

USVI LLC Statutes: Title 13, Chap. 15, Cite as 13 V.I.C. §§ 1101 et. seq.

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Title 13. Corporations and Associations

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13 V.I.C. Notes

Notes

HISTORY

Effect of chapter on existing provisions for governing actions or proceedings of limited liability companies. Act Feb. 12, 1998, No. 6204, § 8, Sess. L. 1998, p. 102, provided: ‘(a)

This Act [which added this chapter and amended sections 1203 and 1 209 of Title 11, sections 471, 713, 714, 851 and 853 of Title 13 and sections 703, 705 and 716 of Title 29, takes effect on the first day of the month 90 days after enactment hereof. ‘(b) Before the effective date of this Act [May 13, 1998, a limited liability company voluntarily may elect, in the manner provided in its operating agreement or by law for amending the operating agreement, to be governed by Title 13, Chapter 15, Virgin Islands Code, as added by Section 1 of this Act. ‘(c) Title 13, Chapter 15, Virgin Islands Code, as add ed by Section 1 of this Act does not affect an action or proceeding commenced or right accrued before the effective date of this Act.’

13 V.I.C. Notes, VI ST T. 13 Notes

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13 V.I.C. § 1101

§ 1101 Short title

This chapter shall be known and may be cited as ‘The Uniform Limited Liability Company Act.

Credits

Added Feb. 12, 1998, No. 6204, § 1, Sess. L. 1998, p. 30, eff. May 1, 1998.

13 V.I.C. § 1101, VI ST T. 13 § 1101

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13 V.I.C. § 1102

§ 1102 Definitions

In this chapter, unless the context otherwise requires:

- (a) ‘Articles of organization’ means initial, amended, and restated articles of organization and articles of merger. In the case of a foreign limited liability company, the term includes all records serving a similar function required to be filed in the office of the Lieutenant Governor or other official having custody of company records in the jurisdiction under whose law it is organized.
- (b) ‘At-will company’ means a limited liability company other than a term company.
- (c) ‘Business’ includes every trade, occupation, profession, and other lawful purpose, whether or not carried on for profit.
- (d) ‘Debtor in bankruptcy’ means a person who is the subject of an order for relief under Title 11 of the United States Code or a comparable order under a successor statute of general application or a comparable order under federal, state, territorial or foreign law governing insolvency.
- (e) ‘Distribution’ means a transfer of money, property, or other benefit from a limited liability company to a member in the member’s capacity as a member or to a transferee of the member’s distributional interest.
- (f) ‘Distributional interest’ means all of a member’s interest in distributions by the limited liability company.
- (g) ‘Entity’ means a person other than an individual.
- (h) ‘Foreign limited liability company’ means an unincorporated entity organized under laws

other than the laws of the Virgin Islands which afford limited liability to its owners comparable to the liability under section 1303 of this chapter and is not required to obtain a certificate of authority to transact business under any law of the Virgin Islands other than this chapter.

- (i) 'Limited liability company' means a limited liability company or organized under this chapter.
- (j) 'Manager' means a person, whether or not a member of a manager-managed company, who is vested with authority under section 1301 of this chapter.
- (k) 'Manager-managed company' means a limited liability company which is so designated in its articles of organization.
- (l) 'Member-managed company' means a limited liability company other than a manager-managed company.
- (m) 'Operating agreement' means the agreement under section 1104 of this chapter concerning the relations among the members, managers, and limited liability company. The term includes amendments to the agreement.
- (n) 'Person' means an individual, corporation, business trust, estate, trust, partnership, limited liability company, association, joint venture, government, governmental subdivision, agency, or instrumentality, or any other legal or commercial entity.
- (o) 'Principal office' means the office, whether or not in the Virgin Islands, where the principal executive office of a domestic or foreign limited liability company is located.
- (p) 'Record' means information that is inscribed on a tangible medium or that is stored in an electronic or other medium and is retrievable in perceivable form.
- (q) 'Sign' means to identify a record by means of a signature, mark, or other symbol, with intent to authenticate it.
- (r) 'State' means the United States Virgin Islands, a state of the United States, the District of Columbia, the Commonwealth of Puerto Rico, or any territory or insular possession subject to the jurisdiction of the United States.
- (s) 'Term company' means a limited liability company in which its members have agreed to remain members until the expiration of a term specified in the articles of organization.
- (t) 'Transfer' includes an assignment, conveyance, deed, bill of sale, lease, mortgage, security interest, encumbrance, and gift.

Credits

Added Feb. 12, 1998, No. 6204, § 1, Sess. L. 1998, p. 30, eff. May 1, 1998.

13 V.I.C. § 1102, VI ST T. 13 § 1102

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Title 13. Corporations and Associations

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13 V.I.C. § 1103

§ 1103 Knowledge and notice

- (a) A person knows a fact if the person has actual knowledge of it.
- (b) A person has notice of a fact if the person:
- (1) knows the fact;
 - (2) has received a notification of the fact; or
 - (3) has reason to know the fact exists from all of the facts known to the person at the time in question.
- (c) A person notifies or gives a notification of a fact to another by taking steps reasonably required to inform the other person in ordinary course, whether or not the other person knows the fact.
- (d) A person receives a notification when the notification:
- (1) comes to the person's attention; or
 - (2) is duly delivered at the person's place of business or at any other place held out by the person as a place for receiving communications.
- (e) An entity knows, has notice, or receives a notification of a fact for purposes of a particular transaction when the individual conducting the transaction for the entity knows, has notice, or receives a notification of the fact, or in any event when the fact would have been brought to the individual's attention had the entity exercised reasonable diligence. An entity exercises reasonable diligence if it maintains reasonable routines for communicating significant information to the individual conducting the transaction for the entity and there is reasonable

compliance with the routines. Reasonable diligence does not require an individual acting for the entity to communicate information unless the communication is part of the individual's regular duties or the individual has reason to know of the transaction and that the transaction would be materially affected by the information.

Credits

Added Feb. 12, 1998, No. 6204, § 1, Sess. L. 1998, p. 30, eff. May 1, 1998.

13 V.I.C. § 1103, VI ST T. 13 § 1103

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13 V.I.C. § 1104

§ 1104 Effect of operating agreement; nonwaivable provisions

(a) Except as otherwise provided in subsection (b) of this section, all members of a limited liability company may enter into an operating agreement, which need not be in writing, to regulate the affairs of the company and the conduct of its business, and to govern relations among the members, managers, and company. To the extent the operating agreement does not otherwise provide, this chapter governs relations among the members, managers, and company.

(b) The operating agreement may not:

(1) unreasonably restrict a right to information or access to records under section 1408 of this chapter;

(2) eliminate the duty of loyalty pursuant to section 1409, subsection (b) or section 1603, subsection (b), item (3) of this chapter, but the agreement may:

(i) identify specific types or categories of activities that do not violate the duty of loyalty, if not manifestly unreasonable; and

(ii) specify the number or percentage of members or disinterested managers that may authorize or ratify, after full disclosure of all material facts, a specific act or transaction that otherwise would violate the duty of loyalty;

(3) unreasonably reduce the duty of care under section 1409, subsection (c) or section 1603, subsection (b), item (3) of this chapter;

(4) eliminate the obligation of good faith and fair dealing under section 1409, subsection (d) of this chapter, but the operating agreement may determine the standards by which the performance of the obligation is to be measured, if the standards are not manifestly unreasonable;

(5) vary the right to expel a member in an event specified in section 1601, item (6) of this chapter;

(6) vary the requirement to wind up the limited liability company's business in a case specified in section 1801, subsection (b), items (3) or (4) of this chapter; or

(7) restrict rights of a person, other than a manager, member, and transferee of a member's distributional interest, under this chapter.

Credits

Added Feb. 12, 1998, No. 6204, § 1, Sess. L. 1998, p. 30, eff. May 1, 1998.

HISTORY

Revision notes. Substituted 'subsection (b) of this section' for 's ubsection (b)' in the first sentence of subsection (a) for purposes of conform ity with V.I.C. style pursuant to section 14 of Title 1.

References in text. The reference to 'section 1801, subsection (b), ite ms (3) and (4)' in subsection (b)(6) appears to be incorrect as there is no su bsection (b) in section 1801.

13 V.I.C. § 1104, VI ST T. 13 § 1104

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13 V.I.C. § 1105

§ 1105 Supplemental principles of law

(a) Unless displaced by particular provisions of this chapter, the principles of law and equity supplement this chapter.

(b) If an obligation to pay interest arises under this chapter and the rate is not specified, the rate is that specified in Title 11, section 951, Virgin Islands Code.

Credits

Added Feb. 12, 1998, No. 6204, § 1, Sess. L. 1998, p. 30, eff. May 1, 1998.

13 V.I.C. § 1105, VI ST T. 13 § 1105

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13 V.I.C. § 1106

§ 1106 Name

(a) The name of a limited liability company must contain ‘limited liability company’ or ‘limited company’ or the abbreviation ‘L.L.C.’, ‘LLC’, ‘L.C.’, or ‘LC’. ‘Limited’ may be abbreviated as ‘Ltd.’, and ‘company’ may be abbreviated as ‘Co.’.

(b) Except as authorized by subsections (c) and (d) of this section, the name of a limited liability company must be distinguishable upon the records of the office of the Lieutenant Governor from:

(1) the name of any corporation, limited partnership, or company incorporated, organized or authorized to transact business in the Virgin Islands;

(2) a name reserved or registered under section 1107 or 1108 of this chapter;

(3) a fictitious name approved under section 2005 of this chapter for a foreign company authorized to transact business in the Virgin Islands because its real name is unavailable.

(c) A limited liability company may apply to the office of the Lieutenant Governor for authorization to use a name that is not distinguishable upon the records of the office of the Lieutenant Governor from one or more of the names described in subsection (b) of this section. The Lieutenant Governor shall authorize use of the name applied for if:

(1) the present user, registrant, or owner of a reserved name consents to the use in a record and submits an undertaking in form satisfactory to the Lieutenant Governor to change the name to a name that is distinguishable upon the records of the office of the Lieutenant Governor from the name applied for; or

(2) the applicant delivers to the Lieutenant Governor a certified copy of the final judgment of a court of competent jurisdiction establishing the applicant’s right to use the name applied for in

the Virgin Islands.

(d) A limited liability company may use the name, including a fictitious name, of another domestic or foreign company which is used in the Virgin Islands if the other company is organized or authorized to transact business in the Virgin Islands and the company proposing to use the name has:

- (1) merged with the other company;
- (2) been formed by reorganization with the other company; or
- (3) acquired substantially all of the assets, including the name, of the other company.

Credits

Added Feb. 12, 1998, No. 6204, § 1, Sess. L. 1998, p. 30, eff. May 1, 1998.

13 V.I.C. § 1106, VI ST T. 13 § 1106

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13 V.I.C. § 1107

§ 1107 Reserved name

(a) A person may reserve the exclusive use of the name of a limited liability company, including a fictitious name for a foreign company whose name is not available, by delivering an application to the office of the Lieutenant Governor for filing. The application must set forth the name, together with the mailing and physical address of the applicant and the name proposed to be reserved. If the Lieutenant Governor finds that the name applied for is available, it shall be reserved for the applicant's exclusive use for a nonrenewable 120-day period.

(b) The owner of a name reserved for a limited liability company may transfer the reservation to another person by delivering to the Lieutenant Governor a signed notice of the transfer which states the name, mailing address and physical address of the transferee.

Credits

Added Feb. 12, 1998, No. 6204, § 1, Sess. L. 1998, p. 30, eff. May 1, 1998.

13 V.I.C. § 1107, VI ST T. 13 § 1107

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13 V.I.C. § 1108

§ 1108 Registered name

(a) A foreign limited liability company may register its name subject to the requirements of section 2005 of this chapter, if the name is distinguishable upon the records of the office of the Lieutenant Governor from names that are not available under section 1106, subsection (b) of this chapter.

(b) A foreign limited liability company registers its name, or its name with any addition required by section 2005 of this chapter, by delivering to the office of the Lieutenant Governor for filing an application:

(1) setting forth its name, or its name with any addition required by section 2005 of this chapter, the state or country and date of its organization, and a brief description of the nature of the business in which it is engaged; and

(2) accompanied by a certificate of existence, or a record of similar import, from the state or country of organization.

(c) A foreign limited liability company whose registration is effective may renew it for successive years by delivering for filing in the office of the Lieutenant Governor a renewal application complying with subsection (b) of this section between January 1 and June 30 of the preceding year. The renewal application renews the registration for the following report period.

(d) A foreign limited liability company whose registration is effective may qualify as a foreign company under its name or consent in writing to the use of its name by a limited liability company later organized under this chapter or by another foreign company later authorized to transact business in the Virgin Islands. The registered name terminates when the limited liability company is organized or the foreign company qualifies or consents to the qualification of another foreign company under the registered name.

Credits

Added Feb. 12, 1998, No. 6204, § 1, Sess. L. 1998, p. 30, eff. May 1, 1998.

13 V.I.C. § 1108, VI ST T. 13 § 1108

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13 V.I.C. § 1109

§ 1109 Designated office and agent for service of process

(a) A limited liability company and a foreign limited liability company authorized to do business in the Virgin Islands shall designate and continuously maintain in the Virgin Islands:

- (1) an office, which need not be a place of its business in the Virgin Islands; and
- (2) an agent and physical address of the agent for service of process on the company.

(b) An agent must be an individual resident of the Virgin Islands, a domestic corporation, another limited liability company, or a foreign corporation or foreign company authorized to do business in the Virgin Islands.

