

AN ACT

To amend sections 1705.04, 1705.08, 1705.12, and 1705.43 of the Revised Code to eliminate the requirement that articles of organization of a limited liability company specify an address for obtaining copies of the company's operating agreement or company bylaws and that the articles must be amended if that address is changed, to eliminate certain distribution rights of a member upon withdrawal from the company and instead to treat the withdrawing member as an assignee of the member's membership interest in the company, to specify that the withdrawal of a member does not dissolve a limited liability company if certain requirements are satisfied, and to declare an emergency.

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

SECTION 1. That sections 1705.04, 1705.08, 1705.12, and 1705.43 of the Revised Code be amended to read as follows:

Sec. 1705.04. (A) One or more persons, without regard to residence, domicile, or state of organization, may form a limited liability company. The company is formed when one or more persons or their authorized representative signs and files with the secretary of state articles of organization that set forth all of the following:

- (1) The name of the company;
- (2) Except as provided in division (B) of this section, the period of its duration, which may be perpetual;
- (3) ~~The address to which interested persons may direct requests for copies of any operating agreement and any bylaws of the company;~~
- (4) Any other provisions that are from the operating agreement or that are not inconsistent with applicable law and that the members elect to set out in the articles for the regulation of the affairs of the company.

(B) If the articles of organization or operating agreement do not set forth

the period of the duration of the limited liability company, its duration shall be perpetual.

(C) If a limited liability company is formed under this chapter for the purpose of rendering a professional service, the kinds of professional services authorized under Chapters 4703. and 4733. of the Revised Code, or a combination of the professional services of optometrists authorized under Chapter 4725. of the Revised Code, chiropractors authorized under Chapter 4734. of the Revised Code, psychologists authorized under Chapter 4732. of the Revised Code, registered or licensed practical nurses authorized under Chapter 4723. of the Revised Code, pharmacists authorized under Chapter 4729. of the Revised Code, physical therapists authorized under sections 4755.40 to 4755.53 of the Revised Code, mechanotherapists authorized under section 4731.151 of the Revised Code, and doctors of medicine and surgery, osteopathic medicine and surgery, or podiatric medicine and surgery authorized under Chapter 4731. of the Revised Code, the following apply:

(1) Each member, employee, or other agent of the company who renders a professional service in this state and, if the management of the company is not reserved to its members, each manager of the company who renders a professional service in this state shall be licensed, certificated, or otherwise legally authorized to render in this state the same kind of professional service; if applicable, the kinds of professional services authorized under Chapters 4703. and 4733. of the Revised Code; or, if applicable, any of the kinds of professional services of optometrists authorized under Chapter 4725. of the Revised Code, chiropractors authorized under Chapter 4734. of the Revised Code, psychologists authorized under Chapter 4732. of the Revised Code, registered or licensed practical nurses authorized under Chapter 4723. of the Revised Code, pharmacists authorized under Chapter 4729. of the Revised Code, physical therapists authorized under sections 4755.40 to 4755.53 of the Revised Code, mechanotherapists authorized under section 4731.151 of the Revised Code, or doctors of medicine and surgery, osteopathic medicine and surgery, or podiatric medicine and surgery authorized under Chapter 4731. of the Revised Code.

(2) Each member, employee, or other agent of the company who renders a professional service in another state and, if the management of the company is not reserved to its members, each manager of the company who renders a professional service in another state shall be licensed, certificated, or otherwise legally authorized to render that professional service in the other state.

(D) Except for the provisions of this chapter pertaining to the personal

liability of members, employees, or other agents of a limited liability company and, if the management of the company is not reserved to its members, the personal liability of managers of the company, this chapter does not restrict, limit, or otherwise affect the authority or responsibilities of any agency, board, commission, department, office, or other entity to license, certificate, register, and otherwise regulate the professional conduct of individuals or organizations of any kind rendering professional services in this state or to regulate the practice of any profession that is within the jurisdiction of the agency, board, commission, department, office, or other entity, notwithstanding that the individual is a member or manager of a limited liability company and is rendering the professional services or engaging in the practice of the profession through the limited liability company or that the organization is a limited liability company.

(E) No limited liability company formed for the purpose of providing a combination of the professional services, as defined in section 1785.01 of the Revised Code, of optometrists authorized under Chapter 4725. of the Revised Code, chiropractors authorized under Chapter 4734. of the Revised Code, psychologists authorized under Chapter 4732. of the Revised Code, registered or licensed practical nurses authorized under Chapter 4723. of the Revised Code, pharmacists authorized under Chapter 4729. of the Revised Code, physical therapists authorized under sections 4755.40 to 4755.53 of the Revised Code, mechanotherapists authorized under section 4731.151 of the Revised Code, and doctors of medicine and surgery, osteopathic medicine and surgery, or podiatric medicine and surgery authorized under Chapter 4731. of the Revised Code shall control the professional clinical judgment exercised within accepted and prevailing standards of practice of a licensed, certificated, or otherwise legally authorized optometrist, chiropractor, psychologist, nurse, pharmacist, physical therapist, mechanotherapist, or doctor of medicine and surgery, osteopathic medicine and surgery, or podiatric medicine and surgery in rendering care, treatment, or professional advice to an individual patient.

