

**General Information**  
**(Consent to Use of Similar Name)**

**The attached form is drafted to meet minimal statutory filing requirements pursuant to the relevant code provisions.** *This form and the information provided are not substitutes for the advice and services of an attorney.*

**Commentary**

A proposed name for an entity can be similar to an existing name only if the holder of the existing name consents in writing. Tex. Bus. Orgs. Code § 5.053. Existing names include the names of active Texas filing entities, the names and fictitious names of active registered foreign filing entities, reserved names, and registered names.

This form can be used by the holder of an existing name to consent to the use of a similar name as the name of a filing entity or foreign filing entity for the purpose of submitting a filing instrument to the secretary of state. Use of this form is permissive. Consent can be given in any written format. A proposed name cannot be “the same as” or “deceptively similar to” an existing name, even if the holder of the existing name consents.

*The holder of an existing name is not required to give consent.* Consent does not authorize the use of a name in Texas in violation of a right of another under the Trademark Act of 1946, as amended (15 U.S.C. Section 1051 et seq.); Chapter 16 or 71, Business & Commerce Code; or common law. The secretary of state does not enforce these rights. Once the secretary of state files an instrument based on written consent to the use of a similar name, consent cannot be withdrawn. The secretary of state cannot enforce any private agreements or conditions the parties may have entered into regarding consent to use of the similar name. *Questions about consent should be addressed to a private attorney.*

[Texas Administrative Code, title 1, part 4, chapter 79, subchapter C](http://www.sos.state.tx.us/tac/index.shtml) sets out the rules for determining whether names are the same, deceptively similar, or similar. These rules may be viewed at <http://www.sos.state.tx.us/tac/index.shtml>.


**Instructions for Form**

- Item 1: Enter the name of the entity or individual who holds the existing name.
- Item 2: Enter the proposed name.
- Execution: The form must be signed on behalf of the person who holds the existing name. If the existing name is held by an entity, an individual who is authorized to act on behalf of the entity must sign the form.

*A person commits an offense under section 4.008 of the BOC if the person signs or directs the filing of a filing instrument the person knows is materially false with the intent that the instrument be delivered to the secretary of state for filing. The offense is a Class A misdemeanor unless the person’s intent is to harm or defraud another, in which case the offense is a state jail felony.*

- Submission: Submit the form with the relevant filing instrument. *Do not submit separately from the relevant filing instrument.* If written consent is not submitted with the relevant filing instrument, the secretary of state will not be able to take the consent into consideration.

Revised 12/10

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| <p><b>Form 509</b><br/><b>(Revised 12/10)</b></p> <p>Submit with relevant filing instrument.</p> <p><b>Filing Fee: None</b></p> | <br><p><b>Consent to Use<br/>of Similar Name</b></p> |  |
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(1) \_\_\_\_\_  
*Name of the entity or individual who holds the existing name on file with the secretary of state*

consents to the use of

(2) \_\_\_\_\_  
*Proposed name*

as the name of a filing entity or foreign filing entity in Texas for the purpose of submitting a filing instrument to the secretary of state. This consent does not authorize the use of the similar name in violation of a right of another under the Trademark Act of 1946, as amended (15 U.S.C. Section 1051 et seq.); Chapter 16 or 71, Business & Commerce Code; or common law.

(3) The undersigned certifies to being authorized by the holder of the existing name to give this consent. The undersigned signs this document subject to the penalties imposed by law for the submission of a materially false or fraudulent instrument.

Date: \_\_\_\_\_

By: \_\_\_\_\_  
 Name of existing entity, if any (type or print)

\_\_\_\_\_  
 File number of existing entity, if any

\_\_\_\_\_  
 Signature of Authorized Person

\_\_\_\_\_  
 Name of Authorized Person (type or print)

\_\_\_\_\_  
 Title of Authorized Person, if any (type or print)