Credits

Added Feb. 12, 1998, No. 6204, § 1, Sess. L. 1998, p. 30, eff. May 1, 1998.

13 V.I.C. § 1109, VI ST T. 13 § 1109

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13 V.I.C. § 1110

§ 1110 Change of designated office or agent for service of process

A limited liability company may change its designated office or agent for service of process by delivering to the office of the Lieutenant Governor for filing a statement of change which sets forth:

- (1) the name of the company;
- (2) the physical address of its current designated office;
- (3) if the current designated office is to be changed, the physical address of the new designated office;
- (4) the name and address of its current agent for service of process; and
- (5) if the current agent for service of process or physical address of that agent is to be changed, the new address or the name and physical address of the new agent for service of process.

Credits

Added Feb. 12, 1998, No. 6204, § 1, Sess. L. 1998, p. 30, eff. May 1, 1998.

13 V.I.C. § 1110, VI ST T. 13 § 1110

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13 V.I.C. § 1111

§ 1111 Resignation of agent for service of process

- (a) An agent for service of process of a limited liability company may resign by delivering to the office of the Lieutenant Governor for filing a record of the statement of resignation.
- (b) After filing a statement of resignation, the Lieutenant Governor shall mail a copy to the designated office and another copy to the limited liability company at its principal office.
- (c) An agency is terminated on the 31st day after the statement is filed in the office of the Lieutenant Governor.

Credits

Added Feb. 12, 1998, No. 6204, § 1, Sess. L. 1998, p. 30, eff. May 1, 1998.

13 V.I.C. § 1111, VI ST T. 13 § 1111

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13 V.I.C. § 1112

§ 1112 Service of process

(a) An agent for service of process appointed by a limited liability company or a foreign limited liability company is an agent of the company for service of any process, notice, or demand required or permitted by law to be served upon the company.

(b) If a limited liability company or foreign limited liability company fails to appoint or maintain an agent for service of process within the Virgin Islands or the agent for service of process cannot with reasonable diligence be found at the agent's address, the Lieutenant Governor shall be deemed an agent of the company upon whom process, notice, or demand may be served.

(c) Service of any process, notice, or demand on the Lieutenant Governor may be made by delivering to and leaving with the Lieutenant Governor, the Director of the Corporate and Tradename Division within the office of the Lieutenant Governor, or any clerk having charge of the limited liability companies within the office of the Lieutenant Governor, duplicate copies of the process, notice, or demand. If the process, notice, or demand is served within the office of the Lieutenant Governor, the Lieutenant Governor shall forward one of the copies by registered or certified mail, return receipt requested, to the company at its designated office. Service is effected under this subsection at the earliest of:

- (1) the date the company receives the process, notice, or demand;
- (2) the date shown on the return receipt, if signed on behalf of the company; or
- (3) five days after its deposit in the mail, if mailed postpaid and correctly addressed.

(d) The office of the Lieutenant Governor shall keep a record of all processes, notices, and demands served pursuant to this section and record the time of and the action taken regarding the service.

(e) This section does not affect the right to serve process, notice, or demand in any manner otherwise provided by law.

Credits

Added Feb. 12, 1998, No. 6204, § 1, Sess. L. 1998, p. 30, eff. May 1, 1998.

13 V.I.C. § 1112, VI ST T. 13 § 1112

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13 V.I.C. § 1113

§ 1113 Nature of business and powers

(a) A limited liability company may be organized under this chapter for any lawful purpose, subject to any law of the Virgin Islands governing or regulating business.

(b) Unless its articles of organization provide otherwise, a limited liability company has the same powers as an individual to do all things necessary or convenient to carry on its business or affairs, including power to:

(1) sue and be sued, and defend in its name;

(2) purchase, receive, lease, or otherwise acquire, and own, hold, improve, use, and otherwise deal with real or personal property, or any legal or equitable interest in property, wherever located;

(3) sell, convey, mortgage, grant a security interest in, lease, exchange, and otherwise encumber or dispose of all or any part of its property;

(4) purchase, receive, subscribe for, or otherwise acquire, own, hold, vote, use, sell, mortgage, lend, grant a security interest in, or otherwise dispose of and deal in and with, shares or other interests in or obligations of any other entity;

(5) make contracts and guarantees, incur liabilities, borrow money, issue its notes, bonds, and other obligations, which may be convertible into or include the option to purchase other securities of the limited liability company, and secure any of its obligations by a mortgage on or a security interest in any of its property, franchises, or income;

(6) lend money, invest and reinvest its funds, and receive and hold real and personal property as security for repayment;

(7) be a promoter, partner, member, associate, or manager of any partnership, joint venture, trust, or other entity;

(8) conduct its business, locate offices, and exercise the powers granted by this chapter within or without the Virgin Islands;

(9) elect managers and appoint officers, employees, and agents of the limited liability company, define their duties, fix their compensation, and lend them money and credit;

(10) pay pensions and establish pension plans, pension trusts, profit sharing plans, bonus plans, option plans, and benefit or incentive plans for any or all of its current or former members, managers, officers, employees, and agents;

(11) make donations for the public welfare or for charitable, scientific, or educational purposes; and

(12) make payments or donations, or do any other act, not inconsistent with law, that furthers the business of the limited liability company.

(c) A limited liability company organized and existing under this chapter may conduct its business, carry on its operations and have and exercise the powers granted by this chapter in any state or foreign jurisdiction.

(d) It is the intention of the Legislature by enactment of this chapter that the legal existence of limited liability companies formed under this chapter be recognized beyond the limits of this Territory and that, subject to any reasonable registration requirements, any such limited liability company transacting business outside the Territory be granted the protection of full faith and credit under Section 1 of Article IV of the United States Constitution.

Credits

Added Feb. 12, 1998, No. 6204, § 1, Sess. L. 1998, p. 30, eff. May 1, 1998.

13 V.I.C. § 1113, VI ST T. 13 § 1113

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13 V.I.C. § 1201

§ 1201 Limited liability company as legal entity

A limited liability company is a legal entity distinct from its members.

Credits

Added Feb. 12, 1998, No. 6204, § 1, Sess. L. 1998, p. 30, eff. May 1, 1998.

13 V.I.C. § 1201, VI ST T. 13 § 1201

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13 V.I.C. § 1202

§ 1202 Organization

- (a) One or more persons may organize a limited liability company, consisting of one or more members, by delivering articles of organization to the office of the Lieutenant Governor for filing.
- (b) Unless a delayed effective date is specified, the existence of a limited liability company begins when the articles of organization are filed.
- (c) The filing of the articles of organization with the office of the Lieutenant Governor is conclusive proof that the organizers satisfied all conditions precedent to the creation of a limited liability company.
- (d) Original articles of organization may contain the election of a limited liability company to be treated as an exempt company pursuant to section 853 of this Title, but no such election may be made by amending articles of organization.

Credits

Added Feb. 12, 1998, No. 6204, § 1, Sess. L. 1998, p. 30, eff. May 1, 1998.

13 V.I.C. § 1202, VI ST T. 13 § 1202

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13 V.I.C. § 1203

§ 1203 Articles of organization

(a) Articles of organization of a limited liability company must set forth:

- (1) the name of the company;
- (2) the physical and mailing addresses of the initial designated office;
- (3) the name and physical address of the initial agent for service of process;
- (4) the name and physical address of each organizer;
- (5) the minimum amount of capital with which the company will commence business, which shall not be less than \$1,000;
- (6) whether the company is to be a term company and, if so, the term specified;
- (7) whether the company is to be manager-managed, and, if so, the name, physical and mailing address of each initial manager; and
- (8) whether one or more of the members of the company are to be liable for its debts and obligations under section 1303, subsection (c) of this chapter.

(b) Articles of organization of a limited liability company may set forth:

- (1) provisions permitted to be set forth in an operating agreement; or
- (2) other matters not inconsistent with law.

(c) Articles of organization of a limited liability company may not vary the nonwaivable

provisions of section 1104, subsection (b) of this chapter. As to all other matters, if any provision of an operating agreement is inconsistent with the articles of organization:

- (1) the operating agreement controls as to managers, members, and members transferees; and
- (2) the articles of organization control as to persons, other than managers, members and their transferees, who reasonably rely on the articles to their detriment.

Credits

Added Feb. 12, 1998, No. 6204, § 1, Sess. L. 1998, p. 30, eff. May 1, 1998.

13 V.I.C. § 1203, VI ST T. 13 § 1203

Current through Act 7616 of the 2014 Regular Session. Annotations current through April 7, 2014

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13 V.I.C. § 1204

§ 1204 Amendment or restatement of articles of organization

(a) Articles of organization of a limited liability company may be amended at any time by delivering articles of amendment to the office of the Lieutenant Governor for filing. The articles of amendment shall set forth the:

- (1) name of the limited liability company;
- (2) date of filing of the articles of organization; and
- (3) amendment to the articles.

(b) A limited liability company may restate its articles of organization at any time. Restated articles of organization must be signed and filed in the same manner as articles of amendment. Restated articles of organization must be designated as such in the heading and state in the heading or in an introductory paragraph the limited liability company's present name and, if it has been changed, all of its former names and the date of the filing of its initial articles of organization.

Credits

Added Feb. 12, 1998, No. 6204, § 1, Sess. L. 1998, p. 30, eff. May 1, 1998.

13 V.I.C. § 1204, VI ST T. 13 § 1204

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13 V.I.C. § 1205

§ 1205 Signing of records

(a) Except as otherwise provided in this chapter, a record to be filed by or on behalf of a limited liability company in the office of the Lieutenant Governor must be signed in the name of the company by a:

(1) manager of a manager-managed company;

(2) member of a member-managed company;

(3) person organizing the company, if the company has not been formed; or

(4) fiduciary, if the company is in the hands of a receiver, trustee, or other court-appointed fiduciary.

(b) A record signed under subsection (a) of this section must state adjacent to the signature the name and capacity of the signer.

(c) Any person may sign a record to be filed under subsection (a) of this section by an attorney-in-fact. Powers of attorney relating to the signing of records to be filed under subsection (a) of this section by an attorney in fact need not be filed in the office of the Lieutenant Governor as evidence of authority by the person filing, but must be retained by the company.

Credits

Added Feb. 12, 1998, No. 6204, § 1, Sess. L. 1998, p. 30, eff. May 1, 1998.

13 V.I.C. § 1205, VI ST T. 13 § 1205

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13 V.I.C. § 1206

§ 1206 Filing in Office of Lieutenant Governor

(a) Articles of organization or any other record authorized to be filed under this chapter must be in a medium permitted by the office of the Lieutenant Governor and must be delivered to the office of the Lieutenant Governor. Unless the Lieutenant Governor determines that a record fails to comply as to form with the filing requirements of this chapter, and if all filing fees have been paid, the office of the Lieutenant Governor shall file the record and send a receipt for the record and the fees to the limited liability company or its representative.

(b) Upon request and payment of a fee, the office of the Lieutenant Governor shall send to the requester a certified copy of the requested record.

(c) Except as otherwise provided in subsection (d) of this section and section 1207, subsection (c) of this chapter, a record accepted for filing by the Lieutenant Governor is effective:

(1) at the time of filing on the date it is filed, as evidenced by the office of Lieutenant Governor's date and time endorsement on the original record; or

(2) at the time specified in the record as its effective time on the date it is filed.

(d) A record may specify a delayed effective time and date, and if it does so the record becomes effective at the time and date specified. If a delayed effective date, but no time is specified, the record is effective at the close of business on that date. If a delayed effective date is later than the 90th day after the record is filed, the record is effective on the 90th day.

Credits

Added Feb. 12, 1998, No. 6204, § 1, Sess. L. 1998, p. 30, eff. May 1, 1998.

13 V.I.C. § 1206, VI ST T. 13 § 1206

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13 V.I.C. § 1207

§ 1207 Correcting filed record

(a) A limited liability company or foreign limited liability company may correct a record filed with the office of the Lieutenant Governor if the record contains a false or erroneous statement or was defectively signed.

(b) A record is corrected:

(1) by preparing articles of correction that:

(i) describe the record, including its filing date, or attach a copy of it to the articles of correction;

(ii) specify the incorrect statement and the reason it is incorrect or the manner in which the signing was defective; and

(iii) correct the incorrect statement or defective signing; and

(2) by delivering the corrected record to the office of the Lieutenant Governor for filing.

(c) Articles of correction are effective retroactively on the effective date of the record they correct, except as to persons relying on the uncorrected record and adversely affected by the correction. As to those persons, articles of correction are effective when filed.

Credits

Added Feb. 12, 1998, No. 6204, § 1, Sess. L. 1998, p. 30, eff. May 1, 1998.

13 V.I.C. § 1207, VI ST T. 13 § 1207

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13 V.I.C. § 1208

§ 1208 Certificate of existence or authorization

(a) A person may request the office of the Lieutenant Governor to furnish a certificate of existence for a limited liability company or a certificate of authorization for a foreign limited liability company.

(b) A certificate of existence for a limited liability company must set forth:

(1) the company's name;

(2) that it is duly organized under the laws of the Virgin Islands, the date of organization, whether its duration is at-will or for a specified term, and, if the latter, the period specified;

(3) if payment is reflected in the records of the Lieutenant Governor and if nonpayment affects the existence of the company, that all fees, taxes, and penalties owed to the Virgin Islands have been paid;

(4) whether its most recent annual report required by section 1211 has been filed with the office of the Lieutenant Governor;

(5) that articles of termination have not been filed; and

(6) other facts of record in the office of the Lieutenant Governor which may be requested by the applicant.

