

IC 23-18-2

Chapter 2. Organization and Powers

IC 23-18-2-1

Organization; purpose; regulation

Sec. 1. (a) A limited liability company may:

- (1) be organized under this article for any business, personal, or nonprofit purpose; and
 - (2) conduct business in any state for any lawful purpose;
- unless a more limited purpose is set forth in its articles of organization.

(b) A limited liability company must comply with any statute that regulates the limited liability company's business.

As added by P.L.8-1993, SEC.301. Amended by P.L.40-2013, SEC.6.

IC 23-18-2-2

Powers

Sec. 2. Unless the limited liability company's articles of organization provide otherwise, every limited liability company has the same powers as an individual to do all things necessary or convenient to carry out its business and affairs, including the following:

- (1) Sue, be sued, complain, and defend in its name.
- (2) Make and amend operating agreements, not inconsistent with its articles of organization or with the laws of this state, for managing the business and regulating the affairs of the limited liability company.
- (3) Purchase, receive, lease, or otherwise acquire and own, hold, improve, use, and otherwise deal with real or personal property, or any legal or equitable interest in property, wherever located.
- (4) Sell, convey, mortgage, pledge, lease, exchange, and otherwise dispose of all or any part of its property.
- (5) Except as otherwise prohibited by this article:
 - (A) purchase, receive, subscribe for, or otherwise acquire;
 - (B) own, hold, vote, use, sell, mortgage, lend, pledge, or otherwise dispose of; and
 - (C) deal in and with shares, interests, obligations, or other securities of;any corporation, partnership, association, limited liability company, foreign limited liability company, or business trust.
- (6) Make contracts and guarantees, incur liabilities, borrow money, and issue notes, bonds, and other obligations, and secure any of its obligations by mortgage or pledge of any of its property, franchises, or income.
- (7) Lend money, invest and reinvest its funds, and receive and hold real and personal property as security for repayment.
- (8) Be a promoter, a stockholder, a partner, a member, a manager, an associate, or an agent of any corporation, partnership, limited liability company, foreign limited liability company, joint venture, trust, or other enterprise.

(9) Conduct its business, locate offices, and exercise the powers granted by this article within or outside Indiana.

(10) Elect or appoint managers, agents, and employees, define their duties, fix their compensation, and lend them money and credit.

(11) Pay pensions and establish and administer pension plans, pension trusts, profit-sharing plans, welfare plans, qualified and nonqualified retirement plans, and benefit or incentive plans for any or all of its current or former managers, employees, and agents.

(12) Make donations for public welfare, charitable, scientific, or educational purposes.

(13) Transact any lawful business that will aid governmental policy.

(14) Indemnify and hold harmless any member, manager, agent, or employee from and against any and all claims and demands, except in the case of action or failure to act by the member, agent, or employee which constitutes willful misconduct or recklessness and subject to any standards and restrictions set forth in a written operating agreement.

(15) To the extent authorized by the licensing authority (as defined in IC 23-1.5-1-9) provide professional services (as defined in IC 23-1.5-1-11).

(16) Make payments or donations or do any other act that furthers the business and affairs of the limited liability company.

(17) Adopt, either in the limited liability company's articles of organization or written operating agreement, a provision establishing exclusive jurisdiction in the circuit or superior courts of any county in Indiana or in the United States district courts of Indiana, for:

(A) any action asserting a claim for breach of a fiduciary duty owed by any director, officer, employee, or agent of the limited liability company to the limited liability company;

(B) any action asserting a claim arising under:

(i) any provision of this article; or

(ii) the limited liability company's articles of organization or operating agreement; or

(C) any actions otherwise relating to the internal affairs of the limited liability company.

As added by P.L.8-1993, SEC.301. Amended by P.L.63-2014, SEC.28.

IC 23-18-2-3

Professional licensing or regulatory authorities; powers

Sec. 3. Except for the prohibitions in this article concerning the personal liability of members, managers, employees, and agents of a limited liability company organized under this article, nothing in this article is intended to restrict or limit in any manner the authority and duty of any licensing authority (as defined in IC 23-1.5-1-9) or to regulate the provision of professional services (as defined in

IC 23-1.5-1-11) within Indiana, notwithstanding that the member, manager, or employee of a limited liability company is providing professional services or engaging in the practice of a profession through the limited liability company.

As added by P.L.8-1993, SEC.301.

IC 23-18-2-4

Formation; articles of organization; contents

Sec. 4. (a) At least one (1) person may form a limited liability company by causing articles of organization to be executed and filed for record with the office of the secretary of state. A person does not need to be a member of the limited liability company at the time of formation or after formation has occurred.

