

SENATE BILL NO. 496

INTRODUCED BY TURNAGE, S. BROWN

IN THE SENATE

February 13, 1979	Introduced and referred to Committee on Business and Industry.
February 19, 1979	Committee recommend bill do pass as amended. Report adopted.
February 21, 1979	Printed and placed on members' desks.
February 22, 1979	Second reading, do pass.
February 23, 1979	Considered correctly engrossed. On motion rules suspended. Bill placed on Calendar for third reading this day. Third reading, passed. Transmitted to second house.

IN THE HOUSE

February 27, 1979	Introduced and referred to Committee on Business and Industry.
March 7, 1979	Committee recommend bill be concurred in. Report adopted.
March 8, 1979	Second reading, pass consideration.
March 9, 1979	Second reading, concurred in.
March 13, 1979	Third reading, concurred in.

IN THE SENATE

March 14, 1979

Returned from second house.
Concurred in. Sent to
enrolling.

Reported correctly enrolled.

1 *Seneca* BILL NO. *496*
 2 INTRODUCED BY *Turnage J. Brown*
 3

4 A BILL FOR AN ACT ENTITLED: "AN ACT TO ALLOW ANY
 5 INDIVIDUAL, PARTNERSHIP, CORPORATION, OR ASSOCIATION TO USE
 6 AN ASSUMED BUSINESS NAME AND TO PROVIDE REGULATIONS FOR THE
 7 REGISTRATION OF AN ASSUMED BUSINESS NAME; REPEALING SECTION
 8 30-13-111, MCA."

9
 10 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

11 Section 1. Definitions. As used in [this act], the
 12 following definitions apply:

13 (1) "Assumed business name" means any business name
 14 other than the full, true, and correct name of a person.

15 (2) "Person" means any individual, partnership,
 16 corporation, or other association.

17 Section 2. Registration of assumed business name
 18 similar to reserved or registered name or mark prohibited.
 19 When an application for registration or amendment to the
 20 registration of an assumed business name contains an assumed
 21 business name which is the same as or deceptively similar to
 22 an assumed business name already registered or to any
 23 corporate name, limited partnership, trademark, or service
 24 mark registered with the secretary of state, the secretary
 25 of state may not register the assumed business name for

1 which application is made.

2 Section 3. Application for registration of assumed
 3 business name. All persons transacting business in this
 4 state under an assumed business name shall execute, verify,
 5 and file with the secretary of state, on forms furnished by
 6 the secretary of state, an application for registration of
 7 the assumed business name, including but not limited to the
 8 following information:

9 (1) the name and address, including the street name
 10 and number, of applicant;

11 (2) the complete name of proposed assumed business
 12 name;

13 (3) date of first use, in commerce, of assumed
 14 business name;

15 (4) description of business transacted under such
 16 name; and

17 (5) the name of county or counties in which business
 18 is being transacted.

19 Section 4. Filing application for registration --
 20 issuance of certificate. (1) Duplicate originals of
 21 application for registration of assumed business name shall
 22 be delivered to the secretary of state. If the secretary of
 23 state finds the application complies with the provisions of
 24 [this act], he shall, when all fees have been paid as
 25 provided in [this act]:

1 (a) endorse on each of the duplicate originals the
2 word "filed" and the month, day, and year of the filing
3 thereof;

4 (b) file one of the duplicate originals in his office;
5 and

6 (c) issue a certificate of registration, to which he
7 shall affix the other original.

8 (2) The certificate of registration, together with the
9 duplicate original of the application for registration of an
10 assumed business name affixed thereto by the secretary of
11 state, shall be returned to the applicant.

12 (3) The registration of an assumed business name
13 remains in effect until canceled.

14 Section 5. When registration of assumed business name
15 by foreign corporation prohibited. No foreign corporation
16 which does not have an effective certificate of authority to
17 transact business in this state, may register an assumed
18 business name as provided for in [this act].

19 Section 6. Term and renewal of assumed business name
20 registration. (1) Registration of an assumed business name
21 is effective for a term of 5 years from the date of
22 registration. Upon application for renewal of registration
23 on forms furnished by the secretary of state, the
24 registration may be renewed for another 5-year term.

25 (2) Not less than 90 days before the expiration date

1 of registration of an assumed business name, the secretary
2 of state shall notify the applicant of record of the pending
3 expiration by addressing a notice to the last-known address
4 of such applicant.

