



UNDERWRITING BULLETIN

To: All Florida Agents of WFG National Title Insurance Company

From: WFG Florida Underwriting Department

Date: August 13, 2014

Bulletin No.: FL 2014-14

**Re: Legislative Update
HB 685 - Business Entities Names**

Current Florida law requires the name of an LLC or corporation to be “distinguishable” from other filings with the Division of Corporations to minimize the potential confusion resulting from having both an ABC, Inc. and an ABC, LLC. The only exceptions were similar names with the permission of the owners of the existing entity and fictitious name registrations.

And, of course, the bane of title agents everywhere has been out-of-state entities with the same name as an entity already filed in the same state as the land; and those entities which take title without reference to the state of incorporation.

HB 685 expands on current law to also allow the formation of an LLC or corporation with the same name as a general partnership registered under §620.8105, or a limited liability partnership registered under §620.9001. The bill also further defines what is “distinguishable,” providing that a difference only due to:

- A suffix.
- A definite or indefinite article. (the, a, an)
- The word "and" and the symbol "&."
- The singular, plural, or possessive form of a word.
- A recognized abbreviation of a root word; or
- A punctuation mark or a symbol

is not considered “distinguishable.” Revised §§605.0112, 607.0401.

While title professionals have always been careful to make certain they are dealing with the correct entity and “rightful owner,” the new approval for naming corporations and LLCs after a same-named general partnership or limited liability partnership (without requiring consent of the principals) creates a new opportunity for error. If you have any questions as to whether you are dealing with the correct entity or the correct parties, reach out to your WFG underwriter.

The bill also creates two new categories of corporations: a “social purpose corporation” and a “benefit corporation.” Under corporation law in most states, the directors of a for-profit corporation have a fiduciary duty to maximize shareholder value; for a non-profit, nothing may benefit the individual shareholders. These new types of corporate entity were designed to allow a hybrid mission – pursuing a mix of profitability and public purpose goals. The primary difference between the two new types of entity is that a “social purpose corporation” has a specified social purpose or purposes designated in advance, while a “benefit corporation” is created for a general public benefit with the goals and directions set by management and assessed by a third-party standard.

From a title standpoint, the requirements when dealing with the real property of one of these new types of entity is the same as when dealing with a traditional Florida corporation. Corporate resolutions, execution by appropriate officers, corporate seals and the like. The only difference will be in designating the entity in the granting instrument appropriately to avoid later confusion: "XYZ, Inc., a Florida social purpose corporation."

A traditional corporation may also be converted into either type of new entity. If a conversion has occurred, you should show the original designation and the fact of the conversion in your conveyance documents.

This bill passed unanimously in both the Florida House and Senate and was signed into law on June 20, 2014 (Laws of Florida 2014-209). It became effective July 1, 2014.



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