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TITLE 54 NAMES

Chapter

- 1. General Provisions
- 3. Fictitious Names
- 5. Corporate and Other Association Names
- 7. Judicial Change of Name
- 11. Trademarks
- 13. Insignia
- 15. Reusable Marked Articles and Receptacles
- 17. Newspapers

Enactment. Unless otherwise noted, the provisions of Title 54 were added December 16, 1982, P.L.1309, No.295, effective in 90 days.

Prior Provisions. Former Chapters 1, 3, 5 and 7, which related to the same subject matter, were added November 15, 1972, P.L.1063, No.271, and repealed December 16, 1982, P.L.1309, No.295, effective in 90 days.

Special Provisions in Appendix. See section 7 of Act 295 of 1982 in the appendix to this title for special provisions relating to registration of trademark or service mark.

CHAPTER 1
GENERAL PROVISIONS

Sec.

- 101. Definitions.
- 102. Functions and powers of Department of State.
- 103. Execution of documents.

Enactment. Present Chapter 1 was added December 16, 1982, P.L.1309, No.295, effective in 90 days.

Prior Provisions. Former Chapter 1, which related to the same subject matter, was added November 15, 1972, P.L.1063, No.271, and repealed December 16, 1982, P.L.1309, No.295, effective in 90 days.

§ 101. Definitions.

Subject to additional definitions contained in subsequent provisions of this title which are applicable to specific provisions of this title, the following words and phrases when used in this title shall have, unless the context clearly indicates otherwise, the meanings given to them in this section:

"Department." The Department of State of the Commonwealth.

"Domestic corporation." A corporation incorporated under the laws of this Commonwealth.

"Domestic corporation not-for-profit." A domestic corporation not incorporated for a purpose or purposes involving pecuniary profit, incidental or otherwise.

"Officially publish." The meaning specified in 15 Pa.C.S. § 1103 (relating to definitions) except that the county of publication shall be as specified in this title.

"Qualified foreign corporation." A corporation incorporated under any laws other than those of this Commonwealth that is authorized to do business in this Commonwealth under either 15 Pa.C.S. Ch. 41 (relating to foreign business corporations) or Ch. 61 (relating to foreign nonprofit corporations).

"Verified statement." A document filed under this title containing statements of fact and a statement by the signatory that it is made subject to the penalties of 18 Pa.C.S. § 4904 (relating to unsworn falsification to authorities). (Dec. 21, 1988, P.L.1444, No.177, eff. Oct. 1, 1989; July 9, 2013, P.L.476, No.67, eff. 60 days)

2013 Amendment. Act 67 amended the def. of "domestic corporation not-for-profit."

§ 102. Functions and powers of Department of State.

Subchapter B of Chapter 1 of Title 15 (relating to functions and powers of Department of State) shall be applicable to filings in and the functions of the Department of State under this title.

§ 103. Execution of documents.

(a) General rule.--Any document filed in the Department of State under this title by a corporation may be executed on behalf of the corporation by any one duly authorized officer thereof. The corporate seal may be affixed and attested, but the affixation and attestation of the corporate seal shall not be necessary for the due execution of any filing by a corporation under this title.

(b) Cross reference.--See 15 Pa.C.S. § 135 (relating to requirements to be met by filed documents). (Dec. 21, 1988, P.L.1444, No.177, eff. Oct. 1, 1989)

1988 Amendment. Act 177 added section 103.

Cross References. Section 103 is referred to in section 311 of this title.

CHAPTER 3 FICTITIOUS NAMES

Sec.

- 301. Short title of chapter.
- 302. Definitions.
- 303. Scope of chapter.
- 304. Effect of registration under prior statutes.
- 311. Registration.
- 312. Amendment.
- 313. Cancellation or withdrawal.
- 321. Decennial filings required (Deleted by amendment).
- 331. Contracts entered into by entity using unregistered fictitious name.
- 332. Effect of registration.

Enactment. Chapter 3 was added December 16, 1982, P.L.1309, No.295, effective in 90 days.

Prior Provisions. Former Chapter 3, which related to the same subject matter, was added November 15, 1972, P.L.1063, No.271, and repealed December 16, 1982, P.L.1309, No.295, effective in 90 days.

Cross References. Chapter 3 is referred to in sections 202, 414 of Title 15 (Corporations and Unincorporated Associations).

§ 301. Short title of chapter.

This chapter shall be known and may be cited as the "Fictitious Names Act."

§ 302. Definitions.

(a) Definitions.--The following words and phrases when used in this chapter shall have, unless the context clearly indicates otherwise, the meanings given to them in this section:

"Business." Any commercial or professional activity.

"Entity." Any individual or any corporation, association, partnership, joint-stock company, business trust, syndicate, joint adventuresship or other combination or group of persons, regardless of whether it is organized or formed under the laws of this Commonwealth or any other jurisdiction.

"Fictitious name." Any assumed or fictitious name, style or designation other than the proper name of the entity using such name. The term includes a name assumed by a general partnership, syndicate, joint adventuresship or similar combination or group of persons.

"Proper name." When used with respect to an association of a type listed in the following paragraphs, the term means the name set forth in:

- (1) the public organic record, for a domestic filing association;
- (2) the statement of registration, for a limited liability partnership;
- (3) (Deleted by amendment).
- (4) the statement of election, for an electing partnership;
- (5) (Deleted by amendment).
- (6) (Deleted by amendment).
- (7) (Deleted by amendment).
- (8) (Deleted by amendment).

(9) the statement of registration of a foreign registered association under 15 Pa.C.S. § 412(a)(1)(i) (relating to foreign registration statement) or, if that name does not comply with 15 Pa.C.S. § 202 (relating to requirements for names generally), the name set forth in the statement under 15 Pa.C.S. § 412 (a)(1)(ii).

(b) Other defined terms.--The definitions in 15 Pa.C.S. § 102 (relating to definitions) apply to this title except to the extent they are inconsistent with the provisions of this title. (June 22, 2000, P.L.356, No.43, eff. 60 days; June 22, 2001, P.L.418, No.34, eff. 60 days; Oct. 22, 2014, P.L.2640, No.172, eff. July 1, 2015)

§ 303. Scope of chapter.

(a) Voluntary registration.--Any one or more entities may elect to register a fictitious name under this chapter for the purpose of establishing a public record of their relationship to any business or other activity carried on under or through such fictitious name.

(b) Mandatory registration.--

(1) Except as provided in paragraph (2), any entity which either alone or in combination with any other entity conducts any business in this Commonwealth under or through any fictitious name shall register the fictitious name under this chapter and shall amend such registration whenever necessary to maintain the accuracy of the information disclosed thereby.

(2) Paragraph (1) shall not apply to any:

(i) Nonprofit or professional activities.

(ii) Activities which are expressly or impliedly prohibited by law from being carried on under a fictitious name.

(iii) (Deleted by amendment).

(iv) Unincorporated association.

(v) (Deleted by amendment).

(vi) (Deleted by amendment).

(vii) (Deleted by amendment).

(viii) (Deleted by amendment).

(c) Other restrictions unaffected.--The registration of a fictitious name under this chapter shall not be a defense to any action or proceeding brought to enforce any law which expressly or impliedly prohibits any activity from being carried on under a fictitious name.

(d) Effect of registration.--The registration of a name under this chapter does not render the name unavailable for use by another entity.

(Dec. 21, 1988, P.L.1444, No.177, eff. Oct. 1, 1989; Dec. 7, 1994, P.L.703, No.106, eff. 60 days; June 22, 2000, P.L.356, No.43, eff. 60 days; Oct. 22, 2014, P.L.2640, No.172, eff. July 1, 2015)

2014 Amendment. Act 172 added subsec. (d).

2000 Amendment. Act 43 deleted subsec. (b)(2)(iii), (v), (vi), (vii) and (viii).

1988 Amendment. Act 177 amended subsec. (b)(2).

§ 304. Effect of registration under prior statutes.

Fictitious names registered under the former provisions of the following statutes shall be deemed to be registered under this chapter:

Act of June 28, 1917 (P.L.645, No.227), relating to individual fictitious names.

Act of May 24, 1945 (P.L.967, No.380), referred to as the Fictitious Name Act.

Act of July 11, 1957 (P.L.783, No.374), known as the "Fictitious Corporate Name Act."

§ 311. Registration.

(a) General rule.--A fictitious name may be registered under this chapter by filing in the department an application for registration of fictitious name, which shall be executed as provided in subsection (d), and shall set forth:

(1) The fictitious name.

(2) A brief statement concerning the character or nature of the business or other activity to be carried on under or through the fictitious name.

(3) The address, including street and number, if any, of the principal place of business of the business or other activity to be carried on under or through the fictitious name.

(4) The name and address, including street and number, if any, of each individual interested in such business or other activity.

(5) With respect to each entity, other than an individual, interested in such business or other activity:

(i) The name of the entity and a statement of its form of organization.

(ii) The name of the jurisdiction under the laws of which it is organized.

(iii) The address, including street and number, if any, of its principal office under the laws of its domiciliary jurisdiction.

(iv) The address, including street and number, if any, of its registered office, if any, in this Commonwealth.

(6) A statement that the applicant is familiar with the provisions of section 332 (relating to effect of registration) and understands that filing under the Fictitious Names Act does not create any exclusive or other right in the fictitious name.

(7) Such other information necessary to the administration of this chapter as the department may specify by regulation.