5 (3) If the applicant or person in whose name an
6 assumed business name is registered fails to file an
7 application for renewal with the secretary of state within a
8 90-day period prior to the expiration date of such
9 registration, the secretary of state shall cancel the
10 registration.

11 Section 7. Application for renewal of assumed business
12 name. Duplicate originals of application for renewal of
13 registration of an assumed business name shall be executed,
14 verified, and delivered to the secretary of state. The
15 application shall include but not be limited to the
16 following information:

17 (1) the complete assumed business name;

18 (2) the name and address, including street name and
19 number, if any, of applicant;

20 (3) description of business transacted; and

21 (4) the name of the county or counties in which
22 business is being transacted.

23 Section 8. Filing of application for renewal of
24 registration of assumed business name -- issuance of
25 certificate thereon. (1) If the secretary of state find the

1 application complies with the provisions of [this act], he
2 shall, when all fees have been paid as provided in [this
3 act]:

4 (a) endorse on each of the duplicate originals the
5 word "filed" and the month, day, and year of the filing
6 thereof;

7 (b) file one of the duplicate originals in his office;
8 and

9 (c) issue a certificate of renewal, to which he shall
10 affix the other duplicate original.

11 (2) The certificate of renewal, together with the
12 duplicate original of application for renewal of
13 registration of an assumed business name affixed thereto by
14 the secretary of state, shall be returned to the applicant.

15 Section 9. Amendment. An amendment to registration of
16 an assumed business name shall be filed with the secretary
17 of state within 60 days after any one of the following
18 events occurs:

19 (1) there is a change in the name or identity of the
20 person or persons transacting or having interest in the
21 business for which the name is registered;

22 (2) there is a change in the identity of the county or
23 counties in which the name is or is intended to be used;

24 (3) a person having an interest in the business with a
25 registered assumed business name withdraws from the business

1 or dies; or

2 (4) the registrant wishes to change the name of a
3 registered assumed business name.

4 Section 10. Filing amendment to registration of
5 assumed business name -- issuance of certificate thereon.

6 (1) Duplicate originals of amendment to the registration of
7 an assumed business name, executed and verified on forms
8 furnished by the secretary of state, shall be delivered to
9 the secretary of state. The application for amended
10 registration of an assumed business name shall include but
11 not be limited to the following information:

12 (a) complete assumed business name prior to adoption
13 of amendment;

14 (b) complete new assumed business name, if applicable;

15 (c) name and address of the registrant, including
16 street name and number of the business office;

17 (d) if the name of any person having an interest in
18 the business with a registered assumed business name is to
19 be changed, the new name of the person having an interest in
20 the business with such registered assumed business name;

21 (e) the name of the county or counties in which the
22 name is being used;

23 (f) if there is a change in the identity of the county
24 or counties or addition of a county or counties in which the
25 assumed business name is being used or is to be used, the

1 name(s) of the new county or counties;

2 (g) if a person or persons having an interest in a
3 business with a registered assumed name withdraws or dies, a
4 statement of such fact; and

5 (h) a statement that the amended registration of
6 assumed business name supersedes the original registration
7 and all amendments thereto.

8 (2) If the secretary of state finds that the
9 application for amended registration of assumed business
10 name complies with [this act], he shall, when all fees have
11 been paid as provided in [this act]:

12 (a) endorse on each of the duplicate originals the
13 word "filed" and the month, day, and year of the filing
14 thereof;

15 (b) file one of the duplicate originals in his office;
16 and

17 (c) issue a certificate of amendment, to which he
18 shall affix the other duplicate original.

19 (3) The certificate of amendment, together with the
20 duplicate original of the amendment affixed thereto by the
21 secretary of state, shall be returned to the registrant.

22 (4) The failure of the registrant of an assumed
23 business name to comply with the requirements of this
24 section shall result in the cancellation by the secretary of
25 state of the registration.

1 Section 11. Reservation of proposed assumed business
2 name. Any authorized person who has not commenced business
3 but intends to commence business may reserve an assumed
4 business name which is not in conflict with the provisions
5 of [section 2] for a term of 120 days by delivering to the
6 secretary of state, on forms furnished by the secretary of
7 state, an application for reservation of an assumed business
8 name, including but not limited to the following
9 information:

10 (a) the complete assumed business name to be reserved;

11 (b) the name and address, including street name and
12 number, if any, of applicant;

13 (c) the date applicant intends to commence business;

14 (d) description of business applicant intends to
15 transact; and

16 (e) the county or counties in which applicant intends
17 to conduct business.

