

Stricken language would be deleted from and underlined language would be added to the law as it existed prior to this session of the General Assembly.

INTERIM STUDY PROPOSAL 2009-171

State of Arkansas

As Engrossed: H3/26/09

87th General Assembly

A Bill

Regular Session, 2009

HOUSE BILL 2102

By: Representative Webb

Filed with: House Interim Committee on Insurance and Commerce
pursuant to A.C.A. §10-3-217.

For An Act To Be Entitled

*AN ACT TO ALLOW FOR THE CREATION OF A LOW-PROFIT
LIMITED LIABILITY COMPANY; AND FOR OTHER PURPOSES.*

Subtitle

*TO ALLOW FOR THE CREATION OF A LOW-
PROFIT LIMITED LIABILITY COMPANY.*

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:

*SECTION 1. Arkansas Code § 4-32-102 is amended to read as follows:
4-32-102. Definitions.*

As used in this chapter, unless the context otherwise requires:

(1) "Articles of organization" means articles filed under § 4-32-201, and those articles as amended and restated;

(2) "Corporation" means a corporation formed under the laws of any state or foreign country, including professional corporations or associations;

(3) "Court" includes every court having jurisdiction in the case;

(4) "Event of dissociation" means an event that causes a person to cease to be a member as provided in § 4-32-802;

(5) "Foreign limited liability company" means an organization that is:

(A) An unincorporated association;



1 (B) Organized under laws of a state other than the laws of
2 this state, or under the laws of any foreign country;

3 (C) Organized under a statute pursuant to which an
4 association may be formed that affords to each of its members limited
5 liability with respect to the liabilities of the entity; and

6 (D) Not required to be registered or organized under any
7 statute of this state other than this chapter;

8 (6) "Limited liability company" or "domestic limited liability
9 company" means an organization formed under this chapter;

10 (7) "Limited liability company interest" or "interest in the
11 limited liability company" means the interest that can be assigned under § 4-
12 32-704 and charged under § 4-32-705;

13 (8) "Limited partnership" means a limited partnership formed
14 under the laws of any state or foreign country;

15 (9)(A) "L3C" or "low-profit limited liability company" means a
16 person organized under this chapter that is organized for a business purpose
17 that satisfies and is at all times operated to satisfy each of the following
18 requirements:

19 (i) The company:

20 (a) Significantly furthers the accomplishment
21 of one (1) or more charitable or educational purposes within the meaning of §
22 170(c)(2)(B) of the Internal Revenue Code of 1986, 26 U.S.C. § 170(c)(2)(B);
23 and

24 (b) Would not have been formed but for the
25 company's relationship to the accomplishment of charitable or educational
26 purposes;

27 (ii)(a) A significant purpose of the company is not
28 the production of income or the appreciation of property.

29 (b) However, the fact that a person produces
30 significant income or capital appreciation shall not, in the absence of other
31 factors, be conclusive evidence of a significant purpose involving the
32 production of income or the appreciation of property; and

33 (iii) The purpose of the company is not to
34 accomplish one (1) or more political or legislative purposes within the
35 meaning of § 170(c)(2)(D) of the Internal Revenue Code of 1986, 26 U.S.C. §
36 170(c)(2)(D).

1 (B)(i) If a company that met the definition of this
2 subdivision at the time it was formed ceases to satisfy any one (1) of the
3 requirements of subdivision (9)(A) of this section, the company shall cease
4 being a low-profit limited liability company but by continuing to meet all
5 other requirements of this chapter shall continue to exist as a limited
6 liability company.

7 (ii) If a company no longer meets the definition of
8 a low-profit limited liability company, the name of the company shall be
9 changed to comply with § 4-32-103;

10 ~~(9)~~(10) "Manager" or "managers" means, with respect to a limited
11 liability company that has set forth in its articles of organization that it
12 is to be managed by managers, the person or persons designated in accordance
13 with § 4-32-401;

14 ~~(10)~~(11) "Member" or "members" means a person or persons who
15 have been admitted to membership in a limited liability company as provided
16 in § 4-32-801 and who have not ceased ~~to be~~ being members as provided in § 4-
17 32-802;

18 ~~(11)~~(12) "Operating agreement" means the written agreement which
19 shall be entered into among all of the members as to the conduct of the
20 business and affairs of a limited liability company;

21 ~~(12)~~(13) "Person" means an individual, a general partnership, a
22 limited partnership, a domestic or foreign limited liability company, a
23 trust, an estate, an association, a corporation, a custodian, a nominee and
24 other individual entity in its own or representative capacity, or any other
25 legal entity;

26 ~~(13)~~(14) "Professional service" means any type of professional
27 service which may be legally performed only pursuant to a license or other
28 legally mandated personal authorization. For example: the personal service
29 rendered by certified public accountants, architects, engineers, dentists,
30 doctors and attorneys at law; and

31 ~~(14)~~(15) "State" means a state, territory, or possession of the
32 United States, the District of Columbia, or the Commonwealth of Puerto Rico.

33
34 SECTION 2. Arkansas Code § 4-32-103(a), concerning the name of a
35 limited liability company, is amended to read as follows:

36 (a)(1) The Except for a low-profit limited liability company, the name

1 of each limited liability company as set forth in its articles of
2 organization must contain the words "Limited Liability Company" or "Limited
3 Company" or the abbreviations "L.L.C.," "L.C.," "LLC," or "LC." The word
4 "Limited" may be abbreviated as "Ltd." and the word "Company" may be
5 abbreviated as "Co."

6 (2) The name of a low-profit limited liability company shall
7 contain the abbreviation "L3C" or "l3c".

8
9 SECTION 3. Arkansas Code § 4-32-202 is amended to read as follows:
10 4-32-202. Articles of organization.

11 The articles of organization shall set forth:

12 (1) A name for the limited liability company that satisfies the
13 requirements of § 4-32-103;

14 (2) The information required by § 4-20-105(a), concerning the
15 limited liability company's agent for service of process; and

16 (3) If management of the limited liability company is vested in
17 a manager or managers, a statement to that effect; and

18 (4) Whether the limited liability company is a low-profit
19 limited liability company.

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22 /s/ Webb
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36 Filed Date: 04/22/2009 By: MMC\VJF