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**BUSINESS AND PROFESSIONS CODE - BPC**

**DIVISION 6. BUSINESS RIGHTS [14000 - 14704]** ( *Division 6 added by Stats. 1941, Ch. 56.*  )

**CHAPTER 3. Trade Names and Designations [14401 - 14495]** ( *Chapter 3 added by Stats. 1941, Ch. 59.*  )

**ARTICLE 1.5. Trade Name Registration [14411 - 14418]** ( *Article 1.5 added by Stats. 1972, Ch. 438.*  )

[14411.](#) The filing of any fictitious business name statement by a person required to file such statement pursuant to Section 17910 shall establish a rebuttable presumption that the registrant has the exclusive right to use as a trade name the fictitious business name, as well as any confusingly similar trade name, in the county in which the statement is filed, if the registrant is the first to file such a statement containing the fictitious business name in that county, and is actually engaged in a trade or business utilizing such fictitious business name or a confusingly similar name in that county.

The rebuttable presumption created by this section shall be one affecting the burden of producing evidence.

(*Added by Stats. 1972, Ch. 438.*)

[14412.](#) The rebuttable presumption created by Section 14411 shall be applicable until the fictitious business name statement is abandoned pursuant to Section 17922, or otherwise expires pursuant to Section 17920, and no new fictitious business name statement has been filed by the registrant, or in the case of any assignment or transfer no original fictitious business name statement has been filed by the assignee or transferee.

(*Added by Stats. 1972, Ch. 438.*)

[14413.](#) For purposes of Section 14411 a fictitious business name statement filed after January 1, 1971, and deemed filed on July 1, 1971, under Section 8 of Chapter 618 of the 1970 Statutes shall be considered filed at the time a certificate was first filed under Chapter 2 (commencing with Section 2466) of Title 10 of Part 4 of Division 3 of the Civil Code, as it existed on the effective date of the filing, provided that the certificate had not expired prior to the filing under Chapter 5 (commencing with Section 17900) of Part 3 of Division 7 of the Business and Professions Code.

(*Added by Stats. 1972, Ch. 438.*)

[14414.](#) Nothing in this chapter shall be construed to require or prohibit the filing in any county of any fictitious business name statement if such filing is not required or prohibited by Section 17910.

(*Added by Stats. 1972, Ch. 438.*)

[14415.](#) The filing of articles of incorporation pursuant to Section 200 of the Corporations Code, in the case of a domestic corporation, or the obtaining of a certificate of qualification pursuant to Sections 2105 and 2106 of the Corporations Code, in the case of a foreign corporation, shall establish a rebuttable presumption that the corporation has the exclusive right to use as a trade name, in the state the corporate name set forth in the articles or certificate, as well as any confusingly similar trade name, if the corporation is the first to have filed the articles or obtained the certificate containing the corporate name, and is actually engaged in a trade or business utilizing that corporate name or a confusingly similar name.

If a foreign corporation continues to have authority to transact intrastate business pursuant to Section 2102 of the Corporations Code, the foreign corporation shall be considered to have obtained its certificate of qualification pursuant to law for the purposes of this section on the date it first qualified to transact intrastate business in this state.

The rebuttable presumption created by this section affects the burden of producing evidence.

(*Amended by Stats. 1981, Ch. 714, Sec. 39.*)

[14416.](#) If, as to the same or a confusingly similar trade name, in a county, there are both a corporation entitled to the rebuttable presumption created by Section 14415 and a registrant entitled to the benefit of the presumption created by Section 14411,

whichever has filed the fictitious business name statement, filed the articles of incorporation, or obtained the certificate of qualification first in time, and is actually engaged in a trade or business utilizing such fictitious business name, such corporate name, or a confusingly similar name, shall be entitled to the presumption as against the other, that he has the exclusive right to use such fictitious business name, or such corporate name, or a confusingly similar name, as a trade name in the county where the registrant has filed his fictitious business name statement.

*(Added by Stats. 1972, Ch. 438.)*

**14417.** The filing of articles of incorporation pursuant to Section 200 of the Corporations Code shall not of itself authorize the use in this state of a corporate name in violation of the rights of another under the federal Trademark Act (15 U.S.C. Sec. 1051 et seq.), the Trademark Act (Chapter 2 (commencing with Section 14200) of Division 6), the Fictitious Business Name Act (Chapter 5 (commencing with Section 17900) of Division 7), or the common law, including rights in a trade name. The Secretary of State shall deliver a notice to this effect to each newly organized corporation.

*(Added by Stats. 1983, Ch. 1317, Sec. 1.)*

**14418.** The filing of any fictitious business name statement pursuant to Section 17910 does not, of itself, authorize the use in this state of a fictitious business name in violation of the rights of another as established under this chapter, the federal law relating to trademarks (15 U.S.C. Sec. 1051 et seq.), or the common law, including rights in a trade name.

*(Added by Stats. 1987, Ch. 437, Sec. 1.)*