(c) A certificate of authorization for a foreign limited liability company must set forth:

(1) the company's name used in the Virgin Islands;

(2) that it is authorized to transact business in the Virgin Islands;

(3) if payment is reflected in the records of the office of the Lieutenant Governor and if nonpayment affects the authorization of the company, that all fees, taxes, and penalties owed to the Government of the Virgin Islands have been paid;

(4) whether its most recent annual report required by section 1211 of this chapter has been filed with the office of the Lieutenant Governor;

(5) that a certificate of cancellation has not been filed; and

(6) other facts of record in the office of the Lieutenant Governor which may be requested by the applicant.

(d) Subject to any qualification stated in the certificate, a certificate of existence or authorization issued by the office of the Lieutenant Governor may be relied upon as conclusive evidence that the domestic or foreign limited liability company is in existence or is authorized to transact business in the Virgin Islands.

Credits

Added Feb. 12, 1998, No. 6204, § 1, Sess. L. 1998, p. 30, eff. May 1, 1998.

13 V.I.C. § 1208, VI ST T. 13 § 1208

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13 V.I.C. § 1209

§ 1209 Liability for false statement in filed record

If a record authorized or required to be filed under this chapter contains a false statement, one who suffers loss by reliance on the statement may recover damages for the loss from a person who signed the record or caused another to sign it on the person's behalf and knew the statement to be false at the time the record was signed.

Credits

Added Feb. 12, 1998, No. 6204, § 1, Sess. L. 1998, p. 30, eff. May 1, 1998.

13 V.I.C. § 1209, VI ST T. 13 § 1209

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13 V.I.C. § 1210

§ 1210 Filing by judicial act

If a person required by section 1205 of this chapter to sign any record fails or refuses to do so, any other person who is adversely affected by the failure or refusal may petition the Superior Court of the Virgin Islands to direct the signing of the record. If the Superior Court finds that it is proper for the record to be signed and that a person so designated has failed or refused to sign the record, it shall order the Lieutenant Governor to sign and file an appropriate record.

Credits

Added Feb. 12, 1998, No. 6204, § 1, Sess. L. 1998, p. 30, eff. May 1, 1998.

13 V.I.C. § 1210, VI ST T. 13 § 1210

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13 V.I.C. § 1211

§ 1211 Annual report

(a) A limited liability company, and a foreign limited liability company authorized to transact business in the Virgin Islands, shall deliver to the office of the Lieutenant Governor for filing an annual report that sets forth:

- (1) the name of the company and the state or country under whose law it is organized;
- (2) the mailing and physical address of its designated office and the name and physical address of its agent for service of process in the Virgin Islands;
- (3) the mailing and physical address of its principal office; and
- (4) the names and business addresses of any managers.

(b) Information in an annual report must be current as of the date the annual report is signed on behalf of the limited liability company.

(c) The first annual report must be delivered to the Lieutenant Governor on or before June 30 of the year following the calendar year in which a limited liability company was organized or a foreign company was authorized to transact business. Subsequent annual reports must be delivered to the Lieutenant Governor on or before June 30 of the ensuing calendar years.

(d) If an annual report does not contain the information required in subsection (a) of this section, the office of the Lieutenant Governor shall promptly notify the reporting limited liability company or foreign limited liability company and return the report to it for correction. If the report is corrected to contain the information required in subsection (a) of this section and delivered to the office of the Lieutenant Governor within 30 days after the effective date of the notice, it is timely filed.

(e) The fee for filing an annual report as set forth in subsection (a) shall be computed by assessing \$1.50 for each thousand dollars of capital used in conducting business in the Virgin Islands; provided, however, that the minimum fee shall be \$300.00.

Any limited liability company, or foreign limited liability company, which fails to file the mandatory annual report or pay the required filing fee shall be liable for a penalty of 20 percent of the fee or \$50, whichever is greater, and interest at 1.5 percent, compounded annually for each month or part thereof that the fee remains unpaid, payable to the Office of the Lieutenant Governor.

Credits

Added Feb. 12, 1998, No. 6204, § 1, Sess. L. 1998, p. 30, eff. May 1, 1998.

13 V.I.C. § 1211, VI ST T. 13 § 1211

Current through Act 7616 of the 2014 Regular Session. Annotations current through April 7, 2014

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Subchapter III. Relations of Members and Managers to Persons Dealing with Limited Liability Company

13 V.I.C. § 1301

§ 1301 Agency of members and managers

(a) Subject to subsections (b) and (c) of this section:

(1) Each member is an agent of the limited liability company for the purpose of its business, and an act of a member, including the signing of an instrument in the company's name, for apparently carrying on in the ordinary course the company's business or business of the kind carried on by the company binds the company, unless the member had no authority to act for the company in the particular matter and the person with whom the member was dealing knew or had notice that the member lacked authority.

(2) An act of a member which is not apparently for carrying on in the ordinary course the company's business or business of the kind carried on by the company binds the company only if the act was authorized by the other members.

(b) Subject to subsection (c) of this section, in a manager-managed company:

(1) A member is not an agent of the company for the purpose of its business solely by reason of being a member. Each manager is an agent of the company for the purpose of its business, and an act of a manager, including the signing of an instrument in the company's name, for apparently carrying on in the ordinary course the company's business or business of the kind carried on by the company binds the company, unless the manager had no authority to act for the company in the particular matter and the person with whom the manager was dealing knew or had notice that the manager lacked authority.

(2) An act of a manager which is not apparently for carrying on in the ordinary course the company's business or business of the kind carried on by the company binds the company only if the act was authorized under section 1404 of this chapter.

(c) Unless the articles of organization limit their authority, any member of a member-managed company or manager of a manager-managed company may sign and deliver any instrument transferring or affecting the company's interest in real property. The instrument is conclusive in favor of a person who gives value without knowledge of the lack of the authority of the person signing and delivering the instrument.

Credits

Added Feb. 12, 1998, No. 6204, § 1, Sess. L. 1998, p. 30, eff. May 1, 1998.

13 V.I.C. § 1301, VI ST T. 13 § 1301

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13 V.I.C. § 1302

§ 1302 Limited liability company liable for member's or manager's actionable conduct

A limited liability company is liable for loss or injury caused to a person, or for a penalty incurred, as a result of a wrongful act or omission, or other actionable conduct, of a member or manager acting in the ordinary course of business of the company or with authority of the company.

Credits

Added Feb. 12, 1998, No. 6204, § 1, Sess. L. 1998, p. 30, eff. May 1, 1998.

13 V.I.C. § 1302, VI ST T. 13 § 1302

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13 V.I.C. § 1303

§ 1303 Liability of members and managers

(a) Except as otherwise provided in subsection (c) of this section, the debts, obligations, and liabilities of a limited liability company, whether arising in contract, tort, or otherwise, are solely the debts, obligations, and liabilities of the company. A member or manager is not personally liable for a debt, obligation, or liability of the company solely by reason of being or acting as a member or manager.

(b) The failure of a limited liability company to observe the usual company formalities or requirements relating to the exercise of its company powers or management of its business is not a ground for imposing personal liability on the members or managers for liabilities of the company.

(c) All or specified members of a limited liability company are liable in their capacity as members for all or specified debts, obligations, or liabilities of the company if:

(1) a provision to that effect is contained in the articles of organization; and

(2) a member so liable has consented in writing to the adoption of the provision or to be bound by the provision.

Credits

Added Feb. 12, 1998, No. 6204, § 1, Sess. L. 1998, p. 30, eff. May 1, 1998.

13 V.I.C. § 1303, VI ST T. 13 § 1303

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13 V.I.C. § 1401

§ 1401 Form of contribution

A contribution of a member of a limited liability company may consist of tangible or intangible property or other benefit to the company, including money, promissory notes, services performed, or other agreements to contribute cash or property, or contracts for services to be performed.

Credits

Added Feb. 12, 1998, No. 6204, § 1, Sess. L. 1998, p. 30, eff. May 1, 1998.

13 V.I.C. § 1401, VI ST T. 13 § 1401

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13 V.I.C. § 1402

§ 1402 Member's liability for contributions

(a) A member's obligation to contribute money, property, or other benefit to, or to perform services for, a limited liability company is not excused by the member's death, disability, or other inability to perform personally. If a member does not make the required contribution of property or services, the member is obligated at the option of the company to contribute money equal to the value of that portion of the stated contribution which has not been made.

(b) A creditor of a limited liability company who extends credit or otherwise acts in reliance on an obligation described in subsection (a) of this section, and without notice of any compromise under section 1404, subsection (c), item (5) of this chapter, may enforce the original obligation.

Credits

Added Feb. 12, 1998, No. 6204, § 1, Sess. L. 1998, p. 30, eff. May 1, 1998.

13 V.I.C. § 1402, VI ST T. 13 § 1402

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13 V.I.C. § 1403

§ 1403 Member's and manager's rights to payments and reimbursement

(a) A limited liability company shall reimburse a member or manager for payments made and indemnify a member or manager for liabilities incurred by the member or manager in the ordinary course of the business of the company or for the preservation of its business or property.

(b) A limited liability company shall reimburse a member for an advance to the company beyond the amount of contribution the member agreed to make.

(c) A payment or advance made by a member which gives rise to an obligation of a limited liability company under subsection (a) or (b) of this section constitutes a loan to the company upon which interest accrues from the date of the payment or advance.

(d) A member is not entitled to remuneration for services performed for a limited liability company, except for reasonable compensation for services rendered in winding up the business of the company.

Credits

Added Feb. 12, 1998, No. 6204, § 1, Sess. L. 1998, p. 30, eff. May 1, 1998.

13 V.I.C. § 1403, VI ST T. 13 § 1403

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13 V.I.C. § 1404

§ 1404 Management of limited liability company

(a) In a member-managed company:

(1) each member has equal rights in the management and conduct of the company's business; and

(2) except as otherwise provided in subsection (c) of this section, any matter relating to the business of the company may be decided by a majority of the members.

(b) In a manager-managed company:

(1) each manager has equal rights in the management and conduct of the company's business;

(2) except as otherwise provided in subsection (c) of this section, any matter relating to the business of the company may be exclusively decided by the manager or, if there is more than one manager, by a majority of the managers; and

(3) a manager:

(i) must be designated, appointed, elected, removed, or replaced by a vote, approval, or consent of a majority of the members; and

(ii) holds office until a successor has been elected and qualified, unless the manager sooner resigns or is removed.

(c) The only matters of a member or manager-managed company's business requiring the consent of all of the members are:

- (1) the amendment of the operating agreement under section 1104 of this chapter;
 - (2) the authorization or ratification of acts or transactions under section 1104, subsection (b), item (2), subitem (ii) of this chapter which would otherwise violate the duty of loyalty;
 - (3) an amendment to the articles of organization under section 1204 of this chapter;
 - (4) the compromise of an obligation to make a contribution under section 1402, subsection (b) of this chapter;
 - (5) the compromise, as among members, of an obligation of a member to make a contribution or return money or other property paid or distributed in violation of this chapter;
 - (6) the making of interim distributions under section 1405, subsection (a) of this chapter, including the redemption of an interest;
 - (7) the admission of a new member;
 - (8) the use of the company's property to redeem an interest subject to a charging order;
 - (9) the consent to dissolve the company under section 1801, subsection (b), item (2) of this chapter;
 - (10) a waiver of the right to have the company's business wound up and the company terminated under section 1802, subsection (b) of this chapter;
 - (11) the consent of members to merge with another entity under section 1904, subsection (c), item (1) of this chapter; and
 - (12) the sale, lease, exchange, or other disposal of all, or substantially all, of the company's property with or without goodwill.
- (d) Action requiring the consent of members or managers under this chapter may be taken without a meeting.
- (e) A member or manager may appoint a proxy to vote or otherwise act for the member or manager by signing an appointment instrument, either personally or by the member's or manager's attorney-in-fact.

Credits

Added Feb. 12, 1998, No. 6204, § 1, Sess. L. 1998, p. 30, eff. May 1, 1998.

HISTORY

References in text. The reference to ‘section 1801, subsection (b), item (2)’ in subsection (c)(9) appears to be incorrect as there is no subsection (b) in section 1801.

13 V.I.C. § 1404, VI ST T. 13 § 1404

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13 V.I.C. § 1405

§ 1405 Sharing of and right to distribution

- (a) Any distributions made by a limited liability company before its dissolution and winding up must be in equal shares.
- (b) A member has no right to receive, and may not be required to accept, a distribution in kind.
- (c) If a member becomes entitled to receive a distribution, the member has the status of, and is entitled to all remedies available to, a creditor of the limited liability company with respect to the distribution.

Credits

Added Feb. 12, 1998, No. 6204, § 1, Sess. L. 1998, p. 30, eff. May 1, 1998.

13 V.I.C. § 1405, VI ST T. 13 § 1405

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13 V.I.C. § 1406

§ 1406 Limitations on distribution

(a) A distribution may not be made if:

(1) the limited liability company would not be able to pay its debts as they become due in the ordinary course of business; or

(2) the company's total assets would be less than the sum of its total liabilities plus the amount that would be needed, if the company were to be dissolved, wound up, and terminated at the time of the distribution, to satisfy the preferential rights upon dissolution, winding up, and termination of members whose preferential rights are superior to those receiving the distribution.

(b) A limited liability company may base a determination that a distribution is not prohibited under subsection (a) of this section on financial statements prepared on the basis of accounting practices and principles that are reasonable in the circumstances or on a fair valuation or other method that is reasonable in the circumstances.

