

SECOND REGULAR SESSION

[PERFECTED]

SENATE COMMITTEE SUBSTITUTE FOR

SENATE BILL NO. 1142

103RD GENERAL ASSEMBLY

5513S.02P

KRISTINA MARTIN, Secretary

AN ACT

To repeal section 347.186, RSMo, and to enact in lieu thereof two new sections relating to limited liability companies.

Be it enacted by the General Assembly of the State of Missouri, as follows:

Section A. Section 347.186, RSMo, is repealed and two new
2 sections enacted in lieu thereof, to be known as sections
3 347.044 and 347.186, to read as follows:

**347.044. 1. Any person may apply to the secretary of
2 state for a certificate of good standing for a domestic
3 limited liability company or a foreign limited liability
4 company.**

**5 2. A certificate of good standing for a domestic
6 limited liability company shall include:**

- 7 (1) The domestic limited liability company's name;
8 (2) When the limited liability company was formed;
9 (3) That the limited liability company was formed
10 under the laws of this state; and
11 (4) That the limited liability company has complied
12 with all the requirements of the corporation division of the
13 secretary of state.

14 **3. A certificate of good standing for a foreign
15 limited liability company shall include:**

16 (1) The name of the limited liability company as
17 registered in the company's home state;

18 (2) The name the foreign limited liability company
19 uses in this state;

20 (3) The name of the state or jurisdiction the limited
21 liability company was formed in; and

22 (4) That the limited liability company has complied
23 with all the requirements of the corporation division of the
24 secretary of state.

25 4. Subject to any qualification stated in the
26 certificate, a certificate of good standing issued by the
27 secretary of state shall be prima facie evidence that the
28 domestic or foreign limited liability company exists and is
29 authorized to transact business in this state.

30 5. Any person may apply to the secretary of state for
31 a certificate of good standing for any individual domestic
32 limited liability company series or a foreign limited
33 liability company series.

34 6. A certificate of good standing for a domestic
35 limited liability company series shall include:

36 (1) The domestic limited liability company series'
37 name;

38 (2) When the limited liability company series was
39 formed;

40 (3) That the limited liability company series was
41 formed under the laws of this state; and

42 (4) That the limited liability company series has
43 complied with all the requirements of the corporation
44 division of the secretary of state.

45 7. A certificate of good standing for a foreign
46 limited liability company series shall include:

47 (1) The name of the limited liability company series
48 as registered in the company's home state;

49 (2) The name the foreign limited liability company
50 series uses in this state;

51 (3) The name of the state or jurisdiction the limited
52 liability company series was formed in; and

53 (4) That the limited liability company series has
54 complied with all the requirements of the corporation
55 division of the secretary of state.

56 8. Subject to any qualification stated in the
57 certificate, a certificate of good standing issued by the
58 secretary of state shall be prima facie evidence that the
59 domestic or foreign limited liability company series exists
60 and is authorized to transact business in this state.

 347.186. 1. An operating agreement may establish or
2 provide for the establishment of a designated series of
3 members, managers, or limited liability company interests
4 having separate rights, powers, or duties with respect to
5 specified property or obligations of the limited liability
6 company or profits and losses associated with specified
7 property or obligations. To the extent provided in the
8 operating agreement, any such series may have a separate
9 business purpose or investment objective.

10 2. (1) Notwithstanding any other provisions of law to
11 the contrary, the debts, liabilities, and obligations
12 incurred, contracted for, or otherwise existing with respect
13 to a particular series shall be enforceable against the
14 assets of such series only, and not against the assets of
15 the limited liability company generally or any other series
16 thereof. Such particular series shall be deemed to have
17 possession, custody, and control only of the books, records,
18 information, and documentation related to such series and

19 not of the books, records, information, and documentation
20 related to the limited liability company as a whole or any
21 other series thereof if all of the following apply:

22 (a) The operating agreement creates one or more series;

23 (b) Separate and distinct records are maintained for
24 or on behalf of any such series;

25 (c) The assets associated with any such series,
26 whether held directly or indirectly, including through a
27 nominee or otherwise, are accounted for separately from the
28 other assets of the limited liability company or of any
29 other series;

30 (d) The operating agreement provides for the
31 limitations on liabilities of a series described in this
32 subdivision;

33 (e) Notice of the limitation on liabilities of a
34 series described in this subdivision is included in the
35 limited liability company's articles of organization; and

36 (f) The limited liability company has filed articles
37 of organization that separately identify each series which
38 is to have limited liability under this section.

