

SENATE BILL NO. 926

March 01, 2022, Introduced by Senators SCHMIDT, HERTEL, CHANG and WOZNIAK and referred to the Committee on Economic and Small Business Development.

A bill to amend 1993 PA 23, entitled
"Michigan limited liability company act,"
by amending section 102 (MCL 450.4102), as amended by 2015 PA 157.

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.

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

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

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

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

15 (i) A corporation formed under the business corporation act,
16 1972 PA 284, MCL 450.1101 to 450.2098.

17 (ii) A corporation existing on January 1, 1973 and formed under
18 another statute of this state for a purpose for which a corporation
19 may be formed under the business corporation act, 1972 PA 284, MCL
20 450.1101 to 450.2098.

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

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

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

29 (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 of
27 1986, 26 USC 170, and would not have been formed except to
28 accomplish those charitable or educational purposes.

29 (ii) The production of income or appreciation of property is

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

6 (iii) The purposes of the limited liability company do not
7 include accomplishing 1 or more political or legislative purposes
8 described in section 170(c)(2)(D) of the internal revenue code of
9 1986, 26 USC 170.

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

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

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

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

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

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

12 (t) "Services in a learned profession" means services rendered
13 by a dentist, an osteopathic physician, a physician, a surgeon, a
14 doctor of divinity or other clergy, or an attorney-at-law. The term
15 does not include services provided to residents of a nursing home,
16 as **that term is** defined in section 20109 of the public health code,
17 1978 PA 368, MCL 333.20109, by a dentist, osteopathic physician,
18 physician, or surgeon who is an employee or independent contractor
19 of the nursing home.

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

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