

CHAPTER 5

SECRETARY OF STATE

5.17 Substantial compliance.
5.18 Supplemental filing and information services.

5.22 Contest of registration of name.

5.17 SUBSTANTIAL COMPLIANCE.

The secretary of state may accept a filing if the information on the filing is in substantial compliance with the applicable law, even if information on the filing is not identical to equivalent information in the records of the secretary of state.

History: 1989 c 236 s 1

5.18 SUPPLEMENTAL FILING AND INFORMATION SERVICES.

(a) The secretary of state may offer services to the public that supplement filing and information services already authorized by law. The secretary of state may discontinue the supplemental services at any time. The services must be designed to provide the public with a benefit by improving the manner of providing, or by providing an alternative manner of payment for, existing services provided by the secretary of state.

(b) The cost of providing the supplemental services to the public, as determined by the secretary of state, must be recovered from the recipients of the services. The funds collected for the services must be deposited in the uniform commercial code account and are continuously available to the secretary of state for payment of the cost of providing the supplemental services.

History: 1989 c 236 s 2

NOTE: This section, as added by Laws 1989, chapter 236, section 2, is repealed July 1, 1991. See Laws 1989, chapter 236, section 12.

5.22 CONTEST OF REGISTRATION OF NAME.

Subdivision 1. Notice of contest; deposit. A person doing business in this state may contest the subsequent registration of a name with the office of the secretary of state by filing an acknowledged notice of contest with the secretary of state and sending a copy of the notice of contest to the person who subsequently registered the contested name. The notice to the secretary of state must be accompanied by a \$100 deposit, which the secretary of state shall award to the prevailing party in the contest.

Subd. 2. Procedure. (a) Upon receipt of a notice of contest, the secretary of state shall ask each party to the contest to submit within 30 days an affidavit setting forth the facts, opinions, and arguments for or against the retention of the contested name on the records of the secretary of state. The secretary of state shall review the affidavits and shall make a decision or order a hearing to be held within 30 days.

(b) If a hearing is ordered, the parties shall meet with the secretary of state before the hearing and attempt to settle the contest.

(c) If a settlement is not reached, the secretary of state shall hold a hearing. At the hearing, the secretary of state may consider evidence presented by the parties relating to the factual or legal issues raised by the contest. A record of the hearing is not required. The hearing is not a contested case hearing under chapter 14.

Subd. 3. Standard of review. The secretary of state may order that the contested name be changed on the records of the secretary of state if it is likely that the use of the names will cause confusion, mistake, or deception among the public when applied to the goods or services provided by the businesses. In determining whether confusion, mistake, or deception is likely, the secretary of state shall consider:

(1) the strength or unique nature of the names;

- (2) the similarity of sound, appearance, or meaning of the names;
- (3) the intent of the parties;
- (4) the type of businesses engaged in or to be engaged in by the parties;
- (5) the geographic market areas served by each party and the manner of distribution and marketing used in those areas;
- (6) the nature and quality of goods or services provided by the parties;
- (7) the level of sophistication of potential purchasers of goods or services offered by the parties;
- (8) whether the party contesting the subsequent registration of a name failed to make a timely objection or acquiesced to the use of the name so that it would be inequitable to prohibit its registration; and
- (9) whether the names in question are in fair use, have been abandoned, or are parodies of other names.

Subd. 4. Decision; enforcement. The secretary of state shall make a decision for one of the parties within ten days of the hearing and may order that the contested name be changed on the records of the office of the secretary of state and the relevant documents be amended by the secretary of state in a manner that results in a new name that is not the same as or deceptively similar to another name registered with the office of the secretary of state.

Subd. 5. Appeal. A party may appeal the decision of the secretary of state to the district court within 20 days. The district court shall consider the factual and legal issues without reference to the decision of the secretary of state.

Subd. 6. Liability. The office of the secretary of state is not liable for damages incurred as a result of the registration of a name found to be the same or deceptively similar to another name already registered with the office of the secretary of state. The office of the secretary of state is not liable for damages that arise from the decision of the secretary of state in a contest under this section.

History: 1989 c 292 s 1