

RESOURCES

Mandatory Re-Filing of Assumed Business Names

On December 1, 2017, North Carolina's new Assumed Business Name Act (the "Act"), went into effect. The new Act is much more detailed and broader in scope than the prior statute N.C.G.S. § 66-68. The new Act applies to any "Persons" engaging in business under a name that is different from their official name (for example, ABCD, Inc. operating and advertising as "John's Pizza"). Under the new Act, "Person" is broadly defined and includes any individual, partnership, limited partnership, limited liability partnership, limited liability company, corporation, association, society, organization, joint venture, business trust, trust, governmental entity, or any other legal or commercial entity.

As a result of the new Act, any business that is currently operating under an assumed name **must** re-file a new Certificate of Assumed Business Name on or before **December 1, 2022**. **After this date, all existing (i.e. those filed before 12/1/2017) certificates will be deemed invalid and expired unless a re-filing has taken place.** Of course, if a business is operating under an assumed name and has not already filed a certificate, then one should be filed immediately.

Under the new Act all Assumed Business Name Certificates must include:

1. The assumed business name.
2. A real name of the person engaging in business under the assumed business name.
3. The nature of the business.
4. The street address of the principal place of business.
5. Each county where the person uses or will be using the assumed business name to engage in business.

Any Person who fails to file an assumed business name certificate is liable for the reasonable expenses, including attorneys' fees, incurred by any person who is injured by the failure when trying to ascertain the information stated in the assumed business name certificate.

As in the old Act, the assumed name certificate must be filed with the Register of Deeds in the county where the business operates. However, under the new Act a business now has the option to file simultaneously in every county or any combination of counties in North Carolina with a single filing. This is a great option for business with statewide exposure or looking to expand. In addition, up to five assumed names can be filed in a single certificate, as long as they are for the same business making the filing. Lastly, the new Act establishes a statewide, searchable electronic database, available here through the NC Secretary of State's website. The electronic database provides easy access to search for assumed names filed on or after December 1, 2017.

Unfortunately, no formal notice or announcement will be sent to existing holders of assumed names informing them of the requirement to re-file their assumed name by December 1, 2022. Business owners need to be proactive and go ahead and re-file a new assumed name certificate with the Register of Deeds prior to the deadline.

Greensboro, NC 27401