S T A T E O F N E W Y O R K

9809

I N A S S E M B L Y

April 12, 2016

Introduced by M. of A. SKOUFIS, ZEBROWSKI -- read once and referred to the Committee on Corporations, Authorities and Commissions

AN ACT to amend the limited liability company law, in relation to establishing beneficial ownership for limited liability companies

THE PEOPLE OF THE STATE OF NEW YORK, REPRESENTED IN SENATE AND ASSEMBLY, DO ENACT AS FOLLOWS:

Section 1. Section 102 of the limited liability company law is amended by adding a new subdivision (d-1) to read as follows:

(D-1) "BENEFICIAL OWNER" MEANS A NATURAL PERSON WHO IS A MEMBER, MANAGER OR AUTHORIZED PERSON WITHIN A LIMITED LIABILITY COMPANY.

S 2. Subdivision (e) of section 203 of the limited liability company law, as added by chapter 470 of the laws of 1997, is amended to read as follows:

(e) The articles of organization of a limited liability company shall set forth:

(1) the name of the limited liability company;

(2) the county within this state in which the office of the limited liability company is to be located or if the limited liability company shall maintain more than one office in this state, the county in which the principal office of the limited liability company is to be located;

(3) if the limited liability company is to have a specific date of dissolution in addition to the events of dissolution set forth in section seven hundred one of this chapter, the latest date on which the limited liability company is to dissolve;

(4) a designation of the secretary of state as agent of the limited liability company upon whom process against it may be served and the post office address within or without this state to which the secretary of state shall mail a copy of any process against the limited liability company served upon him or her;

(5) if the limited liability company is to have a registered agent, its name and address within this state and a statement that the registered agent is to be the agent of the limited liability company upon whom process against it may be served;

EXPLANATION--Matter in ITALICS (underscored) is new; matter in brackets [ ] is old law to be omitted.

LBD14137-07-6

(6) if all or specified members are to be liable in their capacity as members for all or specified debts, obligations or liabilities of the limited liability company as authorized pursuant to section six hundred nine of this chapter, a statement that all or specified members are so liable for such debts, obligations or liabilities in their capacity as members of the limited liability company as authorized pursuant to section six hundred nine of this chapter; [and]

(7) THE NAMES AND RESIDENTIAL ADDRESSES OF ALL BENEFICIAL OWNERS, IF ANY, OF THE LIMITED LIABILITY COMPANY. IF ANY MEMBER, MANAGER OR AUTHORIZED PERSON OF SUCH LIMITED LIABILITY COMPANY IS ITSELF A LIMITED LIABILITY COMPANY OR OTHER BUSINESS ENTITY, THE NAMES AND RESIDENTIAL ADDRESSES, OR IF NONE, THE BUSINESS ADDRESS OF ALL MEMBERS, MANAGERS, AND AUTHORIZED PERSONS OF THE LIMITED LIABILITY COMPANY OR OTHER BUSINESS ENTITY SHALL BE DISCLOSED UNTIL FULL DISCLOSURE OF ULTIMATE OWNERSHIP BY NATURAL PERSONS IS ACHIEVED; AND

(8) any other provisions, not inconsistent with law, that the members elect to include in the articles or organization for the regulation of the internal affairs of the limited liability company, including, but not limited to, (A) the business purpose for which the limited liability company is formed, (B) a statement of whether there are limitations on the authority of members or managers or a class or classes thereof to bind the limited liability company and (C) any provisions that are required or permitted to be included in the operating agreement of the limited liability company pursuant to section four hundred seventeen of this chapter.

S 3. The limited liability company law is amended by adding a new section 215 to read as follows:

S 215. BENEFICIAL OWNERS. (A) ANY LIMITED LIABILITY COMPANY FORMED PURSUANT TO THIS CHAPTER SHALL DISCLOSE, UPDATE AND VERIFY BENEFICIAL OWNERSHIP INFORMATION WITH THE SECRETARY PURSUANT TO THIS SECTION.

(B) SUCH INFORMATION AS REQUIRED PURSUANT TO SUBDIVISION (A) OF THIS SECTION, SHALL INCLUDE THE BENEFICIAL OWNER'S NAME, RESIDENTIAL OR BUSINESS ADDRESS, AND ANY ADDITIONAL INFORMATION DISCLOSED PURSUANT TO PARAGRAPH SEVEN OF SUBDIVISION (E) OF SECTION TWO HUNDRED THREE OF THIS ARTICLE.

(C) THE INFORMATION CONTAINED IN SUBDIVISION (B) OF THIS SECTION SHALL BE UPDATED WITH THE SECRETARY, NO LATER THAN NINETY DAYS AFTER ANY CHANGE IN INFORMATION. SUCH INFORMATION SHALL BE RETAINED FOR FIVE YEARS AFTER A LIMITED LIABILITY COMPANY TERMINATES. THE DEPARTMENT OF STATE SHALL ESTABLISH AND MAINTAIN A DATABASE OF THE INFORMATION DISCLOSED PURSUANT TO THIS PARAGRAPH AND SUCH DATABASE SHALL BE MADE AVAILABLE TO THE PUBLIC ON THE DEPARTMENT'S WEBSITE WITHIN NINETY DAYS AFTER THEY RECEIVE SUCH INFORMATION.

(D) ANY PERSON WHO (1) PROVIDES FALSE OF FRAUDULENT BENEFICIAL OWNERSHIP INFORMATION; (2) WILLFULLY FAILS TO PROVIDE COMPLETE OR UPDATED INFORMATION; (3) DISCLOSES THE EXISTENCE OF A SUBPOENA, SUMMONS, OR OTHER REQUEST FOR BENEFICIAL OWNERSHIP INFORMATION; OR (4) IN THE PROCESS OF FORMATION FAILS TO OBTAIN OR MAINTAIN CREDIBLE, LEGIBLE AND UPDATED BENEFICIAL OWNERSHIP INFORMATION SHALL BE LIABLE TO THE STATE FOR A CIVIL PENALTY OF NOT MORE THAN FIVE THOUSAND DOLLARS AND MAY BE IMPRISONED FOR NOT MORE THAN THREE YEARS OR BOTH.

S 4. Paragraphs 7, 8 and 9 of subdivision (d) of section 211 of the limited liability company law are renumbered paragraphs 8, 9 and 10 and a new paragraph 7 is added to read as follows:

7. A CHANGE IN BENEFICIAL OWNERSHIP, AS DEFINED IN SECTION ONE HUNDRED TWO OF THIS ARTICLE;

S 5. This act shall take effect immediately.