

Act No. 567
Public Acts of 2008
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**STATE OF MICHIGAN
94TH LEGISLATURE
REGULAR SESSION OF 2008**

Introduced by Senators Barcia and Allen

ENROLLED SENATE BILL No. 1446

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 204, 206, 803, and 1004 (MCL 450.4204, 450.4206, 450.4803, and 450.5004), section 204 as amended by 2002 PA 686 and section 206 as amended by 1997 PA 52.

The People of the State of Michigan enact:

Sec. 204. (1) Except as provided in subsection (2), the name of a domestic limited liability company shall contain the words "limited liability company", or the abbreviation "L.L.C." or "L.C.", with or without periods or other punctuation.

(2) The name of a low-profit limited liability company shall contain the words "low-profit limited liability company", or the abbreviation "L.3.C." or "l.3.c.", with or without periods or other punctuation.

(3) The name of a domestic or foreign limited liability company formed under or subject to this act shall conform to all of the following:

(a) Shall not contain a word or phrase, or abbreviation or derivative of a word or phrase, that indicates or implies that the company is formed for a purpose other than the purpose or purposes permitted by its articles of organization.

(b) Shall not contain the word "corporation" or "incorporated" or the abbreviation "corp." or "inc."

(c) Shall distinguish the name in the records in the office of the administrator from all of the following:

(i) The name of a domestic limited liability company, or a foreign limited liability company authorized to transact business in this state, that is in good standing.

(ii) The name of a corporation subject to the business corporation act, 1972 PA 284, MCL 450.1101 to 450.2098, or a nonprofit corporation subject to the nonprofit corporation act, 1982 PA 162, MCL 450.2101 to 450.3192.

(iii) A name reserved, registered, or assumed under this act, under the business corporation act, 1972 PA 284, MCL 450.1101 to 450.2098, or under the nonprofit corporation act, 1982 PA 162, MCL 450.2101 to 450.3192.

(iv) The name of a domestic or foreign limited partnership as filed or registered, reserved, or assumed under the Michigan revised uniform limited partnership act, 1982 PA 213, MCL 449.1101 to 449.2108.

(d) Shall not contain a word or phrase, an abbreviation, or derivative of a word or phrase, the use of which is prohibited or restricted by any other statute of this state.

(4) If a foreign limited liability company is unable to obtain a certificate of authority to transact business in this state because its name does not comply with subsections (1), (2), and (3), the foreign limited liability company may apply for authority to transact business in this state by adding to its name in the application a word, abbreviation, or other distinctive and distinguishing element, or alternatively, adopting for use in this state an assumed name otherwise available for use. If in the judgment of the administrator that name would comply with subsections (1), (2), and (3), those subsections do not bar the issuance to the foreign limited liability company of a certificate of authority to transact business in this state. The certificate of authority to transact business in this state issued to the foreign limited liability company shall be issued in the name applied for and the foreign limited liability company shall use that name in all its dealings with the administrator and in the transaction of business in this state.

(5) The fact that a limited liability company name complies with this section does not create substantive rights to the use of the name.

Sec. 206. (1) A domestic or foreign limited liability company may transact business under an assumed name or names other than its name as set forth in its articles of organization or certificate of authority, if not precluded from use of the assumed name or names under section 204(3), by filing a certificate stating the true name of the company and the assumed name or names under which business is to be transacted.

(2) A certificate of assumed name is effective, unless terminated by filing a certificate of termination or by the dissolution or withdrawal of the company, for a period expiring on December 31 of the fifth full calendar year following the year in which the certificate of assumed name was filed. The certificate of assumed name may be extended for additional consecutive periods of 5 full calendar years each by filing a similar certificate of assumed name not earlier than 90 days before the expiration of the initial or any subsequent 5-year period.

(3) The administrator shall notify a domestic or foreign limited liability company of the impending expiration of a certificate of assumed name not later than 90 days before the expiration of the initial or any subsequent 5-year period described in subsection (2).

(4) Filing a certificate of assumed name under this section does not create substantive rights to the use of a particular assumed name.

(5) The same name may be assumed by 2 or more limited liability companies or by 1 or more limited liability companies and 1 or more corporations, limited partnerships, or other enterprises participating together in a partnership or joint venture. Each participating limited liability company shall file a certificate of assumed name under this section.

(6) A limited liability company participating in a merger, or any other entity participating in a merger under section 705a, may transfer to the survivor the use of an assumed name for which a certificate of assumed name is on file with the administrator before the merger, if the transfer of the assumed name is noted in the certificate of merger as provided in section 703(1)(c), 705a(7)(c), or other applicable statute. The use of an assumed name transferred under this subsection may continue for the remaining effective period of the certificate of assumed name on file before the merger and the survivor may terminate or extend the certificate in accordance with subsection (2).

(7) A limited liability company surviving a merger may use as an assumed name the name of a merging limited liability company, or the name of any other entity participating in the merger under section 705a, by filing a certificate of assumed name under subsection (1) or by providing for the use of the assumed name in the certificate of merger. The surviving limited liability company may also file a certificate of assumed name under subsection (1) or provide in the certificate of merger for the use of an assumed name of a merging entity not transferred pursuant to subsection (6). A provision in the certificate of merger pursuant to this subsection is treated as a new certificate of assumed name.

Sec. 803. (1) The attorney general may bring an action in the circuit court for the county in which the registered office of a limited liability company is located for dissolution of the limited liability company on the ground that the company has committed any of the following acts:

(a) Procured its organization through fraud.

(b) Repeatedly and willfully exceeded the authority conferred on it by law.

(c) Repeatedly and willfully conducted its business in an unlawful manner.

(d) If the limited liability company is a low-profit limited liability company, ceased to meet any of the requirements described in section 102(m) and for 60 days after it ceased to meet those requirements failed to file a certificate of amendment amending its name to conform with the requirements of section 204.

(2) This section does not exclude any other statutory or common law action by the attorney general for dissolution of a limited liability company.

Sec. 1004. The department shall not issue a certificate of authority to a foreign limited liability company unless the name of the company satisfies the requirements of section 204. If the name of a foreign limited liability company does not satisfy the requirements of section 204, the company may take the action authorized by section 204(4).

This act is ordered to take immediate effect.

Carol Morey Viventi

Secretary of the Senate

Richard J. Brown

Clerk of the House of Representatives

Approved

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Governor