

1 State of Arkansas  
2 88th General Assembly  
3 Regular Session, 2011  
4  
5 By: Senator D. Johnson

# A Bill

SENATE BILL 5

## For An Act To Be Entitled

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

### Subtitle

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

16  
17 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:

18  
19 SECTION 1. Arkansas Code § 4-32-102 is amended to read as follows:  
20 4-32-102. Definitions.

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

22 (1) "Articles of organization" means articles filed under § 4-  
23 32-201, and those articles as amended and restated;

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

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

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

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

33 (A) An unincorporated association;

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

36 (C) Organized under a statute pursuant to which an



1 association may be formed that affords to each of its members limited  
2 liability with respect to the liabilities of the entity; and

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

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

7 (7) "Limited liability company interest" or "interest in the  
8 limited liability company" means the interest that can be assigned under § 4-  
9 32-704 and charged under § 4-32-705;

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

12 (9)(A) "Low-profit limited liability company" means a person  
13 organized under this chapter for a business purpose that satisfies and is at  
14 all times operated to satisfy each of the following requirements:

15 (i) The company:

16 (a) Significantly furthers the accomplishment  
17 of one (1) or more religious, charitable, scientific, literary, or  
18 educational purposes within the meaning of § 170(c)(2)(B) of the Internal  
19 Revenue Code of 1986, 26 U.S.C. § 170(c)(2)(B); and

20 (b) Would not have been formed but for the  
21 company's relationship to the accomplishment of charitable or educational  
22 purposes;

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

25 (b) However, the fact that a person produces  
26 significant income or capital appreciation is not, in the absence of other  
27 factors, conclusive evidence of a significant purpose involving the  
28 production of income or the appreciation of property; and

29 (iii) A purpose of the company is not to accomplish  
30 one (1) or more political or legislative purposes within the meaning of §  
31 170(c)(2)(D) of the Internal Revenue Code of 1986, 26 U.S.C. § 170(c)(2)(D).

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

1 liability company.

2 (ii) If a company no longer meets the definition of  
3 a low-profit limited liability company, the name of the company shall be  
4 changed to comply with § 4-32-103 within sixty (60) days;

5 ~~(9)~~(10) “Manager” or “managers” means, with respect to a limited  
6 liability company that has set forth in its articles of organization that it  
7 is to be managed by managers, the person or persons designated ~~in accordance~~  
8 ~~with~~ under § 4-32-401;

9 ~~(10)~~(11) “Member” or “members” means a person or persons who  
10 have been admitted to membership in a limited liability company as provided  
11 in § 4-32-801 and who have not ceased ~~to be~~ being members as provided in § 4-  
12 32-802;

13 ~~(11)~~(12) “Operating agreement” means the written agreement which  
14 shall be entered into among all of the members as to the conduct of the  
15 business and affairs of a limited liability company;

16 ~~(12)~~(13) “Person” means an individual, a general partnership, a  
17 limited partnership, a domestic or foreign limited liability company, a  
18 trust, an estate, an association, a corporation, a custodian, a nominee and  
19 other individual entity in its own or representative capacity, or any other  
20 legal entity;

21 ~~(13)~~(14) “Professional service” means any type of professional  
22 service which may be legally performed only pursuant to a license or other  
23 legally mandated personal authorization. For example: the personal service  
24 rendered by certified public accountants, architects, engineers, dentists,  
25 doctors, and attorneys at law; and

26 ~~(14)~~(15) “State” means a state, territory, or possession of the  
27 United States, the District of Columbia, or the Commonwealth of Puerto Rico.

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

31 (a)(1) ~~The~~ Except for a low-profit limited liability company, the name  
32 of each limited liability company as set forth in its articles of  
33 organization must contain the words “Limited Liability Company” or “Limited  
34 Company” or the abbreviations “L.L.C.”, “L.C.”, “LLC,” or “LC.” The  
35 word “Limited” may be abbreviated as “Ltd.” and the word “Company” may be  
36 abbreviated as “Co.”

1           (2) The name of a low-profit limited liability company shall  
2 contain the abbreviation "L3C", "L.3.C.", or "l3c".

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4           SECTION 3. Arkansas Code § 4-32-202 is amended to read as follows:  
5           4-32-202. Articles of organization.

6           The articles of organization shall set forth:

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

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

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

13                   (4) Whether the limited liability company is a low-profit  
14 limited liability company.

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16           SECTION 4. Arkansas Code § 4-32-901 is amended to read as follows:  
17           4-32-901. Dissolution.

18           A limited liability company is dissolved and its affairs shall be wound  
19 up upon the happening of the first to occur of the following:

20                   (1) At the time or upon the occurrence of events specified in  
21 writing in the articles of organization or an operating agreement, but if no  
22 such time is set forth in either of the foregoing, then the limited liability  
23 company shall have a perpetual existence;

24                   (2) The written consent of all members;

25                   (3) At any time there are no members, provided that, unless  
26 otherwise provided in the articles of organization or an operating agreement,  
27 the limited liability company is not dissolved and is not required to be  
28 wound up if within ninety (90) days or such other period as is provided for  
29 in the articles of organization or an operating agreement after the  
30 occurrence of the event that terminated the continued membership of the last  
31 remaining member, the personal representative of the last remaining member  
32 agrees in writing to continue the limited liability company and to the  
33 admission of the personal representative of the member or its nominee or  
34 designee to the limited liability company as a member, effective as of the  
35 occurrence of the event that terminated the continued membership of the last  
36 remaining member; ~~and~~

1           (4) If a low-profit limited liability company fails to meet any  
2 of the requirements in § 4-32-102(9)(A) and does not file an article of  
3 amendment under § 4-32-203 amending its name to conform with the requirements  
4 governing limited liability company names under § 4-32-103 within sixty (60)  
5 days; and

6           (5) The entry of a decree of judicial dissolution under § 4-32-  
7 902.

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