

CHAPTER 352

CORPORATIONS AND ASSOCIATIONS

HOUSE BILL 04-1448

BY REPRESENTATIVE(S) Spradley;
also SENATOR(S) May R.**AN ACT****CONCERNING THE REGULATION OF TRADE NAMES.***Be it enacted by the General Assembly of the State of Colorado:***SECTION 1.** Article 71 of title 7, Colorado Revised Statutes, is REPEALED AND REENACTED, WITH AMENDMENTS, to read:**ARTICLE 71**
Trade Names

7-71-101. Statement of trade name required. EXCEPT AS OTHERWISE PROVIDED IN SECTION 7-71-107, A PERSON SHALL NOT TRANSACT BUSINESS IN THIS STATE UNDER A NAME OTHER THAN THE TRUE NAME OF THE PERSON OR, IN THE CASE OF A GENERAL PARTNERSHIP THAT IS NOT A LIMITED LIABILITY PARTNERSHIP, UNDER A NAME OTHER THAN THE TRUE NAME OF EACH GENERAL PARTNER OF THE GENERAL PARTNERSHIP, EXCEPT IN COMPLIANCE WITH THIS ARTICLE AND NOT UNLESS AN EFFECTIVE STATEMENT OF TRADE NAME IS ON FILE IN THE RECORDS OF THE SECRETARY OF STATE.

7-71-102. Consequences for failure to have effective statement of trade name filed. (1) NO PERSON TRANSACTING BUSINESS IN THIS STATE UNDER A NAME IN VIOLATION OF SECTION 7-71-101, NOR ANYONE ON ITS BEHALF, SHALL BE PERMITTED TO MAINTAIN A PROCEEDING IN ANY COURT IN THIS STATE FOR THE COLLECTION OF A DEBT FROM ANOTHER WITH WHOM OR WITH WHICH THE PERSON TRANSACTED BUSINESS IN VIOLATION OF SECTION 7-71-101 UNTIL AN EFFECTIVE STATEMENT OF TRADE NAME FOR SUCH NAME IS ON FILE IN THE RECORDS OF THE SECRETARY OF STATE IN ACCORDANCE WITH THIS ARTICLE.

(2) A PERSON THAT TRANSACTS BUSINESS IN THIS STATE UNDER A NAME IN VIOLATION OF SECTION 7-71-101 SHALL BE SUBJECT TO A CIVIL PENALTY NOT TO

Capital letters indicate new material added to existing statutes; dashes through words indicate deletions from existing statutes and such material not part of act.

EXCEED FIVE HUNDRED DOLLARS. THE CIVIL PENALTY MAY BE RECOVERED IN AN ACTION BROUGHT BY THE ATTORNEY GENERAL IN THE DISTRICT COURT IN AND FOR THE CITY AND COUNTY OF DENVER AND SHALL BE TRANSMITTED TO THE STATE TREASURER, WHO SHALL CREDIT IT TO THE GENERAL FUND. UPON A FINDING BY THE COURT THAT A PERSON, OR ANY OF ITS MEMBERS, MANAGERS, OR AGENTS ON ITS BEHALF, HAS TRANSACTED BUSINESS IN THIS STATE UNDER A NAME IN VIOLATION OF SECTION 7-71-101, THE COURT MAY ISSUE, IN ADDITION TO OR IN LIEU OF THE IMPOSITION OF A CIVIL PENALTY, AN INJUNCTION RESTRAINING THE FURTHER TRANSACTION OF BUSINESS IN THIS STATE BY THE PERSON AND SUCH MEMBERS, MANAGERS, AND AGENTS UNDER SUCH NAME UNTIL THE PERSON HAS COMPLIED WITH THE PROVISIONS OF THIS ARTICLE.

(3) NOTWITHSTANDING SUBSECTION (1) OF THIS SECTION, TRANSACTING BUSINESS IN THIS STATE BY A PERSON UNDER A NAME IN VIOLATION OF SECTION 7-71-101 DOES NOT IMPAIR THE VALIDITY OF THE ACTS OF THE PERSON AT ANY TIME TAKEN, AFFECT TITLE TO ANY PROPERTY OR INTEREST IN PROPERTY OWNED BY THE PERSON, OR PREVENT THE PERSON FROM DEFENDING ANY PROCEEDING IN THIS STATE AT ANY TIME.

