

## HOUSE BILL No. 2361

By Committee on Judiciary

2-15

1 AN ACT concerning the Kansas limited liability company act; relating to  
2 low-profit limited liability companies; amending K.S.A. 17-7664 and  
3 K.S.A. 2012 Supp. 17-7663 and repealing the existing sections.  
4

5 *Be it enacted by the Legislature of the State of Kansas:*

6 Section 1. K.S.A. 2012 Supp. 17-7663 is hereby amended to read as  
7 follows: 17-7663. As used in this act unless the context otherwise requires:

8 (a) "Articles of organization" means the articles of organization  
9 referred to in K.S.A. 17-7673, and amendments thereto, and the articles as  
10 amended.

11 (b) "Bankruptcy" means an event that causes a person to cease to be a  
12 member as provided in K.S.A. 17-7689, and amendments thereto.

13 (c) "Contribution" means any cash, property, services rendered or a  
14 promissory note or other obligation to contribute cash or property or to  
15 perform services, which a person contributes to a limited liability company  
16 in such person's capacity as a member.

17 (d) "Foreign limited liability company" means a limited liability  
18 company formed under the laws of any state or under the laws of any  
19 foreign country or other foreign jurisdiction and denominated as such  
20 under the laws of such state or foreign country or other foreign  
21 jurisdiction.

22 (e) "Knowledge" means a person's actual knowledge of a fact, rather  
23 than the person's constructive knowledge of the fact.

24 (f) "Limited liability company" and "domestic limited liability  
25 company" means a limited liability company formed under the laws of the  
26 state of Kansas and having one or more members.

27 (g) *"Low-profit limited liability company" or "L3C" means a for-*  
28 *profit limited liability company which satisfies the requirements of section*  
29 *3, and amendments thereto, and does not have as a significant purpose of*  
30 *production of income or the appreciation of property.*

31 ~~(g)~~ (h) "Operating agreement" means any agreement, written or oral,  
32 of the member or members as to the affairs of a limited liability company  
33 and the conduct of its business. A written operating agreement or another  
34 written agreement or writing:

35 (1) May provide that a person shall be admitted as a member of a  
36 limited liability company, or shall become an assignee of a limited liability

1 company interest or other rights or powers of a member to the extent  
2 assigned, and shall become bound by the operating agreement:

3 (A) If such person, or a representative authorized by such person  
4 orally, in writing or by other action such as payment for a limited liability  
5 company interest, executes the operating agreement or any other writing  
6 evidencing the intent of such person to become a member or assignee; or

7 (B) without such execution, if such person, or a representative  
8 authorized by such person orally, in writing or by other action such as  
9 payment for a limited liability company interest, complies with the  
10 conditions for becoming a member or assignee as set forth in the operating  
11 agreement or any other writing and requests, orally, in writing or by other  
12 action such as payment for a limited liability company interest, that the  
13 records of the limited liability company reflect such admission or  
14 assignment; and

15 (2) shall not be unenforceable by reason of its not having been signed  
16 by a person being admitted as a member or becoming an assignee as  
17 provided in subparagraph (a) of this paragraph, or by reason of its having  
18 been signed by a representative as provided in this act.

19 ~~(h)~~ (i) "Limited liability company interest" means a member's share  
20 of the profits and losses of a limited liability company and a member's  
21 right to receive distributions of the limited liability company's assets.

22 ~~(i)~~ (j) "Liquidating trustee" means a person carrying out the winding  
23 up of a limited liability company.

24 ~~(j)~~ (k) "Majority in interest" means the affirmative vote or consent of  
25 the members who own more than 50% of the then current percentage or  
26 other interest in the profits of the limited liability company owned by all  
27 members entitled to vote thereon or the members in each class or group  
28 entitled to vote thereon as appropriate.

29 ~~(k)~~ (l) "Manager" means a person who is named as a manager of a  
30 limited liability company in, or designated as a manager of, a limited  
31 liability company pursuant to an operating agreement or similar instrument  
32 under which the limited liability company is formed.

33 ~~(l)~~ (m) "Member" means a person who has been admitted to a limited  
34 liability company as a member as provided in K.S.A. 17-7686, and  
35 amendments thereto, or, in the case of a foreign limited liability company,  
36 in accordance with the laws of the state or foreign country or other foreign  
37 jurisdiction under which the foreign limited liability company is organized.

38 ~~(m)~~ (n) "Person" means a natural person, partnership, whether general  
39 or limited and whether domestic or foreign, limited liability company,  
40 foreign limited liability company, trust, estate, association, corporation,  
41 custodian, nominee or any other individual or entity, or series thereof, in  
42 its own or any representative capacity.

