

SENATE BILL No. 501

DIGEST OF INTRODUCED BILL

Citations Affected: IC 23-18.

Synopsis: Low profit limited liability companies. Provides for a restricted form of limited liability company known as a low profit limited liability company for the purpose of receiving certain investments from a private foundation to further religious, charitable, educational, and similar objectives without adverse federal tax consequences to the private foundation. Provides that the name of a low profit limited liability company must contain the words "low profit limited liability company", the abbreviation "L3.C.", or the abbreviation "L3C".

Effective: July 1, 2011.

Hershman

January 13, 2011, read first time and referred to Committee on Commerce & Economic Development.

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First Regular Session 117th General Assembly (2011)

PRINTING CODE. Amendments: Whenever an existing statute (or a section of the Indiana Constitution) is being amended, the text of the existing provision will appear in this style type, additions will appear in **this style type**, and deletions will appear in ~~this style type~~.

Additions: Whenever a new statutory provision is being enacted (or a new constitutional provision adopted), the text of the new provision will appear in **this style type**. Also, the word **NEW** will appear in that style type in the introductory clause of each SECTION that adds a new provision to the Indiana Code or the Indiana Constitution.

Conflict reconciliation: Text in a statute in *this style type* or ~~this style type~~ reconciles conflicts between statutes enacted by the 2010 Regular Session of the General Assembly.

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SENATE BILL No. 501



A BILL FOR AN ACT to amend the Indiana Code concerning business and other associations.

Be it enacted by the General Assembly of the State of Indiana:

1 SECTION 1. IC 23-18-1-12.5 IS ADDED TO THE INDIANA
2 CODE AS A **NEW** SECTION TO READ AS FOLLOWS
3 [EFFECTIVE JULY 1, 2011]: **Sec. 12.5. "Low profit limited liability**
4 **company" means a limited liability company:**

- 5 (1) **whose articles of organization conform with the**
- 6 **requirements specified in IC 23-18-2-4(c); and**
- 7 (2) **whose name conforms with the requirements specified in**
- 8 **IC 23-18-2-8(c).**

9 SECTION 2. IC 23-18-2-4 IS AMENDED TO READ AS
10 FOLLOWS [EFFECTIVE JULY 1, 2011]: Sec. 4. (a) At least one (1)
11 person may form a limited liability company by causing articles of
12 organization to be executed and filed for record with the office of the
13 secretary of state. A person does not need to be a member of the limited
14 liability company at the time of formation or after formation has
15 occurred.

- 16 (b) Articles of organization ~~shall~~ **must** contain the following:
- 17 (1) The name of the limited liability company.



- 1 (2) The street address of the limited liability company's registered
- 2 office in Indiana and the name of the limited liability company's
- 3 registered agent at that office.
- 4 (3) The latest date upon which the limited liability company is to
- 5 dissolve, or a statement that the duration of the limited liability
- 6 company is perpetual until dissolution in accordance with this
- 7 article.
- 8 (4) If the articles of organization provide for a manager or
- 9 managers, a statement to that effect.
- 10 (5) Any other matters not inconsistent with this article that the
- 11 members agree to include, including any matters that are required
- 12 to be or may be included in an operating agreement under this
- 13 article.

14 **(c) In addition to the information required by subsection (b), the**
 15 **articles of organization of a limited liability company organized as**
 16 **a low profit limited liability company must contain the following**
 17 **declarations and restrictions from the time the low profit limited**
 18 **liability company is established:**

- 19 (1) **The primary objective of the low profit limited liability**
- 20 **company is to further the accomplishment of one (1) or more**
- 21 **of the purposes set forth in Section 170(c)(2)(B) of the Internal**
- 22 **Revenue Code (26 U.S.C. 170(c)(2)(B)).**
- 23 (2) **The low profit limited liability company would not have**
- 24 **been formed but for the low profit limited liability company's**
- 25 **relationship to the accomplishment of the low profit limited**
- 26 **liability company's primary objective.**
- 27 (3) **Neither the production of income nor the appreciation of**
- 28 **property is a significant purpose of the low profit limited**
- 29 **liability company.**
- 30 (4) **The low profit limited liability company does not have a**
- 31 **political or legislative purpose within the meaning of Section**
- 32 **170(c)(2)(D) of the Internal Revenue Code (26 U.S.C.**
- 33 **170(c)(2)(D)).**

34 **The fact that a low profit limited liability company produces**
 35 **significant income or property appreciation is not, in the absence**
 36 **of other factors, conclusive evidence of a significant purpose**
 37 **involving the production of income or the appreciation of property.**

- 38 (d) **A low profit limited liability company may cease to be a low**
- 39 **profit limited liability company by amending the low profit limited**
- 40 **liability company's articles of organization so that the articles of**
- 41 **organization no longer conform with subsection (c). If a low profit**
- 42 **limited liability company amends the low profit limited liability**

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1 **company's articles of organization so that the articles of**
2 **organization no longer conform with subsection (c), the low profit**
3 **limited liability company:**

4 (1) **ceases to be a low profit limited liability company on the**
5 **date when the amended articles of organization are effective;**
6 **and**

7 (2) **otherwise remains a limited liability company subject to**
8 **this article.**

9 (e) **A low profit limited liability company that ceases to be a low**
10 **profit limited liability company as provided under subsection (d)**
11 **shall also change the low profit limited liability company's name to**
12 **conform with the requirements of section 8(a) of this chapter not**
13 **later than thirty (30) days after the date the amended articles of**
14 **organization are effective.**

15 SECTION 3. IC 23-18-2-8 IS AMENDED TO READ AS
16 FOLLOWS [EFFECTIVE JULY 1, 2011]: Sec. 8. (a) **Except as**
17 **provided in subsection (b),** the name of each limited liability company
18 as set forth in its articles of organization:

19 (1) must contain the words "limited liability company" or either
20 of the following abbreviations:

- 21 (A) "L.L.C."; or
- 22 (B) "LLC";

23 (2) may contain the name of a member or manager; and

24 (3) except as provided in subsection ~~(b)~~; (c), must be such as to
25 distinguish the name upon the records of the office of the
26 secretary of state from the name of any limited liability company
27 or other business entity reserved, registered, or organized under
28 the laws of Indiana or qualified to transact business as a foreign
29 limited liability company in Indiana.

30 (b) **The name of each low profit limited liability company as set**
31 **forth in its articles of organization must contain the words "low**
32 **profit limited liability company" or either of the following**
33 **abbreviations:**

- 34 (1) "L3C".
- 35 (2) "L3C".

36 ~~(b)~~ (c) A limited liability company may apply to the secretary of
37 state to use a name that is not distinguishable upon the secretary of
38 state's records from one (1) or more of the names described in
39 subsection (a). The secretary of state shall authorize the use of the
40 name applied for if:

41 (1) the other domestic or foreign limited liability company or
42 other business entity files its written consent to the use of its

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1 name; or
2 (2) the applicant delivers to the secretary of state a certified copy
3 of a final court judgment from a circuit or superior court in the
4 state of Indiana establishing the applicant's right to use the name
5 applied for in Indiana.

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