

CHAPTER 17. NAMES

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Cross References

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Subchapter A. NAMES GENERALLY**GENERAL**

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GENERAL**§ 17.1. General standards.**

(a) An association name may be in any language, but shall be expressed in Roman letters or characters or Arabic or Roman numerals. As to the use of “Inc.” or an equivalent corporate designator, see the discussion in this subpart under the applicable type of association.

(b) Except as otherwise provided by statute, a new association may not be incorporated or otherwise organized or qualified with a name which is the same as or confusingly similar to, and no existing association may change its name to a name which is the same as or confusingly similar to, the name of an association whose name is currently registered under 54 Pa.C.S. § 501 (relating to register established).

(c) The register established under 54 Pa.C.S. § 501 consists of the following names, as long as the registration has not been terminated under 54 Pa.C.S. § 504 or § 506 (relating to effect of failure to make decennial filings; and voluntary termination of registration by corporations and other associations):

(1) A name registered prior to February 13, 1973 under the act of May 16, 1923 (P. L. 246, No. 160) (Repealed), relating to registration of certain names.

(2) A name registered under 54 Pa.C.S. § 502 (relating to certain additions to register). The names of those limited partnerships which have effected any of the following filings in the Department are deemed registered under 54 Pa.C.S. § 502(b) by reason of having effected the filing, as long as the partnership has not filed a certificate of cancellation, in the case of a domestic partnership, or a certificate of cancellation of registration, in the case of a foreign partnership:

(i) A certificate of limited partnership. See 54 Pa.C.S. § 8585 (relating to name).

(ii) A certificate of summary of record. See section 8519 of the RULPA (relating to filing of certificate of summary of record by limited partnerships formed prior to 1976).

(iii) An application for registration as a foreign limited partnership. See 54 Pa.C.S. (relating to name).

(3) In the case of a domestic or qualified foreign corporation, a name rendered unavailable for corporate use by other corporations by reason of a filing in the Department by the domestic or qualified foreign corporation, as long as so rendered unavailable. See 54 Pa.C.S. § 502(b).

(4) A name registered under section 4131 of the BCL (relating to registration of name) and section 6131 of the NPCL (relating to registration of name) or a similar provision of law, as long as so registered. See 54 Pa.C.S. § 502(b).

(5) In the case of a business trust which exists subject to Chapter 95 of the code (relating to business trusts), the name of the trust as set forth in instrument filed in the Department under section 9503 of the code (relating to documentation of trust).

(d) A name is not rendered unavailable for association use by reason of registration under 54 Pa.C.S. Chapter 3 (relating to fictitious names). See 54 Pa.C.S. §§ 311(a)(6) and 332 (relating to registration; and effect of registration).

Source

The provisions of this § 17.1 adopted June 22, 1973, effective June 23, 1973, 3 Pa.B. 1164; amended January 29, 1982, effective January 30, 1982, 12 Pa.B. 471; amended April 17, 1992, effective April 18, 1992, 22 Pa.B. 1993. Immediately preceding text appears at serial pages (109841) to (109842).

Cross References

This section cited in 19 Pa. Code § 17.101 (relating to registration of names of certain domestic associations); and 19 Pa. Code § 17.204 (relating to general restrictions on name availability).

§ 17.2. Appropriation of the name of a senior corporation.

(a) Section 802(a)(x) of the Banking Code (7 P. S. § 802(a)(x)) and section 1301(b)(1) of the BCL (relating to purposes) and section 5303(b)(1) of the NPCL (relating corporate name) provide that a junior corporation may adopt the name of another association if the other association meets the following conditions:

(1) Is about to change its name, or to cease to do business, or is being wound up, or is a foreign association which is about to withdraw from doing business in this Commonwealth. In all these cases, the written consent of a senior association to the adoption of its name by the junior corporation shall be executed on Form DSCB:17.2 (Consent to Appropriation of Name).

(2) Has filed with the Department of Revenue a certificate of out of existence, or has failed for a period of 3 successive years to file with the Department of Revenue a report or return required by law. It is the responsibility of the applicant to communicate directly with the Department of Revenue to ascertain the status of the senior association. If the association is not in good standing the applicant shall request the Department of Revenue to certify the failure to file to the Department. See 61 Pa. Code §§ 151.11—151.13 (relating to termination; minimum reporting; and resumption of reporting).

(3) Has abandoned its name under the laws of its jurisdiction of incorporation, by amendment, merger, consolidation, division, expiration, dissolution or otherwise, without its name being adopted by a successor in a merger, consolidation, division or otherwise, and an official record of that fact, certified as provided by 42 Pa.C.S. § 5328 (relating to proof of official records) is presented by a person to the Department.

(4) Has had the registration of its name under Subchapter B (relating to registration of names) terminated. If the termination was effected by operation

of § 17.102 (relating to decennial filings), the application for the name shall be accompanied by a verified statement stating that at least 30 days written notice of intention to appropriate the name was given to the delinquent association at its registered office, and that after diligent search by the affiant, the affiant believes the association to be out of existence.

(b) A corporate name is the same as another corporate name when the one is identical to the other, including spelling, spacing and punctuation.

(c) If a corporate name is made available on the basis set forth in subsection (a)(2), the defaulting or out-of-existence association shall cease to have by virtue of its prior registration the right to the use of the name. The association, upon the withdrawal of the certificate of out of existence or upon the removal of its delinquency in the filing of required reports or returns, shall make inquiry with the Department with regard to the availability of its name. If the name has been made available to another association under this section, the association shall adopt a new name in accordance with law before resuming its activities.

(d) If a corporate name is made available on the basis set forth in subsection (a)(1) and the senior association continues to use its name in this Commonwealth and does not change its name, cease to do business, be wound up or withdraw as it proposed to do in its consent, or if a senior corporation does not comply with the requirements of subsection (c), the senior corporation is liable to injunction proceedings at the instance of the Attorney General or a person adversely affected.

Source

The provisions of this § 17.2 adopted June 22, 1973, effective June 23, 1973, 3 Pa.B. 1164; amended April 17, 1992, effective April 18, 1992, 22 Pa.B. 1993. Immediately preceding text appears at serial pages (109842) and (87011).

Cross References

This section cited in 19 Pa. Code § 17.41 (relating to foreign association names); and 19 Pa. Code § 17.204 (relating to general restrictions on name availability).

§ 17.3. Use of a confusingly similar name.

(a) Section 802(a)(x) of the Banking Code (7 P. S. § 802(a)(x)), section 1303(b)(1) of the BCL (relating to corporate name), 5303(b)(1) of the NPCL (relating to corporate name) and 54 Pa.C.S. § 311(e)(1) (relating to registration), provide that an entity may adopt a name which is confusingly similar to the name of another association with the consent of the other association. In all these cases, the written consent of the association to the adoption of the name which is confusingly similar to its name shall be executed on Form DSCB:17.3 (Consent to Use of Similar Name).

