



Senate

General Assembly

File No. 450

January Session, 2001

Substitute Senate Bill No. 1316

Senate, April 25, 2001

The Committee on Judiciary reported through SEN. COLEMAN of the 2nd Dist., Chairperson of the Committee on the part of the Senate, that the substitute bill ought to pass.

AN ACT CONCERNING THE FILING OF LIMITED LIABILITY DOCUMENTS WITH THE SECRETARY OF THE STATE.

Be it enacted by the Senate and House of Representatives in General Assembly convened:

1 Section 1. Section 34-101 of the general statutes is repealed and the
2 following is substituted in lieu thereof:

3 As used in sections 34-100 to 34-242, inclusive, as amended by this
4 act, unless the context otherwise requires:

5 (1) "Address" means a location as described by the full street
6 number, if any, street, city or town, state or county and not a mailing
7 address such as a post office box.

8 (2) "Articles of organization" means articles filed under section 34-
9 121, and those articles as amended or restated.

10 (3) "Corporation" means a corporation formed under the laws of this
11 state or a foreign corporation.

12 (4) "Court" includes every court having jurisdiction in the case.

13 (5) "Electronic transmission" or "electronically transmitted" means
14 any process of communication that is suitable for the retention,
15 retrieval and reproduction of information by the recipient and which
16 does not directly involve the physical transfer of paper.

17 [(5)] (6) "Event of dissociation" means an event that causes a person
18 to cease to be a member, as provided in section 34-180.

19 [(6)] (7) "Foreign corporation" means a corporation formed under
20 the laws of any state other than this state or under the laws of any
21 foreign country.

22 [(7)] (8) "Foreign limited liability company" means an entity that is:
23 (A) Organized under the laws of a state other than the laws of this state
24 or under the laws of any foreign country; (B) organized under a statute
25 pursuant to which an entity denominated as a limited liability
26 company may be formed that affords to each of its members limited
27 liability with respect to the liabilities of the entity; and (C) is not
28 required to be registered or organized under any statute of this state
29 other than sections 34-100 to 34-242, inclusive, as amended by this act.

30 [(8)] (9) "Foreign limited partnership" means a limited partnership
31 formed under the laws of any state other than this state or under the
32 laws of any foreign country.

33 [(9)] (10) "Limited liability company" or "domestic limited liability
34 company" means an organization having one or more members that is
35 formed under sections 34-100 to 34-242, inclusive, as amended by this
36 act.

37 [(10)] (11) "Limited liability company membership interest" or
38 "interest" or "interest in the limited liability company" means a
39 member's share of the profits and losses of the limited liability
40 company and a member's right to receive distributions of the limited

41 liability company's assets, unless otherwise provided in the operating
42 agreement.

43 [(11)] (12) "Limited partnership" means a limited partnership
44 formed under the laws of this state or a foreign limited partnership.

45 [(12)] (13) "Manager" or "managers" means, with respect to a limited
46 liability company that has set forth in its articles of organization that it
47 is to be managed by managers, the person or persons designated in
48 accordance with section 34-140.

49 [(13)] (14) "Member" or "members" means a person or persons who
50 have been admitted to membership in a limited liability company as
51 provided in section 34-179 and who has not disassociated from the
52 limited liability company as provided in section 34-180.

53 [(14)] (15) "Operating agreement" means any agreement, written or
54 oral, as to the conduct of the business and affairs of a limited liability
55 company, which is binding upon all of the members.

56 [(15)] (16) "Person" means an individual, a general partnership, a
57 limited partnership, a domestic or foreign limited liability company, a
58 trust, an estate, an association, a corporation or any other legal or
59 commercial entity.

60 [(16)] (17) "Organizer" or "organizers" means any member or
61 members or any other person or persons who files or file the articles of
62 organization as provided in section 34-120.

