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**HOUSE BILL NO. 1893**

Offered January 11, 2017

Prefiled January 10, 2017

A *BILL to amend and reenact §§ 13.1-619, 13.1-634, 13.1-1011, and 13.1-1015 of the Code of Virginia and to amend the Code of Virginia by adding a section numbered 12.1-19.2, relating to registered offices of stock corporations and limited liability companies; service of process on the clerk of the State Corporation Commission; articles of incorporation and articles of organization of youth-controlled online businesses.*

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Patron—Herring

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Referred to Committee on Science and Technology

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**Be it enacted by the General Assembly of Virginia:**

**1. That §§ 13.1-619, 13.1-634, 13.1-1011, and 13.1-1015 of the Code of Virginia are amended and reenacted and that the Code of Virginia is amended by adding a section numbered 12.1-19.2 as follows:**

**§ 12.1-19.2. Service of process; youth-controlled online businesses.**

A. As used in this section:

"Online business" means a commercial enterprise (i) through which a person sells products, services, or advertising online using the communications infrastructure of the Internet and (ii) that is not operated from a specific, identifiable, or dedicated office or other structure.

"Youth-controlled online business" means (i) a domestic stock corporation organized pursuant to Chapter 9 (§ 13.1-601 et seq.) of Title 13.1 in which a majority of the members of the board of directors were, on the effective date of its incorporation, between the ages of 18 and 25 or (ii) a domestic limited liability company formed pursuant to Chapter 12 (§ 13.1-1000 et seq.) in which a majority of the managers of a manager-managed limited liability company or a majority of the members of a member-managed limited liability company were, on the effective date of its formation, between the ages of 18 and 25, which corporation or limited liability company conducts only one or more online businesses.

B. Whenever a youth-controlled online business has set forth, in its articles of incorporation pursuant to § 13.1-619 if it is a corporation or articles of organization pursuant to § 13.1-1011 if it is a limited liability company, the post office address of the clerk of the Commission as the youth-controlled online business's initial registered office, service on the corporation or limited liability company shall be made by leaving two copies of the process for each youth-controlled online business, together with the fee or fees specified in subsection F, in the office of the clerk of the Commission, provided that the youth-controlled online business has provided to the clerk of the Commission the email address of the registered agent of the youth-controlled online business. If the youth-controlled online business has not provided an email address to the clerk, the clerk shall refuse delivery of the process or return the process if delivery was accepted erroneously. The party seeking service shall recite the statute or other authority pursuant to which process is being served.

C. The clerk or any of the clerk's staff shall forthwith send an email message to the registered agent of the youth-controlled online business at the email address provided pursuant to subsection B advising of the delivery of process on the clerk. The email message shall inform the registered agent of the youth-controlled online business that the registered agent may accept the service of process, by appearing in person at the office of clerk and obtaining process from the clerk of the Commission or any of the clerk's staff, within 10 business days following the date the email message is sent. The email message shall also inform the registered agent that failure to accept the process from the clerk of the Commission within such period shall have the same effect as a defendant's refusal to accept service of process in a civil action. The clerk of the Commission may extend the 10-business-day period by not more than 10 additional days if the registered agent of the youth-controlled online business responds to the email within the initial 10-business-day period and provides good cause establishing that such an extension is reasonable. The clerk shall keep a record thereof, including any record of the registered agent's response to the email message and the date, if any, that the registered agent accepted the process from the clerk.

D. The clerk shall file a certificate of compliance with the requirements of this section with the other papers in the proceeding giving rise to the service.