(b) Articles of organization shall contain the following:

(1) The name of the limited liability company.

(2) The street address of the limited liability company's registered office in Indiana and the name of the limited liability company's registered agent at that office.

(3) The latest date upon which the limited liability company is to dissolve, or a statement that the duration of the limited liability company is perpetual until dissolution in accordance with this article.

(4) If the articles of organization provide for a manager or managers, a statement to that effect.

(5) Any other matters not inconsistent with this article that the members agree to include, including any matters that are required to be or may be included in an operating agreement under this article.

As added by P.L.8-1993, SEC.301.

IC 23-18-2-5

Amendment of articles of organization

Sec. 5. (a) Articles of organization of a limited liability company may be amended by filing articles of amendment of the articles of organization in the office of the secretary of state. The articles of amendment must contain the following:

(1) The name of the limited liability company.

(2) The date the articles of organization were filed.

(3) The amendment to the articles of organization.

(b) Articles of organization of a limited liability company may be amended at any time that the members determine provided that the articles of organization as amended contain only provisions that may be lawfully contained in articles of organization at the time the amendment is made.

As added by P.L.8-1993, SEC.301.

IC 23-18-2-6

Restated articles of organization

Sec. 6. (a) Articles of organization may be restated at any time. Restated articles of organization must:

- (1) be filed with the secretary of state;
- (2) be specifically designated as "restated articles of organization"; and
- (3) state in the heading or in a separate paragraph the limited liability company's present name, and if the name has been changed, all of its former names and the date of filing of its original articles of organization.

(b) A restated articles of organization may include one (1) or more amendments to the articles of organization. If the restated articles of organization include an amendment, the amendment must be adopted as provided in section 5 of this chapter.

As added by P.L.8-1993, SEC.301. Amended by P.L.121-1994, SEC.2.

IC 23-18-2-7

Filing articles with secretary of state; notice

Sec. 7. The fact that articles of organization of a limited liability company are on file in the office of the secretary of state is notice that the limited liability company has been organized and is notice of all other facts that are required to be set forth in the articles of organization under section 4 of this chapter and that are set forth in the articles of organization.

As added by P.L.8-1993, SEC.301.

IC 23-18-2-8

Name

Sec. 8. (a) The name of each limited liability company as set forth in its articles of organization:

- (1) must contain the words "limited liability company" or either of the following abbreviations:

(A) "L.L.C."; or

(B) "LLC";

- (2) may contain the name of a member or manager; and

- (3) except as provided in subsection (b), must be such as to distinguish the name upon the records of the office of the secretary of state from the name of any limited liability company or other business entity reserved, registered, or organized under the laws of Indiana or qualified to transact business as a foreign limited liability company in Indiana.

(b) A limited liability company may apply to the secretary of state to use a name that is not distinguishable upon the secretary of state's records from one (1) or more of the names described in subsection (a). The secretary of state shall authorize the use of the name applied for if:

- (1) the other domestic or foreign limited liability company or other business entity files its written consent to the use of its name; or

- (2) the applicant delivers to the secretary of state a certified copy of a final court judgment from a circuit or superior court in the state of Indiana establishing the applicant's right to use the

name applied for in Indiana.
As added by P.L.8-1993, SEC.301. Amended by P.L.178-2002, SEC.105.

IC 23-18-2-9

Reservation of name

Sec. 9. (a) A person may reserve the exclusive right to the use of a name, including a fictitious name by a foreign limited liability company whose name is not available, by delivering an application to the secretary of state. The application must set forth the name and address of the applicant and the name to be reserved. If the secretary of state finds that the name is available, the secretary of state shall reserve the name for the exclusive use of the applicant for renewable one hundred twenty (120) day periods.

(b) The owner of a reserved name may transfer the reservation to another person by delivering to the office of the secretary of state a signed notice of the transfer that states the name and address of the transferee.

As added by P.L.8-1993, SEC.301. Amended by P.L.277-2001, SEC.22.

IC 23-18-2-9.5

Foreign limited liability companies; registration of name

Sec. 9.5. (a) A foreign limited liability company may register its name, or its name with any addition required by IC 23-18-2-8, if the name is distinguishable upon the records of the secretary of state as provided in section 8 of this chapter.

(b) A foreign limited liability company registers its name, or its name with any addition required by IC 23-18-2-8, by delivering to the secretary of state for filing an application setting forth:

- (1) its name, or its name with any addition required by IC 23-18-2-8; and
- (2) the state or country and date of its formation.

(c) The name is registered for the applicant's exclusive use upon the effective date of the application.

