



1                   **CHAPTER 47. REGULATION OF TRADE.**

2 **ARTICLE 8. TRADE NAMES.**

3 **§47-8-3. Indexing of certificates filed with clerk of county**  
4                   **commission.**

5           The clerks of county commissions of this state shall keep an  
6 alphabetical index of all persons filing certificates provided for  
7 in section two of this article.

8 **§47-8-4. Corporations, associations, limited partnerships, limited**  
9                   **liability partnerships, and limited liability companies**  
10                   **not to conduct business under assumed name without**  
11                   **certificate of trade name; application; issuance of**  
12                   **certificate of trade name.**

13           (a) No business entity organized as a corporation, limited  
14 partnership, limited liability partnership, limited liability  
15 company, business trust or voluntary association required to  
16 register with the Secretary of State in order to conduct business  
17 within the state may conduct or transact any business in this state  
18 under any ~~assumed~~ trade name, or under any designation, name or  
19 style, corporate or otherwise, other than the name established by  
20 the original certificate establishing the business entity or by an  
21 amendment thereto, unless the business entity files in the office  
22 of the Secretary of State an application for registration of trade  
23 name. The application shall set forth:

1           (1) The name under which the business entity is organized and  
2 registered;

3           (2) The trade name under which the business of such business  
4 entity is, or is to be, conducted or transacted upon approval of  
5 the application, which name must be distinguishable from the name  
6 or trade name of any other corporation, limited partnership,  
7 limited liability partnership, limited liability company, business  
8 trust or voluntary association, on record with the Secretary of  
9 State and from any ~~name~~ reserved name or registered name for any of  
10 those business entities on record with the Secretary of State;

11           (3) The address of the principal office within the state or,  
12 if no office is maintained within the state, the address of the  
13 principal office in the state in which the business entity is  
14 established; and

15           (4) The name, title and signature of a person having authority  
16 to make the application.

17           The Secretary of State shall grant a certificate of  
18 registration to any applicant who has met the requirements of this  
19 subsection. A new certificate of registration is to be filed if  
20 the business entity desires to conduct or transact any business in  
21 this state under any other assumed name not on file in the office  
22 of the Secretary of State.

23           (b) One original executed of the application for trade name  
24 registration shall be delivered to the Secretary of State.

1 Delivery may be made by electronic transmission if permitted by the  
2 Secretary of State. If the filing officer finds that the  
3 application for trade name registration conforms to law, he or she  
4 shall, when all fees have been paid as prescribed by law, file it  
5 and shall deliver to the entity or its representative a receipt for  
6 the record and fee.

7 (c) Upon discontinuing the use of a registered trade name the  
8 certificate of registration of trade name shall be withdrawn by  
9 filing a certificate of withdrawal with the office of the Secretary  
10 of State setting forth the name to be discontinued, the real name,  
11 the address of the party transacting business and the date upon  
12 which the original certificate of registration of trade name was  
13 filed.

14 (d) Any corporation authorized to transact business in this  
15 state shall procure an amended certificate of incorporation in the  
16 event it changes its corporate name by filing articles of amendment  
17 with the office of the Secretary of State as provided in article  
18 ten, chapter thirty-one-d, or article ten, chapter thirty-one-e of  
19 this code.

20 (e) Any limited liability company registering a trade name  
21 pursuant to the provisions of this section is subject to the  
22 limitations set forth in subsections (b), (c) and (d) section one  
23 hundred five, article one, chapter thirty-one-b of this code.

24 (f) The amendments to this section enacted in the regular

1 session of 2011 shall be effective as to all applications received  
2 on or after the effective date of the amendments.

3 **ARTICLE 9. UNIFORM LIMITED PARTNERSHIP ACT.**

4 **§47-9-2. Name of limited partnership.**

5 (a) The name of each limited partnership as set forth in its  
6 certificate of limited partnership:

7 (1) Shall contain the words "limited partnership," or the  
8 abbreviation "Ltd. Partnership," "LP" or "L.P.";

9 (2) May not contain the name of a limited partner unless: (i)  
10 It is also the name of a general partner or the corporate name of  
11 a corporate general partner; or (ii) the business of the limited  
12 partnership had been carried on under the name before the admission  
13 of that limited partner;

14 (3) May not be the same as, and must be distinguishable from,  
15 the name or trade name of any corporation, limited partnership,  
16 limited liability partnership, or limited liability company  
17 organized under the laws of this state or licensed or registered as  
18 a foreign corporation, limited partnership, limited liability  
19 partnership, or limited liability company in this state; and

20 (4) May not include the words "engineer", "engineers",  
21 "engineering" or any combination of those words unless the purpose  
22 of the corporation is to practice professional engineering as  
23 defined in article thirteen, chapter thirty of this code, as  
24 amended, and one or more of the incorporators is a registered

1 professional engineer as defined therein.

2 (b) The amendments to this section enacted in the regular  
3 session of 2011 shall be effective as to all applications received  
4 on or after the effective date of the amendments.

5 **CHAPTER 31B. UNIFORM LIMITED LIABILITY COMPANY ACT.**

6 **ARTICLE 1. GENERAL PROVISIONS.**

7 **§31B-1-105. Name.**

8 (a) The name of a limited liability company must contain  
9 "limited liability company" or "limited company" or the  
10 abbreviation "L.L.C.", "LLC", "L.C." or "LC". "Limited" may be  
11 abbreviated as "Ltd." and "company" may be abbreviated as "Co.".