63 [(17)] (18) "Professional service" means any type of service to the
64 public that requires that members of a profession rendering such
65 service obtain a license or other legal authorization as a condition
66 precedent to the rendition thereof, limited to the professional services
67 rendered by dentists, natureopaths, chiropractors, physicians and
68 surgeons, doctors of dentistry, physical therapists, occupational
69 therapists, podiatrists, optometrists, nurses, nurse-midwives,

70 veterinarians, pharmacists, architects, professional engineers, or jointly
71 by architects and professional engineers, landscape architects, certified
72 public accountants and public accountants, land surveyors,
73 psychologists, attorneys-at-law, licensed marital and family therapists,
74 licensed professional counselors and licensed clinical social workers.

75 (19) "Sign" or "signature" includes any manual, facsimile or
76 conformed signature.

77 [(18)] (20) "State" means a state, territory or possession of the United
78 States, the District of Columbia or the Commonwealth of Puerto Rico.

79 Sec. 2. Section 34-110 of the general statutes is repealed and the
80 following is substituted in lieu thereof:

81 (a) The original signed copy of the articles of organization or any
82 other document required to be filed pursuant to sections 34-100 to 34-
83 242, inclusive, as amended by this act, shall be delivered to the
84 Secretary of the State. The articles of organization or any other
85 document required to be filed shall be typewritten or printed or, if
86 authorized by the Secretary of the State, electronically transmitted.
87 Unless the Secretary of the State determines that the document does
88 not conform to the filing provisions of said sections, [he] the Secretary
89 of the State shall, when all required filing fees have been paid: (1)
90 Endorse on each signed [original of the] document "filed" and the date
91 and time of its acceptance for filing; and (2) retain the signed [original]
92 document in [his] the Secretary of the State's files.

93 (b) When any document is required or permitted to be filed or
94 recorded as provided in sections 34-100 to 34-242, inclusive, as
95 amended by this act, the Secretary of the State may, in the Secretary of
96 the State's discretion, for good cause, permit a photostatic or other
97 photographic copy of such document to be filed or recorded in lieu of
98 the original instrument. Such filing or recording shall have the same
99 force and effect as if the original instrument had been so filed or

100 recorded.

101 [(b)] (c) If the Secretary of the State determines that the document
102 does not conform to the filing provisions of sections 34-100 to 34-242,
103 inclusive, as amended by this act, or is not accompanied by all fees
104 required by law, the document shall not be filed and the Secretary of
105 the State shall return the document to the person originally submitting
106 it.

107 Sec. 3. Section 34-223 of the general statutes is repealed and the
108 following is substituted in lieu thereof:

109 Before transacting business in this state, a foreign limited liability
110 company shall register with the Secretary of the State. In order to
111 register, a foreign limited liability company shall submit to the
112 Secretary of the State an original signed copy of an application for
113 registration as a foreign limited liability company executed by a person
114 with authority to do so under the laws of the state or other jurisdiction
115 of its formation. The application shall set forth: (1) The name of the
116 foreign limited liability company and, if different, the name under
117 which it proposes to transact business in this state; (2) the state or other
118 jurisdiction where formed, and date of its organization; (3) the name
119 and address of the agent in this state for service of process on the
120 foreign limited liability company required to be maintained by section
121 34-224 and an acceptance of such appointment signed by the agent
122 appointed if other than the Secretary of the State; (4) the address of the
123 office required to be maintained in the state or other jurisdiction of its
124 organization by the laws of that state or jurisdiction or, if not so
125 required, of the principal office of the foreign limited liability
126 company; (5) a representation that the foreign limited liability
127 company is a "foreign limited liability company", as defined in
128 [subsection (7) of] section 34-101, as amended by this act; and (6) the
129 character of the business which the limited liability company intends
130 to transact in this state.

131 Sec. 4. Subsection (c) of section 34-233 of the general statutes is
132 repealed and the following is substituted in lieu thereof:

133 (c) A foreign limited liability company, by transacting business in
134 this state without a certificate of registration, appoints the Secretary of
135 the State as its agent for service of process with respect to a cause of
136 action arising out of the transaction of business in this state. Such
137 foreign limited liability company may be served in the manner
138 provided in subsection (b) of section 34-225, as amended by this act.