39 (2) With respect to a particular series, unless
40 otherwise provided in the operating agreement, none of the
41 debts, liabilities, obligations, and expenses incurred,
42 contracted for or otherwise existing with respect to a
43 limited liability company generally, or any other series
44 thereof, shall be enforceable against the assets of such
45 series, subject to the provisions of subdivision (1) of this
46 subsection.

47 (3) Compliance with paragraphs (e) and (f) of
48 subdivision (1) of this subsection shall constitute notice
49 of such limitation of liability of a series.

50 (4) A series with limited liability shall be treated
51 as a separate entity to the extent set forth in the articles
52 of organization. Each series with limited liability may, in
53 its own name, contract, hold title to assets, grant security
54 interests, sue and be sued, and otherwise conduct business
55 and exercise the powers of a limited liability company under
56 this chapter. The limited liability company and any of its
57 series may elect to consolidate its operations as a single
58 taxpayer to the extent permitted under applicable law, elect
59 to work cooperatively, elect to contract jointly, or elect
60 to be treated as a single business for the purposes of
61 qualification or authorization to do business in this or any
62 other state. Such elections shall not affect the limitation
63 of liability set forth in this section except to the extent
64 that the series have specifically accepted joint liability
65 by contract. **Not later than January 31, 2027, each series**
66 **shall be individually profiled, maintained, and searchable**
67 **as a business entity on the secretary of state's business**
68 **services website in the same manner that a non-series entity**
69 **is profiled, maintained, and searchable.**

70 3. Except in the case of a foreign limited liability
71 company that has adopted a name that is not the name under
72 which it is registered in its jurisdiction of organization,
73 as permitted under sections 347.153 and 347.157, the name of
74 the series with limited liability is required to contain the
75 entire name of the limited liability company and be
76 distinguishable from the names of the other series set forth
77 in the articles of organization. In the case of a foreign
78 limited liability company that has adopted a name that is
79 not the name under which it is registered in its
80 jurisdiction of organization, as permitted under sections
81 347.153 and 347.157, the name of the series with limited

82 liability must contain the entire name under which the
83 foreign limited liability company has been admitted to
84 transact business in this state.

85 4. (1) (a) Upon filing of articles of organization
86 setting forth the name of each series with limited
87 liability, in compliance with section 347.037 or amendments
88 under section 347.041, the series' existence shall begin.

89 (b) Each copy of the articles of organization stamped
90 "Filed" and marked with the filing date shall be conclusive
91 evidence that all required conditions have been met and that
92 the series has been or shall be legally organized and formed
93 under this section and is notice for all purposes of all
94 other facts required to be set forth therein.

95 (c) The name of a series with limited liability under
96 this section may be changed by filing articles of amendment
97 with the secretary of state pursuant to section 347.041,
98 identifying the series whose name is being changed and the
99 new name of such series. If not the same as the limited
100 liability company, the names of the members of a member-
101 managed series or of the managers of a manager-managed
102 series may be changed by an amendment to the articles of
103 organization with the secretary of state.

104 (d) A series with limited liability under this section
105 may be dissolved by filing with the secretary of state
106 articles of amendment pursuant to section 347.041
107 identifying the series being dissolved or by the dissolution
108 of the limited liability company as provided in section
109 347.045. Except to the extent otherwise provided in the
110 operating agreement, a series may be dissolved and its
111 affairs wound up without causing the dissolution of the
112 limited liability company. The dissolution of a series
113 established in accordance with subsection 2 of this section

114 shall not affect the limitation on liabilities of such
115 series provided by subsection 2 of this section. A series
116 is terminated and its affairs shall be wound up upon the
117 dissolution of the limited liability company under section
118 347.045.

119 (e) Articles of organization, amendment, or
120 termination described under this subdivision may be executed
121 by the limited liability company or any manager, person, or
122 entity designated in the operating agreement for the limited
123 liability company.

124 (2) If different from the limited liability company,
125 the articles of organization shall list the names of the
126 members for each series if the series is member-managed or
127 the names of the managers if the series is manager-managed.

128 (3) A series of a limited liability company shall be
129 deemed to be in good standing as long as the limited
130 liability company is in good standing. **A series of a**
131 **limited liability company that is in good standing shall be**
132 **able to obtain a stand-alone certificate of good standing**
133 **from the secretary of state under section 347.044.**

134 (4) The registered agent and registered office for the
135 limited liability company appointed under section 347.033
136 shall serve as the agent and office for service of process
137 for each series in this state.

