

Thursday November 1st - Fictitious Names and Name Availability

Remember the fictitious name from yesterdays tip of the day... Pop's Ice Cream registered by Joe Jones? Lets suppose that the FN is the only company in the state with that name and Joe lives in Independence, PA. Let's assume that Jenny Jones from Pittsburgh wants to incorporate a new company in honor of her father and wants to call it Pop's Ice Cream, Inc. Will Jenny need to obtain the consent from Joe to incorporate her business? The answer is no. The reason, a fictitious name registration has no name protection afforded by state law and therefore, it can not block or act as a conflict to another fictitious name by the same name or a entity like an INC. or an LLC. Once, Jenny incorporates though, anyone who wants to use that name in the future would need to obtain a consent from Jenny, not Joe. Joe's registration is unaffected and is "grandfathered in", as they say.

The city issue above is what they call in law school a "red herring." Yes, I know... others use that term also, but I do think it was originated in law school contracts class. Does anyone know why they call it a "red" herring or where "grandfathered in" comes from?

Friday, Nov. 2nd - Fictitious Names -Signature Lines

The signature lines on fictitious name forms are somewhat confusing and a lot of the problems we see with FN filings are signature related. The top set of lines are for INDIVIDUALS and the bottom set are for ENTITIES. It is important to have a person signing on behalf of an entity sign on the entity line and in her/his official capacity, i.e. an officer, managing member, manager, or whatever.

Also, remember that when you change the name of an entity that has registered a fictitious name you will have to amend the FN registration. The way that is done is to withdraw the entity under the old name and add the entity back under the new name. Ridiculous I know, but that's the way it is set up.

Have a good weekend everyone....

Monday, Nov. 5th - Signatures & Deceased Principal

What do I do when we have to remove an owner of a fictitious name or a general partner of a limited partnership but that owner/partner is deceased?

The general rule is that an executor of the decedent should sign the FN or the LP amendment. If no estate has been raised, then an heir of the decedent may

sign in place of the decedent. This was confirmed on Friday with the Corporation Bureau's Legal Counsel.

What happens if there is no estate or heir available? You probably don't want to know.

Have a good week everyone....

Tuesday, Nov. 6th - Company Designators

What is a designator? It is that little word that "designates" what type of company you are and that follows your company name, such as "Inc." or "LLC" or "Corp" or their full versions such as Incorporated.

Every business corporation and LLC must have a designator or the filing will be rejected. This goes for domestic as well as foreign companies qualified or registered here to do business (foreigners must have one even if they are not required by their home state law to have one).

Nonprofit corporations and limited partnerships are NOT required to have a designator.

The important point to remember about designators, other than that you need one, is that they are NOT considered as part of the name availability determination process. In short, ABC, Corp. ----DOES---- conflict with ABC, Inc. The second important point to remember is that you CANNOT use LLC for a Corporation nor can you use INC or any other corporate designator for an LLC. Tomorrow, the use of designators on Fictitious Name Forms. Thursday the use of PC for Professional Corporations.

Peace and serenity amidst the chaos of life....

Wednesday, Nov. 7th - Company Designators in Fictitious Names

Today's topic is using designators in Fictitious Names.

A designator can not be used on a fictitious name if the name is being registered solely by individuals. In short, if Joe Barber is starting a sole proprietorship for his beauty salon he can not name the company "Joe's Beauty Salon, Inc." He must use the name without the designator. If, on the other hand "Joe's Java, Inc." is registering the fictitious name "Joe's Beauty Salon" they can, if they so desire, use the "Inc." on the end. See: Title 54 Section 311(b) or go to this link: <http://members.aol.com/StatutesP2/54.Cp.3.html>

The individual FN also needs to publish their registration.
The corporate FN does not need to publish. (See our FAQ's on this issue)

As a follow-up to yesterday's designator tip, we would like to remind you that the designator LTD or Limited can be used with either a corporation or an LLC.
Tomorrow, the use of PC for Professional Corporations.