This division does not prevent a hospital, as defined in section 3727.01 of the Revised Code, insurer, as defined in section 3999.36 of the Revised Code, or intermediary organization, as defined in section 1751.01 of the Revised Code, from entering into a contract with a limited liability company described in this division that includes a provision requiring utilization review, quality assurance, peer review, or other performance or quality standards. Those activities shall not be construed as controlling the professional clinical judgment of an individual practitioner listed in this division.

Sec. 1705.08. (A) The articles of organization of a limited liability company may be amended at any time and for any proper purpose by filing a certificate of amendment with the secretary of state. However, a certificate of amendment amending the articles of organization shall be filed within thirty days after the occurrence of any of the following:

- (1) The name of the limited liability company is changed;
- (2) The period of the limited liability company's duration is changed;
- (3) ~~The address to which persons may direct requests for copies of any operating agreements or bylaws of the limited liability company is changed;~~
- (4) Any other information that is set forth in the articles of organization is changed.

(B) A member of a limited liability company in which the management is reserved to its members, or a manager of a limited liability company in which the management is not reserved to its members, promptly shall file or cause to be filed a certificate of amendment upon discovering that a statement in the articles of organization was materially false when made or that any other information set forth in the articles of organization has changed making the articles materially inaccurate.

(C)(1) A certificate of amendment filed pursuant to division (A) or (B) of this section shall be on a form prescribed by the secretary of state and shall set forth all of the following:

- (a) The name of the limited liability company;
- (b) The date of the filing of the limited liability company's articles of organization that are being amended;
- (c) The amendment to the limited liability company's articles of organization.

(2) The certificate of amendment shall be executed by a member, manager, or authorized representative of the limited liability company, which person shall also certify that ~~he~~ the person is authorized to execute the certificate.

(D) The articles of organization of a limited liability company may be restated at any time by filing a restatement of the articles of organization with the secretary of state. The restatement shall be certified by a member, manager, or authorized representative of the limited liability company, which person shall also certify that ~~he~~ the person is authorized to execute the restatement.

Sec. 1705.12. Upon withdrawal, a member withdrawing from a limited liability company has the right to receive any distribution to which ~~he~~ the member is entitled under the operating agreement and, except as otherwise provided in that agreement, ~~the right to receive within a reasonable time~~

~~after withdrawal the fair value of his membership interest as of the date of withdrawal based upon his right to share in distributions of the company withdrawing member shall be treated as if the member were an assignee of all of the member's membership interest as of the date of withdrawal.~~

Sec. 1705.43. (A) A limited liability company organized under this chapter shall be dissolved upon the occurrence of any of the following events:

(1) The expiration of the period, if any, fixed by the operating agreement or articles of organization for the duration of the company;

(2) One or more events specified in writing in the operating agreement as causing the dissolution of the company;

(3) The unanimous written agreement of all members to dissolve the company;

(4) ~~The~~ Except as provided in division (C) of this section, the withdrawal of a member of the company, unless the business of the company is continued by the consent of all of the remaining members or under a right to continue the company that is stated in writing in the operating agreement;

(5) Upon entry of a decree of judicial dissolution under section 1705.47 of the Revised Code.

(B) Following the occurrence of any of the events of dissolution specified in ~~division (A)~~ of this section, the limited liability company shall deliver to the secretary of state for filing a certificate of dissolution on a form that is prescribed by the secretary of state and that includes the name of the company and the effective date of its dissolution.

(C) If the company was formed on or after the effective date of this amendment, or the company was formed prior to the effective date of this amendment and its articles or operating agreement are amended to specifically state that this division applies to the company, the withdrawal of a member of the company shall not cause the dissolution of the company except as may be provided in the operating agreement.

SECTION 2. That existing sections 1705.04, 1705.08, 1705.12, and 1705.43 of the Revised Code are hereby repealed.

SECTION 3. Sections 1 and 2 of this act shall take effect on December 1, 1999, or the earliest time permitted by law, whichever is later.

SECTION 4. This act is hereby declared to be an emergency measure necessary for the immediate preservation of the public peace, health, and safety. The reason for such necessity is that it is crucial that this act be enacted into law at the earliest possible time to enable incorporating and corporate entities to utilize the changes that are created by this act prior to the end of 1999. Therefore, this act shall go into immediate effect.

Speaker _____ of the House of Representatives.

President _____ of the Senate.

Passed _____, 20____

Approved _____, 20____

Governor.

Am. Sub. H. B. No. 312

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The section numbering of law of a general and permanent nature is complete and in conformity with the Revised Code.

Director, Legislative Service Commission.

Filed in the office of the Secretary of State at Columbus, Ohio, on the ____ day of _____, A. D. 20____.

Secretary of State.

File No. _____ Effective Date _____