7-71-103. Statement of trade name. (1) A PERSON MAY DELIVER TO THE SECRETARY OF STATE, FOR FILING PURSUANT TO PART 3 OF ARTICLE 90 OF THIS TITLE, A STATEMENT OF TRADE NAME FOR ANY NAME OTHER THAN THE TRUE NAME OF THE PERSON OR, IN THE CASE OF A GENERAL PARTNERSHIP THAT IS NOT A LIMITED LIABILITY PARTNERSHIP, OTHER THAN THE TRUE NAME OF EACH GENERAL PARTNER OF THE GENERAL PARTNERSHIP, UNDER WHICH THE PERSON TRANSACTS BUSINESS, OR CONTEMPLATES TRANSACTING BUSINESS, IN THIS STATE. A STATEMENT OF TRADE NAME SHALL STATE:

(a) THE TRUE NAME OF THE PERSON OR, IN THE CASE OF A GENERAL PARTNERSHIP THAT IS NOT A LIMITED LIABILITY PARTNERSHIP, THE TRUE NAME OF AT LEAST ONE GENERAL PARTNER OF THE GENERAL PARTNERSHIP;

(b) IF THE PERSON IS AN ENTITY, THE FORM OF ENTITY AND THE JURISDICTION UNDER THE LAW OF WHICH IT IS FORMED;

(c) IF THE PERSON IS AN INDIVIDUAL, THE STREET ADDRESS OF THE INDIVIDUAL'S PRIMARY RESIDENCE OR USUAL PLACE OF BUSINESS IN THIS STATE IF THE INDIVIDUAL HAS ONE, OR OUTSIDE THIS STATE IF THE INDIVIDUAL HAS NO PRIMARY RESIDENCE OR USUAL PLACE OF BUSINESS IN THIS STATE, AND, IF DIFFERENT, THE MAILING ADDRESS OF THE INDIVIDUAL OR, IF THE PERSON IS AN ENTITY OTHER THAN A REPORTING ENTITY, THE STREET ADDRESS OF THE ENTITY'S USUAL PLACE OF BUSINESS IN THIS STATE IF IT HAS ONE, OR OUTSIDE THIS STATE IF IT HAS NO USUAL PLACE OF BUSINESS IN THIS STATE AND, IF DIFFERENT, THE MAILING ADDRESS OF THE ENTITY;

(d) THE NAME, OTHER THAN THE TRUE NAME OF THE PERSON, OR, IN THE CASE OF A GENERAL PARTNERSHIP THAT IS NOT A LIMITED LIABILITY PARTNERSHIP, OTHER THAN THE TRUE NAME OF EACH GENERAL PARTNER OF THE GENERAL PARTNERSHIP, UNDER WHICH THE PERSON TRANSACTS BUSINESS, OR CONTEMPLATES TRANSACTING BUSINESS, IN THIS STATE;

(e) A BRIEF DESCRIPTION OF THE KIND OF BUSINESS TRANSACTED, OR

CONTEMPLATED TO BE TRANSACTED, IN THIS STATE UNDER THE NAME; AND

(f) SUCH OTHER INFORMATION AS THE SECRETARY OF STATE MAY REQUIRE.

7-71-104. Effect of filing a statement of trade name. (1) A FILED STATEMENT OF TRADE NAME SHALL BECOME EFFECTIVE AS PROVIDED IN SECTION 7-90-304, AND, UNLESS THE STATEMENT OF TRADE NAME IS WITHDRAWN IN ACCORDANCE WITH SECTION 7-71-106, FOR REPORTING ENTITIES SHALL REMAIN EFFECTIVE IN PERPETUITY, SUBJECT TO THE PROVISIONS OF SECTIONS 7-90-601.5 AND 7-90-601.7, AND FOR PERSONS OTHER THAN REPORTING ENTITIES SHALL REMAIN EFFECTIVE THROUGH THE LAST DAY OF THE TWELFTH CALENDAR MONTH FOLLOWING THE CALENDAR MONTH IN WHICH THE STATEMENT OF TRADE NAME BECOMES EFFECTIVE, UNLESS IT IS RENEWED IN ACCORDANCE WITH SECTION 7-71-105.

(2) A PERSON HAVING AN EFFECTIVE STATEMENT OF TRADE NAME ON FILE IN THE RECORDS OF THE SECRETARY OF STATE SHALL BE LIABLE IN CONNECTION WITH THE BUSINESS TRANSACTED IN THIS STATE BY THE PERSON UNDER THE TRADE NAME STATED IN THE STATEMENT OF TRADE NAME TO THE SAME EXTENT AND IN THE SAME MANNER AS IF THE BUSINESS WERE TRANSACTED UNDER ITS TRUE NAME.

