

CHAPTER 29

(HB 331)

AN ACT relating to business organizations.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

➔SECTION 1. A NEW SECTION OF SUBTITLE 2 OF KRS CHAPTER 14A IS CREATED TO READ AS FOLLOWS:

- (1) *An entity or foreign entity shall be in good standing in order for documents delivered by or on behalf of the entity or foreign entity to be filed by the Secretary of State.*
- (2) *Subsection (1) of this section shall not apply to:*
 - (a) *An application to reinstate subsequent to administrative dissolution;*
 - (b) *A permitted revocation of a voluntary dissolution;*
 - (c) *An application for a certificate of authority filed on behalf of a foreign entity whose prior certificate of authority was revoked; or*
 - (d) *A permitted amendment of the organizational filing of an entity whose period of duration has expired.*
- (3) *Notwithstanding that an entity or foreign entity is not in good standing, the registered agent may deliver for filing and the Secretary of State may file:*
 - (a) *The resignation of the registered agent, the discontinuance of the registered office, or both; or*
 - (b) *A change of registered office filed by the registered agent.*

➔Section 2. KRS 14.025 is amended to read as follows:

- (1) The Department of State shall be divided into two (2) divisions, each headed by a director appointed by the Secretary of State pursuant to KRS 12.050.
- (2) The Division of Administration shall be responsible for fiscal and personnel matters, *elections*, public documents, legal affairs and special projects and commissions.
- (3) The Division of *Business Filings*:~~Corporations~~
 - (a) Shall be responsible for all functions of the department relating to *business filings, including business entity filings and filings under the Uniform Commercial Code; and*
 - (b) *May promulgate administrative regulations in accordance with KRS Chapter 13A in furtherance of its responsibilities*~~corporations~~.

➔Section 3. KRS 14.105 is amended to read as follows:

- (1) The Secretary of State may accept electronic signatures to meet the filing requirements for a:
 - (a) Corporation as required in KRS Chapter 271B;
 - (b) Nonprofit corporation as required in KRS Chapter 273;
 - (c) Professional service corporation as required in KRS Chapter 274;
 - (d) Limited liability company as required in KRS Chapter 275;
 - (e) Partnership as required in KRS Chapter 362;
 - (f) Partnership as required in Subchapter 1 of KRS Chapter 362;
 - (g) Limited partnership as required in Subchapter 2 of KRS Chapter 362;
 - (h) Cooperative corporations and associations as required in KRS Chapter 272;
 - (i) Business trust as required in KRS Chapter 386;
 - (j) Rural electric and rural telephone cooperative corporation as required in KRS Chapter 279; ~~and~~

(k) Assumed name filing under KRS Chapter 365; *and*

(l) ***Filing under KRS Chapter 14A.***

(2) The electronic signature shall satisfy the requirements set forth in KRS 369.101 to 369.120.

➔Section 4. KRS 14A.1-070 is amended to read as follows:

As used in this chapter, unless the context otherwise requires:

- (1) "Business" includes every trade, occupation, and profession;
- (2) "Corporation" means a business corporation governed as to its internal affairs by KRS Chapter 271B, a cooperative or association governed as to its internal affairs by KRS Chapter 272, a nonprofit corporation governed as to its internal affairs by KRS Chapter 273, and a rural electric or rural telephone cooperative corporation governed as to its internal affairs by KRS Chapter 279;
- (3) "Business trust" means a business trust governed as to its internal affairs by KRS Chapter 386;
- (4) "Debtor in bankruptcy" means a person who is the subject of:
 - (a) An order for relief under Title 11 of the United States Code or a comparable order under a successor statute of general application; or
 - (b) A comparable order under federal, state, or foreign law governing insolvency;
- (5) "Deliver" or "delivery" means any method of delivery used in conventional commercial practice, including delivery by hand, mail, commercial delivery, and electronic transmission;
- (6) "Electronic transmission" or "electronically transmitted" means any process of communication not directly involving the physical transfer of paper that is suitable for the retention, retrieval, and reproduction of information by the recipient;
- (7) "Entity" means a corporation, business trust, partnership, limited partnership, or limited liability company, governed as to its internal affairs by the laws of the Commonwealth of Kentucky;
- (8) "Foreign business trust" means a business or statutory trust not governed as to its internal affairs by KRS Chapter 386;
- (9) "Foreign corporation" means a corporation as defined in subsection (2) of this section that is not:
 - (a) Organized pursuant to the laws of the Commonwealth of Kentucky; or
 - (b) As to its internal affairs, governed by the laws of the Commonwealth of Kentucky;
- (10) "Foreign entity" means a corporation, not-for-profit corporation, cooperative, association, business or statutory trust, partnership, limited partnership, or limited liability company not:
 - (a) Organized pursuant to the laws of the Commonwealth of Kentucky; or
 - (b) As to its internal affairs, governed by the laws of the Commonwealth of Kentucky;
- (11) "Foreign limited liability partnership" means a partnership that:
 - (a) Is formed under laws other than the laws of this Commonwealth; and
 - (b) Has the status of a limited liability partnership under those laws;
- (12) "Foreign professional service corporation" has the same meaning as in KRS 274.005;
- (13) "Foreign rural electric cooperative" means a rural electric cooperative organized otherwise than under KRS 279.010 to 279.210;
- (14) "Foreign rural telephone cooperative" means a rural telephone cooperative organized otherwise than under KRS 279.310 to 279.990 excepting 279.570;
- (15) ***"Good standing" means that all annual reports which are required to be received from an entity or foreign entity have been delivered to and filed by the Secretary of State, that all other lawfully required statutory documentation has been received and filed, and that all fees, costs, and expenses, including penalties incurred in connection therewith, have been paid;***
- (16) "Limited liability company" has the same meaning as in KRS 275.015;

