Report on
"An Act to Protect Maine Business Names"

Presented to the
Joint Standing Committee on Judiciary

February 15, 2014

Prepared by the Office of the Secretary of State
Pursuant to Public Laws of 2013, Chapter 99
126th Maine State Legislature

I. Introduction

During the First Regular Session of the 126th Legislature, there was a bill before the Judiciary Committee, LD 46 "An Act to Protect Maine Business Names". This bill proposed to amend the standard that is used to determine the availability of entity names on the records of the Secretary of State's Office. This bill was presented due to a name conflict between two companies, "Bumper to Bumper Repair" and "Bumper2Bumper, Inc.". The bill would have added a specific set of word or symbol variants (i.e. "too", "two", "2", "II" and "ii"), which, if used in an entity name presented for filing with the Secretary of State's Office, would not make the name "distinguishable on the records" of the Secretary of State, and thus, would not allow the name to be accepted for filing.

As a result of the information presented at the public hearing on the bill, the Committee requested the Secretary of State to develop options for the filing and protection of business names and to report back to the Committee by February 15, 2014. The process for developing options must include the analysis of similar programs in other jurisdictions, consideration of statewide registration for different entities, the consequences of including sole proprietorships and general partnerships, and the relation to the registration of marks and the costs and appropriate fees.

To gather information and facts for this report, The Secretary of State's Office surveyed other jurisdictions to review their name availability standards, policies, laws and rules; and consulted with members of the Business Law Section of the Maine State Bar Association and with other practicing attorneys and law professors knowledgeable about business entity law.

II. Background

Overview of Entity Formation

Maine law currently provides for the formation of the following types of business entities, which file formation and other documents with the Secretary of State: Corporations, Limited Partnerships, Limited Liability Partnerships, Limited Liability Companies and Low Profit Limited Liability Companies. Entities may choose to form as one of these types of entities in order to receive personal liability protections, favorable tax treatment, or for other reasons. In exchange for the protections afforded by the formation laws, the entity is required to maintain a registered agent to facilitate service of process and to provide an annual report of ownership, management or contact information to allow for public disclosure about the entity that has filed with the Secretary of State. These entity formation laws also specify the format of an entity name and when a name may not be accepted for filing, which is also known as the "name availability" standard. The name availability determination is made **only** by comparing the proposed name to other entity names on file with the Secretary of State, and does not take into consideration entities that do not file with the Secretary of State.

In addition to the entity formation laws, Maine law also provides for the filing of Trade or Service Marks, which allow an entity (whether filed with the Secretary of State or not) to protect company logos, names or slogans that may be used to identify the entity in advertising or other business activities.

Sole Proprietorships and General Partnerships do not file with the Secretary of State, although State law provides for a local filing for Sole Proprietorships doing business under a name other than their own (sometimes called "doing business as" or "dba" filings), and for "Mercantile" Partnerships. These local filings are not well understood; there is no centralized repository of these filings for public disclosure; and there is no name availability determination involved in accepting these filings at the municipal level.

Previous Name Availability Standard – Deceptively Similar

Prior to 2003, the entity formation laws included a name availability standard known as "deceptively similar". In other words, a name could not be accepted for filing if the Secretary of State staff determined that it was "deceptively similar" to another entity name on file. Applying this standard required the staff to make a determination of whether a name was too close to another name - in a "deceptive" way. This system relied heavily on the judgment of the individual examining the filing. When an individual staff member could not decide, a group discussion ensued, and the majority determination was applied.

Since the law did not provide a definition or guidance for what should be considered deceptive, staff developed informal guidelines to try to make this process easier and more uniform. In response to new names, the internal guidelines were constantly being amended to try to create a comprehensive list of words and combinations of words that should be considered "deceptive". It soon became apparent how difficult it was to develop guidelines that would cover all situations and that could be uniformly and fairly applied. The deceptively similar standard caused many issues and debates with the legal and business community when the staff would refuse to file a name, as it essentially prevented a business from using the name of its choice.

