

HOUSE BILL 2337

By Jenkins

AN ACT to amend Tennessee Code Annotated, Title 48,  
relative to business services organizations.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF TENNESSEE:

SECTION 1. Tennessee Code Annotated, Title 48, Chapter 24, Part 2, is amended by adding the following language as a new section:

A corporation that has been administratively dissolved by the expiration of its period of duration may reinstate within three (3) years of the expiration of the period of duration by:

(1) Amending its charter to extend its period of duration or set the period of duration to perpetual; and

(2) Filing an application for reinstatement following administrative dissolution pursuant to § 48-24-203.

SECTION 2. Tennessee Code Annotated, Section 48-60-206, is amended by deleting the language "charter" and substituting instead the language "bylaws" wherever it appears.

SECTION 3. Tennessee Code Annotated, Title 48, Chapter 64, Part 2, is amended by adding the following language as a new section:

A nonprofit corporation that has been administratively dissolved by the expiration of its period of duration may reinstate within three (3) years of the expiration of the period of duration by:

(1) Amending its charter to extend its period of duration or set the period of duration to perpetual; and

(2) Filing an application for reinstatement following administrative dissolution pursuant to § 48-64-203.

SECTION 4. Tennessee Code Annotated, Section 48-216-101, is amended by deleting subsection (a) and substituting instead the following:

(a) **Member's Power To Terminate Membership.** If an LLC formed prior to July 1, 1999, has, pursuant to § 48-245-101(c)(1), eliminated as events of dissolution all of the events enumerated in § 48-245-101(a)(4)(A)-(J), unless otherwise provided by the articles or operating agreement, no member shall have the power or right to perform an event enumerated in § 48-245-101(a)(4)(B), (a)(4)(C), or (a)(4)(J) or the right to perform an event enumerated in § 48-245-101(a)(4)(G) or (a)(4)(H). Except as provided in the subsection (a), a member always has the power, though not necessarily the right, to terminate membership by withdrawing at any time. Unless otherwise provided in chapters 201-248 of this title, the articles, operating agreement, or the events enumerated in § 48-245-101(a)(4)(A), (D), (E), and (I), any other withdrawal or termination shall be deemed wrongful.

SECTION 5. Tennessee Code Annotated, Section 48-218-102(c)(2), is amended by deleting the language "§ 48-245-101(a)(5)" and substituting instead the language "§ 48-245-101(a)(4)".

SECTION 6. Tennessee Code Annotated, Section 48-245-101, is amended by deleting the section in its entirety and substituting the following:

(a) **Dissolution Events.** Except as stated in subsection (b) or (c), an LLC is dissolved upon the occurrence of any of the following events:

- (1) By action of the secretary of state pursuant to § 48-245-302;
- (2) By action of the organizers pursuant to § 48-245-201 or by the members pursuant to § 48-245-202, or upon the occurrence of an event specified in the articles or operating agreement;
- (3) By order of a court pursuant to §§ 48-245-901 and 48-245-902;
- (4) Except as provided in subdivision (a)(5) for LLCs created prior to July 1, 1999, upon the occurrence of any of the following events, unless the articles or

operating agreement provide that one (1) or more of the following events will not constitute an event of dissolution:

- (A) Death of any member;
- (B) Retirement from membership of any member;
- (C) Resignation or other withdrawal of any member;
- (D) Acquisition of a member's complete membership interest by the LLC;
- (E) Assignment of a member's governance rights under § 48-218-102, which leaves the assignor with no governance rights;
- (F) Expulsion of any member if expulsion is permitted by the articles;
- (G) Bankruptcy of any member;
- (H) Dissolution of any member;
- (I) Insanity of any member; or
- (J) The occurrence of any other event that terminates the continued membership of a member in the LLC;

(5) For LLCs formed on or after July 1, 1999, or for LLCs formed prior to July 1, 1999, that elect by providing in their articles for the amendments by Acts 1999, ch. 455, regarding dissolution events to apply to such LLC, the LLC shall be dissolved upon the occurrence of:

- (A) In accordance with § 48-245-202 or any event specified in the articles or operating agreement including, but not limited to, events of withdrawal by a member or action or procedure as set forth in the articles or operating agreement; or
- (B) A merger in which the LLC is not the surviving organization.

(b) Notwithstanding subdivisions (a)(4)(A)-(J), including if and as modified by subsection (c), the LLC is not dissolved and is not required to be wound up by reason of any event that terminates the continued membership of a member if there is at least one (1) remaining member and the existence and business of the LLC are continued by the consent of a majority vote of the remaining members or such greater vote of the remaining members as provided in the articles. Such consent must be obtained no later than ninety (90) days after the dissolution event. The granting of consent is at the discretion of each member and may be unreasonably withheld.

