

1 HB403
2 148039-1
3 By Representative Poole
4 RFD: Commerce and Small Business
5 First Read: 07-MAR-13

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8 SYNOPSIS: Existing law requires business entities to
9 reserve a name with the Secretary of State and
10 specifies the requirements of the name reservation
11 process.

12 This bill would clarify that all business
13 entities must follow the name reservation process.
14 This bill would consolidate the domestic name
15 reservation process and foreign name registration
16 process into a single name reservation process and
17 would extend the effective period for name
18 reservations from 90 days to one year.

19
20 A BILL
21 TO BE ENTITLED
22 AN ACT
23

24 To amend Sections 10A-1-5.03, 10A-1-5.11,
25 10A-1-5.12, 10A-1-5.14, and 10A-1-5.15, Code of Alabama 1975,
26 relating to name reservations for business entities; to
27 require name reservations for all foreign and domestic

1 business entities; to combine the name registration process
2 for foreign entities with the name reservation process for
3 domestic entities; to extend the effective date for name
4 reservations; and to repeal Sections 10A-1-5.21, 10A-1-5.22,
5 10A-1-5.23, 10A-1-5.24, and 10A-1-5.25, Code of Alabama 1975.

6 BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

7 Section 1. Sections 10A-1-5.03, 10A-1-5.11,
8 10A-1-5.12, 10A-1-5.14, and 10A-1-5.15, Code of Alabama 1975,
9 are amended to read as follows:

10 "§10A-1-5.03.

11 "(a) A filing entity may not have a name and a
12 foreign filing entity may not register to transact business in
13 this state under a name that is the same as or not
14 distinguishable on the records of the Secretary of State from:

15 "(1) the name of another existing filing entity or
16 registered limited liability partnership with an effective
17 current registration;

18 "(2) the name of a foreign filing entity that is
19 registered under Article 7;

20 "(3) a name that is reserved under Division B; ~~or.~~

21 ~~"(4) a name that is registered under Division C.~~

22 "(b) Subsection (a) does not apply if the other
23 entity or the person for whom the name is reserved ~~or~~
24 ~~registered, as appropriate,~~ consents in writing to the use of
25 a name not distinguishable on the records of the Secretary of
26 State, and submits an undertaking in form satisfactory to the
27 Secretary of State to change its name to a name that is

1 distinguishable on the records of the Secretary of State from
2 the name for which application was made.

3 "(c) In determining whether a name is the same as or
4 not distinguishable on the records of the Secretary of State
5 from the name of another entity, words, phrases, or
6 abbreviations indicating the type of entity, such as
7 "corporation," "corp.," "incorporated," "Inc.," "limited
8 partnership," "limited liability partnership," "LLP,"
9 "registered limited liability partnership," "RLLP," "limited
10 liability company," or "LLC" shall not be taken into account
11 unless waived in writing by the incumbent holder of the name.

12 "§10A-1-5.11.

13 "(a) A person ~~may~~ shall reserve the exclusive use of
14 ~~a corporate~~ an entity name, including a fictitious name for a
15 foreign ~~corporation~~ entity whose ~~corporate~~ name is not
16 available, by delivering an application to the Secretary of
17 State for filing. Any person may file an application with the
18 Secretary of State to reserve the exclusive use of a name
19 under this article.

20 "(b) The application must set forth the name and
21 address of the applicant and the name proposed to be reserved
22 and must be:

23 "(1) accompanied by any required filing fee; and

24 "(2) signed by the applicant or by the agent or
25 attorney of the applicant.

26 "(c) The name may also be reserved by ~~telephone or~~
27 ~~other~~ electronic means, subject to the requirements as the

1 Secretary of State may establish for reservation of names by
2 means, including requirements for payment of the fee for name
3 reservation.

4 "§10A-1-5.12.

5 "(a) The Secretary of State may not reserve a name
6 that is the same as, or not distinguishable on the records of
7 the Secretary of State from:

8 "(1) the name of an existing filing entity or
9 registered limited liability partnership with an effective
10 registration;

11 "(2) the name of a foreign filing entity that is
12 registered under Article 7; or

13 "(3) a name that is reserved under this division;
14 or.

15 ~~"(4) a name that is registered under Division C.~~

16 "(b) Subsection (a) does not apply if the other
17 entity or the person for whom the name is reserved ~~or~~
18 ~~registered, as appropriate,~~ consents in writing to the
19 subsequent reservation of a name not distinguishable on the
20 records of the Secretary of State, and submits an undertaking
21 in form satisfactory to the Secretary of State to change its
22 name to a name that is distinguishable on the records of the
23 Secretary of State from the name applied for or, if the
24 conflict is with a reserved or registered name, transfers its
25 reservation to the applicant pursuant to Section 10A-1-5.16 ~~or~~
26 ~~consents in writing to the use of the name by the applicant~~
27 ~~pursuant to Section 10A-1-5.23(b).~~

1 "§10A-1-5.14.

2 "The Secretary of State shall reserve the name for
3 the applicant until the earlier of:

4 "(1) ~~the 121st day after~~ one year from the date the
5 application is accepted for filing; or

6 "(2) the date the applicant files with the Secretary
7 of State a written notice of withdrawal of the reservation.

8 "§10A-1-5.15.

9 A person may renew the person's reservation of a
10 name under this division for successive ~~120-day~~ one-year
11 periods if, during the ~~30-day~~ 90-day period preceding the
12 expiration of that reservation, the person:

13 "(1) files ~~new an~~ application to ~~reserve~~ renew the
14 name reservation; and

15 "(2) pays the required filing fee."

16 Section 2. Sections 10A-1-5.21, 10A-1-5.22,
17 10A-1-5.23, 10A-1-5.24, and 10A-1-5.25, Code of Alabama 1975,
18 are repealed.

19 Section 3. This act shall become effective on the
20 first day of the third month following its passage and
21 approval by the Governor, or its otherwise becoming law.