Current Name Availability Standard – Distinguishable On the Record

In 2003, when the Model Business Corporation Act was enacted in Maine, the name availability standard was changed from "deceptively similar" to the more objective standard of "distinguishable on the record" (of the Secretary of State). The same standard was adopted in the other entity laws as well. This standard provides a few limited circumstances when a name would not be "distinguishable" from other names. It greatly simplifies the name availability process and substitutes a clear and uniform determination for the former subjective human judgment process. As more states adopted the Model Act, or as they developed online filing of entity formation documents (i.e. where the decision whether to accept the filing is done through automated review via computer software rather than human review), they also adopted the "distinguishable" name standard, which allows for an automated judgment to determine name acceptance.

The duty of the Secretary of State's office is ministerial, which means that filings are reviewed for completeness of the information presented on the form and for the sufficiency of filing fees. No legal review is done, and there is no investigation of the accuracy of the information presented on a filing. Thus, the objective name availability standard of "distinguishable on the record" allows the Secretary of State to carry out its ministerial authority and duty to file and maintain the public record of entity formation filings.

Name Availability versus Name Protection

The concept of determining the availability of a name in the business entity filing process is often confused with the idea of business name protection. The adoption of the name availability standard of "distinguishable on the record" is designed to assist government and the public in distinguishing one entity from another, rather than to provide the entity with protection of their name and business from deceptive trade practices of other entities. The latter type of protection is afforded by other state laws.

The Secretary of State's determination under current law that an entity name is available, by virtue of being distinguishable from other names on file with the Secretary of State, does not mean that the name is not deceptive or that the entity is protected from common law claims of unfair competition or violation of laws designed to provide protection of the name or trademark. Conversely, the Secretary of State's refusal to file a name under the previous "deceptively similar" name standard did not prevent the entity from obtaining a judicial remedy to allow the use of the similar name.

Name conflict issues are not restricted solely to businesses that have filed with the Secretary of State's office. Often, an entity may choose not to seek the liability protections and/or tax benefits afforded to them by forming as a registered business entity such as a corporation or limited liability company. However, the lack of filing with the Secretary of State's office as a registered entity does not diminish the ability of a person from protecting the name of their business. Parties involved in name disputes can always pursue claims under the Uniform Deceptive Trade Practices Act, or pursue common law claims of unfair competition and/or trademark or copyright infringement.

III. Research and Analysis

Practices of Other States regarding Name Availability

The Secretary of State distributed a survey to the other state filing offices via the email list serve of the International Association of Commercial Administrators (IACA). The survey included questions about the name availability standard used by the state, and the pros and cons of the different standards, whether trade/assumed names are filed in the same way as the entity legal names (i.e. part of the entity formation process) or are filed under a different process or law, and whether Sole Proprietorships or General Partnerships are filed with the state filing office. The responses are summarized in Appendix A to this report.

Out of 17 jurisdictions that responded, 14 jurisdictions currently use the "distinguishable on the record" name availability standard. Following is an excerpt of the responses from the three jurisdictions that do not use the "distinguishable" standard.

North Dakota uses the "deceptively similar" name standard and made the following comments:

> While business owners appreciate the protection of their business names, determining availability is very difficult, very labor intensive, and is often contentious. Businesses do not always agree with the decisions made regarding availability. It is not a standard that can be applied by software. It will always require a human decision. In addition, it is extremely difficult to train staff on the guidelines, get them to understand the guidelines, and to consistently apply them. Our statute allows for Consent to Use of Name to be filed if a name is denied. We're filing a lot of consents. Finally, I would not suggest any state go to deceptively similar name standard if they don't currently have it. It is our biggest headache.

Hawaii uses a name standard that provides that the entity name may not be the "same as or substantially identical to another name". They stated:

> Pros: intent of not confusing the public. Cons: human element is necessary in determining name availability.