- (17)~~(16)~~ "Limited liability partnership" means a partnership that has filed a statement of qualification under KRS 362.1-1001 or a registration as a registered limited liability partnership under KRS 362.555 and does not have a similar statement of registration in effect in any other jurisdiction;
- (18)~~(17)~~ "Name of record with the Secretary of State" means any real, fictitious, reserved, registered, or assumed name of an entity or foreign entity;
- (19)~~(18)~~ "Nonprofit corporation," other than in the term "foreign nonprofit corporation," means a nonprofit corporation incorporated pursuant to and governed as to its internal affairs by KRS Chapter 273 or predecessor law;
- (20)~~(19)~~ "Organic act" means the law of a state or other jurisdiction governing the organization and internal affairs of an entity or foreign entity;
- (21)~~(20)~~ "Organized" means organized, incorporated, or formed;
- (22)~~(21)~~ "Organizational filing" means a filing made with the Secretary of State as a precondition to the formation, organization, or incorporation of an entity, including articles of incorporation, articles of organization, and certificates of limited partnership. A statement of qualification filed pursuant to KRS 362.1-1101 or a registration as a limited liability partnership filed pursuant to KRS 362.555 is not an organizational filing;
- (23)~~(22)~~ "Partnership" means an association of two (2) or more persons to carry on as co-owners a business for profit formed under KRS 362.1-202, predecessor law, or comparable law of another jurisdiction;
- (24)~~(23)~~ "Partnership agreement" means the agreement, whether written, oral, or implied, among the partners concerning the partnership, including amendments to the partnership agreement;
- (25)~~(24)~~ "Person" means an individual, an entity, a foreign entity, or any other legal or commercial entity;
- (26)~~(25)~~ "Principal office" means the address required by this chapter or the organic act to be of record with the Secretary of State as the principal office, the principal place of business address, the designated office of a limited partnership, or the chief executive office of a limited liability partnership;
- (27)~~(26)~~ "Professional service corporation" has the same meaning as in KRS 274.005;
- (28)~~(27)~~ "Professional services" means the personal services rendered by physicians, osteopaths, optometrists, podiatrists, chiropractors, dentists, nurses, pharmacists, psychologists, occupational therapists, veterinarians, engineers, architects, landscape architects, certified public accountants, public accountants, physical therapists, and attorneys;
- (29)~~(28)~~ "Property" means all property, real, personal, or mixed, tangible or intangible, or any interest therein;
- (30)~~(29)~~ "Qualified person" has the same meaning as in KRS 274.005;
- (31)~~(30)~~ "Registered agent" means a registered agent appointed in accordance with KRS 14A.4-010 or predecessor law, and is synonymous with agent for service of process;
- (32)~~(31)~~ "Regulatory board" means the agency that is charged by law with the licensing and regulation of the practice of the profession which the professional partnership is organized to provide;
- (33)~~(32)~~ "Rural electric cooperative" means a rural electric cooperative governed as to its internal affairs by KRS 279.010 to 279.210;
- (34)~~(33)~~ "Rural telephone cooperative" means a rural telephone cooperative governed as to its internal affairs by 279.310 to 279.990 excepting 279.570;
- (35)~~(34)~~ "Sign" or "signature" includes any manual, facsimile, conformed, or electronic signature; and
- (36)~~(35)~~ "State" means 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.

➔Section 5. KRS 14A.2-050 is amended to read as follows:

- (1) The Secretary of State ~~shall~~~~may~~ prescribe and furnish on request forms for:
- (a) An application for a certificate of existence;
 - (b) An application for a certificate of authority;
 - (c) An amended application for a certificate of authority;