(b) Use of corporate designators.--A fictitious name registered under this chapter:

(1) May not contain a corporate designator such as "corporation," "incorporated" or "limited" or any derivation or abbreviation thereof unless the entity or at least one entity named in the application for registration of fictitious name is a corporation. The use of the word "company" or any derivation or abbreviation thereof by a sole proprietorship, a partnership or a corporation is permissible.

(2) Need not contain a corporate designator, notwithstanding the fact that some or all of the persons interested therein are corporations. This paragraph shall not be construed to limit or affect any personal liability otherwise existing of shareholders of a corporation to persons who deal with the corporation without knowledge of its status as such.

(c) Agent for effecting amendments.--The application may designate one or more parties who shall be authorized to execute amendments to, withdrawals from or cancellation of the registration under this chapter in behalf of all then existing parties to the registration.

(d) Execution.--

(1) Where the application for registration relates to an entity which includes one or more participants which are partnerships or other entities composed of two or more parties, it shall not be necessary for each ultimate party to be named in and to execute the application, but only the constituent participants shall be named in the application and a partner or other authorized representative of a participant may execute the application on behalf of the participant.

(2) Where the application for registration relates to a trust or similar entity, it shall not be necessary for each beneficial owner or similar ultimate party to be named in and to execute the application, but only the trustees of the trust or the governing body of the similar entity shall be named in and shall execute the application.

(3) Otherwise, the application for registration shall be executed by each individual party thereto and, in the case of any other entity, by the entity. See section 103 (relating to execution of documents).

(4) The application of any party may be executed by the attorney-in-fact of the party.

(e) Duplicate use of names.--The fictitious name shall be distinguishable upon the records of the department from:

(1) The name of any domestic filing entity, domestic limited liability limited partnership, domestic electing partnership, registered foreign association or the name of any corporation or other association registered at any time under Chapter 5 (relating to corporate and other association names) unless such name is available or is made available for use under the provisions or procedures of 15 Pa.C.S. § 202(b)(1) (relating to requirements for names generally).

(2) (Deleted by amendment).

(3) The name of any administrative department, board or commission or other agency of this Commonwealth.

(4) A name the exclusive right to which is at the time reserved or registered by any other person under 15 Pa.C.S. § 208 (relating to reservation of name) or 209 (relating to registration of name of nonregistered foreign association) or another statute.

(f) Required approvals.--The fictitious name shall not contain:

(1) The words "college," "university" or "seminary" when used in such a way as to imply that the entity is an educational institution conforming to the standards and qualifications prescribed by the State Board of Education unless there is submitted a certificate from the Department of Education certifying that the entity is entitled to use such designation.

(2) The words "engineer" or "engineering" or "surveyor" or "surveying" or any other word implying that any form of the practice of engineering or surveying, as defined in the act of May 23, 1945 (P.L.913, No.367), known as the Professional Engineers Registration Law, is provided unless at least one of the parties to the registration has been properly registered with the State Registration Board for Professional Engineers and there is submitted to the department a certificate from the board to that effect.

(3) The words "bank," "banking," "banker" or "trust" or any other word implying that the entity is a bank, bank and trust company, savings bank, private bank or trust company, as defined in the act of November 30, 1965 (P.L.847,

No.356), known as the Banking Code of 1965, unless approved by the Department of Banking.

(4) The word "cooperative" or any abbreviation thereof unless it is subject to 15 Pa.C.S. Pt. II Subpt. D (relating to cooperative corporations).

(5) The words "architect" or "architecture" or any other word implying that any form of the practice of architecture, as defined in the act of December 14, 1982 (P.L.1227, No.281), known as the Architects Licensure Law, is provided unless at least one of the parties to the registration has been properly registered with the Architects Licensure Board in the practice of architecture and there is submitted to the department a certificate from the board to that effect.

(6) The words "credit union" or any other words implying that the entity is a credit union as defined in 17 Pa.C.S. § 102 (relating to application of title), unless approved by the Department of Banking.

(7) The words "annuity," "assurance," "beneficial," "bond," "casualty," "endowment," "fidelity," "fraternal," "guaranty," "indemnity," "insurance," "insurer," "reassurance," "reinsurance," "surety" or "title" when used in such a way as to imply that the entity is engaged in the business of writing insurance or reinsurance as principal or any other words of like purport unless there is submitted a certificate from another jurisdiction certifying that the entity is duly licensed therein as an insurance company or a certificate from the Insurance Department certifying that it has no objection to the use by the entity of such designation.

(8) The words "electric cooperative" unless it is subject to 15 Pa.C.S. Ch. 73 (relating to electric cooperative corporations).

(9) The number "911" unless the entity is a public agency located in whole or in part within the Commonwealth and is authorized by law to provide emergency telephone service for firefighting, law enforcement, ambulance, emergency medical or other emergency services.

(10) Any word or phrase not permitted by law to be filed under this chapter without governmental consent unless there is submitted to the department written evidence of such consent.

(g) Advertisement.--An entity which includes an individual party shall officially publish in the county in which the principal office or place of business of the entity is or, in the case of a proposed entity, is to be located notice of its intention to file or the filing of an application for registration of a fictitious name under this chapter. The notice may appear prior to or after the day upon which the application is filed in the department and shall be kept with the permanent records of the business and shall set forth briefly:

(1) The fictitious name.

(2) The address, including street and number, if any, of the principal office or place of business of the business to be carried on under or through the fictitious name.

(3) The names and respective addresses, including street and number, if any, of all persons who are parties to the registration.

(4) A statement that an application for registration of a fictitious name is to be or was filed under the Fictitious Names Act.

(h) Cross reference.--See 15 Pa.C.S. § 134 (relating to docketing statement).

(Dec. 21, 1988, P.L.1444, No.177; Dec. 19, 1990, P.L.834, No.198, eff. imd.; July 1, 1994, P.L.412, No.66, eff. 60 days; June 22, 2000, P.L.356, No.43, eff. 60 days; Oct. 22, 2014, P.L.2640, No.172, eff. July 1, 2015)

2014 Amendment. Act 172 amended subsec. (e)(1) and (4).

2000 Amendment. Act 43 amended subsec. (e).

1994 Amendment. Act 66 renumbered subsec. (f)(9) to subsec. (f)(10) and added a new subsec. (f)(9).

1990 Amendment. Act 198 amended subsec. (f).

1988 Amendment. Act 177 amended subsecs. (a)(3), (b)(1), (d), (e)(1) and (2), (f)(4) and (g) and added subsec. (h), effective immediately and retroactive to March 16, 1983, as to subsec. (b)(1) and immediately as to the remainder of the section.

References in Text. The name of the Professional Engineers Registration Law was changed to the Engineer, Land Surveyor and Geologist Registration Law. The name of the State Registration Board for Professional Engineers and Professional Land Surveyors was changed to the State Registration Board for Professional Engineers, Land Surveyors and Geologists.

Cross References. Section 311 is referred to in section 312 of this title.

§ 312. Amendment.

(a) General rule.--A fictitious name registration under this chapter may be amended by filing in the department an application for amendment of fictitious name registration, which shall be executed as provided in subsection (b), and shall set forth:

(1) The fictitious name as theretofore registered.

(2) An identification of the last preceding filing in the department with respect to the fictitious name.

(3) The amendment, which may change the fictitious name, add or withdraw or reflect a change in name of a party to the registration, or otherwise revise the filing, and which shall revise any information set forth in preceding filings which has become inaccurate, and which shall restate in full all such information as so revised.

(4) A statement that the amendment, without reference to any preceding filing, sets forth all information with respect to the fictitious name which would be required in an original filing under the Fictitious Names Act.

(5) Such other information necessary to the administration of this chapter as the department may specify by regulation.

(b) Execution.--The application for amendment may be executed:

(1) in the same manner as an original application for registration of a fictitious name, including any party who is thereby withdrawing; or

(2) by the agent or agents designated pursuant to section 311(c) (relating to agent for effecting amendments) or subsection (a)(3) and by any additional party to such registration.

(c) Required approvals.--Section 311(f) (relating to required approvals) shall be applicable to any amendment which effects a change in the fictitious name as theretofore registered.

(d) Cross reference.--See 15 Pa.C.S. § 134 (relating to docketing statement).

(Dec. 21, 1988, P.L.1444, No.177, eff. Oct. 1, 1989)

1988 Amendment. Act 177 added subsec. (d).

§ 313. Cancellation or withdrawal.

(a) General rule.--A fictitious name registration under this chapter may be cancelled, or a party to such a registration may withdraw therefrom, by filing in the department an application for cancellation of fictitious name registration or an application for withdrawal from fictitious name registration, as the case may be, which shall be executed as provided in subsection (b), and shall set forth:

(1) The fictitious name as theretofore registered.

(2) An identification of the last preceding filing in the department with respect to the fictitious name.

(3) A statement that the fictitious name registration is cancelled, or that one or more, but less than all, parties to the registration have withdrawn from the business or other activity carried on, under or through the fictitious name.

(4) Such other information necessary to the administration of this chapter as the department may specify by regulation.

(b) Execution.--An application under this section may be executed in the same manner as an application for amendment of fictitious name registration except that an application for withdrawal from fictitious name registration may be executed solely by the withdrawing party.

(c) Cross reference.--See 15 Pa.C.S. § 134 (relating to docketing statement).

(Dec. 21, 1988, P.L.1444, No.177, eff. Oct. 1, 1989)

1988 Amendment. Act 177 added subsec. (c).

§ 321. Decennial filings required (Deleted by amendment).

2000 Amendment. Section 321 was deleted by amendment June 22, 2000, P.L.356, No.43, effective immediately.

§ 331. Contracts entered into by entity using unregistered fictitious name.

