WEST VIRGINIA LEGISLATURE

REGULAR SESSION, 1988

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ENROLLED

Com. Sub. for
HOUSE BILL No. 2903

(By Mr. Del. Roop & R. Harman)

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Passed February 29, 1988

In Effect Ninety Days From Passage
ENROLLED
COMMITTEE SUBSTITUTE
FOR
H. B. 2903
(By Delegates Roop and R. Harman)

[Passed February 29, 1988; in effect ninety days from passage.]

AN ACT to amend and reenact article one, chapter thirty-one of the code of West Virginia, one thousand nine hundred thirty-one, as amended, by adding thereto a new section, designated section eleven-a; and to amend and reenact section four, article eight, chapter forty-seven of said code, all relating to use of the words “corporation,” “incorporated” or “limited” in business names; limiting the use of such words or their abbreviations; prohibiting the issuance of business registration certificates in certain instances; when business may be subject to an action in quo warranto; creating a misdemeanor offense; setting forth penalties; prescribing applicability of section; prohibiting the conduct of business under assumed name unless certification of registration of true name is filed with the secretary of state; contents; separate certificate for each name; withdrawal of certificate; change of corporate name and obtaining a certificate of amendment; filing of certificate in office of county clerk where principal business conducted; and requiring the secretary of state to maintain alphabetical index of such certificates.

Be it enacted by the Legislature of West Virginia:

That article one, chapter thirty-one of the code of West
Virginia, one thousand nine hundred thirty-one, as amended, be amended by adding thereto a new section, designated section eleven-a; and that section four, article eight, chapter forty-seven of said code be amended and reenacted, to read as follows:

CHAPTER 31. CORPORATIONS.

ARTICLE 1. BUSINESS AND NONPROFIT CORPORATIONS.

§31-1-11a. Use of the words "corporation," "incorporated" or "limited"; prohibitions; penalties.

(a) Except as otherwise provided in section two, article nine, chapter forty-seven of this code, no person may use, after the first day of July, one thousand nine hundred eighty-eight, the word "corporation," "incorporated" or "limited," or an abbreviation of any such word, in any trade name, business or other organization name unless the same is used by a domestic or foreign corporation authorized by the secretary of state to transact business in West Virginia under the provisions of this chapter.

(b) After the first day of July, one thousand nine hundred eighty-eight, the tax commissioner may not issue any business registration certificate under the provisions of article twelve, chapter eleven of this code to any business if the business name includes any of the words or their abbreviations as set forth in subsection (a) of this section unless the business is a domestic or foreign corporation or domestic or foreign limited partnership.

(c) Any person who shall unlawfully use any one or more of the above proscribed words or their abbreviations in violation of subsection (a) of this section shall be deemed to be acting as a corporation without authority of law and subject to an action in quo warranto as provided in article two, chapter fifty-three of this code.

(d) Any person who violates the provisions of this section is guilty of a misdemeanor, and, upon conviction thereof, shall be fined not less than five hundred dollars, nor more than one thousand dollars, or imprisoned in
the county jail not more than thirty days, or both fined and imprisoned.

(e) The provisions of this section shall not apply to businesses in existence prior to the first day of July, one thousand nine hundred eighty-eight.

CHAPTER 47. REGULATION OF TRADE.

ARTICLE 8. TRADE NAMES.

§47-8-4. Corporations, associations and limited partnerships not to conduct business under assumed name without filing certificate of true name; filing, recordation and indexing of certificates filed; issuance of certificate of true name.

(a) No corporation, limited partnership or association required to register with the secretary of state in order to conduct business within the state may conduct or transact any business in this state under any assumed name, or under any designation, name or style, corporate or otherwise, other than the name established by the certificate of incorporation, authority, association or limited partnership, unless the corporation, limited partnership or association files in the office of the secretary of state a certificate of registration of true name setting forth the name or names under which such business is, or is to be, conducted or transacted, with the address of the principal office within the state or, if no office is maintained within the state, the address of the principal office in the state in which the corporation, association or limited partnership is established. A new certificate of registration is to be filed if the corporation, limited partnership or association desires to conduct or transact any business in this state under any other assumed name not on file in the office of the secretary of state.

(b) Two executed originals of the application for true name registration, shall be delivered to the secretary of state. If the filing officer finds that the application for true name registration conforms to law, he or she shall, when all fees have been paid as prescribed by law, (i)
(c) Upon discontinuing the use of a name other than the name established by the certificate of incorporation, authority, association or limited partnership, the certificate of registration of true name shall be withdrawn by filing a certificate of withdrawal with the office of the secretary of state setting forth the name to be discontinued, the real name, the address of the party transacting business and the date upon which the original certificate of registration of true name was filed.

(d) Any corporation authorized to transact business in this state shall procure an amended certificate of incorporation in the event it changes its corporate name by filing articles of amendment with the office of the secretary of state as provided in article one, chapter thirty-one of this code.

(e) A domestic corporation, limited partnership or association having its principal office within the state shall file a certified copy of any certificate of true name with the clerk of the county commission of the county in which the principal office is located. A foreign corporation, limited partnership or association having its principal office outside the state shall file a certified copy of any such certificate with the clerk of the county commission of a county in which its principal business is transacted.

(f) The secretary of state shall keep an alphabetical index of all persons filing certificates provided for in this section.
The Joint Committee on Enrolled Bills hereby certifies that the foregoing bill is correctly enrolled.

[Signature]
Chairman Senate Committee

[Signature]
Chairman House Committee

Originating in the House.

Takes effect ninety days from passage.

[Signature]
Clerk of the Senate

[Signature]
Clerk of the House of Delegates

[Signature]
President of the Senate

[Signature]
Speaker of the House of Delegates

The within Approved this the 11th day of March, 1988.

[Signature]
Governor