12 (b) Except as authorized by subsections (c) and (d) of this  
13 section, the name of a limited liability company must be  
14 distinguishable upon the records of the Secretary of State from:

15 (1) The name of any corporation, limited partnership, limited  
16 liability partnership or limited liability company incorporated,  
17 organized or authorized to transact business in this state;

18 (2) A name reserved or registered under sections 1-106 or  
19 1-107 of this article or under sections twelve or thirteen of  
20 article one, chapter thirty-one of this code;

21 (3) A fictitious name approved under section 10-1005 for a  
22 foreign company authorized to transact business in this state  
23 because its real name is unavailable; or

24 (4) The name of any other entity whose name is carried on the

1 records of the Secretary of State.

2 (c) A limited liability company may apply to the Secretary of  
3 State for authorization to use a name that is not distinguishable  
4 upon the records of the Secretary of State from one or more of the  
5 names described in subsection (b) of this section. The Secretary  
6 of State shall authorize use of the name applied for if:

7 (1) The present user, registrant or owner of a reserved name  
8 consents to the use in a record and submits an undertaking in form  
9 satisfactory to the Secretary of State to change the name to a name  
10 that is distinguishable upon the records of the Secretary of State  
11 from the name applied for; or

12 (2) The applicant delivers to the Secretary of State a  
13 certified copy of the final judgment of a court of competent  
14 jurisdiction establishing the applicant's right to use the name  
15 applied for in this state.

16 (d) A limited liability company may use the name, including a  
17 fictitious name, of another domestic or foreign company which is  
18 used in this state if the other company is organized or authorized  
19 to transact business in this state and the company proposing to use  
20 the name has:

21 (1) Merged with the other company;

22 (2) Been formed by reorganization with the other company; or

23 (3) Acquired substantially all of the assets, including the  
24 name, of the other company.

1       (e) The amendments to this section enacted in the regular  
2 session of 2011 shall be effective as to all applications received  
3 on or after the effective date of the amendments.

4 **ARTICLE 10. FOREIGN LIMITED LIABILITY.**

5 **§31B-10-1005. Name of foreign limited liability company.**

6       (a) If the name of a foreign limited liability company does  
7 not satisfy the requirements of section 1-105, the company, to  
8 obtain or maintain a certificate of authority to transact business  
9 in this state, must use a fictitious name to transact business in  
10 this state if its real name is unavailable and it delivers to the  
11 Secretary of State for filing a copy of the resolution of its  
12 managers, in the case of a manager-managed company, or of its  
13 members, in the case of a member-managed company, adopting the  
14 fictitious name.

15       (b) Except as authorized by subsections (c) and (d) of this  
16 section, the name, including a fictitious name to be used to  
17 transact business in this state, of a foreign limited liability  
18 company must be distinguishable upon the records of the Secretary  
19 of State from:

20       (1) The name of any corporation, limited partnership, or  
21 company incorporated, organized or authorized to transact business  
22 in this state;

23       (2) A name reserved or registered under section 1-106 or  
24 1-107; and



1 (3) The fictitious name of another foreign limited liability  
2 company authorized to transact business in this state; or

3 (4) The name of any other entity whose name is carried on the  
4 records of the Secretary of State.

5 (c) A foreign limited liability company may apply to the  
6 Secretary of State for authority to use in this state a name that  
7 is not distinguishable upon the records of the Secretary of State  
8 from a name described in subsection (b) of this section. The  
9 Secretary of State shall authorize use of the name applied for if:

10 (1) The present user, registrant or owner of a reserved name  
11 consents to the use in a record and submits an undertaking in form  
12 satisfactory to the Secretary of State to change its name to a name  
13 that is distinguishable upon the records of the Secretary of State  
14 from the name of the foreign applying limited liability company; or

15 (2) The applicant delivers to the Secretary of State a  
16 certified copy of a final judgment of a court establishing the  
17 applicant's right to use the name applied for in this state.

18 (d) A foreign limited liability company may use in this state  
19 the name, including the fictitious name, of another domestic or  
20 foreign entity that is used in this state if the other entity is  
21 incorporated, organized or authorized to transact business in this  
22 state and the foreign limited liability company:

23 (1) Has merged with the other entity;

24 (2) Has been formed by reorganization of the other entity; or

1           (3) Has acquired all or substantially all of the assets,  
2 including the name, of the other entity.

3           (e) If a foreign limited liability company authorized to  
4 transact business in this state changes its name to one that does  
5 not satisfy the requirements of section 1-105, it may not transact  
6 business in this state under the name as changed until it adopts a  
7 name satisfying the requirements of section 1-105 and obtains an  
8 amended certificate of authority.

9           (f) The amendments to this section enacted in the regular  
10 session of 2011 shall be effective as to all applications received  
11 on or after the effective date of the amendments.

NOTE: The purpose of this bill is to amend the code provisions relating to trade names so as to prevent a business from adopting a trade name already in use.

Strike-throughs indicate language that would be stricken from the present law, and underscoring indicates new language that would be added.