(c) Except as otherwise provided in subsection (e) of this section, the effect of a distribution under subsection (a) of this section is measured:

(1) in the case of distribution by purchase, redemption, or other acquisition of a distributional interest in a limited liability company, as of the date money or other property is transferred or debt incurred by the company; and

(2) in all other cases, as of the date the:

(i) distribution is authorized if the payment occurs within 120 days after the date of authorization; or

(ii) payment is made if it occurs more than 120 days after the date of authorization.

(d) A limited liability company's indebtedness to a member incurred by reason of a distribution made in accordance with this section is at parity with the company's indebtedness to its general, unsecured creditors.

(e) Indebtedness of a limited liability company, including indebtedness issued in connection with or as part of a distribution, is not considered a liability for purposes of determinations under subsection (a) of this section if its terms provide that payment of principal and interest are made only if and to the extent that payment of a distribution to members could then be made under this section. If the indebtedness is issued as a distribution, each payment of principal or interest on the indebtedness is treated as a distribution, the effect of which is measured on the date the payment is made.

Credits

Added Feb. 12, 1998, No. 6204, § 1, Sess. L. 1998, p. 30, eff. May 1, 1998.

13 V.I.C. § 1406, VI ST T. 13 § 1406

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13 V.I.C. § 1407

§ 1407 Liability for unlawful distributions

(a) A member of a member-managed company or a member or manager of a manager-managed company who votes for or assents to a distribution made in violation of section 1406 of this chapter, the articles of organization, or the operating agreement is personally liable to the company for the amount of the distribution which exceeds the amount that could have been distributed without violating section 1406 of this chapter, the articles of organization, or the operating agreement if it is established that the member or manager did not perform the member's or manager's duties in compliance with section 1409 of this chapter.

(b) A member of a manager-managed company who knew a distribution was made in violation of section 1406 of this chapter, the articles of organization, or the operating agreement is personally liable to the company, but only to the extent that the distribution received by the member exceeded the amount that could have been properly paid under section 1406 of this chapter.

(c) A member or manager against whom an action is brought under this section may implead in the action all:

(1) other members or managers who voted for or assented to the distribution in violation of subsection (a) of this section and may compel contribution from them; and

(2) members who received a distribution in violation of subsection (b) of this section and may compel contribution from the member in the amount received in violation of subsection (b) of this section.

(d) A proceeding under this section is barred unless it is commenced within two years after the distribution.

Credits

Added Feb. 12, 1998, No. 6204, § 1, Sess. L. 1998, p. 30, eff. May 1, 1998.

13 V.I.C. § 1407, VI ST T. 13 § 1407

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13 V.I.C. § 1408

§ 1408 Member's right to information

(a) A limited liability company shall provide members and their agents and attorneys access to its records, if any, at the company's principal office or other reasonable locations specified in the operating agreement. The company shall provide former members and their agents and attorneys access for proper purposes to records pertaining to the period during which they were members. The right of access provides the opportunity to inspect and copy records during ordinary business hours. The company may impose a reasonable charge, limited to the costs of labor and material, for copies of records furnished.

(b) A limited liability company shall furnish to a member, and to the legal representative of a deceased member or member under legal disability:

(1) without demand, information concerning the company's business or affairs reasonably required for the proper exercise of the member's rights and performance of the member's duties under the operating agreement or this chapter; and

(2) on demand, other information concerning the company's business or affairs, except to the extent the demand or the information demanded is unreasonable or otherwise improper under the circumstances.

(c) A member has the right upon written demand given to the limited liability company to obtain at the company's expense a copy of any written operating agreement.

Credits

Added Feb. 12, 1998, No. 6204, § 1, Sess. L. 1998, p. 30, eff. May 1, 1998.

13 V.I.C. § 1408, VI ST T. 13 § 1408

Current through Act 7616 of the 2014 Regular Session. Annotations current through April 7, 2014

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Title 13. Corporations and Associations

Chapter 15. Uniform Limited Liability Company Act

Subchapter IV. Relations of Members to Each Other and to Limited Liability Company

13 V.I.C. § 1409

§ 1409 General standards of member's and manager's conduct

(a) The only fiduciary duties a member owes to a member-managed company and its other members are the duty of loyalty and the duty of care imposed by subsections (b) and (c) of this section.

(b) A member's duty of loyalty to a member-managed company and its other members is limited to the following:

(1) to account to the company and to hold as trustee for it any property, profit, or benefit derived by the member in the conduct or winding up of the company's business or derived from a use by the member of the company's property, including the appropriation of a company's opportunity;

(2) to refrain from dealing with the company in the conduct or winding up of the company's business as or on behalf of a party having an interest adverse to the company; and

(3) to refrain from competing with the company in the conduct of the company's business before the dissolution of the company.

(c) A member's duty of care to a member-managed company and its other members in the conduct of and winding up of the company's business is limited to refraining from engaging in grossly negligent or reckless conduct, intentional misconduct, or a knowing violation of law.

(d) A member shall discharge the duties to a member-managed company and its other members under this chapter or under the operating agreement and exercise any rights consistently with the obligation of good faith and fair dealing.

(e) A member of a member-managed company does not violate a duty or obligation under this chapter or under the operating agreement merely because the member's conduct furthers the

member's own interest.

(f) A member of a member-managed company may lend money to and transact other business with the company. As to each loan or transaction, the rights and obligations of the member are the same as those of a person who is not a member, subject to other applicable law.

(g) This section applies to a person winding up the limited liability company's business as the personal or legal representative of the last surviving member as if the person were a member.

(h) In a manager-managed company:

(1) a member who is not also a manager owes no duties to the company or to the other members solely by reason of being a member;

(2) a manager is held to the same standards of conduct prescribed for members in subsections (b) through (f) of this section;

(3) a member who pursuant to the operating agreement exercises some or all of the rights of a manager in the management and conduct of the company's business is held to the standards of conduct in subsections (b) through (f) of this section to the extent that the member exercises the managerial authority vested in a manager by this chapter; and

(4) a manager is relieved of liability imposed by law for violation of the standards prescribed by subsections (b) through (f) of this section to the extent of the managerial authority delegated to the members by the operating agreement.

Credits

Added Feb. 12, 1998, No. 6204, § 1, Sess. L. 1998, p. 30, eff. May 1, 1998.

13 V.I.C. § 1409, VI ST T. 13 § 1409

Current through Act 7616 of the 2014 Regular Session. Annotations current through April 7, 2014

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Title 13. Corporations and Associations

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Subchapter IV. Relations of Members to Each Other and to Limited Liability Company

13 V.I.C. § 1410

§ 1410 Actions by members

(a) A member may maintain an action against a limited liability company or another member for legal or equitable relief, with or without an accounting as to the company's business, to enforce:

(1) the member's rights under the operating agreement;

(2) the member's rights under this chapter; and

(3) the rights and otherwise protect the interests of the member, including rights and interests arising independently of the member's relationship to the company.

(b) The accrual, and any time limited for the assertion, of a right of action for a remedy under this section is governed by other law. A right to an accounting upon a dissolution and winding up does not revive a claim barred by law.

Credits

Added Feb. 12, 1998, No. 6204, § 1, Sess. L. 1998, p. 30, eff. May 1, 1998.

13 V.I.C. § 1410, VI ST T. 13 § 1410

Current through Act 7616 of the 2014 Regular Session. Annotations current through April 7, 2014

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Title 13. Corporations and Associations

Chapter 15. Uniform Limited Liability Company Act

Subchapter IV. Relations of Members to Each Other and to Limited Liability Company

13 V.I.C. § 1411

§ 1411 Continuation of term company after expiration of specified term

(a) If a term company is continued after the expiration of the specified term, the rights and duties of the members and managers remain the same as they were at the expiration of the term except to the extent inconsistent with rights and duties of members and managers of an at-will company.

(b) If the members in a member-managed company or the managers in a manager-managed company continue the business without any winding up of the business of the company, it continues as an at-will company.

Credits

Added Feb. 12, 1998, No. 6204, § 1, Sess. L. 1998, p. 30, eff. May 1, 1998.

13 V.I.C. § 1411, VI ST T. 13 § 1411

Current through Act 7616 of the 2014 Regular Session. Annotations current through April 7, 2014

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Title 13. Corporations and Associations

Chapter 15. Uniform Limited Liability Company Act

Subchapter V. Transferees and Creditors of Member

13 V.I.C. § 1501

§ 1501 Member's distributional interest

- (a) A member is not a co-owner of, and has no transferable interest in, property of a limited liability company.
- (b) A distributional interest in a limited liability company is personal property and, subject to sections 1502 and 1503 of this chapter, may be transferred in whole or in part.
- (c) An operating agreement may provide that a distributional interest may be evidenced by a certificate of the interest issued by the limited liability company and, subject to section 1503 of this chapter, may also provide for the transfer of any interest represented by the certificate.

Credits

Added Feb. 12, 1998, No. 6204, § 1, Sess. L. 1998, p. 30, eff. May 1, 1998.

13 V.I.C. § 1501, VI ST T. 13 § 1501

Current through Act 7616 of the 2014 Regular Session. Annotations current through April 7, 2014

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Title 13. Corporations and Associations

Chapter 15. Uniform Limited Liability Company Act

Subchapter V. Transferees and Creditors of Member

13 V.I.C. § 1502

§ 1502 Transfer of distributional interest

A transfer of a distributional interest does not entitle the transferee to become or to exercise any rights of a member. A transfer entitles the transferee to receive, to the extent transferred, only the distributions to which the transferor would be entitled.

Credits

Added Feb. 12, 1998, No. 6204, § 1, Sess. L. 1998, p. 30, eff. May 1, 1998.

13 V.I.C. § 1502, VI ST T. 13 § 1502

Current through Act 7616 of the 2014 Regular Session. Annotations current through April 7, 2014

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Title 13. Corporations and Associations

Chapter 15. Uniform Limited Liability Company Act

Subchapter V. Transferees and Creditors of Member

13 V.I.C. § 1503

§ 1503 Rights of transferee

(a) A transferee of a distributional interest may become a member of a limited liability company if and to the extent that the transferor gives the transferee the right in accordance with authority described in the operating agreement or all other members consent.

(b) A transferee who has become a member, to the extent transferred, has the rights and powers, and is subject to the restrictions and liabilities, of a member under the operating agreement of a limited liability company and this chapter. A transferee who becomes a member also is liable for the transferor member's obligations to make contributions under section 1402 of this chapter and for obligations under section 1407 of this chapter to return unlawful distributions, but the transferee is not obligated for the transferor member's liabilities unknown to the transferee at the time the transferee becomes a member.

(c) Whether or not a transferee of a distributional interest becomes a member under subsection (a) of this section, the transferor is not released from liability to the limited liability company under the operating agreement or this chapter.

(d) A transferee who does not become a member is not entitled to participate in the management or conduct of the limited liability company's business, require access to information concerning the company's transactions, or inspect or copy any of the company's records.

(e) A transferee who does not become a member is entitled to:

(1) receive, in accordance with the transfer, distributions to which the transferor would otherwise be entitled;

(2) receive, upon dissolution and winding up of the limited liability company's business:

(i) in accordance with the transfer, the net amount otherwise distributable to the transferor;

(ii) a statement of account only from the date of the latest statement of account agreed to by all the members;

(3) seek under section 1801, item (5) of this chapter a judicial determination that it is equitable to dissolve and wind up the company's business.

(f) A limited liability company need not give effect to a transfer until it has notice of the transfer.

Credits

Added Feb. 12, 1998, No. 6204, § 1, Sess. L. 1998, p. 30, eff. May 1, 1998.

13 V.I.C. § 1503, VI ST T. 13 § 1503

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Chapter 15. Uniform Limited Liability Company Act

Subchapter V. Transferees and Creditors of Member

13 V.I.C. § 1504

§ 1504 Rights of creditor

(a) On application by a judgment creditor of a member of a limited liability company or of a member's transferee, a court having jurisdiction may charge the distributional interest of the judgment debtor to satisfy the judgment. The court may appoint a receiver of the share of the distributions due or to become due to the judgment debtor and make all other orders, directions, accounts, and inquiries the judgment debtor might have made or which the circumstances may require to give effect to the charging order.

(b) A charging order constitutes a lien on the judgment debtor's distributional interest. The court may order a foreclosure of a lien on a distributional interest subject to the charging order at any time. A purchaser at the foreclosure sale has the rights of a transferee.

(c) At any time before foreclosure, a distributional interest in a limited liability company which is charged may be redeemed:

(1) by the judgment debtor;

(2) with property other than the company's property, by one or more of the other members; or

(3) with the company's property, but only if permitted by the operating agreement.

(d) This chapter does not affect a member's right under exemption laws with respect to the member's distributional interest in a limited liability company.

(e) This section provides the exclusive remedy by which a judgment creditor of a member or a transferee may satisfy a judgment out of the judgment debtor's distributional interest in a limited liability company.

Credits

Added Feb. 12, 1998, No. 6204, § 1, Sess. L. 1998, p. 30, eff. May 1, 1998.

