

Senate Bill 159

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SUMMARY

The following summary is not prepared by the sponsors of the measure and is not a part of the body thereof subject to consideration by the Legislative Assembly. It is an editor's brief statement of the essential features of the measure **as introduced**.

Changes term of registration of assumed business name from two years to one year. Changes fee for business registry filings under assumed business name law from \$50 every two years to \$25 every year. Changes amount transferred to General Fund for each business registry filing under assumed business name law from \$30 every two years to \$15 every year.

Deletes requirement that application for assumed business name contain Social Security number or federal employer identification number.

Specifies January 1, 2006, operative date.

Declares emergency, effective on passage.

A BILL FOR AN ACT

1
2 Relating to assumed business names; creating new provisions; amending ORS 56.041, 56.140, 648.010
3 and 648.017; and declaring an emergency.

4 **Be It Enacted by the People of the State of Oregon:**

5 **SECTION 1.** ORS 648.017 is amended to read:

6 648.017. (1) A registrant must apply to renew a registration of an assumed business name within
7 30 days before the [*second*] **first** anniversary of the date that the Secretary of State registered the
8 assumed business name and each [*second*] anniversary thereafter. The registrant must apply to the
9 Office of the Secretary of State for renewal of the registration and submit with the renewal a re-
10 newal fee. The application for renewal must include all identifying information required by rule of
11 the Secretary of State. Failure to apply for renewal and pay the required fee is grounds for admin-
12 istrative cancellation of the registration.

13 (2) Not less than 30 days before the application for renewal is due, the Secretary of State shall
14 notify each authorized representative of the requirement to apply for renewal. The notice shall in-
15 dicate the date by which the renewal application must be submitted, and shall include the renewal
16 application. The notice shall state that if the registrant fails to submit the renewal application and
17 renewal fee on or before the renewal deadline, the registration of the assumed business name will
18 be canceled without further notice.

19 (3) If the Secretary of State finds that the application for renewal conforms to the requirements
20 of this section, and all fees have been paid, the Secretary of State shall renew the registration.

21 **SECTION 2.** ORS 56.140 is amended to read:

22 56.140. (1) **Except as provided in subsection (2) of this section**, the Secretary of State shall
23 collect a nonrefundable fee of \$50 for each document delivered for filing to the Secretary of State
24 as part of the secretary's business registry functions described in ORS 56.022.

25 (2) **The Secretary of State shall collect a nonrefundable fee of \$25 for each document**
26 **delivered for filing to the Secretary of State under ORS chapter 648 as part of the secretary's**
27 **business registry functions described in ORS 56.022.**

NOTE: Matter in **boldfaced** type in an amended section is new; matter [*italic and bracketed*] is existing law to be omitted. New sections are in **boldfaced** type.

1 [(2)] (3) The Secretary of State by rule may establish fees, in addition to those provided for in
 2 [subsection (1)] **subsections (1) and (2)** of this section, for:

- 3 (a) Copying any public record maintained by the secretary and relating to the secretary's busi-
 4 ness registry functions, and for certifying the copy; and
- 5 (b) Certifying to other facts of record, including certificates of existence, relating to the secre-
 6 tary's business registry functions.

7 [(3)] (4) The Secretary of State shall collect a nonrefundable fee of \$20 each time process is
 8 served on the Secretary of State and the process relates to the secretary's business registry func-
 9 tions.

10 [(4)] (5) The Secretary of State may waive collection of any fee, charge or interest, or portion
 11 of a fee, charge or interest, that is collectible by the Secretary of State as part of the secretary's
 12 business registry functions.

13 [(5)] (6) The Secretary of State by rule shall establish and collect reasonable fees for the fol-
 14 lowing services relating to the secretary's business registry functions:

- 15 (a) Computer generated lists on electronic data processing media.
- 16 (b) Terminal access to the files of the office.
- 17 (c) Microfilm records of the files of the office.
- 18 (d) Microfilm processing and development services.
- 19 (e) Copies of the programs and files on paper or electronic data processing media.

20 **SECTION 3.** ORS 56.041 is amended to read:

21 56.041. (1) The Operating Account is established in the General Fund of the State Treasury.

22 (2) The net amount accruing to the Secretary of State from all fees, charges, interest, fines,
 23 penalties and miscellaneous revenues from all sources relating to business registry functions, and
 24 moneys received by the Secretary of State under ORS chapters 79 and 194 and ORS 80.100 to 80.130,
 25 87.246, 87.767 and 87.806 to 87.831 shall, after deduction of refunds, be paid over to the State
 26 Treasurer and deposited at least monthly in the Operating Account.

