

§1611. Low-profit limited liability company

1. Purpose. A low-profit limited liability company must at all times significantly further the accomplishment of one or more charitable or educational purposes within the meaning of Section 170(c)(2)(B) of the Internal Revenue Code of 1986, as it may be amended, revised or succeeded, and will not qualify as a low-profit limited liability company but for the relationship to the accomplishment of those charitable or educational purposes.

[PL 2009, c. 629, Pt. A, §2 (NEW); PL 2009, c. 629, Pt. A, §3 (AFF).]

2. Qualifications of low-profit limited liability company to be set forth in certificate of formation. In order to qualify as a low-profit limited liability company pursuant to this section, the limited liability company's certificate of formation must state that:

A. The company intends to qualify as a low-profit limited liability company; [PL 2009, c. 629, Pt. A, §2 (NEW); PL 2009, c. 629, Pt. A, §3 (AFF).]

B. The company must at all times significantly further the accomplishment of one or more of the charitable or educational purposes within the meaning of Section 170(c)(2)(B) of the Internal Revenue Code of 1986, as it may be amended, revised or succeeded, and must list the specific charitable or educational purposes the company will further; [PL 2009, c. 629, Pt. A, §2 (NEW); PL 2009, c. 629, Pt. A, §3 (AFF).]

C. No significant purpose of the company is the production of income or the appreciation of property. The fact that a person produces significant income or capital appreciation is not, in the absence of other factors, conclusive evidence of a significant purpose involving the production of income or the appreciation of property; and [PL 2009, c. 629, Pt. A, §2 (NEW); PL 2009, c. 629, Pt. A, §3 (AFF).]

D. No purpose of the company is to accomplish one or more political or legislative purposes within the meaning of Section 170(c)(2)(D) of the Internal Revenue Code of 1986, or its successor. [PL 2009, c. 629, Pt. A, §2 (NEW); PL 2009, c. 629, Pt. A, §3 (AFF).]

The limited liability company agreement of a low-profit limited liability company must include each statement made in the limited liability company's certification of formation required by this subsection. The fact that the low-profit limited liability company has a certificate of formation filed with the office of the Secretary of State meeting the requirements of this subsection is conclusive evidence that statements set forth in the certificate of formation are included in the low-profit limited liability company's limited liability company agreement.

[PL 2009, c. 629, Pt. A, §2 (NEW); PL 2009, c. 629, Pt. A, §3 (AFF).]

3. Change of status. A company that no longer satisfies the requirements of this section continues to exist as a limited liability company and shall promptly amend its certificate of formation so that its name and purpose no longer identify it as a low-profit limited liability company, L3C or 13C.

[PL 2009, c. 629, Pt. A, §2 (NEW); PL 2009, c. 629, Pt. A, §3 (AFF).]

4. Duties of members and other persons. Notwithstanding section 1521, subsection 3, any company formed as a low-profit limited liability company under this chapter is bound by section 1559 and no member or person may, through the limited liability company agreement or otherwise, restrict or eliminate the duties, including fiduciary duties, set forth in section 1559.

[PL 2009, c. 629, Pt. A, §2 (NEW); PL 2009, c. 629, Pt. A, §3 (AFF).]

5. No limitation. Nothing in this section prevents a limited liability company that is not organized under this section from electing a charitable or educational purpose in whole or in part for doing business under this chapter.

[PL 2009, c. 629, Pt. A, §2 (NEW); PL 2009, c. 629, Pt. A, §3 (AFF).]

SECTION HISTORY

PL 2009, c. 629, Pt. A, §2 (NEW). PL 2009, c. 629, Pt. A, §3 (AFF).

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