

Regular Session, 2012

SENATE BILL NO. 547

BY SENATOR PEACOCK

LIMIT LIABILITY COMPANY. Provides for change in jurisdiction of domestic and foreign limited liability companies. (1/1/13)

1 AN ACT  
2 To enact R.S. 12:1308.3, relative to limited liability companies; to provide for change in the  
3 jurisdiction of domestic and foreign companies; and to provide for related matters.  
4 Be it enacted by the Legislature of Louisiana:  
5 Section 1. R.S. 12:1308.3 is hereby enacted to read as follows:  
6 **§1308.3. Change of jurisdiction of organization**  
7 **A. Any limited liability company may change its state of organization**  
8 **from this state to, and any foreign limited liability company may change its**  
9 **jurisdiction of organization to this state from, any other jurisdiction the laws of**  
10 **which authorize such a change.**  
11 **B.(1) Such a change may be made by a limited liability company only**  
12 **pursuant to authorization thereof by a majority of the voting power present, or**  
13 **by such larger vote as the articles may require, at an annual or special meeting**  
14 **of members, the notice of which set forth consideration of such action as a**  
15 **purpose of the meeting.**  
16 **(2) There shall be filed with the secretary of state a certificate as to such**  
17 **authorization by the members, signed by a manager of the company, if its**

1 management is vested in one or more managers, or a member of the company,  
2 if its management is reserved to the members and acknowledged by the  
3 manager or member who signed it. The certificate may be delivered to the  
4 secretary of state for filing as of any specified date, and, if specified upon such  
5 delivery, as of any given time on such date, within thirty days after the date of  
6 delivery.

7 (3) When all taxes, fees and charges have been paid as required by law,  
8 the secretary of state shall record the certificate in his office, endorse thereon  
9 the date and, if requested, the hour of the filing thereof with him, and issue to  
10 the company a certificate reciting that it has taken all action required under the  
11 laws of this state to change its state of organization to such other jurisdiction.

12 (4) A multiple original of the certificate issued by the secretary of state,  
13 or a copy certified by the secretary of state, shall thereafter be filed for record  
14 in the office of the recorder of mortgages of the parish in which the registered  
15 office of the company is located.

16 (5) The company shall, when compliance has been had with the  
17 applicable requirements of the laws of such other jurisdiction, be deemed to be  
18 organized solely under the laws of such other jurisdiction and no longer under  
19 the laws of this state.

20 (6) Officially certified copies of the certificate of organization or other  
21 official certificate evidencing the company's organization under the laws of such  
22 other jurisdiction shall be filed with the secretary of state and in the office of the  
23 recorder of mortgages of the parish in which the registered office of the  
24 company was last located.

25 C.(1) Such a change may be made by a foreign limited liability company  
26 by filing with the secretary of state:

27 (a) A copy of its original or restated articles or certificate of  
28 organization and all amendments thereto subsequent to the latest restatement,  
29 which articles or certificate as amended or restated shall comply in substance

1 with the provisions of R.S. 12:1302-1306.

2 (b) The initial report prescribed by R.S. 12:1305, except that it may be  
3 signed by a manager of the company, if its management is vested in one or more  
4 managers, or a member of the company, if its management is reserved to the  
5 members, and shall set forth the names and addresses of each manager, if  
6 management of the company is vested in one or more managers, or each  
7 member, if management of the company is reserved to the members.

8 (c) An application for organization under this Chapter, signed by a  
9 manager of the company, if its management is vested in one or more managers,  
10 or a member of the company, if its management is reserved to the members,  
11 and acknowledged by the manager or member who signed it, setting forth the  
12 jurisdiction under the laws of which it is organized.

13 (d) A certificate by the secretary of state or other proper officer of the  
14 jurisdiction in which the company is organized, reciting that the company has  
15 taken all action required under the laws of such jurisdiction to become a  
16 company organized under the laws of this state.

17 (2) These documents may be delivered to the secretary of state for filing  
18 as of any specified date, and, if specified upon such delivery, as of any given  
19 time on such date, within thirty days after the date of delivery. When all taxes,  
20 fees and charges have been paid as required by law, the secretary of state shall  
21 record such documents in his office, endorse on each the date and, if requested,  
22 the hour of filing thereof with him, and issue a certificate of organization of the  
23 company under the laws of this state, which shall show the date and, if endorsed  
24 on such documents, the hour of filing of such documents with him.

25 (3) The certificate of organization shall be conclusive evidence of the fact  
26 that the company has been duly organized under the laws of this state, except  
27 that in any proceeding brought by the state to annul, forfeit, or vacate a  
28 company's franchise, the certificate of organization shall be only prima facie  
29 evidence of due organization.

