

**SUBSTITUTE FOR
SENATE BILL NO. 66**

A bill to amend 1993 PA 23, entitled
"Michigan limited liability company act,"
by amending section 102 (MCL 450.4102), as amended by 2012 PA 568.

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
9 restated articles, or by other instruments filed or issued under
10 any statute.

11 (c) "Constituent" means a party to a plan of merger, including

1 the survivor.

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

7 (e) "Corporation" or "domestic corporation" means any of the
8 following:

9 (i) A corporation formed under the business corporation act,
10 1972 PA 284, MCL 450.1101 to 450.2098.

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

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

16 (f) "Department" means the department of licensing and
17 regulatory affairs.

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

23 (h) "Electronic transmission" or "electronically transmitted"
24 means any form of communication that meets all of the following:

25 (i) It does not directly involve the physical transmission of
26 paper.

27 (ii) It creates a record that may be retained and retrieved by

1 the recipient.

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

4 (i) "Foreign limited liability company" means a limited
5 liability company formed under laws other than the laws of this
6 state.

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

9 (k) "Limited liability company" or "domestic limited liability
10 company" means an entity that is an unincorporated membership
11 organization formed under this act.

12 (l) "Limited partnership" or "domestic limited partnership"
13 means a limited partnership formed under the Michigan revised
14 uniform limited partnership act, 1982 PA 213, MCL 449.1101 to
15 449.2108.

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

20 (i) The limited liability company significantly furthers the
21 accomplishment of 1 or more charitable or educational purposes
22 described in section 170(c)(2)(B) of the internal revenue code **OF**
23 **1986**, 26 USC 170, and would not have been formed except to
24 accomplish those charitable or educational purposes.

25 (ii) The production of income or appreciation of property is
26 not a significant purpose of the limited liability company.
27 However, in the absence of other factors, the fact that a limited

1 liability company produces significant income or capital
2 appreciation is not conclusive evidence of a significant purpose
3 involving the production of income or the appreciation of property.

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

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

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

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

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

27 (r) "Operating agreement" means a written agreement by the

1 member of a limited liability company that has 1 member, or between
2 all of the members of a limited liability company that has more
3 than 1 member, pertaining to the affairs of the limited liability
4 company and the conduct of its business. The term includes any
5 provision in the articles of organization pertaining to the affairs
6 of the limited liability company and the conduct of its business.

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

10 (t) "Services in a learned profession" means services rendered
11 by a dentist, an osteopathic physician, a physician, a surgeon, a
12 doctor of divinity or other clergy, or an attorney-at-law. **THE TERM**
13 **DOES NOT INCLUDE SERVICES PROVIDED TO RESIDENTS OF A NURSING HOME,**
14 **AS DEFINED IN SECTION 20109 OF THE PUBLIC HEALTH CODE, 1978 PA 368,**
15 **MCL 333.20109, BY AN OSTEOPATHIC PHYSICIAN, PHYSICIAN, OR SURGEON**
16 **WHO IS AN EMPLOYEE OR INDEPENDENT CONTRACTOR OF THE NURSING HOME.**

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 Enacting section 1. This amendatory act takes effect 90 days
22 after the date it is enacted into law.

23 Enacting section 2. This amendatory act does not take effect
24 unless Senate Bill No. 65 of the 98th Legislature is enacted into
25 law.