Thursday, Nov. 8th

**-REMEMBER-PA STATE OFFICES ARE CLOSED ON MONDAY.....
-Company Designators for Professional Corporations**

REMEMBER: THE STATE IS CLOSED ON MONDAY

TODAY'S TOPIC

It is a misnomer that all professional corporations "MUST" use the designator "PC". The statute speaks in terms of "MAY" use: 2921(b): The name may also contain:

1. the word "and" or any symbol or substitute therefor;
2. the word "associates";
3. the term "P.C."; or
4. any or all of the words or terms in paragraphs (1), (2) and (3).

In short, a Professional Corporation may use PC but can also use Inc. or any of the other corporate designators.

Also, under certain circumstances a designator is not even required.

Section 33.3 of the PA Code states where the name is restricted to the name or the last name of one or more of the present, prospective or former shareholders or of individuals who were associated with a predecessor or whose individual name appeared in the name of the predecessor, no designator need be used. Some examples from the code are:

Permitted

John Doe, M.D.

Doe and Roe

Doe & Roe, P.C.

Doe & Roe

Doe and Roe Associates

Doe & Roe Associates
Roe Medical Associates, Inc.
Medical Service, Inc.
Medical Service Associates, P.C.

Not Permitted
Roe Medical Associates
Medical Service
Medical Service Associates
Medical Service Associates, P.A.
Doe & Roe, P.A.

Friday, Nov. 9th
-REMEMBER-PA STATE OFFICES ARE CLOSED ON MONDAY.....

REMEMBER: THE STATE IS CLOSED ON MONDAY

Our office will be partially staffed on Monday until 3 PM and I will be available via email at disantoa@ptd.net or via cell phone (just call the office and they will provide the number).

Important Notice: Remember back in October when the Corporation Bureau's public access was down for several days? The Bureau was installing a computer upgrade that was suppose to fix "sync" problems. We found out today that the "sync" problem is not yet fix. The final fix should happen next week some time. What is a "sync" problem? Basically, it is when you search for a company you know is there and it doesn't show up on the Bureau's system, but it does show up on their old system. The way I understand it is that the two systems are not fully in sync and so the new system doesn't read all of the available information and that results in formed companies not showing up on the database when searched. This has caused several name availability problems that we are aware of.... and probably a whole host of other problems.

Monday, Nov. 12th/ FEATURED BELOW

-TODAY'S TIP

-WORD OF THE WEEK

-TURN-AROUND-TIMES

REMEMBER: THE STATE IS CLOSED TODAY MONDAY 11-12-2007

TIP OF THE DAY: MERGER SEASON APPROACHES

Many of the questions we are asked this time of year are answered below:

- 1) Preclearance of mergers? Available in PA (\$70 State fee applies)
Preclearance expedited? Available in PA (\$70 State Expedite fee applies)
- 2) Mergers expedited? Available in PA (\$70 State Expedite fee applies)
- 3) Which form? The form that matches the survivor entity, i.e. if an LLC is surviving, then use the Certificate of Merger form (see our Forms Library under LLC's).
- 4) Standard Turn Around Time: See below
Expedited Turn Around Time: Same Day (if submitted before 1 PM) or Next Day before 1 PM (if submitted after 1 PM)
- 5) Our Fee: So low you can't afford not to use us...

WORD OF THE WEEK: COWABUNGA

Originating in Australian surfing sometime in the 1960's, cowabunga! is still shouted by surfers at the beginning of a good ride or wave (Taken from "Word and Phrase Origins by Robert Hendrickson - 1997 by Checkmark Books.

SEE OUR NEWSLETTER FOR THE LEGAL WORD OF THE MONTH

Tuesday, Nov. 13th/ FEATURED BELOW

-TODAY'S TIP

-WORD OF THE WEEK

-TURN-AROUND-TIMES

The Tip below is a repeat from Monday for those of you who were off for the holiday:

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WORDLORE: DISMAL

Originating from Latin "dies mali" which means "evil days." Egyptian astronomers pronounced certain days of the week to be evil but over the centuries the word has come to mean gloomy, dreary, dull or lacking in merit. (Taken from "Word and Phrase Origins by Robert Hendrickson - 1997 by Checkmark Books.

