

Corporations

Glossary of Corporate Entities

A *CORPORATION* is a legal entity, created by statute (i.e., the state) with all the rights, privileges and responsibilities of a natural person; possessing the attributes of limited liability, centralized management, continuity of life and free transferability of interest.

A *FOR PROFIT CORPORATION* is a corporation created for the purpose of conducting business in the widest sense of the term. In Florida, such a corporation may be organized generally under Chapter 607 but may take on special attributes as prescribed by other subservient chapters.

A *NONPROFIT OR NOT-FOR-PROFIT CORPORATION* is a corporation normally thought of as one created for religious, charitable, educational or eleemosynary purposes that is generally formed under Chapter 617, Florida Statutes. However, the terms nonprofit or not for profit, as a type of corporation, do not preclude these entities from engaging in a profit making situation. In fact a nonprofit corporation is not necessarily a charitable corporation or one that is tax exempt. They are corporations that may not distribute their income to a member, director or officer other than as provided by law.

A *FOREIGN CORPORATION* is a corporation incorporated by any jurisdiction other than Florida to transact business.

An *ALIEN CORPORATION* is any corporation authorized by any jurisdiction other than: the United States, any state, the District of Columbia, Puerto Rico, Guam or any possession or territory of the United States, to transact business.

General Information

Any entity that transacts business in Florida as a corporation is required by Florida Statutes to file documents of incorporation or authorization with the Division and pay the filing fee.

The documents must be typewritten or printed legibly in the English language. The professional advice of your legal counsel to ascertain exact compliance with all statutory requirements is strongly recommended.

Each year after the initial filing, all corporations must file a Uniform Business Report and pay the filing fee between January 1 and May 1. Failure to file a Uniform Business Report will result in administrative dissolution of the corporation and loss of authorization to transact business as a corporation in Florida.

Supplies such as minute books, stationery, stock certificates and corporate seals are available through office supply stores. There are no laws requiring corporations to obtain any of these. Some financial institutions and title companies require a corporate seal on documents signed by a corporation and are within their rights to do so.

Profit Corporation

Basic Information Required to File Documents of Incorporation

1. The name of the corporation (The name must include a corporate suffix such as Corporation, Incorporated, Company or an abbreviation of the suffix.)
2. The address of the principal office, if known, and the mailing address of the corporation, if different.
3. The total number of shares that this corporation is authorized to have outstanding at any one time
4. The name and street address of the Registered Agent (The Registered Agent's address is also known as the "Registered Office.") A Post Office Box, mail drop box or personal mail box (PMB) address is not acceptable.
5. A statement, signed by the Registered Agent, accepting the appointment as Registered Agent
6. The name(s) and street address(es) of the Incorporator(s)
7. The signature of at least one Incorporator

Note: For detailed requirements of profit corporations, see Chapter 607, Florida Statutes.

Not For Profit Corporation

1. The name of the corporation (The name must include the word "corporation," "incorporated" or an abbreviation of the suffix. The name may not contain the word "company" or its abbreviation "Co.")
2. The address of the principal office, if known, and the mailing address of the corporation
3. The specific purpose(s) for which the corporation is organized
4. The manner in which the directors are elected or appointed
5. Any limitations to the corporate powers as provided in Section 617.0302, Florida Statutes
6. The name and Florida street address of the Registered Agent (The Registered Agent's address is also known as the "Registered Office.") A Post Office Box, mail drop box or personal mail box (PMB) address is not acceptable.
7. A statement, signed by the Registered Agent, accepting the appointment as Registered Agent
8. The name(s) and street address(es) of the Incorporator(s)
9. The signature of at least one Incorporator

Note: For detailed requirements of not for profit corporations, see Chapter 617, Florida Statutes.

More Information/Fees

Call 850/245-6052; write to the Florida Department of State, Division of Corporations, Corporate Filings, P.O. Box 6327, Tallahassee, FL 32314 or check the Division's website at www.sunbiz.org.

Trademarks, Service Marks, Collective Marks and Certification Marks

Glossary

TRADEMARK means any word, name, symbol, character, design, drawing or device or any combination thereof adopted and used by a person to identify goods made or sold by him or her and to distinguish them from goods made or sold by others.

SERVICE MARK means any word, name, symbol, character, design, drawing or device or any combination thereof and the distinctive features of radio, television or other advertising, adopted and used by a person to identify services rendered or offered by him or her and to distinguish them from services rendered or offered by others.

