~~ ~~or~~ s. 775.083.

148 (10) POWERS OF DIVISION ~~DEPARTMENT~~.—The division  
149 ~~Department of State~~ is granted the power reasonably necessary to  
150 enable it to administer this section efficiently and, to perform  
151 the duties herein imposed upon it.

152 (11) FORMS.—Registration, cancellation, and renewal shall  
153 be made on forms prescribed by the division ~~Department of State~~,  
154 which may include the uniform business report, pursuant to s.  
155 606.06, as a means of satisfying the requirement of this  
156 section.

157 (12) PROCESSING FEES.—The division ~~Department of State~~  
158 shall charge and collect nonrefundable processing fees as  
159 follows:

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

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

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

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

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

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

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

173 (a) "Corporation," ~~or "incorporated," or the abbreviations~~  
174 "Corp.," or "Inc.," unless the person or business for which the  
175 name is registered is incorporated or has obtained a certificate  
176 of authority to transact business in this state pursuant to ~~part~~  
177 ~~of~~ chapter 607 or chapter 617.

178 (b) "Limited partnership," "limited liability limited  
179 partnership," "LP," "L.P.," "LLLP," or "L.L.L.P.," unless the  
180 person or business for which the name is registered is organized  
181 as a limited partnership or has obtained a certificate of  
182 authority to transact business in this state pursuant to ss.  
183 620.1101-620.2205.

184 (c) "Limited liability partnership," "LLP," or "L.L.P.,"  
185 unless the person or business for which the name is registered  
186 is registered as a limited liability partnership or has obtained  
187 a certificate of authority to transact business in this state  
188 pursuant to s. 620.9102.

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189        (d) "Limited liability company," "LLC," or "L.L.C.,"  
190 unless the person or business for which the name is registered  
191 is organized as a limited liability company or has obtained a  
192 certificate of authority to transact business in this state  
193 pursuant to chapter 605.

194        (e) "Professional association," "P.A.," or "chartered,"  
195 unless the person or business for which the name is registered  
196 is organized as a professional corporation pursuant to chapter  
197 621, or is organized as a professional corporation pursuant to a  
198 similar law of another jurisdiction and has obtained a  
199 certificate of authority to transact business in this state  
200 pursuant to chapter 607.

201        (f) "Professional limited liability company," "PLLC,"  
202 "P.L.L.C.," "PL," or "P.L.," unless the person or business for  
203 which the name is registered is organized as a professional  
204 limited liability company pursuant to chapter 621, or is  
205 organized as a professional limited liability company pursuant  
206 to a similar law of another jurisdiction and has obtained a  
207 certificate of authority to transact business in this state  
208 pursuant to chapter 605.

209        (15) LEGAL DESIGNATION OF ENTITY.—Notwithstanding any  
210 other ~~provision of~~ law to the contrary, a fictitious name  
211 registered as provided in this section for a corporation,  
212 limited liability company, limited liability partnership, or  
213 limited partnership is not required to contain the designation

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214 of the type of legal entity in which the person or business is  
215 organized, including the terms "corporation," "limited liability  
216 company," "limited liability partnership," "limited  
217 partnership," or any abbreviation or derivative thereof.

218 Section 2. This act shall take effect July 1, 2017.

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220

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221

**T I T L E A M E N D M E N T**

222

Remove everything before the enacting clause and insert:

223

224

A bill to be entitled

225

An act relating to fictitious name registration;

226

amending s. 865.09, F.S.; defining the term

227

"registrant"; revising the information required to

228

register a fictitious name; revising requirements for

229

a change in registration; revising provisions

230

concerning the expiration of a registration;

231

prohibiting a renewal of a registration if the

232

registered fictitious name is prohibited by specified

233

provisions; specifying additional forms of business

234

organization that may not be required to register

235

under certain circumstances; revising provisions

236

concerning penalties for violations; specifying

237

additional terms that may not be included in a

238

fictitious name; providing an effective date.