- (d) A certificate of withdrawal;
 - (e) A change of registered office, registered agent, or both;
 - (f) A change of principal address;
 - (g) ***The resignation of the registered agent, the registered office, or both;***
 - (h) An application for a reserved name;
 - (i)~~(h)~~ The renewal of a reserved name;
 - (j)~~(i)~~ The transfer of a reserved name;
 - (k) ***Name registration;***
 - (l)~~(j)~~ The annual report; and
 - (m)~~(k)~~ An amendment to the annual report.
- (2) ***The use of the forms referred in paragraphs (e), (f), (g), (h), (i), (k), and (l) of subsection (1) of this section shall be mandatory.*** If the Secretary of State so requires, the use of some or all ***of the other*** forms listed in subsection (1) shall be mandatory.
- (3) The Secretary of State may prescribe and furnish on request forms for other documents required or permitted to be filed by this chapter, but their use shall not be mandatory.
- ➔Section 6. KRS 14A.3-010 is amended to read as follows:
- (1) Except as authorized by subsections (14), ~~and~~(15), ***and (23)*** of this section, the real name of an entity or foreign entity shall be distinguishable from any name of record with the Secretary of State.
- (2) The real name of a corporation or nonprofit corporation shall:
- (a) 1. Contain the word "corporation," "company," or "limited" or the abbreviation "Corp.," "Inc.," "Co.," or "Ltd." or words or abbreviations of like import in another language, provided, however, that if a nonprofit corporation's name includes the word "company" or the abbreviation "Co.," it may not be immediately preceded by the word "and" or the abbreviation "&"; or
 - 2. If a professional service corporation, shall contain the words "professional service corporation" or the abbreviation "P.S.C."; and
- (b) Shall not contain language stating or implying that the corporation is organized for a purpose other than that permitted by its organic act and its articles of incorporation.
- (3) The real name of a limited liability company shall contain the phrase "limited liability company" or "limited company" or the abbreviation "LLC" or "LC," provided, however, if the company is a professional limited liability company the name shall contain the phrase "professional limited liability company" or "professional limited company" or the abbreviation "PLLC" or "PLC." In the name of either a limited liability company or a professional limited liability company, the word "limited" may be abbreviated as "Ltd." and the word "Company" may be abbreviated as "Co."
- (4) The real name of a limited liability partnership registered pursuant to KRS 362.555 shall contain the phrase "Registered Limited Liability Partnership" or the abbreviation "LLP" as the last words or letters of its name.
- (5) The real name of a partnership subject to KRS 362.1-101 to 362.1-1205, the "Kentucky Revised Uniform Partnership Act (2006)":
- (a) Shall not contain the word "corporation" or "incorporated" or the abbreviation "Corp." or "Inc."; and
 - (b) May contain the word "limited" or the abbreviation "Ltd." only if the partnership has filed a statement of qualification.
- (6) The real name of a limited liability partnership that has filed a statement of qualification pursuant to KRS 362.1-1001 shall end with the phrase "Registered Limited Liability Partnership" or "Limited Liability Partnership" or the abbreviation "R.L.L.P.," "L.L.P.," "RLLP," or "LLP."
- (7) The real name of a limited partnership subject to KRS 362.401 to 362.525, the "Kentucky Revised Uniform Limited Partnership Act ~~(2006)~~," shall:

- (a) Contain the word "Limited" or the abbreviation "Ltd." unless the limited partnership was formed under any statute of the Commonwealth prior to the adoption of the Kentucky Revised Uniform Limited Partnership Act; and
 - (b) Not contain the name of a limited partner unless:
 - 1. That name is also the name of a general partner; or
 - 2. The business of the limited partnership had been carried on under that name before the admission of that limited partner.
- (8) The real name of a limited partnership subject to KRS 362.2-102 to 362.2-1207, the "Kentucky Uniform Limited Partnership Act (2006)," that is not a limited liability limited partnership may contain the name of any partner and shall:
- (a) Contain the phrase "limited partnership" or "limited" or the abbreviation "L.P.," "LP," or "Ltd."; and
 - (b) Not contain the phrase "limited liability limited partnership" or the abbreviation "L.L.L.P." or "LLLP."
- (9) The real name of a limited partnership subject to KRS 362.2-102 to 362.2-1207, the "Kentucky Uniform Limited Partnership Act (2006)," that is a limited liability limited partnership may contain the name of any partner and shall:
- (a) Contain the phrase "limited liability limited partnership" or the abbreviation "L.L.L.P." or "LLLP"; and
 - (b) Not contain only the phrase "limited partnership" or the abbreviation "L.P." or "LP."
- (10) Subject to KRS 362.2-1204, subsections (8) and (9) of this section shall not apply to a limited partnership formed under any statute of this Commonwealth prior to July 15, 1988.
- (11) The real name of a rural telephone cooperative corporation:
- (a) Shall contain the word "Telephone," "Telecommunications," "Company," or "Corporation" and the abbreviation "Inc.," unless in an affidavit made by its president or vice president, and filed with the Secretary of State, or in an affidavit made by a person signing articles of incorporation, consolidation, merger, or conversion which relate to that cooperative, and filed, together with any such articles, with the Secretary of State, it shall appear that the cooperative desires to do business in another state and is or would be precluded therefrom by reason of the inclusion of such words or either thereof in its name; and
 - (b) May include the word "Cooperative."
- (12) The phrase "Rural Electric Cooperative" may not be used in the name of any entity or foreign entity except for one formed under KRS Chapter 279.
- (13) Except as otherwise provided in this section, the word "cooperative" may not be used in the name of any entity doing business for profit in this Commonwealth unless it has complied with the provisions of KRS 272.020 to 272.050.
- (14) An entity may apply to the Secretary of State for authorization to use a name that is not distinguishable from a name of record with the Secretary of State. The Secretary of State shall authorize use of the name applied for if:
- (a) The other entity consents to the use in writing and submits an undertaking in form satisfactory to the Secretary of State to change its name to a name that is distinguishable upon the records of the Secretary of State from the name of the applying entity; or
 - (b) The applicant delivers to the Secretary of State 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 this Commonwealth.
- (15) An entity may use the name, including the fictitious name, of another entity that is used in this Commonwealth if the other entity is organized or authorized to transact business in this Commonwealth, and the proposed user entity:
- (a) Has merged with the other entity;
 - (b) Has been formed by reorganization of the other entity; or
 - (c) Has acquired all or substantially all of the assets, including the business name of the other entity.

