

HOUSE BILL No. 4986

July 13, 1989, Introduced by Reps. Niederstadt, Hart, Owen, DeBeaussaert and Rocca and referred to the Committee on Towns and Counties.

A bill to amend sections 1 and 2 of Act No. 101 of the Public Acts of 1907, entitled

"An act to regulate the carrying on of business under an assumed or fictitious name,"

section 1 as amended by Act No. 294 of the Public Acts of 1984, being sections 445.1 and 445.2 of the Michigan Compiled Laws.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Section 1. Sections 1 and 2 of Act No. 101 of the Public
2 Acts of 1907, section 1 as amended by Act No. 294 of the Public
3 Acts of 1984, being sections 445.1 and 445.2 of the Michigan
4 Compiled Laws, are amended to read as follows:

5 Sec. 1. (1) A person shall not carry on or conduct or
6 transact business in this state under an assumed name, or under a
7 designation, name, or style other than the real name of the
8 person owning, conducting, or transacting that business, unless

1 the person files in duplicate in the office of the clerk of the
2 county or counties in which the person owns, conducts, or trans-
3 acts, or intends to own, conduct, or transact, business, or main-
4 tains an office or place of business, a certificate on a form
5 furnished by the county clerk setting forth the name under which
6 the business owned, is ~~—~~ or is to be, conducted or transacted,
7 and the true or real full name of the person owning, conducting,
8 or transacting the ~~same~~ BUSINESS, with the address of the
9 person, at which time the person shall pay the clerk a filing fee
10 of \$6.00. The certificate shall be executed and duly acknowl-
11 edged by the person owning, conducting, or intending to conduct
12 the business.

13 (2) The selling of goods by sample or through a traveling
14 agent or traveling salesperson, or by means of orders forwarded
15 by the purchaser through the mails, shall not be construed for
16 the purpose of this act as conducting or transacting business so
17 as to require the filing of the certificates.

18 (3) The county clerk shall certify the duplicate and return
19 it to the applicant.

20 (4) As used in this act:

21 (A) "ADDRESS" MEANS THE RESIDENCE OR PRINCIPAL BUSINESS
22 ADDRESS OF THE PERSON.

23 (B) ~~(a)~~ "Person" means 1 or more individuals, partner-
24 ships, limited partnerships, trust, fiduciaries, or other LEGAL
25 entities. ~~capable of contracting.~~

26 ~~(b) "Address" means the residence or principal business~~
27 ~~address of the person.~~

1 (5) A charter county with a population of more than
2 2,000,000 may impose by ordinance a different amount for the
3 filing fee prescribed by subsection (1). A charter county shall
4 not impose a fee which is greater than the cost of the service
5 for which the fee is charged.

6 Sec. 2. (1) ~~Persons now owning or conducting such business~~
7 ~~under an assumed name, or under such designation referred to in~~
8 ~~section 1, shall file such certificate or renewal certificate as~~
9 ~~hereinbefore prescribed, within 90 days after this act shall take~~
10 ~~effect and after 30 days' notice from the county clerk, and per-~~
11 ~~sons hereafter owning, conducting or transacting business as~~
12 ~~aforsaid shall, before commencing said business file such~~ A
13 PERSON SHALL NOT OWN, CONDUCT, OR TRANSACT BUSINESS UNDER AN
14 ASSUMED NAME BEFORE FILING A certificate in the manner
15 ~~hereinbefore~~ prescribed BY THIS ACT. The ~~several~~ county
16 clerks of this state are ~~hereby~~ authorized to reject any
17 assumed name which is likely to mislead the public, or ~~any~~
18 ~~assumed name already filed in the county or~~ WHICH IS so nearly
19 similar ~~thereto~~ TO AN ASSUMED NAME ALREADY FILED IN THE COUNTY
20 as to lead to confusion or deception. IF THE ASSUMED BUSINESS
21 NAME BEGINS WITH THE WORD "THE", IT SHALL BE DISREGARDED BY THE
22 COUNTY CLERK.

23 (2) A PERSON DENIED USE OF AN ASSUMED NAME UNDER THIS SEC-
24 TION MAY APPEAL THE DECISION NO LATER THAN 60 DAYS FROM THE DATE
25 OF THE NOTICE OF THE COUNTY CLERK'S DECISION TO THE ASSUMED NAME
26 APPEAL BOARD IF ESTABLISHED PURSUANT TO SUBSECTION (4).

1 (3) A PERSON WHO OWNS, CONDUCTS, OR TRANSACTS BUSINESS UNDER
2 AN ASSUMED NAME AND BELIEVES THAT THE COUNTY CLERK HAS AUTHORIZED
3 THE USE OF AN ASSUMED NAME UNDER SUBSECTION (1), WHICH IS THE
4 SAME OR SIMILAR TO THE PERSON'S ASSUMED NAME, MAY APPEAL TO THE
5 ASSUMED NAME APPEAL BOARD IF ESTABLISHED PURSUANT TO SUBSECTION
6 (4), NO LATER THAN 180 DAYS FROM THE DATE THAT THE PERSON WHO HAS
7 BEEN AUTHORIZED THE USE OF AN ASSUMED NAME HAS COMMENCED DOING
8 BUSINESS UNDER THE ASSUMED NAME.

9 (4) THE COUNTY CLERK MAY ESTABLISH AN ASSUMED NAME APPEAL
10 BOARD CONSISTING OF THE COUNTY CLERK, WHO SHALL ACT AS CHAIR-
11 PERSON, COUNTY TREASURER, AND A MEMBER OF THE BUSINESS COMMUNITY,
12 WHO RESIDES IN THE COUNTY, WHO SHALL BE APPOINTED BY THE COUNTY
13 CLERK FOR A TERM NOT TO EXCEED THE TERM OF THE COUNTY CLERK. THE
14 ASSUMED NAME APPEAL BOARD SHALL CONVENE WITHIN 15 DAYS FOLLOWING
15 THE REQUEST FOR APPEAL PURSUANT TO SUBSECTION (2) OR (3) TO
16 REVIEW AND DECIDE THE VALIDITY OF THE COUNTY CLERK'S DECISION.
17 THE COUNTY CLERK AND TREASURER SHALL SERVE WITHOUT PAY. THE
18 BOARD MEMBER APPOINTED FROM THE BUSINESS COMMUNITY SHALL BE REIM-
19 BURED FOR ACTUAL AND NECESSARY EXPENSES INCURRED IN THE PER-
20 FORMANCE OF HIS OR HER DUTIES AND MAY RECEIVE COMPENSATION FOR
21 SERVICES PROVIDED AS DETERMINED BY THE BOARD OF COMMISSIONERS.

22 (5) A COUNTY MAY ESTABLISH A FEE, NOT GREATER THAN THE COST
23 OF THE SERVICE FOR WHICH THE FEE IS CHARGED, TO BE CHARGED TO A
24 PERSON WHO APPEALS THE COUNTY CLERK'S DECISION TO THE ASSUMED
25 NAME APPEAL BOARD.