

# What is a Fictitious Name?

A fictitious name is any assumed name, style or designation other than the proper name of the entity using such name. Any individual, sole proprietorship, partnership, corporation, Limited Liability Company or other form of association conducting commercial activities under a name other than its/his/her real or proper name must register this name with the Pennsylvania Department of State.

**Registration of a fictitious name does not create any exclusive right to use the fictitious name.** There are no ownership rights to a fictitious name. Other individuals or entities may register the same fictitious name. A fictitious name registration is not a trademark or copyright. Registration of a fictitious name does not provide liability protection. The use of a fictitious name does not create a separate legal entity, but is merely descriptive of a person or association who does business under another name.

**Individuals doing business under their full and proper name are not required to register their personal name as a fictitious name.** If you will be operating your sole proprietorship under a name that is different from your own name or which does not readily identify you as the business owner, you will need to file a Registration of Fictitious Name form [DSCB:54-311]. The inclusion of words that suggest additional owners, such as “& Sons” or “&Associates,” makes the name an assumed or fictitious name. Note: There is case law from Pennsylvania county courts which suggests that the surname of a person, standing alone or coupled with words that describe the business, is not a fictitious business name and need not be registered. However, the Bureau cautions that the cases that stand for that proposition are all non-precedential county court decisions and were based on past versions of the Fictitious Names Act, before many terms, such as “proper name,” were defined.

## How to Register a Fictitious Name

To register an assumed or fictitious business name, the Fictitious Name Registration form [DSCB:54-311] must be filed. See:

<http://www.dos.pa.gov/BusinessCharities/Business/RegistrationForms/Pages/default.aspx>

### **This application must contain the following information:**

- The fictitious name. See above for restrictions on use of corporate or other association designator such as “corporation” or “limited,” “LLC.” The use of the word “company” or “co.” in a fictitious name by a sole proprietorship is permissible.
- A brief statement concerning the character or nature of the business or other activity to be carried on under or through the fictitious name.

- The address, including number and street, if any, of the principal place of business. A post office box alone is not acceptable.
- The name and address of each individual or entity interested in the business.

## Advertising Requirements

When a fictitious name is registered by an individual, association or other entity, the user of the name must “officially publish” notice that it has filed or intends to file an application for registration of the fictitious name. The advertisement should be placed in two newspapers of general circulation in the county in which the business will be located, one of which must be legal newspaper. If there is only one newspaper of general circulation in the county, advertisement in that newspaper is sufficient. See 15 Pa.C.S. §102 for more information on official publication. The information required for the advertisements is set forth at 54 Pa.C.S. §311(g). County-by-county lists of newspapers of general circulation and legal publications maybe viewed on the Department’s website at [www.dos.pa.gov/BusinessCharities/Business](http://www.dos.pa.gov/BusinessCharities/Business). The proper legal publication may also be identified by contacting the county courthouse or county bar association in the county where the principal office is located. The Bureau can also assist. Evidence of these advertisements is not required to be sent to the Bureau, but should be kept with the business records.

The penalty for failing to file a fictitious name registration is that the unregistered entity may not use the courts of Pennsylvania to enforce a contract entered into using the fictitious name. The failure to register the fictitious name does not void the contract, but merely prevents such enforcement until registration. The court also has the option of imposing a \$500 penalty in these instances where the entity seeks to enforce the contract and subsequently registers the fictitious name in an untimely manner.

Source: <http://www.dos.pa.gov/BusinessCharities/Business/Resources/Pages/Fictitious-Names.aspx>