

010232556

## SENATE BILL NO. 1001

AMENDMENT IN THE NATURE OF A SUBSTITUTE  
(Proposed by the Senate Committee on Commerce and Labor  
on January 29, 2001)

(Patron Prior to Substitute—Senator Wampler)

A *BILL to amend and reenact §§ 13.1-759, 13.1-763, 13.1-921, 13.1-925, 13.1-1011, 13.1-1015, 50-73.4, 50-73.11, 50-73.132, and 50-73.135 of the Code of Virginia, relating to registered agents of business entities.*

Be it enacted by the General Assembly of Virginia:

1. That §§ 13.1-759, 13.1-763, 13.1-921, 13.1-925, 13.1-1011, 13.1-1015, 50-73.4, 50-73.11, 50-73.132, and 50-73.135 of the Code of Virginia are amended and reenacted as follows:

§ 13.1-759. Application for certificate of authority.

A. A foreign corporation may apply to the Commission for a certificate of authority to transact business in this Commonwealth. The application shall be made on forms prescribed and furnished by the Commission. The application shall set forth:

1. The name of the corporation;
2. The name of the state or country under whose law it is incorporated;
3. The date of incorporation and period of duration;
4. The street address of the foreign corporation's principal office;

5. The address of the proposed registered office of the foreign corporation in this Commonwealth (including both (i) the post-office address with street and number, if any, and (ii) the name of the county or city in which it is located) and the name of its proposed registered agent in this Commonwealth at such address and that the registered agent is (a) *an individual who is* a resident of Virginia and an officer or director of the corporation or a member of the Virginia State Bar or (b) a professional corporation ~~or~~, professional limited liability company *or registered limited liability partnership* registered with the Virginia State Bar under the provisions of § 54.1-3902, the business office of which is identical with the registered office;

6. The names and usual business addresses of the current directors and officers of the foreign corporation; and

7. The number of shares the corporation is authorized to issue, itemized by classes and series, if any, within a class.

B. The foreign corporation shall deliver with the completed application a copy of its articles of incorporation and all amendments thereto duly authenticated by the Secretary of State or other official having custody of corporate records in the state or country under whose law it is incorporated.

C. If the Commission finds that the application complies with the requirements of law and that all required fees have been paid, it shall issue a certificate of authority to transact business in this Commonwealth.

§ 13.1-763. Registered office and registered agent of foreign corporation.

A. Each foreign corporation authorized to transact business in this Commonwealth shall continuously maintain in this Commonwealth:

1. A registered office that may be the same as any of its places of business; and
2. A registered agent, ~~which agent~~ *who* shall be:

a. ~~AAn individual who is~~ a resident of Virginia ~~who is~~, an officer or director of the corporation or a member of the Virginia State Bar, and whose business ~~address~~ *office* is identical with the registered office; or

b. A professional corporation, professional limited liability company or registered limited liability partnership registered with the Virginia State Bar under the provisions of § 54.1-3902, the business office of which is identical with the registered office.

B. The sole duty of the registered agent is to forward to the corporation at its last known address any notice that is served on the registered agent.

§ 13.1-921. Application for certificate of authority.

A. A foreign corporation may apply to the Commission for a certificate of authority to transact business in this Commonwealth. The application shall be made on forms prescribed and furnished by the Commission. The application shall set forth:

1. The name of the corporation, or if the corporation is prevented by § 13.1-829 from using its own name in this Commonwealth, a designated name that satisfies the requirements of subsection B of § 13.1-924.

2. The name of the state or country under whose laws it is incorporated.

3. The date of incorporation and the period of duration of the corporation.

4. The street address of the foreign corporation's principal office.

5. The address of the proposed registered office of the foreign corporation in this Commonwealth (including both (i) the post-office address with street and number, if any, and (ii) the name of the county or city in which it is located), and the name of its proposed registered agent in this Commonwealth at such address and that the registered agent is (a) *an individual who is a resident of Virginia* and an officer or director of the corporation or a member of the Virginia State Bar or (b) a professional corporation ~~or~~, professional limited liability company *or registered limited liability partnership* registered *with the Virginia State Bar* pursuant to § 54.1-3902, the business office of which is identical with the registered office.

