

**STATE RESPONSIBILITY FOR REGULATION
OF POSTSECONDARY PROPRIETARY
SCHOOLS**

2002 GENERAL SESSION

STATE OF UTAH

Sponsor: Afton B. Bradshaw

This act modifies provisions related to postsecondary proprietary schools. The act transfers the responsibility for registering and regulating postsecondary proprietary schools from the State Board of Regents to the Division of Consumer Protection. The act has a July 1, 2002 effective date and provides a repealer.

This act affects sections of Utah Code Annotated 1953 as follows:

AMENDS:

13-2-1, as last amended by Chapter 283, Laws of Utah 2001

16-6a-401, as enacted by Chapter 300, Laws of Utah 2000

16-10a-401, as last amended by Chapter 131, Laws of Utah 2000

16-11-16, as enacted by Chapter 131, Laws of Utah 2000

42-2-6.6, as last amended by Chapter 218, Laws of Utah 2001

48-2a-102, as last amended by Chapter 131, Laws of Utah 2000

48-2c-106, as enacted by Chapter 260, Laws of Utah 2001

ENACTS:

13-34-101, Utah Code Annotated 1953

13-34-102, Utah Code Annotated 1953

13-34-103, Utah Code Annotated 1953

13-34-104, Utah Code Annotated 1953

13-34-105, Utah Code Annotated 1953

13-34-106, Utah Code Annotated 1953

13-34-107, Utah Code Annotated 1953



- 28 **13-34-108**, Utah Code Annotated 1953
- 29 **13-34-109**, Utah Code Annotated 1953
- 30 **13-34-110**, Utah Code Annotated 1953
- 31 **13-34-111**, Utah Code Annotated 1953
- 32 **13-34-112**, Utah Code Annotated 1953
- 33 **13-34-113**, Utah Code Annotated 1953
- 34 **13-34-114**, Utah Code Annotated 1953
- 35 **13-34-201**, Utah Code Annotated 1953

36 REPEALS:

- 37 **53B-5-101**, as enacted by Chapter 167, Laws of Utah 1987
- 38 **53B-5-102**, as last amended by Chapter 155, Laws of Utah 1990
- 39 **53B-5-103**, as last amended by Chapter 287, Laws of Utah 1995
- 40 **53B-5-104**, as last amended by Chapter 155, Laws of Utah 1990
- 41 **53B-5-105**, as last amended by Chapter 287, Laws of Utah 1995
- 42 **53B-5-106**, as last amended by Chapter 86, Laws of Utah 1998
- 43 **53B-5-107**, as last amended by Chapter 58, Laws of Utah 2000
- 44 **53B-5-108**, as last amended by Chapter 58, Laws of Utah 2000
- 45 **53B-5-109**, as enacted by Chapter 167, Laws of Utah 1987
- 46 **53B-5-110**, as enacted by Chapter 167, Laws of Utah 1987
- 47 **53B-5-111**, as last amended by Chapter 38, Laws of Utah 1993
- 48 **53B-5-112**, as last amended by Chapter 155, Laws of Utah 1990
- 49 **53B-5-113**, as enacted by Chapter 287, Laws of Utah 1995
- 50 **53B-5-114**, as last amended by Chapter 260, Laws of Utah 2001
- 51 **53B-5-201**, as enacted by Chapter 167, Laws of Utah 1987

52 *Be it enacted by the Legislature of the state of Utah:*

53 Section 1. Section **13-2-1** is amended to read:

54 **13-2-1. Consumer protection division established -- Functions.**

55 (1) There is established within the Department of Commerce the Division of Consumer
56 Protection.

57 (2) The division shall administer and enforce the following:

58 [~~(+)~~] (a) Chapter 5, Unfair Practices Act;

- 59 ~~[(2)]~~ (b) Chapter 10a, Music Licensing Practices Act;
- 60 ~~[(3)]~~ (c) Chapter 11, Utah Consumer Sales Practices Act;
- 61 ~~[(4)]~~ (d) Chapter 15, Business Opportunity Disclosure Act;
- 62 ~~[(5)]~~ (e) Chapter 20, New Motor ~~[Vehicle]~~ Vehicles Warranties Act;
- 63 ~~[(6)]~~ (f) Chapter 21, Credit Services Organizations Act;
- 64 ~~[(7)]~~ (g) Chapter 22, Charitable Solicitations Act;
- 65 ~~[(8)]~~ (h) Chapter 23, Health Spa Services Protection Act;
- 66 ~~[(9)]~~ (i) Chapter 25a, Telephone and Facsimile Solicitation Act;
- 67 ~~[(10)]~~ (j) Chapter 26, Telephone Fraud Prevention Act;
- 68 ~~[(11)]~~ (k) Chapter 28, Prize Notices Regulation Act; ~~[and]~~
- 69 ~~[(12)]~~ (l) Chapter 30, Utah Personal Introduction Services Protection Act~~[-]; and~~
- 70 (m) Chapter 34, Utah Postsecondary Proprietary School Act.

71 Section 2. Section **13-34-101** is enacted to read:

72 **CHAPTER 34. UTAH POSTSECONDARY PROPRIETARY SCHOOL ACT**

73 **Part 1. General Provisions**

74 **13-34-101. Title.**

75 This chapter is known as the "Utah Postsecondary Proprietary School Act."

76 Section 3. Section **13-34-102** is enacted to read:

77 **13-34-102. Legislative intent.**

78 It is the policy of this state to do the following:

79 (1) encourage private postsecondary education and training;

80 (2) assure and protect the integrity of certificates and diplomas conferred by proprietary
81 postsecondary educational institutions;

82 (3) protect students and potential students from deceptively promoted, inadequately
83 staffed, and unqualified proprietary institutions and programs; and

84 (4) avoid unnecessary interference by the division with the internal academic policies and
85 management practices of postsecondary educational institutions, but to facilitate disclosure of
86 those matters to students and the public.

87 Section 4. Section **13-34-103** is enacted to read:

88 **13-34-103. Definitions.**

89 As used in this chapter:

90 (1) "Agent" means any person who owns an interest in or is employed by a proprietary
91 school and who:

92 (a) enrolls or attempts to enroll a resident of this state in a proprietary school;

93 (b) offers to award educational credentials for remuneration on behalf of a proprietary
94 school; or

95 (c) holds himself out to residents of this state as representing a proprietary school for any
96 purpose.

97 (2) "Certificate of registration" means approval of the division to operate a school or
98 institution in compliance with this chapter and rules adopted under this chapter. The registration
99 is not an endorsement of the school or institution by either the division or the state of Utah.

100 (3) "Division" means the Division of Consumer Protection.