43 ~~(n)~~ (o) "Personal representative" means, as to a natural person, the

1 executor, administrator, guardian, conservator or other legal representative  
2 thereof and, as to a person other than a natural person, the legal  
3 representative or successor thereof.

4 ~~(p)~~ (p) "State" means the District of Columbia or the commonwealth  
5 of Puerto Rico or any state, territory, possession or other jurisdiction of the  
6 United States other than the state of Kansas.

7 Sec. 2. K.S.A. 17-7664 is hereby amended to read as follows: 17-  
8 7664. The name of each limited liability company as set forth in its articles  
9 of organization:

10 (a) Shall contain the words "limited liability company" or "limited  
11 company", or the abbreviation "LLC," "LC" or the designation "LLC" or  
12 "LC," *and if organized as a low-profit limited liability company under*  
13 *section 3, and amendments thereto, shall contain the words "low-profit*  
14 *limited liability company" or the abbreviation or designation "L3C";*

15 (b) may contain the name of a member or manager;

16 (c) must be such as to distinguish it upon the records with the  
17 secretary of state from the name of any corporation, limited partnership,  
18 business trust, registered limited liability partnership or limited liability  
19 company reserved, registered, formed or organized under the laws of the  
20 state of Kansas or qualified to do business or registered as a foreign  
21 corporation, foreign limited partnership or foreign limited liability  
22 company in the state of Kansas; provided however, that a limited liability  
23 company may register under any name which is not such as to distinguish  
24 it upon the records with the secretary of state from the name of any  
25 domestic or foreign corporation, limited partnership, business trust,  
26 registered limited liability partnership or limited liability company  
27 reserved, registered, formed or organized under the laws of the state of  
28 Kansas with the written consent of the other corporation, limited  
29 partnership, business trust, registered limited liability partnership or  
30 limited liability company, which written consent shall be filed with the  
31 secretary of state; and

32 (d) may contain the following words: "company," "association,"  
33 "club," "foundation," "fund," "institute," "society," "union," "syndicate,"  
34 "limited" or "trust" (or abbreviations of like import).

35 New Sec. 3. (a) A low-profit limited liability company shall meet the  
36 following requirements:

37 (1) State in its articles of organization that it is a low-profit limited  
38 liability company;

39 (2) organize under the Kansas limited liability company act; and

40 (3) organize for a business purpose that:

41 (A) Significantly furthers the accomplishment of one or more  
42 charitable or educational purposes within the meaning of section 170(c)(2)  
43 of the federal internal revenue code;

1 (B) demonstrates that the low-profit limited liability company would  
2 not be formed but for the company's relationship to the accomplishment of  
3 a charitable or educational purpose;

4 (C) shall not have as a significant purpose the production of income  
5 or the appreciation of property; and

6 (D) shall not have as a purpose to accomplish one or more political or  
7 legislative purposes within the meaning of section 170(c)(2) of the federal  
8 internal revenue code.

9 (b) If a company that is a low-profit limited liability company at its  
10 formation at any time ceases to meet a requirement to be a low-profit  
11 limited liability company under subsection (a), the company:

12 (1) Ceases to be a low-profit limited liability company on the day on  
13 which the company no longer meets the requirement; and

14 (2) if it continues to meet the requirements of the Kansas revised  
15 limited liability act to be a limited liability company, it continues to exist  
16 as a limited liability company that is not a low-profit limited liability  
17 company.

18 (c) A low-profit limited liability company's failure to meet any  
19 requirement under subsection (a) may be voluntary, in order to convert to a  
20 limited liability company that is not a low-profit limited liability company,  
21 or involuntary. If a low-profit limited liability company ceases to be a low-  
22 profit limited liability company in accordance with subsection (b), the  
23 company shall change its name and amend its articles of organization in  
24 accordance with the requirements of the Kansas revised limited liability  
25 company act.

26 (d) Notwithstanding subsection (a), if a low-profit limited liability  
27 company produces significant income or capital appreciation, in the  
28 absence of other factors, the fact that the low-profit limited liability  
29 company produces significant income or capital appreciation is not  
30 conclusive evidence of a significant purpose involving the production of  
31 income or the appreciation of property.

32 (e) This section shall be part of and supplemental to the Kansas  
33 revised limited liability company act.

34 Sec. 4. K.S.A. 17-7664 and K.S.A. 2012 Supp. 17-7663 are hereby  
35 repealed.

36 Sec. 5. This act shall take effect and be in force from and after its  
37 publication in the statute book.