

BILL ANALYSIS

Senate Research Center
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S.B. 527
By: Shapiro
State Affairs
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As Filed

DIGEST

Currently, Chapter 36, Business & Commerce Code, requires notarized assumed name documents to be filed with the secretary of state. The execution requirements of such documents are not in line with the execution requirements of other documents filed with the secretary of state by various entities. This bill would eliminate the notarization requirement for assumed name documents, authorize the secretary of state to accept for filing reproduced copies of originally signed assumed name documents, and would set forth penalties for intentional violations of Chapter 36.

PURPOSE

As proposed, S.B. 527 provides guidelines for the execution and filing of assumed name certificates and penalties for violations of provisions of Chapter 36, Business & Commerce Code.

RULEMAKING AUTHORITY

This bill does not grant any additional rulemaking authority to a state officer, institution, or agency.

SECTION BY SECTION ANALYSIS

SECTION 1. Amends Section 36.11(b), Business & Commerce Code, to require a certificate filed in the office of the Secretary of State to be executed, rather than executed and acknowledged. Requires a certificate filed in the office of the county clerk to be executed and acknowledged in a manner provided by Section 36.10(b) of this code. Makes conforming changes.

SECTION 2. Amends Section 36.13, Business & Commerce Code, as follows:

Sec. 36.13. New heading: DURATION AND RENEWAL OF CERTIFICATE. Deletes existing Subsections (d) and (e), requiring assumed name certificates to become null and void, and requiring the county clerk to provide written notification of business conducted under an assumed name.

SECTION 3. Amends Chapter 36B, Business & Commerce Code, by adding Section 36.18, as follows:

Sec. 36.18. FILING OF REPRODUCTION. Authorizes the Secretary of State to accept a photographic, photostatic, reproduced copy, or a facsimile, of a signed document required or authorized to be filed in the office of the Secretary of State.

SECTION 4. Amends Section 36.26, Business & Commerce Code, as follows:

Sec. 36.26. New heading: CRIMINAL PENALTY--GENERAL VIOLATION. Provides that a person conducting business under an assumed name who intentionally violates a provision of this chapter commits a Class A misdemeanor. Deletes text regarding a misdemeanor offense and a fine.

SECTION 5. Amends Chapter 36C, Business & Commerce Code, by adding Section 36.27, as follows:

Sec. 36.27. CRIMINAL PENALTY--FRAUDULENT FILING. Prohibits a person from intentionally signing and presenting a document for filing under this chapter if the document falsely grants authority to the person signing the document, contains a material false statement, or is forged. Provides that a person who violates Subsection (a) of this section commits an offense

punishable under Section 37.10, Penal Code.

SECTION 6. Makes application of the Act prospective.

SECTION 7. Effective date: September 1, 1999.

SECTION 8. Emergency clause.