CERTIFICATION MARK means a trademark or service mark used upon or in connection with the products or services of one or more persons other than the owner of the mark to certify regional or other origin, material, mode of manufacture, quality, accuracy or other characteristics of such goods or services or that the work or labor on the goods or services was performed by members of a union or other organization.

COLLECTIVE MARK means a trademark or service mark used by the members of a cooperative, an association or other collective group or organization and includes marks used to indicate membership in a union, an association or other organization.

General Information

A trademark or service mark may be registered with the Division of Corporations, providing the mark meets all requirements and complies with the provisions stipulated in Chapter 495, Florida Statutes.

The owner of a mark may be an individual or a legally recognized business so long as the business entity maintains an active registration on file with the Division. A mark must be in use before it can be registered. In the case of a trademark, the good(s) or product(s) must be on sale in the market place. For a service mark, the applicant must actually be rendering the service for which a service mark is applied. The mere advertising of goods or services does not constitute use of a trade or service mark.

Marks submitted for registration or reservation are checked for distinction from marks that are registered or reserved with the Division. Marks submitted for registration or reservation are not checked, however, for distinction from corporation names, fictitious names or any other entity names registered with the Division.

It is the responsibility of the registering party to investigate the availability of a proposed mark and to determine that the mark does not constitute infringement upon the mark of another. It is the responsibility of the owner of an existing mark to defend it against infringement.

Rights to ownership of a mark are perfected by actual use in the ordinary pursuit of the specific endeavor; rights are not perfected by registration only. The rule "FIRST IN USE, FIRST IN RIGHT" is applicable. Ownership of a mark is not bestowed by a government entity but is obtained through use. Registering a mark is a means of placing notice to the public that the name is in use. Trusted legal advice regarding use and registration of a mark is recommended.

Trademark or service mark registrations with the Division are state government level registrations. They do not replace registrations with the federal government.

To obtain information regarding federal registration, contact the United States Patent and Trademark Office in Washington, D.C. (703) 308-9000 or on the web at www.uspto.gov. For information regarding copyrights, contact the Copyright Office at the Library of Congress (202) 707-3000 or on the web at www.copyright.gov.

Basic Information Required on Trademark or Service Mark Registration Application

To register a mark pursuant to Chapter 495, Florida Statutes, submit one original and one photocopy of a completed APPLICATION FOR THE REGISTRATION OF A TRADEMARK OR SERVICE MARK, three specimens and a check payable to the Florida Department of State for

the appropriate amount. The application must be typed or legibly handwritten, signed and notarized. Registrations are good for 10 years beginning with the date of registration. Owners must file renewals with the Division within the six-month period preceding the expiration date. See Chapter 495, Florida Statutes for detailed requirements of mark registration. The registration application must contain:

1. The name and business address of the applicant and indication as to whether the applicant is an individual, a corporation, a limited partnership, a general partnership or other business entity. If the applicant is a business entity, include the entity's domicile state, the Florida registration number and Federal Employer Identification number.
2. If a service mark application, list the services the mark is used in connection with, for example, restaurant services, real estate sales, insurance sales, etc.
3. If a trademark application, list the goods or products the mark is used in connection with, for example, window cleaner, furniture polish, children's shoes.
4. List how the mark is being used. If a trademark, tell how the mark is applied to the goods or products. For example, as a label, decal, or by engraving or imprinting on the goods. If a service mark, tell how the mark is used in advertising, for example, newspaper advertisements, brochures, business cards, etc.
5. List the applicable class(es). Please refer to the list of classes at the end of this section.
6. The date the mark was first used anywhere and the date the mark was first used in Florida.
7. The mark to be registered. If the mark includes a design, include a brief description. If a mark includes a word or design that must be disclaimed, applicants must include a disclaimer statement. All geographical terms and representations of cities, states or countries must be disclaimed (i.e., Miami, Orlando, Florida, the design of the state of Florida, the design of the United States of America, etc.). Commonly used words, including corporate suffixes, must also be disclaimed.

If your mark includes a word or a design that is commonly used by others, the state of Florida cannot grant you the exclusive right to use the word or design and will require you to complete a disclaimer statement that you are not claiming the exclusive right to use the commonly used word or design.