Massachusetts has a standard that provides that the name "may not be the same or so similar as to be likely to be mistaken for another name". They made the following observations:

> We do a legal review of all articles and amendments. We do have some general standards, such as location or numbers at the end of the name do not make it different, but they apply only if all else is equal. So we look at the name, the geographic location, and the type of business the entity will engage in and the sophistication of the customers.

Although only about one-third of the states responded to the survey, based on surveys done by other states regarding the name availability standards over the past few years, it appears that many other states have the "distinguishable on the record" standard.

Information from Attorneys and Experts on Business Formation Regarding Name Availability

The Secretary of State also sent an email inquiry to the Chair of the Business Section of the Maine State Bar Association, who forwarded the inquiry to the other members of the bar. Following are the comments we received on this subject.

Attorney David M. Austin, of Eaton Peabody Law Firm and Chair of the Business Law Section of the Maine State Bar Association

Remember, the current requirement that the name be "distinguishable" on the records of the Secretary of State, is a significant departure from the old standard of "the same as or deceptively similar to." You will recall that the current standard is based on the Model Business Corp Act. The old standard was derived primarily from common law principles of unfair competition. The new Act broke from this old standard based on the notion that the Act should not serve as a substitute for the law of unfair competition.

Jim Zimpritch has correctly observed "that the purpose of the 'distinguishable on the records test' is to prevent mistake and confusion 'within the Secretary of State's office and the tax office,' and permit accuracy in naming and serving corporate defendants. Confusion in the 'absolute or linguistic sense' is the appropriate focus of this standard, not the competitive relationship between corporations, which is the focus of the 'deceptively similar' standard."

I believe the change in the current Act appropriately takes the Maine Sec of State out of the role of being a "gatekeeper" trying to police the deceptively similar name issue. Businesses have other remedies available if a recorded name is deceptively similar to another name on the Maine Sec of State records. The Secretary of State filing a name just satisfies the Act's requirements; it does not trump the laws of unfair competition or property rights in the name. Adversely affected parties can always pursue, facts supporting, claims under the Deceptive Trade Practices Act, common law claims of unfair competition and/or trademark infringement, copyright and other similar laws. It should not be the job of the Secretary of State to police this activity.

Attorney Christopher Smith, of Verrill Dana Law Firm and Member of the Business Law Section of the Maine State Bar Association

Personally, I'm appreciative of Maine's 2003 move to a "distinguishable upon the record" standard from the old "deceptively similar" rule every time I encounter the vicissitudes of agency discretion in states with "deceptively similar" standards. The clarity of Maine's current statute is a competitive advantage, and turning back the clock on this issue would seem to fall squarely into the category of fixing something that isn't broken.

Attorney Arnold MacDonald, of Berstein Shur Law Firm and Member of the Business Law Section of the Maine State Bar Association

When we adopted the Model Business Corporation Act, I was the chair of the subcommittee whose responsibility included review of the provisions on names. I recall that we were unanimous in favoring the more objective standard, and that the overall committee strongly favored it as well. I have not been aware of any problems with the system, but rather find it much easier to organize an entity knowing that you will have a

good likelihood of getting a name through. I think we have avoided a lot of small problems.

Attorney Daniel McKay, of Eaton Peabody Law Firm and Member of the Business Law Section of the Maine State Bar Association

I agree with Arnie with respect to the objective standard for reviewing names. I am unaware of any complaints regarding the new standard. There were numerous complaints concerning application of the former more subjective standard.

Professor Daniel S. Kleinberger, Professor of Law and the Founding Director of the Mitchell Fellows Program at the William Mitchell College of Law

Professor Kleinberger is a well-respected legal scholar on business entity law. He has been a featured speaker on many business entity topics for the International Association of Commercial Administrators (IACA).

The entity acts promulgated by the Uniform Law Commission all take the "distinguishable upon the record" approach. See e.g.: UNIFORM BUSINESS ORGANIZATIONS CODE (2011) (Last Amended 2013), SECTION 1-301.