(a) General rule.--No entity which has failed to register a fictitious name as required by this chapter shall be permitted to maintain any action in any tribunal of this Commonwealth until such entity shall have complied with the provisions of this chapter. Nor shall any action be maintained in any tribunal of this Commonwealth by any successor or assignee of such entity on any right, claim or demand arising out of a transaction with respect to which such entity used such fictitious name until such entity, or an entity which has acquired all or substantially all of its assets, shall have complied with the provisions of this chapter. The failure of any entity to register a fictitious name as required by this chapter shall not impair the validity of any contract or act of such entity and shall not prevent such entity from defending any action in any tribunal of this Commonwealth.

(b) Civil penalty.--Before any entity may institute any action in any tribunal of this Commonwealth on any cause of action arising out of any transaction in respect to which such entity used a fictitious name prior to the date of the registration of such fictitious name, or after the date its registration under this chapter was cancelled or otherwise terminated as to such entity, the entity shall pay to the department for the use of the Commonwealth a civil penalty of \$500.

(c) Substantial compliance.--The penalties of subsections (a) and (b) shall not be applicable if there has been

substantial compliance in good faith with the requirements of this chapter or the corresponding provisions of prior law.

Cross References. Section 331 is referred to in section 332 of this title.

§ 332. Effect of registration.

(a) **General rule.**--Registration under this chapter imparts no legal right to the registering entity other than that the conducting of business by it under a fictitious name shall not result in the penalties provided by section 331 (relating to contracts entered into by entity using unregistered fictitious name).

(b) **Corporate qualification unaffected.**--The registration required under this chapter is in addition to all other acts required of a corporation prerequisite to its doing business in this Commonwealth and no provision of this chapter shall be construed as relieving a corporation of any duty under any other statute.

Cross References. Section 332 is referred to in section 311 of this title.

CHAPTER 5

CORPORATE AND OTHER ASSOCIATION NAMES

Sec.

- 501. Register established.
- 502. Certain additions to register.
- 503. Decennial filings required.
- 504. Effect of failure to make filings.
- 505. Late filings.
- 506. Voluntary termination of registration by corporations and other associations.

Enactment. Present Chapter 5 was added December 16, 1982, P.L.1309, No.295, effective in 90 days.

Chapter Heading. The heading of Chapter 5 was amended December 21, 1988, P.L.1444, No.177, effective October 1, 1989.

Prior Provisions. Former Chapter 5, which related to the same subject matter, was added November 15, 1972, P.L.1063, No.271, and repealed December 16, 1982, P.L.1309, No.295, effective in 90 days.

Cross References. Chapter 5 is referred to in section 311 of this title; sections 202, 209 of Title 15 (Corporations and Unincorporated Associations).

§ 501. Register established.

(a) **General rule.**--A register is established by this chapter which shall consist of such of the following names as are not deleted therefrom by operation of section 504 (relating to effect of failure to make filings) or 506 (relating to voluntary termination of registration by corporations and other associations):

(1) A name registered prior to February 13, 1973, under the act of May 16, 1923 (P.L.246, No.160), relating to registration of certain names.

(2) A name registered under section 502 (relating to certain additions to register).

(3) In the case of a domestic or registered foreign corporation, a name rendered unavailable for corporate use by other corporations by reason of any filing in the

department by such domestic or registered foreign corporation.

(4) A name registered under 15 Pa.C.S. § 209 (relating to registration of name of nonregistered foreign association) or any similar provision of law.

(5) In the case of a business trust which exists subject to 15 Pa.C.S. Ch. 95 (relating to business trusts), the name of the trust as set forth in the instrument filed in the department under 15 Pa.C.S. § 9503 (relating to documentation of trust).

(6) In the case of a limited partnership or limited liability company subject to 15 Pa.C.S. Ch. 86 (relating to limited partnerships) or 88 (relating to limited liability companies), the name of the partnership or company as set forth in the certificate of limited partnership, certificate of organization or statement of registration as a foreign association.

(7) (Deleted by amendment).

(8) In the case of a limited liability partnership subject to 15 Pa.C.S. Ch. 82 (relating to limited liability partnerships and limited liability limited partnerships) that is not also a limited partnership, the name of the partnership as set forth in the statement of registration as a foreign association.

(b) Subsequent availability of certain names.--Whenever, by reason of change in name, withdrawal or dissolution of a domestic or registered foreign association, failure to renew a registration of its name by a nonregistered foreign association, or for any other cause, its name is no longer rendered unavailable by the express provisions of Title 15 (relating to corporations and unincorporated associations), such name shall no longer be deemed to be registered under subsection (a)(3) or (4) on the register established by this chapter. (Dec. 21, 1988, P.L.1444, No.177, eff. Oct. 1, 1989; Dec. 7, 1994, P.L.703, No.106, eff. 60 days; June 22, 2000, P.L.356, No.43, eff. imd.; July 9, 2013, P.L.476, No.67, eff. 60 days; Oct. 22, 2014, P.L.2640, No.172, eff. July 1, 2015; Nov. 21, 2016, P.L.1328, No.170, eff. 90 days)

2016 Amendment. Act 170 amended subsec. (a)(6) and (8).

2014 Amendment. Act 172 amended subsecs. (a)(3), (4), (5), (6) and (8) and (b).

2013 Amendment. Act 67 amended subsec. (a)(5) and deleted subsec. (a)(7).

2000 Amendment. Act 43 amended subsec. (a).

Cross References. Section 501 is referred to in section 503 of this title.

§ 502. Certain additions to register.

(a) Corporation names.--

(1) A domestic corporation not-for-profit incorporated prior to May 16, 1923 may register its name with the department under this chapter by effecting the filing specified in 15 Pa.C.S. § 5311 (relating to filing of certificate of summary of record by certain corporations).

(2) Any person who is not eligible to make a filing under 15 Pa.C.S. § 209 (relating to registration of name of nonregistered foreign association) may register a corporation name with the department by filing an application for registration of name, executed by the person, which shall set forth:

(i) The name of the corporation.

(ii) The address, including street and number, if any, of the person who executed the application.

(b) Associations generally.--An association other than a corporation may register with the department the name under which it is doing business or operating by filing an application for registration, which shall be executed by the association, and shall set forth:

- (1) The name to be registered.
- (2) The address, including street and number, if any, of the association.
- (3) The length of time, if any, during which the name has been used by the applicant.
- (4) Such other information necessary to the administration of this chapter as the department may specify by regulation.

(c) Limitation on names which may be registered.--Notwithstanding subsections (a) and (b), no new name shall be registered or deemed to be registered under this section which is not distinguishable upon the records of the department from any other name then registered or deemed to be registered under this chapter, without the consent of the senior registrant.

(d) Annual renewal.--A person who has in effect a registration of a name may renew the registration from year to year by annually filing an application for renewal setting forth the facts required to be set forth in an original application for registration. A renewal application may be filed between October 1 and December 31 in each year and shall extend the registration for the following calendar year.

(e) Cross reference.--See 15 Pa.C.S. § 134 (relating to docketing statement).
(Dec. 21, 1988, P.L.1444, No.177, eff. Oct. 1, 1989; Dec. 18, 1992, P.L.1333, No.169, eff. 60 days; June 22, 2000, P.L.356, No.43, eff. 60 days; Oct. 22, 2014, P.L.2640, No.172, eff. July 1, 2015; Nov. 21, 2016, P.L.1328, No.170, eff. 90 days)

2016 Amendment. Act 170 amended subsec. (d).

2014 Amendment. Act 172 amended subsec. (a)(2) intro. par.

2000 Amendment. Act 43 amended subsec. (c).

1992 Amendment. Act 169 amended subsec. (a), relettered subsec. (d) to subsec. (e) and added a new subsec. (d).

Cross References. Section 502 is referred to in section 501 of this title.

§ 503. Decennial filings required.

(a) General rule.--Except as otherwise provided in this section, every corporation or other association whose name is registered under this chapter shall, during the year 2001 and every tenth year thereafter, file in the department a report, which shall be executed by the corporation or other association, and shall set forth:

- (1) The name of the corporation or other association.
- (2) The address, including street and number, if any, of its registered or other office.
- (3) A statement that the corporation or other association continues to exist.
- (4) Such other information necessary to the administration of this chapter as the department may specify by regulation.

(b) Exceptions.--Subsection (a) shall not apply to any of the following:

- (1) A corporation or other association that during the ten years ending on December 31 of the year in which a filing

would otherwise be required under subsection (a) has made any filing in the department pursuant to a provision of this title or 15 Pa.C.S. (relating to corporations and unincorporated associations) other than:

(i) a report required by subsection (a); or

(ii) a filing under 15 Pa.C.S. § 208 (relating to reservation of name) or 209 (relating to registration of name of nonregistered foreign association).

(2) A corporation whose name is registered pursuant to section 501(a)(4) (relating to register established).

(3) A corporation that has had officer information forwarded to the department by the Department of Revenue during the preceding ten years under 15 Pa.C.S. § 1110 (relating to annual report information).

(b.1) Exemption.--(Deleted by amendment).

(c) Exemptions.--(Deleted by amendment).

(d) Cross references.--See 15 Pa.C.S. §§ 134 (relating to docketing statement) and 135 (relating to requirements to be met by filed documents).

