Low-Profit Limited Liability Companies

This Act establishes general criteria for creating low-profit limited liability companies.

Submitted as:
Utah
SB148/Session Law Chapter 141
Status: Enacted into law in 2009.

Suggested State Legislation

(Title, enacting clause, etc.)

Section 1. [Short Title.] This Act shall be cited as “The Low-Profit Limited Liability Company Act.”

Section 2. [Low-Profit Limited Liability Company.]
(1) (a) To be a low-profit limited liability company, a company shall state in its articles of organization that it is a low-profit limited liability company and be organized for a business purpose that satisfies, and at all times operates to satisfy, each of the requirements under subdivision (b).

(b) A low-profit limited liability company:
(i) shall significantly further the accomplishment of one or more charitable or educational purposes within the meaning of Section 170(c)(2)(B), Internal Revenue Code;
(ii) shall demonstrate that it would not be formed but for the company's relationship to the accomplishment of a charitable or educational purpose;
(iii) subject to subsection (3), may not have as a significant purpose the production of income or the appreciation of property; and
(iv) may not have as a purpose to accomplish one or more political or legislative purposes within the meaning of Section 170(c)(2)(D), Internal Revenue Code.

(2) (a) If a company that is a low-profit limited liability company at its formation at any time ceases to meet a requirement to be a low-profit limited liability company under subsection (1)(b), the company:
(i) ceases to be a low-profit limited liability company on the day on which the company no longer meets the requirement; and
(ii) if it continues to meet the requirements to be a limited liability company, continues to exist as a limited liability company that is not a low-profit limited-liability company.

(b) A low-profit limited liability company's failure to meet a requirement of subsection (1)(b) may be:
(i) voluntary, in order to convert to a limited liability company that is not a low-profit limited liability company; or
(ii) involuntary.

(c) If a low-profit limited liability company ceases to be a low-profit limited liability company in accordance with subdivision (a), the company shall:
(i) change its name to conform with the name requirements for a limited liability company; and
(ii) amend its articles of organization to reflect the change.
(3) Notwithstanding subsection (1), if a low-profit limited liability company produces significant income or capital appreciation, in the absence of other factors, the fact that the low-profit limited liability company produces significant income or capital appreciation is not conclusive evidence of a significant purpose involving the production of income or the appreciation of property.

(4) A low-profit limited liability company may do the following to the same extent a limited liability company that is not a low-profit limited liability company may do so under this part:

   (a) convert to another subject entity;
   (b) convert from another subject entity; or
   (c) participate in a merger.

Section 3. [Severability.] [Insert severability clause.]

Section 4. [Repealer.] [Insert repealer clause.]

Section 5. [Effective Date.] [Insert effective date.]