

1 Article 2.

2 Purposes, Powers, Formation, Annual Report, Name, Registered Office, and Agent.

3 Part 1. Purposes and Powers.

4 **§ 57C-2-01. Purposes.**

5 (a) Every limited liability company formed under this Chapter has the purpose of
6 engaging in any lawful business unless a more limited lawful purpose is set forth in its articles
7 of organization.

8 (b) A domestic or foreign limited liability company engaging in a business that is
9 subject to regulation under another statute of this State may be formed or authorized to transact
10 business under this Chapter only if permitted by and subject to all limitations of the other
11 statute giving effect to subsection (c) of this section.

12 (c) Subsections (a) and (b) of this section to the contrary notwithstanding and except as
13 set forth in this subsection, a domestic or foreign limited liability company shall engage in
14 rendering professional services only to the extent that a professional corporation acting
15 pursuant to Chapter 55B of the General Statutes or a corporation acting pursuant to Chapter 55
16 of the General Statutes may engage in rendering professional services under the conditions and
17 limitations imposed by an applicable licensing statute. Chapter 55B of the General Statutes and
18 each applicable licensing statute are deemed amended to provide that professionals licensed
19 under the applicable licensing statute may render professional services through a domestic or
20 foreign limited liability company. For purposes of applying the provisions, conditions, and
21 limitations of Chapter 55B of the General Statutes and the applicable licensing statute to
22 domestic and foreign limited liability companies that engage in rendering professional services,
23 (i) unless the context clearly requires otherwise, references to Chapter 55 of the General
24 Statutes (the North Carolina Business Corporation Act) shall be treated as references to this
25 Chapter, and references to a "corporation" or "foreign corporation" shall be treated as
26 references to a limited liability company or foreign limited liability company, respectively, (ii)
27 members shall be treated in the same manner as shareholders of a professional corporation, (iii)
28 managers and directors shall be treated in the same manner as directors of a professional
29 corporation, (iv) the persons signing the articles of organization of a limited liability company
30 shall be treated in the same manner as the incorporators of a professional corporation, and (v)
31 the name of a domestic or foreign limited liability company so engaged shall comply with
32 Article 3 of Chapter 55D of the General Statutes and, in addition, shall contain the word
33 "Professional" or the abbreviation "P.L.L.C." or "PLLC". For purposes of this subsection,
34 "applicable licensing statute" shall mean those provisions of the General Statutes referred to in
35 G.S. 55B-2(6).

36 Nothing in this Chapter shall be interpreted to abolish, modify, restrict, limit, or alter the
37 law in this State applicable to the professional relationship and liabilities between the
38 individual furnishing the professional services and the person receiving the professional
39 services, the standards of professional conduct applicable to the rendering of the services, or
40 any responsibilities, obligations, or sanctions imposed under applicable licensing statutes. A
41 member, manager, director, or executive of a professional limited liability company is not
42 individually liable, directly or indirectly, including by indemnification, contribution,
43 assessment, or otherwise, for debts, obligations, and liabilities of, or chargeable to, the
44 professional limited liability company that arise from errors, omissions, negligence,
45 malpractice, incompetence, or malfeasance committed by another member, manager, director,
46 executive, employee, agent, or other representative of the professional limited liability
47 company; provided, however, nothing in this Chapter shall affect the liability of a member,
48 manager, director, or executive of a professional limited liability company for his or her own
49 errors, omissions, negligence, malpractice, incompetence, or malfeasance committed in the
50 rendering of professional services.

1 (d) L3C. – Formation and operation of a limited liability company as a low-profit
2 limited liability company is a lawful purpose. A low-profit limited liability company is a
3 limited liability company whose articles of organization state that the company is formed for
4 both a business purpose and a charitable purpose that requires operation of the company in
5 accordance with the requirements of this subsection. A company that operates in accordance
6 with these requirements is considered a for-profit entity and not a charitable entity for all tax
7 purposes. A company's failure to operate in accordance with these requirements does not affect
8 its status as a limited liability company. The charitable purpose requirements are as follows:

- 9 (1) To accomplish one or more charitable or educational purposes within the
10 meaning of section 170(c)(2)(B) of the Code, as defined in G.S. 105-228.90.
11 (2) To operate so that no significant purpose of the company is the production of
12 income or the appreciation of property. The fact that a company produces
13 significant income or capital appreciation is not, in the absence of other
14 factors, conclusive evidence of a significant purpose to produce income or
15 accumulate capital.
16 (3) To operate so that no purpose of the company is to accomplish one or more
17 political or legislative purposes within the meaning of section 170(c)(2)(D)
18 of the Code, as defined in G.S. 105-228.90. (1993, c. 354, s. 1; 1995, c. 351,
19 s. 21; 1999-362, s. 3; 2001-358, s. 26; 2001-387, ss. 55, 173, 175(a);
20 2001-413, s. 6; 2010-187, s. 1.)
21