18 Section 12. Filing application for reservation of
19 assumed business name -- issuance of certificate thereon.

20 (1) Duplicate originals of application for reservation of an
21 assumed business name, duly executed and verified by the
22 applicant, shall be delivered to the secretary of state. If
23 the secretary of state finds the application complies with
24 the provisions of [this act], he shall, when all fees have
25 been paid as provided in [this act]:

1 (a) endorse on each of the duplicate originals the
2 word "filed" and the month, day, and year of the filing
3 thereof;

4 (b) file one of the duplicate originals in his office;

5 (c) issue a certificate of reservation, to which he
6 shall affix the other duplicate original.

7 (2) The certificate of reservation, together with the
8 duplicate original of application for reservation of an
9 assumed business name affixed thereto by the secretary of
10 state, shall be returned to the applicant.

11 Section 13. Voluntary cancellation of registration of
12 assumed business name. (1) When the registrant of record of
13 a registered assumed business name wishes to cancel such
14 registration, he shall deliver to the secretary of state an
15 executed and verified original affidavit of cancellation of
16 registration of an assumed business name, which shall
17 include but not be limited to the following information:

18 (a) complete name of the registered assumed business
19 name to be canceled; and

20 (b) name and address, including the street name and
21 number, if any, of the registrant of record.

22 (2) If the secretary of state finds the affidavit
23 complies with the provisions of this section, he shall file
24 it in his office and mail a letter of acknowledgment of such
25 filing to the registrant of record.

1 Section 14. Cancellation of registration of assumed
2 business name upon dissolution of domestic corporation --
3 withdrawal or revocation of foreign corporation's authority
4 to transact business. (1) If the only party of interest of
5 an assumed business name is a domestic corporation which has
6 been dissolved, the secretary of state shall cancel the
7 registration.

8 (2) If the only party of interest of an assumed
9 business name is a foreign corporation whose authority to
10 transact business in this state has been withdrawn or
11 revoked, the secretary of state shall cancel the
12 registration.

13 Section 15. Effect of failing to file application for
14 registration of assumed business name. No person or persons
15 conducting or transacting business in this state without an
16 effective certificate of registration of an assumed business
17 name or having any interest therein may maintain any suit or
18 action in any of the courts of this state under such name.

19 Section 16. Evidentiary effect of certificates and
20 documents of secretary of state. All certificates issued by
21 the secretary of state in accordance with the provisions of
22 [this act] and all copies of documents filed in his office
23 in accordance with the provisions of [this act] when
24 certified by him shall be taken and received in all courts,
25 public offices, and official bodies as prima facie evidence

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1 of the facts stated therein.

2 Section 17. Fees for filing documents and issuing
3 certificates. The secretary of state shall collect for:

4 (1) filing application for registration of assumed
5 business name and issuing certificate thereon, \$15;

6 (2) filing application for renewal of registration of
7 assumed business name and issuing certificate thereon, \$10;

8 (3) filing amendment to registration of assumed
9 business name and issuing certificate thereon, \$10;

10 (4) filing application for reservation of assumed
11 business name and issuing certificate thereon, \$15; and

12 (5) filing any other instrument not provided for in
13 this section, \$5.

14 Section 18. Repealer. Section 30-13-111, MCA, is
15 repealed.

-End-

1 SENATE BILL NO. 496

2 INTRODUCED BY TURNAGE, S. BROWN

3
4 A BILL FOR AN ACT ENTITLED: "AN ACT TO ALLOW ANY
5 INDIVIDUAL, PARTNERSHIP, CORPORATION, OR ASSOCIATION TO USE
6 AN ASSUMED BUSINESS NAME AND TO PROVIDE REGULATIONS FOR THE
7 REGISTRATION OF AN ASSUMED BUSINESS NAME; REPEALING SECTIONS
8 SECTIONS 30-13-111 AND 35-11-101 THROUGH 35-11-103, MCA."