101 (4) "Educational credentials" means degrees, diplomas, certificates, transcripts, reports,
102 documents, or letters of designation, marks, appellations, series of letters, numbers, or words
103 which signify or appear to signify enrollment, attendance, progress, or satisfactory completion of
104 the requirements or prerequisites for any educational program.

105 (5) "Institution" means an individual, corporation, partnership, association, cooperative,
106 or other legal entity.

107 (6) "Offer" means to advertise, publicize, solicit, or encourage any person directly or
108 indirectly.

109 (7) "Operate" in this state means to have a significant presence within the state, to conduct
110 significant educational activities within the state, or to offer postsecondary instruction leading to
111 a postsecondary degree or certificate to any number of Utah residents assembled at a receiving site
112 in Utah from a location outside the state by correspondence or any telecommunications or
113 electronic media technology.

114 (8) "Ownership" means the controlling interest in a school, institution, or college. If the
115 school, institution, or college is owned or controlled by other than a natural person, "ownership"
116 refers to the controlling interest in the legal entity which controls the school, institution, or college.

117 (9) "Postsecondary education" means education or educational services offered primarily
118 to persons who have completed or terminated their secondary or high school education or who are
119 beyond the age of compulsory school attendance.

120 (10) "Proprietary school" means any private institution, including business, modeling,

121 paramedical, tax preparation, trade and technical schools, which offers postsecondary education
122 in consideration of the payment of tuition or fees for the attainment of educational, professional,
123 or vocational objectives, other than those schools exempted under this chapter.

124 (11) "Rules" means those rules adopted by the division under the Utah Administrative
125 Rulemaking Act necessary to enforce and administer this chapter.

126 (12) "Utah school or institution" means a postsecondary educational school or institution
127 whose headquarters or primary operations are in Utah.

128 Section 5. Section **13-34-104** is enacted to read:

129 **13-34-104. Prohibited acts -- Exceptions -- Responsibilities of proprietary schools.**

130 (1) Except as provided in this chapter, a proprietary school may not offer, sell, or award
131 a degree or any other type of educational credential unless the student has enrolled in and
132 successfully completed a prescribed program of study as outlined in the school's catalogue.

133 (2) This prohibition does not apply to honorary credentials clearly designated as such on
134 the front side of a diploma, or certificates and awards by schools that offer other educational
135 credentials requiring enrollment in and successful completion of a prescribed program of study in
136 compliance with the requirements of this chapter.

137 (3) A proprietary school must provide bona fide instruction through student-faculty
138 interaction.

139 (4) A proprietary school may not enroll a student in a program unless the school has made
140 a good-faith determination that the student has the ability to benefit from the program.

141 (5) The division shall establish standards and criteria for the following:

142 (a) the awarding of educational credentials;

143 (b) bona fide instruction through student-faculty interaction; and

144 (c) determination of the ability of a student to benefit from a program.

145 Section 6. Section **13-34-105** is enacted to read:

146 **13-34-105. Exempted institutions.**

147 (1) This chapter does not apply to the following institutions:

148 (a) a Utah institution directly supported, to a substantial degree, with funds provided by
149 the state, a local school district, or other Utah governmental subdivision;

150 (b) an institution which offers instruction exclusively at or below the 12th grade level;

151 (c) a lawful enterprise which offers only professional review programs, such as C.P.A.

152 and bar examination review and preparation courses;

153 (d) a Utah private, postsecondary educational institution that is owned, controlled,
154 operated, or maintained by a bona fide church or religious denomination, which is exempted from
155 property taxation under the laws of this state;

156 (e) a Utah school or institution which is accredited by a regional or national accrediting
157 agency recognized by the United States Department of Education. An institution, branch,
158 extension, or facility operating within the state which is affiliated with an institution operating in
159 another state must be separately approved by the affiliate's regional or national accrediting agency
160 to qualify for this exemption. If available evidence suggests that an accredited institution is not
161 in compliance with the standards for registration under this chapter and applicable division rules,
162 the division shall contact the institution and, if appropriate, its accrediting association and request
163 corrective action;

164 (f) a business organization, trade or professional association, fraternal society, or labor
165 union that sponsors or conducts courses of instruction or study predominantly for bona fide
166 employees or members and does not, in advertising, describe itself as a school; for purposes of this
167 subsection, a business organization, trade or professional association, fraternal society, or labor
168 union that hires a majority of the persons who successfully complete its course of instruction or
169 study with a reasonable degree of proficiency and apply for employment with that same entity is
170 considered to be conducting the course predominantly for bona fide employees or members;

171 (g) an institution that exclusively offers general education courses or instruction solely
172 remedial, avocational, nonvocational, or recreational in nature, which does not advertise
173 occupation objectives or grant educational credentials;

174 (h) an institution which offers only workshops or seminars lasting no longer than three
175 calendar days and for which academic credit is not awarded; and

176 (i) an institution which offers programs in barbering, cosmetology, real estate, insurance,
177 or flying that are regulated and approved by a state or federal governmental agency.

178 (2) If available evidence suggests that an exempt institution under this section is not in
179 compliance with the standards of registration under this chapter and applicable division rules, the
180 division shall contact the institution and, if appropriate, the state or federal government agency to
181 request corrective action.

182 Section 7. Section **13-34-106** is enacted to read:

183 **13-34-106. Responsibilities of division.**

184 The division is responsible for the administration of this chapter, and shall do the
185 following:

186 (1) prescribe the contents of the registration statements required by this chapter relating
187 to the quality of education and ethical and business practices;

188 (2) issue certification of registration upon receipt and approval of the registration statement
189 required under Section 13-34-107;

190 (3) receive, investigate, and make available for public inspection the registration
191 statements filed by proprietary schools operating or intending to operate in the state;

192 (4) maintain and publicize a list of proprietary schools for which a registration statement
193 is on file with the division;

194 (5) investigate, on its own initiative or in response to a complaint filed with it, any
195 institution subject to, or reasonably believed by the division to be subject to, this chapter;

196 (6) negotiate and enter into interstate reciprocity agreements with other states, if in the
197 judgment of the division, the agreements are or will help to effectuate the purposes of this chapter;
198 and

199 (7) consent to the use of educational terms in business names in accordance with Section
200 13-34-114.

201 Section 8. Section **13-34-107** is enacted to read:

202 **13-34-107. Operation of proprietary schools -- Required registration statement -- Fee**203 **-- Denial of registration -- Registration does not constitute endorsement.**

204 (1) An institution may not advertise, recruit students for, or operate a proprietary school
205 in this state unless it has:

206 (a) filed with the division a registration statement relating to the school that is in
207 compliance with applicable rules promulgated by the division and is also in compliance with the
208 other requirements set forth in this chapter; or

209 (b) established an exemption with the division.

