2015 ASSEMBLY BILL 60

February 23, 2015 – Introduced by Representatives KOOYenga, GENRICH, MACCO, JOHNSON, GOYKE, KNUDSON, SANFELIPPO, SUBECK, KLEEFISCH, C. TAYLOR, KULP, KOLSTE, QUINN, KNOdL, HESSELBEIN, BARCA, BERCEAU, KREMER, ZAMARRIPA, SPREITzER and HINTz, cosponsored by Senators DARLING, WANGGAARD, HANSEN and OLSEN. Referred to Committee on Financial Institutions.

AN ACT to amend 183.0103 (1), 183.0103 (3), 183.0202 (2), 183.09025 (4) (a) 3. and 183.1005; and to create 183.0202 (7) and subchapter XIV of chapter 183 [precedes 183.1401] of the statutes; relating to: creation of a category of limited liability company identified as a low-profit limited liability company.

Analysis by the Legislative Reference Bureau

This bill allows an entity operated for profit and organized as a limited liability company (LLC) to become a low-profit LLC by stating in its articles of organization that it is a low-profit LLC. However, to qualify as a low-profit LLC, an LLC must significantly further the accomplishment of one or more charitable or educational purposes, cannot have the production of income or appreciation of property as its primary purpose, and cannot have any political or legislative purpose. In general, provisions of law applicable to LLCs also apply to low-profit LLCs, although one of the permissible identifiers in the name of a low-profit LLC is “L3C” instead of “LLC.”

The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:

SECTION 1. 183.0103 (1) of the statutes is amended to read:

183.0103 (1) The Except as provided in s. 183.1402, the name of a limited liability company as set forth in its articles of organization must contain the words
“limited liability company” or “limited liability co.” or end with the abbreviation “L.L.C.” or “LLC”. The name may not contain language stating or implying that the limited liability company is organized for any purpose other than that permitted under s. 183.0106 (1).

SECTION 2. 183.0103 (3) of the statutes is amended to read:

183.0103 (3) The name of a limited liability company is not distinguishable from a name referred to in sub. (2) (a) to (c) if the only difference between it and the other name is the inclusion or absence of a word or words referred to in sub. (1) or s. 183.1402 or of the words “corporation”, “incorporated”, “limited”, “company”, “limited partnership”, “limited liability partnership” or “cooperative” or an abbreviation of these words.

SECTION 3. 183.0202 (2) of the statutes is amended to read:

183.0202 (2) A name for the limited liability company that satisfies s. 183.0103 and, if applicable, s. 183.1402.

SECTION 4. 183.0202 (7) of the statutes is created to read:

183.0202 (7) If applicable, the statements under s. 183.1403 (2).

SECTION 5. 183.09025 (4) (a) 3. of the statutes is amended to read:

183.09025 (4) (a) 3. A statement that the limited liability company’s name satisfies s. 183.0103 and, if applicable, s. 183.1402.

SECTION 6. 183.1005 of the statutes is amended to read:

183.1005 Name. A certificate of registration may not be issued to a foreign limited liability company unless its name satisfies s. 183.0103 (1) and (2) and, if applicable, s. 183.1402. If the name under which a foreign limited liability company is registered in the jurisdiction of its formation does not satisfy s. 183.0103 (1) and (2) and, if applicable, s. 183.1402, the foreign limited liability company may obtain
a certificate of registration to transact business in this state under a fictitious name that is available and that satisfies s. 183.0103 (1) and (2) and, if applicable, s. 183.1402.

SECTION 7. Subchapter XIV of chapter 183 [precedes 183.1401] of the statutes is created to read:

CHAPTER 183

SUBCHAPTER XIV

LOW-PROFIT LIMITED LIABILITY COMPANIES

183.1401 Definition. In this subchapter, “low-profit limited liability company” means a limited liability company that is operated for profit and that satisfies the requirements under s. 183.1403.

183.1402 Name. The name of a low-profit limited liability company as set forth in its articles of organization must contain the words “low-profit limited liability company” or “low-profit limited liability co.” or end with the abbreviation “L3C”.

183.1403 Requirements. (1) To qualify as a low-profit limited liability company under this subchapter, a limited liability company shall at all times significantly further the accomplishment of one or more charitable or educational purposes within the meaning of section 170 (c) (2) (B) of the Internal Revenue Code.

(2) To qualify as a low-profit limited liability company under this subchapter, a limited liability company shall state in its articles of organization all of the following:

(a) That it is a low-profit limited liability company.
(b) That the production of income or appreciation of property is not its primary purpose.

(c) That it has no purpose to accomplish any political or legislative purpose within the meaning of section 170 (c) (2) (D) of the Internal Revenue Code.

(3) (a) Subject to par. (b), to qualify as a low-profit limited liability company under this subchapter, a limited liability company's operations shall at all times be consistent with the statements in sub. (2) (b) and (c).

(b) The fact that a limited liability company produces significant income or capital appreciation is not, in the absence of other factors, conclusive evidence that the limited liability company has as its primary purpose the production of income or appreciation of property.

(c) The operating agreement of a low-profit limited liability company may not eliminate or reduce the obligations or purposes of the low-profit limited liability company under this section.

(4) Except as otherwise provided in this subchapter, all provisions of this chapter applicable to domestic limited liability companies are applicable to low-profit limited liability companies.

183.1404 Additional duty. (1) In addition to the duties under s. 183.0402, a member or manager of a low-profit limited liability company shall discharge his or her duties relating to the obligations and purposes of the low-profit limited liability company under s. 183.1403 (2) (b) and (c) with the degree of diligence, care, and skill that an ordinarily prudent person would exercise under similar circumstances.

(2) The operating agreement of a low-profit limited liability company may not eliminate or reduce the duty imposed under sub. (1).
183.1405 Ceasing to operate as a low-profit limited liability company.

A low-profit limited liability company that ceases to meet any of the requirements under s. 183.1403 ceases to qualify as a low-profit limited liability company and shall promptly amend its articles of organization to remove the statements specified in s. 183.1403 (2) and amend its name consistent with s. 183.0103.

SECTION 8. Effective date.

(1) This act takes effect on the 90th day after the day of publication.