9
10 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:11 Section 1. Definitions. As used in [this act], the
12 following definitions apply:13 (1) "Assumed business name" means any business name
14 other than the full, true, and correct name of a person.15 (2) "Person" means any individual, partnership,
16 corporation, or other association.17 Section 2. Registration of assumed business name
18 similar to reserved or registered name or mark prohibited.

19 When an application for registration or amendment to the
20 registration of an assumed business name contains an assumed
21 business name which is the same as or deceptively similar to
22 an assumed business name already registered or to any
23 corporate name, limited partnership, trademark, or service
24 mark registered with the secretary of state, the secretary
25 of state may not register the assumed business name for

1 which application is made.

2 Section 3. Application for registration of assumed
3 business name. All persons transacting business in this
4 state under an assumed business name shall execute, verify,
5 and file with the secretary of state, on forms furnished by
6 the secretary of state, an application for registration of
7 the assumed business name, including but not limited to the
8 following information:

9 (1) the name and address, including the street name
10 and number, of applicant;11 (2) the complete name of proposed assumed business
12 name;13 (3) date of first use, in commerce, of assumed
14 business name;15 (4) description of business transacted under such
16 name; and17 (5) the name of county or counties in which business
18 is being transacted.

19 Section 4. Filing application for registration --
20 issuance of certificate. (1) Duplicate originals of
21 application for registration of assumed business name shall
22 be delivered to the secretary of state. If the secretary of
23 state finds the application complies with the provisions of
24 [this act], he shall, when all fees have been paid as
25 provided in [this act]:

1 (a) endorse on each of the duplicate originals the
2 word "filed" and the month, day, and year of the filing
3 thereof;

4 (b) file one of the duplicate originals in his office;
5 and

6 (c) issue a certificate of registration, to which he
7 shall affix the other original.

8 (2) The certificate of registration, together with the
9 duplicate original of the application for registration of an
10 assumed business name affixed thereto by the secretary of
11 state, shall be returned to the applicant.

12 (3) The registration of an assumed business name
13 remains in effect until canceled.

14 Section 5. When registration of assumed business name
15 by foreign corporation prohibited. No foreign corporation
16 which does not have an effective certificate of authority to
17 transact business in this state, may register an assumed
18 business name as provided for in [this act].

19 Section 6. Term and renewal of assumed business name
20 registration. (1) Registration of an assumed business name
21 is effective for a term of 5 years from the date of
22 registration. Upon application for renewal of registration
23 on forms furnished by the secretary of state, the
24 registration may be renewed for another 5-year term.

25 (2) Not less than 90 days before the expiration date

1 of registration of an assumed business name, the secretary
2 of state shall notify the applicant of record of the pending
3 expiration by addressing a notice to the last-known address
4 of such applicant.

5 (3) If the applicant or person in whose name an
6 assumed business name is registered fails to file an
7 application for renewal with the secretary of state within a
8 90-day period prior to the expiration date of such
9 registration, the secretary of state shall cancel the
10 registration.

11 Section 7. Application for renewal of assumed business
12 name. Duplicate originals of application for renewal of
13 registration of an assumed business name shall be executed,
14 verified, and delivered to the secretary of state. The
15 application shall include but not be limited to the
16 following information:

17 (1) the complete assumed business name;

18 (2) the name and address, including street name and
19 number, if any, of applicant;

20 (3) description of business transacted; and

21 (4) the name of the county or counties in which
22 business is being transacted.

23 Section 8. Filing of application for renewal of
24 registration of assumed business name -- issuance of
25 certificate thereon. (1) If the secretary of state finds the

1 application complies with the provisions of [this act], he
2 shall, when all fees have been paid as provided in [this
3 act]:

4 (a) endorse on each of the duplicate originals the
5 word "filed" and the month, day, and year of the filing
6 thereof;

7 (b) file one of the duplicate originals in his office;
8 and

9 (c) issue a certificate of renewal, to which he shall
10 affix the other duplicate original.

11 (2) The certificate of renewal, together with the
12 duplicate original of application for renewal of
13 registration of an assumed business name affixed thereto by
14 the secretary of state, shall be returned to the applicant.