210 (2) (a) The division may refuse to accept a statement of registration or exemption if:

211 (i) the proprietary school or an owner, administrator, faculty, staff, or agent of the school
212 has violated laws, federal regulations, or state rules as determined in a criminal, civil, or
213 administrative proceeding; and

214 (ii) the division determines the violation is relevant to the appropriate operation of the
215 school.

216 (b) The statement of registration or exemption shall be verified by the oath or affirmation
217 of the owner or a responsible officer of the school filing it.

218 (c) The statement shall include a certification as to whether the school or an owner,
219 administrator, faculty, staff, or agent of the school has violated laws, federal regulations, or state
220 rules as determined in a criminal, civil, or administrative proceeding.

221 (d) The proprietary school shall make available, upon request, a copy of the statement,
222 showing the date upon which it was filed, and a certificate of registration shall be displayed by the
223 proprietary school in a conspicuous place on its premises.

224 (3) (a) A registration statement and the accompanying certificate of registration are not
225 transferable.

226 (b) In the event of a change in ownership or in the governing body of the proprietary
227 school, the new owner or governing body, within 30 days after the change, shall file a new
228 registration statement.

229 (4) A registration statement or a renewal statement and the accompanying certificate of
230 registration are effective for a period of two years after the date of filing and issuance.

231 (5) (a) The division shall establish a graduated fee structure for the filing of registration
232 statements by various classifications of institutions pursuant to Section 63-38-3.2.

233 (b) Fees are not refundable.

234 (c) Fees shall be deposited in the Commerce Service Fund pursuant to Section 13-1-2.

235 (6) (a) Each proprietary school shall demonstrate fiscal responsibility at the time it files
236 its registration statement as prescribed by rules of the division.

237 (b) It shall provide evidence to the division that it is financially sound and can reasonably
238 fulfill commitments to and obligations it has incurred with students and creditors.

239 (c) A proprietary school applying for an initial certificate of registration to operate shall
240 prepare and submit financial statements and supporting documentation as requested by the
241 division.

242 (d) A proprietary school applying for renewal of a certificate of registration to operate or
243 renewal under new ownership must provide audited financial statements.

244 (e) The division may require evidence of financial status at other times when it is in the

245 best interest of students to require such information.

246 (7) (a) A proprietary school applying for an initial certificate or seeking renewal shall
247 provide a surety bond, certificate of deposit, or irrevocable letter of credit in a form approved by
248 the division.

249 (b) In accordance with Title 63, Chapter 46a, Utah Administrative Rulemaking Act, the
250 division may make rules providing for:

251 (i) the amount of the bond, certificate, or letter of credit required under Subsection (7)(a),
252 not to exceed in amount the anticipated tuition and fees to be received by the proprietary school
253 during a school year;

254 (ii) the execution of the bond, certificate, or letter of credit;

255 (iii) cancellation of the bond, certificate, or letter of credit during or at the end of the
256 registration term; and

257 (iv) any other matters related to providing the bond, certificate, or letter of credit required
258 under Subsection (7)(a).

259 (c) The bond, certificate, or letter of credit shall be used as a protection against loss of
260 advanced tuition, book fees, supply fees, or equipment fees:

261 (i) collected by the school from a student or a student's parent, guardian, or sponsor prior
262 to the completion of the program or courses for which it was collected; or

263 (ii) for which the student is liable.

264 (8) (a) The division cannot refuse acceptance of a registration statement that is tendered
265 for filing and, based on a preliminary review, appears to be in compliance with Subsections (1),
266 (2), and (6), accompanied by the required fee.

267 (b) A statement is effective upon approval by the division or its designated officer in
268 accordance with division rules.

269 (c) The division may not register a program at a proprietary institution if it determines that
270 the educational credential associated with the program represents the undertaking or completion
271 of educational achievement that has not been undertaken and earned.

272 (d) A certificate of registration is effective upon the date of issuance.

273 (e) The responsibility of compliance is upon the proprietary school and not upon the
274 division.

275 (f) If it appears to the division that a statement on file may not be in compliance with this

276 chapter, the division may advise the proprietary school as to the apparent deficiencies.

277 (g) A new or amended statement may then be presented for filing by the proprietary
278 school, accompanied by the required fee.

279 (9) The acceptance of a registration statement, renewal statement, or amended registration
280 statement and issuance of a certificate of registration shall not constitute, nor be represented by any
281 person to constitute, an endorsement or approval of the proprietary school by either the division
282 or the state.

283 Section 9. Section **13-34-108** is enacted to read:

284 **13-34-108. Information required to be available -- Fair and ethical practices.**

285 It is a violation of this chapter for any institution or school, which is required to file a
286 registration statement under this chapter, to offer postsecondary education in this state unless:

287 (1) it makes available to all applicants, prior to enrollment, information that includes the
288 following:

289 (a) the school name, which shall be representative of the programs offered at the school,
290 its address, and location;

291 (b) the facilities, faculty, training equipment, and instructional programs of the school;

292 (c) enrollment qualifications;

293 (d) tuition, fees, and other charges and expenses, as well as financial assistance,
294 cancellation, and tuition refund policies, including the posting of a surety bond, certificate of
295 credit, or irrevocable letter of credit;

296 (e) length of programs;

297 (f) graduation requirements; and

298 (g) awarding of appropriate educational credentials to indicate satisfactory course
299 completions;

300 (2) all recruiting documents, advertising, solicitations, publicity releases, and other public
301 statements regarding the school are fair and accurate; and

302 (3) all agents or sales representatives of the school are required by the school to comply
303 with ethical practices prescribed by the division.

304 Section 10. Section **13-34-109** is enacted to read:

305 **13-34-109. Discontinuance of operations -- Filing of transcripts.**

306 (1) If a proprietary school elects to discontinue its operations in this state, the proprietor

307 or administrator of the school shall file with the division a copy of each student's grade transcript
308 in either written or microfilm form, relating to all courses of instruction and all students enrolled
309 in the school during the previous ten years.

310 (2) The responsibility to file records under this section is enforceable by injunction issued
311 by a court of competent jurisdiction in an action brought upon the request of the division or, on
312 his own initiative, by the attorney general or by the county attorney of the county in which the
313 proprietary school is or was operating.

314 (3) The division shall maintain for at least ten years a file of all records received by it
315 under this section.

316 Section 11. Section **13-34-110** is enacted to read:

317 **13-34-110. Enforcement of contracts or agreements -- Rescission based on defective**
318 **registration statement.**

319 (1) A proprietary school shall be unable to enforce in the courts of this state any contract
320 or agreement relating to postsecondary education services in this state unless, at the time the
321 contract or agreement was entered into, an effective registration statement was on file with the
322 division and made accessible to every applicant at the time of admission to the school.