E. Whenever the party or bureau or division of the Commission seeking service has knowledge of the email address of the registered agent of a youth-controlled online business that differs from that on

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59 *record with the Commission, such party may provide the latest known email address of the registered*  
60 *agent of the youth-controlled online business.*

61 *F. The clerk of the Commission shall charge and collect at the time of any delivery of process on the*  
62 *clerk pursuant to this section \$30 for each youth-controlled online business named in the process, which*  
63 *amount may be recovered as taxable costs by the party to the proceeding giving rise to such process if*  
64 *such party prevails in the proceeding.*

65 **§ 13.1-619. Articles of incorporation.**

66 A. The articles of incorporation shall set forth:

67 1. A corporate name for the corporation that satisfies the requirements of § 13.1-630;

68 2. The number of shares the corporation is authorized to issue;

69 3. If more than one class or series of shares is authorized, the number of authorized shares of each  
70 class or series and a distinguishing designation for each class or series; and

71 4. The address of the corporation's initial registered office (including both (i) the post-office address  
72 with street and number, if any, and (ii) the name of the city or county in which it is located), and the  
73 name of its initial registered agent at that office, and that the agent is either (i) an individual who is a  
74 resident of Virginia and either a director of the corporation or a member of the Virginia State Bar or (ii)  
75 a domestic or foreign stock or nonstock corporation, limited liability company, or registered limited  
76 liability partnership authorized to transact business in the Commonwealth. *However, if the articles of*  
77 *incorporation provide that the corporation is organized as a youth-controlled online business as defined*  
78 *in § 12.1-19.2, the articles of incorporation may set forth the address of the clerk of the Commission in*  
79 *lieu of an address of the corporation's initial registered office if the initial registered agent is an*  
80 *individual who is a resident of Virginia and a director of the corporation, regardless that the initial*  
81 *registered agent is not at the clerk's address. Articles of incorporation that provide that the corporation*  
82 *is organized as a youth-controlled online business shall not be accepted for filing unless each*  
83 *incorporator signing and delivering the articles of incorporation to the Commission for filing provides a*  
84 *copy of a valid motor vehicle operator's license for each member of the initial board of directors*  
85 *establishing to the satisfaction of the clerk that a majority of such initial directors will be, on the*  
86 *effective date of its incorporation, between the ages of 18 and 25. The designation by a youth-controlled*  
87 *online business of the address of the clerk of the Commission in lieu of an address of the corporation's*  
88 *initial registered office shall not be valid beyond the first anniversary of the incorporation of the*  
89 *corporation, by which date the youth-controlled online business shall designate a registered office by*  
90 *filing a statement of change pursuant to § 13.1-635, the provisions of § 12.1-19.2 shall no longer be*  
91 *applicable, and the address of the clerk of the Commission shall be discontinued.*

92 B. The articles of incorporation may set forth:

93 1. The names and addresses of the individuals who are to serve as the initial directors;

94 2. Any provision defining or denying the preemptive right of shareholders to acquire unissued shares  
95 of the corporation;

96 3. Provisions not inconsistent with law:

97 a. Stating the purpose or purposes for which the corporation is organized;

98 b. Regarding the management of the business and regulation of the affairs of the corporation;

99 c. Defining, limiting, and regulating the powers of the corporation, its directors, and shareholders;

100 d. Establishing a par value for authorized shares or classes or series of shares; and

101 4. Any provision that under this chapter is required or permitted to be set forth in the bylaws.

102 C. The articles of incorporation need not set forth any of the corporate powers enumerated in this  
103 chapter.

104 D. Provisions of the articles of incorporation may be made dependent upon facts objectively  
105 ascertainable outside the articles of incorporation in accordance with subsection L of § 13.1-604.

106 **§ 13.1-634. Registered office and registered agent.**

107 A. Each corporation shall continuously maintain in this Commonwealth:

108 1. ~~A~~ *Unless provided otherwise in § 13.1-619, a registered office that may be the same as any of its*  
109 *places of business; and*

110 2. A registered agent, who shall be:

111 a. An individual who is a resident of this Commonwealth and either an officer or director of the  
112 corporation or a member of the Virginia State Bar, and whose business office is identical with the  
113 registered office; or

114 b. A domestic or foreign stock or nonstock corporation, limited liability company or registered  
115 limited liability partnership authorized to transact business in this Commonwealth, the business office of  
116 which is identical with the registered office; provided such a registered agent (i) shall not be its own  
117 registered agent and (ii) shall designate by instrument in writing, acknowledged before a notary public,  
118 one or more natural persons at the office of the registered agent upon whom any process, notice or  
119 demand may be served and shall continuously maintain at least one such person at that office. Whenever  
120 any such person accepts service, a photographic copy of such instrument shall be attached to the return.