SEE OUR NEWSLETTER FOR THE LEGAL WORD OF THE MONTH [Current Newsletter Link](#)

Estimated Turn Around Times (TAT's) for Common Orders:

Good Standing: 2-3 days

Certified Copies: 3-6 days give or take

Lien Certificates: 6-8 days best guess

UCC Searches: Same/Next Day

Corp Searches: Same/Next Day

Plain Copies: Same/Next Day

Filings: 3-4 days for approvals

Expedited Filings: Only certain filings can be expedited...[Click Here to See our FAQ](#)...The Bureau's Policy is "In by 1 PM out by 4:30 PM... In after 1 PM out by 1 PM the following day.

TAT's Last Updated: 11-13-2007

Wednesday, Nov. 14th/ FEATURED BELOW

-TODAY'S TIP

-WORD OF THE WEEK

-TURN-AROUND-TIMES

TIP OF THE DAY: Mergers and Effective Dates

Paragraph 4 of the Articles/Certificate of Merger form allows two options that the time the merger shall become effective. Option 1 is upon the filing of the form. Option 2 allows you to select a future effective time for the merger, i.e. at some point after the merger form is filed. Since mergers are often filed early, i.e. before year end or new year beginning, the big question this time of year is when does the new year begin? 11:59:59 is clearly still in 2007. 12:00:00 is the problem, i.e. is it in 2007 or 2008? The New York Library Desk Reference Manual seems to suggest that 12:00:00 is actually a moment that has a foot in both yesterday and today (or should I say today and tomorrow). Most of all the post-effective date mergers we see are either dated 11:59:59 or 12:00:01.

Query: Does the merged out company have to file a tax return for one second of 2008?

WORDLORE: "TIME IS OF THE ESSENCE"

"...It was originally a legal term, first recorded in 1873, applied to a contract where time was essential, indeed indispensable to that contract's fulfillment. If, for example, the contract required a manufacturer to deliver goods within three months, he had to deliver them within three months or suffer the consequences." (Taken from "Word and Phrase Origins by Robert Hendrickson - 1997 by Checkmark Books.

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- Corp Searches: Same/Next Day
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Thursday, Nov. 15th/ FEATURED BELOW

-URGENT NEWS -LIEN CERTIFICATES

-TODAY'S TIP

-WORDLORE

-ESTIMATED TAT's

URGENT NEWS:

We have just learned that lien certificates are backing up to a critical point. The processing for certificates that were ordered with the Dept. of Revenue as long as a week ago has not even begun for those orders.

The problem is not likely to improve in the foreseeable future because of staff shortages and "special" projects that the lien section has been given by "higher ups" at Revenue. WE WILL KEEP YOU POSTED AS WE LEARN MORE.

TIP OF THE DAY: Mergers- Which Form To Use

Yesterday we were asked which form to use for a merger of a PA corporation into a DE LLC. The general rule is that you always use the form that matches the survivor entity type even when the surviving entity is a foreign entity. In the above example, you would use the Certificate of Merger form. See our FAQ on this subject under the Filings category. [or Click Here](#)

Remember, we have many answers in our FAQ section that will help you navigate the Corporation Bureau "red tape."

WORDLORE: "RED TAPE"

"In the early 1900's, when the term arose, lawyers and government officials often tied their papers together with red ribbons. Because excessive formality and time consuming, rigid adherence to rules and regulations often characterized lawyers and governmental agencies, red tape became a synonym for these failings. The words were popularized mainly by Thomas Carlyle, who castigated government officials for red tapism" (Taken from "Word and Phrase Origins by Robert Hendrickson - 1997 by Checkmark Books.

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TAT's Last Updated: 11-15-2007

FRIDAY, NOV. 16th/ FEATURED BELOW
-URGENT NEWS -LIEN CERTIFICATES
-TODAY'S TIP
-WORDLORE
-ESTIMATED TAT's

URGENT NEWS:

We have just learned that lien certificates are backing up drastically. We sent an e-alert out yesterday to everyone on our email alert list (if you would like to be added to the list send an email to assist@esquireassist.com .

The problem is not likely to improve in the foreseeable future because of staff shortages and "special" projects that the lien section has been given by "higher ups" at Revenue. WE WILL KEEP YOU POSTED BY UPDATING THIS URGENT NEWS ALERT HERE ON OUR WEB-SITE AS WE LEARN MORE.

