

**365.015 Certificate of assumed name -- Filing with state and county -- Certificate of withdrawal -- Filing fees. (Effective January 1, 2011)**

- (1) (a) The real name of an individual shall include his or her surname at birth, or his or her name as changed by a court of competent jurisdiction, or the surname of a married woman.
- (b) The real name of a domestic:
  1. General partnership that is not a limited liability partnership and that has not filed a statement of partnership authority is that name which includes the real name of each of the partners;
  2. General partnership that is not a limited liability partnership and that has filed a statement of partnership authority is the name set forth on the statement of partnership authority;
  3. General partnership that is a limited liability partnership is the name stated on the statement of qualification filed pursuant to KRS 362.1-1001 or predecessor law;
  4. Limited partnership is that name stated in its certificate of limited partnership filed pursuant to KRS 362.2-201 or predecessor law;
  5. Business trust is the name set forth in the declaration of trust;
  6. Corporation is the name set forth in its articles of incorporation; and
  7. Limited liability company is the name set forth in its articles of organization.
- (c) The real name of a foreign:
  1. General partnership is the name recognized by the laws of the jurisdiction under which it is formed as being the real name;
  2. Limited liability partnership is the name stated in its statement of foreign qualification filed pursuant to KRS 362.1-1102 or predecessor law;
  3. Limited partnership is the name set forth in its certificate of limited partnership or the fictitious name adopted for use in this Commonwealth under KRS 14A.3-010 to 14A.3-050 or predecessor law;
  4. Business trust is the name recognized by the laws of the jurisdiction under which it is formed as being the real name of the business trust or the fictitious name adopted for use in this Commonwealth under KRS 386.4432;
  5. Corporation is the name set forth in its articles of incorporation or the fictitious name adopted for use in this Commonwealth under KRS 14A.3-010 to 14A.3-050 or predecessor law; and
  6. Limited liability company is the name set forth in its articles of organization or the fictitious name adopted for use in this Commonwealth under KRS 14A.3-010 to 14A.3-050 or predecessor law.

- (2)
  - (a) No individual, general partnership, limited partnership, business trust, corporation, or limited liability company shall conduct or transact business in this Commonwealth under an assumed name or any style other than his, her, or its real name, as defined in subsection (1) of this section, unless such individual, general partnership, limited partnership, business trust, corporation, or limited liability company has filed a certificate of assumed name;
  - (b) The certificate shall state the assumed name under which the business will be conducted or transacted, the real name of the individual, general partnership, limited partnership, business trust, corporation, or limited liability company and his, or her or its address, including street and number, if any;
  - (c) A separate certificate shall be filed for each assumed name;
  - (d) No certificate to be filed with the Secretary of State shall set forth an assumed name which is not distinguishable upon the records of the Secretary of State from any other name previously filed and on record with the Secretary of State;
  - (e) The certificate shall be executed for an individual, by the individual; for a general partnership, by at least one (1) partner authorized to do so by the partners; for a limited partnership, by a general partner; for a business trust, by a trustee; for a corporation, by any person authorized to act for the corporation; and for a limited liability company, by a member or manager authorized to act for the limited liability company.
- (3) Each certificate of assumed name for an individual shall be filed with the county clerk where the person maintains his or her principal place of business. Each certificate of assumed name for a general partnership, limited partnership, business trust, corporation, or limited liability company shall be delivered to the Secretary of State for filing, accompanied by one (1) exact or conformed copy. One (1) of the exact or conformed copies stamped as "filed" by the Secretary of State shall be filed with the county clerk of the county where the entity maintains its registered agent for service of process or, if no registered agent for service of process is required, then with the county clerk of the county where the entity maintains its principal office. If the entity does not maintain a registered agent for service of process and does not maintain a principal office in this Commonwealth, then the certificate of assumed name shall be filed only with the Secretary of State.
- (4) An assumed name shall be effective for a term of five (5) years from the date of filing and may be renewed for successive terms upon filing a renewal certificate within six (6) months prior to the expiration of the term, in the same manner of filing the original certificate as set out in subsection (3) of this section. Any certificate in effect on July 15, 1998, shall continue in effect for five (5) years and may be renewed by filing a renewal certificate with the Secretary of State.
- (5) Upon discontinuing the use of an assumed name, the certificate shall be withdrawn by filing a certificate in the office wherein the original certificate of assumed name was filed. The certificate of withdrawal shall state the assumed name, the real name and address of the party formerly transacting business under the assumed name and

the date upon which the original certificate was filed. The certificate of withdrawal shall be signed for a general partnership by at least one (1) partner authorized to act for the partnership, for a limited partnership by a general partner, for a business trust by a trustee, for a corporation by any person authorized to act for the corporation, and for a limited liability company by a member or manager authorized to act for the limited liability company.