(3) A PERSON HAVING AN EFFECTIVE STATEMENT OF TRADE NAME ON FILE IN THE RECORDS OF THE SECRETARY OF STATE AT THE TIME AN ACTION IS BROUGHT BY ANOTHER PERSON MAY BE SUED UNDER THE TRADE NAME STATED IN THE STATEMENT OF TRADE NAME IN CONNECTION WITH ANY BUSINESS TRANSACTED BY THE PERSON IN THIS STATE UNDER THE TRADE NAME WITH THE PERSON BRINGING THE ACTION.

7-71-105. Renewal of statement of trade name. (1) A PERSON OTHER THAN A REPORTING ENTITY HAVING AN EFFECTIVE STATEMENT OF TRADE NAME ON FILE IN THE RECORDS OF THE SECRETARY OF STATE MAY RENEW THE STATEMENT OF TRADE NAME BY DELIVERING TO THE SECRETARY OF STATE, FOR FILING PURSUANT TO PART 3 OF ARTICLE 90 OF THIS TITLE, A STATEMENT OF TRADE NAME RENEWAL AT ANY TIME DURING THE LAST THREE CALENDAR MONTHS THE STATEMENT OF TRADE NAME IS EFFECTIVE. A FILED STATEMENT OF TRADE NAME RENEWAL SHALL EXTEND, BY ONE CALENDAR YEAR, THE PERIOD DURING WHICH THE STATEMENT OF TRADE NAME TO WHICH IT RELATES IS EFFECTIVE. A STATEMENT OF TRADE NAME RENEWAL SHALL STATE, WITH RESPECT TO THE STATEMENT OF TRADE NAME TO BE RENEWED:

(a) THE TRUE NAME OF THE PERSON;

(b) THE NAME UNDER WHICH THE PERSON TRANSACTS BUSINESS IN THIS STATE, AS STATED IN THE STATEMENT OF TRADE NAME;

(c) ANY CHANGE IN ANY STATEMENT MADE IN THE STATEMENT OF TRADE NAME, OR IN ANY PREVIOUSLY FILED STATEMENT RELATED TO SUCH STATEMENT OF TRADE NAME, NECESSARY TO MAKE THE STATEMENT OF TRADE NAME TRUE AND CORRECT AS OF THE DATE THE STATEMENT OF TRADE NAME RENEWAL IS DELIVERED FOR FILING; AND

(d) SUCH OTHER INFORMATION AS THE SECRETARY OF STATE MAY REQUIRE.

(2) THE SECRETARY OF STATE SHALL DELIVER A NOTICE REGARDING RENEWAL, IN

SUCH FORM AS PRESCRIBED BY THE SECRETARY OF STATE, TO EACH PERSON THAT IS NOT A REPORTING ENTITY AND HAS AN EFFECTIVE STATEMENT OF TRADE NAME ON FILE IN THE RECORDS OF THE SECRETARY OF STATE NO LATER THAN THE FIRST DAY OF THE CALENDAR MONTH PRECEDING THE CALENDAR MONTH IN WHICH THE STATEMENT OF TRADE NAME IS NO LONGER EFFECTIVE PURSUANT TO SECTION 7-71-104 (1) OR SUBSECTION (1) OF THIS SECTION; EXCEPT THAT THE SECRETARY OF STATE SHALL NOT BE REQUIRED TO DELIVER TO A PERSON A NOTICE REGARDING RENEWAL FOR ANY TRADE NAME OF THAT PERSON FOR ANY RENEWAL PERIOD FOR WHICH A STATEMENT OF TRADE NAME RENEWAL HAS PREVIOUSLY BEEN FILED PURSUANT TO SUBSECTION (1) OF THIS SECTION. THE FAILURE OF THE SECRETARY OF STATE TO DELIVER A NOTICE REGARDING RENEWAL TO ANY PERSON SHALL NOT AFFECT THE REQUIREMENT THAT ANY STATEMENT OF TRADE NAME OF THAT PERSON BE RENEWED IN ACCORDANCE WITH THIS SECTION IN ORDER TO REMAIN EFFECTIVE.

