

**By** the Committees on Governmental Oversight and Accountability;  
and Commerce and Tourism; and Senator Stargel

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1                                   A bill to be entitled  
2       An act relating to fictitious name registration;  
3       reordering and amending s. 865.09, F.S.; defining the  
4       term "registrant"; revising the information required  
5       to register a fictitious name; revising requirements  
6       for a change in registration; revising provisions  
7       concerning the expiration of a registration;  
8       prohibiting a renewal of a registration if the  
9       registered fictitious name is prohibited by specified  
10      provisions; specifying additional forms of business  
11      organization that may not be required to register  
12      under certain circumstances; revising provisions  
13      concerning penalties for violations; clarifying that  
14      the Division of Corporations administers the  
15      provisions of ch. 865, F.S., relating to fictitious  
16      name registration; specifying additional terms that  
17      may not be included in a fictitious name; providing an  
18      effective date.

19  
20 Be It Enacted by the Legislature of the State of Florida:

21  
22       Section 1. Section 865.09, Florida Statutes, is reordered  
23 and amended to read:

24       865.09 Fictitious name registration.—

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

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

28       (c) ~~(a)~~ "Fictitious name" means any name under which a  
29 person transacts business in this state, other than the person's

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30 legal name.

31 (a)~~(b)~~ "Business" means any enterprise or venture in which  
32 a person sells, buys, exchanges, barter, deals, or represents  
33 the dealing in any thing or article of value, or renders  
34 services for compensation.

35 (b)~~(c)~~ "Division" means the Division of Corporations of the  
36 Department of State.

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

39 (3) REGISTRATION.—

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

43 1.~~(a)~~ The name to be registered.

44 2.~~(b)~~ The mailing address of the business.

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

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

55 5.~~(d)~~ Certification by at least one registrant ~~the~~  
56 ~~applicant~~ that the intention to register such fictitious name  
57 has been advertised at least once in a newspaper as defined in  
58 chapter 50 in the county in which ~~where~~ the principal place of

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59 business of the registrant is or ~~applicant~~ will be located.

60 6.(e) Any other information the division may reasonably  
61 deem necessary to adequately inform other governmental agencies  
62 and the public as to the registrant ~~persons~~ so conducting  
63 business.

64 (b) Such registration ~~statement~~ shall be accompanied by the  
65 applicable processing fees and any other taxes or penalties owed  
66 to the state.

67 (c) If the registrant is a general partnership that is not  
68 registered with the division, its partners are the registrants  
69 and not the partnership entity. If the registrant is a general  
70 partnership that is registered with the division, the  
71 partnership is the registrant and must be in active status with  
72 the division.

73 (4) CANCELLATION AND REREGISTRATION CHANGE OF OWNERSHIP.—If  
74 a registrant ceases to engage in business under a registered  
75 fictitious name, such registrant the ownership of a business  
76 registered under this section changes, the owner of record with  
77 the division shall file a cancellation with the division and  
78 reregistration that meets the requirements set forth in  
79 subsection (3) within 30 days after the cessation occurs the  
80 occurrence of such change. If such cessation is in connection  
81 with a transfer of the business and, as a result, a new person  
82 will engage in business under the registered fictitious name,  
83 such new person may reregister the name pursuant to subsection  
84 (3) at the same time as the cancellation is filed.

85 (5) TERM.—

86 (a) A fictitious name registered under this section shall  
87 be valid for a period beginning on the date of registration and

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88 expiring on December 31 of the 5th calendar year thereafter,  
89 counting the period from registration through December 31 of the  
90 year of registration as the first calendar year.

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

95 (6) RENEWAL.—

96 (a) Renewal of a fictitious name registration shall occur  
97 on or after January 1 and on or before December 31 of the  
98 expiration year. Upon timely filing of a renewal statement, the  
99 effectiveness of the name registration is continued for 5 years  
100 as provided in subsection (5).

101 (b) In the ~~last~~ year that a ~~of the~~ registration is to  
102 expire, the division shall notify the ~~owner or~~ registrant of the  
103 fictitious name registration of the upcoming expiration of the  
104 fictitious name no later than September 1. If the ~~owner or~~  
105 registrant of the fictitious name has provided the division  
106 ~~department~~ with an electronic mail address, such notice shall be  
107 by electronic transmission.

108 (c) If a registrant ~~the owner~~ of the fictitious name  
109 registration fails to timely file a renewal and pay the  
110 appropriate processing fees on or before ~~prior to~~ December 31 of  
111 the year of expiration, the fictitious name registration  
112 expires. The division shall remove any expired or canceled  
113 fictitious name registration from its records and may purge such  
114 registrations. Failure to receive the notice ~~statement~~ of  
115 expiration ~~renewal~~ required by paragraph (b) does ~~shall~~ not  
116 constitute grounds for appeal of a registration's expiration or

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117 removal from the division's records.

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

121 (7) EXEMPTIONS.—A business formed by an attorney actively  
122 licensed to practice law in this state, by a person actively  
123 licensed by the Department of Business and Professional  
124 Regulation or the Department of Health for the purpose of  
125 practicing his or her licensed profession, or by any  
126 corporation, limited liability company, partnership, or other  
127 business ~~commercial~~ entity that is ~~actively~~ organized or  
128 registered and in active status with the division ~~Department of~~  
129 ~~State~~ is not required to register its name pursuant to this  
130 section, unless the name under which business is to be conducted  
131 differs from the name as licensed or registered.