(Dec. 21, 1988, P.L.1444, No.177, eff. Oct. 1, 1989; Dec. 18, 1992, P.L.1333, No.169, eff. 60 days; June 22, 2000, P.L.356, No.43, eff. imd.; June 22, 2001, P.L.418, No.34, eff. 60 days; Oct. 22, 2014, P.L.2640, No.172, eff. July 1, 2015)

2014 Amendment. Act 172 amended subsec. (b)(1)(ii) and deleted subsec. (c).

2001 Amendment. Act 34 amended subsec. (b), deleted subsec. (b.1), amended and relettered former subsec. (c) to subsec. (d) and added subsec. (c).

Cross References. Section 503 is referred to in sections 504, 505 of this title; section 207 of Title 15 (Corporations and Unincorporated Associations).

§ 504. Effect of failure to make filings.

On January 1 of the year following the year during which a report is required to be filed under section 503 (relating to decennial filings required), the name of every corporation and association which has failed to comply with such section shall no longer be deemed to be registered under this chapter.

(June 22, 2000, P.L.356, No.43, eff. imd.)

Cross References. Section 504 is referred to in section 501 of this title.

§ 505. Late filings.

A corporation or association which has failed to file the report required by section 503 (relating to decennial filings required) may do so at any later time, which filing shall reinstate the name of the corporation or association on the register established by this chapter unless its name has been appropriated during the period of the delinquency by any other person in the manner provided in this chapter or as otherwise provided by law.

§ 506. Voluntary termination of registration by corporations and other associations.

(a) General rule.--Any corporation or other association which has its name registered under this chapter may terminate such registration by filing in the department a statement of termination of registration of name, which shall be executed by the corporation or other association, and shall set forth:

(1) The name of the corporation or other association.

(2) The address, including street and number, if any, of the corporation or other association.

(3) The date on which and the statute under which the name of the corporation or other association was registered.

(4) A statement that the registration of the name of the corporation or other association under this chapter is terminated.

(5) Such other information necessary to the administration of this chapter as the department may specify by regulation.

(b) Cross reference.--See 15 Pa.C.S. § 134 (relating to docketing statement).
(Dec. 21, 1988, P.L.1444, No.177, eff. Oct. 1, 1989)

Cross References. Section 506 is referred to in section 501 of this title.

CHAPTER 7

JUDICIAL CHANGE OF NAME

Sec.

- 701. Court approval required for change of name.
- 702. Change by order of court.
- 703. Effect on children.
- 704. Divorcing and divorced person may resume prior name.
- 704.1. Surviving spouse may resume prior name.
- 705. Penalty for violation of chapter.

Enactment. Present Chapter 7 was added December 16, 1982, P.L.1309, No.295, effective in 90 days.

Prior Provisions. Former Chapter 7, which related to the same subject matter, was added November 15, 1972, P.L.1063, No.271, and repealed December 16, 1982, P.L.1309, No.295, effective in 90 days.

Cross References. Chapter 7 is referred to in section 5105 of Title 23 (Domestic Relations).

§ 701. Court approval required for change of name.

(a) General rule.--Except as set forth in subsection (b), it shall be unlawful for any person to assume a name different from the name by which such person is and has been known, unless such change in name is made pursuant to proceedings in court in accordance with subsection (a.1).

(a.1) Procedure.--

(1) An individual must file a petition in the court of common pleas of the county in which the individual resides. If a petitioner is married, the petitioner's spouse may join as a party petitioner, in which event, upon compliance with the provisions of this subsection, the spouse shall also be entitled to the benefits of this subsection.

- (2) The petition must set forth all of the following:
- (i) The intention to change the petitioner's name.
 - (ii) The reason for the name change.
 - (iii) The current residence of petitioner.
 - (iv) Any residence of the petitioner for the five years prior to the date of the petition.
 - (v) If the petitioner requests the court proceed under paragraph (3)(iii).

(3) Upon filing of the petition, the court shall do all of the following:

- (i) Set a date for a hearing on the petition. The hearing shall be held not less than one month nor more than three months after the petition is filed.

(ii) Except as provided in subparagraph (iii), by order, direct that notice be given of the filing of the petition and of the date set for the hearing on the petition and that the notice be treated as follows:

(A) Published in two newspapers of general circulation in the county where the petitioner resides or a county contiguous to that county. One of the publications may be in the official paper for the publication of legal notices in the county.

(B) Given to any nonpetitioning parent of a child whose name may be affected by the proceedings.

(iii) If the court finds that the notice required in subparagraph (ii) would jeopardize the safety of the person seeking the name change or his or her child or ward, the notice required shall be waived by order of the court. Upon granting the request to waive any notice requirement, the court shall seal the file. In all cases filed under this paragraph, whether or not the name change petition is granted, there shall be no public access to any court record of the name change petition, proceeding or order, unless the name change is granted but the file is not sealed. The records shall only be opened by order of the court in which the petition was granted based upon a showing of good cause or at the applicant's request.

(4) At the hearing, the following apply:

(i) Any person having lawful objection to the change of name may appear and be heard.

(ii) The petitioner must present to the court all of the following:

(A) Proof of publication of the notice under paragraph (3)(ii) unless petitioner requested the court proceed under paragraph (3)(iii) and the court granted the request.

(B) An official search of the proper offices of the county where petitioner resides and of any other county where petitioner has resided within five years prior to filing the petition showing that there are no judgments, decrees of record or other similar matters against the petitioner. This clause may be satisfied by a certificate given by a corporation authorized by law to make the search under this clause.

(5) The court may enter a decree changing the name as petitioned if the court is satisfied after the hearing that there is no lawful objection to the granting of the petition.

(b) Informal change of name.--Notwithstanding subsection (a), a person may at any time adopt and use any name if such name is used consistently, nonfraudulently and exclusively. The adoption of such name shall not, however, be in contravention of the prohibitions contained in section 702(c) (relating to change by order of court).

(June 18, 1998, P.L.638, No.83, eff. 60 days; Nov. 30, 2004, P.L.1684, No.214, eff. 60 days)

2004 Amendment. Act 214 amended subsec. (a) and added subsec. (a.1).

§ 702. Change by order of court.

(a) General rule.--The court of common pleas of any county may by order change the name of any person resident in the county.

(b) Procedure.--Prior to entry of an order of approval of change of name, all of the following shall apply:

(1) The court must forward to the Pennsylvania State Police a duplicate copy of the application for change of name and a set of the person's fingerprints. The person applying for the change of name is responsible for costs under this paragraph.

(2) The Pennsylvania State Police shall use the fingerprints to determine if the person is subject to 18 Pa.C.S. Ch. 91 (relating to criminal history record information).

(3) The Pennsylvania State Police shall:

(i) if the person is subject to 18 Pa.C.S. Ch. 91, note the name change on the person's criminal history record information; or

(ii) if the person is not subject to 18 Pa.C.S. Ch. 91, destroy the fingerprints.

(4) Within 60 days of receipt of the material under paragraph (1), the Pennsylvania State Police shall certify to the court what action has been taken under paragraph (3).

(5) The procedure in this subsection shall not apply to proceedings involving:

(i) An election to resume a prior surname pursuant to section 704 (relating to divorced person may resume prior name).

(ii) Name changes involving minor children in adoption proceedings.

(iii) A name change involving a minor child whose name is being changed pursuant to section 703 (relating to effect on children) or because of the change of name of the child's parent.

(c) Convicted felons.--

(1) The court may order a change of name for a person convicted of a felony, subject to provisions of paragraph (2), if:

(i) at least two calendar years have elapsed from the date of completion of a person's sentence and that person is not subject to the probation or parole jurisdiction of any court, county probation agency or the Pennsylvania Board of Probation and Parole; or

(ii) the person has been pardoned.

(2) The court may not order a change of name for a person convicted of murder, voluntary manslaughter, rape, involuntary deviate sexual intercourse, statutory sexual assault, sexual assault, aggravated indecent assault, robbery as defined in 18 Pa.C.S. § 3701(a)(1)(i) (relating to robbery), aggravated assault as defined in 18 Pa.C.S. § 2702(a)(1) or (2) (relating to aggravated assault), arson as defined in 18 Pa.C.S. § 3301(a) (relating to arson and related offenses), kidnapping or robbery of a motor vehicle or criminal attempt, criminal conspiracy or criminal solicitation to commit any of the offenses listed above or an equivalent crime under the laws of this Commonwealth in effect at the time of the commission of that offense or an equivalent crime in another jurisdiction.

(3) The court shall notify the Office of Attorney General, the Pennsylvania State Police and the office of the district attorney of the county in which the person resides when a change of name for a person convicted of a felony has been ordered. The Pennsylvania State Police, upon receipt of this notice, shall include the change of name information

in the central repository as provided for in 18 Pa.C.S. Ch. 91.
(June 18, 1998, P.L.638, No.83, eff. 60 days; June 22, 2000, P.L.356, No.43, eff. 60 days; Nov. 30, 2004, P.L.1684, No.214, eff. 60 days)

2004 Amendment. Act 214 amended subsec. (b).

1998 Partial Repeal. Section 13 of Act 127 provided that subsection (b) is repealed insofar as it is inconsistent with Act 127.

Cross References. Section 702 is referred to in sections 701, 703 of this title; section 5105 of Title 23 (Domestic Relations).

§ 703. Effect on children.

(a) **General rule.**--Whenever an order is made under this chapter changing the surname of anyone who is at the time thereof the parent of a minor child or adopted minor child, then under the care of such parent, the new surname of such parent shall, unless otherwise ordered by the court, thereafter be borne likewise by such minor child.

(b) **Further change on attaining majority.**--Any minor child whose surname has been changed pursuant to subsection (a) upon attaining majority shall also be entitled to the benefits of section 702 (relating to change by order of court).