27 (3) Moneys deposited to the credit of the Operating Account are continuously appropriated for
 28 the expenses of carrying out the functions and duties of the Secretary of State relating to business
 29 registry, and the functions and duties of the Secretary of State under ORS chapters 79 and 194 and
 30 ORS 80.100 to 80.130, 87.246, 87.767 and 87.806 to 87.831.

31 (4) At the end of each month:

32 (a) The Secretary of State shall determine for that month the number of business registry filings
 33 for which the Secretary of State collected the [fee] **fees** described in ORS 56.140 (1) and (2); [and]

34 (b) An amount equal to \$30 for each business registry filing described in [paragraph (a) of this
 35 subsection] **ORS 56.140 (1)** shall be transferred to the General Fund and shall become available for
 36 general governmental expenses[.]; **and**

37 **(c) An amount equal to \$15 for each business registry filing described in ORS 56.140 (2)**
 38 **shall be transferred to the General Fund and shall become available for general governmental**
 39 **expenses.**

40 (5) As of July 1 of each year, any unexpended and unobligated balance in the Operating Account
 41 that is in excess of the amount that is necessary to administer the functions and duties of the Sec-
 42 retary of State as described in subsection (3) of this section for two months, as certified by the
 43 Secretary of State, shall be transferred to the General Fund and shall become available for general
 44 governmental expenses.

45 **SECTION 4.** ORS 648.010 is amended to read:

1 648.010. (1) Each person who will carry on, conduct or transact business under an assumed
 2 business name shall sign an application to register the assumed business name and shall submit the
 3 application to the Office of the Secretary of State, with the fee prescribed by this chapter. All of the
 4 persons who will carry on, conduct or transact a single business under an assumed business name
 5 shall file a consolidated application to register the assumed business name.

6 (2) The application shall state:

7 (a) The assumed business name to be registered. The applicant shall write the assumed business
 8 name in the alphabet used to write the English language. The assumed business name may include
 9 numerals and incidental punctuation.

10 (b) The real and true name and street address of each person who intends to carry on, conduct
 11 or transact business under the assumed business name.

12 (c) The principal address at which the applicant intends to carry on, conduct or transact busi-
 13 ness and a listing of each county in which the applicant intends to carry on, conduct or transact
 14 business to the extent that ORS 648.007 would require the applicant to register the assumed business
 15 name for that county.

16 (d) The name and the mailing address of the person whom the applicant authorizes to represent
 17 the applicant in transactions with the Office of the Secretary of State with respect to the registra-
 18 tion. All of the registrants of an assumed business name for a single business shall designate the
 19 same person under this subsection.

20 (e) The applicant's primary business activity.

21 (f) Any other information that the Secretary of State by rule may require.

22 *[(3) Any application for registration submitted under this section or any report submitted under*
 23 *ORS 648.017 shall set forth the Social Security number or federal employer identification number of*
 24 *each applicant or registrant named in the application or report.]*

25 *[(4)]* (3) The person named in the application to be authorized to represent the applicant is au-
 26 thorized to receive notices under this chapter and to perform any duty that this chapter requires
 27 of the registrant of the assumed business name, but is not by the application or registration made
 28 the registrant's agent for the service of process.

29 **SECTION 5. (1) The amendments to ORS 648.010 and 648.017 by sections 1 and 4 of this**
 30 **2005 Act apply to:**

31 (a) Applications for registration filed on or after January 1, 2006; and

32 (b) Applications for renewal of a registration filed on or after January 1, 2006.

33 (2) If an assumed business name was registered or renewed prior to January 1, 2006, and
 34 the registration is current on January 1, 2006, the registrant need not renew the registration
 35 under ORS 648.017, as amended by section 1 of this 2005 Act, until the registration filed or
 36 renewed before January 1, 2006, has expired.

37 (3) The amendments to ORS 56.041 and 56.140 by sections 2 and 3 of this 2005 Act apply
 38 to business registry filings made under ORS chapter 648 on or after January 1, 2006.

39 **SECTION 6. The amendments to ORS 56.041, 56.140, 648.010 and 648.017 by sections 1 to**
 40 **4 of this 2005 Act become operative on January 1, 2006.**

41 **SECTION 7. The Secretary of State may take any action before January 1, 2006, that is**
 42 **necessary to enable the secretary to exercise, on and after January 1, 2006, all the duties,**
 43 **functions and powers conferred upon the secretary by the amendments to ORS 56.041, 56.140,**
 44 **648.010 and 648.017 by sections 1 to 4 of this 2005 Act.**

45 **SECTION 8. This 2005 Act being necessary for the immediate preservation of the public**

1 **peace, health and safety, an emergency is declared to exist, and this 2005 Act takes effect**
2 **on its passage.**

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