

# 2903

# WEST VIRGINIA LEGISLATURE

REGULAR SESSION, 1988



# ENROLLED

Com. Sub. for  
HOUSE BILL No. 2903

(By Mr. Del. Koop + R. Harman)



Passed February 29, 1988

In Effect Ninety Days From Passage

**ENROLLED**  
COMMITTEE SUBSTITUTE  
FOR  
**H. B. 2903**

(By DELEGATES ROOP and R. HARMAN)

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

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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.**

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

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

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

27 (d) Any person who violates the provisions of this  
28 section is guilty of a misdemeanor, and, upon conviction  
29 thereof, shall be fined not less than five hundred dollars,  
30 nor more than one thousand dollars, or imprisoned in

31 the county jail not more than thirty days, or both fined  
32 and imprisoned.

33 (e) The provisions of this section shall not apply to  
34 businesses in existence prior to the first day of July, one  
35 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.**

1 (a) No corporation, limited partnership or association  
2 required to register with the secretary of state in order  
3 to conduct business within the state may conduct or  
4 transact any business in this state under any assumed  
5 name, or under any designation, name or style, corpo-  
6 rate or otherwise, other than the name established by  
7 the certificate of incorporation, authority, association or  
8 limited partnership, unless the corporation, limited  
9 partnership or association files in the office of the  
10 secretary of state a certificate of registration of true  
11 name setting forth the name or names under which such  
12 business is, or is to be, conducted or transacted, with the  
13 address of the principal office within the state or, if no  
14 office is maintained within the state, the address of the  
15 principal office in the state in which the corporation,  
16 association or limited partnership is established. A new  
17 certificate of registration is to be filed if the corporation,  
18 limited partnership or association desires to conduct or  
19 transact any business in this state under any other  
20 assumed name not on file in the office of the secretary  
21 of state.

22 (b) Two executed originals of the application for true  
23 name registration, shall be delivered to the secretary of  
24 state. If the filing officer finds that the application for  
25 true name registration conforms to law, he or she shall,  
26 when all fees have been paid as prescribed by law, (i)

27 endorse on each of the originals the word "filed" and the  
28 month, day and year of the filing; (ii) file one of the  
29 originals; and (iii) issue to the applicant the certificate  
30 of registration of true name with the other original  
31 attached.

32 (c) Upon discontinuing the use of a name other than  
33 the name established by the certificate of incorporation,  
34 authority, association or limited partnership, the  
35 certificate of registration of true name shall be with-  
36 drawn by filing a certificate of withdrawal with the  
37 office of the secretary of state setting forth the name to  
38 be discontinued, the real name, the address of the party  
39 transacting business and the date upon which the  
40 original certificate of registration of true name was  
41 filed.

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

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

58 (f) The secretary of state shall keep an alphabetical  
59 index of all persons filing certificates provided for in  
60 this section.


The Joint Committee on Enrolled Bills hereby certifies that the foregoing bill is correctly enrolled.


  
Chairman Senate Committee

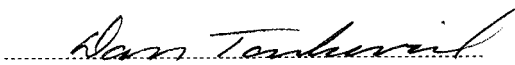
  
Chairman House Committee

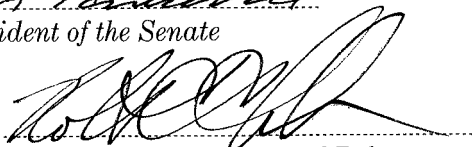
Originating in the House.




Takes effect ninety days from passage.

  
Clerk of the Senate

  
Clerk of the House of Delegates

  
President of the Senate

  
Speaker of the House of Delegates

The within  this the   
day of , 1988.

  
Governor

PRESENTED TO THE  
GOVERNOR

Date 3/5/88

Time 1:40 p.m.

RECEIVED

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SECRETARY OF DEFENSE