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HOUSE BILL NO. 859

AMENDMENT IN THE NATURE OF A SUBSTITUTE
(Proposed by the House Committee on Commerce and Labor
on February 11, 2010)

(Patrons Prior to Substitute—Delegates Cline and Pogge [HB 966])

A BILL to amend and reenact §§ 13.1-621, 13.1-820, and 13.1-1011 of the Code of Virginia, relating to processing business entity formation documents by the State Corporation Commission.

Be it enacted by the General Assembly of Virginia:

1. That §§ 13.1-621, 13.1-820, and 13.1-1011 of the Code of Virginia are amended and reenacted as follows:

§ 13.1-621. Issuance of certificate of incorporation.

If the Commission finds that the articles of incorporation comply with the requirements of law and that all required fees have been paid, it shall issue a certificate of incorporation.

If the articles of incorporation are routine, the Commission shall (i) determine whether the articles of incorporation comply with the requirements of law and all required fees have been paid and (ii) if so, issue the certificate of incorporation within two business days following their receipt. As used in this section, articles of incorporation are routine if they (a) do not raise novel issues requiring the office of the clerk of the Commission to conduct research or seek legal advice, (b) are not for a corporation of a type included in § 13.1-620, (c) are for a corporation whose number of authorized shares does not exceed one million, and (d) do not exceed 50,000 words, as estimated by the office of the clerk upon receipt of the articles of incorporation.

When the certificate of incorporation is effective, the corporate existence shall begin. Upon becoming effective, the certificate of incorporation shall be conclusive evidence that all conditions precedent required to be performed by the incorporators have been complied with and that the corporation has been incorporated under this chapter.

§ 13.1-820. Issuance of certificate of incorporation.

If the Commission finds that the articles of incorporation comply with the requirements of law and that all required fees have been paid, it shall issue a certificate of incorporation.

If the articles of incorporation are routine, the Commission shall (i) determine whether the articles of incorporation comply with the requirements of law and all required fees have been paid and (ii) if so, issue the certificate of incorporation within two business days following their receipt. As used in this section, articles of incorporation are routine if they (a) do not raise novel issues requiring the office of the clerk of the Commission to conduct research or seek legal advice and (b) do not exceed 50,000 words, as estimated by the office of the clerk upon receipt of the articles of incorporation.

When the certificate of incorporation is effective, the corporate existence shall begin. Upon becoming effective, the certificate of incorporation shall be conclusive evidence that all conditions precedent required to be performed by the incorporators have been complied with and that the corporation has been incorporated under this Act.

§ 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 one of the following: a member or manager of the limited liability company, a member or manager of a limited liability company that is 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 domestic or foreign stock or nonstock corporation, limited liability company or registered limited liability partnership authorized to transact business in the Commonwealth; 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 the 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.

D. If the Commission finds that the articles of organization comply with the requirements of law and that all required fees have been paid, it shall issue a certificate of organization.

60 *E. Upon the filing of routine articles of organization, the Commission shall (i) determine whether the*
61 *articles of organization comply with the requirements of law and all required fees have been paid and*
62 *(ii) if so, issue the certificate of organization within two business days following their receipt. As used*
63 *in this subsection, articles of organization are routine if they (a) do not raise novel issues requiring the*
64 *office of the clerk of the Commission to conduct research or seek legal advice and (b) do not exceed*
65 *50,000 words, as estimated by the office of the clerk upon receipt of the articles of organization.*