13 V.I.C. § 1504, VI ST T. 13 § 1504

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Chapter 15. Uniform Limited Liability Company Act

Subchapter VI. Member's Dissociation

13 V.I.C. § 1601

§ 1601 Events causing member's dissociation

A member is dissociated from a limited liability company upon the occurrence of any of the following events:

- (1) the company's having notice of the member's express will to withdraw upon the date of notice or on a later date specified by the member;
- (2) an event agreed to in the operating agreement as causing the member's dissociation;
- (3) upon transfer of all of a member's distributional interest, other than a transfer for security purposes or a court order charging the member's distributional interest which has not been foreclosed;
- (4) the member's expulsion pursuant to the operating agreement;
- (5) the member's expulsion by unanimous vote of the other members if:
 - (i) it is unlawful to carry on the company's business with the member;
 - (ii) there has been a transfer of substantially all of the member's distributional interest, other than a transfer for security purposes or a court order charging the member's distributional interest which has not been foreclosed;
 - (iii) within 90 days after the company notifies a corporate member that it will be expelled because it has filed a certificate of dissolution or the equivalent, its charter has been revoked, or its right to conduct business has been suspended by the jurisdiction of its incorporation, the member fails to obtain a revocation of the certificate of dissolution or a reinstatement of its charter or its right to conduct business; or

(iv) a partnership or a limited liability company that is a member has been dissolved and its business is being wound up;

(6) on application by the company or another member, the member's expulsion by judicial determination because the member:

(i) engaged in wrongful conduct that adversely and materially affected the company's business;

(ii) willfully or persistently committed a material breach of the operating agreement or of a duty owed to the company or the other members under section 1409 of this chapter; or

(iii) engaged in conduct relating to the company's business which makes it not reasonably practicable to carry on the business with the member;

(7) the member's:

(i) becoming a debtor in bankruptcy;

(ii) executing an assignment for the benefit of creditors;

(iii) seeking, consenting to, or acquiescing in the appointment of a trustee, receiver, or liquidator of the member or of all or substantially all of the member's property; or

(iv) failing, within 90 days after the appointment, to have vacated or stayed the appointment of a trustee, receiver, or liquidator of the member or of all or substantially all of the member's property obtained without the member's consent or acquiescence, or failing within 90 days after the expiration of a stay to have the appointment vacated;

(8) in the case of a member who is an individual:

(i) the member's death;

(ii) the appointment of a guardian or general conservator for the member; or

(iii) a judicial determination that the member has otherwise become incapable of performing the member's duties under the operating agreement;

(9) in the case of a member that is a trust or is acting as a member by virtue of being a trustee of a trust, distribution of the trust's entire rights to receive distributions from the company, but not merely by reason of the substitution of a successor trustee;

(10) in the case of a member that is an estate or is acting as a member by virtue of being a

personal representative of an estate, distribution of the estate's entire rights to receive distributions from the company, but not merely the substitution of a successor personal representative; or

(11) termination of the existence of a member if the member is not an individual, estate, or trust other than a business trust.

Credits

Added Feb. 12, 1998, No. 6204, § 1, Sess. L. 1998, p. 30, eff. May 1, 1998.

HISTORY

Revision notes. Substituted 'section 1409 of this chapter' for 'section 1409' in subsection (6)(ii) for purposes of conformity with V.I.C. style pursuant to section 14 of Title 1.

ANNOTATIONS

1.

Construction.

Superior Court of the Virgin Islands interprets 13 V.I.C. § 1601 to mean that if one of the events listed in § 1601 takes place, then dissociation has occurred, with no further steps necessary for the dissociation to be complete; thus, as one of these events had occurred, a limited liability company's defective purchase offer under 13 V.I.C. § 1701 did not nullify the members' notice of dissociation. *Storage on Site, Llc v. Slodden*, 2012 V.I. LEXIS 41 (Aug. 15, 2012).

13 V.I.C. § 1601, VI ST T. 13 § 1601

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Title 13. Corporations and Associations

Chapter 15. Uniform Limited Liability Company Act

Subchapter VI. Member's Dissociation

13 V.I.C. § 1602

§ 1602 Member's power to dissociate; wrongful dissociation

(a) Unless otherwise provided in the operating agreement, a member has the power to dissociate from a limited liability company at any time, rightfully or wrongfully, by express will pursuant to section 1601, item (1) of this chapter.

(b) If the operating agreement has not eliminated a member's power to dissociate, the member's dissociation from a limited liability company is wrongful only if:

(1) it is in breach of an express provision of the agreement; or

(2) before the expiration of the specified term of a term company:

(i) the member withdraws by express will;

(ii) the member is expelled by judicial determination under section 1601, item (6) of this chapter;

(iii) the member is dissociated by becoming a debtor in bankruptcy; or

(iv) in the case of a member who is not an individual, trust other than a business trust, or estate, the member is expelled or otherwise dissociated because it willfully dissolved or terminated its existence.

(c) A member who wrongfully dissociates from a limited liability company is liable to the company and to the other members for damages caused by the dissociation. The liability is in addition to any other obligation of the member to the company or to the other members.

(d) If a limited liability company does not dissolve and wind up its business as a result of a member's wrongful dissociation under subsection (b) of this section, damages sustained by the

company for the wrongful dissociation must be offset against distributions otherwise due the member after the dissociation.

Credits

Added Feb. 12, 1998, No. 6204, § 1, Sess. L. 1998, p. 30, eff. May 1, 1998.

13 V.I.C. § 1602, VI ST T. 13 § 1602

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Chapter 15. Uniform Limited Liability Company Act

Subchapter VI. Member's Dissociation

13 V.I.C. § 1603

§ 1603 Effect of member's dissociation

(a) Upon a member's dissociation:

(1) in an at-will company, the company must cause the dissociated member's distributional interest to be purchased under subchapter VII of this chapter; and

(2) in a term company:

(i) if the company dissolves and winds up its business on or before the expiration of its specified term, subchapter VIII of this chapter applies to determine the dissociated member's rights to distributions; and

(ii) if the company does not dissolve and wind up its business on or before the expiration of its specified term, the company must cause the dissociated member's distributional interest to be purchased under subchapter VII of this chapter on the date of the expiration of the term specified at the time of the member's dissociation.

(b) Upon a member's dissociation from a limited liability company:

(1) the member's right to participate in the management and conduct of the company's business terminates, except as otherwise provided in section 1803 of this chapter, and the member ceases to be a member and is treated the same as a transferee of a member;

(2) the member's duty of loyalty under section 1409, subsection (b), item (3) of this chapter terminates; and

(3) the member's duty of loyalty under section 1409, subsection (b), items (1) and (2) of this chapter and duty of care under section 1409, subsection (c) of this chapter continue only with regard to matters arising and events occurring before the member's dissociation, unless the

member participates in winding up the company's business pursuant to section 1803 of this chapter.

Credits

Added Feb. 12, 1998, No. 6204, § 1, Sess. L. 1998, p. 30, eff. May 1, 1998.

13 V.I.C. § 1603, VI ST T. 13 § 1603

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Title 13. Corporations and Associations

Chapter 15. Uniform Limited Liability Company Act

Subchapter VII. Member's Dissociation when Business Not Wound up

13 V.I.C. § 1701

§ 1701 Company purchase of distributional interest

(a) A limited liability company shall purchase a distributional interest of a:

(1) member of an at-will company for its fair value determined as of the date of the member's dissociation if the member's dissociation does not result in a dissolution and winding up of the company's business under section 1801 of this chapter; or

(2) member of a term company for its fair value determined as of the date of the expiration of the specified term that existed on the date of the member's dissociation if the expiration of the specified term does not result in a dissolution and winding up of the company's business under section 1801 of this chapter.

(b) A limited liability company must deliver a purchase offer to the dissociated member whose distributional interest is entitled to be purchased not later than 30 days after the date determined under subsection (a) of this section. The purchase offer must be accompanied by:

(1) a statement of the company's assets and liabilities as of the date determined under subsection (a) of this section;

(2) the latest available balance sheet and income statement, if any; and

(3) an explanation of how the estimated amount of the payment was calculated.

(c) If the price and other terms of a purchase of a distributional interest are fixed or are to be determined by the operating agreement, the price and terms so fixed or determined govern the purchase unless the purchaser defaults. If a default occurs, the dissociated member is entitled to commence a proceeding to have the company dissolved under section 1801, item (4), subitem (iv) of this chapter.

(d) If an agreement to purchase the distributional interest is not made within 120 days after the date determined under subsection (a) of this section, the dissociated member, within another 120 days, may commence a proceeding against the limited liability company to enforce the purchase. The company at its expense shall notify in writing all of the remaining members, and any other person the court directs, of the commencement of the proceeding. The jurisdiction of the court in which the proceeding is commenced under this subsection is plenary and exclusive.

(e) The court shall determine the fair value of the distributional interest in accordance with the standards set forth in section 1702 of this chapter, together with the terms for the purchase. Upon making these determinations, the court shall order the limited liability company to purchase or cause the purchase of the interest.

(f) Damages for wrongful dissociation under section 1602, subsection (b) of this chapter, and all other amounts owing, whether or not currently due, from the dissociated member to a limited liability company, must be offset against the purchase price.

Credits

Added Feb. 12, 1998, No. 6204, § 1, Sess. L. 1998, p. 30, eff. May 1, 1998.

ANNOTATIONS

1.

Purchase offer.

Superior Court of the Virgin Islands interprets 13 V.I.C. § 1601 to mean that if one of the events listed in § 1601 takes place, then dissociation has occurred, with no further steps necessary for the dissociation to be complete; thus, as one of these events had occurred, a limited liability company's defective purchase offer under 13 V.I.C. § 1701 did not nullify the members' notice of dissociation. *Storage on Site, Llc v. Slodden*, 2012 V.I. LEXIS 41 (Aug. 15, 2012).

2.

Remedies.

Once a member has dissociated from a limited liability company (LLC), if that LLC does not take the steps under 13 V.I.C. § 1701 as required by the statute, the dissociating members' proper remedies include making an application for the dissolution of the company, pursuant to 13 V.I.C. § 1801(4)(iv) or commencing a proceeding against the LLC to enforce the purchase, pursuant to § 1701(d). *Storage on Site, Llc v. Slodden*, 2012 V.I. LEXIS 41 (Aug. 15, 2012).

13 V.I.C. § 1701, VI ST T. 13 § 1701

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Subchapter VII. Member's Dissociation when Business Not Wound up

13 V.I.C. § 1702

§ 1702 Court action to determine fair value of distributional interest

(a) In an action brought to determine the fair value of a distributional interest in a limited liability company, the court shall:

(1) determine the fair value of the interest, considering among other relevant evidence the going concern value of the company, any agreement among some or all of the members fixing the price or specifying a formula for determining value of distributional interests for any other purpose, the recommendations of any appraiser appointed by the court, and any legal constraints on the company's ability to purchase the interest;

(2) specify the terms of the purchase, including, if appropriate, terms for installment payments, subordination of the purchase obligation to the rights of the company's other creditors, security for a deferred purchase price, and a covenant not to compete or other restriction on a dissociated member; and

(3) require the dissociated member to deliver an assignment of the interest to the purchaser upon receipt of the purchase price or the first installment of the purchase price.

(b) After the dissociated member delivers the assignment, the dissociated member has no further claim against the company, its members, officers, or managers, if any, other than a claim to any unpaid balance of the purchase price and a claim under any agreement with the company or the remaining members that is not terminated by the court.

(c) If the purchase is not completed in accordance with the specified terms, the company is to be dissolved upon application under section 1801, subsection (b), item (5), subitem (iv) of this chapter. If a limited liability company is so dissolved, the dissociated member has the same rights and priorities in the company's assets as if the sale had not been ordered.

(d) If the court finds that a party to the proceeding acted arbitrarily, vexatiously, or not in good

faith, it may award one or more other parties their reasonable expenses, including attorney's fees and the expenses of appraisers or other experts, incurred in the proceeding. The finding may be based on the company's failure to make an offer to pay or to comply with section 1701, subsection (b) of this chapter.

(e) Interest must be paid on the amount awarded from the date determined under section 1701, subsection (a) of this chapter to the date of payment.

Credits

Added Feb. 12, 1998, No. 6204, § 1, Sess. L. 1998, p. 30, eff. May 1, 1998.

HISTORY

References in text. The reference to 'section 1801, subsection (b), item (5), subitem (iv)' in subsection (c) appears to be incorrect as there is no subsection (b) or subitem (iv) in section 1801.

13 V.I.C. § 1702, VI ST T. 13 § 1702

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Chapter 15. Uniform Limited Liability Company Act

Subchapter VII. Member's Dissociation when Business Not Wound up

13 V.I.C. § 1703

§ 1703 Dissociated member's power to bind limited liability company

For two years after a member dissociates without the dissociation resulting in a dissolution and winding up of a limited liability company's business, the company, including a surviving company under subchapter IX of this chapter, is bound by an act of the dissociated member which would have bound the company under section 1301 of this chapter before dissociation only if at the time of entering into the transaction the other party:

- (1) reasonably believed that the dissociated member was then a member;
- (2) did not have notice of the member's dissociation; and
- (3) is not deemed to have had notice under section 1704 of this chapter.

Credits

Added Feb. 12, 1998, No. 6204, § 1, Sess. L. 1998, p. 30, eff. May 1, 1998.

13 V.I.C. § 1703, VI ST T. 13 § 1703

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Subchapter VII. Member's Dissociation when Business Not Wound up

13 V.I.C. § 1704

§ 1704 Statement of dissociation

(a) A dissociated member or a limited liability company may file in the office of the Lieutenant Governor a statement of dissociation stating the name of the company and that the member is dissociated from the company.

(b) For the purposes of sections 1301 and 1703 of this chapter, a person not a member is deemed to have notice of the dissociation 90 days after the statement of dissociation is filed.