1                   **(4) Effective as of the time of filing such documents with the secretary**  
 2                   **of state, the company shall be deemed to be organized solely under the laws of**  
 3                   **this state and no longer under the laws of such other jurisdiction.**

4                   **(5) Multiple originals, or copies certified by the secretary of state, of**  
 5                   **such documents filed with the secretary of state, with a copy of the certificate**  
 6                   **of organization, shall thereafter be filed for record in the office of the recorder**  
 7                   **of mortgages of the parish in which the registered office of the company is**  
 8                   **located. A copy of the certificate of organization, certified by the secretary of**  
 9                   **state, shall be filed as required by the laws of such other jurisdiction.**

10                   Section 2. This Act shall become effective on January 1, 2013.

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The original instrument and the following digest, which constitutes no part  
of the legislative instrument, were prepared by Jerry J. Guillot.

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#### DIGEST

Proposed law, relative to limited liability companies, provides that any company may change its state of organization from this state to, and any foreign company may change its jurisdiction of organization to this state from, any other jurisdiction the laws of which authorize such a change.

Provides that such a change may be made by a Louisiana company only pursuant to authorization thereof by a majority of the voting power present, or by such larger vote as the articles may require, at an annual or special meeting of members, the notice of which set forth consideration of such action as a purpose of the meeting.

Requires there be filed with the secretary of state a certificate as to such authorization by the members, signed by a manager of the company, if its management is vested in one or more managers, or a member of the company, if its management is reserved to the members and acknowledged by the manager or member who signed it. Provides that the certificate may be delivered to the secretary of state for filing as of any specified date, and, if specified upon such delivery, as of any given time on such date, within 30 days after the date of delivery.

Requires that when all taxes, fees and charges have been paid as required by law, the secretary of state record the certificate in his office, endorse thereon the date and, if requested, the hour of the filing thereof with him, and issue to the company a certificate reciting that it has taken all action required under the laws of this state to change its state of organization to such other jurisdiction.

Requires that a multiple original, or certified copy, of the certificate be filed for record in the office of the recorder of mortgages of the parish in which the registered office of the company is located.

Provides that the company, when compliance has been had with the applicable requirements of the laws of such other jurisdiction, be deemed to be organized solely under the laws of such other jurisdiction and no longer under the laws of this state.

Requires that certified copies of the certificate of organization or other official certificate

evidencing the company's organization under the laws of such other jurisdiction be filed with the secretary of state and in the office of the recorder of mortgages of the parish in which the registered office of the company was last located.

With respect to a foreign company, provides that such a change may be made by filing with the secretary of state:

1. A copy of its original or restated articles or certificate of organization and all amendments thereto subsequent to the latest restatement, which articles or certificate as amended or restated shall comply in substance with state law.
2. The initial report as required by law, except that it may be signed by a manager of the company, if its management is vested in one or more managers, or a member of the company, if its management is reserved to the members, and shall set forth the names and addresses of each manager, if management of the company is vested in one or more managers, or each member, if management of the company is reserved to the members.
3. An application for organization, signed by a manager of the company, if its management is vested in one or more managers, or a member of the company, if its management is reserved to the members, and acknowledged by the manager or member who signed it, setting forth the jurisdiction under the laws of which it is organized.
4. A certificate by the secretary of state or other proper officer of the jurisdiction in which the company is organized, reciting that the company has taken all action required under the laws of such jurisdiction to become a company organized under the laws of this state.

Provides that these documents may be delivered to the secretary of state for filing as of any specified date, and, if specified upon such delivery, as of any given time on such date, within 30 days after the date of delivery. When all taxes, fees and charges have been paid as required by law, the secretary of state shall record such documents in his office, endorse on each the date and, if requested, the hour of filing thereof with him, and issue a certificate of organization of the company under the laws of this state, which shall show the date and, if endorsed on such documents, the hour of filing of such documents with him.

Provides that the certificate of organization shall be conclusive evidence that the company has been duly organized under the laws of this state, except that in any proceeding brought by the state to annul, forfeit, or vacate a company's franchise, the certificate of organization shall be only prima facie evidence of due organization.

Provides that, effective as of the time of filing such documents with the secretary of state, the company shall be deemed to be organized solely under the laws of this state and no longer under the laws of such other jurisdiction.

Provides that multiple originals, or copies certified by the secretary of state, of such documents filed with the secretary of state, with a copy of the certificate of organization, shall thereafter be filed for record in the office of the recorder of mortgages of the parish in which the registered office of the company is located. Requires that a certified copy of the certificate of organization be filed as required by the laws of such other jurisdiction.

Effective January 1, 2013.

(Adds R.S. 12:1308.3)