



GEORGIA DEPARTMENT OF BANKING AND FINANCE  
NON-DEPOSITORY FINANCIAL INSTITUTIONS DIVISION

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**TRADE NAMES (DBA NAMES)**

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Georgia law does not require specific Statewide registration of Trade Names (aka DBA names). It does require that every person, firm or partnership doing any trade or business in Georgia, under any name which does not disclose the individual ownership of the trade or business, to file a registration statement in the office of the Clerk of Superior Court before commencing to do business. [Official Code of Georgia Annotated (O.C.G.A.) § 10-1-490]. Applicants and licensees can search for the appropriate clerk's office by using the Georgia Superior Court Clerks' Cooperative Authority's website at <https://www.gscca.org/clerks>.

A trade name registration does not necessarily secure or protect the use of the name exclusively to the use or benefit of the person filing the registration. In the event the person feels that their right to a DBA/trade name has been violated they will need to seek legal remedies through the courts. **The Department has no jurisdiction in the matter apart from any records properly subpoenaed in a civil action taken by a licensee regarding the businesses' use of a trade name.**

The law concerning protection of trade names is complex. Any licensee wishing to protect their DBA name should take the proper legal steps to trademark their name and logo and take any other steps to ensure that they have a right to a name. The office of the Secretary of State will record a "trademark" for a corporation. The application for this trademark will be separate from the business formation and registration process with the Secretary of State's Corporate Division.

The following information is provided as a guide for issues concerning DBA names for those company applicants and licensees using DBA names to conduct their business in Georgia.

**TRADE NAME REGISTRATION**

Bear in mind that the Official Code of Georgia Annotated (O.C.G.A.) § 7-1-1006(d) states that no licensee shall transact business under any name other than that designated in the license (for MSBs the Code Sections are 7-1-686 and 7-1-704.1). Failure to inform the Department of a new DBA name can result in a fine and/or an administrative action.

Corporations, limited liability companies, limited partnerships and foreign entities must be registered with the Secretary of State's office either as a domestic business or foreign business if not domiciled in Georgia. The Georgia Secretary of State does not register DBAs (trade names). These filings are made with the Clerk of Superior Court's office in the county or counties in Georgia where the property or business is located.

If the company desires to use a DBA name other than the legal name in which the license is issued, it should be aware that the terms "Corporation," "Corp." or "Inc." should only be used for an entity which is actually incorporated. If this DBA is a separately incorporated company, i.e. a legal entity "person", then the name of the separate legal entity cannot be used as a DBA name. Each would require its own license to do business.



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Any partnership form not covered by the formations covered by registration with the Secretary of State's office and sole proprietorships operating under a business name(s), should file the trade name (DBA) with the Clerk of Superior Court of the county in Georgia where the business is principally located. If the locality where an individual or business is located has registration requirements other than what is covered here, then that local law must also be adhered to by the licensee.

Individuals may not have to register with any governmental agency if they are doing business in their name and do not use a DBA name. If they use a DBA name, then they must register this with the Superior Court in all Georgia counties in which they desire to do business. They may not use "corporation, incorporated, LLC, etc." or any variation/abbreviation which would lead the consumer to believe they were a corporation.

### **OTHER ISSUES**

**Website Domain Names:** O.C.G.A. § 7-1-1003(b)(2) requires that mortgage applicants provide "All names, including, but not limited to, website domain names (URLs), under which the applicant will conduct business in Georgia."

Applicants or licensees should include any corporate websites, including any websites through which they solicit customers, in NMLS. A company may desire to use a website URL that is significantly different (i.e., does not match the legal name, an existing trade name, or abbreviated name of the company) from its legal name and/or the website does not return to the primary website domain of the licensee. In this case, the website address must be identified in NMLS on the MU1 under web addresses.

Some employees will advertise on various websites (e.g. bankrate.com) to obtain business for themselves at their licensed employer. These websites may allow the user to set up a name for the link, such as **The Walker Team**, and then the link returns to the website of a licensee, such as Summer Mortgage.

There are several issues here:

- If this is a new DBA name for the company, then it should be registered with the Clerk of the Superior Court in all jurisdictions where the licensee does business in Georgia. For out-of-state entities with no physical presence in Georgia, the DBA should be registered according to its home state's requirements.
- If employees are establishing their own domain names individually without the company's consent, this can pose a significant liability for the company; particularly if an individual commits prohibited acts, such as advance fees, etc. under this DBA name.
- If not properly controlled by the licensee, the individual is acting on their own without the benefit of having their own license.



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**ENTERING TRADE NAMES IN THE NATIONWIDE MULTISTATE LICENSING SYSTEM (NMLS)**

Trade Names (aka DBAs) are recorded in the NMLS on the Company's MU1 Form. Applicants and licensees should not include "dba" in front of their Other Trade Name in NMLS. The name input in NMLS should be exactly as it will be used in advertising, documents, etc.

Companies should indicate if the Other Trade Name is forced by a state by checking the box in the forced column. A forced Other Trade Name is one that is required to be used because the state's Secretary of State or other agency will not allow the company to use its legal name. This may be due to several reasons, including the company's legal name is already used by another company in that state. Georgia law provides that a corporation, limited liability company, or limited partnership name must be distinguishable upon the records of the Secretary of State from the names of other corporations, LLCs or LPs filed with the Secretary of State.

Other Trade Names must not include the words "corporation, incorporated, LLC, etc." or any variation/abbreviation that would give the impression the entity is a corporation. **NOTE: The only exception to this will be in the case where the Trade Name is a "forced" name for Georgia in instances where the name is not available.**

In the case of a website URL that is significantly different than the company's legal name, the website URL would be listed under web addresses for the licensee on the MU1 and an Other Trade Name would be entered in the Other Trade Name section of the MU1, if applicable.