Credits

Added Feb. 12, 1998, No. 6204, § 1, Sess. L. 1998, p. 30, eff. May 1, 1998.

ANNOTATIONS

1.

Construction.

13 V.I.C. § 1704 states that a dissociated member or a limited liability company may file in the office of the Lieutenant Governor a statement of dissociation stating the name of the company and that the member is dissociated from the company; the operative word in § 1704 is 'may' as it gives dissociating members the option to file a Notice of Dissociation, but does not make the filing a requirement or prerequisite of dissociation. *Storage on Site, Llc v. Slodden*, 2012 V.I. LEXIS 41 (Aug. 15, 2012).

13 V.I.C. § 1704, VI ST T. 13 § 1704

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Subchapter VIII. Winding up Company's Business

13 V.I.C. § 1801

§ 1801 Events causing dissolution and winding up of company's business

A limited liability company is dissolved, and its business must be wound up, upon the occurrence of any of the following events:

- (1) an event specified in the operating agreement;
- (2) consent of the number or percentage of members specified in the operating agreement;
- (3) an event that makes it unlawful for all or substantially all of the business of the company to be continued, but any cure of illegality within 90 days after notice to the company of the event is effective retroactively to the date of the event for purposes of this section;
- (4) on application by a member or a dissociated member, upon entry of a judicial decree that:
 - (i) the economic purpose of the company is likely to be unreasonably frustrated;
 - (ii) another member has engaged in conduct relating to the company's business that makes it not reasonably practicable to carry on the company's business with that member;
 - (iii) it is not otherwise reasonably practicable to carry on the company's business in conformity with the articles of organization and the operating agreement;
 - (iv) the company failed to purchase the petitioner's distributional interest as required by section 1701 of this chapter; or
 - (v) the managers or members in control of the company have acted, are acting, or will act in a manner that is illegal, oppressive, fraudulent, or unfairly prejudicial to the petitioner; or
- (5) on application by a transferee of a member's interest, a judicial determination that it is

equitable to wind up the company's business:

(i) after the expiration of the specified term, if the company was for a specified term at the time the applicant became a transferee by member dissociation, transfer, or entry of a charging order that gave rise to the transfer; or

(ii) at any time, if the company was at will at the time the applicant became a transferee by member dissociation, transfer, or entry of a charging order that gave rise to the transfer.

Credits

Added Feb. 12, 1998, No. 6204, § 1, Sess. L. 1998, p. 30, eff. May 1, 1998.

ANNOTATIONS

1.

Generally.

Once a member has dissociated from a limited liability company (LLC), if that LLC does not take the steps under 13 V.I.C. § 1701 as required by the statute, the dissociating members' proper remedies include making an application for the dissolution of the company, pursuant to 13 V.I.C. § 1801(4)(iv) or commencing a proceeding against the LLC to enforce the purchase, pursuant to § 1701(d). *Storage on Site, Llc v. Slodden*, 2012 V.I. LEXIS 41 (Aug. 15, 2012).

13 V.I.C. § 1801, VI ST T. 13 § 1801

Current through Act 7616 of the 2014 Regular Session. Annotations current through April 7, 2014

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13 V.I.C. § 1802

§ 1802 Limited liability company continues after dissolution

(a) Subject to subsection (b) of this section, a limited liability company continues after dissolution only for the purpose of winding up its business.

(b) At any time after the dissolution of a limited liability company and before the winding up of its business is completed, the members, including a dissociated member whose dissociation caused the dissolution, may unanimously waive the right to have the company's business wound up and the company terminated. In that case:

(1) the limited liability company resumes carrying on its business as if dissolution had never occurred and any liability incurred by the company or a member after the dissolution and before the waiver is determined as if the dissolution had never occurred; and

(2) the rights of a third party accruing under section 1804, subsection (a) of this chapter or arising out of conduct in reliance on the dissolution before the third party knew or received a notification of the waiver are not adversely affected.

Credits

Added Feb. 12, 1998, No. 6204, § 1, Sess. L. 1998, p. 30, eff. May 1, 1998.

13 V.I.C. § 1802, VI ST T. 13 § 1802

Current through Act 7616 of the 2014 Regular Session. Annotations current through April 7, 2014

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13 V.I.C. § 1803

§ 1803 Right to wind up limited liability company's business

(a) After dissolution, a member who has not wrongfully dissociated may participate in winding up a limited liability company's business, but on application of any member, member's legal representative, or transferee, the Superior Court, for good cause shown, may order judicial supervision of the winding up.

(b) A legal representative of the last surviving member may wind up a limited liability company's business.

(c) A person winding up a limited liability company's business may preserve the company's business or property as a going concern for a reasonable time, prosecute and defend actions and proceedings, whether civil, criminal, or administrative, settle and close the company's business, dispose of and transfer the company's property, discharge the company's liabilities, distribute the assets of the company pursuant to section 1806 of this chapter, settle disputes by mediation or arbitration, and perform other necessary acts.

Credits

Added Feb. 12, 1998, No. 6204, § 1, Sess. L. 1998, p. 30, eff. May 1, 1998.

13 V.I.C. § 1803, VI ST T. 13 § 1803

Current through Act 7616 of the 2014 Regular Session. Annotations current through April 7, 2014

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13 V.I.C. § 1804

§ 1804 Member's or manager's power and liability as agent after dissolution

- (a) A limited liability company is bound by a member's or manager's act after dissolution that:
- (1) is appropriate for winding up the company's business; or
 - (2) would have bound the company under section 1301 of this chapter before dissolution, if the other party to the transaction did not have notice of the dissolution.
- (b) A member or manager who, with knowledge of the dissolution, subjects a limited liability company to liability by an act that is not appropriate for winding up the company's business is liable to the company for any damage caused to the company arising from the liability.

Credits

Added Feb. 12, 1998, No. 6204, § 1, Sess. L. 1998, p. 30, eff. May 1, 1998.

13 V.I.C. § 1804, VI ST T. 13 § 1804

Current through Act 7616 of the 2014 Regular Session. Annotations current through April 7, 2014

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13 V.I.C. § 1805

§ 1805 Articles of termination

(a) At any time after dissolution and winding up, a limited liability company may terminate its existence by filing with the office of the Lieutenant Governor articles of termination stating:

(1) the name of the company;

(2) the date of the dissolution; and

(3) that the company's business has been wound up and the legal existence of the company has been terminated.

(b) The existence of a limited liability company is terminated upon the filing of the articles of termination, or upon a later effective date, if specified in the articles of termination.

Credits

Added Feb. 12, 1998, No. 6204, § 1, Sess. L. 1998, p. 30, eff. May 1, 1998.

13 V.I.C. § 1805, VI ST T. 13 § 1805

Current through Act 7616 of the 2014 Regular Session. Annotations current through April 7, 2014

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13 V.I.C. § 1806

§ 1806 Distribution of assets in winding up limited liability company's business

(a) In winding up a limited liability company's business, the assets of the company must be applied to discharge its obligations to creditors, including members who are creditors. Any surplus must be applied to pay in money the net amount distributable to members in accordance with their right to distributions under subsection (b) of this section.

(b) Each member is entitled to a distribution upon the winding up of the limited liability company's business consisting of a return of all contributions which have not previously been returned and a distribution of any remainder in equal shares.

Credits

Added Feb. 12, 1998, No. 6204, § 1, Sess. L. 1998, p. 30, eff. May 1, 1998.

13 V.I.C. § 1806, VI ST T. 13 § 1806

Current through Act 7616 of the 2014 Regular Session. Annotations current through April 7, 2014

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13 V.I.C. § 1807

§ 1807 Known claims against dissolved limited liability company

(a) A dissolved limited liability company may dispose of the known claims against it by following the procedure described in this section.

(b) A dissolved limited liability company shall notify its known claimants in writing of the dissolution. The notice must:

- (1) specify the information required to be included in a claim;
- (2) provide a mailing address where the claim is to be sent;
- (3) state the deadline for receipt of the claim, which may not be less than 120 days after the date the written notice is received by the claimant; and
- (4) state that the claim will be barred if not received by the deadline.

(c) A claim against a dissolved limited liability company is barred if the requirements of subsection (b) of this section are met, and:

- (1) the claim is not received by the specified deadline; or
- (2) in the case of a claim that is timely received but rejected by the dissolved company, the claimant does not commence a proceeding to enforce the claim within 90 days after the receipt of the notice of the rejection.

(d) For purposes of this section, 'claim' does not include a contingent liability or a claim based on an event occurring after the effective date of dissolution.

Credits

Added Feb. 12, 1998, No. 6204, § 1, Sess. L. 1998, p. 30, eff. May 1, 1998.

13 V.I.C. § 1807, VI ST T. 13 § 1807

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13 V.I.C. § 1808

§ 1808 Other claims against dissolved limited liability company

(a) A dissolved limited liability company may publish notice of its dissolution and request persons having claims against the company to present them in accordance with the notice.

(b) The notice must:

(1) be published at least once in a newspaper of general circulation in the judicial district in which the dissolved limited liability company's principal office is located or, if none in the Virgin Islands, in which its designated office is or was last located;

(2) describe the information required to be contained in a claim and provide a mailing address where the claim is to be sent; and

(3) state that a claim against the limited liability company is barred unless a proceeding to enforce the claim is commenced within five years after publication of the notice.

(c) If a dissolved limited liability company publishes a notice in accordance with subsection (b) of this section, the claim of each of the following claimants is barred unless the claimant commences a proceeding to enforce the claim against the dissolved company within five years after the publication date of the notice:

(1) a claimant who did not receive written notice under section 1807 of this chapter;

(2) a claimant whose claim was timely sent to the dissolved company but not acted on; and

(3) a claimant whose claim is contingent or based on an event occurring after the effective date of dissolution.

(d) A claim not barred under this section may be enforced:

- (1) against the dissolved limited liability company, to the extent of its undistributed assets; or
- (2) if the assets have been distributed in liquidation, against a member of the dissolved company to the extent of the member's proportionate share of the claim or the company's assets distributed to the member in liquidation, whichever is less, but a member's total liability for all claims under this section may not exceed the total amount of assets distributed to the member.

Credits

Added Feb. 12, 1998, No. 6204, § 1, Sess. L. 1998, p. 30, eff. May 1, 1998.

13 V.I.C. § 1808, VI ST T. 13 § 1808

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13 V.I.C. § 1809

§ 1809 Grounds for administrative dissolution

The Lieutenant Governor may commence a proceeding to dissolve a limited liability company administratively if the company does not:

- (1) pay any fees, taxes, or penalties imposed by this chapter or other law within 60 days after they are due; or
- (2) deliver its annual report to the office of the Lieutenant Governor within 60 days after it is due.

Credits

Added Feb. 12, 1998, No. 6204, § 1, Sess. L. 1998, p. 30, eff. May 1, 1998.

13 V.I.C. § 1809, VI ST T. 13 § 1809

Current through Act 7616 of the 2014 Regular Session. Annotations current through April 7, 2014

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13 V.I.C. § 1810

§ 1810 Procedure for and effect of administrative dissolution

(a) If the Lieutenant Governor determines that a ground exists for administratively dissolving a limited liability company, the Lieutenant Governor shall enter a record of the determination and serve the company with a copy of the record.

(b) If the company does not correct each ground for dissolution or demonstrate to the reasonable satisfaction of the Lieutenant Governor that each ground determined by the Lieutenant Governor does not exist within 60 days after service of the notice, the Lieutenant Governor shall administratively dissolve the company by signing a certification of the dissolution that recites the ground for dissolution and its effective date. The Lieutenant Governor shall file the original of the certificate and serve the company with a copy of the certificate.

(c) A company administratively dissolved continues its existence, but may carry on only business necessary to wind up and liquidate its business and affairs under section 1802 of this chapter and to notify claimants under sections 1807 and 1808 of this chapter.

(d) The administrative dissolution of a company does not terminate the authority of its agent for service of process.

Credits

Added Feb. 12, 1998, No. 6204, § 1, Sess. L. 1998, p. 30, eff. May 1, 1998.

13 V.I.C. § 1810, VI ST T. 13 § 1810

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13 V.I.C. § 1811

§ 1811 Reinstatement following administrative dissolution

(a) A limited liability company administratively dissolved may apply to the office of the Lieutenant Governor for reinstatement within two years after the effective date of dissolution. The application must:

- (1) recite the name of the company and the effective date of its administrative dissolution;
- (2) state that the ground for dissolution either did not exist or have been eliminated;
- (3) state that the company's name satisfies the requirements of section 1106 of this chapter; and
- (4) contain a certificate from the Virgin Islands Bureau of Internal Revenue reciting that all taxes owed by the company have been paid.

(b) If the Lieutenant Governor determines that the application contains the information required by subsection (a) of this section and that the information is correct, the Lieutenant Governor shall cancel the certificate of dissolution and prepare a certificate of reinstatement that recites this determination and the effective date of reinstatement, file the original of the certificate, and serve the company with a copy of the certificate.

(c) When reinstatement is effective, it relates back to and takes effect as of the effective date of the administrative dissolution and the company may resume its business as if the administrative dissolution had never occurred.

Credits

Added Feb. 12, 1998, No. 6204, § 1, Sess. L. 1998, p. 30, eff. May 1, 1998.