6. The names and usual business addresses of the current directors and officers of the foreign corporation.

B. The foreign corporation shall deliver to the Commission with the completed application a copy of its articles of incorporation and all amendments thereto, duly authenticated by the proper official having custody of corporate records in the state or country under whose laws it is incorporated.

C. If the Commission finds that such application complies with the requirements of law, and that all required fees have been paid, it shall issue a certificate of authority to transact business in this Commonwealth.

§ 13.1-925. Registered office and registered agent of foreign corporation.

A. Each foreign corporation authorized to transact business in this Commonwealth shall continuously maintain in this Commonwealth:

1. A registered office which may be the same as any of its places of business.

2. A registered agent ~~which~~, *who* shall be:

a. ~~A~~*An individual who is a resident of this Commonwealth whose business address office is identical with the registered office*, and who is an officer or director of the corporation or a member of the Virginia State Bar; or

b. A professional corporation, professional limited liability company or registered limited liability partnership registered with the Virginia State Bar under § 54.1-3902, the business office of which is identical with the registered office.

B. The sole duty of the registered agent is to forward to the corporation at its last known address any notice served on the registered agent.

§ 13.1-1011. Articles of organization.

A. The articles of organization shall set forth:

1. A name for the limited liability company that satisfies the requirements of § 13.1-1012;

2. The post-office address, including the street and number, if any, of the limited liability company's initial registered office, the name of the city or county in which it is located, the name of its initial registered agent at that office, and that the agent is either (i) *an individual who is a resident of Virginia and either a member or manager of the limited liability company, an officer or director of a corporation that is a member or manager of the limited liability company, a general partner of a general or limited partnership that is a member or manager of the limited liability company, a trustee of a trust that is a member or manager of the limited liability company*, or a member of the Virginia State Bar or (ii) a professional corporation, professional limited liability company or registered limited liability partnership registered with the Virginia State Bar under § 54.1-3902; and

3. The post-office address, including the street and number, if any, of the principal office of the limited liability company, which may be the same as the registered office, but need not be within this Commonwealth.

B. The articles of organization may set forth any other matter that under this chapter is permitted to be set forth in an operating agreement of a limited liability company.

C. The articles of organization need not set forth any of the powers enumerated in this chapter.

§ 13.1-1015. Registered office and registered agent.

A. Each domestic limited liability company and each foreign limited liability company registered pursuant to Article 10 (§ 13.1-1051 et seq.) of this chapter shall continuously maintain in this Commonwealth:

1. A registered office that may be the same as any of its places of business; and

2. A registered agent who shall be either:

a. An individual who is a resident of this Commonwealth and is either (i) a member or manager of the limited liability company, (ii) an officer or director of a corporation that is a member or manager of the limited liability company, (iii) a general partner of a general or limited partnership that is a member or manager of the limited liability company, (iv) a trustee of a trust that is a member *or manager* of the limited liability company, or (v) a member of the Virginia State Bar, and whose business office is identical with the registered office; or

b. A professional corporation, professional limited liability company or registered limited liability partnership registered with the Virginia State Bar under § 54.1-3902, the business office of which is

identical with the registered office.

B. The sole duty of the registered agent is to forward to the limited liability company or foreign limited liability company at its last known address any notice that is served on the registered agent.

§ 50-73.4. Specified office and registered agent.