- (16) This chapter does not control the use of assumed names.
- (17) The filing of articles of incorporation, articles of organization, a statement of qualification, a certificate of limited partnership, a declaration of trust, an application to transact authority in the Commonwealth, a statement of foreign qualification, a name registration, or name **reservation**~~[resurrection]~~ under the particular name shall not automatically prevent the use of that name or protect that name from use by other persons.
- (18) The provisions of subsection (2)(a) of this section shall not affect the right of any nonprofit corporation existing on June 13, 1968, to continue the use of its name as then in effect.
- (19) The assumption of a nonprofit corporate name in violation of this section shall not affect or vitiate the corporate existence, but the courts of this Commonwealth having equity jurisdiction may, upon the application of the Commonwealth or of any person interested or affected, enjoin such corporation from doing business under a name assumed in violation of this section, although a certificate of incorporation may have been issued.
- (20) This section shall not apply to any domestic or foreign telephone cooperative which became subject to KRS 279.310 to 279.600 by complying with the provisions of KRS 279.470 or which does business in this Commonwealth pursuant to KRS 279.570 and which elects to retain a name which does not comply with this section.
- (21) Nothing in this section shall limit the ability of a professional regulatory board to promulgate rules governing entities and foreign entities under its jurisdiction.
- (22) The real name of a foreign entity will be determined according to KRS 365.015. For entities not covered by that statute, the real name of the foreign entity will be the real name of the entity as so recognized in the jurisdiction of its origination.
- (23) ***The real name of a partnership, other than that of a limited liability partnership as set forth on a statement of qualification or a registration as a limited liability partnership filed pursuant to KRS 362.555 or that of a foreign limited liability partnership as set forth on a statement of foreign qualification, need not be distinguishable from any name of record with the Secretary of State.***

➔Section 7. KRS 14A.6-010 is amended to read as follows:

- (1) Each entity and each foreign entity authorized to transact business in this Commonwealth shall deliver to the Secretary of State for filing an annual report that sets forth:
- (a) The name of the entity or foreign entity and the state or country under whose law it is organized;
 - (b) The address of its registered office and the name of its registered agent at that office in this Commonwealth;
 - (c) The address of its principal office; and
 - (d) With respect to each:
 1. Corporation, not-for-profit corporation, cooperative, or association, whether domestic or foreign:
 - a. The name and business address of the secretary or other officer with responsibility for authenticating the records of the entity;
 - b. The name and business **address** of each other principal officer; and
 - c. The name and business **address** of each director;
 2. Manager-managed limited liability company, whether domestic or foreign, the name and business address of each manager;
 3. Limited partnership, whether domestic or foreign, the name and business address of each general partner;
 4. Business trust, whether domestic or foreign, the name and business address of each trustee; and
 5. Professional service corporation, domestic or foreign, a statement that each of the shareholders, not less than one-half (1/2) of the directors, and each of the officers other than secretary and treasurer is a qualified person.

- (2) A professional service corporation formed under the provisions of this chapter, except as this chapter may otherwise provide, shall have the same powers, authority, duties, and liabilities as a corporation formed under KRS Chapter 271B.
- (3) Information in the annual report shall be current as of the date the annual report is executed on behalf of the entity or foreign entity.
- (4) The first annual report shall be delivered to the Secretary of State between January 1 and June 30 of the year following the calendar year in which an entity was organized or a foreign entity was authorized to transact business in this state. Subsequent annual reports shall be delivered to the Secretary of State between January 1 and June 30 of each following calendar year.
- (5) If an annual report does not contain the information required by this section, the Secretary of State shall promptly notify the entity or foreign entity in writing and return the report to it for correction, which notification may be accomplished electronically. For purposes of KRS 14A.2-130 or 14A.2-140, an annual report returned for correction shall not be deemed to have been delivered until it is returned and accepted by the Secretary of State.
- (6) An entity or foreign entity may amend the information in its last filed annual report by delivery of an amendment to the annual report to the Secretary of State for filing on such form as is provided by the Secretary of State.
- (7) The requirement to file an annual report shall not apply to:
 - (a) A limited partnership governed as to its internal affairs by the Kentucky Uniform Limited Partnership Act as it existed prior to its repeal by 1988 Ky. Acts ch. 284, sec. 65;
 - (b) A partnership other than a limited liability partnership that has filed a statement of qualification pursuant to KRS 362.1-1102 or a foreign limited liability partnership; or
 - (c) A foreign rural electric cooperative or foreign rural telephone cooperative not required to qualify to transact business by a filing with the Secretary of State.

