

MICHIGAN LIMITED LIABILITY COMPANY ACT (EXCERPT)
Act 23 of 1993

450.4708 Conversion into business organization; requirements; effectiveness of certificate of conversion; foreign business organization as surviving business organization; "business organization" and "entity" defined.

Sec. 708.

(1) A domestic limited liability company may convert into a business organization if all of the following requirements are satisfied:

(a) The conversion is permitted by the law that will govern the internal affairs of the business organization after conversion and the surviving business organization complies with that law in converting.

(b) Unless subdivision (d) applies, the domestic limited liability company proposing to convert adopts a plan of conversion that includes all of the following:

(i) The name of the domestic limited liability company, the name of the business organization into which the domestic limited liability company is converting, the type of business organization into which the domestic limited liability company is converting, identification of the statute that will govern the internal affairs of the surviving business organization, the street address of the surviving business organization, the street address of the domestic limited liability company if different from the street address of the surviving business organization, and the principal place of business of the surviving business organization.

(ii) The terms and conditions of the proposed conversion, including the manner and basis of converting the membership interests of the domestic limited liability company into ownership interests or obligations of the surviving business organization, into cash, into other consideration that may include ownership interests or obligations of an entity that is not a party to the conversion, or into a combination of cash and other consideration.

(iii) The terms and conditions of the organizational documents that are to govern the surviving business organization.

(iv) Any other provisions with respect to the proposed conversion that the domestic limited liability company considers necessary or desirable.

(c) A vote of the members of a domestic limited liability company is required to adopt a plan of conversion under subdivision (b). A unanimous vote of the members entitled to vote is required to approve a plan of conversion unless the articles of organization or an operating agreement provide otherwise. If the articles of organization or an operating agreement of the domestic limited liability company provide for approval by less than a unanimous vote of members entitled to vote and the conversion is approved, a member that did not vote in favor of the conversion may withdraw from the domestic limited liability company before the conversion and receive, within a reasonable time, the fair value of the member's interest in the domestic limited liability company.

(d) If the domestic limited liability company has not commenced business; has not issued any membership interests; has no debts or other liabilities; and has not received any payments, or has returned any payments it has received after deducting any amount disbursed for payment of expenses, for subscriptions for its membership interests, subdivisions (b) and (c) do not apply and the organizers of the domestic limited liability company may approve of the conversion of the domestic limited liability company into a business organization by unanimous consent. To effect the conversion, a majority of the organizers must execute and file a certificate of conversion under subdivision (e).

(e) If the plan of conversion is approved under subdivision (c) or the conversion is approved under subdivision (d), the domestic limited liability company files any formation documents required to be filed under the laws governing the internal affairs of the surviving business organization, in the manner prescribed by those laws, and files a certificate of conversion with the administrator. The certificate of conversion shall include all of the following:

(i) Unless subdivision (d) applies, all of the information described in subdivision (b)(i).

(ii) A statement that the members of the domestic limited liability company have adopted the plan of conversion under subdivision (c), or that the organizers of the domestic limited liability company have approved of the conversion under subdivision (d), as applicable.

(iii) A statement that the surviving business organization will furnish a copy of the plan of conversion, on request and without cost, to any member of the domestic limited liability company.

(iv) A statement specifying each assumed name of the domestic limited liability company that the surviving business organization is authorized to continue to use under section 206(8).

(2) Section 104 applies in determining when a certificate of conversion under this section becomes effective.

(3) When a conversion under this section takes effect, all of the following apply:

(a) The domestic limited liability company converts into the surviving business organization, and the articles of organization of the domestic limited liability company are canceled. Except as otherwise provided in this section,

the surviving business organization is organized under and subject to the organizational laws of the jurisdiction of the surviving business organization as stated in the certificate of conversion.

(b) The surviving business organization has all of the liabilities of the domestic limited liability company. The conversion of the domestic limited liability company into a business organization under this section shall not be considered to affect any obligations or liabilities of the domestic limited liability company incurred before the conversion or the personal liability of any person incurred before the conversion, and the conversion shall not be considered to affect the choice of law applicable to the domestic limited liability company with respect to matters arising before the conversion.

(c) The title to all real estate and other property and rights owned by the domestic limited liability company remain vested in the surviving business organization without reversion or impairment. The rights, privileges, powers, and interests in property of the domestic limited liability company, as well as the debts, liabilities, and duties of the domestic limited liability company, shall not be considered, as a consequence of the conversion, to have been transferred to the surviving business organization to which the domestic limited liability company has converted for any purpose of the laws of this state.

(d) The surviving business organization may use the name and the assumed names of the domestic limited liability company if the filings required under section 206(8) or any other applicable statute are made and the laws regarding use and form of names are followed.

(e) A proceeding pending against the domestic limited liability company may be continued as if the conversion had not occurred, or the surviving business organization may be substituted in the proceeding for the domestic limited liability company.

(f) The surviving business organization is considered to be the same entity that existed before the conversion and is considered to be organized on the date that the domestic limited liability company was originally organized.

(g) The membership interests of the domestic limited liability company that were to be converted into ownership interests or obligations of the surviving business organization or into cash or other property are converted.

(h) Unless otherwise provided in a plan of conversion adopted in accordance with this section, the domestic limited liability company is not required to wind up its affairs or pay its liabilities and distribute its assets on account of the conversion, and the conversion does not constitute a dissolution of the domestic limited liability company.

(4) If the surviving business organization of a conversion under this section is a foreign business organization, it is subject to the laws of this state pertaining to the transaction of business in this state if it transacts business in this state. The surviving business organization is liable for, and is subject to service of process in a proceeding in this state for the enforcement of, an obligation of the domestic limited liability company, and in a proceeding for the enforcement of a right of a member of the domestic limited liability company that has withdrawn under subsection (1)(c).

(5) As used in this section and section 709, "business organization" and "entity" mean those terms as defined in section 705a.

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