

HOUSE BILL 637

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11r1354
CF SB 790

By: **Delegate Feldman**

Introduced and read first time: February 9, 2011

Assigned to: Economic Matters

A BILL ENTITLED

1 AN ACT concerning

2 **Limited Liability Company Act**

3 FOR the purpose of establishing the policy of certain provisions of law relating to
4 limited liability companies; providing that a certain provision of law that may
5 be changed by the terms of an operating agreement may also be changed by the
6 terms of the articles of organization of a limited liability company; providing
7 that a certain certificate representing the interest of a member of a limited
8 liability company may only be issued in bearer form under certain
9 circumstances; authorizing an operating agreement to require that an
10 amendment to the agreement be approved by a certain person or on satisfaction
11 of certain conditions; authorizing an operating agreement to establish the rights
12 of certain persons; providing that, if an operating agreement provides the
13 manner in which the agreement may be amended, then the agreement may be
14 amended only in that manner; providing that a certain approval or condition for
15 amending an operating agreement may be waived in certain circumstances;
16 establishing that an amendment to an operating agreement is not required to be
17 in writing, with certain exceptions; clarifying that an operating agreement is
18 not unenforceable on the ground that there is only one party to the agreement;
19 establishing that a limited liability company is not required to execute its
20 operating agreement and is bound by the operating agreement regardless of
21 whether the company has executed the agreement; establishing that each
22 member and assignee of a member is bound by the operating agreement of a
23 limited liability company regardless of whether the member or assignee
24 executed the operating agreement; authorizing an operating agreement to
25 provide that an action that otherwise requires unanimous consent may be taken
26 without the consent of a member or members of the limited liability company;
27 providing that an operating agreement may require the consent of certain
28 persons who are not members of the limited liability company to take an action
29 requiring unanimous consent of the members; authorizing an operating
30 agreement to expand, restrict, or eliminate certain duties; providing that,
31 unless otherwise provided in an operating agreement, certain persons are not

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



1 liable for breach of fiduciary duty for good faith reliance on the operating
2 agreement; authorizing an operating agreement to provide for the limitation or
3 elimination of certain liabilities; providing that a person may become a member
4 of a limited liability company in accordance with a provision of law that
5 authorizes the personal representative, successor, or assignee of the last
6 remaining member to admit the person as a member of the limited liability
7 company; clarifying that the admission of an assignee as a member of a limited
8 liability company is governed by certain provisions of law relating to
9 assignments; providing that the admission of a certain personal representative
10 or successor is governed by a certain provision of law; providing that, unless
11 otherwise provided in the operating agreement, an assignment of the interest of
12 a person in a limited liability company entitles the assignee only to the
13 assignor's share of profits, losses, and distributions; providing that, unless
14 otherwise provided in the operating agreement, a member of a limited liability
15 company ceases to be a member on assignment of all of the member's interest;
16 providing that, unless otherwise provided in the operating agreement, a certain
17 encumbrance in or against the interest of a member of a limited liability
18 company does not cause the member to cease being a member or to have the
19 power to exercise certain rights; altering the circumstances under which an
20 assignee may become a member of a limited liability company; authorizing a
21 certain creditor of a certain debtor holding an interest in a limited liability
22 company to apply to a court for a certain order; authorizing a court to take
23 certain actions on the application of a certain creditor in certain circumstances;
24 authorizing, before a certain foreclosure, a certain interest to be redeemed with
25 certain property; providing that this Act does not deprive a debtor of a certain
26 right; providing that this Act provides the exclusive remedy by which a certain
27 person may attach the interest or otherwise affect the rights of a member of a
28 limited liability company; altering the circumstances under which a limited
29 liability company may not be dissolved or required to wind up its affairs after
30 the occurrence of certain conditions; making certain technical, stylistic, and
31 clarifying changes; defining certain terms; and generally relating to limited
32 liability companies.

33 BY repealing and reenacting, without amendments,
34 Article – Corporations and Associations
35 Section 4A-101(a)
36 Annotated Code of Maryland
37 (2007 Replacement Volume and 2010 Supplement)

38 BY repealing and reenacting, with amendments,
39 Article – Corporations and Associations
40 Section 4A-101(g), 4A-402, 4A-404, 4A-601, 4A-603, 4A-604, and 4A-902
41 Annotated Code of Maryland
42 (2007 Replacement Volume and 2010 Supplement)

43 BY adding to
44 Article – Corporations and Associations
45 Section 4A-102, 4A-402.1, and 4A-607

1 Annotated Code of Maryland
2 (2007 Replacement Volume and 2010 Supplement)

3 BY repealing
4 Article – Corporations and Associations
5 Section 4A–607
6 Annotated Code of Maryland
7 (2007 Replacement Volume and 2010 Supplement)

8 SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF
9 MARYLAND, That the Laws of Maryland read as follows:

10 **Article – Corporations and Associations**

11 4A–101.

