

### **IC 23-18-3**

#### **Chapter 3. Relations of Members and Managers to Persons Dealing With a Limited Liability Company**

##### **IC 23-18-3-1**

##### **Members and managers as agents; companies existing on or before June 30, 1999**

Sec. 1. (a) Unless otherwise provided in a written operating agreement, a limited liability company existing under this article on or before June 30, 1999, is governed by this section.

(b) Except as provided in subsection (c), each member is an agent of the limited liability company for the purpose of the limited liability company's business or affairs, and the act of any member, including the execution in the name of the limited liability company of an instrument for apparently carrying on in the usual way the business or affairs of the limited liability company, binds the limited liability company, unless:

- (1) the acting member does not have authority to act for the limited liability company in the particular matter; and
- (2) the person with whom the member is dealing has knowledge of the fact that the member does not have the authority to act.

(c) If the articles of organization provide for a manager or managers, and except to the extent provided in the articles of organization:

- (1) a member acting solely in the capacity as a member is not an agent of the limited liability company; and
- (2) each manager is an agent of the limited liability company for the purpose of its business or affairs, and the act of any manager, including the execution in the name of the limited liability company of any instrument, for apparently carrying on in the usual way the business or affairs of the limited liability company binds the limited liability company, unless the manager so acting does not have authority to act for the limited liability company in the particular matter, and the person with whom the manager is dealing has knowledge of the fact that the manager does not have the authority to act.

(d) An act of a manager or a member that is not apparently for the carrying on in the usual way the business of the limited liability company does not bind the limited liability company unless authorized in accordance with a written operating agreement or by the unanimous consent of all members at any time.

*As added by P.L.8-1993, SEC.301. Amended by P.L.269-1999, SEC.1.*

##### **IC 23-18-3-1.1**

##### **Members and managers as agents; companies formed after June 30, 1999**

Sec. 1.1. (a) A limited liability company formed under this article after June 30, 1999, is governed by this section.

(b) Except as provided in subsection (c) or the articles of

organization, each member is an agent of the limited liability company for the purpose of the limited liability company's business or affairs, and the act of any member, including the execution in the name of the limited liability company of an instrument for apparently carrying on in the usual way the business or affairs of the limited liability company, binds the limited liability company, unless:

- (1) the acting member does not have authority to act for the limited liability company in the particular matter; and
- (2) the person with whom the member is dealing has knowledge of the fact that the member does not have the authority to act.

(c) If the articles of organization provide for a manager or managers, and except to the extent provided in the articles of organization:

- (1) a member acting solely in the capacity as a member is not an agent of the limited liability company; and
- (2) each manager is an agent of the limited liability company for the purpose of its business or affairs, and the act of any manager, including the execution in the name of the limited liability company of any instrument, for apparently carrying on in the usual way the business or affairs of the limited liability company binds the limited liability company, unless the manager does not have authority to act for the limited liability company in the particular matter, and the person with whom the manager is dealing has knowledge of the fact that the manager does not have the authority to act.

(d) An act of a manager or member that is not apparently for the carrying on in the usual way the business of the limited liability company does not bind the limited liability company unless authorized in accordance with a written operating agreement or by the unanimous consent of all members at any time.

*As added by P.L.269-1999, SEC.2.*

### **IC 23-18-3-2**

#### **Notice to member or manager imputed to company; exceptions**

Sec. 2. (a) Except as provided in subsection (b), notice to a member of a matter relating to the business or affairs of the limited liability company and the knowledge of the member acting in the particular matter acquired while a member or of which the person had knowledge at the time of becoming a member, and the knowledge of any other member who reasonably could and should have communicated the knowledge to the acting member, is notice to the limited liability company, except in the case of a fraud on the limited liability company committed by or with the consent of that member.

(b) If the articles of organization provide for a manager or managers:

- (1) notice to a manager of a matter relating to the business or affairs of the limited liability company, and the knowledge of the manager acting in the particular matter, acquired while a manager or of which the person had knowledge at the time of becoming a manager, and the knowledge of any other manager

who reasonably could and should have communicated the knowledge to the acting manager, is notice to the limited liability company, except in the case of a fraud on the limited liability company committed by or with the consent of that manager; and

(2) notice to or knowledge of any member of a limited liability company while the member is acting solely in the capacity of a member is not notice to or knowledge of the limited liability company.

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

### **IC 23-18-3-2.5**

#### **Officers**

Sec. 2.5. If the written operating agreement of a limited liability company provides for officers as permitted by IC 23-18-4-4(a)(3), the following apply:

- (1) Each officer has those powers and duties:
  - (A) set forth, generally or specifically in the written operating agreement; or
  - (B) otherwise delegated to an officer from time to time by the:
    - (i) manager or managers of a manager-managed limited liability company; or
    - (ii) member or members of a member-managed limited liability company;

in a manner consistent with the written operating agreement.

(2) Each officer has the status of an agent of the limited liability company for purposes of section 3 of this chapter.

(3) If an officer acts within the officer's apparent authority to carry on the business of the limited liability company in the usual way, the officer's actions bind the limited liability company to the same extent as the actions of a manager would bind a limited liability company under section 1.1(c)(2) and 1.1(d) of this chapter.

(4) Notice to an officer of a matter relating to the business or affairs of the limited liability company, or the knowledge of the officer acting in the particular matter, is notice to the limited liability company to the same extent that notice to a manager or knowledge of a manager would be treated as notice to a limited liability company under section 2(b)(1) of this chapter.

*As added by P.L.40-2013, SEC.7. Amended by P.L.63-2014, SEC.30.*

### **IC 23-18-3-2.6**

#### **Intent; validity of operating agreements and acts before July 1, 2014**

Sec. 2.6. Section 2.5 of this chapter and IC 23-18-4-4(a)(3) are not intended to adversely affect the validity of:

- (1) any provision of a written operating agreement in effect before July 1, 2014, that:
  - (A) provides for an officer or officers; or

(B) sets forth the powers or duties of an officer or officers;  
or  
(2) any act by an officer before July 1, 2014.  
*As added by P.L.63-2014, SEC.31.*

### **IC 23-18-3-3**

#### **Personal liability of members, managers, agents, or employees**

Sec. 3. (a) A member, a manager, an agent, or an employee of a limited liability company is not personally liable for the debts, obligations, or liabilities of the limited liability company, whether arising in contract, tort, or otherwise, or for the acts or omissions of any other member, manager, agent, or employee of the limited liability company. A member, a manager, an agent, or an employee of a limited liability company may be personally liable for the person's own acts or omissions.

(b) This article and Indiana law exclusively govern any conflict between Indiana law and the laws of another state with regard to the liability of a member, a manager, an agent, or an employee of a limited liability company organized and existing under this article for the debts, obligations, or liabilities of the limited liability company, or for the acts or omissions of other members, managers, agents, or employees of the limited liability company.

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

### **IC 23-18-3-4**

#### **Professional services; liability**

Sec. 4. (a) This article does not alter any law applicable to the relationship between a person rendering professional services and a person receiving professional services, including liability arising out of the professional services.

(b) A person rendering professional services as a member, a manager, an employee, or an agent of a limited liability company is personally liable for the consequences of the person's acts or omissions to the extent provided by Indiana law or the laws of another state where the person is considered responsible.

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

### **IC 23-18-3-5**

#### **Member as party to proceeding**

Sec. 5. A member of a limited liability company may not be made a party to a proceeding by or against a limited liability company solely by reason of being a member of the limited liability company, except:

(1) when the object of the proceeding is to enforce a member's right against or liability to the limited liability company; or

(2) in an action brought under IC 23-18-8-1.

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