

Client newsletter



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Mississippi Fictitious Business Name Registration Act

On March 17, 2010, Governor Haley Barbour signed into law the Fictitious Business Name Registration Act (the “Act”). The Act, which became effective July 1, 2010, establishes a centralized, statewide system for the voluntary registration of fictitious business names being used in Mississippi.

PURPOSE

The Act is intended to enable the public to look beyond the fictitious business names being used in Mississippi by making available the legal names of the persons or entities “doing business” under a fictitious name. A fictitious business name, also known as a “DBA” or “doing business as,” is a name under which an entity transacts business in Mississippi, other than the entity’s legal name, or a fictitious name adopted by a foreign entity because its legal name is unavailable.

REGISTRATION

In order to register a fictitious name, an entity – which may include sole proprietors and self-employed individuals – must submit an application to the Mississippi Secretary of State’s Office. The

application must contain: (1) the fictitious name being registered; (2) the applicant’s legal name and mailing address; (3) every street address and physical location where the entity uses or will be using the fictitious name to transact business; (4) the entity’s Mississippi business identification number, if the applicant is a domestic corporation or limited liability company; (5) the state or nation of organization and a copy of its certificate of authority to transact business in Mississippi, if the application is a foreign corporation or limited liability company; and (6) a statement that the applicant is familiar with the Act and understands that filing does not create an exclusive right in the fictitious business name. A separate application must be filed for each fictitious business name being registered. The filing fee for registration is \$25.00 per application.

BENEFITS

Although registration is voluntary, there may be several instances in which an entity would benefit from registration. First, registration allows an entity to conduct business under another name, at minimal cost. While this may be done without registration, registering helps to provide

transparency which furthers consumer confidence. In addition, registration helps to reduce fraud. Specifically, registration allows those dealing with a company using a fictitious name to verify that the person they are dealing with is the actual legal owner of the business.

EFFECT OF REGISTRATION

It should be noted, that registration of a fictitious name does not preserve, register, or trademark the fictitious name or provide the registrant with exclusive rights to own or use the registered name. Nor does registration alone prevent others from registering a similar or identical fictitious name in the future. Rather, registration under the Act simply provides a mechanism for public notice. Therefore, if an entity is seeking to develop a brand name or would like to ensure that it alone is able to use a particular name, trademark registration should be considered.

CHANGES TO REGISTRATION

To maintain a fictitious name registration, the registering entity must renew the application every five

(5) years. The cost to renew is \$25.00 per renewal period. If an application is not timely renewed, the registration will expire and be removed from the records by the Secretary of State.

An entity may assign a fictitious name registration. To do so, an

executed copy of the assignment instrument must be filed with the Secretary of State's office, together with a fee of \$25.00, within thirty (30) days of assignment. To withdraw a fictitious name registration, a withdrawal statement must be filed with the Secretary of State's office,

containing the statutorily proscribed information to the Secretary of State's office, together with a fee of \$25.00. Upon receipt of the required withdrawal information, the Secretary of State's office will cancel the registration.

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