(b) If a confusingly similar name is made available on the basis of Form DSCB:17.3 which recites that the senior association is about to change its name, or to cease to do business, or is being wound up or is about to withdraw from

doing business in this Commonwealth, and the senior association continues to use its name in this Commonwealth, and does not change its name, cease to do business, be wound up or withdraw as it proposed to do in its consent, the senior association is liable to injunction proceedings at the instance of the Attorney General or a person adversely affected.

(c) In determining whether one name is confusingly similar to another, the Department will apply the following criteria:

(1) A name is confusingly similar if it fails to adequately differentiate an association from other associations. The following individually or in a combination result in a confusingly similar name, producing a conflict which requires written consent:

(i) The use of a different corporate designator; for example, Corp., Co., Inc., Ltd., and the like.

(ii) The use of a plural.

(iii) The use of an article, that is, “a” or “the.”

(iv) The use of a geographic designator after the association name.

(v) The use of a numeral or spelled number after the association name.

(2) The use of one or more different initials shall constitute a different name, for example, J. G. Doe Incorporated and F. G. Doe Incorporated.

(3) Phonetic similarities involving the principal name or word in the corporate name does not constitute a conflict if one or more of the following circumstances exist, but in all other cases written consent is required:

(i) One or more different initials are included in the name.

(ii) A different corporate designator is used.

(iii) A plural is used.

(iv) A geographic designator is included.

(v) One or more numbers are used.

(vi) The location is far removed from the conflicting name.

(4) If a synonym is used which indicates the same purpose and is of like spelling and pronunciation, a conflict will be deemed to exist and written consent is required.

(5) In the case of professional corporations, a confusingly similar name is permitted if it constitutes one of the professionals’ own names.

(6) In the case of affiliates using the same name with geographic or other designator, written consent will be required from the parent or prime affiliate only.

(7) The following are examples of the application of the standards set forth in this section:

Confusingly Similar

XYZ Corp. and XYZ Co.
 XYZ's Inc. and XYZ Inc.
 A XYZ Inc. and The XYZ Inc.
 XYZ of Pittsburgh and XYZ of Philadelphia
 XYZ Inc. and XYZ of Pittsburgh
 XYZ Inc. and XYZ I
 XYZ I and XYZ II
 XYZ 2 and XYZ II
 XYZ One Inc. and XYZ Inc.
 XYZ Company Inc. and XYZ Inc.
 XYZ North Inc. and XYZ Inc.

Not Confusingly Similar

1302 Elm St. Inc. and 1304 Elm St. Inc.
 J. G. Doe Inc. and F. G. Doe Inc.
 Two XYZ Inc. and Four XYZ Inc.

(d) Words and places in common usage are not subject to preemption by a single person or association and will be recognized as such.

(e) In borderline cases, the Department will take the following into consideration:

- (1) Differences in geographic location.
- (2) Differences in type of business.

(f) In the case of nonprofit corporations, the following do not constitute confusing similarity:

- (1) Geographic location.
- (2) Synonyms.
- (3) Phonetic similarity.

(g) Section 4123(b) of the BCL (relating to requirements for foreign corporation names) and section 6123(b) of the NPCL (relating to requirements for foreign corporation names) provide that the Department may issue a certificate of authority to a foreign business corporation or a foreign nonprofit corporation setting forth a name that is confusingly similar to a name then registered under 54 Pa.C.S. Chapter 5 (relating to corporate and other association names), to a name reserved as provided in this chapter, or a name it is prevented from using by its failure to obtain the required consent of a department, board, commission or other agency of the Commonwealth (see § 17.9 (relating to professional names)), if the foreign business corporation or foreign nonprofit corporation applying for a certificate of authority files in the Department one of the following:

(1) A resolution of its board of directors adopting a fictitious name for use in transacting business in this Commonwealth which fictitious name is not confusingly similar to the name of the other association or to a name reserved as provided in this chapter.

(2) The written consent of the other association or holder of a reserved name to use the same or confusingly similar name and one or more words are added to make the name applied for distinguishable from the other name. In these cases, the written consent of the association to the adoption of the name which, except for the distinguishing word or words, is the same or confusingly similar to its name shall be executed on Form DSCB:17.3.

(h) It is not possible to provide a guideline in sufficient detail to cover every possible problem that may develop for corporate names. Upon recognition of unusual cases, the personnel of the Department will refer them to the Director of the Corporation Bureau for review.

Source

The provisions of this § 17.3 adopted June 22, 1973, effective June 23, 1973, 3 Pa.B. 1164; amended January 27, 1984, effective January 28, 1984, 14 Pa.B. 336; amended April 17, 1992, effective April 18, 1992, 22 Pa.B. 1993. Immediately preceding text appears at serial pages (87012) to (87014).

Cross References

This section cited in 19 Pa. Code § 17.41 (relating to foreign association names); and 19 Pa. Code § 17.204 (relating to general restrictions on name availability).

§ 17.4. Governmental names.

Except as otherwise required by statute, the Department will not file a document deposited on behalf of a proposed or existing private association which has the effect of appropriating to the association the name of an administrative department, board, commission or other agency of the Commonwealth or which implies that the association is a governmental agency of the Commonwealth or of the United States. See, for example, sections 1303(c)(1)(i) of the BCL (relating to corporate name) and 5303(c)(1)(i) of the NPCL (relating to corporate name).

Source

The provisions of this § 17.4 adopted June 22, 1973, effective June 23, 1973, 3 Pa.B. 1164; amended April 17, 1992, effective April 18, 1992, 22 Pa.B. 1993. Immediately preceding text appears at serial page (87015).

§ 17.5. Blasphemy or profanity.

An association name may not contain words that constitute blasphemy, profane cursing or swearing or that profane the Lord's name.

Source

The provisions of this § 17.5 adopted June 22, 1973, effective June 23, 1973, 3 Pa.B. 1164; amended April 17, 1992, effective April 18, 1992, 22 Pa.B. 1993. Immediately preceding text appears at serial page (87015).

§ 17.6. Banking names.

(a) Section 805(d) of the Banking Code (7 P. S. § 805(d)) requires that the Department refuse to approve as a corporate name or to register as a fictitious name a name which has the following characteristics:

(1) Is deceptively similar to the name of an institution subject to the Banking Code.

(2) Contains the words “bank,” “banking,” “banker” or “trust” or the plural of these words, except when the filing is tendered on behalf of one of the following:

- (i) An institution subject to the Banking Code.
- (ii) A Federal Reserve Bank.
- (iii) A National bank.
- (iv) A Federal Intermediate Credit Bank, Federal Land Bank, Federal Home Loan Bank or a Bank for Cooperatives.
- (v) The International Bank for Reconstruction and Development.
- (vi) The Inter-American Development Bank.
- (vii) A Pennsylvania bank holding company.

