

**STATE OF MICHIGAN
96TH LEGISLATURE
REGULAR SESSION OF 2012**

Introduced by Senators Jones and Schuitmaker

ENROLLED SENATE BILL No. 1319

AN ACT to amend 1993 PA 23, entitled "An act to provide for the organization and regulation of limited liability companies; to prescribe their duties, rights, powers, immunities, and liabilities; to prescribe the powers and duties of certain state departments and agencies; and to provide for penalties and remedies," by amending sections 102 and 902 (MCL 450.4102 and 450.4902), section 102 as amended by 2010 PA 290 and section 902 as amended by 2010 PA 126.

The People of the State of Michigan enact:

Sec. 102. (1) Unless the context requires otherwise, the definitions in this section control the interpretation of this act.

(2) As used in this act:

(a) "Administrator" means the director of the department or his or her designated representative.

(b) "Articles of organization" means the original documents filed to organize a limited liability company, as amended or restated by certificates of correction, amendment, or merger, by restated articles, or by other instruments filed or issued under any statute.

(c) "Constituent" means a party to a plan of merger, including the survivor.

(d) "Contribution" means anything of value that a person contributes to the limited liability company as a prerequisite for, or in connection with, membership, including cash, property, services performed, or a promissory note or other binding obligation to contribute cash or property, or to perform services.

(e) "Corporation" or "domestic corporation" means any of the following:

(i) A corporation formed under the business corporation act, 1972 PA 284, MCL 450.1101 to 450.2098.

(ii) A corporation existing on January 1, 1973 and formed under another statute of this state for a purpose for which a corporation may be formed under the business corporation act, 1972 PA 284, MCL 450.1101 to 450.2098.

(iii) A corporation formed under former 1962 PA 192.

(f) "Department" means the department of licensing and regulatory affairs.

(g) "Distribution" means a direct or indirect transfer of money or other property or the incurrence of indebtedness by a limited liability company to or for the benefit of its members or assignees of its members in respect of the members' membership interests.

(h) "Electronic transmission" or "electronically transmitted" means any form of communication that meets all of the following:

(i) It does not directly involve the physical transmission of paper.

(ii) It creates a record that may be retained and retrieved by the recipient.

(iii) It may be directly reproduced in paper form by the recipient through an automated process.

(i) "Foreign limited liability company" means a limited liability company formed under laws other than the laws of this state.

(j) "Foreign limited partnership" means a limited partnership formed under laws other than the laws of this state.

(k) "Limited liability company" or "domestic limited liability company" means an entity that is an unincorporated membership organization formed under this act.

(l) "Limited partnership" or "domestic limited partnership" means a limited partnership formed under the Michigan revised uniform limited partnership act, 1982 PA 213, MCL 449.1101 to 449.2108.

(m) "Low-profit limited liability company" means a limited liability company that has included in its articles of organization a purpose that meets, and that at all times conducts its activities to meet, all of the following requirements:

(i) The limited liability company significantly furthers the accomplishment of 1 or more charitable or educational purposes described in section 170(c)(2)(B) of the internal revenue code, 26 USC 170, and would not have been formed except to accomplish those charitable or educational purposes.

(ii) The production of income or appreciation of property is not a significant purpose of the limited liability company. However, in the absence of other factors, the fact that a limited liability company produces significant income or capital appreciation is not conclusive evidence of a significant purpose involving the production of income or the appreciation of property.

(iii) The purposes of the limited liability company do not include accomplishing 1 or more political or legislative purposes described in section 170(c)(2)(D) of the internal revenue code, 26 USC 170.

(n) "Majority in interest" means a majority of votes as allocated by an operating agreement, or by the statute in the absence of an allocation by operating agreement, and held by members entitled to vote on a matter submitted for a vote by members.

(o) "Manager" or "managers" means a person or persons designated to manage the limited liability company pursuant to a provision in the articles of organization stating that the business is to be managed by or under the authority of managers.

(p) "Member" means a person who has been admitted to a limited liability company as provided in section 501, or, in the case of a foreign limited liability company, a person that is a member of the foreign limited liability company in accordance with the laws under which the foreign limited liability company is organized.

(q) "Membership interest" or "interest" means a member's rights in the limited liability company, including, but not limited to, any right to receive distributions of the limited liability company's assets and any right to vote or participate in management.

(r) "Operating agreement" means a written agreement by the member of a limited liability company that has 1 member, or between all of the members of a limited liability company that has more than 1 member, pertaining to the affairs of the limited liability company and the conduct of its business. The term includes any provision in the articles of organization pertaining to the affairs of the limited liability company and the conduct of its business.

(s) "Person" means an individual, partnership, limited liability company, trust, custodian, estate, association, corporation, governmental entity, or any other legal entity.

(t) "Services in a learned profession" means services rendered by a dentist, an osteopathic physician, a physician, a surgeon, a doctor of divinity or other clergy, or an attorney-at-law.

(u) "Surviving company", "surviving entity", or "survivor" means the constituent that survives a merger, as identified in the certificate of merger.

(v) "Vote" means an affirmative vote, approval, or consent.

Sec. 902. As used in this article:

(a) "Licensed person" means an individual who is licensed or otherwise legally authorized to practice a professional service by a court, department, board, commission, or an agency of this state or another jurisdiction, any corporation or professional services corporation all of whose shareholders are licensed persons, any partnership all of whose partners are licensed persons, or any limited liability company all of whose members and managers are licensed persons.

(b) "Professional service" means a type of personal service to the public that requires as a condition precedent to the rendering of the service the obtaining of a license or other legal authorization. Professional service includes, but is not limited to, services rendered by a certified or other public accountant, chiropractor, dentist, optometrist, veterinarian, osteopathic physician, physician, surgeon, podiatrist, chiropract, physician's assistant, architect, professional engineer, land surveyor, or attorney-at-law.

(c) "Professional services corporation" means a corporation formed under former 1962 PA 192 or a corporation incorporated under and governed by chapter 2A of the business corporation act, 1972 PA 284, MCL 450.1101 to 450.2098.

Enacting section 1. This amendatory act does not take effect unless Senate Bill No. 1320 of the 96th Legislature is enacted into law.

This act is ordered to take immediate effect.

Carol Morey Viventi

Secretary of the Senate

Gay E. Randall

Clerk of the House of Representatives

Approved

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Governor