12 (a) In this title the following terms have the meanings indicated.

13 (g) “Corporation” means a Maryland corporation or a foreign corporation [as
14 defined in § 1–101 of this article].

15 **4A–102.**

16 (A) **UNLESS OTHERWISE PROVIDED, THE POLICY OF THIS TITLE IS TO**
17 **GIVE THE MAXIMUM EFFECT TO THE PRINCIPLES OF FREEDOM OF CONTRACT**
18 **AND TO THE ENFORCEABILITY OF OPERATING AGREEMENTS.**

19 (B) **A PROVISION OF THIS TITLE THAT MAY BE CHANGED BY THE TERMS**
20 **OF AN OPERATING AGREEMENT ALSO MAY BE CHANGED BY THE TERMS OF THE**
21 **ARTICLES OF ORGANIZATION.**

22 4A–402.

23 (a) Except for the requirement set forth in § 4A–404 of this subtitle that
24 certain consents be in writing, members may enter into an operating agreement to
25 regulate or establish any aspect of the affairs of the limited liability company or the
26 relations of its members, including provisions establishing:

27 (1) The manner in which the business and affairs of the limited
28 liability company shall be managed, controlled, and operated, which may include the
29 granting of exclusive authority to manage, control, and operate the limited liability
30 company to persons who are not members;

31 (2) The manner in which the members will share the assets and
32 earnings of the limited liability company;

1 (3) The rights of the members to assign all or a portion of their
2 interests in the limited liability company;

3 (4) The circumstances in which any assignee of a member's interest
4 may be admitted as a member of the limited liability company;

5 (5) (i) The right to have and a procedure for having a member's
6 interest in the limited liability company evidenced by a certificate issued by the
7 limited liability company, **WHICH MAY BE ISSUED ONLY IN BEARER FORM IF**
8 **SPECIFICALLY ALLOWED BY THE OPERATING AGREEMENT;**

9 (ii) The procedure for assignment, pledge, or transfer of any
10 interest represented by the certificate; and

11 (iii) Any other provisions dealing with the certificate; **[and]**

12 (6) The method by which the operating agreement may from time to
13 time be amended, **WHICH MAY INCLUDE A REQUIREMENT THAT AN AMENDMENT**
14 **BE APPROVED:**

15 **(I) BY A PERSON WHO IS NOT A PARTY TO THE OPERATING**
16 **AGREEMENT OR WHO IS NOT A MEMBER OF THE LIMITED LIABILITY COMPANY;**
17 **OR**

18 **(II) ON THE SATISFACTION OF OTHER CONDITIONS**
19 **SPECIFIED IN THE OPERATING AGREEMENT; AND**

20 **(7) THE RIGHTS OF ANY PERSON, INCLUDING A PERSON WHO IS**
21 **NOT A PARTY TO THE OPERATING AGREEMENT OR WHO IS NOT A MEMBER OF**
22 **THE LIMITED LIABILITY COMPANY, TO THE EXTENT SET FORTH IN THE**
23 **OPERATING AGREEMENT.**

24 (b) (1) **[(i)]** The initial operating agreement shall be agreed to by all
25 persons who are then members.

26 **[(ii)] (2)** Unless the articles of organization specifically require
27 otherwise, the operating agreement need not be in writing.

28 **[(2)] (C) (1)** If the operating agreement does not provide for the
29 method by which the operating agreement may be amended, then all of the members
30 must agree to any amendment of the operating agreement.

31 **(2) TO THE EXTENT THAT AN OPERATING AGREEMENT PROVIDES**
32 **FOR THE MANNER IN WHICH THE OPERATING AGREEMENT MAY BE AMENDED,**
33 **THE OPERATING AGREEMENT MAY BE AMENDED ONLY IN THAT MANNER,**
34 **PROVIDED THAT THE APPROVAL OF A PERSON MAY BE WAIVED BY THE PERSON**

1 AND THAT CONDITIONS MAY BE WAIVED BY A PERSON FOR WHOSE BENEFIT THE
2 CONDITIONS WERE INTENDED.

3 (3) (I) EXCEPT AS PROVIDED IN SUBPARAGRAPH (II) OF THIS
4 PARAGRAPH, OR UNLESS THE OPERATING AGREEMENT SPECIFICALLY
5 REQUIRES OTHERWISE, AN AMENDMENT TO AN OPERATING AGREEMENT IS NOT
6 REQUIRED TO BE IN WRITING.