22 **§ 57C-2-02. Powers of the limited liability company.**

23 Unless its articles of organization or this Chapter provide otherwise, each limited liability
24 company has the same powers as an individual to do all things necessary or convenient to carry
25 out its business and affairs, including, without limitation, power:

- 26 (1) To sue and be sued, complain, and defend in its own name;
27 (2) To make and amend operating agreements, not inconsistent with its articles
28 of organization or with the laws of this State, for managing the business and
29 regulating the affairs of the limited liability company;
30 (3) To purchase, receive, lease, or otherwise acquire, and own, hold, improve,
31 use, and otherwise deal with, real or personal property, or any legal or
32 equitable interest in property, wherever located;
33 (4) To sell, convey, mortgage, pledge, lease, exchange, and otherwise dispose of
34 all or any part of its property;
35 (5) To purchase, receive, subscribe for, or otherwise acquire; own, hold, vote,
36 use, sell, mortgage, lend, pledge, or otherwise dispose of; and deal in and
37 with shares or other interests in, or obligations of, any other entity;
38 (6) To make contracts and guarantees, incur liabilities, borrow money, issue its
39 notes, bonds, and other obligations (which may be convertible into or
40 include the option to purchase other interests in the limited liability
41 company), and secure any of its obligations by mortgage or pledge of any of
42 its property, franchises, or income;
43 (7) To lend money, invest and reinvest its funds, and receive and hold real and
44 personal property as security for repayment;
45 (8) To be a promoter, partner, member, associate, or manager of any
46 partnership, joint venture, trust, or other entity;
47 (9) To conduct its business, locate offices, and exercise the powers granted by
48 this Chapter within or without this State;
49 (10) To elect or appoint managers, directors, executives, officers, employees, and
50 agents of the limited liability company, define their duties, fix their
51 compensation, and lend them money and credit;

- 1 (11) To pay pensions and establish pension plans, pension trusts, profit-sharing
2 plans, and other benefit or incentive plans for any or all of its current or
3 former managers, directors, executives, officers, employees, and agents;
4 (12) To make donations for the public welfare or for charitable, religious,
5 cultural, scientific, or educational purposes;
6 (13) To transact any lawful business that will aid governmental policy;
7 (14) To make payments or donations, or do any other act, not inconsistent with
8 law, that furthers the business and affairs of the limited liability company;
9 (15) To provide insurance for its benefit on the life or physical or mental ability
10 of any of its managers, directors, executives, officers, or employees or on the
11 life or physical or mental ability of any owner of any interest in the limited
12 liability company for the purpose of acquiring the interest owned by him at
13 the time of his death or disability, and for these purposes the limited liability
14 company is deemed to have an insurable interest in its managers, directors,
15 executives, officers, employees, or members and other interest owners; and
16 to provide insurance for its benefit on the life or physical or mental ability of
17 any other person in whom it has an insurable interest; and
18 (16) To render professional services, subject to G.S. 57C-2-01(c). (1993, c. 354,
19 s. 1; 2001-387, s. 56.)
20

21 **§§ 57C-2-03 through 57C-2-19. Reserved for future codification purposes.**
22

23 Part 2. Formation; Articles of Organization; Amendment of Articles; Annual Report.

24 **§ 57C-2-20. Formation.**

25 (a) One or more persons may form a limited liability company by delivering executed
26 articles of organization to the Secretary of State for filing. A limited liability company may also
27 be formed through the conversion of another business entity pursuant to Part 1 of Article 9A of
28 this Chapter.

29 (b) (1) When the filing by the Secretary of State of the articles of organization
30 becomes effective, the proposed organization becomes a limited liability
31 company subject to this Chapter and to the purposes, conditions, and
32 provisions stated in the articles of organization.

33 (2) Filing of the articles of organization by the Secretary of State is conclusive
34 evidence of the formation of the limited liability company, except in a
35 proceeding by the State to cancel or revoke the articles of organization or
36 involuntarily dissolve the limited liability company.

