

7795

I N S E N A T E

May 12, 2016

Introduced by Sen. CARLUCCI -- read twice and ordered printed, and when printed to be committed 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:

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

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

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

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

10 (1) the name of the limited liability company;

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

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

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

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

28 (6) if all or specified members are to be liable in their capacity as
29 members for all or specified debts, obligations or liabilities of the
30 limited liability company as authorized pursuant to section six hundred

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

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

5 (7) THE NAMES AND RESIDENTIAL ADDRESSES OF ALL BENEFICIAL OWNERS, IF
6 ANY, OF THE LIMITED LIABILITY COMPANY. IF ANY MEMBER, MANAGER OR AUTHOR-
7 IZED PERSON OF SUCH LIMITED LIABILITY COMPANY IS ITSELF A LIMITED
8 LIABILITY COMPANY OR OTHER BUSINESS ENTITY, THE NAMES AND RESIDENTIAL
9 ADDRESSES, OR IF NONE, THE BUSINESS ADDRESS OF ALL MEMBERS, MANAGERS,
10 AND AUTHORIZED PERSONS OF THE LIMITED LIABILITY COMPANY OR OTHER BUSI-
11 NESS ENTITY SHALL BE DISCLOSED UNTIL FULL DISCLOSURE OF ULTIMATE OWNER-
12 SHIP BY NATURAL PERSONS IS ACHIEVED; AND

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

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

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

28 (B) SUCH INFORMATION AS REQUIRED PURSUANT TO SUBDIVISION (A) OF THIS
29 SECTION, SHALL INCLUDE THE BENEFICIAL OWNER'S NAME, RESIDENTIAL OR BUSI-
30 NESS ADDRESS, AND ANY ADDITIONAL INFORMATION DISCLOSED PURSUANT TO PARA-
31 GRAPH SEVEN OF SUBDIVISION (E) OF SECTION TWO HUNDRED THREE OF THIS
32 ARTICLE.

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

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

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

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

54 S 5. This act shall take effect immediately.