
By: Delegates Montague, Finifter, Frank, and Genn

Introduced and read first time: February 16, 1996

Assigned to: Economic Matters

Committee Report: Favorable with amendments

House action: Adopted

Read second time: March 23, 1996

CHAPTER ____

1 AN ACT concerning

2 ~~Limited Liability Company Reform Act of 1996~~ **Companies - Number of Required**
3 **Members Upon Dissolution**

4 FOR the purpose of altering the requirement that a limited liability company be formed
5 by two or more persons by allowing formation by any person; allowing a limited
6 liability company to continue to carry on its business following dissolution if there is
7 at least one remaining member and the remaining member consents; clarifying the
8 manner of determining the fair market value of a person's interest in a limited
9 liability company for certain purposes; providing for the effect of an assignment,
10 pledge, or granting of an encumbrance in a member's interest in a limited liability
11 company on the member and assignee; repealing certain provisions relating to the
12 liability of members of limited liability companies who perform professional
13 services; providing that certain provisions limiting the personal liability of a member
14 of a limited liability company do not affect the liability of the member for certain
15 debts and obligations under certain circumstances; repealing certain limitations on
16 the authority of a member of a limited liability company; exempting certain limited
17 liability companies from the requirement to file a State income tax return; requiring
18 that the profit or loss of certain limited liability companies be reflected on the
19 income tax returns filed by the owners of the limited liability companies; exempting
20 from certain motor vehicle excise taxes certain transfers to and from limited liability
21 companies; altering a certain definition; clarifying language; providing for the
22 application of certain provisions of this Act; providing a certain exception to the
23 general rule that a limited liability company may consist of no less than two persons;
24 and generally relating to limited liability companies.

25 BY repealing and reenacting, with amendments,

26 Article - Corporations and Associations

27 Section 4A-101(l), 4A-202(a), 4A-301, 4A-401(d), 4A-603, 4A-904, and 4A-905

2

1 and 4A-904
2 Annotated Code of Maryland
3 (1993 Replacement Volume and 1995 Supplement)

4 ~~BY repealing~~
5 ~~Article—Corporations and Associations~~
6 ~~Section 4A-301.1~~
7 ~~Annotated Code of Maryland~~
8 ~~(1993 Replacement Volume and 1995 Supplement)~~

9 ~~BY repealing and reenacting, with amendments,~~
10 ~~Article—Tax—General~~
11 ~~Section 10-819~~
12 ~~Annotated Code of Maryland~~
13 ~~(1988 Volume and 1995 Supplement)~~

14 ~~BY repealing and reenacting, with amendments,~~
15 ~~Article—Transportation~~
16 ~~Section 13-810(e)~~
17 ~~Annotated Code of Maryland~~
18 ~~(1992 Replacement Volume and 1995 Supplement)~~

19 SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF
20 MARYLAND, That the Laws of Maryland read as follows:

21 **Article - Corporations and Associations**

22 4A-101.

23 (l) "Limited liability company" or "domestic limited liability company" means a
24 permitted form of unincorporated business organization [having 2 or more members]
25 which is organized and existing under this title.

26 ~~4A-202.~~

27 ~~(a) [Two or more persons] ANY PERSON may form a limited liability company by~~
28 ~~causing articles of organization to be executed and filed for record with the Department.~~

29 ~~4A-301.~~

30 ~~(A) Except as otherwise provided by this title, no member shall be personally~~
31 ~~liable for the obligations of the limited liability company, whether arising in contract, tort~~
32 ~~or otherwise, solely by reason of being a member of the limited liability company.~~

33 ~~(B) SUBSECTION (A) OF THIS SECTION SHALL NOT AFFECT THE LIABILITY OF~~
34 ~~A MEMBER OF A LIMITED LIABILITY COMPANY FOR DEBTS AND OBLIGATIONS OF~~
35 ~~THE LIMITED LIABILITY COMPANY THAT ARISE FROM ANY NEGLIGENT OR~~
36 ~~WRONGFUL ACT OR OMISSION OF THE MEMBER OR OF ANOTHER MEMBER,~~
37 ~~EMPLOYEE, OR AGENT OF THE LIMITED LIABILITY COMPANY IF THE MEMBER IS~~

1 ~~NEGLIGENT IN APPOINTING, DIRECTLY SUPERVISING, OR COOPERATING WITH THE~~
2 ~~OTHER MEMBER, EMPLOYEE, OR AGENT.~~

3 ~~{4A-301.1.~~

4 ~~(a) (1) An individual who renders a professional service in this State as an~~
5 ~~employee of a domestic or foreign limited liability company is liable for a negligent or~~
6 ~~wrongful act or omission in which the individual personally participated to the same~~
7 ~~extent as if the individual rendered the service as a sole practitioner.~~

