Chapter 648

1963 REPLACEMENT PART

Assumed Business Names

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648.005 Definitions. As used in ORS 648.005 to 648.125, "real and true name" means the surname coupled with one or more given names or one or more initials or any combination thereof of an individual, or the corporate name of a corporation as filed with the Corporation Commissioner or the name of a limited partnership as filed under ORS chapter 69.
[1963 c.551 §1]

648.010 Registration of assumed business name required; application for registration. (1) 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, other than the real and true name of each person conducting the business or having an interest therein, standing alone or coupled with words which merely describe the business carried on and do not suggest the existence of additional owners, unless the person or all the persons conducting the business or having an interest therein sign and cause to have filed a verified application for registration with the Corporation Commissioner. Words which suggest the existence of additional owners within the meaning of this section include such words as "Company," "& Company," "& Sons," "& Associates" and the like.

(2) The application shall set forth:

(a) The designation, name or style under which the business is to be conducted.

(b) The real and true name of each person conducting or intending to conduct the business, or having an interest therein, together with the street address of each such person.

(c) Every county in which the assumed name or other designation, name or style is used or is intended to be used to carry on, conduct or transact business.

(d) The name and street address of the person authorized to represent the applicant or applicants for the assumed business name. If the application is granted and the assumed business name registered with the Corporation Commissioner, the person authorized to represent the registrant or registrants shall be authorized to receive notices and perform other duties required by the registrant or registrants of the assumed business name under the provisions of this chapter. The registrant or registrants shall keep current the name of the authorized representative in the office of the Corporation Commissioner.

(e) Such other information as the Corporation Commissioner shall require.

(3) Subject to ORS 648.015, the Corporation Commissioner shall register the assumed business name contained in the application and shall notify the registrant or registrants of such registration.

(4) The registration of an assumed business name remains in effect for five years from the first day of the month next following the date of the filing of the application unless sooner canceled. Such registration may be renewed by application under the provisions of ORS 648.035.
[Amended by 1961 c.355 §1; 1963 c.551 §2]

Note: The provisions compiled in the 1963 Replacement Part for this chapter take effect on July 1, 1964. Until then, ORS 648.010 to 648.110 and 648.990 (1961 Replacement Part) remain in effect.

648.015 Registration of assumed business name same or similar to registered name prohibited. Except as provided in section 18 of chapter 551, Oregon Laws 1963, when an application for registration of an assumed business name contains an assumed business name which is the same as or is deceptively similar to an assumed business name already registered for a county designated in the application or a corporation name filed under ORS chapter 57, 61 or 62 or the name of a limited partnership filed under ORS chapter 69, the Corporation Commissioner shall not register the assumed business name for which application is made.
[1963 c.551 §7]

648.020 [Repealed by 1963 c.551 §21]

648.025 Amendment or cancellation of registration required in certain cases. (1) Within 60 days after any one of the following events occurs with respect to a registered assumed business name, a verified application for amendment or cancellation of the registration shall be filed with the Corporation Commissioner and shall in cases of amendment contain the information required under subsection (2) of ORS 648.010:

(a) There is a change in the names or identity of the persons conducting or having an interest in the business for which the name is registered;

(b) The use of the assumed business name is discontinued; or

(c) There is a change in the identity of the counties in which the name is used or is intended to be used.

(2) The application required by subsection (1) of this section shall be filed by the

person or persons required to register an assumed business name under subsection (1) of ORS 648.010 and, with respect to any other person then shown on the records of the Corporation Commissioner as a registrant, shall be accompanied by a verified statement of withdrawal, incapacity or death as permitted by subsection (3) of this section or other proof of such withdrawal, incapacity or death satisfactory to the Corporation Commissioner.

(3) Whenever any person having an interest in a business with a registered assumed business name withdraws from the business or dies, the person who is withdrawing, or in case of his death or incapacity, the legal representative of such person, may file with the Corporation Commissioner a verified statement of such withdrawal, incapacity or death.

(4) The Corporation Commissioner shall notify the county clerk of the contents of all applications for amendment and all statements of withdrawal, incapacity or death relating to assumed business names registered with respect to the county.

(5) The amendment of the registration of an assumed business name supersedes the original registration of the assumed business name on all matters amended but does not operate as a renewal of the original registration.

[1963 c.551 §6]

648.030 [Repealed by 1963 c.551 §21]

648.035 Renewal of registration; notice; effect of renewal. (1) Not less than 30 days before the expiration date of the registration, the Corporation Commissioner shall notify the registrant of an assumed business name of the pending expiration of the registration. The notice shall be sent by certified mail, shall indicate the date on which the registration expires and shall include forms for renewal.

(2) Within 60 days after the date of expiration, the registration may be renewed for an additional five years from such expiration date if the registrant files an application for renewal on the form provided by the Corporation Commissioner executed and filed in the same manner as an original application for registration. A renewal shall supersede the prior registration. If a legally sufficient application for renewal is not timely filed, then after the last day on which a renewal could be filed, the assumed business name shall be available for registration by any person except as provided in ORS 648.015.

[1963 c.551 §5]

648.040 [Repealed by 1963 c.551 §21]

648.045 Notice of registration to county clerk. Upon registration of the assumed business name contained in the application, the Corporation Commissioner shall send to the county clerk in each county which is designated on the application written notice containing:

(1) The assumed business name;

(2) The name and street address of the person or persons conducting the business or having an interest therein; and

(3) Such additional information as may, in the judgment of the Corporation Commissioner, assist the county clerk in maintaining files on assumed business names being used in the county.

