

SENATE BILL No. 1319

September 25, 2012, Introduced by Senators JONES and SCHUITMAKER and referred to the Committee on Judiciary.

A bill to amend 1993 PA 23, entitled "Michigan limited liability company act," 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:

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

3 (2) As used in this act:

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

6 (b) "Articles of organization" means the original documents
7 filed to organize a limited liability company, as amended or
8 restated by certificates of correction, amendment, or merger, by

1 restated articles, or by other instruments filed or issued under
2 any statute.

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

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

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

12 (i) A corporation formed under the business corporation act,
13 1972 PA 284, MCL 450.1101 to 450.2098.

14 (ii) A corporation existing on January 1, 1973 and formed under
15 another statute of this state for a purpose for which a corporation
16 may be formed under the business corporation act, 1972 PA 284, MCL
17 450.1101 to 450.2098.

18 (iii) A corporation formed under ~~the professional service~~
19 ~~corporation act, FORMER 1962 PA 192. , MCL 450.221 to 450.235.~~

20 (f) "Department" means the department of ~~energy, labor, and~~
21 ~~economic growth.~~ **LICENSING AND REGULATORY AFFAIRS.**

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

27 (h) "Electronic transmission" or "electronically transmitted"

1 means any form of communication that meets all of the following:

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

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

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

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

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

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

16 (l) "Limited partnership" or "domestic limited partnership"
17 means a limited partnership formed under the Michigan revised
18 uniform limited partnership act, 1982 PA 213, MCL 449.1101 to
19 449.2108.

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

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

1 charitable or educational purposes.

2 (ii) The production of income or appreciation of property is
3 not a significant purpose of the limited liability company.

4 However, in the absence of other factors, the fact that a limited
5 liability company produces significant income or capital
6 appreciation is not conclusive evidence of a significant purpose
7 involving the production of income or the appreciation of property.

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

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

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

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

26 (q) "Membership interest" or "interest" means a member's
27 rights in the limited liability company, including, but not limited

1 to, any right to receive distributions of the limited liability
2 company's assets and any right to vote or participate in
3 management.

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

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

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

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

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

21 Sec. 902. As used in this article:

22 (a) "Licensed person" means an individual who is licensed or
23 otherwise legally authorized to practice a professional service by
24 a court, department, board, commission, or an agency of this state
25 or another jurisdiction, any corporation or professional services
26 corporation all of whose shareholders are licensed persons, any
27 partnership all of whose partners are licensed persons, or any

1 limited liability company all of whose members and managers are
2 licensed persons.

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

12 (c) "Professional services corporation" means a corporation
13 formed under ~~the professional service corporation act, FORMER~~ 1962
14 PA 192 ~~, MCL 450.221 to 450.235.~~ **OR A CORPORATION INCORPORATED UNDER**
15 **AND GOVERNED BY CHAPTER 2A OF THE BUSINESS CORPORATION ACT, 1972 PA**
16 **284, MCL 450.1101 TO 450.2098.**

17 Enacting section 1. This amendatory act does not take effect
18 unless Senate Bill No. 1320

19 of the 96th Legislature is enacted into law.