➔Section 8. KRS 271B.5-010 is amended to read as follows:

~~{(1)}~~ Each corporation shall continuously maintain in this *Commonwealth of* ~~a~~ ~~state~~:

~~(a) A registered office and a that may be the same as any of its places of business; and~~

~~(b) A registered agent that comply with KRS 14A.4-010, who may be:~~

- ~~1. An individual who resides in this state and whose business office is identical with the registered office;~~
- ~~2. A domestic corporation or not for profit domestic corporation whose business office is identical with the registered office;~~
- ~~3. A foreign corporation or not for profit foreign corporation authorized to transact business in this state whose business office is identical with the registered office;~~
- ~~4. A domestic limited liability company or a foreign limited liability company authorized to transact business in the state whose business office is identical with the registered office; or~~
- ~~5. A domestic limited partnership or foreign limited partnership authorized to transact business in the state whose business office is identical with the registered office.~~

~~(2) Unless the registered agent signs the document making the appointment, the appointment of the registered agent or a successor registered agent on whom process may be given is not effective until the agent delivers a statement in writing to the Secretary of State accepting the appointment.~~

➔Section 9. KRS 271B.12-010 is amended to read as follows:

- (1) A corporation may, on the terms and conditions and for the consideration determined by the board of directors:
 - (a) Sell, lease, exchange, or otherwise dispose of all, or substantially all, of its property in the usual and regular course of business;
 - (b) Mortgage, pledge, dedicate to the repayment of indebtedness (whether with or without recourse), or otherwise encumber any or all of its property whether or not in the usual and regular course of business; or

(c) Transfer any or all of its property to ***an entity of which all the shares or all of the limited liability company interests or other equity interests are*** ~~[a corporation all the shares of which are]~~ owned by the corporation.

(2) Unless the articles of incorporation require it, approval by the shareholders of a transaction described in subsection (1) of this section shall not be required.

➔Section 10. KRS 271B.14-330 is amended to read as follows:

(1) If after a hearing the court determines that one (1) or more grounds for judicial dissolution described in KRS 271B.14-300 exist, it may enter a decree dissolving the corporation and specifying the effective date of the dissolution, and the clerk of the court shall deliver a certified copy of the decree to the Secretary of State, who shall file it.

(2) ***The effect of the dissolution shall be as set forth in KRS 271B.14-050.***

(3) After entering the decree of dissolution, the court shall direct the winding up and liquidation of the corporation's business and affairs, ***including as provided in KRS 271B.14-320,*** ~~[in accordance with KRS 271B.14-050]~~ and the notification of claimants in accordance with KRS 271B.14-060 and 271B.14-070.

➔Section 11. KRS 272.335 is amended to read as follows:

A foreign association may be authorized to transact business in this Commonwealth~~[,]~~ upon compliance with the provisions of KRS ***14A.9-010***~~[14A.6-010]~~.

➔Section 12. KRS 274.055 is amended to read as follows:

(1) Except as otherwise provided in this section, KRS 271B.6-220 applies to a corporation governed by this chapter.

(2) The provisions of this chapter shall not alter any law applicable to, or otherwise affect the fiducial, confidential or ethical relationship between a person rendering professional services and a person receiving such services. The corporation shall be jointly and severally liable, with the tortfeasor, to the full value of its assets for any negligent or wrongful acts or actionable misconduct committed by any of its officers, shareholders, agents or employees while they are engaged on behalf of the corporation in the rendering of professional service; provided, however, that no shareholder, director, officer or employee of a professional service corporation shall be personally liable for the negligence, wrongful acts, or actionable misconduct of any other shareholder, director, officer, agent or employee nor shall such shareholder, director, officer or employee be personally liable for the contractual obligations of the corporation.

(3) Notwithstanding any contrary provisions of law, a corporation organized under this chapter may charge and collect fees for the professional services of its officers, directors, agents or employees, and may compensate those who render such professional services.

(4) Notwithstanding KRS ***14A.9-050(3)***~~[271B.15-050(3)]~~, any foreign professional service corporation granted a certificate of authority to conduct business within this state and those persons rendering professional services through it shall be subject to this section.

➔Section 13. KRS 275.025 is amended to read as follows:

(1) The articles of organization shall set forth:

- (a) A name for the limited liability company that satisfies the requirements of KRS ***14A.3-010***~~[14A.2-050]~~;
- (b) The registered office and initial registered agent that satisfy the requirements of KRS 14A.4-010;
- (c) The mailing address of the initial principal office of the limited liability company; and
- (d) A statement that the limited liability company is to be managed by a manager or managers or that the limited liability company is to be managed by its members.

(2) The term of a limited liability company shall be perpetual unless a period of duration other than perpetual is set forth in the articles of organization.

(3) The articles of organization of a professional limited liability company shall designate the professional services to be practiced through the professional limited liability company.

(4) The articles of organization may set forth any other matter that under this chapter is permitted to be set forth in an operating agreement not inconsistent with law.

