

Chapter 648

1955 REPLACEMENT PART

Doing Business under Assumed Name; Farm Names

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648.010 Filing of certificate required before conducting business under assumed name. No person or persons shall carry on, conduct or transact business in this state under any assumed name or under any designation, name or style, corporate or otherwise, other than the real and true name or names of the person or persons conducting the business or having an interest therein, unless the person or all the persons conducting the business or having an interest therein file a certificate in the office of the county clerk of the county or counties in which the business is to be conducted. The certificate shall set forth the designation, name or style under which the business is to be conducted, and the true and real name of each party conducting or intending to conduct the business, or having an interest therein, together with the postoffice address of each such person. The certificate shall be executed and acknowledged by each party conducting or intending to conduct the business, or having an interest therein, before an officer authorized to take acknowledgment of deeds. The county clerk shall record and index the certificate in a book kept for that purpose.

648.020 Change of proposed name to prevent confusion. Whenever there is presented to the county clerk a certificate of assumed business name, in which the name assumed appears to the county clerk to resemble an assumed name previously filed and recorded so closely as to cause confusion, the county clerk may require, before filing the certificate, that the name assumed be changed.

648.030 Only one assumed name to be used. No person shall be permitted to file more than one assumed name to designate the same business, and it is unlawful for any person to conduct one business under more than one assumed name.

648.040 Supplementary certificate required where change in ownership, retirement or dissolution. (1) If a business is being conducted under an assumed name, or under any designation, name or style other than the true and real name or names of all the parties having an interest therein, and there is a change in the ownership or interests in the business, the party or parties who are to conduct the business, or to have an interest therein, after such change in interest, shall file a supplementary certificate as an amendment of the certificate provided in

ORS 648.010 before conducting or transacting any business.

(2) If any person retires from a business, or copartnership being conducted under an assumed name, or under any designation, name or style other than the true and real name or names of all the parties having an interest therein, or if the business or copartnership is dissolved, the person, or in case of his death or incapacity the legal representative of such person, shall file with the county clerk, or clerks, a supplementary certificate reciting that the person has retired from the business or copartnership, and no longer is a member of the business or copartnership. The supplementary certificate, executed and acknowledged by the party or parties before an officer authorized to take acknowledgment of deeds, shall be recorded and indexed by the county clerk, or clerks, in the manner provided in ORS 648.010, as an amendment of the original certificate.

648.050 Cancellation of registration where use of name discontinued; reregistration; fee. (1) Upon the filing of a petition with the county clerk of any county in which an assumed business name has been filed, under ORS 648.010 to 648.040, alleging upon information and belief that the business conducted under such name has been discontinued or such name has not been used in connection with the business for a period of five years immediately preceding the filing of the petition, the county clerk shall forthwith by registered mail notify each registrant of such assumed business name at the last-known address of the registrant that the certificate and the right to use the name shall be canceled unless the name is reregistered within 60 days from the date of the mailing of the notice. If the name is not reregistered within the 60-day period, the registration shall be canceled. Any assumed business name so canceled is subject to registration. A fee of \$2 shall be paid to the county clerk for each petition and for each reregistration provided for in this subsection.

(2) If the county clerk believes that a business conducted under an assumed name has been discontinued or that an assumed business name has not been used in connection with the business for a period of five years, the county clerk may notify by mail each registrant of such assumed business name at the last-known address of the registrant that the certificate and the right to

use the name shall be canceled unless the name is reregistered within 60 days from the date of the mailing of the notice. If the name is not reregistered within the 60-day period, the registration shall be canceled. Any assumed business name so canceled is subject to registration. No fee shall be required for the reregistration of the name if it is reregistered within the 60-day period provided by this subsection. [Amended by 1955 c.661 §1]

648.060 Consent of nonresident user of assumed name to service of process. If it appears from the certificate filed in compliance with ORS 648.010 that the persons are not domiciled in this state there shall forthwith be filed with the Secretary of State the written consent of each such person that suits and actions arising on account of any transaction occurring by reason of their activities in this state may be commenced against them in the county in which the cause of action arose by the service of any process or pleading authorized by the laws of this state on the Secretary of State. The consent shall stipulate and agree that such service of process or pleadings on the Secretary of State shall be taken and held in all courts to be as valid and binding as if due service had been made upon the persons personally. The written consent shall be authenticated by the acknowledged signature of a member of the copartnership or company, or by the acknowledged signature of the individual person, as the case may be. The consent to service is irrevocable until after the expiration of 90 days after written notice by the person to the Secretary of State of his ceasing to do business within this state.