TIP OF THE DAY: Name Reservations - Section 1305 Corporate Name Reservations

- Name reservations are good for 120 and can be renewed anytime during the week prior to expiration.
- Name reservations take as long to be approved as do filings (which at present is

only about 2 or 3 days).

-Once you have a name reserved the filing you intend to use it with CAN be expedited.

See our FAQ on this subject under the Filings category. [or Click Here](#)

Remember, we have many answers in our FAQ section. Our goal is to help you, as much as we can, so that you are not "up a salt creek without a paddle."

WORDLORE: "UP A CREEK"

" 'Up the creek' means a bad predicament, on the spot, behind the eight ball. Sometimes the expression is "Up Salt Creek'... The expression goes back about a 100 years and was probably first 'up Salt Creek' if we are to judge by the popular 1884 political campaign song 'Blaine up Salt Creek'. A salt creek is a creek leading through a salt marsh...it is very easy to get stuck in one...and without a paddle, a boatman would have no way to get out. " (Taken from "Word and Phrase Origins by Robert Hendrickson - 1997 by Checkmark Books.

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TAT's Last Updated: 11-15-2007

Latest News:

NOV. 19th MONDAY - FEATURED BELOW
-URGENT NEWS -LIEN CERTIFICATES
-TODAY'S TIP: Name Reservations (Cont.)
-WORDLORE: Blackmail
-TURN-AROUND-TIMES (TAT'S)

URGENT NEWS:

We were told that Revenue has made a dramatic surge to clear the backlog and that lien certificates should start flowing again, perhaps some this week but probably most next week (remember there are only three business days this week) .

WE WILL KEEP YOU POSTED BY UPDATING THIS URGENT NEWS ALERT HERE ON OUR WEB-SITE AS WE LEARN MORE.

TIP OF THE DAY: Name Reservations - Fictitious Names

-Fictitious names can NOT be reserved. Title 54 provides no authority to reserve fictitious names. The work around this rule is to reserve the name as a corporate name, i.e. add a designator. For instance, if you want to reserve Tony's Wordlore to be used for your clients sole proprietorship, merely add an "Inc." to the name and we can reserve it for you. When it comes time to file your FN, the name will be ready and waiting for you. The only down side is that the filing can NOT be expedited. Title 54 filings do not come under the Immediate Certified Copy provisions of Title 15.

See our FAQ on this subject under the Filings category. [or Click Here](#)

Remember, we have many answers in our FAQ section. Our goal is to help you, as much as we can, so that you are not "up a salt creek without a paddle."

WORDLORE: "BLACKMAIL"

" In early Scottish dialects the word 'mail' meant rent that was paid, and even in modern Scotland a tenant is still called a 'mailer.' But northern England and Scotland were once plagued with freebooters and unpleasant Robin Hoods who extorted tribute in the form of money or cattle. The small farmer had to pay 'blackmail'... in order to secure immunity from pillage." Taken from: Word Origins An Exploration and History of Words and Language by Wilfred Fund, Lttd.D., Wings Books, NY (1950)

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TAT's Last Updated: 11-15-2007

NOV. 20th TUESDAY - FEATURED BELOW
-URGENT NEWS -THURSDAY AND FRIDAY - STATE HOLIDAYS
-TODAY'S TIP: FICTITIOUS NAME OWNERS (Cont.)
-WORDLORE: "CANDIDATE"
-TURN-AROUND-TIMES (TAT'S)

URGENT NEWS:

REMEMBER - ALL STATE OFFICES WILL BE CLOSED ON THURSDAY AND FRIDAY OF THIS WEEK TO CELEBRATE THANKSGIVING AND THE GREAT ALL AMERICAN SHOPPING DAY .

ALSO... REMEMBER, LIEN CERTIFICATES ARE SUFFERING BIG DELAYS...
TIP OF THE DAY: OWNERS - Fictitious Names

-There are two paragraphs on the FN registration form for supplying owner information. They do NOT, and indeed probably should not both be completed without careful consideration. Paragraph 4 is for individuals. Paragraph 5 is for entities. Be careful not to expose the principal of a company listed in paragraph 5 to personal liability by putting the individuals name in paragraph 4 also.

See our FAQ on this subject under the Filings category. [or Click Here](#)

Remember, we have many answers in our FAQ section. Our goal is to help you, as much as we can, so that you are not "up a salt creek without a paddle."