(b) Section 1303(c)(ii) of the BCL (relating to corporate name) provides that the name of a business corporation may not imply that the corporation is a bank, bank and trust company, savings bank, private bank or trust company, as defined in the Banking Code of 1965, unless the corporation or proposed corporation is a Pennsylvania bank holding company or is otherwise authorized by statute to use its proposed name. See section 116 of the Banking Code of 1965 (7 P. S. § 116).

(c) Section 5303(c)(ii) of the NPCL (relating to corporate name) provides that the name of a nonprofit corporation may not imply that the corporation is a bank, bank and trust company, savings bank, private bank or trust company, as defined in the Banking Code of 1965.

(d) In 54 Pa.C.S. § 311(f)(3) (relating to registration) it is provided that a fictitious name may not contain words implying that the registered entity is a bank, bank and trust company, savings bank, private bank or trust company, as defined in the Banking Code of 1965, unless approved by the Department of Banking.

Source

The provisions of this § 17.6 adopted June 22, 1973, effective June 23, 1973, 3 Pa.B. 1164; amended April 17, 1992, effective April 18, 1992, 22 Pa.B. 1993. Immediately preceding text appears at serial pages (87015) to (87016).

Cross References

This section cited in 19 Pa. Code § 13.14 (relating to governmental approvals); 19 Pa. Code § 17.41 (relating to foreign association names); and 19 Pa. Code § 17.204 (relating to general restrictions on name availability).

§ 17.7. Cooperative names.

(a) Section 7103 of the CCL (relating to use of term “cooperative” in corporate name) provides that, except as otherwise provided by statute:

(1) The corporate name of a cooperative corporation shall contain the term “cooperative” or an abbreviation thereof.

(2) The name of an association may not contain the term “cooperative” or an abbreviation thereof unless the association is a cooperative corporation.

(b) In section 7307 of the code (relating to prohibition on use of words “electric cooperative”) it is provided that the words “electric cooperative” may not be used in the corporate name of a domestic or foreign corporation for profit or not-for-profit, other than a corporation existing under Chapter 73 of the code (relating to Electric Cooperative Law of 1990).

(c) In section 104 of Credit Union Law (relating to prohibition on use of words “credit union,” etc.) it is provided that only a credit union subject to the Credit Union Law, a Federal credit union or a credit union organized in accordance with a state credit union statute may use the words “credit union” in its corporate name.

(d) In 54 Pa.C.S. § 311(f)(4) (relating to registration), it is provided that the word “cooperative” or an abbreviation thereof cannot be used by an entity as part of a fictitious name unless the entity is subject to the CCL.

Source

The provisions of this § 17.7 adopted June 22, 1973, effective June 23, 1973, 3 Pa.B. 1164; amended January 27, 1984, effective January 28, 1984, 14 Pa.B. 336; amended April 17, 1992, effective April 18, 1992, 22 Pa.B. 1993. Immediately preceding text appears at serial page (87016).

§ 17.8. Educational names.

Under section 1303(c)(2)(i) of the BCL (relating to corporate name) and under section 5303(c)(2)(i) of the NPCL (relating to corporate name), 24 Pa.C.S. § 6507 (relating to institution names to be approved by department) and 54 Pa.C.S. § 311(f)(1) (relating to registration), the Department will not approve an association name or register a fictitious name including the words “college,” “university” or “seminary” used to imply that the entity is an educational institution conforming to the standards and qualifications prescribed by the State Board of Education, as set forth in 22 Pa. Code Part I (relating to State Board of Education), unless the submittal is accompanied by a certificate from the Department of Education that the entity is entitled to use the designation.

Source

The provisions of this § 17.8 adopted June 22, 1973, effective June 23, 1973, 3 Pa.B. 1164; amended January 27, 1984, effective January 28, 1984, 14 Pa.B. 336; amended April 17, 1992, effective April 18, 1992, 22 Pa.B. 1993. Immediately preceding text appears at serial pages (87016) to (87017).

Cross References

This section cited in 19 Pa. Code § 13.14 (relating to governmental approvals); and 19 Pa. Code § 17.204 (relating to general restrictions on name availability).

§ 17.9. Professional names.

(a) Sections 8.4(1) and 8.6(1) of The C.P.A. Law (63 P. S. §§ 9.8d(1) and 9.8f(1)) provide that the name of an association may not include the terms “certified public accountant,” “public accountant” or an abbreviation thereof and that impersonal or fictitious names, as well as names which indicate a specialty, are prohibited.

(b) In section 1303(c)(2)(iv) of the BCL (relating to corporate name) and in section 5303(c)(2)(v) of the NPCL (relating to corporate name) it is provided that a corporate name may not contain the words “architect” or “architecture” or another word implying a form of the practice of architecture as defined in the Architects Licensure Law (63 P. S. §§ 34.1—34.22), unless at least one of the incorporators of a proposed corporation or one of the directors of the existing corporation has been properly registered with the Architects Licensure Board in the practice of architecture and a certificate from the Board to that effect is submitted to the Department. See 54 Pa.C.S. § 311(f)(5) (relating to registration), which restricts the use of the terms in fictitious name registrations.

(c) The State Board of Dentistry restricts the corporate and fictitious names which may be used by a dental facility. See 49 Pa. Code § 33.22 (relating to name of dental facility).

(d) In section 1303(c)(2)(iii) of the BCL, section 5303(c)(2)(iii) of the NPCL and 54 Pa.C.S. § 311(f)(2) it is provided that a name may not contain the words “engineer” or “engineering” or “surveyor” or “surveying” or another word implying a form of the practice of engineering or surveying as defined in the Professional Engineers Registration Law (63 P. S. §§ 148—158), unless at least one of the incorporators of a proposed corporation or one of the directors of the existing corporation or one of the parties to the registration has been properly registered with the State Registration Board for Professional Engineers in the practice of engineering or surveying and a certificate from the Board to that effect there is submitted to the Department.

(e) Section 8 of the Pharmacy Act (63 P. S. § 390-8(8)) prohibits the use by a corporation of the names “pharmacist,” “druggist” or “apothecary” unless licensed as a pharmacist in this Commonwealth, or the conduct or transaction of business under a name which contains as part thereof any of the words “drug store,” “pharmacy,” “drugs,” “medicine store,” “medicines,” “drug shop,”

“apothecary,” “pharmaceutical,” “homeopathic,” “homeopathy” or a term having a similar meaning unless issued a permit by the State Board of Pharmacy.

(f) Section 8 of the Funeral Director Law (63 P. S. § 479.8(d)) provides that the name of the professional corporation rendering the funeral services shall contain the name or the last name of one or more of the shareholders or the name of a predecessor funeral establishment. A professional corporation may not render funeral services unless at least one of the incorporators of the proposed corporation or one or more licensed funeral directors have been properly licensed by the State Board of Funeral Directors and a certificate from the Board to that effect is submitted to the Department.

Source

The provisions of this § 17.9 adopted June 22, 1973, effective June 23, 1973, 3 Pa.B. 1164; amended January 27, 1984, effective January 28, 1984, 14 Pa.B. 336; amended April 17, 1992, effective April 18, 1992, 22 Pa.B. 1993. Immediately preceding text appears at serial page (87017).