8 ~~(2) An individual who renders a professional service in this State as an~~
9 ~~employee of a domestic or foreign limited liability company is not liable for a negligent or~~
10 ~~wrongful act or omission of another employee or member of the limited liability company~~
11 ~~unless the employee is negligent in appointing, supervising, or cooperating with the other~~
12 ~~employee or member.~~

13 ~~(b) A domestic or foreign limited liability company whose employees perform~~
14 ~~professional services within the scope of their employment or within the scope of the~~
15 ~~employees' apparent authority to act for the limited liability company is liable to the same~~
16 ~~extent as its employees.~~

17 ~~(c) The personal liability of a member of a domestic or foreign limited liability~~
18 ~~company that provides professional services is no greater in any respect than the liability~~
19 ~~of a member of a limited liability company which is not engaged in rendering professional~~
20 ~~services.~~

21 ~~4A-401.~~

22 ~~(d) Unless the members unanimously consent or unless all other members have~~
23 ~~abandoned the business, no member has authority to:~~

24 ~~(1) Assign the property of the limited liability company in trust for creditors~~
25 ~~or on the assignee's promise to pay the debts of the limited liability company;~~

26 ~~(2) Dispose of the goodwill of the business; OR~~

27 ~~(3) Do any other act which would make it impossible to carry on the~~
28 ~~ordinary business of the limited liability company;~~

29 ~~(4) Confess a judgment; or~~

30 ~~(5) Submit a limited liability company claim or liability to arbitration or~~
31 ~~reference.~~

32 ~~4A-603.~~

33 ~~(a) Unless otherwise provided in the operating agreement, an interest in a limited~~
34 ~~liability company is assignable in whole or in part.~~

35 ~~(b) An assignment of an interest in a limited liability company does not:~~

36 ~~(1) Dissolve the limited liability company; or~~

37 ~~(2) Unless the operating agreement provides otherwise, entitle the assignee~~
38 ~~to:~~

4

1 (i) ~~Become a member; or~~

2 (ii) ~~Exercise any rights of a member.~~

3 (e) ~~Unless otherwise provided in the operating agreement, an assignment entitles~~
4 ~~the assignee to receive, to the extent assigned, only the distributions AND THE SHARE OF~~
5 ~~PROFITS AND LOSSES to which the assignor would [be] HAVE BEEN entitled.~~

6 (D) ~~(1) A MEMBER CEASES TO BE A MEMBER AND TO HAVE THE POWER TO~~
7 ~~EXERCISE ANY RIGHTS OR POWERS OF A MEMBER UPON THE ASSIGNMENT OF THAT~~
8 ~~MEMBER'S ENTIRE INTEREST IN THE LIMITED LIABILITY COMPANY.~~

9 (2) ~~UNLESS OTHERWISE PROVIDED IN THE OPERATING AGREEMENT,~~
10 ~~THE PLEDGE OF, OR THE GRANTING OF A SECURITY INTEREST, LIEN, OR OTHER~~
11 ~~ENCUMBRANCE IN OR AGAINST ANY OR ALL OF THE INTEREST OF A MEMBER SHALL~~
12 ~~NOT CAUSE THE MEMBER TO CEASE TO BE A MEMBER OR CEASE TO HAVE THE~~
13 ~~POWER TO EXERCISE ANY RIGHTS OR POWERS OF A MEMBER.~~

14 4A-904.

15 Notwithstanding any other provision of this title, if there [are 2 or more] IS AT
16 LEAST ONE remaining [members] MEMBER, the limited liability company may continue
17 to carry on its business or affairs following dissolution, other than a judicial decree of
18 dissolution, if, within 90 days after the event causing dissolution, THE REMAINING
19 MEMBER CONSENTS, OR, IF THERE IS MORE THAN ONE REMAINING MEMBER, the
20 remaining members unanimously consent TO THE CONTINUATION OF THE LIMITED
21 LIABILITY COMPANY.

22 4A-905.

23 Unless the operating agreement provides otherwise, if the limited liability company
24 is continued under § 4A-904 of this subtitle following dissolution:

25 (1) Subject to the limitations of § 4A-503 of this title, a person ceasing to be
26 a member, or the legal representative or other successor to the interest of that member,
27 shall be entitled to receive, in liquidation of the member's interest:

28 (i) The distributions, if any, which that member is entitled to receive
29 under the operating agreement; or

30 (ii) If not otherwise provided in the operating agreement, within a
31 reasonable time after that person has ceased to be a member, the fair market value of
32 that person's interest in the limited liability company BASED UPON THAT PERSON'S
33 RIGHT TO SHARE IN DISTRIBUTIONS FROM THE LIMITED LIABILITY COMPANY as of
34 the date the person ceased to be a member; and

35 (2) Unless otherwise agreed, the members of the limited liability company
36 continuing the business following dissolution will be deemed to have entered into an
37 operating agreement under § 4A-402 of this title containing the same terms and
38 conditions as those contained in the operating agreement in effect immediately prior to
39 the dissolution, except that the members bound by the operating agreement shall be only
40 those members whose interests are not required to be liquidated pursuant to this section
41 or the operating agreement.