WORDLORE: "CANDIDATE"

" When a Roman politicians went campaigning he took care that his toga was immaculately white so that he could make the best impression possible. The Latin word candidatus first simply meant 'a person dressed in white' but later it took on the meaning that our word candidate has, a seeker of office." Taken from: Word Origins An Exploration and History of Words and Language by Wilfred Funk, Litt.D., Wings Books, NY (1950)

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TAT's Last Updated: 11-15-2007

WED. - NOV. 21st - FEATURED BELOW
-THURSDAY & FRIDAY- STATE HOLIDAYS
-TODAY'S TIP: TRAVELING??? (Cont.)
-WORDLORE: "TURKEY"
-TURN-AROUND-TIMES (TAT'S)

URGENT NEWS:

REMEMBER - ALL STATE OFFICES WILL BE CLOSED ON THURSDAY AND FRIDAY OF THIS WEEK TO CELEBRATE THANKSGIVING AND THE GREAT ALL AMERICAN SHOPPING DAY .

TIP OF THE DAY: HAVE A SAFE HOLIDAY

-IF TRAVELING THIS HOLIDAY... PLEASE BE PATIENT, BE SAFE AND RETURN TO READ OUR WEBSITE:)

We have no FAQ for safe holiday travel but here is an interesting one... [Click Here](#)

WORDLORE: "TURKEY"

" So named in error. When early settlers arrived in America, they saw a wild fowl that reminded them of the turkey-cocks and turkey-hens that they had seen in Europe. That is, the guinea fowl of Turkey. So they named these strange American fowl 'turkeys,' and the name turkey appears as early as 1607 in the writings of Captain John Smith. Later on, it was discovered that the American variety was an entirely different species, but we still call them turkeys just the same." Taken from: Word Origins An Exploration and History of Words and Language by Wilfred Fund, Litt.D., Wings Books, NY (1950)

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TAT's Last Updated: 11-15-2007

"Search Our Site" now finds Forms and FAQ's

Our "Search our Site" function now finds all forms and FAQ's that mention the word you are searching. For example, if you search "officer" you will get the various forms and FAQ's that deal with or mention the word "officer" in the description.

FEATURED NEWS FOR MONDAY NOV 26, 2007

- [INFO ON OUR WEB SITE](#)
-
-
- [TODAY'S TIP: DECENNIAL REPORTS](#)
-
-
- [WORDLORE: "MONDAY"](#)
-
-
- [TURN-AROUND-TIMES \(TAT'S\)](#)
-
-

INFO ON OUR WEB SITE

Our PA forms library contains small descriptions that will help you select the proper form. That's more than the state provides.

[<< RETURN TO HEADLINES >>](#)

TODAY'S TIP: Decennial Reports

This weeks issue will be decennial reports. The last general decennial report was in 2001. Many companies that were required to file their decennial reports did not do so (probably because they moved and never filed a Change of Registered Office and hence never received their notice from the Corporation Bureau). Now, pursuant to Title 54, they have lost their name exclusivity granted to them by various statutes, but primarily by Title 15. That is the penalty for failure to file a decennial report. The penalty is NOT that the company is no longer in good standing. Let us hope that the legislature never takes PA into that ball game that a lot of our surrounding states play, in particular DE. Here is our FAQ for decennial reports... [Click Here](#)

[<< RETURN TO HEADLINES >>](#)

WORDLORE: "Monday"

" In mythology, the moon was the wife of the sun, and so had to have her day in the week, which in Old English was Monandaeg, or "moon day," a translation of the Latin -lunae dies-, "day of the moon."

Taken from: Word Origins An Exploration and History of Words and Language by Wilfred Fund, Lttt.D., Wings Books, NY (1950)

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TURN-AROUND-TIMES (TAT'S)

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TAT's Last Updated: 11-15-2007

Urgent News:

NEW EXPANDED SEARCH FUNCTION

See below

Latest News: WEDNESDAY NOV 28, 2007

- [SEARCH OUR SITE FUNCTION](#)
 -
 -
 - [TODAY'S TIP: DECENNIAL REPORTS-II](#)
 -
 -
 - [WORDLORE: "NEGOTIATE"](#)
 -
 -
 - [TURN-AROUND-TIMES](#)
 -
 -
-