- (5) A member of a limited liability company shall not have a vested property right resulting from any provision of the articles of organization.
- (6) If the limited liability company is a nonprofit limited liability company, then the articles of organization shall state that fact and its nonprofit purpose. This provision of the articles of organization shall not be removed from the articles of organization without written notice to the Attorney General of Kentucky given not less than ten (10) business days prior to the filing of the amendment.
- (7) The fact that the articles of organization are on file with the Secretary of State is notice:
 - (a) That the limited liability company formed by the filing of the articles of organization is a limited liability company formed under the laws of the Commonwealth of Kentucky; and
 - (b) Of all other facts set forth in the articles of organization which are required to be set forth by subsections (1), (3), and ~~(6)~~~~(7)~~ of this section.

➔Section 14. KRS 275.275 is amended to read as follows:

- (1) Subject to subsection (2) of this section, a person may become a member in a limited liability company:
 - (a) In the case of the person acquiring a limited liability company interest directly from a limited liability company, upon compliance with an operating agreement or, if an operating agreement does not so provide in writing, upon the written consent of all members; and
 - (b) In the case of an assignee of the limited liability company interest, as provided in KRS 275.255 and 275.265.
- (2) The effective time of admission of a member to a limited liability company shall be the later of:
 - (a) The date the limited liability company is formed; ~~{or}~~
 - (b) The time provided in the operating agreement or, if no time is provided, when the person's admission is reflected in the records of the limited liability company; **or**
 - (c) ***The time the member is admitted under KRS 275.285(4).***

➔Section 15. KRS 275.280 is amended to read as follows:

- (1) A person shall disassociate from and cease to be a member of a limited liability company upon the occurrence of one (1) or more of the following events:
 - (a) Subject to the provisions of subsection (3) of this section, the member withdraws by voluntary act from the limited liability company;
 - (b) The member ceases to be a member of the limited liability company as provided in KRS 275.265;
 - (c) The member is removed as a member:
 - 1. In accordance with a written operating agreement;
 - 2. Unless otherwise provided in a written operating agreement, ***if after an assignment there is at least one (1) other member***, when the member assigns all of the member's ~~{interest in the }~~limited liability company ***interest***, upon receipt of the written consent of a majority-in-interest of the members who have not assigned their interest; ~~{or}~~
 - 3. ***If after the assignment there are no other members, upon the effective time and date of the assignment; or***
 - 4. Upon resignation as a member;
 - (d) Unless otherwise provided in a written operating agreement or by written consent of majority-in-interest of the members, at the time the member:
 - 1. Makes an assignment for the benefit of creditors;
 - 2. Files a voluntary petition in bankruptcy;
 - 3. Is adjudicated bankrupt or insolvent;
 - 4. Files a petition or answer seeking for the member any reorganization, arrangement, composition, readjustment, liquidation, dissolution, or similar relief under any statute, law, or regulation;

5. Files an answer or other pleading admitting or failing to contest the material allegations of a petition filed against the member in any proceeding of this nature; or
 6. Seeks, consents to, or acquiesces in the appointment of a trustee, receiver, or liquidator of the member or of all or any substantial part of the member's property;
- (e) Unless otherwise provided in a written operating agreement or by written consent of a majority-in-interest of the members remaining at the time, if within one hundred twenty (120) days after the commencement of any proceeding against the member seeking reorganization, arrangement, composition, readjustment, liquidation, dissolution, or similar relief under any statute, law, or regulation, the proceeding has not been dismissed, or if within one hundred twenty (120) days after the appointment without the member's consent or acquiescence of a trustee, receiver, or liquidator of the member, or of all or any substantial part of the member's properties, the appointment is not vacated or stayed or within one hundred twenty (120) days after the expiration of any stay, the appointment is not vacated;
- (f) Unless otherwise provided in a written operating agreement or by written consent of a majority-in-interest of the members remaining at the time, in the case of a member that is an individual:
1. The member's death; or
 2. The entry of an order by a court of competent jurisdiction adjudicating the member incompetent to manage his or her person or estate;
- (g) Unless otherwise provided in a written operating agreement or by written consent of a majority-in-interest of the members remaining at the time, 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, the termination of the trust, but not merely the substitution of a new trustee;
- (h) Unless otherwise provided in a written operating agreement or by written consent of a majority-in-interest of the members remaining at the time, in the case of a member that is a separate limited liability company, the dissolution and commencement of winding up of the separate limited liability company;
- (i) Unless otherwise provided in a written operating agreement or by written consent of the majority-in-interest of the members remaining at the time, in the case of a member that is a corporation, the filing of articles of dissolution or the equivalent for the corporation or the revocation of its articles of incorporation and the lapse of ninety (90) days after notice to the corporation of revocation without a reinstatement of its articles of incorporation; or
- (j) Unless otherwise provided in a written operating agreement or by written consent of a majority-in-interest of the members remaining at the time, in the case of an estate, the distribution by the fiduciary of the estate's entire interest in the limited liability company.
- (2) The members may provide in a written operating agreement for other events the occurrence of which shall result in a person ceasing to be a member of the limited liability company.
- (3) Unless otherwise provided in a written operating agreement:
- (a) In a member-managed limited liability company a member may resign from a limited liability company upon thirty (30) days' prior written notice to the limited liability company; and
 - (b) In a manager-managed limited liability company, a member may not resign without the consent of all other members.
- (4) Upon the effective date of the resignation, the resigning member shall be dissociated from and cease to be a member of the limited liability company and shall be with respect to the resigning member's limited liability company interest an assignee thereof.
- (5) The successor-in-interest of a disassociated member shall be an assignee.
- ➔Section 16. KRS 275.290 is amended to read as follows:
- (1) The Circuit Court, for the county in which the principal office of the limited liability company is located, or, if none, in the county of the registered office, may dissolve a limited liability company in a proceeding by a member if it is established that it is not reasonably practicable to carry on the business of the limited liability company in conformity with the operating agreement.