- (6) A general partnership, except a limited liability partnership, shall amend an assumed name certificate to reflect a change in the identity of partners. The amendment shall set forth:
  - (a) The assumed name and date of original filing;
  - (b) A statement setting out the changes in identity of the partners; and
  - (c) Shall be signed by at least one (1) partner authorized to do so by the partners.
- (7) The filing of a certificate of assumed name shall not automatically prevent the use of that name or protect that name from use by other persons.
- (8) In the event of the merger or conversion of a partnership, limited partnership, business trust, corporation, or limited liability company, any certificate of assumed name filed by a party to a merger or conversion shall remain in full force and effect, as provided in subsection (4) of this section, as if originally filed by the business organization which survives the merger or conversion.
- (9) A certificate of assumed name may be amended to revise the real name or the address of the person or business organization holding the certificate of assumed name.
- (10) A certificate of assumed name, or its amendment or cancellation, shall be effective on the date it is filed, as evidenced by the Secretary of State's date and time endorsement on the original document, or at a time specified in the document as its effective time on the date it is filed. The document may specify a delayed effective time and date and, if it does so, the document shall become effective at the time and date specified. If a delayed effective date but no time is specified, the document shall be effective at the close of business on that date. A delayed effective date for a document shall not be later than the ninetieth day after the date it is filed.
- (11) The county clerk shall receive a fee pursuant to KRS 64.012 for filing each certificate, and the Secretary of State shall receive a fee of twenty dollars (\$20) for filing each certificate, amendment, and renewal certificate.

**Effective:** January 1, 2011

**History:** Repealed and reenacted 2010 Ky. Acts ch. 51, sec. 163, effective July 15, 2010; amended ch. 133, sec. 71, effective January 1, 2011; and amended ch. 151, sec. 134, effective January 1, 2011. -- Amended 2007 Ky. Acts ch. 137, sec. 163, effective June 26, 2007. -- Amended 2006 Ky. Acts ch. 149, sec. 236, effective July 12, 2006. -- Amended 2001 Ky. Acts ch. 119, sec. 16, effective July 1, 2001. -- Amended 1998 Ky. Acts ch. 341, sec. 56, effective July 15, 1998. -- Amended 1988 Ky. Acts ch. 23, sec. 189, effective January 1, 1989; ch. 187, sec. 4, effective July 15, 1988; and ch. 284, sec. 64, effective July 15, 1988. -- Amended 1986 Ky. Acts ch. 204, sec. 11, effective July 15, 1986; and ch. 522, sec. 1, effective July 15, 1986. -- Amended 1980 Ky. Acts ch. 294, sec. 10, effective July 15, 1980. -- Amended 1978 Ky. Acts ch. 84, sec. 12, effective June 17, 1978; and ch. 384, sec. 492,

effective June 17, 1978. -- Amended 1976 Ky. Acts ch. 27, sec. 17. -- Created 1974 Ky. Acts ch. 287, sec. 1.

**Legislative Research Commission Note (7/15/2010).** 2010 Ky. Acts ch. 51, sec. 183, provides, "The specific textual provisions of Sections 1 to 178 of this Act which reflect amendments made to those sections by 2007 Ky. Acts ch. 137 shall be deemed effective as of July 26, 2007, and those provisions are hereby made expressly retroactive to that date, with the remainder of the text of those sections being unaffected by the provisions of this section."

**Legislative Research Commission Note (7/15/2010).** This section was amended by 2010 Ky. Acts chs. 133, and 151, and repealed and reenacted by 2010 Ky. Acts ch. 51. Pursuant to Section 184 of Acts ch. 51, it was the intent of the General Assembly that the repeal and reenactment not serve to void the amendments, and these Acts do not appear to be in conflict; therefore, they have been codified together.

**Legislative Research Commission Note (7/15/2010).** There is a reference in subsection 1(c)4. of this section to "KRS 386.4432" and a reference in subsection 1(c)5. of this section to "KRS 275.364," Both of those statutes will be repealed effective January 1, 2011. The drafter of 2010 Ky. Acts ch. 133 indicates that the appropriate citation to replace those references is "KRS 14A.3-010 to 14A.3-050," but the Reviser of Statutes lacks the authority to make those changes in the text of the statute.