Cross References. Section 703 is referred to in section 702 of this title.

§ 704. Divorcing and divorced person may resume prior name.

(a) **General rule.**--Any person who is a party in a divorce action may, at any time prior to or subsequent to the entry of the divorce decree, resume any prior surname used by him or her by filing a written notice to such effect in the office of the prothonotary of the county in which the divorce action was filed or the decree of divorce was entered, showing the caption and docket number of the proceeding in divorce.

(b) **Foreign decrees.**--Where a divorced person has been the subject of a decree of divorce granted in a foreign jurisdiction, a certified copy of such foreign divorce decree may be filed with the prothonotary of the county where the person resides and, thereafter, the notice specified in subsection (a) may be filed with reference to such decree.
(Nov. 22, 2000, P.L.689, No.92, eff. 60 days; July 5, 2005, P.L.54, No.18, eff. 60 days)

Cross References. Section 704 is referred to in section 702 of this title.

§ 704.1. Surviving spouse may resume prior name.

A surviving spouse may, at any time, resume any prior surname used by him or her by filing a written notice to such effect in the office of the prothonotary of the county where the surviving spouse resides, accompanied by a certificate of death for the decedent. In counties where there is no prothonotary, the notice shall be filed in the office that performs the functions of the office of prothonotary as provided for in the act of August 9, 1955 (P.L.323, No.130), known as The County Code.

(Nov. 19, 2004, P.L.842, No.105, eff. 60 days; July 5, 2005, P.L.54, No.18, eff. 60 days)

§ 705. Penalty for violation of chapter.

Any person violating the provisions of this chapter for purpose of avoiding payment of taxes or other debts commits a summary offense.

CHAPTER 11
TRADEMARKS

Sec.

- 1101. Short title of chapter.
- 1102. Definitions.
- 1103. Classification.
- 1111. Registrability.
- 1112. Application for registration.
- 1113. Registration of mark.
- 1114. Duration and renewal.
- 1115. Assignment.
- 1116. Cancellation.
- 1121. Damages for fraudulent registration.
- 1122. Disclaimer of unregistrable matter.
- 1123. Infringement.
- 1124. Injury to business or reputation; dilution.
- 1125. Remedies.
- 1126. Common law rights.

Enactment. Chapter 11 was added December 16, 1982, P.L.1309, No.295, effective in 90 days.

Special Provisions in Appendix. See section 7 of Act 295 of 1982 in the appendix to this title for special provisions relating to registration of trademark or service mark.

§ 1101. Short title of chapter.

This chapter shall be known and may be cited as the "Pennsylvania Trademark Act."

§ 1102. Definitions.

The following words and phrases when used in this chapter shall have, unless the context clearly indicates otherwise, the meanings given to them in this section:

"Abandoned." A mark shall be deemed to be "abandoned" when either of the following occurs:

(1) When its use has been discontinued with intent not to resume such use. Intent not to resume may be inferred from circumstances. Nonuse for two consecutive years shall constitute prima facie evidence of abandonment.

(2) When any course of conduct of the owner, including acts of omission as well as commission, causes the mark to lose its significance as a mark.

"Adopted and used." (Deleted by amendment).

"Applicant." Any person filing an application for registration of a mark under this chapter, or the legal representatives, successors or assigns of such person.

"Dilution." The lessening of the capacity of a famous mark to identify and distinguish goods or services, regardless of the presence or absence of a competition between the owner of the famous mark and other parties or likelihood of confusion, mistake or deception.

"Mark." Includes any trademark or service mark entitled to registration under this chapter whether registered or not.

"Person." This word or any other word or term used to designate the applicant or other party entitled to a benefit or privilege or rendered liable under the provisions of this chapter to include a juristic person as well as a natural person. The term "juristic person" includes a firm, partnership, corporation, union, association or other organization capable of suing and being sued in a court of law.

"Registrant." Any person who registers a mark under this chapter, or the legal representatives, successors or assigns of such person.

"Service mark." Any word, name, symbol or devise or any combination thereof used by a person to identify and distinguish the services of one person, including a unique service, from the services of others and to indicate the source of the services even if that source is unknown. Titles, character names used by a person and other distinctive features of radio or television programs may be registered as service marks notwithstanding that they or the programs may advertise the goods of the sponsor.

"Trademark." Any word, name, symbol or device, or any combination thereof, used by a person to identify and distinguish the goods of such person, including a unique product, from those manufactured or sold by others and to indicate the source of the goods even if that source is unknown.

"Trade name." A word, name, symbol, device or any combination thereof used by a person to identify the business, vocation or occupation of the person and distinguish it from the business, vocation or occupation of others.

"Use." The bona fide use of a mark in the ordinary course of trade and not merely to reserve a right in a mark. For the purposes of this chapter, a mark shall be deemed to be in use:

(1) On goods when it is placed in any manner on the goods or other containers or the displays associated therewith or on the tags or labels affixed thereto or, if the nature of the goods makes such placement impracticable, then on documents associated with the goods or other sale and the goods are sold or transported in commerce in this Commonwealth.

(2) On services when it is used or displayed in the sale or advertising of services and the services are rendered in this Commonwealth.

(June 18, 1998, P.L.518, No.73, eff. 60 days)

§ 1103. Classification.

The general classes of goods and services established by the United States Patent and Trademark Office in accordance with the International Classification System are to be utilized for the purpose of administering this chapter. An application for registration of a mark shall be limited to a single general class of goods or services. Nothing in this chapter shall be construed as limiting the registration of a mark to one general class.

(June 18, 1998, P.L.518, No.73, eff. 60 days)

Special Provisions in Appendix. See section 7 of Act 295 of 1982 in the appendix to this title for special provisions relating to registration of trademark or service mark.

§ 1111. Registrability.

A mark by which the goods or services of any applicant for registration may be distinguished from the goods or services of others shall not be registered which:

(1) Consists of or comprises immoral, deceptive or scandalous matter.

(2) Consists of or comprises matter which may disparage or falsely suggest a connection with persons, living or dead, institutions, beliefs or national symbols, or bring them into contempt or disrepute.

(3) Consists of or comprises the flag or coat of arms or other insignia of the United States, the Commonwealth of

Pennsylvania, or of any other state or municipality, or of any foreign nation, or any simulation thereof.

(4) Consists of or comprises the name, signature or portrait identifying a particular living individual, except by the individual's written consent.

(5) Consists of a mark which:

(i) when used on or in connection with the goods or services of the applicant is merely descriptive or deceptively misdescriptive of them;

(ii) when used on or in connection with the goods or services of the applicant is primarily geographically descriptive or deceptively misdescriptive of them; or

(iii) is primarily merely a surname.

Nothing in this paragraph shall prevent the registration of a mark used in this Commonwealth by the applicant which has become distinctive of the goods or services of the applicant. The department may accept as evidence that the mark has become distinctive as used on or in connection with the goods or services of the applicant, proof of continuous use thereof as a mark by the applicant in this Commonwealth for the five years before the date on which the claim of distinctiveness is made.

(6) Consists of or comprises a mark which so resembles a mark registered in this Commonwealth or a mark or trade name previously used in this Commonwealth by another and not abandoned, as to be likely, when used or in connection with the goods or services of the applicant, to cause confusion or mistake or to deceive, unless it shall be proved to the satisfaction of the department that the person last applying for the registry of such mark is entitled thereto and is the owner thereof by right of prior adoption and use, in which case the date of the adoption shall determine the ownership, and shall be proved by verified statements of persons conversant with such dates. In case the department becomes satisfied after a hearing held as provided by section 1116(5) (relating to cancellation) that the person last applying for registry is entitled by priority of adoption and use in this Commonwealth to register such mark, it shall revoke the first registry thereof and, upon application and the payment of the fee, register the same in the name of such applicant.

(June 18, 1998, P.L.518, No.73, eff. 60 days)

§ 1112. Application for registration.

(a) **General rule.**--Subject to the limitations set forth in this chapter, any person who has adopted and used a mark in this Commonwealth may file in the department an application for registration of that mark, setting forth the following information:

(1) The name of the person applying for such registration, the residence, location or place of business of the applicant, and, if a corporation, the jurisdiction of incorporation, or, if a partnership, the state in which the partnership is organized and the names of the general partners.

(2) The goods or services on or in connection with which the mark is used, the mode or manner in which the mark is used on or in connection with such goods or services and the class in which such goods or services fall.

(3) The date when the mark was first used anywhere and the date when it was first used in this Commonwealth by the applicant or the predecessor in interest.

(4) A statement that the applicant is the owner of the mark, that the mark is in use and that to the knowledge of

the person verifying the application no other person has registered, either federally or in this Commonwealth, or has the right to use such mark, either in the identical form thereof or in such near resemblance thereto, as to be likely, when applied to the goods or services of such other person, to cause confusion or to cause mistake or to deceive.

(4.1) Whether an application to register the mark or portions or a composite thereof has been filed by the applicant or a predecessor in interest in the United States Patent and Trademark Office, and, if so, the applicant shall provide full particulars with respect thereto, including the filing date and serial number of each application, the status thereof and, if any application was finally refused registration or has otherwise not resulted in a registration, the reasons therefor.

(5) Such other information necessary to the administration of this chapter as the department may specify by regulation.

(b) Facsimile.--The application shall be accompanied by a facsimile of such mark.

(b.1) Application fee.--The application shall be accompanied by the fee specified in 15 Pa.C.S. § 153(a) (relating to fee schedule).

