



FILING A BUSINESS CERTIFICATE

(Massachusetts General Laws, Chapter 110, Section 5, 6; 227:5A)

WHAT IS A BUSINESS CERTIFICATE, DBA ("doing business as")?

A business certificate is a local registration of a business that is conducted within the Town of Lakeville, either in person or by mail. It is commonly referred to as a "d/b/a" form or "doing business as" form. Its purpose is primarily for consumer protection and public information purposes. Essentially, the public has a right to know who "is" a particular business; since, more often than not, a customer will not know who owns the business simply by the name of that business.

***NOTE:** A business certificate is not a license to do business in the Town of Lakeville. Additional licenses/permits issued by other town departments or state agencies may be required in order to do business. Please check with the Building Inspector (508-946-8804) to determine if the business is an allowed use in the intended zoning district.*

WHO MUST FILE?

Massachusetts General Laws, [Chapter 110, §5](#) state that any person, whether individually or as a partnership, conducting business under any title other than the complete real name of the owner(s) must file a business certificate.

CORPORATIONS:

Any corporation doing business in a name other than its corporate name must file a business certificate. The certificate must be completed and signed by an officer having corporate signatory authority.

For example: if the corporation is Linder Products, Inc. and the store is called Bouncy Bears (not Linder Products) then a DBA must be filed. The consumer must be able to contact the Town Clerk to obtain contact information on the owner of the business. Whether or not the corporation has filed with the State as required is not relevant and we do not ask.

Exemptions to filing-M.G.L. Chap 110, §6: *(are allowed under section 6 if the corporation is doing business in its true corporate name, or if a legal partnership is doing business under any title which includes the true surname or any. Certain other exemptions exist for trusts and limited partnerships.)*

The preceding section shall not apply to any corporation doing business **under its true corporate name**, nor to any partnership doing business under any title which includes the true surname or any partner; nor to any association which has complied with sections five and six of chapter one hundred and fifty-nine; nor to any partnership, joint stock company or association the business of which is conducted by trustees under a written instrument or declaration of trust provided that the names of such trustees with a reference to such instrument or declaration of trust shall be filed as provided in section five, nor to any limited partnership organized or qualified under chapter one hundred and nine doing business under its true partnership name if such name contains without abbreviation the words "limited partnership"; nor to a limited liability company or limited liability partnership which is doing business under its true name and which has registered or qualified with the office of the state secretary.

ARE THERE ANY SPECIAL REQUIREMENTS FOR A HOME-BASE BUSINESS?

A "Home Occupation Permit" is required for any business based in your home. Apply in person at the Building Department at **346 Bedford Street, Lakeville, MA** or call **508-946-8800**. A copy of this permit must be presented when applying for your business certificate.

WHO MUST SIGN THE BUSINESS CERTIFICATE?

If the business is owned solely by one person, only that person needs to sign. If it is a partnership of two or more people (but not a formal legal entity), both or all of the "partners" must sign. If it is a legal partnership, any officer who has authority to sign on behalf of the partnership may do so. If it is a corporation, an officer who has signatory authority must sign- which is usually the President, but not always. All signatures must be made in front of a notary, the Town Clerk or the Assistant Town Clerk. Do not sign the certificate unless it is in front of one of these three individuals. An individual must be 18 years of age or older to legally sign a business certificate.

WHERE DO I GET THE FORMS AND HOW DO I FILE?

All forms may be obtained from and filed at the Town Clerk's office during normal business hours (*Monday 8:00am- 7:00pm, Tuesday-Thursday 8:00am -4:30pm and Friday, 8:00am – Noon*)

Forms can be notarized at the Town Clerk's office (*proper identification will be required*) or by another notary and mailed to the Town Clerk at 346 Bedford Street, Lakeville, MA with a check made out to the Town of Lakeville.

DOES A BUSINESS CERTIFICATE EXPIRE?

A business certificate is in full force and effect for four (4) years from the date of issue. A renewal filing must be made every four years as long as the business is being conducted.

WHAT IF I "GO OUT OF BUSINESS", CHANGE MY RESIDENCE; CHANGE THE LOCATION OF THE BUSINESS OR WANT TO CHANGE THE NAME OF THE BUSINESS?

- **Change of Residence as listed on certificate, change of location of the business within town (but keeps the same business name):** You must file either a Statement of Change of Residence, or a Statement of Change of Location of Business.
- **Discontinuance of business, retire or withdraw from conducting business (i.e.: go out of business or move it to another town):** You must file a Statement of Discontinuance. If you will be conducting a "Going Out of Business Sale" please contact the Town Clerk's office regarding the legal requirements for this type of sale.
- **Change the name of the business:** You must first file a Discontinuance and then file a new Certificate for the new business name. You cannot simply change the name of the business as technically you are stopping business in one name and starting business in a new name.
- **In case of death of the owner of the registered business (d/b/a):** A statement may be filed by the executor or administrator of the estate.

DOES THE FILING OF A BUSINESS CERTIFICATE PROTECT ME FROM OTHER USING THE SAME NAME?

No. The protection of a trademark (word, name, symbol or device) in Massachusetts is accomplished through the Secretary of State's Office. (See website below)

WHAT IS THE FEE TO FILE A CERTIFICATE OR STATEMENT?

- **Filing/Renewal of a Business Certificate-** \$30.00 (4 years)
- **Withdrawal, Discontinuance, Change, etc.** \$20.00
- **Certified Copies:** \$10.00
- **Photocopies:** 20 cents/page

Cash, or a check made out to the Town of Lakeville, are the only accepted forms of payment. If filing by mail, please do not send cash. Credit and Debit Cards are not accepted.

MUST I DISPLAY A COPY OF MY BUSINESS CERTIFICATE?

No. The law states that copies of your certificate must be available at the address at which the business is conducted, and shall be produced for inspection upon request during regular business hours to any person who has purchased goods or services from such business.

WHAT IS THE PENALTY IF I DO NOT FILE A CERTIFICATE OR STATEMENT?

The law states that violations will be punished by a fine of not more than three hundred dollars (\$300.00) for each month during which the violation continues.

WHERE DO I GET TAX INFORMATION REGARDING MY BUSINESS?

The Massachusetts Department of Revenue (DOR) can answer all of your questions regarding collecting sales tax or other tax questions you may have. The Taxpayer Assistance Bureau is open from 8:45am – 5pm, Monday – Friday. The toll free number is 1 (800) 392-6089 or (617) 887-6367. The DOR has a publication entitled ***“A Guide to Sales and Use Tax”*** which answers the most commonly asked questions about sales/use tax.

You obtain an **FID number** from the IRS at (800) 829-1040 or (617) 523-1040.

Websites:

- Department of Revenue <http://www.dor.state.ma.us>
- Secretary of State's office www.state.ma.us