B. The sole duty of the registered agent is to forward to the corporation at its last known address any process, notice, or demand that is served on the registered agent *or accepted by the registered agent as provided in § 12.1-19.2.*

**§ 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. *However, if the articles of organization provide that the limited liability company is organized as a youth-controlled online business as defined in § 12.1-19.2, the articles of organization may set forth the address of the clerk of the Commission in lieu of an address of the limited liability company's initial registered office if the initial registered agent is an individual who is a resident of Virginia and a member or manager of the limited liability company, regardless that the initial registered agent is not at the clerk's address; 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. *However, if the articles of organization provide that the limited liability company is organized as a youth-controlled online business as defined in § 12.1-19.2, the articles of organization shall set forth a post office address other than that of the clerk of the Commission as the principal office of the limited liability company.*

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.

*E. Articles of organization that provide that the limited liability company is organized as a youth-controlled online business shall not be accepted for filing unless each person signing and delivering the articles of organization to the Commission for filing provides a copy of a valid motor vehicle operator's license for each manager of a manager-managed limited liability company or each member of a member-managed limited liability company establishing to the satisfaction of the clerk that a majority of the managers of a manager-managed limited liability company or a majority of the members of a member-managed limited liability company will be, on the effective date of its formation, between the ages of 18 and 25.*

*F. The designation by a youth-controlled online business of the address of the clerk of the Commission in lieu of an address of the limited liability company's initial registered office shall not be valid beyond the first anniversary of the formation of the limited liability company, by which date the youth-controlled online business shall designate a registered office by filing a statement of change pursuant to § 13.1-1016, the provisions of § 12.1-19.2 shall no longer be applicable, and the address of the clerk of the Commission shall be discontinued.*

**§ 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 the Commonwealth:

1. ~~A~~ *Unless provided otherwise in § 13.1-1011*, 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 the Commonwealth and is (i) a member or manager of the limited liability company, (ii) a member or manager of a limited liability company that is a member or manager of the limited liability company, (iii) an officer or director of a corporation that is a member or manager of the limited liability company, (iv) a general partner of a general or limited partnership that is a member or manager of the limited liability company, (v) a trustee of a trust that is a member or manager of the limited liability company, or (vi) a member of the Virginia State Bar, and whose business office is identical with the registered office;

182 b. A domestic or foreign stock or nonstock corporation, limited liability company, or registered  
183 limited liability partnership authorized to transact business in the Commonwealth, the business office of  
184 which is identical with the registered office; provided such a registered agent (i) shall not be its own  
185 registered agent and (ii) shall designate by instrument in writing, acknowledged before a notary public,  
186 one or more natural persons at the office of the registered agent upon whom any process, notice, or  
187 demand may be served and shall continuously maintain at least one such person at that office. Whenever  
188 any such person accepts service, a photographic copy of such instrument shall be attached to the return;  
189 or

190 c. A Virginia resident who is an officer of the limited liability company, provided that such a  
191 registered agent or a natural person designated by the registered agent shall be available during regular  
192 business hours at the registered office to accept service of any process, notice, or demand. Whenever  
193 any such person accepts service, a photographic copy of such instrument shall be attached to the return.  
194 As used in this subdivision, "officer of the limited liability company" means any employee of the  
195 limited liability company, other than a member or manager of the limited liability company, who has  
196 been designated by the limited liability company by instrument in writing as a person upon whom any  
197 process, notice, or demand may be served.

198 B. The sole duty of the registered agent is to forward to the limited liability company or foreign  
199 limited liability company at its last known address any process, notice, or demand that is served on the  
200 registered agent *or accepted by the registered agent as provided in § 12.1-19.2.*