13 V.I.C. § 1811, VI ST T. 13 § 1811

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13 V.I.C. § 1812

§ 1812 Appeal from denial of reinstatement

- (a) If the Lieutenant Governor denies a limited liability company's application for reinstatement following administrative dissolution, the Lieutenant Governor shall serve the company with a record that explains the reason or reasons for denial.
- (b) The company may appeal the denial of reinstatement to the Superior Court within 30 days after service of the notice of denial is perfected. The company appeals by petitioning the court to set aside the dissolution and attaching to the petition copies of the Lieutenant Governor's certificate of dissolution, the company's application for reinstatement, and the Lieutenant Governor's notice of denial.
- (c) The court may summarily order the Lieutenant Governor to reinstate the dissolved company or may take other action the court considers appropriate.
- (d) The court's final decision may be appealed as in other civil proceedings.

Credits

Added Feb. 12, 1998, No. 6204, § 1, Sess. L. 1998, p. 30, eff. May 1, 1998.

13 V.I.C. § 1812, VI ST T. 13 § 1812

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Subchapter IX. Conversions and Mergers

13 V.I.C. § 1901

§ 1901 Definitions

In this subchapter:

- (1) ‘Corporation’ means a corporation under Title 13, chapter 1, Virgin Islands Code, a predecessor law, or comparable law of another jurisdiction.
- (2) ‘General partner’ means a partner in a partnership and a general partner in a limited partnership.
- (3) ‘Limited partner’ means a limited partner in a limited partnership.
- (4) ‘Limited partnership’ means a limited partnership created pursuant to Title 26, Virgin Islands Code, a predecessor law, or comparable law of another jurisdiction.
- (5) ‘Partner’ includes a general partner and a limited partner.
- (6) ‘Partnership’ means a general partnership under Title 26, Virgin Islands Code, a predecessor law, or comparable law of another jurisdiction.
- (7) ‘Partnership agreement’ means an agreement among the partners concerning the partnership or limited partnership.
- (8) ‘Shareholder’ means a shareholder in a corporation.

Credits

Added Feb. 12, 1998, No. 6204, § 1, Sess. L. 1998, p. 30, eff. May 1, 1998.

13 V.I.C. § 1901, VI ST T. 13 § 1901

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Subchapter IX. Conversions and Mergers

13 V.I.C. § 1902

§ 1902 Conversion of partnership or limited partnership to limited liability company

- (a) A partnership or limited partnership may be converted to a limited liability company pursuant to this section.
- (b) The terms and conditions of a conversion of a partnership or limited partnership to a limited liability company must be approved by all of the partners or by a number or percentage of the partners required for conversion in the partnership agreement.
- (c) An agreement of conversion must set forth the terms and conditions of the conversion of the interests of partners of a partnership or of a limited partnership, as the case may be, into interests in the converted limited liability company or the cash or other consideration to be paid or delivered as a result of the conversion of the interests of the partners, or a combination thereof.
- (d) After a conversion is approved under subsection (b) of this section, the partnership or limited partnership shall file articles of organization in the office of the Lieutenant Governor which satisfy the requirements of section 1203 of this chapter and contain:
- (1) a statement that the partnership or limited partnership was converted to a limited liability company from a partnership or limited partnership, as the case may be;
 - (2) its former name;
 - (3) a statement of the number of votes cast by the partners entitled to vote for and against the conversion and, if the vote is less than unanimous, the number or percentage required to approve the conversion under subsection (b) of this section; and
 - (4) in the case of a limited partnership, a statement that the certificate of limited partnership is to be canceled as of the date the conversion took effect.

(e) In the case of a limited partnership, the filing of articles of organization under subsection (d) of this section cancels its certificate of limited partnership as of the date the conversion took effect.

(f) A conversion takes effect when the articles of organization are filed in the office of the Lieutenant Governor or at any later date specified in the articles of organization.

(g) A general partner who becomes a member of a limited liability company as a result of a conversion remains liable as a partner for an obligation incurred by the partnership or limited partnership before the conversion takes effect.

(h) A general partner's liability for all obligations of the limited liability company incurred after the conversion takes effect is that of a member of the company. A limited partner who becomes a member as a result of a conversion remains liable only to the extent the limited partner was liable for an obligation incurred by the limited partnership before the conversion takes effect.

Credits

Added Feb. 12, 1998, No. 6204, § 1, Sess. L. 1998, p. 30, eff. May 1, 1998.

13 V.I.C. § 1902, VI ST T. 13 § 1902

Current through Act 7616 of the 2014 Regular Session. Annotations current through April 7, 2014

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Subchapter IX. Conversions and Mergers

13 V.I.C. § 1903

§ 1903 Effect of conversion; entity unchanged

(a) A partnership or limited partnership that has been converted pursuant to this subchapter is for all purposes the same entity that existed before the conversion.

(b) When a conversion takes effect:

(1) all property owned by the converting partnership or limited partnership vests in the limited liability company;

(2) all debts, liabilities, and other obligations of the converting partnership or limited partnership continue as obligations of the limited liability company;

(3) an action or proceeding pending by or against the converting partnership or limited partnership may be continued as if the conversion had not occurred;

(4) except as prohibited by other law, all of the rights, privileges, immunities, powers, and purposes of the converting partnership or limited partnership vest in the limited liability company; and

(5) except as otherwise provided in the agreement of conversion under section 1902, subsection (c) of this chapter, all of the partners of the converting partnership continue as members of the limited liability company.

Credits

Added Feb. 12, 1998, No. 6204, § 1, Sess. L. 1998, p. 30, eff. May 1, 1998.

13 V.I.C. § 1903, VI ST T. 13 § 1903

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Subchapter IX. Conversions and Mergers

13 V.I.C. § 1904

§ 1904 Merger of entities

(a) Pursuant to a plan of merger approved under subsection (c) of this section, a limited liability company may be merged with or into one or more limited liability companies, foreign limited liability companies, corporations, foreign corporations, partnerships, foreign partnerships, limited partnerships, foreign limited partnerships, or other domestic or foreign entities.

(b) A plan of merger must set forth:

(1) the name of each entity that is a party to the merger;

(2) the name of the surviving entity into which the other entities will merge;

(3) the type of organization of the surviving entity;

(4) the terms and conditions of the merger;

(5) the manner and basis for converting the interests of each party to the merger into interests or obligations of the surviving entity, or into money or other property in whole or in part; and

(6) the physical address of the surviving entity's principal place of business.

(c) A plan of merger must be approved:

(1) in the case of a limited liability company that is a party to the merger, by all of the members or by a number or percentage of members specified in the operating agreement;

(2) in the case of a foreign limited liability company that is a party to the merger, by the vote required for approval of a merger by the law of the state or foreign jurisdiction in which the foreign limited liability company is organized;

(3) in the case of a partnership or domestic limited partnership that is a party to the merger, by the vote required for approval of a conversion under section 1902, subsection (b) of this chapter; and

(4) in the case of any other entities that are parties to the merger, by the vote required for approval of a merger by the law of the Virgin Islands or of the state or foreign jurisdiction in which the entity is organized and, in the absence of such a requirement, by all the owners of interests in the entity.

(d) After a plan of merger is approved and before the merger takes effect, the plan may be amended or abandoned as provided in the plan.

(e) The merger is effective upon the filing of the articles of merger with the office of the Lieutenant Governor, or at such later date as the articles may provide.

Credits

Added Feb. 12, 1998, No. 6204, § 1, Sess. L. 1998, p. 30, eff. May 1, 1998.

13 V.I.C. § 1904, VI ST T. 13 § 1904

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13 V.I.C. § 1905

§ 1905 Articles of merger

(a) After approval of the plan of merger under section 1904, subsection (c) of this chapter, unless the merger is abandoned under section 1904, subsection (d) of this chapter, articles of merger must be signed on behalf of each limited liability company and other entity that is a party to the merger and delivered to the office of the Lieutenant Governor for filing. The articles must set forth:

- (1) the name and jurisdiction of formation or organization of each of the limited liability companies and other entities that are parties to the merger;
- (2) for each limited liability company that is to merge, the date its articles of organization were filed with the Lieutenant Governor;
- (3) that a plan of merger has been approved and signed by each limited liability company and other entity that is to merge;
- (4) the name and address of the surviving limited liability company or other surviving entity;
- (5) the effective date of the merger;
- (6) if a limited liability company is the surviving entity, such changes in its articles of organization as are necessary by reason of the merger;
- (7) if a party to a merger is a foreign limited liability company, the jurisdiction and date of filing of its initial articles of organization and the date when its application for authority was filed with the office of the Lieutenant Governor or, if an application has not been filed, a statement to that effect; and
- (8) if the surviving entity is not a limited liability company, an agreement that the surviving

entity may be served with process within the Virgin Islands and is subject to liability in any action or proceeding for the enforcement of any liability or obligation of any limited liability company previously subject to suit within the Virgin Islands which is to merge, and for the enforcement, as provided in this chapter, of the right of members of any limited liability company to receive payment for their interest against the surviving entity.

(b) If a foreign limited liability company is the surviving entity of a merger, it may not do business within the Virgin Islands until an application for that authority is filed with the office of the Lieutenant Governor.

(c) The surviving limited liability company or other entity shall furnish a copy of the plan of merger, on request and without cost, to any member of any limited liability company or any person holding an interest in any other entity that is to merge.

(d) Articles of merger operate as an amendment to the limited liability company's articles of organization.

Credits

Added Feb. 12, 1998, No. 6204, § 1, Sess. L. 1998, p. 30, eff. May 1, 1998.

13 V.I.C. § 1905, VI ST T. 13 § 1905

Current through Act 7616 of the 2014 Regular Session. Annotations current through April 7, 2014

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Subchapter IX. Conversions and Mergers

13 V.I.C. § 1906

§ 1906 Effect of merger

(a) When a merger takes effect:

(1) the separate existence of each limited liability company and other entity that is a party to the merger, other than the surviving entity, terminates;

(2) all property owned by each of the limited liability companies and other entities that are party to the merger vests in the surviving entity;

(3) all debts, liabilities, and other obligations of each limited liability company and other entity that is party to the merger become the obligations of the surviving entity;

(4) an action or proceeding pending by or against a limited liability company or other party to a merger may be continued as if the merger had not occurred or the surviving entity may be substituted as a party to the action or proceeding; and

(5) except as prohibited by other law, all the rights, privileges, immunities, powers, and purposes of every limited liability company and other entity that is a party to a merger vest in the surviving entity.

(b) The Lieutenant Governor shall be an agent for service of process in an action or proceeding against the surviving foreign entity to enforce an obligation of any party to a merger if the surviving foreign entity fails to appoint or maintain an agent designated for service of process within the Virgin Islands or the agent for service of process cannot with reasonable diligence be found at the designated office. Upon receipt of process, the Lieutenant Governor shall send a copy of the process by registered or certified mail, return receipt requested, to the surviving entity at the address set forth in the articles of merger. Service is effected under this subsection at the earliest of:

- (1) the date the company receives the process, notice, or demand;
 - (2) the date shown on the return receipt, if signed on behalf of the company; or
 - (3) five days after its deposit in the mail, if mailed postpaid and correctly addressed.
- (c) A member of the surviving limited liability company is liable for all obligations of a party to the merger for which the member was personally liable before the merger.
- (d) Unless otherwise agreed, a merger of a limited liability company that is not the surviving entity in the merger does not require the limited liability company to wind up its business under this chapter or pay its liabilities and distribute its assets pursuant to this chapter.
- (e) Articles of merger serve as articles of dissolution for a limited liability company that is not the surviving entity in the merger.

Credits

Added Feb. 12, 1998, No. 6204, § 1, Sess. L. 1998, p. 30, eff. May 1, 1998.

13 V.I.C. § 1906, VI ST T. 13 § 1906

Current through Act 7616 of the 2014 Regular Session. Annotations current through April 7, 2014

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13 V.I.C. § 1907

§ 1907 Subchapter not exclusive

This subchapter does not preclude an entity from being converted or merged under other law.

Credits

Added Feb. 12, 1998, No. 6204, § 1, Sess. L. 1998, p. 30, eff. May 1, 1998.

13 V.I.C. § 1907, VI ST T. 13 § 1907

Current through Act 7616 of the 2014 Regular Session. Annotations current through April 7, 2014

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Subchapter X. Foreign Limited Liability Companies

13 V.I.C. § 2001

§ 2001 Law governing foreign limited liability companies

- (a) The laws of the state or other jurisdiction under which a foreign limited liability company is organized govern its organization and internal affairs and the liability of its managers, members, and their transferees.
- (b) A foreign limited liability company may not be denied a certificate of authority by reason of any difference between the laws of another jurisdiction under which the foreign company is organized and the laws of the Virgin Islands.
- (c) A certificate of authority does not authorize a foreign limited liability company to engage in any business or exercise any power that a limited liability company may not engage in or exercise in the Virgin Islands.

Credits

Added Feb. 12, 1998, No. 6204, § 1, Sess. L. 1998, p. 30, eff. May 1, 1998.

13 V.I.C. § 2001, VI ST T. 13 § 2001

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13 V.I.C. § 2002

§ 2002 Application for certificate of authority

(a) A foreign limited liability company may apply for a certificate of authority to transact business in the Virgin Islands by delivering an application to the office of the Lieutenant Governor for filing. The application must set forth:

- (1) the name of the foreign company or, if its name is unavailable for use in the Virgin Islands, a name that satisfies the requirements of section 2005 of this chapter;
- (2) the name of the state or country under whose law it is organized;
- (3) the physical address of its principal office;
- (4) the address of its initial designated office in the Virgin Islands;
- (5) the name and physical address of its initial agent for service of process within the Virgin Islands;
- (6) the minimum amount of capital with which the company will conduct business in the Virgin Islands, which shall not be less than \$1,000;
- (7) whether the duration of the company is for a specified term and, if so, the period specified;
- (8) whether the company is manager-managed, and, if so, the name and address of each initial manager; and
- (9) whether the members of the company are to be liable for its debts and obligations under a provision similar to section 1303, subsection (c) of this chapter.