7 (II) An amendment to an operating agreement must be
8 evidenced by a writing signed by an authorized person OF THE LIMITED LIABILITY
9 COMPANY if:

10 [(i)] 1. The amendment was adopted without the unanimous
11 consent of THE members; or

12 [(ii)] 2. An interest in the limited liability company has been
13 assigned to a person who has not been admitted as a member.

14 (4) A copy of any written amendment to the operating agreement shall
15 be delivered to each member who did not consent to the amendment and to each
16 assignee who has not been admitted as a member.

17 [(c)] (D) (1) A court may enforce an operating agreement by injunction or
18 by granting such other relief which the court in its discretion determines to be fair and
19 appropriate in the circumstances.

20 (2) As an alternative to injunctive or other equitable relief, when the
21 provisions of § 4A-903 of this title are applicable, the court may order dissolution of
22 the limited liability company.

23 (3) AN OPERATING AGREEMENT OF A LIMITED LIABILITY
24 COMPANY WITH ONE MEMBER IS NOT UNENFORCEABLE ON THE GROUNDS THAT
25 THERE IS ONLY ONE PERSON WHO IS PARTY TO THE OPERATING AGREEMENT.

26 (4) A LIMITED LIABILITY COMPANY:

27 (I) IS NOT REQUIRED TO EXECUTE ITS OPERATING
28 AGREEMENT; AND

29 (II) IS BOUND BY ITS OPERATING AGREEMENT,
30 REGARDLESS OF WHETHER THE LIMITED LIABILITY COMPANY HAS EXECUTED
31 THE OPERATING AGREEMENT.

32 (5) AN OPERATING AGREEMENT THAT IS DULY ADOPTED OR
33 AMENDED IS BINDING ON EACH PERSON WHO IS OR BECOMES A MEMBER OF THE

1 LIMITED LIABILITY COMPANY AND EACH PERSON WHO IS OR BECOMES AN
2 ASSIGNEE OF A MEMBER OF THE LIMITED LIABILITY COMPANY, REGARDLESS OF
3 WHETHER THE PERSON HAS EXECUTED THE OPERATING AGREEMENT OR
4 AMENDMENT.

5 **4A-402.1.**

6 (A) (1) EXCEPT AS PROVIDED IN PARAGRAPH (2) OF THIS
7 SUBSECTION, TO THE EXTENT THAT, AT LAW OR IN EQUITY, A MEMBER OR
8 ANOTHER PERSON HAS DUTIES, INCLUDING FIDUCIARY DUTIES, TO A LIMITED
9 LIABILITY COMPANY, ANOTHER MEMBER, OR ANOTHER PERSON THAT IS A
10 PARTY TO OR IS OTHERWISE BOUND BY AN OPERATING AGREEMENT, THE
11 MEMBER'S OR OTHER PERSON'S DUTIES MAY BE EXPANDED, RESTRICTED, OR
12 ELIMINATED BY PROVISIONS IN THE OPERATING AGREEMENT.

13 (2) AN OPERATING AGREEMENT MAY NOT ELIMINATE THE
14 IMPLIED CONTRACTUAL COVENANT OF GOOD FAITH AND FAIR DEALING.

15 (B) UNLESS OTHERWISE PROVIDED IN AN OPERATING AGREEMENT, A
16 MEMBER OR ANOTHER PERSON IS NOT LIABLE TO A LIMITED LIABILITY
17 COMPANY, ANOTHER MEMBER, OR ANOTHER PERSON THAT IS A PARTY TO OR IS
18 OTHERWISE BOUND BY AN OPERATING AGREEMENT FOR BREACH OF FIDUCIARY
19 DUTY FOR THE MEMBER'S OR OTHER PERSON'S GOOD FAITH RELIANCE ON THE
20 PROVISIONS OF THE OPERATING AGREEMENT.