Cross References

This section cited in 19 Pa. Code § 13.14 (relating to governmental approvals); 19 Pa. Code § 17.3 (relating to use of a confusingly similar name); 19 Pa. Code § 17.41 (relating to foreign association names); 19 Pa. Code § 17.204 (relating to general restrictions on name availability); and 19 Pa. Code § 33.3 (relating to name).

§ 17.9a. [Reserved].

Source

The provisions of this § 17.9a adopted January 29, 1982, effective January 30, 1982, 12 Pa.B. 471; reserved April 17, 1992, effective April 18, 1992, 22 Pa.B. 1993. Immediately preceding text appears at serial page (87018).

§ 17.9b. [Reserved].

Source

The provisions of this § 17.9b adopted January 29, 1982, effective January 30, 1982, 12 Pa.B. 471; reserved April 17, 1992, effective April 18, 1992, 22 Pa.B. 1993. Immediately preceding text appears at serial page (87018).

§ 17.10. Insurance names.

(a) In section 1303(c)(1)(iii) of the BCL (relating to corporate name) it is provided that the name of a business corporation may not imply that the corporation is an insurance company nor contain the words “annuity,” “assurance,” “beneficial,” “bond,” “casualty,” “endowment,” “fidelity,” “fraternal,” “guaranty,” “indemnity,” “insurance,” “insurer,” “reassurance,” “reinsurance,” “surety” or “title” when used to imply that the corporation is engaged in the business of writing insurance or reinsurance as principal or other words of like purport unless it is licensed as an insurance company by its jurisdiction of incorporation or the Insurance Department certifies to the Department that the Insur-

ance Department has no objection to the use by the corporation or proposed corporation of the designation, and that the name of a domestic insurance corporation shall contain the word “mutual” only if it is a mutual insurance company.

(b) In section 5303(c)(1)(iii) of the NPCL (relating to corporate name), it is provided that the name of a nonprofit corporation may not imply that the corporation is an insurance company of any of the classes which might be incorporated under the BCL.

Source

The provisions of this § 17.10 adopted June 22, 1973, effective June 23, 1973, 3 Pa.B. 1164; amended April 17, 1992, effective April 18, 1992, 22 Pa.B. 1993. Immediately preceding text appears at serial pages (87018) to (87019).

Cross References

This section cited in 19 Pa. Code § 13.14 (relating to governmental approvals).

§ 17.11. Public utility names.

(a) In section 1303(c)(1)(iv) of the BCL (relating to corporate name) it is provided that the name of a business corporation may not imply that the corporation is a public utility corporation, as defined in the BCL, furnishing electric or gas service to the public, unless the corporation or proposed corporation has as an express corporate purpose the furnishing of service subject to the jurisdiction of the Pennsylvania Public Utility Commission or the Federal Energy Regulatory Commission.

(b) In section 5303(c)(1)(iv) of the NPCL (relating to corporate name) it is provided that the name of a nonprofit corporation may not imply that the corporation is a public utility as defined in 66 Pa.C.S. § 102 (relating to definitions).

Source

The provisions of this § 17.11 adopted June 22, 1973, effective June 23, 1973, 3 Pa.B. 1164; amended April 17, 1992, effective April 18, 1992, 22 Pa.B. 1993. Immediately preceding text appears at serial page (87019).

Cross References

This section cited in 19 Pa. Code § 23.4 (relating to stated purposes).

§ 17.12. Young Men’s Christian Association names.

In section 5303(c)(1)(iv) of the NPCL (relating to corporate name) it is provided that the name of a nonprofit corporation may not contain the words “Young Men’s Christian Association” or other words implying that the corporation is affiliated with the State Young Men’s Christian Association of Pennsylvania unless the corporation is incorporated for the purpose of the improvement of the spiritual, mental, social and physical condition of young people, by the support and maintenance of lecture rooms, libraries, reading rooms, religious and social

meetings, gymnasiums and other means and services as may conduce the accomplishment of that object, according to the general rules and regulations of the State association.

Source

The provisions of this § 17.12 adopted June 22, 1973, effective June 23, 1973, 3 Pa.B. 1164; amended April 17, 1992, effective April 18, 1992, 22 Pa.B. 1993. Immediately preceding text appears at serial page (87019).

§ 17.13. [Reserved].

Source

The provisions of this § 17.13 adopted June 22, 1973, effective June 23, 1973, 3 Pa.B. 1164; amended January 27, 1984, effective January 28, 1984, 14 Pa.B. 336; reserved April 17, 1992, effective April 18, 1992, 22 Pa.B. 1993. Immediately preceding text appears at serial pages (87019) to (87020).

§ 17.14. [Reserved].

Source

The provisions of this § 17.14 adopted March 19, 1976, effective March 20, 1976, 6 Pa.B. 571; amended January 27, 1984, effective January 28, 1984, 14 Pa.B. 336; reserved April 17, 1992, effective April 18, 1992, 22 Pa.B. 1993. Immediately preceding text appears at serial page (87020).

RESERVATION OF NAME

§ 17.31. Availability and reservation of name.

(a) The Department will determine the availability of an association name upon written request. See § 13.31 (relating to searches and information; telephone inquiries) with respect to the receipt of requests by telephone.

(b) In section 1305 of the BCL (relating to reservation of corporate name), in section 5305 of the NPCL (relating to reservation of corporate name) and in section 8505(b) of RULPA (relating to name) there are provisions for the temporary reservation of association names. The right to the exclusive use of an available association name may be reserved by a person by written request. If the Department finds that the name is available, it will reserve the name for the exclusive use of the applicant for a period of 120 days, or for 6 months in the case of reservations under section 804 of the Banking Code (7 P. S. § 804) or section 303 of the Savings Association Code of 1967 (7 P. S. § 6020-43).

(c) The name reserved is the name set forth in the Department's name reservation confirmation. This confirmation is computer produced based upon the records of the Department. It is the responsibility of the person reserving the name to ascertain that the name reserved on the records of the Department conforms in all respects to the name requested.

(d) The right to exclusive use of a specified association name reserved under subsection (b) may be transferred to another person by delivering to the Department a written notice of the transfer, executed by the person for whom the name was reserved under the official, professional or business letterhead of the person. The notice shall specify the name and address of the transferee.

(e) The right to the exclusive use of a name shall also inure, as of the filing date of a submittal, to an association which has made a filing with the Department appropriating the name but where the filing specifies an effective date subsequent to the filing date.

Source

The provisions of this § 17.31 adopted June 22, 1973, effective June 23, 1973, 3 Pa.B. 1164; amended March 19, 1976, effective March 20, 1976, 6 Pa.B. 571; amended April 17, 1992, effective April 18, 1992, 22 Pa.B. 1993. Immediately preceding text appears at serial pages (87020) and (68168).