323 (2) It is a violation of this chapter if a proprietary school or its agent:

324 (a) fails to file an effective registration statement;

325 (b) willfully omits from a registration statement provided under Section 13-34-107 any
326 material statement of fact required by this chapter and applicable regulations; or

327 (c) includes in a registration statement any material statement of fact that was known, or
328 should have been known, to the proprietary school to be false, deceptive, inaccurate, or misleading.

329 (3) A student who enrolled in a proprietary school, in reliance upon the school's
330 registration statement, may rescind the contract or agreement of enrollment and obtain a refund
331 from the school of all tuition, fees, and other charges paid to the school if the school or its agent
332 committed a violation under Subsection (2).

333 (4) A violation of this chapter is also a violation of Section 13-11-4.

334 Section 12. Section **13-34-111** is enacted to read:

335 **13-34-111. Referral of suspected violations -- Penalty.**

336 (1) The division may report any information concerning a possible violation of this chapter
337 or of rules promulgated under this chapter to the attorney general, the county attorney, or district

338 attorney of any county or prosecution district in which the activity is occurring or has occurred.

339 (2) The attorney shall investigate the complaint and immediately prosecute or bring suit
340 to enjoin an act determined to be a violation of the chapter or regulations.

341 (3) (a) In addition to other penalties and remedies in this chapter, and in addition to its
342 other enforcement powers under Section 13-2-6, the division director may issue a cease and desist
343 order and impose an administrative fine of up to \$1,000 for each violation of this chapter.

344 (b) All money received through administrative fines imposed under Subsection (3)(a) shall
345 be deposited in the Consumer Protection Education and Training Fund created by Section 13-2-8.

346 (4) A willful violation of this chapter is a class B misdemeanor, except as otherwise
347 provided in Subsection 13-34-201(2).

348 Section 13. Section **13-34-112** is enacted to read:

349 **13-34-112. Limitation of authority.**

350 Except for satisfying the criteria and standards for registration provided for in this chapter
351 or by division rule, nothing in this chapter gives the division authority to regulate the content of
352 individual courses or regulate the day-to-day operations of a proprietary educational institution.

353 Section 14. Section **13-34-113** is enacted to read:

354 **13-34-113. Suspension, termination, or refusal to register.**

355 (1) The division may refuse to issue or renew a certificate of registration to operate or may
356 initiate proceedings to terminate a certificate of registration to operate a postsecondary proprietary
357 school if the school:

358 (a) violates a rule adopted by the division under this chapter;

359 (b) furnishes false, misleading, or incomplete information to the division, or fails to furnish
360 information requested by the division; or

361 (c) violates a commitment made in an application for a certificate of registration to operate
362 the school.

363 (2) Division staff may place reasonable limits upon a school's continued certificate of
364 registration to operate if there are serious concerns about the school's ability to provide the training
365 in the manner approved by the division and if limitation is warranted to protect the students'
366 interests.

367 (3) (a) Division staff may take interim action to suspend a school's certificate of
368 registration to operate if there is substantive evidence indicating that the welfare of students is at

369 risk through the school's noncompliance with rules adopted by the division.

370 (b) Suspension may result in a termination action by the division under Subsection (1).

371 Section 15. Section **13-34-114** is enacted to read:

372 **13-34-114. Consent to use of educational terms in business names.**

373 (1) For purposes of this section:

374 (a) "Business name" means a name filed with the Division of Corporations and

375 Commercial Code under:

376 (i) Section 16-6a-401;

377 (ii) Section 16-10a-401;

378 (iii) Section 16-11-16;

379 (iv) Section 42-2-6.6;

380 (v) Section 48-2a-102; or

381 (vi) Section 48-2c-106.

382 (b) "Educational term" means the term:

383 (i) "university";

384 (ii) "college"; or

385 (iii) "institution."

386 (2) If a statute listed in Subsection (1)(a) requires the written consent of the division to file

387 a business name with the Division of Corporations and Commercial Code that includes an

388 educational term, the division may consent to the use of an educational term in accordance with

389 this statute.

390 (3) The division shall consent to the use of an educational term in a business name if the

391 person seeking to file the name:

392 (a) is registered under this chapter;

393 (b) is exempt from the chapter under Section 13-34-105; or

394 (c) (i) is not engaged in educational activities; and

395 (ii) does not represent that it is engaged in educational activities.

396 (4) The division may withhold consent to use of an educational term in a business name

397 if the person seeking to file the name:

398 (a) offers, sells, or awards a degree or any other type of educational credential; and

399 (b) fails to provide bona fide instruction through student-faculty interaction according to

400 the standards and criteria established by the division under Subsection 13-34-104(5).

401 Section 16. Section **13-34-201** is enacted to read:

402 **Part 2. Fraudulent Educational Credentials**

403 **13-34-201. Fraudulent educational credentials.**

404 (1) A person may not use, give, or receive, or attempt or conspire to do so, in connection
405 with a business, trade, profession, or occupation, a degree or other document which has been
406 purchased, obtained, fraudulently or illegally issued, counterfeited, materially altered, or found,
407 or which serves to evidence the undertaking or completion of scholastic achievement if the
408 education has not been undertaken and attained.

409 (2) A violation of this section is a class A misdemeanor.

410 Section 17. Section **16-6a-401** is amended to read:

411 **16-6a-401. Corporate name.**

412 (1) The corporate name of a nonprofit corporation:

413 (a) may, but need not contain:

414 (i) the word "corporation," "incorporated," or "company"; or

415 (ii) an abbreviation of "corporation," "incorporated," or "company";

416 (b) may not contain any word or phrase that indicates or implies that it is organized for any
417 purpose other than one or more of the purposes contained in Section 16-6a-301 and its articles of
418 incorporation;

419 (c) except as authorized by the division under Subsection (2), shall be distinguishable, as
420 defined in Section 16-10a-401, from:

421 (i) the name of any domestic corporation incorporated in this state;

422 (ii) the name of any foreign corporation authorized to conduct affairs in this state;

423 (iii) the name of any domestic nonprofit corporation incorporated in this state;

424 (iv) the name of any foreign nonprofit corporation authorized to conduct affairs in this
425 state;

426 (v) the name of any domestic limited liability company formed in this state;

427 (vi) the name of any foreign limited liability company authorized to conduct affairs in this
428 state;

429 (vii) the name of any limited partnership formed or authorized to conduct affairs in this
430 state;