21 (C) (1) EXCEPT AS PROVIDED IN PARAGRAPH (2) OF THIS
22 SUBSECTION, AN OPERATING AGREEMENT MAY PROVIDE FOR THE LIMITATION
23 OR ELIMINATION OF ANY AND ALL LIABILITIES FOR BREACH OF CONTRACT AND
24 BREACH OF DUTIES, INCLUDING FIDUCIARY DUTIES, OF A MEMBER OR ANOTHER
25 PERSON TO A LIMITED LIABILITY COMPANY, ANOTHER MEMBER, OR ANOTHER
26 PERSON THAT IS A PARTY TO OR IS OTHERWISE BOUND BY AN OPERATING
27 AGREEMENT.

28 (2) AN OPERATING AGREEMENT MAY NOT LIMIT OR ELIMINATE
29 LIABILITY FOR ANY ACT OR OMISSION THAT CONSTITUTES A BAD FAITH
30 VIOLATION OF THE IMPLIED CONTRACTUAL COVENANT OF GOOD FAITH AND
31 FAIR DEALING.

32 **4A-404.**

33 Wherever this title requires the unanimous consent of THE members to allow
34 the limited liability company to act:

35 (1) The consent shall be in writing; and

1 (2) The operating agreement may provide that [the]:

2 (I) 1. THE action may be taken on consent of less than all of
3 the members [or that the];

4 2. THE consent of certain members or classes of
5 members is not required to take the action; OR

6 3. NO CONSENT OF A MEMBER OR MEMBERS IS
7 REQUIRED TO TAKE THE ACTION; AND

8 (II) THE ACTION MAY BE TAKEN ONLY WITH THE CONSENT
9 OF ONE OR MORE PERSONS WHO IS OR ARE NOT A MEMBER OR MEMBERS OF
10 THE LIMITED LIABILITY COMPANY, IN WHICH CASE THE CONSENT OF THAT
11 PERSON OR THOSE PERSONS SHALL BE REQUIRED IN ORDER FOR THE LIMITED
12 LIABILITY COMPANY TO TAKE THE ACTION.

13 4A-601.

14 (a) A person becomes a member of a limited liability company AT:

15 (1) [At the] THE time the limited liability company is formed; [or]

16 (2) [At any] A later time specified in the operating agreement; OR

17 (3) THE TIME SPECIFIED IN § 4A-902(B)(1) OF THIS TITLE.

18 (b) After the formation of a limited liability company, a person may be
19 admitted as a member:

20 (1) In the case of a person acquiring a membership interest directly
21 from the limited liability company, upon compliance with the operating agreement or,
22 if the operating agreement does not so provide, upon the unanimous consent of the
23 members; [or]

24 (2) In the case of an assignee of an interest of a member [who has the
25 power], ONLY as provided in § 4A-604 of this subtitle [to grant the assignee the right
26 to become a member, upon the exercise of that power and compliance with any
27 conditions limiting the grant or exercise of that power]; OR

28 (3) IN THE CASE OF A PERSONAL REPRESENTATIVE OR
29 SUCCESSOR TO THE LAST REMAINING MEMBER WHO IS NOT AN ASSIGNEE OF
30 THE LAST REMAINING MEMBER, AS PROVIDED IN § 4A-902(B)(1) OF THIS TITLE.

1 (c) Unless otherwise provided in the articles of organization or the operating
2 agreement of a limited liability company, a person may be admitted as a member of a
3 limited liability company and may be the sole member of a limited liability company
4 without:

5 (1) Making a contribution to the limited liability company;

6 (2) Being obligated to make a contribution to the limited liability
7 company; or

8 (3) Acquiring an interest in the limited liability company.

9 4A-603.

10 (a) Unless otherwise provided in the operating agreement, an interest in a
11 limited liability company is assignable in whole or in part.

12 (b) An assignment of an interest in a limited liability company does not:

13 (1) Dissolve the limited liability company; or

14 (2) Unless the operating agreement provides otherwise, entitle the
15 assignee to:

16 (i) Become a member; or

17 (ii) Exercise any rights of a member.

18 (c) Unless otherwise provided in the operating agreement, an assignment
19 entitles the assignee to receive, to the extent assigned, only the **ASSIGNOR'S SHARE**
20 **OF PROFITS, LOSSES, AND** distributions [to which the assignor would be entitled].