- (2) Any decree dissolving the limited liability company pursuant to subsection (1) of this section shall specify the effective date of the dissolution, and the clerk of the court shall deliver a certified copy of the decree to the Secretary of State, who shall file it.
- (3) After entering the decree of dissolution, the court shall direct the winding up and liquidation of the limited liability company's business and affairs in accordance with KRS 275.300 and the notification of claimants in accordance with KRS 275.320 and 275.325.
- (4) ***The effect of dissolution under this section shall be as provided in KRS 275.300(2) and (3).***

➔Section 17. KRS 275.315 is amended to read as follows:

After the dissolution of the limited liability company pursuant to KRS 275.285(2), (3), ***or (4)***, the limited liability company shall file articles of dissolution with the Secretary of State which set forth:

- (1) The name of the limited liability company;
- (2) A statement of the subsection of KRS 275.285 pursuant to which the limited liability company has dissolved;
- (3) The effective date, which shall be a date certain, of the dissolution; and
- (4) Any other information the members or managers filing the articles of dissolution shall deem proper.

➔Section 18. KRS 275.377 is amended to read as follows:

- (1) A ***limited liability company***~~corporation~~ that has been converted pursuant to this chapter shall be for all purposes the same entity that existed before the conversion.
- (2) When a conversion takes effect:
 - (a) All property and contract rights owned by, and all rights, privileges, and immunities of the converting corporation shall remain vested in the converted limited liability company without assignment, reversion, or impairment;
 - (b) All obligations of the converting corporation shall continue as obligations of the converted limited liability company;
 - (c) An action or proceeding pending against the converting corporation may be continued as if the conversion had not occurred, and the name of the converted limited liability company may be substituted in any pending action or proceeding for the name of the converting corporation; and
 - (d) The written operating agreement of the converted limited liability company shall be binding upon each person who becomes a member of the limited liability company.

➔Section 19. KRS 362.2-1101 is amended to read as follows:

As used in KRS 362.2-1101 to 362.2-1113, unless the context otherwise requires:

- (1) "Constituent limited partnership" means a constituent organization that is a limited partnership;
- (2) "Constituent organization" means an organization that is party to a merger;
- (3) "Converted limited partnership" means the limited partnership into which a converting organization converts pursuant to KRS 362.2-1102, 362.2-1103, 362.2-1104, and 362.2-1105;
- (4) ***"Converted organization" means an organization into which another organization has been converted;***
- (5) "Converting limited partnership" means a converting organization that is a limited partnership;
- ~~(6)(5)~~ "Converting organization" means an organization that converts into another organization pursuant to KRS 362.2-1102;
- ~~(7)(6)~~ "General partner" means a general partner of a limited partnership;
- ~~(8)(7)~~ "Governing statute" of an organization means the statute that governs the organization's internal affairs;
- ~~(9)(8)~~ "Organization" means a general partnership, including a limited liability partnership; limited partnership, including a limited liability limited partnership; limited liability company; business trust; corporation; or any other entity having a governing statute. The term includes domestic and foreign entities regardless of whether organized for profit;
- ~~(10)(9)~~ "Organizational documents" means:

- (a) For a domestic or foreign general partnership, its partnership agreement;
- (b) For a limited partnership or foreign limited partnership, its certificate of limited partnership and partnership agreement; and
- (c) For a domestic or foreign limited liability company, its articles of organization and operating agreement, or comparable records as provided in its governing statute;

~~(11)~~~~(10)~~ "Person dissociated as a general partner" means a person dissociated as a general partner of a limited partnership;

~~(12)~~~~(11)~~ "Personal liability" means personal liability for a debt, liability, or other obligation of an organization which is imposed on a person that co-owns, has an interest in, or is a member of the organization:

- (a) By the organization's governing statute solely by reason of the person co-owning, having an interest in, or being a member of the organization; or
- (b) By the organization's organizational documents under a provision of the organization's governing statute authorizing those documents to make one (1) or more specified persons liable for all or specified debts, liabilities, and obligations of the organization solely by reason of the person or persons co-owning, having an interest in, or being a member of the organization; and

~~(13)~~~~(12)~~ "Surviving organization" means an organization into which one (1) or more other organizations are merged. A surviving organization may preexist the merger or be created by the merger.