- 431 (viii) any name that is reserved under Section 16-6a-402 or 16-10a-402;
- 432 (ix) the name of any entity that has registered its name under Section 42-2-5;
- 433 (x) the name of any trademark or service mark registered by the division; or
- 434 (xi) any assumed name filed under Section 42-2-5;
- 435 (d) shall be, for purposes of recordation, either translated into English or transliterated into
- 436 letters of the English alphabet if it is not in English;
- 437 (e) without the written consent of the United States Olympic Committee, may not contain
- 438 the words:
- 439 (i) "Olympic";
- 440 (ii) "Olympiad"; or
- 441 (iii) "Citius Altius Fortius"; and
- 442 (f) without the written consent of the [~~State Board of Regents~~] Division of Consumer
- 443 Protection issued in accordance with Section [~~53B-5-114~~] 13-34-114, may not contain the words:
- 444 (i) "university";
- 445 (ii) "college"; or
- 446 (iii) "institute."
- 447 (2) The division may authorize the use of the name applied for if:
- 448 (a) the name is distinguishable from one or more of the names and trademarks described
- 449 in Subsection (1)(c) that are on the division's records; or
- 450 (b) if the applicant delivers to the division a certified copy of the final judgment of a court
- 451 of competent jurisdiction establishing the applicant's right to use the name applied for in this state
- 452 registered or reserved with the division pursuant to the laws of this state.
- 453 (3) A corporation may use the name of another domestic or foreign corporation that is used
- 454 in this state if:
- 455 (a) the other corporation is incorporated or authorized to conduct affairs in this state; and
- 456 (b) the proposed user corporation:
- 457 (i) has merged with the other corporation;
- 458 (ii) has been formed by reorganization of the other corporation; or
- 459 (iii) has acquired all or substantially all of the assets, including the corporate name, of the
- 460 other corporation.
- 461 (4) (a) A nonprofit corporation may apply to the division for authorization to file its

462 articles of incorporation under, or to register or reserve, a name that is not distinguishable upon
463 the division's records from one or more of the names described in Subsection (1).

464 (b) The division shall approve the application filed under Subsection (4)(a) if:

465 (i) the other person whose name is not distinguishable from the name under which the
466 applicant desires to file, or which the applicant desires to register or reserve:

467 (A) consents to the filing, registration, or reservation in writing; and

468 (B) submits an undertaking in a form satisfactory to the division to change its name to a
469 name that is distinguishable from the name of the applicant; or

470 (ii) the applicant delivers to the division a certified copy of the final judgment of a court
471 of competent jurisdiction establishing the applicant's right to make the requested filing in this state
472 under the name applied for.

473 (5) Only names of corporations may contain the:

474 (a) words "corporation," or "incorporated"; or

475 (b) abbreviation "corp." or "inc."

476 (6) The division may not issue a certificate of incorporation to any association violating
477 the provisions of this section.

478 Section 18. Section **16-10a-401** is amended to read:

479 **16-10a-401. Corporate name.**

480 (1) The name of a corporation:

481 (a) except for the name of a depository institution as defined in Section 7-1-103, must
482 contain:

483 (i) the word:

484 (A) "corporation";

485 (B) "incorporated"; or

486 (C) "company";

487 (ii) the abbreviation:

488 (A) "corp.";

489 (B) "inc."; or

490 (C) "co."; or

491 (iii) words or abbreviations of like import to the words or abbreviations listed in

492 Subsections (1)(a)(i) and (ii) in another language;

493 (b) may not contain language stating or implying that the corporation is organized for a
494 purpose other than that permitted by:

495 (i) Section 16-10a-301; and

496 (ii) the corporation's articles of incorporation;

497 (c) without the written consent of the United States Olympic Committee, may not contain
498 the words:

499 (i) "Olympic";

500 (ii) "Olympiad"; or

501 (iii) "Citius Altius Fortius"; and

502 (d) without the written consent of the ~~[State Board of Regents]~~ Division of Consumer
503 Protection issued in accordance with Section ~~[53B-5-114]~~ 13-34-114, may not contain the words:

504 (i) "university";

505 (ii) "college"; or

506 (iii) "institute."

507 (2) Except as authorized by Subsections (3) and (4), the name of a corporation must be
508 distinguishable, as defined in Subsection (5), upon the records of the division from:

509 (a) the name of any domestic corporation incorporated in or foreign corporation authorized
510 to transact business in this state;

511 (b) the name of any domestic or foreign nonprofit corporation incorporated or authorized
512 to transact business in this state;

513 (c) the name of any domestic or foreign limited liability company formed or authorized
514 to transact business in this state;

515 (d) the name of any limited partnership formed or authorized to transact business in this
516 state;

517 (e) any name reserved or registered with the division for a corporation, limited liability
518 company, or general or limited partnership, under the laws of this state; and

519 (f) any business name, fictitious name, assumed name, trademark, or service mark
520 registered by the division.

521 (3) (a) A corporation may apply to the division for authorization to file its articles of
522 incorporation under, or to register or reserve, a name that is not distinguishable upon its records
523 from one or more of the names described in Subsection (2).

- 524 (b) The division shall approve the application filed under Subsection (3)(a) if:
- 525 (i) the other person whose name is not distinguishable from the name under which the
- 526 applicant desires to file, or which the applicant desires to register or reserve:
- 527 (A) consents to the filing, registration, or reservation in writing; and
- 528 (B) submits an undertaking in a form satisfactory to the division to change its name to a
- 529 name that is distinguishable from the name of the applicant; or
- 530 (ii) the applicant delivers to the division a certified copy of the final judgment of a court
- 531 of competent jurisdiction establishing the applicant's right to make the requested filing in this state
- 532 under the name applied for.
- 533 (4) A corporation may make a filing under the name, including the fictitious name, of
- 534 another domestic or foreign corporation that is used or registered in this state if:
- 535 (a) the other corporation is incorporated or authorized to transact business in this state; and
- 536 (b) the filing corporation:
- 537 (i) has merged with the other corporation; or
- 538 (ii) has been formed by reorganization of the other corporation.
- 539 (5) (a) A name is distinguishable from other names, trademarks, and service marks on the
- 540 records of the division if it:
- 541 (i) contains one or more different letters or numerals; or
- 542 (ii) has a different sequence of letters or numerals from the other names on the division's
- 543 records.
- 544 (b) Differences which are not distinguishing are:
- 545 (i) the words or abbreviations of the words:
- 546 (A) "corporation";
- 547 (B) "company";
- 548 (C) "incorporated";
- 549 (D) "limited partnership";
- 550 (E) "L.P.";
- 551 (F) "limited";
- 552 (G) "ltd.";
- 553 (H) "limited liability company";
- 554 (I) "limited company";