Cross References

This section cited in 19 Pa. Code § 3.2 (relating to date of deposit as filing date); and 19 Pa. Code § 11.12 (relating to processing of documents by Department).

FOREIGN ASSOCIATIONS

§ 17.41. Foreign association names.

(a) This subchapter is also generally applicable to determination of the availability of a name for use by a foreign association which desires to receive a new or amended certificate of authority to do business in this Commonwealth, except that under section 4123(a) of the BCL (relating to requirements for foreign corporation names), § 17.6 (relating to banking names) does not limit the availability of foreign business corporation names.

(b) In section 4123(b) of the BCL and section 6123(b) of the NPCL (relating to requirements for foreign corporation names) the Department is authorized to issue a certificate of authority to a foreign business corporation or a foreign non-profit corporation setting forth a name that is confusingly similar to the name of another association then registered under 54 Pa.C.S. Chapter 5 (relating to corporate and other association names), or to a name reserved as provided in this subpart, if the foreign corporation applying for a certificate of authority files one of the following in the Department:

(1) A resolution of its board of directors or other body adopting a fictitious name for use in transacting business in this Commonwealth. The fictitious name may not be confusingly similar to the name of the other corporation or other association or to a name reserved or registered as provided in Part II of the code (relating to corporations).

(2) The written consent of the other corporation or other association or holder of a reserved or registered name to use the same or confusingly similar

name is submitted on Form DSCB:17.3 (Consent to Use of Similar Name) and one or more words are added to make the name applied for distinguishable from the other name.

(c) The procedure in subsection (b)(1) shall also be used by a foreign business corporation or foreign nonprofit corporation if it is prevented from using a name by reason of its failure to obtain the required consent of a department, board, commission or other agency of the Commonwealth. See § 17.9 (relating to professional names).

(d) If subsection (b) is not applicable, and if the name of the foreign association under the laws of its domiciliary jurisdiction is the same as the name of a domestic association or the name under which another foreign association is qualified to do business in this Commonwealth, and the name of the other association is not made available under § 17.2 (relating to appropriation of the name of a senior corporation), the foreign association shall do the following:

(1) Add to its name for purposes of qualification in this Commonwealth a reference to its domiciliary jurisdiction or other similar reference which shall result in a name which is not the same as the name of the other association. The resulting name may continue to be confusingly similar to the name of the other association in which case the foreign association shall do one of the following:

(i) Comply with the requirements in § 17.3 (relating to use of a confusingly similar name).

(ii) Add the following statement to the resulting name: “(adopted solely for purposes of association qualification pursuant to 19 Pa. Code § 17.41(d)(1)(ii)).”

(2) Simultaneously register under Subchapter C (relating to fictitious names) one of the following:

(i) The name adopted under paragraph (1), if made available in § 17.3.

(ii) A name which is then available for association use and which the foreign association elects to adopt for the actual transaction of its business in this Commonwealth.

Source

The provisions of this § 17.41 adopted June 22, 1973, effective June 23, 1973, 3 Pa.B. 1164; amended March 19, 1976, effective March 20, 1976, 6 Pa.B. 571; amended April 17, 1992, effective April 18, 1992, 22 Pa.B. 1993. Immediately preceding text appears at serial pages (68168) and (26594).

Cross References

This section cited in 19 Pa. Code § 17.104 (relating to registration of nonqualified foreign business or nonprofit corporation name).

§ 17.42. Corporate designator requirement.

A foreign corporation for profit shall adopt a corporate designator for use in this Commonwealth if none is required by the jurisdiction of incorporation.

Source

The provisions of this § 17.42 adopted April 17, 1992, effective April 18, 1992, 22 Pa.B. 1993.

FORMS**§ 17.51. Official forms.**

The following official forms have been promulgated under the provisions set forth in this subchapter and appear in Appendix A:

Form DSCB:17.2 (Consent to Appropriation of Name).

Form DSCB:17.3 (Consent to Use of Similar Name).

Source

The provisions of this § 17.51 adopted June 22, 1973, effective June 23, 1973, 3 Pa.B. 1164; amended April 25, 1975, effective April 26, 1975, 5 Pa.B. 977; amended April 17, 1992, effective April 18, 1992, 22 Pa.B. 1993. Immediately preceding text appears at serial pages (26594), (24745), (87021) to (87022) and (24750) to (24753).

Cross References

This section cited in 19 Pa. Code § 17.102 (relating to decennial filings).

Subchapter B. REGISTRATION OF NAMES**REGISTRATION**

Sec.

17.101. Registration of names of certain domestic associations.

17.102. Decennial filings.

17.103. Notice of decennial filing requirements.

17.104. Registration of nonqualified foreign business or nonprofit corporation name.

FORMS

17.141. Official forms.

Cross References

This subchapter cited in 19 Pa. Code § 17.2 (relating to appropriation of the name of a senior corporation).

REGISTRATION**§ 17.101. Registration of names of certain domestic associations.**

(a) A domestic corporation not-for-profit incorporated prior to May 16, 1923 may register its name under 54 Pa.C.S. Chapter 5 (relating to corporate and other association names) by filing with the Department Form DSCB:15-1311/5311/9305 (Statement of Summary of Record).

(b) An association, other than a corporation, may register with the Department the name under which it is doing business or operating by filing with the Department Form DSCB:54-502 (Application for Registration of Unincorporated Association Name).

(c) A new name will not be registered under this section which is the same as or confusingly similar to another name then registered under 54 Pa.C.S. Chapter 5 without the consent of the senior registrant. See § 17.1(c) (relating to general standards). In these cases, the written consent of the senior registrant to the registration of the name which is confusingly similar to its name shall be executed on Form DSCB:17.3 (Consent to Use of Similar Name).

(d) An unincorporated association which has its name registered under 54 Pa.C.S. Chapter 5 may terminate the registration by filing with the Department Form DSCB:54-506 (Statement of Termination of Registration of Name).

Source

The provisions of this § 17.101 adopted June 22, 1973, effective June 23, 1973, 3 Pa.B. 1164; amended April 17, 1992, effective April 18, 1992, 22 Pa.B. 1993. Immediately preceding text appears at serial pages (24753) to (24754).

§ 17.102. Decennial filings.

(a) Every corporation or other association which has its name registered under 54 Pa.C.S. Chapter 5 (relating to corporate and association names) is required by 54 Pa.C.S. § 503 (relating to decennial filings required), decennially, during the year 2000 and each year thereafter divisible by ten, to file in the Department a report on Form DSCB:54-503 (Decennial Report of Association Continued Existence).

(b) The decennial filing requirement does not apply to:

(1) A corporation or other association which during the preceding 10 years has made a filing in the Department a permanent record of which is retained by the Department. The Department retains a permanent record of the filings under this subpart, except for filings on a form listed in § 17.51 (relating to official forms).

(2) A foreign corporation whose name is registered under section 4131 of the BCL (relating to registration of name) or section 6131 of the NPCL (relating to registration of name) or a similar provision of law.

