

48-309.2 - BANK FICTITIOUS NAMES (Reference A.C.A. § 23-48-309)

A state bank planning to file an application for use of a fictitious name must complete the following procedures prior to filing an application with the State Bank Department:

- A) Publish legal notice of intention to file an application for use of a fictitious name one (1) time in a newspaper of statewide circulation. Such notice shall include the current corporate name, the proposed fictitious name, and the location or locations where the proposed fictitious name will be used. A copy of the legal notice must accompany the application; and
- B) Request a current check of both state and federal trademark or servicemark filings on the proposed fictitious name. Evidence must accompany the application for use of a fictitious name verifying the applicant has made a trademark or servicemark search and no trademark or servicemark exists for the proposed fictitious name.

Once the application for use of a fictitious name is received by the State Bank Department, notice of the filing of the application will be sent to all state-chartered banks by electronic transmission. Any protestant will have seven (7) days from the date the Department notice was sent to file an official protest to the application. An official protest must be provided to the Department in written form delineating the reasons for the protest and must be accompanied by a filing fee of twenty-five dollars (\$25). The Bank Commissioner will make the final determination on the use of a fictitious name.

Notwithstanding the above requirements, an applicant bank that has previously filed and been approved for the use of a specific fictitious name is not required to perform the publication of notice or trademark search requirements for subsequent use of the same fictitious name. However, the bank must file an application for subsequent use of the same fictitious name at a new location.

FINAL RULE

48-317.1 - TRANSFERS AFFECTING CHANGE IN CONTROL (Reference A.C.A. § 23-48-317)

(a) The acquisition of a state bank by a bank holding company, or the acquisition of twenty-five percent (25%) or more of the common stock of a state bank or a bank holding company controlling a state bank subsidiary, will be considered a change in control. The ownership of more than five percent (5%) of the outstanding voting shares of a state bank is considered a controlling interest.

(b) Any person(s) or entity desiring to obtain "control" of a state chartered bank or bank holding company controlling a state bank subsidiary shall be required to file an application with the Commissioner on a form prescribed by the Commissioner containing the information set forth in A.C.A. §23-48-317(d) and such other information as the Commissioner may require.

(c) An application for a change in control which will authorize the applicant's ownership to initially exceed of twenty-five percent (25%) of the stock in a bank or bank holding company controlling a state bank subsidiary shall be accompanied by a filing fee of \$5,000.