- 555 (J) "L.C."; or
556 (K) "L.L.C.";
557 (ii) the presence or absence of the words or symbols of the words "the," "and," or "a";
558 (iii) differences in punctuation and special characters;
559 (iv) differences in capitalization;
560 (v) differences between singular and plural forms of words for a corporation:
561 (A) incorporated in or authorized to do business in this state on or after May 4, 1998; or
562 (B) that changes its name on or after May 4, 1998;
563 (vi) differences in whether the letters or numbers immediately follow each other or are
564 separated by one or more spaces if:
565 (A) the sequence of letters or numbers is identical; and
566 (B) the corporation:
567 (I) is incorporated in or authorized to do business in this state on or after May 3, 1999; or
568 (II) changes its name on or after May 3, 1999; or
569 (vii) differences in abbreviations, for a corporation:
570 (A) incorporated in or authorized to do business in this state on or after May 1, 2000; or
571 (B) that changes its name on or after May 1, 2000.
572 (c) The director of the division has the power and authority reasonably necessary to
573 interpret and efficiently administer this section and to perform the duties imposed on the division
574 by this section.
575 (6) A name that implies that the corporation is an agency of this state or of any of its
576 political subdivisions, if it is not actually such a legally established agency or subdivision, may not
577 be approved for filing by the division.
578 (7) (a) The requirements of Subsection (1)(d) do not apply to a corporation incorporated
579 in or authorized to do business in this state on or before May 4, 1998, until December 31, 1998.
580 (b) On or after January 1, 1999, any corporation incorporated in or authorized to do
581 business in this state shall comply with the requirements of Subsection (1)(d).
582 Section 19. Section **16-11-16** is amended to read:
583 **16-11-16. Corporate name.**
584 (1) The name of each professional corporation as set forth in its articles of incorporation:
585 (a) shall contain the terms:

- 586 (i) "professional corporation"; or
587 (ii) "P.C.";
588 (b) may not contain the words:
589 (i) "incorporated"; or
590 (ii) "inc.";
591 (c) may not contain language stating or implying that the professional corporation is
592 organized for a purpose other than that permitted by:
593 (i) Section 16-11-6; and
594 (ii) the professional corporation's articles of incorporation;
595 (d) without the written consent of the United States Olympic Committee, may not contain
596 the words:
597 (i) "Olympic";
598 (ii) "Olympiad"; or
599 (iii) "Citius Altius Fortius"; and
600 (e) without the written consent of the [~~State Board of Regents~~] Division of Consumer
601 Protection in accordance with Section [~~53B-5-114~~] 13-34-114, may not contain the words:
602 (i) "university";
603 (ii) "college"; or
604 (iii) "institute."
605 (2) The professional corporation may not imply by any word in the name that it is an
606 agency of the state or of any of its political subdivisions.
607 (3) A person, other than a professional corporation formed or registered under this chapter,
608 may not use in its name in this state any of the terms:
609 (a) "professional corporation"; or
610 (b) "P.C."
611 (4) Except as authorized by Subsection (5), the name of the professional corporation must
612 be distinguishable, as defined in Subsection (6), upon the records of the division from:
613 (a) the name of any domestic corporation incorporated in or foreign corporation authorized
614 to transact business in this state;
615 (b) the name of any domestic or foreign nonprofit corporation incorporated or authorized
616 to transact business in this state;

617 (c) the name of any domestic or foreign limited liability company formed or authorized
618 to transact business in this state;

619 (d) the name of any limited partnership formed or authorized to transact business in this
620 state;

621 (e) any name reserved or registered with the division for a corporation, limited liability
622 company, or general or limited partnership, under the laws of this state; and

623 (f) any business name, fictitious name, assumed name, trademark, or service mark
624 registered by the division.

625 (5) (a) A professional corporation may apply to the division for authorization to file its
626 articles of incorporation under, or to register or reserve, a name that is not distinguishable upon
627 its records from one or more of the names described in Subsection (4).

628 (b) The division shall approve the application filed under Subsection (5)(a) if:

629 (i) the other person whose name is not distinguishable from the name under which the
630 applicant desires to file, or which the applicant desires to register or reserve:

631 (A) consents to the filing, registration, or reservation in writing; and

632 (B) submits an undertaking in a form satisfactory to the division to change its name to a
633 name that is distinguishable from the name of the applicant; or

634 (ii) the applicant delivers to the division a certified copy of the final judgment of a court
635 of competent jurisdiction establishing the applicant's right to make the requested filing in this state
636 under the name applied for.

637 (6) (a) A name is distinguishable from other names, trademarks, and service marks
638 registered with the division if it:

639 (i) contains one or more different letters or numerals from other names upon the division's
640 records; or

641 (ii) has a different sequence of letter or numerals from the other names on the division's
642 records.

643 (b) The following differences are not distinguishable:

644 (i) the words or abbreviations of the words:

645 (A) "corporation";

646 (B) "incorporated";

647 (C) "company";

- 648 (D) "limited partnership";
- 649 (E) "limited";
- 650 (F) "L.P.";
- 651 (G) "Ltd.";
- 652 (H) "limited liability company";
- 653 (I) "limited company";
- 654 (J) "L.C."; or
- 655 (K) "L.L.C.";
- 656 (ii) the presence or absence of the words or symbols of the words "the," "and," "a," or
- 657 "plus";
- 658 (iii) differences in punctuation and special characters;
- 659 (iv) differences in capitalization; or
- 660 (v) differences in abbreviations.

661 (7) The director of the division shall have the power and authority reasonably necessary
662 to interpret and efficiently administer this section and to perform the duties imposed upon the
663 division by this section.

664 Section 20. Section **42-2-6.6** is amended to read:

665 **42-2-6.6. Assumed name.**

666 (1) The assumed name:

667 (a) may not contain any word or phrase that indicates or implies that the business is
668 organized for any purpose other than one or more of the purposes contained in its application;

669 (b) shall be distinguishable from any registered name or trademark of record in the offices
670 of the Division of Corporations and Commercial Code, as defined in Subsection 16-10a-401(5),
671 except as authorized by the Division of Corporations and Commercial Code pursuant to Subsection

672 (2);

673 (c) without the written consent of the United States Olympic Committee, may not contain
674 the words:

675 (i) "Olympic";

676 (ii) "Olympiad"; or

677 (iii) "Citius Altius Fortius";

678 (d) without the written consent of the [~~State Board of Regents~~] Division of Consumer

679 Protection issued in accordance with Section [~~53B-5-114~~] 13-34-114, may not contain the words:

680 (i) "university";

681 (ii) "college"; or

682 (iii) "institute"; and

683 (e) an assumed name authorized for use in this state on or after May 1, 2000, may not
684 contain the words:

685 (i) "incorporated";

686 (ii) "inc."; or

687 (iii) a variation of "incorporated" or "inc."

688 (2) Notwithstanding Subsection (1)(e), an assumed name may contain a word listed in
689 Subsection (1)(e) if the Division of Corporations and Commercial Code authorizes the use of the
690 name by a corporation as defined in:

691 (a) Subsection 16-6a-102(26);

692 (b) Subsection 16-6a-102(33);

693 (c) Subsection 16-10a-102(11); or

694 (d) Subsection 16-10a-102(20).