(c) On January 1 of the year following the year during which a report is required to be filed as provided in subsection (a), the name of every corporation and other association which has failed to comply with the requirement will under 54 Pa.C.S. § 504 (relating to effect of failure to make decennial filings) no longer be deemed to be registered under 54 Pa.C.S. Chapter 5.

(d) A corporation or other association which has failed to file a report as provided in subsection (a) may do so at any later time. The filing shall under 54 Pa.C.S. § 505 (relating to late filings) reinstate the name of the corporation or other association on the register established by 54 Pa.C.S. Chapter 5 unless its name has been appropriated during the period of the delinquency by another corporation or association in the manner provided by law.

Source

The provisions of this § 17.102 adopted June 22, 1973, effective June 23, 1973, 3 Pa.B. 1164; amended April 17, 1992, effective April 18, 1992, 22 Pa.B. 1993. Immediately preceding text appears at serial page (24754).

Cross References

This section cited in 19 Pa. Code § 17.2 (relating to appropriation of the name of a senior corporation); and 19 Pa. Code § 17.103 (relating to notice of decennial filing requirements).

§ 17.103. Notice of decennial filing requirements.

Whenever a decennial filing is required to be made in the Department under § 17.102 (relating to decennial filings), the Department under section 132(d) of the code (relating to functions of Department of State) shall, not earlier than the November 1 of the year—for example, 1999, 2009, and so forth—prior to the commencement of the decennial year wherever practicable, give notice by mail to the registrant or other party of the decennial filing requirement. The notice shall be accompanied by appropriate application blanks or forms. Failure by the Department to give notice to a party, or failure by a party to receive notice, of a decennial filing requirement does not relieve a party of the obligation to make the decennial filing.

Source

The provisions of this § 17.103 adopted April 17, 1992, effective April 18, 1992, 22 Pa.B. 1993.

§ 17.104. Registration of nonqualified foreign business or nonprofit corporation name.

(a) Section 4131 of the BCL and section 6131 of the NPCL (relating to registration of name) provide that a nonqualified foreign corporation may register its name under 54 Pa.C.S. Chapter 5 (relating to corporate and other association names) if the name is available for use by a qualified foreign corporation under § 17.41(a) and (b) (relating to foreign association names), by filing in the Depart-

ment Form DSCB:15-4131/6131 (Application for Registration of Name—Nonqualified Foreign Corporation).

(b) A corporation that has in effect a registration of its corporate name under subsection (a) may renew the registration from year-to-year by annually filing in the Department Form DSCB:15-4131/6131 (Application for Registration of Name—Nonqualified Foreign Corporation). A renewal application may be filed between October 1 and December 31 in each year and shall extend the registration for the following calendar year.

Source

The provisions of this § 17.104 adopted April 17, 1992, effective April 18, 1992, 22 Pa.B. 1993.

FORMS

§ 17.141. Official forms.

The following official forms have been promulgated under this subchapter and appear in Appendix A:

Form DSCB:15-4131/6131 (Application for Registration of Name—Nonqualified Foreign Corporation).

Form DSCB:54-502 (Application for Registration of Unincorporated Association Name).

Form DSCB:54-503 (Decennial Report of Association Continued Existence).

Form DSCB:54-506 (Statement of Termination of Registration of Association Name).

Source

The provisions of this § 17.141 adopted June 22, 1973, effective June 23, 1973, 3 Pa.B. 1164; amended April 17, 1992, effective April 18, 1992, 22 Pa.B. 1993. Immediately preceding text appears at serial pages (24755) to (24757) and (87023) to (87024).

Subchapter C. FICTITIOUS NAMES

GENERAL PROVISIONS

- Sec.
- 17.201. General checklist for registering fictitious names.
 - 17.202. Definitions.
 - 17.203. Voluntary and mandatory registration.
 - 17.204. General restrictions on name availability.
 - 17.205. Use of corporate designators.
 - 17.206. Agent for effecting amendments.
 - 17.207. Execution.
 - 17.208. Official advertising of fictitious names involving individual parties.
 - 17.209. Decennial filings.
 - 17.210. Notice of decennial filing requirements.

- 17.211. Effect of nonregistration on enforceability of contracts.
17.212. Effect of registration.

FORMS

- 17.251. Official forms.

Cross References

This subchapter cited in 19 Pa. Code § 17.41 (relating to foreign association names).

GENERAL PROVISIONS

§ 17.201. General checklist for registering fictitious names.

- (a) The following is a checklist for registration of a fictitious name:
- (1) Submit a written request to the Department to determine whether the proposed name is available for use.
 - (2) If the proposed name is available, submit a properly completed and executed Form DSCB:54-311 (Application for Registration of Fictitious Name).
 - (3) Submit a check or money order payable to the Department of State in the amount of \$52. Cash is not accepted.
 - (4) If the registering entity is one which includes an individual party, officially publish a notice as required by § 17.208 (relating to official advertising of fictitious names involving individual parties), either prior to or after the application is submitted to the Department. Proofs of publication may not be submitted to the Department.
- (b) The Department will process the Form DSCB:54-311, will endorse the fact and date of filing thereon, and return the form to the applicant. A separate certificate will not be issued.
- (c) The filing of fictitious name documents in the Office of the Clerk of the Court of Common Pleas or Prothonotary of the several counties of this Commonwealth has been abolished. Amendments to, withdrawals from and cancellations of filings originally made in a county row office under one or more of the statutes specified in § 17.212(d) (relating to effect of registration) shall be made only in the Department.

Source

The provisions of this § 17.201 adopted June 22, 1973, effective June 23, 1973, 3 Pa.B. 1164; amended April 17, 1992, effective April 18, 1992, 22 Pa.B. 1993. Immediately preceding text appears at serial page (87024).

§ 17.202. Definitions.

The following words and terms, when used in this subchapter, have the following meanings, unless the context clearly indicates otherwise:

Business—A commercial or professional activity.

Entity—An individual, corporation, association, partnership, joint-stock company, business trust, syndicate, joint adventuresship or other combination or group of persons.

Fictitious name—An assumed or fictitious name, style or designation other than the proper name of the entity using the name. The term includes the name of an association, general partnership, business trust, syndicate, joint adventuresship or similar combination or group of persons.

Source

The provisions of this § 17.202 adopted April 17, 1992, effective April 18, 1992, 22 Pa.B. 1993.

§ 17.203. Voluntary and mandatory registration.

(a) In 54 Pa.C.S. § 303(a) (relating to scope of chapter), it is provided that one or more entities may elect to register a fictitious name under 54 Pa.C.S. Chapter 3 (relating to Fictitious Names Act) for the purpose of establishing a public record of their relationship to a business or other activity carried on under or through the fictitious name.

(b) In 54 Pa.C.S. § 303(b) (relating to mandatory registration) it is provided that:

(1) Except as provided in paragraph (2), an entity which either alone or in combination with another entity conducts business in this Commonwealth under or through a fictitious name is required to register the fictitious name under this subchapter and to amend the registration whenever necessary to maintain the accuracy of the information disclosed thereby.