(c) Cross reference.--See 15 Pa.C.S. § 134 (relating to docketing statement).

(Dec. 21, 1988, P.L.1444, No.177, eff. Oct. 1, 1989; June 18, 1998, P.L.518, No.73, eff. 60 days)

References in Text. Section 153(a) of Title 15, referred to in subsec. (b.1), was repealed by the act of December 23, 2003, P.L.282, No.47, and a new subsec. (a) was added by the act of July 13, 2013, P.L.476, No.67, effective in 60 days, with the exception of subsec. (a)(16), which shall take effect upon publication of the notice under section 55 of Act 67.

§ 1113. Registration of mark.

Upon compliance by the applicant with the requirements of this chapter, the department shall register the mark.

§ 1114. Duration and renewal.

(a) General rule.--Registration of a mark under this chapter shall be effective for a term of five years from the date of registration and, upon application for renewal filed within six months prior to the expiration of such term, the registration may be renewed for a like term from the end of the expiring term. A mark registration may be renewed for successive periods of five years in like manner. All applications for renewals shall include a statement that the mark is still in use in this Commonwealth and include a specimen showing actual use of the mark on or in conjunction with the goods or services. Any registration in force on the date on which the amendment to this section shall become effective shall continue in full force and effect for the unexpired term thereof and may be renewed by filing an application of renewal in accordance with this subsection.

(b) Cross reference.--See 15 Pa.C.S. § 134 (relating to docketing statement).

(Dec. 21, 1988, P.L.1444, No.177, eff. Oct. 1, 1989; June 18, 1998, P.L.518, No.73, eff. 60 days)

Special Provisions in Appendix. See section 7 of Act 295 of 1982 in the appendix to this title for special provisions relating to registration of trademark or service mark.

§ 1115. Assignment.

(a) General rule.--Any mark and its registration under this chapter shall be assignable with the goodwill of the business in which the mark is used or with that part of the goodwill of the business connected with the use of and symbolized by the mark. Assignment shall be by instrument in writing, duly executed, and may be recorded with the department. A registrant may record an assignment to itself to reflect of record a change in the name of the registrant.

(b) Unrecorded assignments.--An assignment of any registration under this chapter shall be void as against any subsequent purchaser for valuable consideration and without notice, unless it is recorded with the department not later than the earlier of:

- (1) three months after the date of the assignment; or
- (2) such subsequent purchase.

(c) Cross reference.--See 15 Pa.C.S. § 134 (relating to docketing statement).

(Dec. 21, 1988, P.L.1444, No.177, eff. Oct. 1, 1989)

1988 Amendment. Act 177 added subsec. (c).

§ 1116. Cancellation.

(a) General rule.--The department shall cancel from the register under this chapter:

(1) All registrations under this chapter which are not renewed in accordance with this chapter.

(2) Any registration concerning which the department shall receive an application for cancellation thereof from the registrant or the assignee of record.

(3) Any registration concerning which a court of competent jurisdiction shall find:

(i) That the registered mark has been abandoned.

(ii) That the registrant is not the owner of the mark.

(iii) That the registration was granted improperly.

(iv) That the registration was obtained fraudulently.

(iv.1) That the mark is or has become the generic name for the goods or services or a portion thereof for which it has been registered.

(v) That the registered mark is so similar, as to be likely to cause confusion or mistake or to deceive, to a mark registered by another person in the United States Patent and Trademark Office, prior to the date of the filing of the application for registration by the registrant under this chapter or former provisions of law and not abandoned, except that if the registrant proves that the registrant is the owner of a concurrent registration of the mark in the United States Patent and Trademark Office, covering an area including this Commonwealth, the registration under this chapter shall not be cancelled.

(4) When a court of competent jurisdiction shall order cancellation of a registration on any ground.

(5) Any registration in the following circumstances:

(i) Where an applicant, by verified statement or other good and sufficient evidence, shall prove to the satisfaction of the department that the applicant is entitled by virtue of prior use to any mark theretofore registered in the department.

(ii) In the case of a corporation having filed articles of dissolution or a decree of dissolution, any person may, at any time at least three years thereafter,

present a petition to the department setting forth such fact.

(iii) In the case of a person not having filed articles of dissolution or a decree of dissolution, but having discontinued or gone out of the business to which such registration is pertinent.

(iv) When a registered mark has been abandoned or discontinued for a period of at least five years subsequent to registration and such abandonment and nonuse still persists.

In all circumstances enumerated in this paragraph, any person may present a petition for cancellation to the department. The petition shall set forth the pertinent facts relative thereto, and shall contain proof of service of notice of the petition on the person in whose name the registration is recorded, and asking that such registration be cancelled. The department shall fix a time to hear the parties concerned in the matter, and shall send, by certified mail, a notice of hearing to the person in whose name such registration is recorded. If, after hearing, the department is satisfied of the truth of the facts alleged in the petition in accordance with the provisions of this paragraph, it shall cancel the registration.

(b) Cross reference.--See 15 Pa.C.S. § 134 (relating to docketing statement).
(Dec. 21, 1988, P.L.1444, No.177, eff. Oct. 1, 1989; June 18, 1998, P.L.518, No.73, eff. 60 days)

Special Provisions in Appendix. See section 7 of Act 295 of 1982 in the appendix to this title for special provisions relating to registration of trademark or service mark.

Cross References. Section 1116 is referred to in section 1111 of this title.

§ 1121. Damages for fraudulent registration.

Any person who shall, for himself or herself or on behalf of any other person, procure the filing or registration of any mark in the department under this chapter by knowingly making any false or fraudulent representation or declaration, orally or in writing, or by any other fraudulent means, shall be liable to pay all damages sustained in consequence of such filing or registration, to be recovered by or on behalf of the party injured thereby in any court of competent jurisdiction.
(June 18, 1998, P.L.518, No.73, eff. 60 days)

§ 1122. Disclaimer of unregistrable matter.

The department shall require unregistrable matter to be disclaimed, but such disclaimer shall not prejudice or affect the common law rights of the applicant then existing or thereafter arising in such disclaimed matter.

§ 1123. Infringement.

(a) General rule.--Subject to the provisions of section 1126 (relating to common law rights), any person who shall:

(1) use, without the consent of the registrant, any reproduction, counterfeit, copy or colorable imitation of a mark registered under this chapter in connection with the sale, offering for sale or advertising of any goods or services in a manner likely to cause confusion or mistake or to deceive as to the source of origin of such goods or services; or

(2) reproduce, counterfeit, copy or colorably imitate any such mark and apply such reproduction, counterfeit, copy or colorable imitation to labels, signs, prints, packages, wrappers, receptacles or advertisements intended to be used

in connection with the sale or other distribution in this Commonwealth of such goods or services; shall be liable to a civil action by the registrant for any or all of the remedies provided in section 1125 (relating to remedies), except that under paragraph (2) the registrant shall not be entitled to recover profits or damages unless the acts have been committed with the intent to cause confusion or mistake or to deceive.

(b) Exception.--The provisions of subsection (a) shall not apply to any advertising agency, publisher of newspapers, magazines or other advertising media accepting authorization for the reproduction or copy of any such mark innocently and in good faith in the usual course of business.
(June 18, 1998, P.L.518, No.73, eff. 60 days)

Cross References. Section 1123 is referred to in section 1125 of this title.

§ 1124. Injury to business or reputation; dilution.

The owner of a mark which is famous in this Commonwealth shall be entitled, subject to the principles of equity and upon such terms as the court deems reasonable, to an injunction against another person's commercial use of a mark or trade name if such use begins after the mark has become famous and causes dilution of the distinctive quality of the mark and to obtain such other relief as is provided in this section. In determining whether a mark is distinctive and famous, a court may consider factors such as, but not limited to:

(1) The degree of inherent or acquired distinctiveness of the mark in this Commonwealth.

(2) The duration and extent of use of the mark in connection with the goods and services with which the mark is used.

(3) The duration and extent of advertising and publicity of the mark in this Commonwealth.

(4) The geographical extent of the trading area in which the mark is used.

(5) The channels of trade for the goods or services with which the mark is used.

(6) The degree of recognition of the mark in the trading areas and channels of trade in this Commonwealth used by the mark's owner and the person against whom the injunction is sought.

(7) The nature and extent of use of the same or similar marks by third parties.

(8) Whether the mark is the subject of a registration in this Commonwealth or a Federal registration under the act of March 3, 1881 (21 Stat. 502) or the act of February 20, 1905 (33 Stat. 724), repealed by the Trademark Act of 1946 (60 Stat. 427, 15 U.S.C. § 1051 et seq.), or on the principal register.

In an action brought under this section, the owner of a famous mark shall be entitled only to injunctive relief in this Commonwealth unless the person against whom the injunctive relief is sought willfully intended to trade on the owner's reputation or to cause dilution of the famous mark. If such willful intent is proven, the owner shall also be entitled to the remedies set forth in this chapter, subject to the discretion of the court and the principles of equity. The following shall not be actionable under this section:

(1) Fair use of a famous mark by another person in comparative commercial advertising or promotion to identify

the competing goods or services of the owner of the famous mark.

(2) Noncommercial use of a mark.

(3) All forms of news reporting and news commentary.

(June 18, 1998, P.L.518, No.73, eff. 60 days)

§ 1125. Remedies.

