**South Carolina General Assembly**

125th Session, 2023-2024

**S. 846**

**STATUS INFORMATION**

General Bill

Sponsors: Senator Rankin

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Introduced in the Senate on January 9, 2024

Introduced in the House on April 9, 2024

Last Amended on April 3, 2024

Currently residing in the House Committee on **Labor, Commerce and Industry**

Summary: Use of Indian as Part of Corporate Name

**HISTORY OF LEGISLATIVE ACTIONS**

 Date Body Action Description with journal page number

 11/30/2023 Senate Prefiled

 11/30/2023 Senate Referred to Committee on **Labor, Commerce and Industry**

 1/9/2024 Senate Introduced and read first time (Senate Journal‑page 54)

 1/9/2024 Senate Referred to Committee on **Labor, Commerce and Industry** (Senate Journal‑page 54)

 2/14/2024 Senate Committee report: Favorable with amendment **Labor, Commerce and Industry** (Senate Journal‑page 9)

 2/15/2024 Scrivener's error corrected

 4/3/2024 Senate Committee Amendment Tabled (Senate Journal‑page 62)

 4/3/2024 Senate Amended (Senate Journal‑page 62)

 4/3/2024 Senate Read second time (Senate Journal‑page 62)

 4/4/2024 Senate Read third time and sent to House (Senate Journal‑page 8)

 4/4/2024 Senate Roll call Ayes-43 Nays-0 (Senate Journal‑page 8)

 4/9/2024 House Introduced and read first time (House Journal‑page 18)

 4/9/2024 House Referred to Committee on **Labor, Commerce and Industry** (House Journal‑page 18)

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**VERSIONS OF THIS BILL**

[11/30/2023](https://www.scstatehouse.gov/sess125_2023-2024/prever/846_20231130.docx)

[02/14/2024](https://www.scstatehouse.gov/sess125_2023-2024/prever/846_20240214.docx)

[02/15/2024](https://www.scstatehouse.gov/sess125_2023-2024/prever/846_20240215.docx)

[04/03/2024](https://www.scstatehouse.gov/sess125_2023-2024/prever/846_20240403.docx)

Indicates Matter Stricken

Indicates New Matter

Amended

April 03, 2024

S. 846

Introduced by Senator Rankin

S. Printed 04/03/24--S.

Read the first time January 09, 2024

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A bill

TO AMEND THE SOUTH CAROLINA CODE OF LAWS BY AMENDING SECTION 33‑31‑401, RELATING TO CORPORATE NAME, SO AS TO PROHIBIT THE USE OF CERTAIN INDIAN DESCRIPTIONS AS PART OF A NONPROFIT CORPORATION’S CORPORATE NAME UNLESS THE ENTITY IS A FEDERALLY ACKNOWLEDGED TRIBE OR A STATE DESIGNATED TRIBE, GROUP, OR SPECIAL INTEREST ORGANIZATION.

 Amend Title To Conform

Be it enacted by the General Assembly of the State of South Carolina:

SECTION 1. Section 33‑31‑401 of the S.C. Code is amended to read:

 Section 33‑31‑401. (a) A corporate name may not contain language stating or implying that the corporation is organized for a purpose other than that permitted by Section 33‑31‑301 and its articles of incorporation.

 (b) Except as authorized by subsections (c) and (d), a corporate name must be distinguishable upon the records of the Secretary of State from the name appearing upon the records of the Secretary of State of any other nonprofit or business corporation, professional corporation, or limited partnership incorporated in, formed in, or authorized to do business in South Carolina, or a name reserved, registered, or otherwise filed upon the records of the Secretary of State.

 (c) A corporation may apply to the Secretary of State for authorization to use a name that is not distinguishable upon the Secretary of State's records from one or more of the names described in subsection (b). The Secretary of State shall authorize use of the name applied for if:

 (1) the other corporation consents to the use in writing and submits an undertaking in form satisfactory to the Secretary of State to change its name to a name that is distinguishable upon the records of the Secretary of State from the name of the applying corporation; or

 (2) the applicant delivers to the Secretary of State a certified copy of a final judgment of a court of competent jurisdiction establishing the applicant's right to use the name applied for in this State.

 (d) A corporation may use the name, including the fictitious name, of another domestic or foreign business or nonprofit corporation that is used in this State if the other corporation is incorporated or authorized to do business in this State and the proposed user corporation has:

 (1) merged with the other corporation;

 (2) been formed by reorganization of the other corporation; or

 (3) acquired all or substantially all of the assets, including the corporate name, of the other corporation.

 (e) Except for allowing foreign corporations to file for a certificate of authority under a fictitious name as provided in Section 33‑31‑1506, this chapter does not control the use of fictitious names.

 (f) A corporation that converts to a nonprofit corporation pursuant to Section 33‑10‑110 may continue to use the same name that it used prior to the conversion.

 (g) (1) After the effective date of this subsection, no domestic corporation or association organized or doing business in this State claiming to represent a bona fide Native American Indian Group, Native American Indian Tribe, or Native American special interest organization may use any of the following terms as part of its corporate name, unless the corporation or association complies with the requirements provided in subsection (g)(2):

 (i) Indian Nation;

 (ii) Indian Tribe;

 (iii) Indian People;

 (iv) Indian Group;

 (v) Indian Organization;

 (vi) Indian Association;

 (vii) Indian Reservation;

 (viii) Indian Council;

 (ix) Urban Indian; or

 (x) State Recognized Tribe.

 (2) A corporation or association claiming to represent a bona fide Native American Indian Group, Native American Indian Tribe, or Native American special interest organization may use the terms listed in subsection (g)(1) in its corporate name only if:

 (i) it is a federally acknowledged tribe, as provided in Part 83 of Title 25 of the Code of Federal Regulations; or

 (ii) it has been designated as a state-recognized group, tribe, or special interest organization by the Board of the State Commission for Minority Affairs, as provided in the regulations promulgated pursuant to Chapter 31, Title 1 of the South Carolina Code of Laws.

 (3) The Secretary of State may request written verification from the State Commission of Minority Affairs to the status of a Native American Indian Group, Native American Indian Tribe, or Native American special interest organization prior to filing a document containing a corporate name that includes any of the terms listed in subsection (g)(1).

 (4) If the Secretary of State refuses to file a document for failing to meet the requirements provided in this section, the corporation or association that submitted the document may file an appeal pursuant to Section 33-31-126.

SECTION 2. This act takes effect upon approval by the Governor.

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