21 **(D) UNLESS OTHERWISE PROVIDED IN THE OPERATING AGREEMENT, IF**
22 **AN ASSIGNEE OF AN INTEREST IN A LIMITED LIABILITY COMPANY BECOMES A**
23 **MEMBER OF THE LIMITED LIABILITY COMPANY, THE ASSIGNOR IS NOT**
24 **RELEASED FROM THE ASSIGNOR'S LIABILITY UNDER § 4A-502 OF THIS TITLE TO**
25 **THE LIMITED LIABILITY COMPANY.**

26 **(E) UNLESS OTHERWISE PROVIDED IN THE OPERATING AGREEMENT,**
27 **ON ASSIGNMENT UNDER THIS SECTION OF ALL OF A MEMBER'S INTEREST IN A**
28 **LIMITED LIABILITY COMPANY, THE MEMBER CEASES TO BE A MEMBER OF THE**
29 **LIMITED LIABILITY COMPANY AND TO HAVE THE POWER TO EXERCISE ANY**
30 **RIGHT OR POWER OF A MEMBER.**

31 **(F) UNLESS OTHERWISE PROVIDED IN THE OPERATING AGREEMENT,**
32 **THE PLEDGE OR GRANT OF A SECURITY INTEREST, LIEN, OR OTHER**

1 ENCUMBRANCE IN OR AGAINST ALL OR A PART OF AN INTEREST OF A MEMBER
2 MAY NOT CAUSE THE MEMBER TO CEASE TO BE A MEMBER OR TO HAVE THE
3 POWER TO EXERCISE ANY RIGHT OR POWER OF A MEMBER.

4 4A-604.

5 (a) An assignee of an interest in a limited liability company may become a
6 member [if and to the extent that] **OF THE LIMITED LIABILITY COMPANY UNDER**
7 **ANY OF THE FOLLOWING CIRCUMSTANCES:**

8 (1) [The assignor gives the assignee that right under authority
9 described in the operating agreement] **IN ACCORDANCE WITH THE TERMS OF THE**
10 **OPERATING AGREEMENT PROVIDING FOR THE ADMISSION OF A MEMBER;**

11 (2) [The members unanimously] **BY THE UNANIMOUS** consent **OF**
12 **THE MEMBERS;** or

13 (3) [Except as otherwise provided in the operating agreement, if the
14 limited liability company has no members, all of the assignees of members may elect to
15 become members] **IF THERE ARE NO REMAINING MEMBERS OF THE LIMITED**
16 **LIABILITY COMPANY AT THE TIME THE ASSIGNEE OBTAINS THE INTEREST, ON**
17 **TERMS THAT THE ASSIGNEE MAY DETERMINE IN ACCORDANCE WITH §**
18 **4A-902(B)(1) OF THIS TITLE.**

19 (b) An assignee who becomes a member:

20 (1) Has, to the extent assigned, the rights and powers, and is subject
21 to the restrictions and liabilities, of a member under the operating agreement and this
22 title; and

23 (2) Is liable for any obligations of his assignor to make capital
24 contributions.

25 [(c) If an assignee of an interest in a limited liability company becomes a
26 member, the assignor is not released from the assignor's liability under § 4A-502 of
27 this title to the limited liability company.]

28 [4A-607.

29 (a) On application to a court of competent jurisdiction by any judgment
30 creditor of a member, the court may charge the interest of the member in the limited
31 liability company with the payment of the unsatisfied amount of the judgment with
32 interest.

33 (b) To the extent so charged, the judgment creditor shall have only the rights
34 of an assignee of the member's interest in the limited liability company.

1 (c) This title does not deprive a member of the benefit of any exemption laws
2 applicable to the member's interest in the limited liability company.]

3 **4A-607.**

4 (A) (1) IN THIS SECTION THE FOLLOWING WORDS HAVE THE
5 MEANINGS INDICATED.

6 (2) "CREDITOR" MEANS A PERSON FOR WHOM A COURT MAY
7 ISSUE AN ATTACHMENT UNDER TITLE 3, SUBTITLE 3 OF THE COURTS ARTICLE.

8 (3) "DEBTOR" MEANS A PERSON WHOSE PROPERTY OR CREDITS
9 ARE SUBJECT TO ATTACHMENT UNDER TITLE 3, SUBTITLE 3 OF THE COURTS
10 ARTICLE.

11 (B) (1) ON APPLICATION BY A CREDITOR OF A DEBTOR HOLDING AN
12 INTEREST IN A LIMITED LIABILITY COMPANY, A COURT HAVING JURISDICTION
13 MAY CHARGE THE INTEREST OF THE DEBTOR.

