

COMMONWEALTH OF VIRGINIA



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STATE CORPORATION COMMISSION Office of the Clerk

NOTICE REGARDING BUSINESS ENTITY NAMES AS OF OCTOBER 1, 2004

New Statutory Provisions

Effective October 1, 2004, the entity name provisions of the Virginia business entity statutes administered by the State Corporation Commission will be substantially amended. The amended provisions, which apply prospectively, prohibit the use of a corporate, limited liability company, limited partnership or business trust name that is not distinguishable on the records of the Commission from (i) the name of any corporation, limited liability company, limited partnership and business trust of record in the Clerk's Office of the Commission as an active business entity and (ii) any name reserved or registered under a business entity statute. As a result, and by way of example, on and after October 1, the proposed name "XYZ Limited Liability Company" will not be acceptable if the Commission's business entity records include either an active corporation with the name "XYZ, Inc." or an active reservation or registration of the name "XYZ, Inc."

Reserved Business Entity Names

The legislation establishing the new, across-entity-lines name distinguishability test will also affect corporate, limited liability company, limited partnership and business trust name reservations that expire on or after October 1, 2004. If any such reserved name, because of the cross-entity test, is not available for use in Virginia as of October 1, the reservation can not be utilized. For example, an application to reserve the name "XYZ Limited Liability Company" submitted on August 1, 2004 will be accepted if the name is distinguishable from other limited liability company names of record on that date. However, the reserved limited liability company name will not be usable in Virginia as of October 1 if there is then of record an active corporation with the name "XYZ, Inc." Beginning October 1, the Clerk's Office can accept only reservation applications (or renewal applications) for entity names that meet the new distinguishability standard.

Registered Corporate Names

A foreign corporation that registers a corporate name pursuant to § 13.1-632 or § 13.1-831 of the Code of Virginia before October 1, 2004, will not be allowed to obtain a certificate of authority to transact business in Virginia under that name on and after October 1 unless the registered name meets the new name distinguishability standard. Beginning October 1, the Clerk's Office can accept only registration applications (or renewal applications) for corporate names that meet the new distinguishability criteria.

Conflicting Reserved or Registered Names on and after October 1

In a case where two or more entity names reserved or registered before October 1, 2004 become indistinguishable from one another because of the new standard, the first entity to form or register to transact business pursuant to a Virginia business entity statute under its reserved or registered name will gain exclusive use of that name. For example, if the corporate name "XYZ, Inc." is reserved or registered on September 1, 2004, the name "XYZ Limited Liability Company" is reserved two weeks later, and on or after October 1 XYZ Limited Liability Company is the first to organize or register to transact business, the reserved or registered name "XYZ, Inc." becomes unusable in Virginia.

If you have any questions concerning this matter, please contact the Clerk's Office at (804) 371-9733 or toll-free in Virginia at (866) 722-2551.