648.070 Manner of serving process upon nonresident user. Service of process authorized by ORS 648.060 shall be made by leaving a copy of the process with a fee of \$2 in the hands of the Secretary of State of Oregon or in his office. Such service shall be sufficient and valid personal service upon such persons not domiciled in this state if notice of the service and a copy of the process forthwith are sent by registered mail by the plaintiff to the principal office of the persons against whom the process or pleadings are directed, and the return receipt of the latter and plaintiff's affidavit of compliance with this section are appended to the process and entered as a part of the return thereof. The defendant persons against

whom the process or pleadings are directed shall have 30 days after the date of mailing of the process or pleadings in which to appear and plead. Personal service outside the state in accordance with the provisions of the statutes of Oregon relating to personal service of summons outside the state shall relieve the plaintiff from mailing copies of the summons or process by registered mail as provided in this section.

648.080 Irrigation associations. ORS 648.010 and 648.020 do not apply to any mutual and voluntary association composed of 10 or more farmers and landowners formed for the purpose of constructing, owning and operating reservoirs, irrigation ditches and irrigation works. Each such association shall have a secretary and keep on file with its secretary a complete list and record of its members and shall furnish a copy thereof whenever requested so to do.

648.090 Effect of failing to file certificate. No persons carrying on, conducting or transacting business in the manner described in ORS 648.010, or having any interest therein, are entitled to maintain any suit or action in any of the courts of this state without alleging and proving that they have filed a certificate as provided for in ORS 648.010. Failure to file such certificate is prima facie evidence of fraud in securing credit.

648.100 Organizations not affected. ORS 648.010 to 648.090 do not:

(1) Affect or apply to any corporation organized under the laws of this state, or to any corporation organized under the laws of another state and lawfully doing business in this state.

(2) Prevent the lawful use of a partnership designation, name or style which includes the true and real name or names of all the parties conducting the business or having an interest therein.

(3) Affect or apply to any limited partnership legally organized within this state.

648.110 Registration of farm name. (1) Any farm owner in this state may, upon payment of \$1 to the clerk of the county court in the county in which the farm is located, have the name of his farm recorded in a register which the county clerk shall keep for that purpose, and shall be furnished a certificate issued under seal setting forth the name and location of the farm and the name of the owner thereof. When any name

has been recorded as the name of any farm, that name shall not be recorded as the name of any other farm in the state, except by prefixing or adding designating words thereto.

(2) The county clerk shall, upon application by any farm owner in this state for registration of the name of his farm and payment of the \$1 fee, communicate with the Secretary of State, who shall also keep a register of the names of farms registered under this section. If, upon application to the Secretary of State, it appears to the county clerk that the name sought to be registered has not already been appropriated for that purpose, the county clerk shall register the name and furnish to the farm owner a certificate as provided in this sec-

tion. If the name so sought to be registered has been substantially appropriated, the farm owner shall be so notified by the county clerk, and the farm owner shall be allowed, without additional expense or charge, to submit other names until he has secured and registered a name for his farm.

(3) The county clerk, upon final registration of the name shall transmit to the Secretary of State the names appropriated and registered. The Secretary of State shall keep a record of all such names in a register which he shall keep for that purpose.

648.990 Penalties. Violation of any of the provisions of ORS 648.010, 648.020, 648.040, 648.060 or 648.080 to 648.100 is punishable, upon conviction, by a fine not exceeding \$100.

CERTIFICATE OF LEGISLATIVE COUNSEL

Pursuant to ORS 173.170, I, Sam R. Haley, Legislative Counsel, do hereby certify that I have compared each section printed in this chapter with the original section in the enrolled bill, and that the sections in this chapter are correct copies of the enrolled sections, with the exception of the changes in form permitted by ORS 173.160 and other changes specifically authorized by law.
Done at Salem, Oregon,
on October 15, 1955.

Sam R. Haley
Legislative Counsel