15 Section 9. Amendment. An amendment to registration of
16 an assumed business name shall be filed with the secretary
17 of state within 60 days after any one of the following
18 events occurs:

19 (1) there is a change in the name or identity of the
20 person or persons transacting or having interest in the
21 business for which the name is registered;

22 (2) there is a change in the identity of the county or
23 counties in which the name is or is intended to be used;

24 (3) a person having an interest in the business with a
25 registered assumed business name withdraws from the business

1 or dies; or

2 (4) the registrant wishes to change the name of a
3 registered assumed business name.

4 Section 10. Filing amendment to registration of
5 assumed business name -- issuance of certificate thereon.

6 (1) Duplicate originals of amendment to the registration of
7 an assumed business name, executed and verified on forms
8 furnished by the secretary of state, shall be delivered to
9 the secretary of state. The application for amended
10 registration of an assumed business name shall include but
11 not be limited to the following information:

12 (a) complete assumed business name prior to adoption
13 of amendment;

14 (b) complete new assumed business name, if applicable;

15 (c) name and address of the registrant, including
16 street name and number of the business office;

17 (d) if the name of any person having an interest in
18 the business with a registered assumed business name is to
19 be changed, the new name of the person having an interest in
20 the business with such registered assumed business name;

21 (e) the name of the county or counties in which the
22 name is being used;

23 (f) if there is a change in the identity of the county
24 or counties or addition of a county or counties in which the
25 assumed business name is being used or is to be used, the

1 name(s) of the new county or counties;

2 (g) if a person or persons having an interest in a
3 business with a registered assumed name withdraws or dies, a
4 statement of such fact; and

5 (h) a statement that the amended registration of
6 assumed business name supersedes the original registration
7 and all amendments thereto.

8 (2) If the secretary of state finds that the
9 application for amended registration of assumed business
10 name complies with [this act], he shall, when all fees have
11 been paid as provided in [this act]:

12 (a) endorse on each of the duplicate originals the
13 word "filed" and the month, day, and year of the filing
14 thereof;

15 (b) file one of the duplicate originals in his office;
16 and

17 (c) issue a certificate of amendment, to which he
18 shall affix the other duplicate original.

19 (3) The certificate of amendment, together with the
20 duplicate original of the amendment affixed thereto by the
21 secretary of state, shall be returned to the registrant.

22 (4) The failure of the registrant of an assumed
23 business name to comply with the requirements of this
24 section shall result in the cancellation by the secretary of
25 state of the registration.

1 Section 11. Reservation of proposed assumed business
2 name. Any authorized person who has not commenced business
3 but intends to commence business may reserve an assumed
4 business name which is not in conflict with the provisions
5 of [section 2] for a term of 120 days by delivering to the
6 secretary of state, on forms furnished by the secretary of
7 state, an application for reservation of an assumed business
8 name, including but not limited to the following
9 information:

10 (a) the complete assumed business name to be reserved;

11 (b) the name and address, including street name and
12 number, if any, of applicant;

13 (c) the date applicant intends to commence business;

14 (d) description of business applicant intends to
15 transact; and

16 (e) the county or counties in which applicant intends
17 to conduct business.

18 Section 12. Filing application for reservation of
19 assumed business name -- issuance of certificate thereon.
20 (1) Duplicate originals of application for reservation of an
21 assumed business name, duly executed and verified by the
22 applicant, shall be delivered to the secretary of state. If
23 the secretary of state finds the application complies with
24 the provisions of [this act], he shall, when all fees have
25 been paid as provided in [this act]:

1 (a) endorse on each of the duplicate originals the
2 word "filed" and the month, day, and year of the filing
3 thereof;

4 (b) file one of the duplicate originals in his office;

5 (c) issue a certificate of reservation, to which he
6 shall affix the other duplicate original.

7 (2) The certificate of reservation, together with the
8 duplicate original of application for reservation of an
9 assumed business name affixed thereto by the secretary of
10 state, shall be returned to the applicant.

11 Section 13. Voluntary cancellation of registration of
12 assumed business name. (1) When the registrant of record of
13 a registered assumed business name wishes to cancel such
14 registration, he shall deliver to the secretary of state an
15 executed and verified original affidavit of cancellation of
16 registration of an assumed business name, which shall
17 include but not be limited to the following information:

18 (a) complete name of the registered assumed business
19 name to be canceled; and

20 (b) name and address, including the street name and
21 number, if any, of the registrant of record.