SEARCH OUR SITE FUNCTION

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[<< RETURN TO HEADLINES >>](#)

TODAY'S TIP: Decennial Reports-II

Decennial Reports Continued: Remember, that the decennial reporting period runs from 2000 (or 2001 as extend by the Legislature) to 2010. The decennial period is a 10 year period that begins on a decennial year as identified by the statute. It is NOT a 10 year period that begins from the date of the company's birthdate (unless of course by coincidence that birthdate is in the decennial reporting year:)

Here is our FAQ for decennial reports... [Click Here](#)

[<< RETURN TO HEADLINES >>](#)

WORDLORE: "Negotiate"

"Ill at ease. When a businessman is in the process of "negotiating" an important deal, he is apt to be worried and under somewhat of a strain, and the word "negotiate" means just this. In Latin the term "negotium" is made up of -neg- "not," and -otium- "ease," so in his negotiations a trader is "not at ease" until the papers are signed.

Taken from: Word Origins An Exploration and History of Words and Language by Wilfred Fund, Lttt.D., Wings Books, NY (1950)

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TURN-AROUND-TIMES

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TAT's Last Updated: 11-26-2007

Urgent News:

- SEARCH OUR SITE- FUNCTION NOW MORE USEFUL

See below

Latest News: WEDNESDAY NOV 28, 2007

- [SEARCH OUR SITE FUNCTION](#)
-
-
- [TODAY'S TIP: DECENNIAL REPORTS-III](#)
-
-
- [WORDLORE: "CAUGHT RED HANDED"](#)
-
-
- [TURN-AROUND-TIMES](#)
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TODAY'S TIP: Decennial Reports-III

Decennial Reports (DR) Continued: When is it required to file a DR? For this example, we'll use the decennial year 2001. If your client (The Company) was created prior to 1990 and has never filed any type of amendment, merger, change of registered office etc. filing during the period 1990 - 2000, and if they did not file a change of officer filing at the Dept. of Revenue (which by the way is difficult to determine) then they were required to file a decennial report in 2000 (extended to 2001 by the Legislature for that period). Again, if The Company failed to file and were required to do so, The Company has lost their name exclusivity. To reinstate their name protection, The Company must file their DR now but they will only be able to do so if the name has not already been taken by another company.

Comment: The DR penalty provisions of the statute are terribly drafted and were not well thought out. The Corporation Bureau has no power to reject filings such as amendments that are made by The Company that has not reinstated and so basically, if The Company doesn't mind having lost their name exclusivity, there really is no other consequence for the failure to file at that point. The Company can always obtain a good standing certificate regardless of compliance status. Basically, the penalty is a "forced consent" to any new company that wants The Company's name.

For our FAQ on decennial reports... [Click Here](#) .

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WORDLORE: "CAUGHT RED HANDED"

"To be taken with red hand - in ancient times was to be caught in the act, like a murderer, his hands red with his victim's blood. The use of 'red hand' in this sense goes back to 15th century Scotland and Scottish law.* Scott's Ivanhoe has the first recorded use of taken red-handed for someone apprehended in the act of committing a crime. Not long after, the expression became more common as 'caught red handed'."

Taken from: "The Facts On File Encyclopedia of Word and Phrase Origins by Robert Hendrickson - 1997, Checkmark Books.

* The name of our digital newsletter, AVET, also goes back to old Scottish law meaning to abet or aid another in the commission of a crime, as in "aid and avet" :)

SEE OUR NEWSLETTER FOR THE LEGAL WORD OF THE MONTH [Current Newsletter Link](#)

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- Good Standing: 3 days
- Certified Copies: 5-10 days best guess
- Our Affidavit version of the above: Usually Same Day if given sufficient prep time

- Lien Certificates: 8-14 BEST GUESS

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- UCC Searches: Same/Next Day
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- Filings: 2-3 days for approvals
- Expedited Filings:
 - Only certain filings can be expedited...[Click Here to See our FAQ](#)...The Bureau's Policy is "In by 1 PM out by 4:30 PM... In after 1 PM out by 1 PM the following day.

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-
-
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-
-
- [WORDLORE: "CAUGHT RED HANDED"](#)
-
-
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