(2) Paragraph (1) does not apply to:

- (i) Nonprofit or professional activities.
- (ii) Activities which are expressly or impliedly prohibited by law from being carried on under a fictitious name.
- (iii) A limited partnership which is registered in the Department under RULPA or under corresponding provisions of prior law. The preceding sentence does not apply to an entity which includes the limited partnership as a participant unless the entity is itself such a limited partnership.
- (iv) Unincorporated association.
- (v) Electing partnership existing under Chapter 87 of the code (relating to electing partnerships).

Source

The provisions of this § 17.203 adopted April 17, 1992, effective April 18, 1992, 22 Pa.B. 1993.

Cross References

This section cited in 19 Pa. Code § 17.211 (relating to effect of nonregistration on enforceability of contracts).

§ 17.204. General restrictions on name availability.

(a) Although the registration of a fictitious name under this subchapter does not automatically prevent another party from using the same or a confusingly similar name for association use, the law does not permit the Department to register a fictitious name which conflicts with an existing association name. Specifically, in 54 Pa.C.S. § 311(e) (relating to registration), it is provided that a fictitious name may not be the same as or confusingly similar to:

(1) The name of a domestic corporation, or a foreign corporation authorized to do business in this Commonwealth, or the name of a corporation or other association registered under 54 Pa.C.S. Chapter 5 (relating to corporate and other association names). See § 17.1(c) (relating to general standards) unless the name is available or is made available for use under the provisions or procedures of § 17.2 or § 17.3 (relating to appropriation of the name of a senior corporation; and use of a confusingly similar name).

(2) The name of a limited partnership organized under RULPA.

(3) The name of an administrative department, board or commission or other agency of this Commonwealth.

(4) A name the exclusive right to which is at the time reserved by another person in the manner provided by statute.

(b) In 54 Pa.C.S. §§ 311(f) and 312(c) (relating to registration; and amendment) it is provided that a fictitious name, whether set forth in an original application or changed by amendment:

(1) Is subject to §§ 17.6, 17.8 and 17.9(b) or (d) (relating to banking names; educational names; and professional names).

(2) May not contain the word “cooperative” or an abbreviation thereof unless it is subject to Part II Subpart D of the code (relating to cooperative corporations).

(3) May not contain a word or phrase not permitted by law to be filed under 54 Pa.C.S. Chapter 3 (relating to Fictitious Names Act) without governmental consent unless there is submitted to the Department written evidence of the consent.

Source

The provisions of this § 17.204 adopted April 17, 1992, effective April 18, 1992, 22 Pa.B. 1993.

§ 17.205. Use of corporate designators.

In 54 Pa.C.S. § 311(b) (relating to registration) it is provided that a registered fictitious name:

(1) May not contain a corporate designator such as “corporate,” “incorporated” or “limited” or a derivation or abbreviation thereof unless the entity or at least one entity named in the application for registration of the fictitious name is a corporation. The use of the word “company” or a derivation or

abbreviation thereof or the words “association,” “fund” or “syndicate” by a sole proprietorship, a partnership or a corporation is permissible.

(2) Is not required to contain a corporate designator, notwithstanding the fact that some or all of the persons interested therein are corporations. This authorization is not to be construed to limit or affect personal liability otherwise existing of shareholders of a corporation to persons who deal with the corporation without knowledge of its status as such.

Source

The provisions of this § 17.205 adopted April 17, 1992, effective April 18, 1992, 22 Pa.B. 1993.

§ 17.206. Agent for effecting amendments.

In 54 Pa.C.S. §§ 311(c) and 312 (relating to registration; and amendment) it is provided that an applicant for registration of a fictitious name or an amendment thereof may designate one or more parties who are authorized to execute Form DSCB:54-312/313 (Application for Amendment, Cancellation or Withdrawal—Fictitious Name) on behalf of then existing parties to the registration.

Source

The provisions of this § 17.206 adopted April 17, 1992, effective April 18, 1992, 22 Pa.B. 1993.

Cross References

This section cited in 19 Pa. Code § 17.207 (relating to execution).

§ 17.207. Execution.

(a) In 54 Pa.C.S. § 311(d) (relating to registration) it is provided that:

(1) If the application for registration relates to an entity which includes one or more participants which are partnerships or other entities composed of two or more parties, it is not necessary for each ultimate party to be named in and to execute the application. Only the constituent participants are required to be named in the application. A partner or other authorized representative of a participant may execute the application on behalf of the participant.

(2) If the application for registration relates to a trust or similar entity, it is not necessary for each beneficial owner or similar ultimate party to be named in and to execute the application. Only the trustees of the trust or the governing body of the similar entity are required to be named in and to execute the application.

(3) Otherwise, the application for registration is required to be executed by each individual party thereto and, in the case of any other entity, by the entity. As to execution by associations who are participants, see § 13.8(a) (relating to execution).

(4) The application of a party may be executed by the attorney-in-fact of the party. See § 13.8(e).

(b) In 54 Pa.C.S. § 312(b) (relating to amendment) it is provided that Form DSCB:54-312/313 (Application for Amendment, Cancellation or Withdrawal-Fictitious Name) may be executed by doing one of the following:

(1) In the same manner as an original application for registration of a fictitious name, including a party who is thereby withdrawing.

(2) By the agent designated under § 17.206 (relating to agent for effecting amendments) and by an additional party to the registration.

(c) In 54 Pa.C.S. § 313(b) (relating to cancellation or withdrawal) it is provided that Form DSCB:54-312/313 may be executed in the same manner as provided in subsection (b) in the case of an application for amendment of fictitious name registration. Form DSCB:54-312/313 may be executed solely by the withdrawing party in the case of a withdrawal of a fictitious name reservation.

Source

The provisions of this § 17.207 adopted April 17, 1992, effective April 18, 1992, 22 Pa.B. 1993.

§ 17.208. Official advertising of fictitious names involving individual parties.

(a) Proofs of publication may not be submitted with the Form DSCB:54-311 (Application for Registration of Fictitious Name) or another form submitted under this subchapter. In 54 Pa.C.S. § 311(g) (relating to registration) it is provided that an entity which includes an individual party is required to officially publish in the county in which the principal office or place of business of the entity is or, in the case of a proposed entity, is to be located notice of its intention to file or the filing of an application for registration of a fictitious name. The notice may appear prior to or after the day upon which the application is filed in the Department and shall be kept with the permanent records of the business and shall set forth briefly:

(1) The fictitious name.

(2) The address, including street and number, if any, of the principal office or place of business of the business to be carried on under or through the fictitious name.

(3) The names and respective addresses, including street and number, if any, of the persons who are parties to the registration.

(4) A statement that an application for registration of a fictitious name is to be or was filed under 54 Pa.C.S. (relating to names).