22 (2) If the secretary of state finds the affidavit
23 complies with the provisions of this section, he shall file
24 it in his office and mail a letter of acknowledgment of such
25 filing to the registrant of record.

1 Section 14. Cancellation of registration of assumed
2 business name upon dissolution of domestic corporation --
3 withdrawal or revocation of foreign corporation's authority
4 to transact business. (1) If the only party of interest of
5 an assumed business name is a domestic corporation which has
6 been dissolved, the secretary of state shall cancel the
7 registration.

8 (2) If the only party of interest of an assumed
9 business name is a foreign corporation whose authority to
10 transact business in this state has been withdrawn or
11 revoked, the secretary of state shall cancel the
12 registration.

13 Section 15. Effect of failing to file application for
14 registration of assumed business name. No person or persons
15 conducting or transacting business in this state without an
16 effective certificate of registration of an assumed business
17 name or having any interest therein may maintain any suit or
18 action in any of the courts of this state under such name.

19 Section 16. Evidentiary effect of certificates and
20 documents of secretary of state. All certificates issued by
21 the secretary of state in accordance with the provisions of
22 [this act] and all copies of documents filed in his office
23 in accordance with the provisions of [this act] when
24 certified by him shall be taken and received in all courts,
25 public offices, and official bodies as prima facie evidence

1 of the facts stated therein.

2 Section 17. Fees for filing documents and issuing
3 certificates. The secretary of state shall collect for:

4 (1) filing application for registration of assumed
5 business name and issuing certificate thereon, \$15;

6 (2) filing application for renewal of registration of
7 assumed business name and issuing certificate thereon, \$10;

8 (3) filing amendment to registration of assumed
9 business name and issuing certificate thereon, \$10;

10 (4) filing application for reservation of assumed
11 business name and issuing certificate thereon, \$15; and

12 (5) filing any other instrument not provided for in
13 this section, \$5.

14 Section 18. Repealer. Section SECTIONS 30-13-111 AND
15 35-11-101 THROUGH 35-11-103, MCA, ~~are~~ ARE repealed.

-End-

SENATE BILL NO. 496

INTRODUCED BY TURNAGE, S. BROWN

A BILL FOR AN ACT ENTITLED: "AN ACT TO ALLOW ANY INDIVIDUAL, PARTNERSHIP, CORPORATION, OR ASSOCIATION TO USE AN ASSUMED BUSINESS NAME AND TO PROVIDE REGULATIONS FOR THE REGISTRATION OF AN ASSUMED BUSINESS NAME; REPEALING SECTIONS 30-13-111 AND 35-11-101 THROUGH 35-11-103, MCA."

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

Section 1. Definitions. As used in [this act], the following definitions apply:

(1) "Assumed business name" means any business name other than the full, true, and correct name of a person.

(2) "Person" means any individual, partnership, corporation, or other association.

Section 2. Registration of assumed business name similar to reserved or registered name or mark prohibited. When an application for registration or amendment to the registration of an assumed business name contains an assumed business name which is the same as or deceptively similar to an assumed business name already registered or to any corporate name, limited partnership, trademark, or service mark registered with the secretary of state, the secretary of state may not register the assumed business name for

which application is made.

Section 3. Application for registration of assumed business name. All persons transacting business in this state under an assumed business name shall execute, verify, and file with the secretary of state, on forms furnished by the secretary of state, an application for registration of the assumed business name, including but not limited to the following information:

(1) the name and address, including the street name and number, of applicant;

(2) the complete name of proposed assumed business name;

(3) date of first use, in commerce, of assumed business name;

(4) description of business transacted under such name; and

(5) the name of county or counties in which business is being transacted.

Section 4. Filing application for registration -- issuance of certificate. (1) Duplicate originals of application for registration of assumed business name shall be delivered to the secretary of state. If the secretary of state finds the application complies with the provisions of [this act], he shall, when all fees have been paid as provided in [this act]:

1 (a) endorse on each of the duplicate originals the
2 word "filed" and the month, day, and year of the filing
3 thereof;

4 (b) file one of the duplicate originals in his office;
5 and

6 (c) issue a certificate of registration, to which he
7 shall affix the other original.

8 (2) The certificate of registration, together with the
9 duplicate original of the application for registration of an
10 assumed business name affixed thereto by the secretary of
11 state, shall be returned to the applicant.

