

By: Villalba

H.B. No. 2753

Substitute the following for H.B. No. 2753:

By: Simmons

C.S.H.B. No. 2753

A BILL TO BE ENTITLED

AN ACT

relating to the names of certain businesses.

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

SECTION 1. Section 5.053, Business Organizations Code, is amended to read as follows:

Sec. 5.053. DISTINGUISHABLE [~~IDENTICAL AND DECEPTIVELY SIMILAR~~] NAMES REQUIRED [~~PROHIBITED~~]. (a) The name of a [A] filing entity or the name under which [~~may not have a name, and~~] a foreign filing entity registers [~~may not register~~] to transact business in this state must be distinguishable in the records of the secretary of state from [~~under a name, that is the same as, or that the secretary of state determines to be deceptively similar or similar to~~]:

(1) the name of another existing filing entity;

(2) the name of a foreign filing entity that is registered under Chapter 9;

(3) an assumed name under which a foreign filing entity is registered to transact business in this state under Section 9.004(b)(1) because the foreign filing entity's name is not available;

(4) a name that is reserved under Subchapter C; or

(5) [~~(4)~~] a name that is registered under Subchapter

D.

(b) Subsection (a) does not apply if:

1           (1) the other entity or the person for whom the name is  
2 reserved or registered, as appropriate, consents in writing to the  
3 use of the ~~[similar]~~ name and files with the secretary of state a  
4 filing instrument that changes the entity's name or withdraws the  
5 reservation or registration of the name, as appropriate; or

6           (2) the filing entity or foreign filing entity  
7 delivers to the secretary of state a certified copy of the final  
8 judgment of a court of competent jurisdiction establishing the  
9 entity's right to have the name.

10           SECTION 2. Section 5.102, Business Organizations Code, is  
11 amended to read as follows:

12           Sec. 5.102. RESERVATION OF CERTAIN NAMES PROHIBITED;  
13 EXCEPTIONS. (a) A name may be reserved under this subchapter only  
14 if the name is distinguishable in the records of the secretary of  
15 state from ~~[The secretary of state may not reserve a name that is~~  
16 ~~the same as, or that the secretary of state considers deceptively~~  
17 ~~similar or similar to]:~~

18                   (1) the name of an existing filing entity;

19                   (2) the name of a foreign filing entity that is  
20 registered under Chapter 9;

21                   (3) an assumed name under which a foreign filing  
22 entity is registered to transact business in this state under  
23 Section 9.004(b)(1) because the foreign filing entity's name is not  
24 available;

25                   (4) a name that is reserved under this subchapter; or

26                   (5) ~~(4)~~ a name that is registered under Subchapter

27 D.

1 (b) Subsection (a) does not apply if:

2 (1) the other entity or the person for whom the name is  
3 reserved or registered, as appropriate, consents in writing to the  
4 subsequent reservation of the ~~[similar]~~ name and files with the  
5 secretary of state a filing instrument that changes the entity's  
6 name or withdraws the reservation or registration of the name, as  
7 appropriate; or

8 (2) the applicant delivers to the secretary of state a  
9 certified copy of the final judgment of a court of competent  
10 jurisdiction establishing the applicant's right to reserve the  
11 name.

12 SECTION 3. Section 5.153, Business Organizations Code, is  
13 amended to read as follows:

14 Sec. 5.153. CERTAIN REGISTRATIONS PROHIBITED; EXCEPTIONS.

15 (a) A name may be registered under this subchapter only if the name  
16 is distinguishable in the records of the secretary of state from  
17 ~~[The secretary of state may not register a name that is the same as,~~  
18 ~~or that the secretary of state determines to be deceptively similar~~  
19 ~~or similar to]:~~

20 (1) the name of an existing filing entity;

21 (2) the name of a foreign filing entity that is  
22 registered under Chapter 9;

23 (3) an assumed name under which a foreign filing  
24 entity is registered to transact business in this state under  
25 Section 9.004(b)(1) because the foreign filing entity's name is not  
26 available;

27 (4) a name that is reserved under Subchapter C; or

1           (5) [~~(4)~~] a name that is registered under this  
2 subchapter.

3           (b) Subsection (a) does not apply if:

4           (1) the other entity or the person for whom the name is  
5 reserved or registered, as appropriate, consents in writing to the  
6 registration of the [~~similar~~] name and files with the secretary of  
7 state a filing instrument that changes the entity's name or  
8 withdraws the reservation or registration of the name, as  
9 appropriate; [or]

10           (2) the applicant delivers to the secretary of state a  
11 certified copy of the final judgment of a court of competent  
12 jurisdiction establishing the applicant's right to register the  
13 name; or

14           (3) the applicant is a bank, trust company, savings  
15 association, or insurance company that has been in continuous  
16 existence from a date that precedes the date the conflicting name is  
17 filed with the secretary of state.

18           SECTION 4. This Act takes effect June 1, 2016.