[1963 c.551 §4]

648.050 Cancellation of registration for similarity or nonuse; notice; proof of use; appeal. (1) The Corporation Commissioner shall forthwith by certified mail notify the registrant of an assumed business name when the Corporation Commissioner has received:

(a) An application for registration for assumed name which is legally sufficient except that the name is the same as or deceptively similar to a name already registered with the Corporation Commissioner with respect to one or more counties designated in the application; and

(b) A petition alleging upon information and belief that such registered name is not being used in such counties.

(2) If the Corporation Commissioner has knowledge that a business conducted under an assumed name has been discontinued or that an assumed business name is not being used in any county in connection with the business, the Corporation Commissioner may notify by mail the registrant of such assumed business name.

(3) The notice required under subsections (1) and (2) of this section shall indicate that the registration shall be canceled with respect to all or certain specified counties, as the case may be, unless the registrant or registrants file, within 60 days from the date of the mailing of the notice, a verified statement that at the time of filing the statement the registrant or registrants are in fact using the assumed business name in

the county or counties involved. Filing of such a statement is not a renewal of the registration.

(4) If the verified statement of use is not filed with respect to any county involved within the 60-day period, the Corporation Commissioner shall issue a certificate canceling the registration with respect to such county, sending a copy of the certificate to the registrant, and shall register the assumed business name in the name of the petitioner. No fee shall be required for the filing of the statement of use within the 60-day period provided by this subsection.

(5) If the required statement of use is filed with respect to any county, the existing registration shall remain unaffected as to that county and the Corporation Commissioner shall reject the new application and petition, if any, with respect to that county.

(6) If a petition filed under subsection (1) of this section is rejected as provided in subsection (5) of this section, a petitioner may file a complaint in the circuit court in Marion County or in the county with respect to which the petition was denied raising the question of actual use of the registered name in such county by the registrant. If the circuit court finds that at the time the verified statement of use was filed the registered name was not in fact being used in such county, it shall issue its order directing the Corporation Commissioner to cancel the existing registration with respect to such county and register the name requested by the petitioner in such county.

[Amended by 1955 c.661 §1; 1963 c.551 §8]

648.060 Consent of nonresident to service of process. (1) If any of the persons conducting a business having an assumed business name registered under the provisions of ORS 648.010 or having an interest therein is not domiciled in this state there shall be filed with the Corporation Commissioner at the same time as the application filed under ORS 648.010 is filed the written consent of each such person in a form satisfactory to the Corporation Commissioner and containing the verified signature of each such person that suits and actions arising on account of any transaction occurring by reason of activities of the business being carried on, conducted or transacted under the assumed business name in this state at a time when such person was a registrant of such name may be commenced 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 Corporation Commissioner.

(2) The consent shall stipulate and agree that such service of process or pleadings on the Corporation Commissioner 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 consent to service is irrevocable.

[Amended by 1963 c.551 §9]

648.070 Service of process on nonresident. Service of process authorized by ORS 648.060 shall be made by delivery in person or by certified mail of a copy of the process with a fee of $2 in the hands of the Corporation Commissioner 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 certified 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.

[Amended by 1963 c.551 §10]

648.080 Irrigation associations. (1) ORS 648.010 does 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.

(2) 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.

[Amended by 1963 c.551 §11]

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 registered the assumed business name as provided for in ORS 648.010 with respect to the county in which the person conducted the business giving rise to such suit or action.
[Amended by 1963 c.551 §12]

648.100 [Amended by 1961 c.355 §2; repealed by 1963 c.551 §21]

648.105 Evidentiary effect of certificates and documents of Corporation Commissioner. (1) All certificates issued by the Corporation Commissioner in accordance with the provisions of this chapter, and all copies of documents filed in his office in accordance with the provisions of this chapter when certified by him shall be taken and received in all courts, public offices and official bodies as prima facie evidence of the facts stated therein.

(2) A certificate by the Corporation Commissioner under the seal of the Corporation Division, State of Oregon, as to the existence or nonexistence of the facts relating to assumed business names which would appear from the presence or absence of documents filed in his office or the compliance or noncompliance with provisions of this chapter, shall be taken and received in all courts, public offices and official bodies as prima facie evidence of the existence or nonexistence of the facts stated therein.
[1963 c.551 §13]

648.110 [Repealed by 1963 c.551 §21]

648.115 Fee schedule. (1) The Corporation Commissioner shall charge and collect:

(a) For each registration or renewal of an assumed business name:

(A) Each application for registration or renewal, $5.

(B) Each county designated on the application for registration or renewal, $1.50.

(b) For each application for amendment, $5.

(c) For each petition filed under ORS 648.050, $5.

(2) The Corporation Commissioner shall remit at least quarterly to the county clerk $1.50 for every application for registration or renewal which designates the county as a place where the assumed business name is used.
[1963 c.551 §15]

648.125 Rules and regulations. In accordance with any applicable provisions of ORS chapter 183, the Corporation Commissioner may make such reasonable rules and regulations as are necessary or proper for the administration of this chapter.
[1963 c.551 §14]

648.130 to 648.980 [Reserved for expansion]

648.990 Penalties. Violation of any of the provisions of ORS 648.010, 648.025 or 648.060 is punishable, upon conviction, by a fine not exceeding $100.
[Amended by 1963 c.551 §17]

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 December 1, 1963.

Sam R. Haley
Legislative Counsel