12 (3) The registration of an assumed business name
13 remains in effect until canceled.

14 Section 5. When registration of assumed business name
15 by foreign corporation prohibited. No foreign corporation
16 which does not have an effective certificate of authority to
17 transact business in this state, may register an assumed
18 business name as provided for in [this act].

19 Section 6. Term and renewal of assumed business name
20 registration. (1) Registration of an assumed business name
21 is effective for a term of 5 years from the date of
22 registration. Upon application for renewal of registration
23 on forms furnished by the secretary of state, the
24 registration may be renewed for another 5-year term.

25 (2) Not less than 90 days before the expiration date

1 of registration of an assumed business name, the secretary
2 of state shall notify the applicant of record of the pending
3 expiration by addressing a notice to the last-known address
4 of such applicant.

5 (3) If the applicant or person in whose name an
6 assumed business name is registered fails to file an
7 application for renewal with the secretary of state within a
8 90-day period prior to the expiration date of such
9 registration, the secretary of state shall cancel the
10 registration.

11 Section 7. Application for renewal of assumed business
12 name. Duplicate originals of application for renewal of
13 registration of an assumed business name shall be executed,
14 verified, and delivered to the secretary of state. The
15 application shall include but not be limited to the
16 following information:

17 (1) the complete assumed business name;

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19 number, if any, of applicant;

20 (3) description of business transacted; and

21 (4) the name of the county or counties in which
22 business is being transacted.

23 Section 8. Filing of application for renewal of
24 registration of assumed business name -- issuance of
25 certificate thereon. (1) If the secretary of state finds the

1 application complies with the provisions of [this act], he
2 shall, when all fees have been paid as provided in [this
3 act]:

4 (a) endorse on each of the duplicate originals the
5 word "filed" and the month, day, and year of the filing
6 thereof;

7 (b) file one of the duplicate originals in his office;
8 and

9 (c) issue a certificate of renewal, to which he shall
10 affix the other duplicate original.

11 (2) The certificate of renewal, together with the
12 duplicate original of application for renewal of
13 registration of an assumed business name affixed thereto by
14 the secretary of state, shall be returned to the applicant.

15 Section 9. Amendment. An amendment to registration of
16 an assumed business name shall be filed with the secretary
17 of state within 60 days after any one of the following
18 events occurs:

19 (1) there is a change in the name or identity of the
20 person or persons transacting or having interest in the
21 business for which the name is registered;

22 (2) there is a change in the identity of the county or
23 counties in which the name is or is intended to be used;

24 (3) a person having an interest in the business with a
25 registered assumed business name withdraws from the business

1 or dies; or

2 (4) the registrant wishes to change the name of a
3 registered assumed business name.

4 Section 10. Filing amendment to registration of
5 assumed business name -- issuance of certificate thereon.

6 (1) Duplicate originals of amendment to the registration of
7 an assumed business name, executed and verified on forms
8 furnished by the secretary of state, shall be delivered to
9 the secretary of state. The application for amended
10 registration of an assumed business name shall include but
11 not be limited to the following information:

12 (a) complete assumed business name prior to adoption
13 of amendment;

14 (b) complete new assumed business name, if applicable;

15 (c) name and address of the registrant, including
16 street name and number of the business office;

17 (d) if the name of any person having an interest in
18 the business with a registered assumed business name is to
19 be changed, the new name of the person having an interest in
20 the business with such registered assumed business name;

21 (e) the name of the county or counties in which the
22 name is being used;

23 (f) if there is a change in the identity of the county
24 or counties or addition of a county or counties in which the
25 assumed business name is being used or is to be used, the

1 name(s) of the new county or counties;

2 (g) if a person or persons having an interest in a
3 business with a registered assumed name withdraws or dies, a
4 statement of such fact; and

5 (h) a statement that the amended registration of
6 assumed business name supersedes the original registration
7 and all amendments thereto.

8 (2) If the secretary of state finds that the
9 application for amended registration of assumed business
10 name complies with [this act], he shall, when all fees have
11 been paid as provided in [this act]:

12 (a) endorse on each of the duplicate originals the
13 word "filed" and the month, day, and year of the filing
14 thereof;

15 (b) file one of the duplicate originals in his office;
16 and

17 (c) issue a certificate of amendment, to which he
18 shall affix the other duplicate original.

