

ASSEMBLY BILL NO. 123—ASSEMBLYMAN ELLISON

PREFILED FEBRUARY 9, 2017

Referred to Committee on Judiciary

SUMMARY—Revises provisions governing limited-liability companies. (BDR 7-531)

FISCAL NOTE: Effect on Local Government: No.  
Effect on the State: Yes.

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EXPLANATION – Matter in *bolded italics* is new; matter between brackets ~~omitted material~~ is material to be omitted.

AN ACT relating to business organizations; revising provisions governing the powers of a limited-liability company that has created a series of members' interests with separate rights, powers or duties; and providing other matters properly relating thereto.

**Legislative Counsel's Digest:**

Existing law authorizes the articles of organization or operating agreement of a limited-liability company to create one or more series of members with separate rights, powers or duties with respect to the property or obligations of the company. (NRS 86.296) Under existing law, the liabilities of such a series are enforceable only against the assets of that series and not against the assets of the company or any other series if: (1) the articles of organization or an amendment to those articles contain certain statements indicating that the company is to have one or more such series; and (2) separate and distinct records are maintained for each series and the assets associated with each series are held, directly or indirectly, and accounted for separately from the other assets of the company and any other series. (NRS 86.161, 86.296) Existing law further provides that property owned or purchased by a limited-liability company must be held, owned and conveyed in the name of the company. (NRS 86.311)

This bill clarifies that a series may purchase, own and convey property in the name of the series, as the asset of the series. **Section 2** of this bill authorizes the articles of organization or operating agreement of a limited-liability company to include a provision authorizing property to be owned, purchased and conveyed in the name of the series. **Section 2** further specifies the persons who are authorized to bind a series to an instrument or record providing for the acquisition, mortgage or disposition of property by the series. **Section 1** of this bill expands the powers of a series to authorize a series to sue and be sued in its own name, make contracts in its own name and purchase, own and convey property in accordance with **section 2**.



THE PEOPLE OF THE STATE OF NEVADA, REPRESENTED IN  
SENATE AND ASSEMBLY, DO ENACT AS FOLLOWS:

**Section 1.** NRS 86.296 is hereby amended to read as follows:

86.296 1. The articles of organization or operating agreement of a limited-liability company may create classes of members or managers, define their relative rights, powers and duties, and may authorize the creation, in the manner provided in the operating agreement, of additional classes of members or managers with the relative rights, powers and duties as may from time to time be established, including, without limitation, rights, powers and duties senior to existing classes of members or managers. The articles of organization or operating agreement may provide that any member, or class or group of members, has voting rights that differ from other classes or groups.

2. The articles of organization or operating agreement of a limited-liability company may create one or more series of members, or vest authority in one or more members or managers of the company or in other persons to create one or more series of members, including, without limitation, rights, powers and duties senior to existing series of members. The articles of organization or operating agreement may provide that any member associated with a series has voting rights that differ from other members or series, or no voting rights at all. A series may ~~have~~:

(a) *Have* separate powers, rights or duties with respect to specified property or obligations of the company or profits and losses associated with specified property or obligations ~~to, and any series may have~~;

(b) *Have* a separate business purpose or investment objective ~~to~~;

(c) *Sue and be sued, complain and defend, in its own name;*

(d) *Make contracts in its own name; and*

(e) *If authorized by the articles of organization or operating agreement of the company pursuant to subsection 2 of NRS 86.311:*

(1) *Purchase, take, receive, lease or otherwise acquire, own, hold, improve, use and otherwise deal in and with real or personal property, or an interest in it, wherever situated; and*

(2) *Sell, convey, mortgage, pledge, lease, exchange, transfer and otherwise dispose of all or any part of its property and assets.*

3. The debts, liabilities, obligations and expenses incurred, contracted for or otherwise existing with respect to a particular series are enforceable against the assets of that series only, and not against the assets of the company generally or any other series, if:



(a) Separate and distinct records are maintained for the series and the assets associated with the series are held, directly or indirectly, including through a nominee or otherwise, and accounted for separately from the other assets of the company and any other series; and

(b) The articles of organization comply, or an amendment to the articles complies, with the provisions of paragraph (e) of subsection 1 of NRS 86.161.

➔ Unless otherwise provided in the articles of organization or operating agreement, no debts, liabilities, obligations and expenses incurred, contracted for or otherwise existing with respect to the company generally or any other series are enforceable against the assets of the series.

4. The articles of organization or operating agreement may provide that the debts, liabilities, obligations and expenses incurred, contracted for or otherwise existing with respect to a particular series are enforceable against the assets of that series only, and not against the assets of the company generally or any other series.

5. Unless otherwise provided in the articles of organization or operating agreement, any event described in this chapter or in the articles of organization or operating agreement that causes a manager to cease to be a manager with respect to a series does not, in itself, cause the manager to cease to be a manager with respect to the company or with respect to any other series. Unless otherwise provided in the articles of organization or operating agreement, any event described in this chapter or in the articles of organization or operating agreement that causes a manager to cease to be associated with a series does not, in itself, cause the member to cease to be associated with any other series, terminate the continued membership of a member in the company or cause the termination of the series, regardless of whether the member was the last remaining member associated with the series.

**Sec. 2.** NRS 86.311 is hereby amended to read as follows:

86.311 ~~Real~~

*1. Except as otherwise provided in subsection 2, real* and personal property owned or purchased by a company must be held and owned, and conveyance made, in the name of the company. Except as otherwise provided in the company's articles of organization or operating agreement, instruments and records providing for the acquisition, mortgage or disposition of property of the company are valid and binding upon the company if signed by:

~~H-~~ (a) One or more managers of a company which is managed by a manager or managers;

~~I-2~~ (b) Any member of a company which is managed by its members;



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~~13-1~~ (c) Any agent, officer, employee or other representative of the company authorized in the operating agreement or in another writing by a manager or managers, if the company is managed by a manager or managers; or

~~14-1~~ (d) Any agent, officer, employee or other representative of the company authorized in the operating agreement or in another writing by a member, if the company is managed by its members.

2. *The articles of organization or operating agreement of a company may provide that real and personal property may be purchased, owned and conveyed by a series separately in the name of the series, as the asset of the series only. Except as otherwise provided in the articles of organization or operating agreement of the company, instruments and records providing for the acquisition, mortgage or disposition of property of a series are valid and binding upon the series if signed by:*

(a) *One or more managers of the series, if the series is managed by a manager or managers;*

(b) *Any member associated with the series, if the series is managed by the members associated with the series;*

(c) *Any agent, officer, employee or other representative of the series authorized in the operating agreement or in another writing by a manager or managers of the series, if the series is managed by a manager or managers; or*

(d) *Any agent, officer, employee or other representative of the series authorized in the operating agreement or in another writing by a member associated with the series, if the series is managed by its members.*

**Sec. 3.** The amendatory provisions of this act:

1. Are a legislative pronouncement of already existing law and are intended to clarify rather than change such existing law;

2. Apply to any transfer or conveyance of property occurring before, on or after the effective date of this act; and

3. Apply to any administrative or judicial proceedings:

(a) Commenced on or after the effective date of this act; or

(b) Commenced before the effective date of this act if the proceedings are pending or otherwise unresolved on the effective date of this act.