7-71-106. Withdrawal of statement of trade name. (1) A PERSON HAVING A STATEMENT OF TRADE NAME ON FILE IN THE RECORDS OF THE SECRETARY OF STATE MAY WITHDRAW THE STATEMENT OF TRADE NAME BY DELIVERING TO THE SECRETARY OF STATE, FOR FILING PURSUANT TO PART 3 OF ARTICLE 90 OF THIS TITLE, A STATEMENT OF TRADE NAME WITHDRAWAL STATING:

- (a) THE TRUE NAME OF THE PERSON;
- (b) THE TRADE NAME WITH RESPECT TO WHICH THE STATEMENT OF TRADE NAME WITHDRAWAL RELATES;
- (c) THAT THE PERSON WILL NO LONGER TRANSACT BUSINESS IN THIS STATE UNDER THE TRADE NAME; AND
- (d) THAT THE STATEMENT OF TRADE NAME IS WITHDRAWN UPON THE FILING OF THE STATEMENT OF TRADE NAME WITHDRAWAL.

(2) UPON THE FILING OF THE STATEMENT OF TRADE NAME WITHDRAWAL, THE STATEMENT OF TRADE NAME TO WHICH IT RELATES SHALL NO LONGER BE EFFECTIVE.

7-71-107. Nonprofit entities. (1) A NONPROFIT ENTITY FOR WHICH A CONSTITUENT FILED DOCUMENT IS IN THE RECORDS OF THE SECRETARY OF STATE MAY, BUT SHALL NOT BE REQUIRED TO, DELIVER TO THE SECRETARY OF STATE, FOR FILING PURSUANT TO PART 3 OF ARTICLE 90 OF THIS TITLE, A STATEMENT OF TRADE NAME FOR ANY NAME OTHER THAN ITS TRUE NAME UNDER WHICH THE NONPROFIT ENTITY TRANSACTS BUSINESS OR CONDUCTS ACTIVITIES, OR INTENDS TO TRANSACT BUSINESS OR CONDUCT ACTIVITIES, IN THIS STATE. THE PROVISIONS OF THIS ARTICLE OTHER THAN SECTION 7-71-102 SHALL APPLY TO THE STATEMENT OF TRADE NAME AND ANY OTHER STATEMENT FILED IN CONNECTION THEREWITH AND TO THE TRADE NAME.

(2) ANY MEMBER OF A NONPROFIT ENTITY FOR WHICH A CONSTITUENT FILED DOCUMENT IS NOT IN THE RECORDS OF THE SECRETARY OF STATE MAY, BUT SHALL NOT BE REQUIRED TO, DELIVER TO THE SECRETARY OF STATE, FOR FILING PURSUANT TO PART 3 OF ARTICLE 90 OF THIS TITLE, A STATEMENT OF TRADE NAME FOR ANY NAME OTHER THAN THE TRUE NAME OF ALL OF ITS MEMBERS UNDER WHICH THE NONPROFIT ENTITY TRANSACTS BUSINESS OR CONDUCTS ACTIVITIES, OR INTENDS TO TRANSACT BUSINESS OR CONDUCT ACTIVITIES, IN THIS STATE. THE PROVISIONS OF

THIS ARTICLE OTHER THAN SECTION 7-71-102 SHALL APPLY TO ANY SUCH STATEMENT OF TRADE NAME AND ANY OTHER STATEMENT FILED IN CONNECTION THEREWITH AND TO ANY TRADE NAME STATED IN ANY SUCH STATEMENT OF TRADE NAME.

(3) AS TO ANY STATEMENT OF TRADE NAME FILED PURSUANT TO THIS SECTION AND ANY OTHER STATEMENT FILED IN CONNECTION WITH THE FILING, ANY REFERENCE IN THIS ARTICLE OR IN SUCH STATEMENT TO THE PHRASE "TRANSACT BUSINESS", OR ITS DERIVATIVES OR VARIANTS, SHALL INCLUDE "CONDUCT ACTIVITIES".