In addition, requiring the filing office to protect an entity or individual's intellectual property would: (i) require the filing office to make judgments of a judicial nature; (ii) force the office to decide which of two contestants to favor, without having available a definitive standard; and (iii) impose additional costs on the office, both for additional (and expert) staff and as a result of a foreseeable increase in litigation (because at least some of the losing contestants will appeal).

Practices of Other States Regarding Assumed/Trade Names

The responses of other states to the question of whether Assumed or Trade Names were filed with the entity legal names using the same standard were not as easy to categorize. It appears that about half of the respondents file Assumed or Trade Names as part of the entity filing program, while others have a separate filing program for these names. In many cases, the Assumed or Trade Names are not considered as part of the name availability test, and may have a different standard for name availability from the entity legal names.

Practices of Other States Regarding Filing of Sole Proprietorships and General Partnerships

Again, the responses of other states to this question were not as comprehensive or as easy to categorize as the name availability responses. However, it appears that very few, if any, of the respondents require these entity types to file their entity registration with the state, although most have a Trade or Fictitious Name filing at the local level.

IV. Conclusions and Recommendations

Options for the Name Availability Standard

There are three possible options regarding the name availability standard:

1. Keep the current standard of "Distinguishable on the Record";
2. Provide exceptions to the current standard by listing additional words that would be disregarded when determining the distinguishability of the name; or
3. Change the standard back to "Deceptively Similar" or other similar standard.

The Secretary of State recommends that the Legislature adopt the first option and keep the current standard of "Distinguishable on the Record". This objective standard has worked reasonably well over the past decade since its implementation. It is well-defined in the statute, and therefore is easy to understand and apply in a uniform way by the administrative staff of the Secretary of State's office. By making the decision on name availability much simpler, it decreases the time it takes to examine and accept the filings. In the future, the Secretary of State would like to develop online filing of entity formation filings. The "distinguishable on the record" name availability standard is a necessary prerequisite to online automation of the review and filing process.

As the Maine attorneys observed, it is much easier for a business to file as a registered entity in Maine and have the name accepted under the "distinguishable" standard. In North Dakota, which still uses the "deceptively similar" standard, they have had to develop a process whereby the entity with the existing name can consent to the new entity to use the similar name, in order to handle all the complaints that arise from the name not being available. Rhode Island stated that their complaints decreased dramatically since switching from "deceptively similar" to "distinguishable upon the record" name standard.

It is extraordinarily difficult to develop comprehensive guidelines for determining what is "deceptively similar" in all situations, and the more complicated the guidelines, the harder it becomes for the staff to understand and apply the standard uniformly and fairly. This is equally true for trying to provide exceptions to the current "distinguishable" standard, as was originally proposed in LD 46 "An Act to Protect Maine Business Names", which provided that the words and symbols "too", "2", II" and "ii" would be disregarded in making the name availability determination. First, the word "to" was not listed in the variants of the number 2, which means that you would be comparing the name "Bumper to Bumper Repair" with "Bumper Bumper" (the "2" and the "Inc" would be disregarded). Even adding the word "to" to the list of words to be disregarded in the comparison, the names would still be distinguishable because of the word "Repair" in the first name. Once you begin to add exceptions to the distinguishable determination, other requests for exceptions will quickly follow, such as the request for other number/word variants, like "4", "IV", "iv", "four", "fore", "for", etc.

Even trying to exempt the plural version of a name, which we originally thought might be a reasonable exemption to add, is not so simple to implement. To be effective, an exemption should be explicit so that it is easy to interpret and apply. Stating that plural forms of a name

would not be allowed would be too broad, and would include situations where the plural form of the word is a different word (i.e. "mice" instead of "mouse"), which most people would consider distinguishable. Disregarding an "s" at the end of a word is more specific, but plurals are not always formed by adding an "s" - some words take the plural form by adding "es" or "ies". It would take a lot of careful thought and work to craft exemptions that would be helpful and not burdensome.