8. The dated and notarized signature of the applicant or of the person authorized to sign and the signer's title.

Specimens

The purpose of specimens is to illustrate the manner in which the mark is actually affixed to or displayed in connection with the goods or services. Three specimens for each class of mark must be included with the application. Specimens must depict the mark as it is actually used. Do not submit typed, handwritten or photocopied specimens unless the mark is actually depicted in that manner on the goods or products or in the case of a service mark, in advertising or promotional materials. If applying for a trademark, submit specimens that are affixed to the good(s) or product(s). Some acceptable trademark specimens are labels, decals, tags, wrappers, boxes and containers. If your mark is a service mark, submit specimens that reflect the type of service(s) being provided. Some acceptable service mark specimens are business cards, brochures, fliers and newspaper advertisements. If your mark is both a trade and service mark, you must submit three appropriate trademark specimens and three appropriate service mark specimens. Three of the same item or three different

items are acceptable as specimens. Be sure to send three specimens for each class for which application is made.

Do not submit photocopies, camera ready copies, letterhead stationery, envelopes, invoices or matchbooks as specimens. Photographs of bulky specimens are acceptable if the mark to be registered and the good(s) or product(s) are clearly legible. Specimens that have been altered or defaced in any way are not acceptable.

Classes

Each product or service falls within a specific class for registration. There are a total of 42 classes. For information on classes, check the Division's website at www.sunbiz.org.

Fees

For information on fees, call 850/245-6051; write to the Florida Department of State, Division of Corporations, Corporate Filings, P.O. Box 6327, Tallahassee, FL 32314 or check the Division's website at www.sunbiz.org.

Fictitious Names

Glossary

A *FICTITIOUS NAME* is anything other than an individual's legal name. Registration of that name is required if it is used in business so as to inform the public of who is actually conducting business.

BUSINESS means any enterprise or venture in which a person sells, buys, exchanges, barter, deals or represents the dealing in any thing or article of value, or renders services for compensation.

LEGAL NAME means a person's given name, or an entity that is properly registered.

General Information

A Fictitious Name Registration is required of individuals who do business under any name other than their legal personal name or under a properly registered corporate name, partnership, trademark or service mark. The purpose of Chapter 865.09, Florida Statutes, known as the Fictitious Name Act, is to insure a public record of the identity of a fictitious name owner. Registration under this act does not reserve or protect a fictitious name against use by another party, nor does it provide rights to the use of a trade name, trademark, service mark or corporate name. The Division does not screen names submitted for registration against any other recorded information. Applicants may contact the Division or check the Division's website to see if the name is already in use. You may also check your local telephone directory. The applicant is responsible for avoiding and defending against name infringement. If name protection is your goal, you may want to pursue registering a trademark or service mark if your name meets the requirements of the Florida Statutes. There are also other types of entity registrations you may want to consider. The advice of trusted legal counsel is recommended.

Fictitious name registration packets are available from the Division of Corporations in Tallahassee and statewide at city and county occupational license offices. In addition, the application is available for download from [our website](#). For added convenience, most registrations can be filed online through our website. Registrations are filed with the Division of Corporations in Tallahassee, not with city or county offices.

The Division of Corporations currently maintains an index of fictitious names on a database available on the Internet. In accordance with 15.16(6), F.S., effective June 9, 2001, it is no longer a requirement to advertise the intention to register a fictitious name prior to registration. If a change of business ownership occurs, the owners must file a cancellation and re-registration within 30 days of the change.

Registration Renewal

Fictitious name registrations are valid for five years, expiring on December 31 of the fifth year. Renewals may be filed between January 1 and December 31 of the fifth year. The Division mails a renewal notice in January of the renewal year, to the owner at the most recent mailing address on file. Failure to receive the statement of renewal does not provide the applicant with an exemption or extension to the registration renewal requirements. If the fictitious name renewal is not filed by December 31, the fictitious name registration expires.

Penalty for Failure to Register or Maintain a Fictitious Name Registration

If you do business under a fictitious name and do not file with the Division, you may be subject to certain criminal misdemeanor penalties. You may also be prevented from maintaining a lawsuit, and you may be held liable for attorneys' fees and costs if someone cannot find you as owner of a fictitious name. All three may apply under some circumstances.