7-71-108. Recording of trade name affidavit. (1) AN AFFIDAVIT STATING THAT A PERSON MAY HOLD TITLE TO REAL PROPERTY IN THIS STATE UNDER ONE OR MORE TRADE NAMES MAY BE RECORDED IN THE OFFICE OF THE CLERK AND RECORDER OF ANY COUNTY IN THIS STATE IN WHICH THE PERSON OWNS, OR CONTEMPLATES OWNING, ANY REAL PROPERTY OR INTEREST IN REAL PROPERTY AND, UPON SUCH RECORDING, SHALL CONSTITUTE PRIMA FACIE EVIDENCE OF THE FACTS RECITED IN THE AFFIDAVIT IN SO FAR AS SUCH FACTS AFFECT TITLE TO REAL PROPERTY LOCATED IN SUCH COUNTY. THE AFFIDAVIT SHALL INCLUDE THE FOLLOWING:

(a) THE TRUE NAME OF THE PERSON TO WHICH THE AFFIDAVIT RELATES;

(b) IF THE PERSON IS AN ENTITY, THE FORM OF ENTITY AND THE JURISDICTION UNDER THE LAW OF WHICH IT IS FORMED;

(c) IF THE PERSON IS AN INDIVIDUAL, THE STREET ADDRESS OF THE INDIVIDUAL'S PRIMARY RESIDENCE OR USUAL PLACE OF BUSINESS IN THIS STATE IF THE INDIVIDUAL HAS ONE, OR OUTSIDE THIS STATE IF THE INDIVIDUAL HAS NO PRIMARY RESIDENCE OR USUAL PLACE OF BUSINESS IN THIS STATE, AND, IF DIFFERENT, THE MAILING ADDRESS OF THE INDIVIDUAL OR, IF THE PERSON IS AN ENTITY, THE STREET ADDRESS OF THE ENTITY'S USUAL PLACE OF BUSINESS IN THIS STATE IF IT HAS ONE, OR OUTSIDE THIS STATE IF IT HAS NO USUAL PLACE OF BUSINESS IN THIS STATE AND, IF DIFFERENT, THE MAILING ADDRESS OF THE ENTITY; AND

(d) THE TRADE NAME OR TRADE NAMES UNDER WHICH THE PERSON MAY HOLD TITLE TO REAL PROPERTY IN THIS STATE.

(2) IF THE PERSON TO WHICH THE AFFIDAVIT RELATES IS NOT AN INDIVIDUAL AND IS CAPABLE OF HOLDING TITLE TO REAL PROPERTY UNDER THE LAW OF THIS STATE, THE AFFIDAVIT ALSO SHALL BE A STATEMENT OF AUTHORITY UNDER SECTION 38-30-172, C.R.S., WITH THE EFFECT OF A STATEMENT OF AUTHORITY AS PROVIDED IN SUCH SECTION, IF THE AFFIDAVIT ALSO CONTAINS THE FOLLOWING:

(a) THE TRUE NAME OR POSITION OF THE PERSON AUTHORIZED TO EXECUTE INSTRUMENTS CONVEYING, ENCUMBERING, OR OTHERWISE AFFECTING TITLE TO REAL PROPERTY ON BEHALF OF THE PERSON TO WHICH THE AFFIDAVIT RELATES; AND

(b) ANY LIMITATION THAT MAY EXIST UPON THE AUTHORITY OF THE PERSON NAMED IN THE AFFIDAVIT OR HOLDING THE POSITION DESCRIBED IN THE AFFIDAVIT TO BIND THE PERSON TO WHICH THE AFFIDAVIT RELATES OR A STATEMENT THAT NO SUCH LIMITATION EXISTS.

7-71-109. Trade names registered with the department of revenue.

(1) PUBLIC RECORDS OF THE REGISTRATION OF TRADE NAMES WITH THE DEPARTMENT OF REVENUE PURSUANT TO SECTION 24-35-301, C.R.S., PRIOR TO ITS REPEAL, AS TO WHICH THE REGISTRATION IS IN EFFECT ON MAY 29, 2006, SHALL BE TRANSFERRED TO THE SECRETARY OF STATE. ON AND AFTER MAY 30, 2006, EACH SUCH TRADE NAME SHALL BE DEEMED A TRADE NAME FOR WHICH A STATEMENT OF TRADE NAME IS ON FILE IN THE RECORDS OF THE SECRETARY OF STATE. THE STATEMENT OF TRADE NAME DEEMED FILED FOR EACH SUCH TRADE NAME SHALL BE EFFECTIVE UNTIL THE DATE DETERMINED BY THE SECRETARY OF STATE, WHICH DATE SHALL NOT BE EARLIER THAN DECEMBER 31, 2007. APPLICATIONS TO REGISTER, MODIFY, DELETE, OR RENEW TRADE NAMES THAT ARE FILED WITH THE DEPARTMENT OF REVENUE ON OR BEFORE MAY 29, 2006, BUT NOT PART OF THE PUBLIC RECORDS TRANSFERRED TO THE SECRETARY OF STATE PURSUANT TO THIS SUBSECTION (1), SHALL BE TRANSMITTED BY THE DEPARTMENT OF REVENUE TO THE SECRETARY OF STATE, TOGETHER WITH ANY FEE PAID FOR THE APPLICATIONS. EACH SUCH APPLICATION SHALL BE DEEMED DELIVERED TO THE SECRETARY OF STATE, FOR FILING PURSUANT TO PART 3 OF ARTICLE 90 OF THIS TITLE, BY THE PERSON ON WHOSE BEHALF THE APPLICATION WAS MADE AND SHALL IN ALL RESPECTS BE SUBJECT TO PART 3 OF ARTICLE 90 OF THIS TITLE. AFTER FILING BY THE SECRETARY OF STATE, EACH SUCH APPLICATION SHALL BE DEEMED EFFECTIVE FOR PURPOSES OF THIS ARTICLE AND SECTION 7-90-304, AS OF MAY 30, 2006.

