

MAINE STATE LEGISLATURE

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JUDICIARY

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STATE OF MAINE
HOUSE OF REPRESENTATIVES
126TH LEGISLATURE
FIRST REGULAR SESSION

COMMITTEE AMENDMENT "A" to H.P. 41, L.D. 46, Bill, "An Act To Protect Maine Business Names"

Amend the bill by striking out everything after the enacting clause and before the summary and inserting the following:

Sec. 1. 13-B MRSA §302-A, sub-§1, as enacted by PL 2003, c. 344, Pt. B, §11, is amended to read:

1. Reserve use of name. A person may reserve the exclusive use of a corporate name, including an assumed or fictitious name, by executing and delivering for filing as provided in section 106 an application to the Secretary of State. The application must be executed by a duly authorized person and must set forth the name and address of the applicant and the name proposed to be reserved. If the Secretary of State finds that the corporate name applied for is available, the Secretary of State shall reserve the name for the applicant's exclusive use for a nonrenewable period of 120 days. The reservation may not be renewed, but after the expiration of the reservation, the same name may be reserved by the same or another applicant.

Sec. 2. 13-C MRSA §402, sub-§1, as enacted by PL 2001, c. 640, Pt. A, §2 and affected by Pt. B, §7, is amended to read:

1. Reserve use of name. A person may reserve the exclusive use of a corporate name, including an assumed or fictitious name, by delivering for filing an application to the Secretary of State. The application must set forth the name and address of the applicant and the name proposed to be reserved. If the Secretary of State finds that the corporate name applied for is available, the Secretary of State shall reserve the name for the applicant's exclusive use for a nonrenewable period of 120 days. The reservation may not be renewed, but after the expiration of the reservation, the same name may be reserved by the same or another applicant.

Sec. 3. 31 MRSA §804-A, sub-§1, as enacted by PL 2003, c. 344, Pt. C, §37, is amended to read:

COMMITTEE AMENDMENT

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1. Reserve use of name. A person may reserve the exclusive use of a limited liability partnership name, including an assumed or fictitious name, by executing and delivering for filing an application to the Secretary of State. The application must set forth the name and address of the applicant and the name proposed to be reserved. If the Secretary of State finds that the limited liability partnership name applied for is available, the Secretary of State shall reserve the name for the applicant's exclusive use for a ~~nonrenewable~~ period of 120 days. The reservation may not be renewed, but after the expiration of the reservation, the same name may be reserved by the same or another applicant.

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Sec. 4. 31 MRSA §1309, sub-§1, ¶B, as enacted by PL 2005, c. 543, Pt. C, §2, is amended to read:

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B. If the Secretary of State finds that the limited partnership name applied for is distinguishable on the records of the Secretary of State pursuant to section 1308, the Secretary of State shall reserve the name for the applicant's exclusive use for a ~~nonrenewable~~ period of 120 days. The reservation may not be renewed, but after the expiration of the reservation, the same name may be reserved by the same or another applicant.

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Sec. 5. 31 MRSA §1509, sub-§1, as enacted by PL 2009, c. 629, Pt. A, §2 and affected by §3, is amended to read:

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1. Reserve use of name. A person may reserve the exclusive use of a limited liability company name, including an assumed or fictitious name, by executing and delivering for filing an application to the office of the Secretary of State. The application must set forth the name and address of the applicant and the name proposed to be reserved. If the Secretary of State finds that the limited liability company name applied for is available, the Secretary of State shall reserve the name for the applicant's exclusive use for a ~~nonrenewable~~ period of 120 days. The reservation may not be renewed, but after the expiration of the reservation, the same name may be reserved by the same or another applicant.

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Sec. 6. Protection of business names. The Secretary of State shall develop options for the filing and protection of business names. The development process must include at least the following: analysis of similar programs in other jurisdictions, consideration of statewide registration for different entities, the consequences of including sole proprietorships and general partnerships, the relation to the registration of marks and the costs and appropriate fees. The Secretary of State shall submit a report on the options developed under this section to the Joint Standing Committee on Judiciary no later than February 15, 2014. The Joint Standing Committee on Judiciary may introduce a bill to the Second Regular Session of the 126th Legislature in response to the report submitted by the Secretary of State under this section.'

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SUMMARY

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This amendment replaces the bill. The amendment addresses a potential ambiguity with regard to the reservation of a business name under the laws governing nonprofit corporations, business corporations, limited liability partnerships, limited partnerships and limited liability companies. The change clarifies that although a subsequent

1 reservation is not considered a renewal of the reserved name, the same name can be
2 reserved by the same applicant after the 120-day reservation period expires. Another
3 applicant is also eligible to reserve the name once the 120-day period expires.

4 This amendment also directs the Secretary of State to develop options for the filing
5 and protection of business names, and to report those options to the Joint Standing
6 Committee on Judiciary by February 15, 2014. The Joint Standing Committee on
7 Judiciary may submit a bill in response to the report.

8 **FISCAL NOTE REQUIRED**
9 **(See attached)**



Approved: 03/28/13 *MAC*

126th MAINE LEGISLATURE

LD 46

LR 755(02)

An Act To Protect Maine Business Names

Fiscal Note for Bill as Amended by Committee Amendment "A (H-60)

Committee: Judiciary

Fiscal Note Required: Yes

Fiscal Note

Minor cost increase - General Fund

Fiscal Detail and Notes

Additional costs to the Department of the Secretary of State associated with developing the options and reporting the results can be absorbed within existing budgeted resources.