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HOUSE BILL NO. 2103

Offered January 10, 2007

Prefiled January 8, 2007

A BILL to amend and reenact §§ 13.1-553 and 13.1-1118 of the Code of Virginia, relating to professional corporations and professional limited liability companies.

Patron—Ware, R.L.

Referred to Committee on Commerce and Labor

Be it enacted by the General Assembly of Virginia:

1. That §§ 13.1-553 and 13.1-1118 of the Code of Virginia are amended and reenacted as follows:

§ 13.1-553. Board of directors.

Except as provided in an agreement adopted pursuant to § 13.1-671.1 that is not in conflict with § 13.1-544, a professional corporation organized pursuant to the provisions of this chapter shall be governed by a board of directors, which shall have the full management of the business and affairs of the corporation and continuing exclusive authority to make management decisions on its behalf, *including the power and authority to delegate to its agents, officers, and employees, and to delegate by a management agreement or another agreement with, or otherwise to, other persons managerial duties and tasks related to the corporation's operations,* and no shareholder shall have the power to bind the corporation within the scope of its business or profession merely by virtue of his being a shareholder. To the extent the board of directors is eliminated or its make-up or manner of selection is modified by an agreement adopted pursuant to § 13.1-671.1, only individuals or entities licensed or otherwise legally authorized to render the same professional services within the Commonwealth as the services provided by the professional corporation or its shareholders shall supervise and direct the provision of professional services of that professional corporation or its shareholders within the Commonwealth; however, (i) in the case of a corporation rendering the services of architects, professional engineers, or land surveyors, or any combination thereof, such supervision and direction may be provided by individuals who are employees of the corporation and are not duly licensed to render such professional services so long as at least two-thirds of the individuals providing such supervision and direction are employees of the corporation and duly licensed to render such professional services and (ii) in the case of a corporation rendering the services of certified landscape architects, such supervision and direction may be provided by individuals who are employees of the corporation and are not legally authorized to use the title of certified landscape architect so long as at least two-thirds of the individuals providing such supervision and direction are employees of the corporation and legally authorized to use such a title. The articles of incorporation may prescribe the manner in which the board of directors shall be chosen and the number thereof, subject to the following provisions: a corporation rendering the services of architects, professional engineers, land surveyors and certified landscape architects, or any combination thereof, may elect to its board of directors not more than one-third of its members who are employees of the corporation and are not authorized to render the services of an architect, a professional engineer, land surveyor or certified landscape architect. Provided that no person not duly licensed or otherwise duly authorized to render the professional services of the corporation shall be a member of the board of directors, except as provided for corporations rendering the services of architects, professional engineers, land surveyors or certified landscape architects. The board of directors, including the first board of directors, shall consist of one or more members. The number of directors shall be fixed by the bylaws except as to the number of the first board of directors, which shall be fixed by the articles of incorporation. The number of directors may be increased or decreased from time to time by amendment of the bylaws, unless the articles of incorporation provide that a change in the number of directors shall be made only by amendment of the articles of incorporation. In the absence of a bylaw fixing the number of directors, the number shall be the same as that stated in the articles of incorporation.

§ 13.1-1118. Management.

Unless the articles of organization or an operating agreement provides for management of a professional limited liability company by a manager or managers, management of a professional limited liability company shall be vested in its members. If the articles of organization or an operating agreement provides for management of a professional limited liability company by a manager or managers, the manager shall be an individual or professional business entity duly licensed or otherwise legally authorized to render the same professional services within this Commonwealth that the professional limited liability company was organized for the purpose of rendering. Only members or managers duly licensed or otherwise legally authorized to render the same professional services within

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this Commonwealth shall supervise and direct the provision of professional services within this Commonwealth, *or delegate to their agents, officers, and employees or delegate by a management agreement or another agreement with, or otherwise to, other persons managerial duties and tasks related to the corporation's operations*.