(2) FEES THAT HAVE BEEN COLLECTED BY THE DEPARTMENT OF REVENUE FOR REGISTRATION, MODIFICATION, DELETION, AND RENEWAL OF REGISTRATION OF TRADE NAMES THAT ARE PART OF THE PUBLIC RECORDS TRANSFERRED TO THE SECRETARY OF STATE PURSUANT TO SUBSECTION (1) OF THIS SECTION SHALL BE REMITTED TO THE STATE TREASURY PURSUANT TO SECTION 24-35-301 (3), C.R.S., AS SUCH SECTION EXISTED PRIOR TO ITS REPEAL.

7-71-110. Existing trade names on file in the records of the secretary of state. CERTIFICATES OR STATEMENTS OF TRADE NAME FILED IN ACCORDANCE WITH THIS ARTICLE AS IN EFFECT BEFORE MAY 30, 2006, THAT ARE ON FILE IN THE RECORDS OF THE SECRETARY OF STATE AS OF MAY 29, 2006, SHALL BE EFFECTIVE STATEMENTS OF TRADE NAME AND SHALL BE DEEMED TO HAVE BEEN FILED PURSUANT TO AND IN ACCORDANCE WITH THIS ARTICLE. EACH OF SUCH STATEMENTS OF TRADE NAME SHALL REMAIN EFFECTIVE AS PROVIDED IN SECTION 7-71-104 (1); EXCEPT THAT ANY SUCH STATEMENT OF TRADE NAME FOR A TRADE NAME OF A PERSON OTHER THAN A REPORTING ENTITY SHALL REMAIN EFFECTIVE UNTIL THE DATE DETERMINED BY THE SECRETARY OF STATE, WHICH DATE SHALL NOT BE EARLIER THAN DECEMBER 31, 2007.

SECTION 2. Repeal. Part 3 of article 35 of title 24, Colorado Revised Statutes, is repealed.

SECTION 3. Repeal. 7-70-102 (4) (a) (VII), Colorado Revised Statutes, as it will become effective July 1, 2004, is repealed as follows:

7-70-102. Application for registration. (4) (a) The secretary of state shall register a trademark application in accordance with paragraph (b) of this subsection (4) upon a finding by the secretary of state that the trademark set forth in the application does not:

~~(VII) So resemble any trade name registered with the secretary of state by another person pursuant to section 7-71-101 or for which an application for registration by another person is pending, which has been previously used by such person in this state and not abandoned, that it is likely to cause confusion or mistake or to deceive when used in connection with the goods or services of such person; or~~

SECTION 4. 7-90-102 (63.3), Colorado Revised Statutes, as amended by House Bill 04-1398, enacted at the Second Regular Session of the Sixty-fourth General Assembly, is amended to read:

7-90-102. Definitions. As used in this title, except as otherwise defined for the purpose of any section, subpart, part, or article of this title, or unless the context otherwise requires:

(63.3) "Trade name" means a name OF A PERSON other than the true name ~~of an entity~~ OF THE PERSON, OR, IN THE CASE OF A GENERAL PARTNERSHIP THAT IS NOT A LIMITED LIABILITY PARTNERSHIP, OTHER THAN THE TRUE NAME OF EACH GENERAL PARTNER OF THE GENERAL PARTNERSHIP, under which the ~~entity~~ PERSON may transact business or conduct activities pursuant to the provisions of ~~section 7-71-101~~ ARTICLE 71 OF THIS TITLE.