695 (3) The Division of Corporations and Commercial Code shall authorize the use of the
696 name applied for if:

697 (a) the name is distinguishable from one or more of the names and trademarks that are on
698 the division's records; or

699 (b) the applicant delivers to the division a certified copy of the final judgment of a court
700 of competent jurisdiction establishing the applicant's right to use the name applied for in this state.

701 (4) The assumed name, for purposes of recordation, shall be either translated into English
702 or transliterated into letters of the English alphabet if it is not in English.

703 (5) The Division of Corporations and Commercial Code may not approve an application
704 for an assumed name to any person violating this section.

705 (6) The director of the Division of Corporations and Commercial Code shall have the
706 power and authority reasonably necessary to interpret and efficiently administer this section and
707 to perform the duties imposed on the division by this section.

708 (7) A name that implies by any word in the name that it is an agency of the state or of any
709 of its political subdivisions, if it is not actually such a legally established agency, may not be

710 approved for filing by the Division of Corporations and Commercial Code.

711 (8) Section 16-10a-403 applies to this chapter.

712 (9) (a) The requirements of Subsection (1)(d) do not apply to a person who filed a
713 certificate of assumed and of true name with the Division of Corporations and Commercial Code
714 on or before May 4, 1998, until December 31, 1998.

715 (b) On or after January 1, 1999, any person who carries on, conducts, or transacts business
716 in this state under an assumed name shall comply with the requirements of Subsection (1)(d).

717 Section 21. Section **48-2a-102** is amended to read:

718 **48-2a-102. Name.**

719 (1) The name of each limited partnership as set forth in its certificate of limited
720 partnership:

721 (a) shall contain the terms:

722 (i) "limited partnership";

723 (ii) "limited";

724 (iii) "L.P."; or

725 (iv) "Ltd.";

726 (b) may not contain the name of a limited partner unless:

727 (i) it is the name of a general partner;

728 (ii) it is the corporate name of a corporate general partner; or

729 (iii) the business of the limited partnership had been carried on under that name before the
730 admission of that limited partner;

731 (c) may not contain:

732 (i) the words:

733 (A) "association";

734 (B) "corporation"; or

735 (C) "incorporated";

736 (ii) any abbreviation of a word listed in this Subsection (1)(c); or

737 (iii) any word or abbreviation that is of like import to the words listed in Subsection
738 (1)(c)(i) in any other language;

739 (d) without the written consent of the United States Olympic Committee, may not contain
740 the words:

- 741 (i) "Olympic";
- 742 (ii) "Olympiad"; or
- 743 (iii) "Citius Altius Fortius"; and
- 744 (e) without the written consent of the ~~[State Board of Regents]~~ Division of Consumer
- 745 Protection issued in accordance with Section ~~[53B-5-114]~~ 13-34-114 , may not contain the words:
- 746 (i) "university";
- 747 (ii) "college"; or
- 748 (iii) "institute."
- 749 (2) (a) A person or entity other than a limited partnership formed or registered under this
- 750 title may not use in its name in this state any of the terms:
- 751 (i) "limited";
- 752 (ii) "limited partnership";
- 753 (iii) "Ltd."; or
- 754 (iv) "L.P."
- 755 (b) Notwithstanding Subsection (2)(a):
- 756 (i) a foreign corporation whose actual name includes the word "limited" or "Ltd." may use
- 757 its actual name in this state if it also uses:
- 758 (A) "corporation";
- 759 (B) "incorporated"; or
- 760 (C) any abbreviation of a word listed in this Subsection (2)(b)(i);
- 761 (ii) a limited liability company may use in its name in this state the terms:
- 762 (A) "limited";
- 763 (B) "limited company";
- 764 (C) "L.C.";
- 765 (D) "L.L.C.";
- 766 (E) "LC"; or
- 767 (F) "LLC"; and
- 768 (iii) a limited liability partnership may use the terms "limited liability partnership,"
- 769 "L.L.P.," or "LLP" in the manner allowed in Section 48-1-45.
- 770 (3) Except as authorized by Subsection (4), the name of a limited partnership must be
- 771 distinguishable as defined in Subsection (5) upon the records of the division from:

772 (a) the name of any limited partnership formed or authorized to transact business in this
773 state;

774 (b) the corporate name of any corporation incorporated or authorized to transact business
775 in this state;

776 (c) any limited partnership name reserved under this chapter;

777 (d) any corporate name reserved under Title 16, Chapter 10a, Utah Revised Business
778 Corporation Act;

779 (e) any fictitious name adopted by a foreign corporation or limited partnership authorized
780 to transact business in this state because its real name is unavailable;

781 (f) any corporate name of a not-for-profit corporation incorporated or authorized to
782 transact business in this state; and

783 (g) any assumed business name, trademark, or service mark registered by the division.

784 (4) (a) A limited partnership may apply to the division for approval to file its certificate
785 under, or to reserve, a name that is not distinguishable upon the division's records from one or
786 more of the names described in Subsection (3).

787 (b) The division shall approve of the name for which application is made under Subsection
788 (4)(a) if:

789 (i) the other person whose name is not distinguishable from the name under which the
790 applicant desires to file:

791 (A) consents to the filing in writing; and

792 (B) submits an undertaking in a form satisfactory to the division to change its name to a
793 name that is distinguishable from the name of the applicant; or

794 (ii) the applicant delivers to the division a certified copy of the final judgment of a court
795 of competent jurisdiction establishing the applicant's right to use in this state the name for which
796 the application is made.

797 (5) A name is distinguishable from other names, trademarks, and service marks registered
798 with the division if it contains one or more different letters or numerals from other names upon the
799 division's records.

800 (6) The following differences are not distinguishing:

801 (a) the terms:

802 (i) "corporation";

- 803 (ii) "incorporated";
- 804 (iii) "company";
- 805 (iv) "limited partnership";
- 806 (v) "limited";
- 807 (vi) "L.P."; or
- 808 (vii) "Ltd.";
- 809 (b) an abbreviation of a word listed in Subsection (6)(a);
- 810 (c) the presence or absence of the words or symbols of the words "the," "and," "a," or
- 811 "plus";
- 812 (d) differences in punctuation and special characters;
- 813 (e) differences in capitalization;
- 814 (f) differences between singular and plural forms of words for a limited partnership:
- 815 (i) formed in or registered as a foreign limited partnership in this state on or after May 4,
- 816 1998; or
- 817 (ii) that changes its name on or after May 4, 1998;
- 818 (g) differences in whether the letters or numbers immediately follow each other or are
- 819 separated by one or more spaces if:
- 820 (i) the sequence of letters or numbers is identical; and
- 821 (ii) the limited partnership:
- 822 (A) is formed in or registered as a foreign limited partnership in this state on or after May
- 823 3, 1999; or
- 824 (B) changes its name on or after May 3, 1999; or
- 825 (h) differences in abbreviations, for a limited partnership:
- 826 (i) formed in or registered as a foreign limited partnership in this state on or after May 1,
- 827 2000; or
- 828 (ii) that changes its name on or after May 1, 2000.
- 829 (7) The director of the division shall have the power and authority reasonably necessary
- 830 to interpret and efficiently administer this section and to perform the duties imposed upon the
- 831 division by this section.
- 832 (8) A name that implies that the limited partnership is an agency of this state or any of its
- 833 political subdivisions, if it is not actually such a legally established agency or subdivision, may not

834 be approved for filing by the division.