(b) A foreign limited liability company shall deliver with the completed application a certificate

of existence or a record of similar import authenticated by the secretary of state or other official having custody of company records in the state or country under whose law it is organized.

Credits

Added Feb. 12, 1998, No. 6204, § 1, Sess. L. 1998, p. 30, eff. May 1, 1998.

13 V.I.C. § 2002, VI ST T. 13 § 2002

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13 V.I.C. § 2003

§ 2003 Activities not constituting doing business

(a) Activities of a foreign limited liability company that do not constitute transacting business in the Virgin Islands within the meaning of this subchapter include:

- (1) maintaining, defending, or settling an action or proceeding;
- (2) holding meetings of its members or managers or carrying on any other activity concerning its internal affairs;
- (3) maintaining bank accounts;
- (4) maintaining offices or agencies for the transfer, exchange, and registration of the foreign company's own securities or maintaining trustees or depositories with respect to those securities;
- (5) selling through independent contractors;
- (6) soliciting or obtaining orders, whether by mail or through employees or agents or otherwise, if the orders require acceptance outside the Virgin Islands before they become contracts;
- (7) creating or acquiring indebtedness, mortgages, or security interests in real or personal property;
- (8) securing or collecting debts or enforcing mortgages or other security interests in property securing the debts, and holding, protecting, and maintaining property so acquired;
- (9) conducting an isolated transaction that is completed within 30 days and is not one in the course of similar transactions of a like manner; and
- (10) transacting business in interstate commerce.

(b) For purposes of this subchapter, the ownership in the Virgin Islands of income-producing real property or tangible personal property, other than property excluded under subsection (a) of this section, constitutes transacting business in the Virgin Islands.

(c) This section does not apply in determining the contacts or activities that may subject a foreign limited liability company to personal jurisdiction, including the jurisdiction of the courts in the Virgin Islands under section 4903 of Title 5, Virgin Islands Code, service of process, taxation, or regulation under any other law of the Virgin Islands.

Credits

Added Feb. 12, 1998, No. 6204, § 1, Sess. L. 1998, p. 30, eff. May 1, 1998.

ANNOTATIONS

Cited.

Cited in *Virgin Islands v. Legend Resorts, L.P.*, 39 V.I. 12, 1998 V.I. LEXIS 12 (1998).

13 V.I.C. § 2003, VI ST T. 13 § 2003

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13 V.I.C. § 2004

§ 2004 Issuance of certificate of authority

Unless the Lieutenant Governor determines that an application for a certificate of authority fails to comply as to form with the filing requirements of this chapter, the office of the Lieutenant Governor, upon payment of all filing fees, shall file the application and send a receipt for it and the fees to the limited liability company or its representative.

Credits

Added Feb. 12, 1998, No. 6204, § 1, Sess. L. 1998, p. 30, eff. May 1, 1998.

13 V.I.C. § 2004, VI ST T. 13 § 2004

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13 V.I.C. § 2005

§ 2005 Name of foreign limited liability company

(a) If the name of a foreign limited liability company does not satisfy the requirements of section 1106 of this chapter, the company, to obtain or maintain a certificate of authority to transact business in the Virgin Islands, must use a fictitious name to transact business in the Virgin Islands if its real name is unavailable and it delivers to the office of the Lieutenant Governor for filing a copy of the resolution of its managers, in the case of a manager-managed company, or of its members, in the case of a member-managed company, adopting the fictitious name.

(b) Except as authorized by subsections (c) and (d) of this section, the name, including a fictitious name to be used to transact business in the Virgin Islands, of a foreign limited liability company must be distinguishable upon the records of the office of the Lieutenant Governor from:

(1) the name of any corporation, limited partnership, or company incorporated, organized, or authorized to transact business in the Virgin Islands;

(2) a name reserved or registered under sections 1107 or 1108 of this chapter; and

(3) the fictitious name of another foreign limited liability company authorized to transact business in the Virgin Islands.

(c) A foreign limited liability company may apply to the office of the Lieutenant Governor for authority to use in the Virgin Islands a name that is not distinguishable upon the records of the office of the Lieutenant Governor from a name described in subsection (b) of this section. The Lieutenant Governor shall authorize use of the name applied for if:

(1) the present user, registrant, or owner of a reserved name consents to the use in a record and submits an undertaking in form satisfactory to the Lieutenant Governor to change its name to a name that is distinguishable upon the records of the office of the Lieutenant Governor from the

name of the foreign applying limited liability company; or

(2) the applicant delivers to the office of the Lieutenant Governor a certified copy of a final judgment of a court establishing the applicant's right to use the name applied for in the Virgin Islands.

(d) A foreign limited liability company may use in the Virgin Islands the name, including the fictitious name, of another domestic or foreign entity that is used in the Virgin Islands if the other entity is incorporated, organized, or authorized to transact business in the Virgin Islands and the foreign limited liability company:

(1) has merged with the other entity;

(2) has been formed by reorganization of the other entity; or

(3) has acquired all or substantially all of the assets, including the name, of the other entity.

(e) If a foreign limited liability company authorized to transact business in the Virgin Islands changes its name to one that does not satisfy the requirements of section 1106 of this chapter, it may not transact business in the Virgin Islands under the name as changed until it adopts a name satisfying the requirements of section 1106 of this chapter and obtains an amended certificate of authority.

Credits

Added Feb. 12, 1998, No. 6204, § 1, Sess. L. 1998, p. 30, eff. May 1, 1998.

13 V.I.C. § 2005, VI ST T. 13 § 2005

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13 V.I.C. § 2006

§ 2006 Revocation of certificate of authority

(a) A certificate of authority of a foreign limited liability company to transact business in the Virgin Islands may be revoked by the Lieutenant Governor in the manner provided in subsection (b) of this section if:

(1) the company fails to:

(i) pay any fees, taxes, and penalties owed to the Government of the Virgin Islands;

(ii) deliver its annual report required under section 1211 of this chapter to the office of the Lieutenant Governor within 60 days after it is due;

(iii) appoint and maintain an agent for service of process as required by this subchapter; or

(iv) file a statement of a change in the name or business address of the agent as required by this subchapter; or

(2) a misrepresentation has been made of any material matter in any application, report, affidavit, or other record submitted by the company pursuant to this subchapter.

(b) The Lieutenant Governor may not revoke a certificate of authority of a foreign limited liability company unless the Lieutenant Governor sends the company notice of the revocation, at least 60 days before its effective date, by a record addressed to its agent for service of process in the Virgin Islands, or if the company fails to appoint and maintain a proper agent in the Virgin Islands, addressed to the office required to be maintained by section 1109 of this chapter. The notice must specify the cause for the revocation of the certificate of authority. The authority of the company to transact business in the Virgin Islands ceases on the effective date of the revocation unless the foreign limited liability company cures the failure before that date.

Credits

Added Feb. 12, 1998, No. 6204, § 1, Sess. L. 1998, p. 30, eff. May 1, 1998.

13 V.I.C. § 2006, VI ST T. 13 § 2006

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13 V.I.C. § 2007

§ 2007 Cancellation of authority

A foreign limited liability company may cancel its authority to transact business in the Virgin Islands by filing in the office of the Lieutenant Governor a certificate of cancellation. Cancellation does not terminate the authority of the Lieutenant Governor to accept service of process on the company for claims for relief arising out of the transactions of business in the Virgin Islands.

Credits

Added Feb. 12, 1998, No. 6204, § 1, Sess. L. 1998, p. 30, eff. May 1, 1998.

13 V.I.C. § 2007, VI ST T. 13 § 2007

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13 V.I.C. § 2008

§ 2008 Effect of failure to obtain certificate of authority

- (a) A foreign limited liability company transacting business in the Virgin Islands may not maintain an action or proceeding in the Virgin Islands unless it has a certificate of authority to transact business in the Virgin Islands.
- (b) The failure of a foreign limited liability company to have a certificate of authority to transact business in the Virgin Islands does not impair the validity of a contract or act of the company or prevent the foreign limited liability company from defending an action or proceeding in the Virgin Islands.
- (c) Limitations on personal liability of managers, members, and their transferees are not waived solely by transacting business in the Virgin Islands without a certificate of authority.
- (d) If a foreign limited liability company transacts business in the Virgin Islands without a certificate of authority, it appoints the Lieutenant Governor as its agent for service of process for claims for relief arising out of the transaction of business in the Virgin Islands.

Credits

Added Feb. 12, 1998, No. 6204, § 1, Sess. L. 1998, p. 30, eff. May 1, 1998.

13 V.I.C. § 2008, VI ST T. 13 § 2008

Current through Act 7616 of the 2014 Regular Session. Annotations current through April 7, 2014

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13 V.I.C. § 2009

§ 2009 Action by Attorney General

The Attorney General may maintain an action to restrain a foreign limited liability company from transacting business in the Virgin Islands in violation of this subchapter.

Credits

Added Feb. 12, 1998, No. 6204, § 1, Sess. L. 1998, p. 30, eff. May 1, 1998.

13 V.I.C. § 2009, VI ST T. 13 § 2009

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Subchapter XI. Derivative Action

13 V.I.C. § 2101

§ 2101 Right of action

A member of a limited liability company may maintain an action in the right of the company if the members or managers having authority to do so have refused to commence the action or an effort to cause those members or managers to commence the action is not likely to succeed.

Credits

Added Feb. 12, 1998, No. 6204, § 1, Sess. L. 1998, p. 30, eff. May 1, 1998.

13 V.I.C. § 2101, VI ST T. 13 § 2101

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Subchapter XI. Derivative Action

13 V.I.C. § 2102

§ 2102 Proper plaintiff

In a derivative action for a limited liability company, the plaintiff must be a member of the company when the action is commenced, and:

- (1) must have been a member at the time of the transaction of which the plaintiff complains; or
- (2) the plaintiff's status as a member must have devolved upon the plaintiff by operation of law or pursuant to the terms of the operating agreement from a person who was a member at the time of the transaction.

Credits

Added Feb. 12, 1998, No. 6204, § 1, Sess. L. 1998, p. 30, eff. May 1, 1998.

HISTORY

Revision notes. Made changes in punctuation in the introductory paragraph for purposes of conformity with V.I.C. style pursuant to section 14 of Title 1.

13 V.I.C. § 2102, VI ST T. 13 § 2102

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13 V.I.C. § 2103

§ 2103 Pleading

In a derivative action for a limited liability company, the complaint must set forth with particularity the effort of the plaintiff to secure initiation of the action by a member or manager or the reasons for not making the effort.

Credits

Added Feb. 12, 1998, No. 6204, § 1, Sess. L. 1998, p. 30, eff. May 1, 1998.

13 V.I.C. § 2103, VI ST T. 13 § 2103

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Subchapter XI. Derivative Action

13 V.I.C. § 2104

§ 2104 Expenses

If a derivative action for a limited liability company is successful, in whole or in part, or if anything is received by the plaintiff as a result of a judgment, compromise, or settlement of an action or claim, the court may award the plaintiff reasonable expenses, including reasonable attorney's fees, and shall direct the plaintiff to remit to the limited liability company the remainder of the proceeds received.

Credits

Added Feb. 12, 1998, No. 6204, § 1, Sess. L. 1998, p. 30, eff. May 1, 1998.

13 V.I.C. § 2104, VI ST T. 13 § 2104

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Subchapter XII. Miscellaneous Provisions

13 V.I.C. § 2201

§ 2201 Uniformity of application and construction

This chapter shall be applied and construed to effectuate its general purpose to make uniform the law with respect to the subject of this chapter among jurisdictions enacting it.

Credits

Added Feb. 12, 1998, No. 6204, § 1, Sess. L. 1998, p. 30, eff. May 1, 1998.

13 V.I.C. § 2201, VI ST T. 13 § 2201

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Subchapter XII. Miscellaneous Provisions

13 V.I.C. § 2202

§ 2202 Governing law; conflict of law

(a) The liability of members, managers, employees and agents of a limited liability company organized under this chapter shall at all times be determined solely and exclusively by this chapter and the laws of the United States Virgin Islands.

(b) If a conflict arises between the law of this Territory and the laws of any other jurisdiction with regard to the liability of a member, manager employee or agent of a limited liability company organized and existing under this chapter for the debts, obligations and liabilities of the limited liability company, or for the acts or omissions of another member, manager or employee, or agent of the limited liability company, this chapter and the laws of the United States Virgin Islands shall govern in determining such liability.

Credits

Added Feb. 12, 1998, No. 6204, § 1, Sess. L. 1998, p. 30, eff. May 1, 1998.

13 V.I.C. § 2202, VI ST T. 13 § 2202

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Subchapter XII. Miscellaneous Provisions

13 V.I.C. § 2203

§ 2203 Severability clause

If any provision of this Chapter or its application to any person or circumstance is held invalid, the invalidity does not affect other provisions or applications of this Chapter which can be given effect without the invalid provision or application, and to this end the provisions of this Chapter are severable.

Credits

Added Feb. 12, 1998, No. 6204, § 1, Sess. L. 1998, p. 30, eff. May 1, 1998.

13 V.I.C. § 2203, VI ST T. 13 § 2203

Current through Act 7616 of the 2014 Regular Session. Annotations current through April 7, 2014