138 5. (1) An operating agreement may provide for classes
139 or groups of members or managers associated with a series
140 having such relative rights, powers, and duties as an
141 operating agreement may provide and may make provision for
142 the future creation of additional classes or groups of
143 members or managers associated with the series having such
144 relative rights, powers, and duties as may from time to time
145 be established, including rights, powers, and duties senior

146 and subordinate to or different from existing classes and
147 groups of members or managers associated with the series.

148 (2) A series may be managed either by the member or
149 members associated with the series or by the manager or
150 managers chosen by the members of such series, as provided
151 in the operating agreement. Unless otherwise provided in an
152 operating agreement, the management of a series shall be
153 vested in the members associated with such series.

154 (3) An operating agreement may grant to all or certain
155 identified members or managers, or to a specified class or
156 group of the members or managers associated with a series,
157 the right to vote separately or with all or any class or
158 group of the members or managers associated with the series,
159 on any matter. An operating agreement may provide that any
160 member or class or group of members associated with a series
161 shall have no voting rights or ability to otherwise
162 participate in the management or governance of such series,
163 but any such member or class or group of members are owners
164 of the series.

165 (4) Except as modified in this section, the provisions
166 of this chapter which are generally applicable to limited
167 liability companies and their managers, members, and
168 transferees shall be applicable to each particular series
169 with respect to the operation of such series.

170 (5) Except as otherwise provided in an operating
171 agreement, any event specified in this chapter or in an
172 operating agreement that causes a manager to cease to be a
173 manager with respect to a series shall not, in itself, cause
174 such manager to cease to be a manager of the limited
175 liability company or with respect to any other series
176 thereof.

177 (6) Except as otherwise provided in an operating
178 agreement, any event specified in this chapter or in an
179 operating agreement that causes a member to cease to be
180 associated with a series shall not, in itself, cause such
181 member to cease to be associated with any other series,
182 terminate the continued membership of a member in the
183 limited liability company, or cause the termination of the
184 series, regardless of whether such member was the last
185 remaining member associated with such series.

186 (7) An operating agreement may impose restrictions,
187 duties, and obligations on members of the limited liability
188 company or any series thereof as a matter of internal
189 governance, including, without limitation, those with regard
190 to:

191 (a) Choice of law, forum selection, or consent to
192 personal jurisdiction;

193 (b) Capital contributions;

194 (c) Restrictions on, or terms and conditions of, the
195 transfer of membership interests;

196 (d) Restrictive covenants, including noncompetition,
197 nonsolicitation, and confidentiality provisions;

198 (e) Fiduciary duties; and

199 (f) Restrictions, duties, or obligations to or for the
200 benefit of the limited liability company, other series
201 thereof, or their affiliates.

202 6. (1) If a limited liability company with the
203 ability to establish series does not register to do business
204 in a foreign jurisdiction for itself and its series, a
205 series of a limited liability company may itself register to
206 do business as a limited liability company in the foreign
207 jurisdiction in accordance with the laws of the foreign
208 jurisdiction.

209 (2) If a foreign limited liability company, as
210 permitted in the jurisdiction of its organization, has
211 established a series having separate rights, powers, or
212 duties and has limited the liabilities of such series so
213 that the debts, liabilities, and obligations incurred,
214 contracted for, or otherwise existing with respect to a
215 particular series are enforceable against the assets of such
216 series only, and not against the assets of the limited
217 liability company generally or any other series thereof, or
218 so that the debts, liabilities, obligations, and expenses
219 incurred, contracted for, or otherwise existing with respect
220 to the limited liability company generally or any other
221 series thereof are not enforceable against the assets of
222 such series, then the limited liability company, on behalf
223 of itself or any of its series, or any of its series on its
224 own behalf may register to do business in this state in
225 accordance with this chapter. The limitation of liability
226 shall also be stated on the application for registration.
227 As required under section 347.153, the registration
228 application filed shall identify each series being
229 registered to do business in the state by the limited
230 liability company. Unless otherwise provided in the
231 operating agreement, the debts, liabilities, and obligations
232 incurred, contracted for, or otherwise existing with respect
233 to a particular series of such a foreign limited liability
234 company shall be enforceable against the assets of such
235 series only and not against the assets of the foreign
236 limited liability company generally or any other series
237 thereof, and none of the debts, liabilities, obligations,
238 and expenses incurred, contracted for, or otherwise existing
239 with respect to such a foreign limited liability company

240 generally or any other series thereof shall be enforceable
241 against the assets of such series.

242 7. Nothing in sections 347.039, 347.153, or 347.186
243 shall be construed to alter existing Missouri statute or
244 common law providing any cause of action for fraudulent
245 conveyance, including but not limited to chapter 428, or any
246 relief available under existing law that permits a challenge
247 to limited liability.

✓