SECTION 5. 7-90-601 (2), Colorado Revised Statutes, as it will become effective July 1, 2004, is amended to read:

7-90-601. Entity name. (2) Each entity name shall be distinguishable on the records of the secretary of state from every:

(a) Other entity name; AND

(b) Name that is reserved with the secretary of state for another person as an entity name ~~or as a trade name~~ pursuant to section 7-90-602. ~~and~~

~~(c) Trade name that is registered with the secretary of state by another entity pursuant to section 7-71-101.~~

(d) (Deleted by amendment, L. 2003, p. 2298, § 212, effective July 1, 2004.)

SECTION 6. 7-90-602 (1), Colorado Revised Statutes, as amended by House Bill 04-1398, enacted at the Second Regular Session of the Sixty-fourth General Assembly, is amended to read:

7-90-602. Reserved entity name. (1) Any person may apply for the reservation of the exclusive use of a name for the use as an entity name ~~or as a trade name pursuant to article 71 of this title~~ by delivering a statement of reservation of a name to the secretary of state, for filing pursuant to part 3 of this article, stating the name and mailing address of the person, that the person is applying under this section to reserve a name for use as an entity name ~~or a trade name~~ and the name proposed to be reserved. If the secretary of state determines that the name applied for would be available for use as an entity name under section 7-90-601, the secretary of state shall reserve the name for the person's exclusive use for a one-hundred-twenty-day period, which reservation may be renewed successively for one-hundred-twenty-day periods.

A statement of reservation of name may not state a delayed effective date.

SECTION 7. 7-90-604 (4) (b) (II), (4) (d) (II), and (4) (e), Colorado Revised Statutes, as amended by House Bill 04-1398, enacted at the Second Regular Session of the Sixty-fourth General Assembly, are amended to read:

7-90-604. Registered true name of a foreign entity. (4) (b) A foreign entity that has in effect a registration of its true name may transfer the registration to another foreign entity, whether or not that name is the true name of the transferee, if the transferee is then authorized to transact business or conduct activities in Colorado and if, concurrently with the delivery of the foreign entity's statement of transfer of registration of true name to the secretary of state pursuant to paragraph (a) of this subsection (4), the transferee delivers to the secretary of state, for filing pursuant to part 3 of this article, either:

(II) A statement of reservation of name reserving the transferred name as an entity name ~~or trade name~~ of the transferee pursuant to section 7-90-602; or

(d) A foreign entity that has in effect a registration of its true name may transfer such registration to a domestic entity, although that name is not the true name of the transferee, if, concurrently with the delivery of the foreign entity's statement of transfer of registration of true name to the secretary of state pursuant to paragraph (a) of this subsection (4), the transferee delivers to the secretary of state, for filing pursuant to part 3 of this article, either:

(II) A statement of reservation of name reserving the transferred name as an entity name ~~or trade name~~ pursuant to section 7-90-602; or

(e) A foreign entity that has in effect a registration of its true name may transfer such registration to an individual if, concurrently with the delivery of the foreign entity's statement of transfer of registration of true name to the secretary of state pursuant to paragraph (a) of this subsection (4), the transferee delivers to the secretary of state, for filing pursuant to part 3 of this article, a statement of reservation of name reserving the transferred name as an entity name ~~or trade name~~ pursuant to section 7-90-602.

SECTION 8. 7-90-806 (1) (f), Colorado Revised Statutes, as it will become effective July 1, 2004, is amended to read:

7-90-806. Withdrawal of foreign entity. (1) A foreign entity authorized to transact business or conduct activities in this state may relinquish that authority by causing to be delivered to the secretary of state, for filing pursuant to part 3 of this article, a statement of foreign entity withdrawal stating:

(f) That ~~the registration of all trade names registered by it with~~ ANY STATEMENT OF TRADE NAME IT HAS ON FILE IN THE RECORDS OF the secretary of state pursuant to ~~section 7-71-101~~ ARTICLE 71 OF THIS TITLE, and any assumed entity name pursuant to section 7-90-603, are withdrawn upon the filing of the statement of foreign entity withdrawal; and

SECTION 9. Effective date. This act shall take effect May 30, 2006.

SECTION 10. Safety clause. The general assembly hereby finds, determines, and declares that this act is necessary for the immediate preservation of the public peace, health, and safety.

Approved: May 28, 2004