➔Section 20. KRS 362.2-1105 is amended to read as follows:

- (1) An organization that has been converted pursuant to KRS 362.2-1101 to 362.2-1113 is for all purposes the same entity that existed before the conversion.
- (2) When a conversion takes effect:
 - (a) All property and contract rights owned by, and all rights, privileges, and immunities of, the converting **organization**~~{partnership or limited partnership}~~ shall remain vested in the converted **organization**~~{partnership or limited partnership}~~ without assignment, reversion, or impairment;
 - (b) All obligations of the converting **organization**~~{partnership or limited partnership}~~ shall continue as obligations of the converted **organization**~~{partnership or limited partnership}~~;
 - (c) An action or proceeding pending against the converting **organization**~~{partnership or limited partnership}~~ may be continued as if the conversion had not occurred, and the name of the converted **organization**~~{partnership or limited partnership}~~ may be substituted in any pending action or proceeding for the name of the converting **organization**~~{partnership or limited partnership}~~; and
 - (d) Any written **organization documents**~~{partnership agreement}~~ of the converted **organization**~~{partnership or limited partnership}~~ shall be binding upon each person who becomes a partner **or member** in the converted **organization**~~{partnership or limited partnership}~~.
- (3) A converted organization that is a foreign entity consents to the jurisdiction of the courts of this Commonwealth to enforce any obligation owed by the converting **organization**~~{limited partnership}~~ if, before the conversion, the converting **organization**~~{limited partnership}~~ was subject to suit in this Commonwealth on that obligation. A converted organization that is a foreign entity and not authorized to transact business in this Commonwealth appoints the Secretary of State as its agent for service of process for purposes of enforcing an obligation under this subsection. Service on the Secretary of State under this subsection is made in the same manner and with the same consequences as in KRS 14A.9-060(4).
- (4) A person who becomes a general partner in a limited partnership that is not a limited liability limited partnership as a result of a conversion shall be personally liable as a general partner for only those obligations incurred by the limited partnership after the conversion takes effect.

➔Section 21. KRS 386.4422 is amended to read as follows:

A foreign business trust **transacting**~~{qualified to transact}~~ business in this Commonwealth is subject to KRS **14A.9-010**~~{14A.6-010}~~.

➔Section 22. KRS 14A.9-040 is amended to read as follows:

- (1) A foreign entity authorized to transact business in this Commonwealth shall obtain an amended certificate of authority from the Secretary of State if it changes **any information required by KRS 14A.9-030(1)**~~{~~:

- ~~(a) — Its real name;~~
- ~~(b) — The period of its duration;~~
- ~~(c) — The state or country of its organization; or~~
- ~~(d) — Its form of organization.~~

- (2) The requirements of KRS 14A.9-030 for obtaining an original certificate of authority shall apply to obtaining an amended certificate.
- (3) A foreign entity that changes its principal office address shall promptly satisfy the requirements of KRS 14A.5-010.
- (4) A foreign entity that changes its registered office, its registered agent, or both as maintained in this Commonwealth shall promptly satisfy the requirements of KRS 14A.4-020.

➔Section 23. KRS 275.260 is amended to read as follows:

- (1) This section provides the exclusive remedy by which the judgment creditor of a member or the assignee of a member may satisfy a judgment out of the judgment debtor's limited liability company interest.
- (2) On application to a court of competent jurisdiction by a judgment creditor of a member or a member's assignee, a court may charge the judgment debtor's interest in the limited liability company with payment of the unsatisfied amount of the judgment. To the extent so charged, the judgment creditor has only the rights of an assignee and shall have no right to participate in the management or to cause the dissolution of the limited liability company. The court may appoint a receiver of the share of the distributions due or to become due to the judgment debtor in respect of the limited liability company interest and make all other orders, directions, accounts, and inquiries the judgment ~~debtor~~~~creditor~~ might have made or which the circumstances of the case may require to give effect to the charging order.
- (3) A charging order constitutes a lien on and the right to receive distributions made with respect to the judgment debtor's limited liability company interest. A charging order does not of itself constitute an assignment of the limited liability company interest.
- (4) The court may order a foreclosure upon the limited liability company interest subject to the charging order at any time. The purchaser of the limited liability company interest at the foreclosure sale has the rights of an assignee. At any time before foreclosure, the charged limited liability company interest may be redeemed:
 - (a) By the judgment debtor;
 - (b) With property other than limited liability company property, by one (1) or more of the other members; and
 - (c) With limited liability company property, by the limited liability company with the consent of all members whose interest are not so charged.
- (5) This section does not deprive a member or a member's assignee of the benefit of any exemption laws applicable to the member's or assignee's limited liability company interest.
- (6) The limited liability company is not a necessary party to an application for a charging order. Service of the charging order on a limited liability company may be made by the court granting the charging order or as the court should otherwise direct.

➔Section 24. Sections 11, 12, 13, and 21 of this Act shall be retroactive to January 1, 2011.

Signed by Governor March 16, 2011.