

1979 WL 43430 (S.C.A.G.)

Office of the Attorney General

State of South Carolina

July 11, 1979

**\*1 Re: Reservation of Proposed Corporate Name**

The Honorable John T. Campbell  
Secretary of State  
P.O. Box 11350  
Columbia, SC 29211

Dear Mr. Campbell:

You have asked for advice as to whether or not a proposed corporate name may be reserved by the same person or firm for consecutive periods of 120 days. It is the opinion of this Office that proposed corporate names may only be reserved under a single application for a period not to exceed 120 days.

South Carolina Code § 33-5-20 (1976) provides in part as follows:

(b) The reservation shall be made by filing with the Secretary of State an application to reserve a specified corporate name, executed by the applicant. If the Secretary of State finds that the name is available for corporate use, he shall reserve the same for the exclusive use of the applicant for a period not exceeding 120 days.

The foregoing statute is plain and unambiguous. It clearly requires that proposed corporate names may only be reserved for the exclusive use of the person applying for the reservation for a period not exceeding 120 days.

This limitation upon the amount of time for which a proposed corporate name may be reserved is founded upon the belief that a corporate name should be readily available for use in the marketplace. A corporate name can have enormous significance to the well-being of a corporation in terms of successful marketing, generation of goodwill, etc. For this reason, the General Assembly has apparently determined that corporate names should be readily available for use and should not be tied up under a filed reservation. To balance this policy, however, the General Assembly has also recognized that a minimum amount of time may be necessary in order to organize a new corporation and commence doing business, come into this State to do business from another State, or begin doing business under a different name. See, §§ 33-5-20(a) (1) through (5). In order to strike a balance, therefore, the General Assembly has determined that 120 days is a sufficient period of time to enable a corporation to either make use of a name it has reserved or relinquish its right thereto. It is therefore the opinion of this Office that any single application to reserve a specified corporate name is only effective to reserve the name for a period not exceeding 120 days.

If, at the conclusion of the 120 day period, no one else has applied to reserve the name, there does not appear to be any reason why the applicant cannot file a new application as if it were a first application. On the other hand, if the Secretary of State knows of someone who sought to apply for the use of the name during the period in which it was under reservation, fairness would require that the second applicant be afforded an opportunity to reserve the name to his exclusive use before allowing the first applicant to file a new application reserving the name for an additional 120 days.

Very truly yours,

**\*2 L. Kennedy Boggs**  
Assistant Attorney General

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