1 **Article—Tax—General**

2 ~~10-819.~~

3 (a) Each limited liability company as defined under Title 4A of the Corporations
4 and Associations Article shall file an income tax return, ~~UNLESS IT IS OWNED BY ONLY~~
5 ~~ONE PERSON AND IS TREATED FOR FEDERAL INCOME TAX PURPOSES AS A SOLE~~
6 ~~PROPRIETORSHIP OR AS A DIVISION OF A CORPORATION, A PARTNERSHIP, OR~~
7 ~~ANOTHER LIMITED LIABILITY COMPANY.~~

8 (b) (1) If the limited liability company is taxable as a partnership, as defined in
9 § 761 of the Internal Revenue Code, it shall file a partnership tax return.

10 (2) If the limited liability company is taxable as a corporation under Chapter
11 1, Subchapter C of the Internal Revenue Code, it shall file a corporatetax return.

12 (C) ~~IF THE LIMITED LIABILITY COMPANY IS OWNED BY ONLY ONE PERSON~~
13 ~~AND IS TREATED FOR FEDERAL INCOME TAX PURPOSES AS A SOLE~~
14 ~~PROPRIETORSHIP OR AS A DIVISION OF A CORPORATION, A PARTNERSHIP, OR~~
15 ~~ANOTHER LIMITED LIABILITY COMPANY, THE PROFIT OR LOSS OF THE LIMITED~~
16 ~~LIABILITY COMPANY SHALL BE REFLECTED ON THE INCOME TAX RETURN FILED BY~~
17 ~~THE PERSON THAT OWNS THE LIMITED LIABILITY COMPANY.~~

18 **Article—Transportation**

19 ~~13-810.~~

20 (c) On transfer of a vehicle titled in this State and issuance of a subsequent
21 certificate of title, the vehicle is exempt from the excise tax imposed by this part, if it is:

22 (1) A vehicle transferred to a spouse, son, daughter, grandchild, parent,
23 sister, brother, grandparent, father-in-law, mother-in-law, son-in-law, or
24 daughter-in-law of the transferor, and no money or other valuable consideration is
25 involved in the transfer;

26 (2) A vehicle repossessed under a security agreement, unless the sale of the
27 vehicle is required under the agreement;

28 (3) A vehicle transferred from an individual to a partnership, LIMITED
29 LIABILITY COMPANY, or corporation or from a partnership, LIMITED LIABILITY
30 COMPANY, or corporation to a subpartnership, SUBSIDIARY LIMITED LIABILITY
31 COMPANY, or subsidiary corporation, if the individual, [partner,] PARTNERSHIP,
32 LIMITED LIABILITY COMPANY, or corporation is a partner, MEMBER, or principal
33 stockholder of the newly formed partnership, subpartnership, LIMITED LIABILITY
34 COMPANY, SUBSIDIARY LIMITED LIABILITY COMPANY, corporation, or subsidiary
35 corporation, as the case may be;

36 (4) A vehicle transferred to a legal heir, legatee, or distributee;

37 (5) A vehicle involuntarily transferred as a result of divorce or separation
38 proceedings;

39 (6) A vehicle that is jointly owned and transferred to the name of one of the
40 owners, if the transferee can establish to the satisfaction of the Administration that the

6

1 transferor did not pay any part of the original purchase price of the vehicle or any
2 applicable taxes or fees for the vehicle;

3 (7) A vehicle transferred by a corporation to its stockholder or stockholders
4 ~~OR BY A LIMITED LIABILITY COMPANY TO ITS MEMBER OR MEMBERS~~ as a liquidating
5 distribution of tangible personal property where the vehicle or vehicles transferred are
6 not a principal or substantial asset of the corporation ~~OR LIMITED LIABILITY COMPANY~~
7 as determined by the Administration; or

8 (8) A vehicle transferred as a result of a reorganization within the meaning
9 of § 368(a) of the Internal Revenue Code.

10 SECTION 2. ~~AND BE IT FURTHER ENACTED, That the changes made to §~~
11 ~~40-819 of the Tax—General Article by this Act shall be applicable to all taxable years~~
12 ~~beginning after December 31, 1995.~~

13 SECTION 3. 2. ~~AND BE IT FURTHER ENACTED, That this Act shall take~~
14 effect October 1, 1996.