(a) General rule.--Any owner of a mark registered under this chapter may proceed by suit to enjoin the manufacture, use, display or sale of any counterfeits or imitations thereof, and any court of competent jurisdiction may grant injunctions to restrain such manufacture, use, display or sale as may be by the court deemed just and reasonable, and may, except as provided in section 1123 (relating to infringement), require the defendants to pay to such owner all profits derived from and all damages suffered by reason of such wrongful manufacture, use, display or sale, and such court may also order that any such counterfeits or imitations in the possession or under the control of any defendant in such case be delivered to an officer of the court or to the complainant to be destroyed. The court, in its discretion, may enter judgment for an amount not to exceed three times such profits and damages and/or reasonable attorney fees of the prevailing party in such cases where the court finds the other party committed such wrongful acts with knowledge or in bad faith or otherwise as according to the circumstances of the case.

(b) Exception.--No owner of such a mark shall have such right of injunction against an advertising agency, publisher of newspapers, magazines or other advertising media accepting authorization for the reproduction or copy of any such mark innocently and in good faith in the usual course of business.

(c) Criminal prosecutions unaffected.--The enumeration of any right or remedy in this chapter shall not affect the right of a registrant to prosecute under Title 18 (relating to crimes and offenses).

(June 18, 1998, P.L.518, No.73, eff. 60 days)

Cross References. Section 1125 is referred to in section 1123 of this title.

§ 1126. Common law rights.

Nothing in this chapter shall adversely affect the rights or the enforcement of rights in marks acquired in good faith at any time at common law.

Cross References. Section 1126 is referred to in section 1123 of this title.

CHAPTER 13
INSIGNIA

Sec.

1301. Definitions.

1302. Effect of registration under prior statutes.

1311. Registration of insignia.

1312. Amendment.

1313. Cancellation.

1314. Decennial filings required.

1321. Specifying conditions under which union label may be used.

1322. Rescission of right to use union label of allied crafts.

1331. Injunctive relief.

Enactment. Chapter 13 was added December 16, 1982, P.L.1309, No.295, effective in 90 days.

Cross References. Chapter 13 is referred to in sections 6709, 6710 of Title 18 (Crimes and Offenses).

§ 1301. Definitions.

The following words and phrases when used in this chapter shall have, unless the context clearly indicates otherwise, the meanings given to them in this section:

"Insignia." The name, badge, motto, button, decoration, charm, emblem, rosette, label or other insignia of an organization.

"Label." A label, symbol, mark or private stamp, including a label adopted by labor unions for the purpose of designating the product of their particular labor or workmanship.

"Organization." The Pennsylvania State Police or any association, lodge, order, fraternal society, beneficial association, or fraternal and beneficial society or association, historical, military or veterans' organization, labor union, foundation, federation, or any other society, organization or association, or any degree, branch, subordinate lodge or auxiliary thereof, whether incorporated or unincorporated, the principles and activities of which are not repugnant to the Constitution and laws of the United States or of this Commonwealth.

(Mar. 2, 1988, P.L.239, No.25, eff. 60 days)

1988 Amendment. Act 25 amended the def. of "organization."

§ 1302. Effect of registration under prior statutes.

Insignia registered under the former provisions of the following statutes shall be deemed to be registered under this chapter:

Act of May 21, 1895 (P.L.95, No.68), relating to union labels.

Act of May 5, 1927 (P.L.778, No.406), relating to insignia of certain organizations.

§ 1311. Registration of insignia.

(a) General rule.--The insignia of an organization may be registered under this chapter by the organization by filing in the department an application for registration of insignia, which shall set forth:

(1) The name of the organization and its address, including street and number, if any.

(2) Such other information necessary to the administration of this chapter as the department may specify by regulation.

(b) Facsimile.--The application shall be accompanied by a facsimile of the insignia.

(c) Restrictions.--The department shall not file any application for registration under this chapter of any insignia which is similar to, imitating or so nearly resembling as to be calculated to deceive, the insignia theretofore registered under this chapter of any other organization.

(d) Cross reference.--See 15 Pa.C.S. § 134 (relating to docketing statement).

(Dec. 21, 1988, P.L.1444, No.177, eff. Oct. 1, 1989)

1988 Amendment. Act 177 added subsec. (d).

§ 1312. Amendment.

(a) General rule.--The registration under this chapter of the insignia of an organization may be amended by the

organization by filing in the department an application for amendment of insignia registration, which shall set forth:

(1) The name of the organization and its address, including street and number, if any.

(2) An identification of the last preceding filing in the department with respect to the insignia.

(3) The amendment, which shall revise any information set forth in preceding filings which has become inaccurate and shall restate in full all such information as so revised.

(4) Such other information necessary to the administration of this chapter as the department may specify by regulation.

(b) Restrictions.--The department shall not file any application for amendment of insignia registration in circumstances where an original registration of such insignia could not be filed under this chapter.

(c) Cross reference.--See 15 Pa.C.S. § 134 (relating to docketing statement).
(Dec. 21, 1988, P.L.1444, No.177, eff. Oct. 1, 1989)

1988 Amendment. Act 177 added subsec. (c).

§ 1313. Cancellation.

(a) General rule.--The registration under this chapter of the insignia of an organization may be cancelled by the organization by filing in the department a statement of cancellation of insignia registration, which shall set forth:

(1) The name of the organization and its address, including street and number, if any.

(2) An identification of the last preceding filing in the department with respect to the insignia.

(3) A statement that the registration of the insignia is cancelled.

(4) Such other information necessary to the administration of this chapter as the department may specify by regulation.

(b) Cross reference.--See 15 Pa.C.S. § 134 (relating to docketing statement).
(Dec. 21, 1988, P.L.1444, No.177, eff. Oct. 1, 1989)

1988 Amendment. Act 177 added subsecs. (a) hdg. and (b).

§ 1314. Decennial filings required.

(a) General rule.--Every registrant of any insignia registered under this chapter shall, during the year 2001 and every tenth year thereafter, file in the department a report, which shall set forth:

(1) The name of the organization and its address, including street and number, if any.

(2) An identification of the last preceding filing in the department with respect to the insignia.

(3) A statement that the insignia shall continue to be registered in the department.

(4) Such other information necessary to the administration of this chapter as the department may specify by regulation.

(b) Requirement satisfied by other filings.--Subsection (a) shall not apply to a registrant which during the ten years ending on December 31 of the year in which a filing would otherwise be required under subsection (a) has made any filing with the department under this chapter other than a report required by subsection (a).

(c) Effect of failure to make filings.--On January 1 of the year following the year during which a report is required to

be filed under subsection (a), every insignia theretofore registered under this chapter with respect to which no such report has been filed during the immediately preceding year shall cease to be registered under this chapter. Such registration may thereafter be restored only by the filing under this chapter of an original application for registration of the insignia.

(d) Cross reference.--See 15 Pa.C.S. § 134 (relating to docketing statement).
(Dec. 21, 1988, P.L.1444, No.177, eff. Oct. 1, 1989; Dec. 18, 1992, P.L.1333, No.169, eff. 60 days; June 22, 2000, P.L.356, No.43, eff. imd.; June 22, 2001, P.L.418, No.34, eff. 60 days)

2001 Amendment. Act 34 amended subsec. (b).

§ 1321. Specifying conditions under which union label may be used.

Every labor union which has registered a union label under this chapter shall have, possess and enjoy full, complete and unquestioned power and authority to name, make, dictate and specify the conditions and limitations under which such label may be used by any person employing the members of the union, or manufacturing any article upon which any such label may be affixed, or using in any manner in the business of such person the labor symbolized by such label.

§ 1322. Rescission of right to use union label of allied crafts.

Where two or more labor unions have adopted an allied crafts union label, and granted the use of it to any person, and conflict has arisen between such grantee and any one or more of the organizations having an interest in the allied crafts union label, any one or more of the labor unions interested in the union label may rescind the right of the grantee to use the union label, and the continued use of it, after notice in writing that the right thereof has been rescinded by any of the labor unions interested, shall render the grantee liable to the penalties of this chapter.

§ 1331. Injunctive relief.

Any organization having registered its insignia under this chapter shall have the right to proceed before any court of competent jurisdiction for an injunction to restrain the unauthorized manufacture, use or sale of such insignia, including the right to require the surrender of possession and redelivery of any such insignia.

CHAPTER 15

REUSABLE MARKED ARTICLES AND RECEPTACLES

Sec.

- 1501. Definitions.
- 1502. Effect of registration under prior statutes.
- 1511. Registration of articles or supplies.
- 1512. Amendment.
- 1513. Assignment.
- 1514. Cancellation of registration.
- 1515. Decennial filings required.
- 1521. Paying or accepting of deposit not deemed a sale.
- 1522. Using or removal of identity of receptacle.
- 1523. Laundering articles labeled with mark of owner.
- 1524. Unauthorized use as presumptive evidence.
- 1525. Return of supplies.
- 1531. Penalty.

Enactment. Chapter 15 was added December 16, 1982, P.L.1309, No.295, effective in 90 days.

Cross References. Chapter 15 is referred to in section 6712 of Title 18 (Crimes and Offenses).

§ 1501. Definitions.

The following words and phrases when used in this chapter shall have, unless the context clearly indicates otherwise, the meanings given to them in this section:

"Articles or supplies." Any item which is designed and intended for reuse in the normal course of trade by the person filing under this chapter and includes towels, coats, aprons, uniforms, toilet devices and accessories therefor supplied for hire or compensation, and vessels, receptacles and utensils used as packages or containers in the sale and distribution of any natural or processed product, compound, mixture or substance, or any combination thereof, and parts and accessories for such vessels, receptacles and utensils.

"Mark." Any word, name, symbol, picture, design or device, or any combination thereof, produced upon and used by a person to indicate ownership of articles and supplies.