37 (c) Organization of a limited liability company requires one or more initial members
38 and any further action as may be determined by the initial member or members. If initial
39 members are not identified in the articles of organization of a limited liability company in the
40 manner provided in G.S. 57C-3-01(a), the organizers shall hold one or more meetings at the
41 call of a majority of the organizers to identify the initial members of the limited liability
42 company. Unless otherwise provided in this Chapter or in the articles of organization of the
43 limited liability company, all decisions to be made by the organizers at such meetings shall
44 require the approval, consent, agreement, or ratification of a majority of the organizers. Unless
45 otherwise provided in the articles of organization, the organizers may, in lieu of a meeting, take
46 action as described in this subsection by written consent signed by all of the organizers. The
47 written consent may be incorporated in, or otherwise made part of, the initial written operating
48 agreement of the limited liability company. (1993, c. 354, s. 1; 1997-485, s. 28; 1999-189, s.
49 2.2; 1999-369, s. 3.4; 1999-456, s. 50; 2000-140, ss. 10(a), 10(b); 2001-387, s. 57.)
50

51 **§ 57C-2-21. Articles of organization.**

1 (a) The articles of organization must set forth all of the following:

- 2 (1) A name for the limited liability company that satisfies the provisions of G.S.
3 55D-20 and G.S. 55D-21.
- 4 (2) If the limited liability company is to dissolve by a specific date, the latest
5 date on which the limited liability company is to dissolve. If no date for
6 dissolution is specified, there shall be no limit on the duration of the limited
7 liability company.
- 8 (3) The name and address of each person executing the articles of organization
9 and whether the person is executing the articles of organization in the
10 capacity of a member or an organizer.
- 11 (4) The street address, and the mailing address if different from the street
12 address, of the limited liability company's initial registered office, the county
13 in which the initial registered office is located, and the name of the limited
14 liability company's initial registered agent at that address.
- 15 (4a) The street address, and the mailing address if different from the street
16 address, of the limited liability company's principal office, if any, and the
17 county in which the principal office, if any, is located.
- 18 (5) Unless all of the members by virtue of their status as members shall be
19 managers of the limited liability company, a statement that, except as
20 provided in G.S. 57C-3-20(a), the members shall not be managers by virtue
21 of their status as members.
- 22 (6) If the limited liability company is formed as a low-profit limited liability
23 company, a statement that operation of the company must meet the
24 charitable purpose requirements of G.S. 57C-2-01(d).

25 (b) The articles of organization may set forth any other provision, not inconsistent with
26 law, including any other matter that under this Chapter is permitted to be set forth in an
27 operating agreement.

28 (c) The articles of organization need not set forth any of the powers enumerated in this
29 Chapter. (1993, c. 354, s. 1; 1999-189, s. 2.3; 2000-140, s. 101(t); 2001-358, s. 27; 2001-387,
30 ss. 58, 173, 175(a); 2001-413, s. 6; 2010-187, s. 2.)

31
32 **§ 57C-2-22. Amendment of articles of organization.**

33 (a) The articles of organization shall be amended when:

- 34 (1) There is a change in the name of the limited liability company;
35 (2) There is a false or erroneous statement in the articles of organization;
36 (3) There is a change in the time as stated in the articles of organization for the
37 dissolution of the limited liability company; or
38 (4) The members desire to make a change in the articles of organization.

39 (b) Unless otherwise provided in the articles of organization or a written operating
40 agreement, any amendment to the articles of organization shall require the unanimous vote of
41 the members or, if no initial members of the limited liability company have been identified in
42 the manner provided in this Chapter, by the unanimous vote of the organizers. (1993, c. 354, s.
43 1; 1999-189, s. 2.4; 2000-140, s. 101(t).)

44
45 **§ 57C-2-22.1. Restated articles of organization.**

46 (a) A limited liability company may restate its articles of organization at any time with
47 or without member action.

48 (b) The restated articles of organization may include one or more amendments to the
49 articles of organization. Unless otherwise provided in the articles of organization or a written
50 operating agreement, any amendment requires the unanimous vote of the members or, if no
51 initial members of the limited liability company have been identified in the manner provided in

1 this Chapter, by the unanimous vote of the organizers. The restated articles of organization may
2 include a statement of the address of the current registered office and the name of the current
3 registered agent of the limited liability company.

4 (c) A limited liability company restating its articles of organization shall deliver to the
5 Secretary of State for filing articles of restatement that:

6 (1) Set forth the name of the limited liability company.

7 (2) Attach as an exhibit thereto the text of the restated articles of organization.

8 (3) State that the restated articles of organization do not contain an amendment
9 or, if the articles do contain an amendment, that there is an amendment that
10 was approved as required by this Chapter.

11 (d) Duly adopted restated articles of organization supersede the original articles of
12 organization and all amendments to them.

13 (e) The Secretary of State may certify restated articles of organization as the articles of
14 organization currently in effect, without including the other information required by subsection
15 (c) of this section. (1997-485, s. 18; 1999-189, s. 2.5; 2000-140, s. 101(t).)