835 (9) (a) The requirements of Subsection (1)(e) do not apply to a limited partnership that is
836 formed in or registered as a foreign limited partnership in this state on or before May 4, 1998, until
837 December 31, 1998.

838 (b) On or after January 1, 1999, any limited partnership formed in or registered as a foreign
839 limited partnership in this state shall comply with the requirements of Subsection (1)(e).

840 Section 22. Section **48-2c-106** is amended to read:

841 **48-2c-106. Name -- Exclusive right.**

842 (1) The name of each company as set forth in the articles of organization:

843 (a) shall contain the terms:

844 (i) "limited company";

845 (ii) "limited liability company";

846 (iii) "L.C." or "LC"; or

847 (iv) "L.L.C." or "LLC";

848 (b) may not contain:

849 (i) the terms:

850 (A) "association";

851 (B) "corporation";

852 (C) "incorporated";

853 (D) "limited partnership";

854 (E) "limited";

855 (F) "L.P."; or

856 (G) "Ltd."; or

857 (ii) words or any abbreviation with a similar meaning in any other language;

858 (c) without the written consent of the United States Olympic Committee, may not contain
859 the words:

860 (i) "Olympic";

861 (ii) "Olympiad"; or

862 (iii) "Citius Altius Fortius"; and

863 (d) without the written consent of the [~~State Board of Regents~~] Division of Consumer

864 Protection in accordance with Section [~~53B-5-114~~] 13-34-114, may not contain the words:

865 (i) "university";

866 (ii) "college"; or

867 (iii) "institute".

868 (2) (a) A person, other than a company formed under this chapter or a foreign company
869 authorized to transact business in this state, may not use in its name in this state any of the terms:

870 (i) "limited liability company";

871 (ii) "limited company";

872 (iii) "L.L.C.";

873 (iv) "L.C.";

874 (v) "LLC"; or

875 (vi) "LC".

876 (b) Notwithstanding Subsection (2)(a):

877 (i) a foreign corporation whose actual name includes the word "limited" or "Ltd." may use
878 its actual name in this state if it also uses:

879 (A) "corporation" or "corp."; or

880 (B) "incorporated" or "inc."; and

881 (ii) a limited liability partnership may use in its name the terms:

882 (A) "limited liability partnership";

883 (B) "L.L.P."; or

884 (C) "LLP".

885 (3) Except as authorized by Subsection (4), the name of a company must be
886 distinguishable as defined in Subsection (5) upon the records of the division from:

887 (a) the actual name, reserved name, or fictitious or assumed name of any entity registered
888 with the division; or

889 (b) any tradename, trademark, or service mark registered with the division.

890 (4) (a) A company may apply to the division for approval to file its articles of organization
891 under or to reserve a name that is not distinguishable upon the division's records from one or more
892 of the names described in Subsection (3).

893 (b) The division shall approve the name for which the company applies under Subsection
894 (4)(a) if:

895 (i) the other person whose name is not distinguishable from the name under which the

896 applicant desires to file:

897 (A) consents to the filing in writing; and

898 (B) submits an undertaking in a form satisfactory to the division to change its name to a
899 name that is distinguishable from the name of the applicant; or

900 (ii) the applicant delivers to the division a certified copy of the final judgment of a court
901 of competent jurisdiction establishing the applicant's right to use the name in this state.

902 (5) A name is distinguishable from other names, trademarks, and service marks registered
903 with the division if it contains one or more different words, letters, or numerals from other names
904 upon the division's records.

905 (6) The following differences are not distinguishing:

906 (a) the terms:

907 (i) "corporation";

908 (ii) "incorporated";

909 (iii) "company";

910 (iv) "limited partnership";

911 (v) "limited";

912 (vi) "L.P." or "LP";

913 (vii) "Ltd.";

914 (viii) "limited liability company";

915 (ix) "limited company";

916 (x) "L.C." or "LC"; or

917 (xi) "L.L.C." or "LLC";

918 (b) an abbreviation of a word listed in Subsection (6)(a);

919 (c) the presence or absence of the words or symbols of the words "the," "and," "a," or
920 "plus";

921 (d) differences in punctuation and special characters;

922 (e) differences in capitalization; or

923 (f) for a company that is formed in this state on or after May 4, 1998, or registered as a
924 foreign company in this state on or after May 4, 1998, differences between singular and plural
925 forms of words.

926 (7) A name that implies that a company is an agency of this state or any of its political

927 subdivisions, if it is not actually a legally established agency or political subdivision, may not be
928 approved for filing by the division.

929 Section 23. **Repealer.**

930 This act repeals:

931 Section **53B-5-101, Short title.**

932 Section **53B-5-102, Legislative intent.**

933 Section **53B-5-103, Definitions.**

934 Section **53B-5-104, Prohibited acts -- Exceptions -- Responsibilities of proprietary**
935 **schools.**

936 Section **53B-5-105, Exempted institutions.**

937 Section **53B-5-106, Responsibilities of Board of Regents.**

938 Section **53B-5-107, Operation of proprietary schools -- Required registration**
939 **statement -- Fee -- Denial of registration -- Registration does not constitute endorsement.**

940 Section **53B-5-108, Information required to be available -- Fair and ethical practices.**

941 Section **53B-5-109, Discontinuance of operations -- Filing of transcripts.**

942 Section **53B-5-110, Enforcement of contracts or agreements -- Rescission based on**
943 **defective registration statement.**

944 Section **53B-5-111, Referral of suspected violations -- Penalty.**

945 Section **53B-5-112, Limitation of authority.**

946 Section **53B-5-113, Suspension, termination, or refusal to register.**

947 Section **53B-5-114, Consent to use of educational terms in business names.**

948 Section **53B-5-201, Fraudulent education credentials.**

949 Section 24. **Effective date.**

950 This act takes effect on July 1, 2002.

Legislative Review Note
as of 1-4-02 2:01 PM

A limited legal review of this legislation raises no obvious constitutional or statutory concerns.

Office of Legislative Research and General Counsel