A. Each domestic limited partnership and each foreign limited partnership registered pursuant to Article 9 (§ 50-73.53 et seq.) of this chapter shall continuously maintain:

1. A specified office, which shall be a place of its business and which may but need not be within this Commonwealth, at which shall be kept the records required to be maintained by § 50-73.8; and

2. A registered agent who shall be either:

a. An individual who is a resident of this Commonwealth and is (i) a general partner of the limited partnership, (ii) an officer or director of a corporate general partner of the limited partnership, (iii) a general partner of a general partner of the limited partnership, (iv) a member or manager of a limited liability company that is a general partner of the limited partnership, (v) a trustee of a trust that is a general partner of the registered limited liability partnership, or (vi) a member of the Virginia State Bar; or

b. A professional corporation, professional limited liability company or registered limited liability partnership registered with the Virginia State Bar under § 54.1-3902; or

~~c. An individual who is a trustee of a trust that is a general partner of the limited partnership.~~

B. The business address of the registered agent shall be within this Commonwealth.

C. The sole duty of the registered agent is to forward to the limited partnership at its last known address any notice that is served on the registered agent.

§ 50-73.11. Certificate of limited partnership.

A. In order to form a limited partnership, a certificate of limited partnership shall be executed and filed in the office of the Commission as set forth in § 50-73.17. The certificate shall set forth:

1. The name of the limited partnership that satisfies the requirements of § 50-73.2;

2. ~~{Repealed.}~~

3. The post-office address of the office at which the records required to be maintained by § 50-73.8 are kept; the name, the business post-office address (including street and number, if any) of the registered agent required to be maintained by § 50-73.4, and that the agent is either (i) an individual who is a resident of Virginia and either a general partner of the limited partnership, an officer or director of a corporate general partner of the limited partnership, a general partner of a general partner of the limited partnership, a member or manager of a limited liability company that is a general partner of the limited partnership, a trustee of a trust that is a general partner of the limited partnership, or a member of the Virginia State Bar or (ii) a professional corporation or professional limited liability company or registered limited liability partnership registered with the Virginia State Bar under § 54.1-3902; and the name of the city or county in which each office is located;

4. The name and the post-office address, including the street and number, if any, of each general partner;

5 through 10. ~~{Repealed.}~~

11 4. The latest date upon which the limited partnership is to be dissolved and its affairs wound up; and

12. ~~{Repealed.}~~

13 5. Any other matters the general partners determine to include therein.

B. A limited partnership is formed at the time of the filing of the certificate of limited partnership in the office of the Commission as set forth in § 50-73.17 or at any later time specified in the certificate of limited partnership if, in either case, there has been substantial compliance with the requirements of this section.

§ 50-73.132. Registered limited liability partnerships.

A. To become a registered limited liability partnership, a partnership shall file with the Commission a statement of registration as a registered limited liability partnership stating: the name of the partnership; the address of its principal office (which may, but need not be, located within the Commonwealth); the post office address, including the street and number, if any, of its initial registered office; the name of the city or county in which the registered office is located; the name of its initial registered agent at that office and that the agent is either (i) an individual who is a resident of Virginia and is either a general partner of the registered limited liability partnership, an officer or director of a corporate general partner of the registered limited liability partnership, a general partner of a general partner of the registered limited liability partnership, a member or manager of the a limited liability company that is a general partner of the registered limited liability partnership, a trustee of a trust that is a general partner of the registered limited liability partnership, or a member of the Virginia State Bar or (ii) a professional corporation, professional limited liability company, or registered limited liability partnership registered with the Virginia State Bar under § 54.1-3902; any other matters that the

183 partnership determines to include; and that the partnership thereby applies for status as a registered  
184 limited liability partnership. A partnership becomes a registered limited liability partnership at the time  
185 of the filing of the initial statement of registration with the Commission or at any later date or time  
186 specified in the statement of registration as provided in subsection J of § 50-73.83.

187 B. The Commission shall register as a registered limited liability partnership any partnership that  
188 submits a completed statement of registration with the required fee.

189 C. The registration of a partnership as a registered limited liability partnership shall be approved by  
190 the partners in the manner provided in the partnership's partnership agreement for amendments to the  
191 partnership agreement or, if no provision is made in the partnership agreement, by all of the partners.

