



## *Fictitious name statute revised*

As of July 1, 2009, applicants for registration of a fictitious name in the State of Florida must advertise their intent to use the fictitious name prior to filing an application for registration. On June 10, 2009, Governor Crist approved the repeal of subsection (6) of Florida Statutes §15.16. The repealed section included a conditional waiver by the Department of State of the requirement that an applicant for a fictitious name register the fictitious name in a newspaper in the county in which the principal place of business of the applicant is located. The repeal of this waiver resulted in the requirement that all applicants for registration of a fictitious name now must advertise the fictitious name. This repeal appears to be the result of lobbying efforts by the media.

Keep in mind that, according to the Department of State, fictitious names are not required to be registered with the Department of State under certain circumstances including when the applicant is an entity that is not transacting business under any name other than its legal name, when the first and last names of the owner of the business are included in the name and when the applicant is registered with the Department of Business and Professional Regulation and that licensing board has not required registration as a fictitious name. Also, note that the language of the fictitious name statute requires the notice to be published only once. In order for a legal notice to be considered "published," it must be published in a newspaper as defined in F.S. §50.031 and, in general, means that the newspaper must have been in existence for 1 year prior to the date of publication and the newspaper must have been entered as periodicals matter at a post office in the county where published. An affidavit of publication from the newspaper must be furnished when filing the application for fictitious name.

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