16
17 **§ 57C-2-23. Annual report for Secretary of State.**

18 (a) Requirement and Content. – Each domestic limited liability company other than a
19 professional limited liability company governed by G.S. 57C-2-01(c) and each foreign limited
20 liability company authorized to transact business in this State must file an annual report with
21 the Secretary of State on a form prescribed by the Secretary and in the manner required by the
22 Secretary. The annual report must specify the year to which the report applies and must set out
23 the information listed in this subsection. The information must be current as of the date the
24 company completes the report. If the information in the company's most recent annual report
25 has not changed, the company may certify on its annual report that the information has not
26 changed in lieu of restating the information.

27 The following information must be included on an annual report of a limited liability
28 company:

29 (1) The name of the limited liability or foreign limited liability company and the
30 state or country under whose law it is formed.

31 (2) The street address, and the mailing address if different from the street
32 address, of the registered office, the county in which the registered office is
33 located, and the name of its registered agent at that office in this State, and a
34 statement of any change of the registered office or registered agent, or both.

35 (3) The address and telephone number of its principal office.

36 (4) The names and business addresses of its managers or, if the limited liability
37 company has never had members, its organizers.

38 (5) A brief description of the nature of its business.

39 (b) Repealed by Session Laws 2010-31, s. 31.4(b), effective June 30, 2010.

40 (c) Notice and Due Date. – The Secretary of State must notify limited liability
41 companies of the annual report filing requirement. The first annual report of a limited liability
42 company is due by April 15th of the year following the calendar year in which the company
43 files its articles of organization with the Secretary of State. Each subsequent annual report is
44 due by April 15.

45 (d) Incomplete Report. – If an annual report does not contain the information required
46 by this section, the Secretary of State shall promptly notify the reporting domestic or foreign
47 limited liability company in writing and return the report to it for correction. If the report is
48 corrected to contain the information required by this section and delivered to the Secretary of
49 State within 30 days after the effective date of notice, it is deemed to be timely filed.

50 (e) Amendments. – Amendments to any previously filed annual report may be filed
51 with the Secretary of State at any time for the purpose of correcting, updating, or augmenting

1 the information contained in the annual report. (1993, c. 354, s. 1; 1997-475, s. 6.7; 2001-387,
2 ss. 59, 59A; 2010-31, s. 31.4(b).)

3
4 **§§ 57C-2-24 through 57C-2-29. Reserved for future codification purposes.**

5
6 **§ 57C-2-30 through 57C-2-34:** Repealed by Session Laws 2001-358, s. 30, effective January
7 1, 2002.

8
9 **§§ 57C-2-35 through 57C-2-39:** Reserved for future codification purposes.

10
11 **Part 4. Registered Office and Registered Agent.**

12 **§ 57C-2-40. Registered office and registered agent.**

13 Each limited liability company must maintain a registered office and registered agent as
14 required by Article 4 of Chapter 55D of the General Statutes and is subject to service on the
15 Secretary of State under that Article. (1993, c. 354, s. 1; 2000-140, s. 101(g); 2001-358, s.
16 49(a); 2001-387, ss. 173, 175(a); 2001-413, s. 6.)

17
18 **§§ 57C-2-41 through 57C-2-42:** Repealed by Session Laws 2001-358, s. 49, effective January
19 1, 2002.

20
21 **§ 57C-2-43. Service on limited liability company.**

22 (a) A limited liability company's registered agent is an agent of the limited liability
23 company for service of process, notice, or demand required or permitted by law to be served on
24 the limited liability company.

25 (b) Whenever a limited liability company shall fail to appoint or maintain a registered
26 agent in this State, or whenever its registered agent cannot with due diligence be found at the
27 registered office, then the Secretary of State shall be an agent of the limited liability company
28 upon whom any process, notice, or demand may be served. Service on the Secretary of State of
29 any such process, notice, or demand shall be made by delivering to and leaving with the
30 Secretary of State or with any clerk authorized by the Secretary of State to accept service of
31 process, duplicate copies of the process, notice, or demand and the fee required by G.S.
32 57C-1-22(b). In the event any such process, notice, or demand is served on the Secretary of
33 State in the manner provided for in this section, the Secretary of State shall immediately mail
34 one of the copies thereof, by registered or certified mail, return receipt requested, to the limited
35 liability company at its principal office or, if there is no mailing address for the principal office
36 on file, to the limited liability company at its registered office. Service on a limited liability
37 company under this subsection shall be effective for all purposes from and after the date of the
38 service on the Secretary of State.

39 (c) The Secretary of State shall keep a record of all processes, notices, and demands
40 served upon the Secretary of State under this section and shall record therein the time of the
41 service and his action with reference thereto.

42 (d) Nothing herein contained shall limit or affect the right to serve any process, notice,
43 or demand required or permitted by law to be served upon a limited liability company in any
44 other manner now or hereafter permitted by law. (1993, c. 354, s. 1; 2000-140, s. 49.)