19 (3) The certificate of amendment, together with the
20 duplicate original of the amendment affixed thereto by the
21 secretary of state, shall be returned to the registrant.

22 (4) The failure of the registrant of an assumed
23 business name to comply with the requirements of this
24 section shall result in the cancellation by the secretary of
25 state of the registration.

1 Section 11. Reservation of proposed assumed business
2 name. Any authorized person who has not commenced business
3 but intends to commence business may reserve an assumed
4 business name which is not in conflict with the provisions
5 of [section 2] for a term of 120 days by delivering to the
6 secretary of state, on forms furnished by the secretary of
7 state, an application for reservation of an assumed business
8 name, including but not limited to the following
9 information:

10 (a) the complete assumed business name to be reserved;

11 (b) the name and address, including street name and
12 number, if any, of applicant;

13 (c) the date applicant intends to commence business;

14 (d) description of business applicant intends to
15 transact; and

16 (e) the county or counties in which applicant intends
17 to conduct business.

18 Section 12. Filing application for reservation of
19 assumed business name -- issuance of certificate thereon.

20 (1) Duplicate originals of application for reservation of an
21 assumed business name, duly executed and verified by the
22 applicant, shall be delivered to the secretary of state. If
23 the secretary of state finds the application complies with
24 the provisions of [this act], he shall, when all fees have
25 been paid as provided in [this act]:

1 (a) endorse on each of the duplicate originals the
2 word "filed" and the month, day, and year of the filing
3 thereof;

4 (b) file one of the duplicate originals in his office;

5 (c) issue a certificate of reservation, to which he
6 shall affix the other duplicate original.

7 (2) The certificate of reservation, together with the
8 duplicate original of application for reservation of an
9 assumed business name affixed thereto by the secretary of
10 state, shall be returned to the applicant.

11 Section 13. Voluntary cancellation of registration of
12 assumed business name. (1) When the registrant of record of
13 a registered assumed business name wishes to cancel such
14 registration, he shall deliver to the secretary of state an
15 executed and verified original affidavit of cancellation of
16 registration of an assumed business name, which shall
17 include but not be limited to the following information:

18 (a) complete name of the registered assumed business
19 name to be canceled; and

20 (b) name and address, including the street name and
21 number, if any, of the registrant of record.

22 (2) If the secretary of state finds the affidavit
23 complies with the provisions of this section, he shall file
24 it in his office and mail a letter of acknowledgment of such
25 filing to the registrant of record.

1 Section 14. Cancellation of registration of assumed
2 business name upon dissolution of domestic corporation --
3 withdrawal or revocation of foreign corporation's authority
4 to transact business. (1) If the only party of interest of
5 an assumed business name is a domestic corporation which has
6 been dissolved, the secretary of state shall cancel the
7 registration.

8 (2) If the only party of interest of an assumed
9 business name is a foreign corporation whose authority to
10 transact business in this state has been withdrawn or
11 revoked, the secretary of state shall cancel the
12 registration.

13 Section 15. Effect of failing to file application for
14 registration of assumed business name. No person or persons
15 conducting or transacting business in this state without an
16 effective certificate of registration of an assumed business
17 name or having any interest therein may maintain any suit or
18 action in any of the courts of this state under such name.

19 Section 16. Evidentiary effect of certificates and
20 documents of secretary of state. All certificates issued by
21 the secretary of state in accordance with the provisions of
22 [this act] and all copies of documents filed in his office
23 in accordance with the provisions of [this act] when
24 certified by him shall be taken and received in all courts,
25 public offices, and official bodies as prima facie evidence

1 of the facts stated therein.

2 Section 17. Fees for filing documents and issuing
3 certificates. The secretary of state shall collect for:

4 (1) filing application for registration of assumed
5 business name and issuing certificate thereon, \$15;

6 (2) filing application for renewal of registration of
7 assumed business name and issuing certificate thereon, \$10;

8 (3) filing amendment to registration of assumed
9 business name and issuing certificate thereon, \$10;

10 (4) filing application for reservation of assumed
11 business name and issuing certificate thereon, \$15; and

12 (5) filing any other instrument not provided for in
13 this section, \$5.

14 Section 18. Repealer. Section SECTIONS 30-13-111 AND
15 35-11-101 THROUGH 35-11-103, MCA, + ARE repealed.

-End-