322C.0108 LIMITED LIABILITY COMPANY NAME.

Subdivision 1. **Requirements and prohibitions.** The limited liability company name must:

(1) be in the English language or in any other language expressed in English letters or characters;

(2) contain the words "limited liability company," or must contain the abbreviation "LLC" or, in the case of a limited liability company that is a professional firm subject to chapter 319B, must meet the requirements of section 319B.05 applicable to a limited liability company;

(3) not contain the word "corporation" or "incorporated" and must not contain the abbreviation of either or both of these words;

(4) not contain a word or phrase that indicates or implies that it is organized for a purpose other than a permitted purpose; and

(5) be distinguishable upon the records in the Office of the Secretary of State from the name of each domestic limited liability company, limited liability partnership, corporation, and limited partnership, whether profit or nonprofit, and each foreign limited liability company, limited liability partnership, corporation, and limited partnership on file, authorized or registered to do business in this state at the time of filing, whether profit or nonprofit, and each name the right to which is, at the time of organization, reserved as provided for in sections 5.35, 302A.117, 317A.117, 321.0109, 322C.0109, or 333.001 to 333.54, unless there is filed with the articles of organization one of the following:

(i) the written consent of the domestic limited liability company, limited liability partnership, corporation, or limited partnership or the foreign limited liability company, limited liability partnership, corporation, or limited partnership authorized or registered to do business in this state or the holder of a reserved name or a name filed by or registered with the secretary of state under sections 333.001 to 333.54 having a name that is not distinguishable;

(ii) a certified copy of a final decree of a court in this state establishing the prior right of the applicant to the use of the name in this state; or

(iii) the applicant's affidavit that the domestic or foreign limited liability company, domestic or foreign corporation, or domestic or foreign limited partnership with the name that is not distinguishable has been organized, incorporated, or on file in this state for at least three years prior to the affidavit, if it is a domestic limited liability company, corporation, or limited partnership, or has been authorized or registered to do business in this state for at least three years prior to the affidavit, if it is a foreign limited liability company, corporation, or limited partnership, or that the holder of a name filed or registered with the secretary of state under sections 333.001 to 333.54 filed or registered that name at least three years prior to the affidavit, that the domestic or foreign limited liability company, domestic or foreign corporation, or domestic or foreign limited partnership or holder has not during the three-year period before the affidavit filed any document with the secretary of state; that the applicant has mailed written notice to the domestic or foreign limited liability company, domestic or foreign corporation, or domestic or foreign limited partnership or the holder of a name filed or registered with the secretary of state under sections 333.001 to 333.54 by certified mail, return receipt requested, properly addressed to the registered office of the domestic or foreign limited liability company or domestic or foreign corporation or in care of the agent of the domestic or foreign limited partnership, or the address of the holder of a name filed or registered with the secretary of state under sections 333.001 to 333.54, shown in the records of the secretary of state, stating that the applicant intends to use a name that is not distinguishable and the notice has been returned to the applicant as undeliverable to the addressee of the domestic or foreign limited liability company, domestic or foreign corporation, or domestic

or foreign limited partnership or holder of a name filed or registered with the secretary of state under sections 333.001 to 333.54; that the applicant, after diligent inquiry, has been unable to find any telephone listing for the domestic or foreign limited liability company, domestic or foreign corporation, or domestic or foreign limited partnership with the name that is not distinguishable in the county in which is located the registered office of the domestic or foreign limited liability company, domestic or foreign corporation, or domestic or foreign limited partnership shown in the records of the secretary of state or has been unable to find any telephone listing for the holder of a name filed or registered with the secretary of state under sections 333.001 to 333.54 in the county in which is located the address of the holder shown in the records of the secretary of state; and that the applicant has no knowledge that the domestic or foreign limited liability company, domestic or foreign corporation, or domestic or foreign limited partnership or holder of a name filed or registered with the secretary of state under sections 333.001 to 333.54 is currently engaged in business in this state.

Subd. 2. **Determination.** The secretary of state shall determine whether a name is "distinguishable" from another name for purposes of this section and section 322C.0109.

Subd. 3. **Other laws affecting use of names.** This section and section 322C.0109 do not abrogate or limit the law of unfair competition or unfair practices, or sections 333.001 to 333.54, or the laws of the United States with respect to the right to acquire and protect copyrights, trade names, trademarks, service names, service marks, or any other rights to the exclusive use of names or symbols, or derogate the common law or the principles of equity.

Subd. 4. **Use of name by surviving or successor organization.** A limited liability company that is the surviving organization in a merger with one or more other organizations, or that is the continuation of an organization following a conversion, or that is organized by the reorganization of one or more organizations, or that acquires by sale, lease, or other disposition to or exchange with an organization all or substantially all of the assets of another organization, including its name, may have the same name as that used in this state by any of the other organizations, if the other organization whose name is sought to be used was organized under the laws of, or is authorized to transact business in, this state.

Subd. 5. **Injunction.** The use of a name by a limited liability company in violation of this section does not affect or vitiate its limited liability company existence, but a court in this state may, upon application of the state or of a person interested or affected, enjoin the limited liability company from doing business under a name assumed in violation of this section, although its articles of organization may have been filed with the secretary of state and articles of organization issued.

History: *2014 c 157 art 1 s 8,29*