Regardless of the name availability standard used by the filing office and whether the standard would allow an entity to file with that name, an entity should do its own search before adopting a name. Searching the Secretary of State's filing database to look for state trademarks or entity filings; checking the US Patent and Trademark Office website to check for federal trademark filings; and conducting an Internet search are all ways that business owners can look for similar business names already in use, and make their own determination whether the name they wish to adopt is too close to those already in use.

Finally, as Attorney David Austin stated, the name availability provisions of the filing laws "should not serve as a substitute for the law of unfair competition" and that businesses have other remedies available if they believe a business name is deceptively similar to another name on file with the Secretary of State.

Options for the Filing of Assumed Names for Entities that have Formation Filings with the Secretary of State

There are two options for filing of assumed names for entity types that have formation filings with the Secretary of State:

1. Keep the filings as part of the entity filing laws, so that assumed names for entities are treated the same as legal name filings; or
2. Create a separate law and filing program for assumed names or trade names.

At this time, the Secretary of State recommends that the Legislature accept the first option, and continue to keep the assumed name filings for entities that file with the Secretary of State as part of the entity filing laws, rather than to create a separate filing law and program. The current filing system provides that in addition to the legal name of an entity, one or more assumed names may be filed. The Secretary of State applies the "distinguishable on the record" name availability standard to all names – whether legal or assumed. The drawback to this system is that when the entity dissolves – the entity loses the right to use the assumed name as well as the legal name. Many of the states that reported having a separate filing program for assumed or trade names indicated that they do not apply the name availability test to these filings but rather allow all names to be filed. The Secretary of State recommends further study before any change to the current system is considered.

Options for Filing of Assumed Names for Sole Proprietorships and Partnerships

There are two options for filing of assumed names for sole proprietorships and partnerships:

1. Keep the filings at the municipal level as provided by Title 31, Chapter 1 "Mercantile Partnerships and Assumed Business Names"; or
2. Create a central filing system (at the State level).

At this time, the Secretary of State recommends further study before any change to the current filing system is considered. The municipal-level filings for mercantile partnerships and sole proprietorship "dbas" are not well known or understood and it is difficult to judge the level of compliance with this filing law. There needs to be a better understanding of the policy reasons for these filings, and what the costs and benefits of a central filing system would be to both the public and the business community, before any changes should be considered.

In summary, based on the information gathered in this review of three types of entity name filings, the Secretary of State is recommending that the Legislature maintain the current laws and programs and not make any changes at this time.

Appendix A

State Survey of Name Availability Standards

Jurisdiction	Name Availability	Notes
Arizona	Distinguishable upon the record	
Connecticut	Distinguishable upon the record	Pros: It allows the filing office to maintain absolute, objective ministerial neutrality as to naming priority. Cons: There is NO coordination at all between the state and the separate 169 towns/municipalities in terms of whether a company registering on a local d/b/a registry uses a name that is not distinguishable from a name in use by an entity registered with the Secretary. When disputes arise, we simply inform folks that our naming standard is only a ministerial tool developed by the statutes, but that naming rights are a broader legal body of rights that involve trademark and other statutes and common law that can be addressed through a civil action.
District of Columbia	Distinguishable upon the record	There are no cons except this standard allows for deceptively similar entities to be registered (ex, US Capital Inc vs US Capitol Inc., etc.). Pros is that it is easy standard as we will ignore the special words and compare name to name.
Hawaii	The name may not be the same as or substantially identical to	Pros: intent of not confusing the public. Cons: human element is necessary in determining name availability.
Indiana	Distinguishable upon the record	
Louisiana	Distinguishable upon the record	
Massachusetts	Name may not be the same or so similar as to be likely to be mistaken for it	Responsibility for choosing a name that complies with law is on the entity forming. We do a check of our files. Also hold a hearing if protest is received within 90 days.
Michigan	Distinguishable upon the record	Clearly defined parameters that can be consistently applied. Objective standard
Minnesota	Distinguishable upon the record	Pro - Easy for computer to process online business filings without human intervention. Con – Less 'protection' for existing business names (but we were running out of names and protection).