14 (2) THE COURT MAY APPOINT A RECEIVER FOR THE
15 DISTRIBUTIONS DUE OR TO BECOME DUE TO THE DEBTOR WITH RESPECT TO
16 THE LIMITED LIABILITY COMPANY AND MAKE ALL OTHER ORDERS, DIRECTIONS,
17 ACCOUNTS, AND INQUIRIES THAT THE DEBTOR WOULD HAVE BEEN ENTITLED TO
18 MAKE OR THAT THE CIRCUMSTANCES OF THE CASE MAY REQUIRE.

19 (C) (1) A CHARGING ORDER CONSTITUTES A LIEN ON THE INTEREST
20 OF THE DEBTOR IN THE LIMITED LIABILITY COMPANY.

21 (2) (I) THE COURT MAY ORDER FORECLOSURE OF THE
22 INTEREST SUBJECT TO THE CHARGING ORDER AT ANY TIME.

23 (II) THE PURCHASER AT THE FORECLOSURE SALE HAS
24 ONLY THE RIGHTS OF AN ASSIGNEE AS PROVIDED IN §§ 4A-603 AND 4A-604 OF
25 THIS SUBTITLE.

26 (D) BEFORE A FORECLOSURE UNDER THIS SECTION, AN INTEREST
27 CHARGED MAY BE REDEEMED WITH PROPERTY:

28 (1) OTHER THAN PROPERTY OF THE LIMITED LIABILITY
29 COMPANY, BY THE DEBTOR;

30 (2) OTHER THAN PROPERTY OF THE LIMITED LIABILITY
31 COMPANY, BY ONE OR MORE OF THE MEMBERS OTHER THAN THE DEBTOR; OR

1 **(3) OF THE LIMITED LIABILITY COMPANY, WITH THE CONSENT OF**
2 **ALL OF THE MEMBERS WHOSE INTERESTS ARE NOT SO CHARGED.**

3 **(E) THIS TITLE DOES NOT DEPRIVE A DEBTOR OF A RIGHT UNDER**
4 **EXEMPTION LAWS WITH RESPECT TO THE INTEREST OF THE DEBTOR IN THE**
5 **LIMITED LIABILITY COMPANY.**

6 **(F) THIS SECTION PROVIDES THE EXCLUSIVE REMEDY BY WHICH A**
7 **CREDITOR OR A PERSON HOLDING AN INTEREST IN A LIMITED LIABILITY**
8 **COMPANY MAY ATTACH THE INTEREST OR OTHERWISE AFFECT THE RIGHTS OF A**
9 **MEMBER IN THE LIMITED LIABILITY COMPANY.**

10 4A-902.

11 (a) A limited liability company is dissolved and shall commence the winding
12 up of its affairs on the first to occur of the following:

13 (1) At the time or on the happening of the events specified in the
14 articles of organization or the operating agreement;

15 (2) At the time specified by the unanimous consent of the members;

16 (3) At the time of the entry of a decree of judicial dissolution under §
17 4A-903 of this subtitle; or

18 (4) Except as otherwise provided in the operating agreement or as
19 provided in subsection (b) of this section, at the time the limited liability company has
20 had no members for a period of 90 consecutive days.

21 (b) A limited liability company may not be dissolved or required to wind up
22 its affairs if within 90 days after there are no remaining members of the limited
23 liability company or within the period of time provided in the operating agreement:

24 (1) The last remaining member's personal representative [or],
25 successor, **OR ASSIGNEE** agrees in writing to continue the limited liability company
26 and to be admitted as a member or to appoint a designee as a member to be effective
27 as of the time the last remaining member ceased to be a member; or

28 (2) A member is admitted to the limited liability company in the
29 manner set forth in the operating agreement to be effective as of the time the last
30 remaining member ceased to be a member under a provision in the operating
31 agreement that provides for the admission of a member after there are no remaining
32 members.

1 (c) An operating agreement may provide that the last remaining member's
2 personal representative [or], successor, **OR ASSIGNEE** shall be obligated to agree in
3 writing to continue the limited liability company and to be admitted as a member or to
4 appoint a designee as a member to be effective as of the time the last remaining
5 member ceased to be a member.

6 (d) Except as otherwise provided in the operating agreement and subject to
7 the provisions of subsection (b) of this section, the termination of a person's
8 membership may not cause a limited liability company to be dissolved or to wind up its
9 affairs and the limited liability company shall continue in existence following the
10 termination of a person's membership.

11 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect
12 June 1, 2011.