192 D. A partnership that has registered shall continue to be a registered limited liability partnership  
193 until:

194 1. Registration statement is revoked pursuant to subsection D of § 50-73.134; or

195 2. The partnership or limited partnership files with the Commission a statement of cancellation of  
196 registration under § 50-73.137.

197 E. A partnership that has been registered as a registered limited liability partnership under this  
198 chapter is, for all purposes, the same entity that existed before it registered.

199 § 50-73.135. Registered office and registered agent.

200 A. Each registered limited liability partnership and each foreign registered limited liability partnership  
201 registered pursuant to this article shall continuously maintain in this Commonwealth:

202 1. A registered office that may be the same as any of its places of business; and

203 2. A registered agent who shall be either:

204 a. An individual who is a resident of this Commonwealth and is either (i) a general partner of the  
205 registered limited liability partnership, (ii) an officer or director of a corporate general partner of the  
206 registered limited liability partnership, (iii) a general partner of a general partner of the registered limited  
207 liability partnership, (iv) a member or manager of a limited liability company that is a general partner of  
208 the registered limited liability partnership, (v) a trustee of a trust that is a general partner of the  
209 registered limited liability partnership, or (vi) a member of the Virginia State Bar, and whose business  
210 office is identical with the registered office; or

211 b. A professional corporation ~~or~~, professional limited liability company, or *registered* limited liability  
212 partnership registered *with the Virginia State Bar* under § 54.1-3902, the business office of which is  
213 identical with the registered office.

214 B. The registered agent of a registered limited liability partnership or foreign registered limited  
215 liability partnership is the partnership's agent for service of process, notice, or demand required or  
216 permitted by law to be served on the partnership. The sole duty of the registered agent is to forward to  
217 the registered limited liability partnership or foreign registered limited liability partnership at its last  
218 known address any process, notice or demand that is served on the registered agent.

219 C. A registered limited liability partnership or a foreign registered limited liability partnership may  
220 change its registered agent or the address of its registered office, or both, upon filing with the  
221 Commission a certificate of change on a form supplied by the Commission that sets forth:

222 1. The name of the partnership;

223 2. The address of its current registered office;

224 3. If the current address of its registered office is to be changed, the post-office address, including  
225 the street and number, if any, of the new address of its registered office, and the name of the city or  
226 county in which it is located;

227 4. The name of its current registered agent;

228 5. If the current registered agent is to be changed, the name of the new registered agent; and

229 6. That after the change or changes are made, the partnership will be in compliance with the  
230 requirements of this section.

231 D. Whenever its registered agent dies, resigns or ceases to satisfy the requirements of subsection A  
232 of this section, a registered limited liability partnership or foreign registered limited liability partnership  
233 shall promptly execute and file with the Commission a certificate of change.

234 E. If a registered agent changes his business address to another place within this Commonwealth, he  
235 shall change his address for any registered limited liability partnership or foreign registered limited  
236 liability partnership of which he is a registered agent by filing a certificate of change as required in  
237 subsection D, except that it need be signed, either manually or in facsimile, only by the registered agent  
238 and shall recite that a copy of the certificate has been mailed to the partnership at its principal office.

239 F. A registered agent may resign his agency appointment by signing and filing with the Commission  
240 a certificate of resignation accompanied by his certification that he has mailed a copy thereof by  
241 certified mail to the address of the principal office of the partnership set forth in the statement of  
242 registration for the registered limited liability partnership or foreign registered limited liability  
243 partnership. The agency appointment is terminated on the thirty-first day after the date on which the  
244 certificate was filed.

245 G. Whenever a registered limited liability partnership or a foreign registered limited liability  
246 partnership fails to appoint or maintain a registered agent in this Commonwealth or whenever its  
247 registered agent cannot with reasonable diligence be found at his address, the clerk of the Commission  
248 shall be the agent of the partnership upon whom service may be made in accordance with § 12.1-19.1.  
249 H. This section does not prescribe the only means, or necessarily the required means, of serving a  
250 registered limited liability partnership or a foreign registered limited liability partnership.