Appendix A

State Survey of Name Availability Standards

Nevada	Distinguishable upon the record	Pros – Take the human element out of determining if a name is deceptively similar; Necessary for creation of online service for entity creation; Reduces rejection for name related issues. Cons – Still receive complaints that a name is too similar to another on record.
North Carolina	Distinguishable upon the record	The pro is that it is easy to determine if the name is available by using the statute and administrative code. The con is that people complain that a name is too similar to their company's name. They are having credit and billing issues and we can't do anything to help them.
North Dakota	Deceptively similar	While business owners appreciate the protection of their business names, determining availability is very difficult, very labor intensive, and is often contentious. Businesses do not always agree with the decisions made regarding availability. It is not a standard that can be applied by software. It will always require a human decision. In addition, it is extremely difficult to train staff on the guidelines, get them to understand the guidelines, and to consistently apply them. Our statute allows for Consent to Use of Name to be filed if a name is denied. We're filing a lot of consents. Finally, I would not suggest any state go to deceptively similar name standard if they don't currently have it. It is our biggest headache.
Ohio	Distinguishable upon the record	Pros – gives more opportunity for businesses to register the name they want – if we still had the prior standard of "confusingly similar" there would not be many business name options at this point, the law clearly outlines how our office needs to make these decisions which takes our opinion out of the equation and we rely solely on the law. Cons – Business entities complain when someone registers a new business name that they believe is too close to their name.
Oregon	Distinguishable upon the record	Pros – gives more opportunity for businesses to register the name they want – if we still had the prior standard of "confusingly similar" there would not be many business name options at this point, the law clearly outlines how our office needs to make these decisions which takes our opinion out of the equation and we rely solely on the law. Cons – Business entities complain when someone registers a new business name that they believe is too close to their name." Less subjectivity (inherent in the "deceptively similar" standard) equals more consistency and allows for more automation and faster turnaround times. When you have to defend your decision to file or not file, it costs everybody time and money and opens the office to litigation.

Appendix A

State Survey of Name Availability Standards

Rhode Island	Distinguishable upon the record	The standard was changed in 2005 from "deceptively similar" to "distinguishable upon the record." For such a small state, it has been a very easy transition. "Deceptively similar" was very restrictive resulting in a large number of daily/weekly complaints about the consent process. Since the change in standards, we receive less than a dozen complaints a year about the availability process.
Utah	Distinguishable upon the record	Pros: We don't have the liability or heartburn of protecting the name; Cons: Everyone wants us to protect it or to file something that flies in the face of the statute.
Virginia	Distinguishable upon the record	The big Pro is how much easier it is to program the computer to recognize name conflicts, as opposed to the "sounds like" or "confusingly similar" name standard. You cannot have online filings that establish a new name in real time without this programming.
Washington	Distinguishable upon the record	

Appendix A

State Survey of Other Name Filings and Filing Types

Jurisdiction	If you file trade names or assumed names, are these filed with all other entity names using the same name standard?	Do Sole proprietorships or General Partnerships file with your office?
Arizona	Our database is linked with the SOS for purposes of name availability. Back when our law changed (2005), the naming standards were worked out between the two agencies to avoid conflicts in name granting.	No – sole partnerships are not required to register, and I believe Gen. Pshps are also not required to register.
Connecticut	No. We do not file them, but there is NO coordination between the state filing office (Secretary of the State) and the municipalities (where trade names/dba's are registered). Disputing parties must take their claims to the courts as to infringement and other naming rights beyond our statutory ministerial standard.	No, they generally are not required to.
District of Columbia	Yes, name standard is the same for trade name. trade names in the District are not allowed to have corporate suffix (ex, Inc, etc.) The only exception is the word "company".	If sole proprietors or general partnerships need to register trade name then they will come to my office.
Hawaii	Yes	Yes
Indiana	We have an assumed names statute. IC 23-15-1-1. We have a proposed amendment to this portion of the statute that would require assumed names that contain an entity indicator (Inc., LLC, etc.) correspond the indicator to the entity type for which the assumed name is being filed.	Both of the types file at the county level.
Louisiana	Trade names are filed using the same standard.	General partnerships do, however at this time we do not check availability regarding partnership names.
Massachusetts	Yes, but not filed with us. Filed a city/town where entity maintains an office. Name standards do not apply.	No

