

§805-A. Assumed or fictitious name of limited liability partnership

1. Assumed name defined. As used in this section, "assumed name" means a trade name or any name other than the real name of a limited liability partnership except a fictitious name.

[PL 2003, c. 344, Pt. C, §39 (NEW).]

2. Fictitious name defined. As used in this section, "fictitious name" means a name adopted by a foreign limited liability partnership authorized to transact business in this State because its real name is unavailable pursuant to section 803-A.

[PL 2003, c. 344, Pt. C, §39 (NEW).]

3. Authorized to transact business. Upon complying with this section, a registered or foreign limited liability partnership authorized to transact business in this State may transact its business in this State under one or more assumed or fictitious names.

[PL 2003, c. 344, Pt. C, §39 (NEW).]

4. File statement indicating use of assumed or fictitious name. Prior to transacting business in this State under an assumed or fictitious name, a limited liability partnership shall execute and deliver to the Secretary of State for filing a statement setting forth:

A. The limited liability partnership name; [PL 2003, c. 344, Pt. C, §39 (NEW).]

B. That the limited liability partnership intends to transact business under an assumed or fictitious name; [PL 2003, c. 344, Pt. C, §39 (NEW).]

C. The assumed or fictitious name that the limited liability partnership proposes to use; [PL 2003, c. 344, Pt. C, §39 (NEW).]

D. If the assumed name is not to be used at all of the limited liability partnership's places of business in this State, the locations where that name will be used; and [PL 2003, c. 344, Pt. C, §39 (NEW).]

E. If the company is a foreign limited liability partnership:

(1) The jurisdiction of organization; and

(2) The date on which it was authorized to transact business in this State. [PL 2003, c. 344, Pt. C, §39 (NEW).]

A separate statement must be executed and delivered to the Secretary of State for filing with respect to each assumed or fictitious name that the limited liability partnership proposes to use.

[PL 2003, c. 344, Pt. C, §39 (NEW).]

5. Compliance required. Each assumed or fictitious name must comply with the requirements of section 803-A.

[PL 2003, c. 344, Pt. C, §39 (NEW).]

6. Enjoin use of assumed or fictitious name. If a limited liability partnership uses an assumed or fictitious name without complying with the requirements of this section, the continued use of the assumed or fictitious name may be enjoined upon suit by the Attorney General or by any person adversely affected by the use of the assumed or fictitious name.

[PL 2003, c. 344, Pt. C, §39 (NEW).]

7. Enjoin use despite compliance. Notwithstanding its compliance with the requirements of this section, the use of an assumed name or fictitious name may be enjoined upon suit by the Attorney General or by any person adversely affected by such use if:

A. The assumed or fictitious name did not, at the time the statement required by subsection 4 was filed, comply with the requirements of section 803-A; or [PL 2003, c. 344, Pt. C, §39 (NEW).]

B. The assumed or fictitious name is not distinguishable on the records of the Secretary of State from a name in which the plaintiff has prior rights by virtue of the common law or statutory law of unfair competition, unfair trade practices, common law copyright or similar law. [PL 2003, c. 344, Pt. C, §39 (NEW).]

The mere filing of a statement pursuant to subsection 4 does not constitute actual use of the assumed or fictitious name set out in that statement for the purpose of determining priority of rights. [PL 2003, c. 344, Pt. C, §39 (NEW).]

8. Terminate use of assumed or fictitious name. A limited liability partnership may terminate an assumed or fictitious name by executing and delivering to the Secretary of State a statement setting forth:

A. The name of the limited liability partnership; [PL 2003, c. 344, Pt. C, §39 (NEW).]

B. That the limited liability partnership no longer intends to transact business under the assumed or fictitious name; and [PL 2003, c. 344, Pt. C, §39 (NEW).]

C. The assumed or fictitious name the limited liability partnership intends to terminate. [PL 2003, c. 344, Pt. C, §39 (NEW).]

[PL 2003, c. 344, Pt. C, §39 (NEW).]

SECTION HISTORY

PL 2003, c. 344, §C39 (NEW).

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