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HOUSE BILL NO. 309

Offered January 11, 1996

A *BILL* to amend and reenact § 13.1-603 of the Code of Virginia, relating to limited liability companies.

Patron—Tate

Referred to Committee on Corporations, Insurance and Banking

Be it enacted by the General Assembly of Virginia:**1. That § 13.1-603 of the Code of Virginia is amended and reenacted as follows:**

§ 13.1-603. Definitions.

In this chapter:

"Articles of incorporation" means all documents constituting, at any particular time, the charter of a corporation. It includes the original charter issued by the General Assembly, a court or the Commission and all amendments including certificates of merger, except a certificate of merger with a subsidiary pursuant to § 13.1-719, consolidation, serial designation, reduction or correction. It excludes articles of exchange filed by an acquiring corporation. When the articles of incorporation have been restated pursuant to any articles of amendment or merger, it includes only the restated articles of incorporation, including any articles of serial designation, without the accompanying articles of amendment or merger.

"Authorized shares" means the shares of all classes a domestic or foreign corporation is authorized to issue.

"Certificate," when relating to articles filed with the Commission, means the order of the Commission that makes the articles effective, together with the articles.

"Commission" means the State Corporation Commission of Virginia.

"Conspicuous" means so written that a reasonable person against whom the writing is to operate should have noticed it. For example, printing in italics or boldface or contrasting color, or typing in capitals or underlined, is conspicuous.

"Corporation" or "domestic corporation" means a corporation authorized by law to issue shares, irrespective of the nature of the business to be transacted, organized under this Act or existing pursuant to the laws of this Commonwealth on January 1, 1986, or which, by virtue of articles of incorporation, amendment, or merger, has become a domestic corporation of this Commonwealth, even though also being a corporation organized under laws other than the laws of this Commonwealth.

"Deliver" includes mail.

"Derivative proceeding" means a civil suit in the right of a domestic corporation or, to the extent provided in Article 8.1 (§ 13.1-672.1 et seq.) of Chapter 9 of this title, a foreign corporation.

"Distribution" means a direct or indirect transfer of money or other property, except its own shares, or incurrence of indebtedness by a corporation to or for the benefit of its shareholders in respect of any of its shares. A distribution may be in the form of a declaration or payment of a dividend; a purchase, redemption, or other acquisition of shares; a distribution of indebtedness of the corporation; or otherwise. Distribution does not include acquisition by a corporation of its shares from the estate or personal representative of a deceased shareholder, or any other shareholder, but only to the extent the acquisition is effected using the proceeds of insurance on the life of such deceased shareholder and the board of directors approved the policy and the terms of the redemption prior to the shareholder's death.

"Domestic limited liability company" has the same meaning as specified in § 13.1-1002.

"Domestic limited partnership" has the same meaning as specified in § 50-73.1.

"Effective date of notice" is defined in § 13.1-610.

"Employee" includes an officer but not a director. A director may accept duties that make him also an employee.

"Entity" includes corporation and foreign corporation; nonstock corporation; profit and not-for-profit unincorporated association; *limited liability company*; business trust, estate, partnership, trust, and two or more persons having a joint or common economic interest; and state, United States and foreign government.

"Foreign corporation" means a corporation authorized by law to issue shares, organized under laws other than the laws of this Commonwealth.

"Foreign limited liability company" has the same meaning as specified in § 13.1-1002.

"Foreign limited partnership" has the same meaning as specified in § 50-73.1.

"Government subdivision" includes authority, county, district, and municipality.

"Includes" denotes a partial definition.

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60 "Individual" includes the estate of an incompetent or deceased individual.
61 "Means" denotes an exhaustive definition.
62 "Notice" is defined in § 13.1-610.
63 "Person" includes individual and entity.
64 "Principal office" means the office, in or out of this Commonwealth, where the principal executive
65 offices of a domestic or foreign corporation are located, or, if there are no such offices, the office, in or
66 out of this Commonwealth, so designated by the board of directors. The designation of the principal
67 office in the most recent annual report filed pursuant to § 13.1-775 shall be conclusive for purposes of
68 this chapter.
69 "Proceeding" includes civil suit and criminal, administrative, and investigatory action conducted by a
70 governmental agency.
71 "Record date" means the date established under Article 7 (§ 13.1-638 et seq.) or Article 8 (§ 13.1-654
72 et seq.) of this chapter on which a corporation determines the identity of its shareholders for purposes of
73 this chapter.
74 "Share" means the unit into which the proprietary interests in a corporation are divided.
75 "Shareholder" means the person in whose name shares are registered in the records of the
76 corporation, the beneficial owner of shares to the extent of the rights granted by a nominee certificate on
77 file with a corporation, or the beneficial owner of shares held in a voting trust.
78 "State" when referring to a part of the United States, includes a state and commonwealth, and their
79 agencies and governmental subdivisions; and a territory and insular possession, and their agencies and
80 governmental subdivisions, of the United States.
81 "Subscriber" means a person who subscribes for shares in a corporation, whether before or after
82 incorporation.
83 "United States" includes district, authority, bureau, commission, department, and any other agency of
84 the United States.
85 "Voting group" means all shares of one or more classes or series that under the articles of
86 incorporation or this chapter are entitled to vote and be counted together collectively on a matter at a
87 meeting of shareholders. All shares entitled by the articles of incorporation or this chapter to vote
88 generally on the matter are for that purpose a single voting group.