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

140 (9) PENALTIES.—

141 (a) If a business fails to comply with this section, the  
142 business or the person or persons engaging in the, ~~its members,~~  
143 ~~and those interested in doing such~~ business may not maintain any  
144 action, suit, or proceeding in any court of this state with  
145 respect to or on behalf of such business until this section is

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146 complied with. An action, suit, or proceeding may not be  
147 maintained in any court of this state by any successor or  
148 assignee of such business on any right, claim, or demand arising  
149 out of the transaction of business by such business in this  
150 state until this section has been complied with.

151 (b) The failure of a business to comply with this section  
152 does not impair the validity of any contract, deed, mortgage,  
153 security interest, lien, or act of such business and does not  
154 prevent such business from defending any action, suit, or  
155 proceeding in any court of this state. However, a party  
156 aggrieved by a noncomplying business may be awarded reasonable  
157 attorney ~~attorney's~~ fees and court costs necessitated by the  
158 noncomplying business.

159 (c) Any person who fails to comply with this section  
160 commits a noncriminal violation as defined in s. 775.08  
161 ~~misdemeanor of the second degree~~, punishable as provided in ~~s.~~  
162 ~~775.082~~ or s. 775.083.

163 (10) POWERS OF DIVISION ~~DEPARTMENT~~.—The division ~~Department~~  
164 ~~of State~~ is granted the power reasonably necessary to enable it  
165 to administer this section efficiently and~~7~~ to perform the  
166 duties herein imposed upon it.

167 (11) FORMS.—Registration, cancellation, and renewal shall  
168 be made on forms prescribed by the division ~~Department of State~~,  
169 which may include the uniform business report, pursuant to s.  
170 606.06, as a means of satisfying the requirement of this  
171 section.

172 (12) PROCESSING FEES.—The division ~~Department of State~~  
173 shall charge and collect nonrefundable processing fees as  
174 follows:

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- 175 (a) For registration of a fictitious name, \$50.
- 176 (b) For cancellation or for cancellation and reregistration  
177 of a fictitious name, \$50.
- 178 (c) For renewal of a fictitious name registration, \$50.
- 179 (d) For furnishing a certified copy of a fictitious name  
180 registration document, \$30.
- 181 (e) For furnishing a certificate of status, \$10.
- 182 (13) DEPOSIT OF FUNDS.—All funds required to be paid to the  
183 division ~~Department of State~~ pursuant to this section shall be  
184 collected and deposited into the General Revenue Fund.
- 185 (14) PROHIBITION.—A fictitious name registered as provided  
186 in this section may not contain the following words,  
187 abbreviations, or designations:
- 188 (a) "Corporation," ~~or "incorporated,"~~ ~~or the abbreviations~~  
189 "Corp.," or "Inc.," unless the person or business for which the  
190 name is registered is incorporated or has obtained a certificate  
191 of authority to transact business in this state pursuant to ~~part~~  
192 ~~of~~ chapter 607 or chapter 617.
- 193 (b) "Limited liability company," "LLC," or "L.L.C.," unless  
194 the person or business for which the name is registered is  
195 organized as a limited liability company or has obtained a  
196 certificate of authority to transact business in this state  
197 pursuant to chapter 605.
- 198 (c) "Limited liability partnership," "LLP," or "L.L.P.,"  
199 unless the person or business for which the name is registered  
200 is organized as a limited liability partnership or has in effect  
201 a statement of foreign qualification in this state pursuant to  
202 ss. 620.81001-620.9902.
- 203 (d) "Limited partnership," "limited liability limited

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204 partnership," "LP," "L.P.," "LLLP," or "L.L.L.P.," unless the  
205 person or business for which the name is registered is organized  
206 as a limited partnership or has obtained a certificate of  
207 authority to transact business in this state pursuant to ss.  
208 620.1101-620.2205.

209 (e) "Professional association," "P.A.," or "chartered,"  
210 unless the person or business for which the name is registered  
211 is organized as a professional corporation pursuant to chapter  
212 621, or is organized as a professional corporation pursuant to a  
213 similar law of another jurisdiction and has obtained a  
214 certificate of authority to transact business in this state  
215 pursuant to chapter 607.

216 (f) "Professional limited liability company," "PLLC,"  
217 "P.L.L.C.," "PL," or "P.L.," unless the person or business for  
218 which the name is registered is organized as a professional  
219 limited liability company pursuant to chapter 621, or is  
220 organized as a professional limited liability company pursuant  
221 to a similar law of another jurisdiction and has obtained a  
222 certificate of authority to transact business in this state  
223 pursuant to chapter 605.

224 (15) LEGAL DESIGNATION OF ENTITY.—Notwithstanding any other  
225 ~~provision of~~ law to the contrary, a fictitious name registered  
226 as provided in this section for a corporation, limited liability  
227 company, limited liability partnership, or limited partnership  
228 is not required to contain the designation of the type of legal  
229 entity in which the person or business is organized, including  
230 the terms "corporation," "limited liability company," "limited  
231 liability partnership," "limited partnership," or any  
232 abbreviation or derivative thereof.



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