Appendix A

State Survey of Other Name Filings and Filing Types

Michigan	Yes, particularly since the Name Availability Guideline - Part 2 was adopted in 1988, which predates the Michigan Limited Liability Company Act. Also, we are considering including two special characters which may predate the current keyboard.	Sole proprietorships and copartnerships file their names with the county clerk in the county in which their business is located, and also in any other county in which they transact business or have an office. The name standard applied to the names of sole proprietorships or copartnerships by the county clerk is that the name cannot be the same as or so similar to a name already on file with the county as to cause confusion or deception.
Minnesota	If by trade names you mean trademarks, then those follow an entirely different standard. We do not now nor do we ever plan on making filing online of trademarks available due to the more complicated nature of the name availability standard. We do however, consider existing trademark names in the name availability process so a business entity cannot have the same name as a trademark. Assumed name standards are described in the guidelines attached and yes they are treated differently in the sense that there can be multiple assumed names with the same name – just cannot conflict with another business entity type. Only if they are required to file an assumed name because they are not using the full (first and last) name of the owner(s) in the business name.	
Nevada	The Nevada SOS does not file DBAs, fictitious firm names or assumed names. These are filed at the county level. Trade names are filed with the SoS under separate statutory authority. These follow a separate naming convention that is still deceptively similar. As it is with other mark filings. They are filed in the same database as the entity filings, but the names are NOT compared with the entity filing for purposes of filing in the SOS office.	Sole proprietors and general Partnerships are not required to file creation documents with us; however, they are required to maintain a state business license with the office if they are doing business in Nevada (there are a few exceptions.)

Appendix A

State Survey of Other Name Filings and Filing Types

North Carolina	There are no standards for assumed name. Multiple filings with the same name throughout the state is allowed.	No
North Dakota	Trade names, assumed names, and all entity names are treated as one group and are subject to the same name availability guidelines.	Sole proprietorships using a trade name have a Trade Name Registration requirement. General partnerships using a fictitious name have a Fictitious Name Registration requirement. There isn't an entity filing required.
Ohio	Yes.	Sole proprietorships do not file anything to register their business entity, but if they use a business name, they must register a trade or fictitious name. In Ohio, a general partnership has the option to file a Statement of Partnership Authority, but it is not required. Many general partnerships choose to register a trade name or fictitious name to register their business name.
Oregon	Yes	"Sole proprietorships do not file anything to register their business entity, but if they use a business name, they must register a trade or fictitious name. ... Many general partnerships choose to register a trade name or fictitious name to register their business name." Also, in Oregon, anyone not disclosing their full "real and true" name of all parties in the business must file an assumed business name, which is what we call trade names. Those using a real and true name may file an ABN, if they wish.
Rhode Island	Entities (business corporations, non-profit corporations, limited partnerships, and limited liability companies) of record with our office that wish to conduct business under a fictitious business name, must registered that name under the corporate record by filing a Fictitious Business Name Statement.	No
Utah	Yes	Yes - same name standards and database

Appendix A

State Survey of Other Name Filings and Filing Types

Virginia	Assumed names are filed in the Clerk's Office, but by statute they are not considered when performing the name distinguishability test. Trade name are filed in another office, but again, by statute, they are not a part of the name distinguishability test.	Our office does not accept any filings for sole proprietorships (but they do file a fictitious name certificate in the local courts). General partnerships make the filings listed in the Uniform Partnership Act, but their names, by statute, are not considered when performing the name distinguishability test.
Washington		Sole proprietors and general partnerships register with Department of Revenue, Business License Service