"Produced upon." Branded, stamped, stenciled, engraved, etched, blown, embossed, impressed, embroidered, sewn or otherwise permanently placed upon any articles or supplies.

"Used in this Commonwealth." A mark is "used in this Commonwealth" when such name, mark or device is placed upon articles or supplies which are loaned, rented, sold or otherwise circulated within this Commonwealth.

§ 1502. Effect of registration under prior statutes.

Marks registered under the former provisions of the following statutes shall be deemed to be registered under this chapter:

Act of April 20, 1853 (P.L.643, No.360), relating to marks on beverage bottles.

Act of May 8, 1889 (P.L.132, No.146), relating to marks on beverage bottles.

Act of June 15, 1911 (P.L.975, No.787), relating to marks on containers.

Act of January 26, 1966 (1965 P.L.1598, No.564), relating to marks on articles or supplies.

§ 1511. Registration of articles or supplies.

(a) General rule.--A person who uses in this Commonwealth a mark to indicate the ownership of articles or supplies may register such mark under this chapter by filing in the department an application for registration of mark used with articles or supplies, which shall set forth:

(1) The name and address, including street and number, if any, of the applicant and, if a corporation, its jurisdiction of incorporation.

(2) The nature of the business of the applicant.

(3) The type of articles or supplies in connection with which the mark is used.

(4) Such other information necessary to the administration of this chapter as the department may specify by regulation.

(b) Facsimile.--The application shall be accompanied by a facsimile of the mark.

(c) Registration evidence of ownership.--The registration of a mark under this chapter shall be prima facie evidence that the person in whose name the mark is registered is the owner of all articles and supplies upon which such mark is produced.

(d) Cross reference.--See 15 Pa.C.S. § 134 (relating to docketing statement).

(Dec. 21, 1988, P.L.1444, No.177, eff. Oct. 1, 1989)

1988 Amendment. Act 177 added subsec. (d).

§ 1512. Amendment.

(a) **General rule.**--The registration under this chapter of a mark may be amended by the registrant by filing in the department of an application for amendment of mark used with articles or supplies, which shall set forth:

(1) The name and address, including street and number, if any, of the registrant.

(2) An identification of the last preceding filing in the department with respect to the mark.

(3) The amendment, which shall revise any information set forth in the preceding filing which has become inaccurate and shall restate in full all such information as so revised.

(4) Such other information necessary to the administration of this chapter as the department may specify by regulation.

(b) **Cross reference.**--See 15 Pa.C.S. § 134 (relating to docketing statement).

(Dec. 21, 1988, P.L.1444, No.177, eff. Oct. 1, 1989)

1988 Amendment. Act 177 added subsecs. (a) hdg. and (b).

§ 1513. Assignment.

(a) **General rule.**--Any mark and its registration under this chapter shall be assignable with the sale of the articles or supplies on which the mark is produced and used. Assignments shall be by instruments in writing, duly executed, and may be recorded with the department.

(b) **Cross reference.**--See 15 Pa.C.S. § 134 (relating to docketing statement).

(Dec. 21, 1988, P.L.1444, No.177, eff. Oct. 1, 1989)

1988 Amendment. Act 177 added subsecs. (a) hdg. and (b).

§ 1514. Cancellation of registration.

(a) **General rule.**--The department shall cancel from the register under this chapter:

(1) Any registration concerning which the department shall receive an application for cancellation thereof from the registrant or from the assignee of record.

(2) Any registration in respect of which a court of competent jurisdiction shall order cancellation.

(b) **Cross reference.**--See 15 Pa.C.S. § 134 (relating to docketing statement).

(Dec. 21, 1988, P.L.1444, No.177, eff. Oct. 1, 1989)

1988 Amendment. Act 177 added subsecs. (a) hdg. and (b).

§ 1515. Decennial filings required.

(a) **General rule.**--Every registrant of a mark registered under this chapter shall, during the year 2001 and every tenth year thereafter, file in the department a report, which shall set forth:

(1) The name and address, including street and number, if any, of the registrant.

(2) An identification of the last preceding filing in the department with respect to the mark.

(3) A statement that the mark continues to be used in connection with the articles or supplies specified in the registration.

(4) Such other information necessary to the administration of this chapter as the department may specify by regulation.

(b) Requirement satisfied by other filings.--Subsection (a) shall not apply to a registrant which during the ten years ending on December 31 of the year in which a filing would otherwise be required under subsection (a) has made any filing with the department under this chapter other than a report required by subsection (a).

(c) Effect of failure to make filings.--On January 1 of the year following the year during which a report is required to be filed under subsection (a), every mark theretofore registered under this chapter with respect to which no such report has been filed during the immediately preceding year shall cease to be registered under this chapter. Such registration may thereafter be restored only by the filing under this chapter of an original application for registration of the mark.

(d) Cross reference.--See 15 Pa.C.S. § 134 (relating to docketing statement).
(Dec. 21, 1988, P.L.1444, No.177, eff. Oct. 1, 1989; Dec. 18, 1992, P.L.1333, No.169, eff. 60 days; June 22, 2000, P.L.356, No.43, eff. imd.; June 22, 2001, P.L.418, No.34, eff. 60 days)

2001 Amendment. Act 34 amended subsec. (b).

§ 1521. Paying or accepting of deposit not deemed a sale.

The requiring, taking, paying or accepting of any deposit for any purpose upon any articles or supplies shall not be deemed to constitute a sale of such property, either optional or otherwise, for purposes of this chapter.

§ 1522. Using or removal of identity of receptacle.

No person shall use, give, buy, take, destroy, sell or otherwise dispose of, or traffic in, articles or supplies, fill or refill any vessel, receptacle or utensil upon which a mark registered under this chapter is produced, or refuse to return such articles or supplies on demand of the owner, or to deface, erase, obliterate, cover up or otherwise remove or conceal any such name, mark or device, unless consent of the owner is obtained or unless the articles or supplies shall have been purchased from the owner.

§ 1523. Laundering articles labeled with mark of owner.

No person shall, without the written consent of the owner thereof, launder, wash, clean, renovate or cause to be laundered, washed, cleaned or renovated, any towels, coats, aprons, uniforms, toilet devices or other supplies used for the purpose of cleanliness and sanitation, upon which a mark registered under this chapter is produced, and the possession of which is claimed by lease or rental from the owner thereof.

§ 1524. Unauthorized use as presumptive evidence.

The use or possession by any person, other than the registrant, of any articles or supplies without the written consent provided in this chapter, or the possession of articles or supplies so marked by any junk dealer or dealer of second-hand articles, shall create a presumption of unlawful use of or traffic in such articles or supplies, which presumption may be overcome by evidence to the contrary.

§ 1525. Return of supplies.

It shall be the duty of every person who finds, or receives in the regular course of business or in any other manner, any articles or supplies, to make a diligent effort to determine the owner thereof and advise the owner by letter of the location where such articles or supplies may be found and offer to return them to the owner.

§ 1531. Penalty.

A person who violates any of the provisions of this chapter commits a summary offense.

CHAPTER 17
NEWSPAPERS

Sec.

- 1701. Identification of owner and editor.
- 1702. Changes in information to be published.
- 1703. Penalty.

Enactment. Chapter 17 was added December 16, 1982, P.L.1309, No.295, effective in 90 days.

§ 1701. Identification of owner and editor.

Every newspaper published in this Commonwealth, whether published monthly, weekly, biweekly, semiweekly or daily, or whether such publication is at regular or irregular intervals, shall publish on the editorial page, in a conspicuous position, at the top of the reading matter the name of the owner or proprietor of such newspaper, together with the name of the managing editor thereof. If a newspaper is owned or published by a corporation, then the name of the corporation shall be published, together with the name of the president and managing editor thereof, and if a newspaper is owned or published by a partnership or limited partnership, then the names of the partners and the managing editor shall be published in like manner.

§ 1702. Changes in information to be published.

In the event any change is made in the proprietorship, ownership or managing editor of any newspaper, or in the office of president of any corporation owning and publishing a newspaper or in the names of the members of the copartnership owning or publishing a newspaper, the change shall be duly set forth in the next issue of the newspaper following such change.

§ 1703. Penalty.

A person who violates any of the provisions of this chapter commits a summary offense.

APPENDIX TO TITLE 54
NAMES

Supplementary Provisions of Amendatory Statutes

1982, DECEMBER 16, P.L.1309, NO.295

§ 5. Powers and duties of Department of State (Repealed).

1988 Repeal. Section 5 was repealed December 21, 1988, P.L.1444, No.177, effective October 1, 1989.

Explanatory Note. Act 295 repealed and added Chapters 1, 3, 5 and 7 and added Chapters 11, 13, 15 and 17 of Title 54.

§ 6. Change of name of individual (Repealed).

2004 Repeal. Section 6 was repealed November 30, 2004, P.L.1684, No.214, effective in 60 days.

Explanatory Note. Act 214 amended sections 701 and 702 of Title 54.

§ 7. Registration of trademark or service mark.

An application for renewal under 54 Pa.C.S. § 1114 (relating to duration and renewal) of a trademark or service mark which was not originally granted under this act shall set forth the appropriate classification under the provisions of 54 Pa.C.S. § 1103 (relating to classification), rather than the classification specified pursuant to the prior law. A trademark or service mark registered under any act repealed by this act shall be deemed registered under 54 Pa.C.S. Ch. 11 (relating to trademarks) until cancelled as provided in 54 Pa.C.S. § 1116 (relating to cancellation).