(d) A foreign limited liability company whose registration is effective may renew the registration for successive years by delivering to the secretary of state for filing a renewal application that complies with subsection (b). The renewal application must be filed between October 1 and December 31 of the preceding year. The filing of the renewal application renews the registration for the following calendar year.

(e) A foreign limited liability company whose registration is effective may thereafter qualify as a foreign limited liability company under that name or consent in writing to the use of that name by a limited liability company thereafter organized under this article or by another foreign limited liability company thereafter authorized to transact business in Indiana. The registration terminates when the domestic limited liability company is organized or the foreign limited liability company qualifies or consents to the qualification of another

foreign limited liability company under the registered name.
As added by P.L.277-2001, SEC.23.

IC 23-18-2-10

Maintenance of registered office and registered agent; agent's consent; communications contact information; resignation

Sec. 10. (a) A limited liability company must continuously maintain in Indiana the following:

- (1) A registered office.
- (2) A registered agent, who must be one (1) of the following:
 - (A) An individual who resides in Indiana and whose business office is identical with the registered office.
 - (B) A domestic limited liability company, domestic corporation, or nonprofit domestic corporation whose business office is identical with the registered office.
 - (C) A foreign limited liability company, foreign corporation, or nonprofit foreign corporation authorized to transact business in Indiana whose business office is identical with the registered office.

(b) Each limited liability company organized after June 30, 2014, under the laws of Indiana shall file with the secretary of state:

- (1) the registered agent's written consent; or
- (2) a representation that the registered agent has consented.

(c) Each limited liability company formed under the laws of Indiana shall provide to the limited liability company's registered agent, and update from time to time as necessary, the name, business address, and business telephone number of a natural person who is:

- (1) an officer, a director, an employee, or a designated agent of the limited liability company; and
- (2) authorized to receive communications from the registered agent.

The natural person is considered to be the communications contact for the limited liability company.

(d) A registered agent shall retain, in paper or electronic form, the information provided by a limited liability company under subsection (c).

(e) If a limited liability company fails to provide the registered agent with the information required under subsection (c), the registered agent may resign, as provided in section 12 of this chapter, as the registered agent for the limited liability company.

As added by P.L.8-1993, SEC.301. Amended by P.L.63-2014, SEC.29.

IC 23-18-2-11

Change of registered office or agent

Sec. 11. (a) A limited liability company may change its registered office or registered agent by delivering to the secretary of state for filing a statement of change that sets forth the following:

- (1) The name of the limited liability company.
- (2) The street address of its current registered office.

(3) If the current registered office is to be changed, the street address of the new registered office.

(4) The name of its current registered agent.

(5) If the current registered agent is to be changed, the name of the new registered agent and the new registered agent's written consent or a representation that the new registered agent has consented either on the statement or attached to the statement to the appointment.

(6) That after the change or changes are made, the street addresses of its registered office and the business office of its registered agent will be identical.

(b) If a registered agent changes the street address of the registered agent's business office, the registered agent may change the street address of the registered office of any limited liability company that the registered agent serves by notifying the limited liability company in writing of the change and signing either manually or in facsimile and delivering to the secretary of state for filing a statement that complies with the requirements of subsection (a) and states that the limited liability company has been notified of the change.

As added by P.L.8-1993, SEC.301.

IC 23-18-2-12

Resignation of agency; discontinuance of office

Sec. 12. (a) A registered agent may resign the agency appointment by signing and delivering to the secretary of state for filing as described in IC 23-18-12 a statement of resignation. The statement may include a statement that the registered office is also discontinued.

(b) After filing the statement, the secretary of state shall mail one (1) copy to the limited liability company at the limited liability company's principal office and one (1) copy to the registered office, if not discontinued.

(c) The agency appointment is terminated and the registered office discontinued, if discontinued under the statement, thirty-one (31) days after the statement was filed.

As added by P.L.8-1993, SEC.301. Amended by P.L.228-1995, SEC.26.

IC 23-18-2-13

Service of process; perfection; nonexclusive means

Sec. 13. (a) A limited liability company's registered agent is the limited liability company's agent for service of process, notice, or demand required or permitted by law to be served on the limited liability company.

(b) If a limited liability company does not have a registered agent or the agent cannot with reasonable diligence be served, the limited liability company may be served by registered or certified mail, return receipt requested, addressed to the limited liability company at the limited liability company's principal office. Service is perfected under this subsection at the earliest of the following:

- (1) The date the limited liability company receives the mail.
- (2) The date shown on the return receipt, if signed on behalf of the limited liability company.
- (3) Five (5) days after the deposit of the service in the United States mail, if mailed postpaid and correctly addressed.

(c) This section does not prescribe the only means, or necessarily the required means, of serving a limited liability company.

As added by P.L.8-1993, SEC.301.