Exemptions

1. The applicant is a licensed attorney forming a business for the practice of law in the state of Florida.

2. The applicant is registered or licensed with the Department of Business and Professional Regulation or the Department of Health, and their licensing boards have not imposed requirements for the registration as a fictitious name.
3. The applicant is a corporation, limited liability company or partnership filed and in good standing with the Division of Corporations and is not transacting business under any other name.
4. The applicant is a federally chartered corporation and is not transacting business under any other name.
5. The applicant is using their full name in the title and they are the only owner.

More Information/Fees

Call 850/245-6058; write to the Florida Department of State, Division of Corporations, Corporate Filings, P.O. Box 6327, Tallahassee, FL 32314 or check the Division's website at www.sunbiz.org.

Limited Liability Company

Glossary

A *LIMITED LIABILITY COMPANY* is a hybrid form of business entity combining some of the attributes of a corporation with the status of a partnership.

General Information

Any entity that transacts business in Florida as a limited liability company is required by Florida Statutes to file Articles of Organization or an application for authorization with the Division and pay the filing fee. These documents must be typewritten or printed legibly in the English language. The professional advice of your legal counsel to ascertain exact compliance with all statutory requirements is strongly recommended.

All limited liability companies must file a Uniform Business Report with the Division each year between January 1 and May 1 and pay the filing fee. Failure to file will result in administrative dissolution of the limited liability company or loss of authorization to transact business in Florida as a foreign limited liability company.

Basic Information Required to File

Florida Limited Liability Company Documents

Articles of Organization containing the following information.

1. The name of the limited liability company, which must end with the words "limited liability company" or "limited company" or their abbreviation "L.L.C.", "L.C.", "LLC", or "LC". (The word "limited" may be abbreviated as "Ltd." and the word "company" may be abbreviated as "Co.")
2. The mailing address and the street address of the principal office of the limited liability company
3. The name and Florida street address of the limited liability company's registered agent. The registered agent must sign and state that he/she is familiar with and accepts the obligations of the position.
4. The Articles of Organization must be executed by at least one member or authorized representative of a member. The execution of the document constitutes an affirmation under the penalties of perjury that the facts stated therein are true.
5. (Optional) If an effective date is listed, the date must be specific and can not be more than five business days prior to or 90 days after the date of filing.

Basic Information Required to File

Foreign Limited Liability Company Documents

A foreign limited liability company must submit an original certificate of existence that is no more than 90 days old, duly authenticated by the official having custody of records in the jurisdiction under the law of which it is organized. If the certificate is in a language other than English, a translation of the certificate under oath of the translator must accompany the certificate.

The form prescribed by the Department of State titled "Application By Foreign Limited Liability Company For Authorization To Transact Business In Florida" must be used. The completed form must accompany the other required documents. The following information is required on the form.

1. The name of the foreign limited liability company to be filed. (The name of the foreign limited liability company must end with the words "limited liability company" or "limited company" or their abbreviation "L.L.C.", "L.C.", "LLC", or "LC". (The word

“limited” may be abbreviated as “Ltd.” and the word “company” may be abbreviated as “Co.”)

2. The jurisdiction under the law of which the foreign limited liability company is organized
3. The Federal Employer Identification (FEI) number, if applicable
4. The date of organization
5. Duration: The year the limited liability company will cease to exist or “perpetual”
6. Date first transacted business in Florida
7. Street address of principal office
8. If the limited liability company is to be managed by one or more managers, a statement that the limited liability company is a manager-managed company.
9. The names and usual business addresses of the managing members or managers
10. The nature of business or purpose to be conducted or promoted in Florida.
11. Attach a separate Certificate of Designation of Registered Agent/Registered Office containing:
 - A) The name of the limited liability company and
 - B) The name and the Florida street address of the registered agent and registered office. Do not enter a post office box, mail drop box or personal mail box (PMB) address on the Certificate. The registered agent must sign a statement on the Certificate accepting the appointment as registered agent.
12. The application must be executed by one member or an authorized representative of a member.

Note: For detailed statutory requirements of any limited liability company, see the applicable sections of Chapter 608, Florida Statutes. For detailed statutory requirements of a professional limited liability company, see Chapter 621, Florida Statutes.

More Information/Fees

Call 850/245-6051; write to the Florida Department of State, Division of Corporations, Corporate Filings, P.O. Box 6327, Tallahassee, FL 32314 or check the Division’s website at www.sunbiz.org.