139 Sec. 5. Subsection (b) of section 34-225 of the general statutes is
140 repealed and the following is substituted in lieu thereof:

141 [(b) A foreign limited liability company's agent upon whom process
142 may be served shall be as follows:]

143 (b) When the Secretary of the State and [his] the Secretary of the
144 State's successors in office have been appointed [such] a foreign
145 limited liability company's agent for service of process, [by] the foreign
146 limited liability company may be served by any proper officer or other
147 person lawfully empowered to make service leaving two true and
148 attested copies [thereof] of such process together with the required fee
149 at the office of the Secretary of the State or depositing the same in the
150 United States [mails] mail, by registered or certified mail, postage
151 prepaid, addressed to said office. The Secretary of the State shall file
152 one copy of such process and keep a record of the date and hour of
153 such receipt, and, within two business days after such service, forward
154 by registered or certified mail the other copy of such process to the
155 foreign limited liability company at the address of the office
156 designated in the application for registration filed pursuant to section
157 34-223. Service so made shall be effective as of the date and hour
158 received by the Secretary of the State as shown on [his] the Secretary of
159 the State's records. If it appears from the records of the Secretary of the
160 State that such a foreign limited liability company has failed to appoint
161 or maintain a statutory agent for service, or if it appears by affidavit

162 attached to the process, notice or demand of the officer or other proper
163 person directed to serve any process, notice or demand upon such a
164 foreign limited liability company's statutory agent for service
165 appearing on the records of the Secretary of the State that such agent
166 cannot, with reasonable diligence, be found, service of such process,
167 notice or demand on such foreign limited liability company may, when
168 timely made, be made by such officer or other proper person by: (1)
169 Leaving a true and attested copy thereof together with the required fee
170 at the office of the Secretary of the State or depositing the same in the
171 United States [mails] mail, by registered or certified mail, postage
172 prepaid, addressed to said office, and (2) depositing in the United
173 States [mails] mail, by registered or certified mail, postage prepaid, a
174 true and attested copy thereof, together with a statement by such
175 officer that service is being made pursuant to this section, addressed to
176 such foreign limited liability company at the address of the office
177 designated in the articles of organization in the state of formation as
178 shown on the records of such state.

JUD *Joint Favorable Subst.*

The following fiscal impact statement and bill analysis are prepared for the benefit of members of the General Assembly, solely for the purpose of information, summarization, and explanation, and do not represent the intent of the General Assembly or either House thereof for any purpose:

OFA Fiscal Note

State Impact: None

Affected Agencies: Office of the Secretary of the State

Municipal Impact: None

Explanation

State Impact:

The bill permits the Secretary of the State to allow limited liability companies to file and sign their articles of organization and other documents electronically or to file copies of these documents. Accepting copies of documents results in no fiscal impact. It is anticipated that the Office of the Secretary of the State will only allow these documents to be filed electronically to the extent the commercial recording computer system can accommodate these filings. Thus no fiscal impact is anticipated.

OLR BILL ANALYSIS

sSB 1316

AN ACT CONCERNING THE FILING OF LIMITED LIABILITY DOCUMENTS WITH THE SECRETARY OF THE STATE.**SUMMARY:**

By law, limited liability companies (LLCs) must file the original signed copy of their articles of organization and any other documents required by law to be filed with the secretary of the state.

In lieu of the original, this bill permits the secretary of the state to allow LLCs to (1) file and sign these documents electronically or (2) file copies of them. The secretary must be able to retain, retrieve, and reproduce any documents filed electronically. She must have good cause for allowing copies in lieu of original documents. Under the bill, the copies have the same force and effect of the original documents.

EFFECTIVE DATE: October 1, 2001

BACKGROUND***Related Law***

Current law allows state agencies to adopt regulations and receive electronic records that their regulations identify. These agencies may allow the records to be signed with an electronic signature, which the agency can certify as original.

Related Bill

sHB 5925 (File 15), reported favorably by the Government Administration and Elections and Judiciary committees, permits state agencies to decide whether and to what extent they will accept electronic records and signatures. It authorizes the offices of the secretary of the state, state treasurer, comptroller, and attorney general

to each adopt regulations regarding such issues as acceptable types of signatures, how the records will be stored, and the systems established to accept them.

COMMITTEE ACTION

Judiciary Committee

Joint Favorable Substitute

Yea 39 Nay 0