(b) For the purposes of subsection (a), the term “officially publish” means publish in two newspapers in the English language in the proper county, one of which shall be the legal newspaper, if any, designated by the rules of court for the publication of legal notices or, if there is no legal newspaper, in two newspapers of general circulation in the county. When there is only one newspaper of general circulation in a county, advertisement in that newspaper is sufficient. The notice shall be published one time in the appropriate newspaper. The terms

“newspaper,” “legal newspaper” and “newspaper of general circulation” are defined in 45 Pa.C.S. § 101 (relating to definitions). See § 19.3 (relating to name of commercial registered office provider in lieu of registered address).

(c) In 45 Pa.C.S. § 307 (relating to effect of failure to advertise when required) it is provided that no legal proceeding or the like, in which notice is required to be given by official or legal advertising, will be binding upon an interested person unless the advertising is effected and proof of publication is filed of record in the matter or proceeding. The proofs referred to in this subsection may not be submitted to, and will not be received and filed by, the Department, but shall be kept with the permanent records of the business as provided in subsection (a).

Source

The provisions of this § 17.208 adopted April 17, 1992, effective April 18, 1992, 22 Pa.B. 1993.

Cross References

This section cited in 19 Pa. Code § 17.201 (relating to general checklist for registering fictitious names).

§ 17.209. Decennial filings.

(a) Every registrant of a fictitious name is required by 54 Pa.C.S. § 321(a) (relating to decennial filings required) decennially, during the year 2000 and each year thereafter divisible by ten, to file in the Department Form DSCB:54-321 (Decennial Report of Continued Existence-Fictitious Name).

(b) Subsection (a) does not apply to a registrant which during the preceding 10 years has made a filing with the Department under this subchapter under or with respect to the fictitious name in question.

(c) On January 1 of the year following the year during which a report is required to be filed under subsection (a), every fictitious name with respect to which no report has been filed during the immediately preceding year is deemed under 54 Pa.C.S. § 321(c) to be no longer registered under 54 Pa.C.S. Chapter 3 (relating to Fictitious Names Act). The registration may thereafter be restored only by the filing under this subchapter of an original application for registration of fictitious name on Form DSCB:54-311 (Application for Registration of Fictitious Name).

Source

The provisions of this § 17.209 adopted April 17, 1992, effective April 18, 1992, 22 Pa.B. 1993.

Cross References

This section cited in 19 Pa. Code § 17.210 (relating to notice decennial filing requirements).

§ 17.210. Notice of decennial filing requirements.

Whenever a decennial filing is required to be made in the Department under § 17.209 (relating to decennial filings), the Department under section 132(d) of the code (relating to functions of Department of State) shall, not earlier than the November 1 of the year—for example, 1999, 2009, and so forth—prior to the commencement of the decennial year wherever practicable, give notice by mail to the registrant of the decennial filing requirement. The notice shall be accompanied by appropriate application blanks or forms. Failure by the Department to give notice to a registrant, or failure by a registrant to receive notice, of a decennial filing requirement does not relieve a registrant of the obligation to make the decennial filing.

Source

The provisions of this § 17.210 adopted April 17, 1992, effective April 18, 1992, 22 Pa.B. 1993.

§ 17.211. Effect of nonregistration on enforceability of contracts.

(a) An entity which has failed to register a fictitious name as required by § 17.203 (relating to voluntary and mandatory registration) is not permitted by 54 Pa.C.S. § 331(b) (relating to contracts entered into by entity using unregistered fictitious name) to maintain an action in a tribunal of this Commonwealth until the entity has complied with this subchapter. An action may not be maintained in a tribunal of this Commonwealth by a successor or assignee of the entity on a right, claim or demand arising out of a transaction with respect to which the entity used the fictitious name until the entity, or an entity which has acquired all or substantially all of its assets, has complied with this subchapter. The failure of an entity to register a fictitious name as required by § 17.203 does not impair the validity of a contract or act of the entity and does not prevent the entity from defending an action in a tribunal of this Commonwealth.

(b) Before an entity may institute an action in a tribunal of this Commonwealth on a cause of action arising out of a transaction in respect to which the entity used a fictitious name prior to the date of the registration of the fictitious name, or after the date its registration under this subchapter was cancelled or otherwise terminated as to the entity, the entity is required by 54 Pa.C.S. § 331(b) to pay to the Department for the use of the Commonwealth a civil penalty of \$500.

(c) The penalties of subsections (a) and (b) are not applicable if there has been substantial compliance in good faith with this subchapter or the corresponding provisions of prior law.

Source

The provisions of this § 17.211 adopted April 17, 1992, effective April 18, 1992, 22 Pa.B. 1993.

Cross References

This section cited in 19 Pa. Code § 17.212 (relating to effect of registration).

§ 17.212. Effect of registration.

(a) In 54 Pa.C.S. § 332(a) (relating to effect of registration), it is provided that registration under this subchapter imparts no legal right to the registering entity other than that the conducting of business by it under a fictitious name will not result in the penalties provided by § 17.211 (relating to effect of nonregistration on enforceability of contracts).

(b) The registration required under § 17.211 is in addition to other acts required of a corporation prerequisite to its doing business in this Commonwealth under the code and related provisions of law. The provisions of 54 Pa.C.S. Chapter 3 (relating to Fictitious Names Act) or this subchapter will not be construed as relieving an association of a duty under another statute.

(c) In 54 Pa.C.S. § 303(c) (relating to scope of chapter), it is provided that the registration of a fictitious name under this subchapter will not be a defense to an action or proceeding brought to enforce a law which expressly or impliedly prohibits an activity from being carried on under a fictitious name.

(d) Fictitious names registered under the former provisions of the following statutes are under 54 Pa.C.S. § 304 (relating to effect of registration under prior statutes) deemed to be registered under this subchapter:

- (1) The act of June 28, 1917 (P. L. 645, No. 227), relating to individual fictitious names (Repealed).
- (2) The act of May 24, 1945 (P. L. 967, No. 380), referred to as the Fictitious Name Act (Repealed).
- (3) The Fictitious Corporate Name Act (Repealed).

Source

The provisions of this § 17.212 adopted April 17, 1992, effective April 18, 1992, 22 Pa.B. 1993.

Cross References

This section cited in 19 Pa. Code § 17.201 (relating to general checklist for registering fictitious names).

FORMS**§ 17.251. Official forms.**

The following official forms have been promulgated under this subchapter and appear in Appendix A:

- Form DSCB:54-311 (Application for Registration of Fictitious Name).
- Form DSCB:54-312/313 (Application for Amendment, Cancellation or Withdrawal-Fictitious Name).
- Form DSCB:54-321 (Decennial Report of Continued Existence-Fictitious Name).

Source

The provisions of this § 17.251 adopted June 22, 1973, effective June 23, 1973, 3 Pa.B. 1164; reserved January 27, 1984, effective January 28, 1984, 14 Pa.B. 336; amended April 17, 1992, effective April 18, 1992, 22 Pa.B. 1993. Immediately preceding text appears at serial page (87024).

[Next page is 19-1.]

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