**(c) Reduction or Elimination of Dissolution Events.**

(1) With respect to LLCs created prior to July 1, 1999, the articles or operating agreement may specify that none or less than all of the events listed in subdivisions (a)(4)(A)-(J) constitute a dissolution event or events.

(2) With respect to LLCs created prior to July 1, 1999, and which do not elect under § 48-245-101(a)(5) to have the amendments by Acts 1999, ch. 455, regarding dissolution events apply, the articles or the operating agreement of a board-managed LLC may provide that the events of dissolution enumerated in subdivisions (a)(4)(A)-(J) may be limited to one (1) or more events that are applicable only to one (1) or more members.

**(d) Procedures Following Dissolution.** An LLC dissolved by one (1) of the dissolution events specified in subsection (a), as modified by subsection (c) if applicable, unless subsection (b) applies, must be wound up and terminated as provided in this chapter.

SECTION 7. Tennessee Code Annotated, Section 48-245-301, is amended by adding the following new subdivision:

(7) A period is fixed in the articles of organization for the duration of the LLC, upon the expiration of that period, but if no such period is set forth in the articles, then the LLC shall have a perpetual existence.

SECTION 8. Tennessee Code Annotated, Title 48, Chapter 245, Part 3, is amended by adding the following language as a new section:

A LLC that has been administratively dissolved by the expiration of its period of duration may reinstate within three (3) years of the expiration of the period of duration by:

(1) Amending its articles of organization to extend its period of duration or set the period of duration to perpetual; and

(2) Filing an application for reinstatement following administrative dissolution pursuant to § 48-245-303.

SECTION 9. Tennessee Code Annotated, Section 48-245-401, is amended by deleting subsection (a) and substituting instead the following:

(a) **Contents.** If dissolution of the LLC is approved pursuant to § 48-245-202(a), or it occurs under § 48-245-101(a)(4), the LLC shall file with the secretary of state a notice of dissolution, unless the existence and business of the LLC is continued pursuant to § 48-245-101(b). The notice must contain:

(1) The name of the LLC; and

(2)

(A) If the dissolution is approved pursuant to § 48-245-202(b), the date of the meeting at which the resolution was approved, and a statement that the requisite vote of the members was received, or that members validly took action without a meeting; or

(B) If the dissolution occurs under § 48-245-101(a)(4), by the termination of a membership interest of a member, a statement that the continued membership of a member has terminated and the date of that termination.

SECTION 10. Tennessee Code Annotated, Section 48-249-601, is amended by deleting subsection (a) and substituting the following:

(a) **Events Causing Dissolution.** An LLC is dissolved upon the first to occur of the following:

- (1) An action of the secretary of state under § 48-249-605;
- (2) The occurrence of an event specified in the LLC documents;
- (3) An action of the members in accordance with § 48-249-603;
- (4) An action of the organizers under § 48-249-602;
- (5) An order of a court under § 48-249-616 or § 48-249-617; or
- (6) At any time there are no members if:

(A) The LLC files a notice of dissolution as provided in § 48-249-609, within ninety (90) days after the occurrence of the event that terminated the membership interest of the last remaining member, which notice of dissolution may be signed on behalf of the LLC by the personal representative of the last remaining member; and

(B) The LLC documents specify that the termination of the membership interest of the last remaining member dissolves the LLC; provided, that if such notice of dissolution is not filed or the LLC documents do not provide for dissolution in that event, the LLC is not dissolved and is not required to be wound up and the personal representative of the last remaining member is automatically substituted

as a member for the last remaining member, effective as of the occurrence of the event that terminated the membership interest of the last remaining member. Notwithstanding this subdivision (a)(6)(B), the LLC documents may specify that any person may be substituted as a member for the last remaining member, effective as of the date of the event that causes the termination of membership interest of the last remaining member.

SECTION 11. Tennessee Code Annotated, Section 48-249-604, is amended by adding the following new subdivision:

(7) A period is fixed in the articles of organization for the duration of the LLC, upon the expiration of that period, but if no such period is set forth in the articles, then the LLC shall have a perpetual existence.

SECTION 12. Tennessee Code Annotated, Section 48-249-609, is amended by deleting subsection (a) in its entirety and substituting instead the following:

(a) **Notice of Dissolution.** If dissolution of the LLC is approved under § 48-249-603, or if it occurs under § 48-249-601(a)(2) or (a)(6), the LLC shall file a notice of dissolution with the secretary of state. The notice shall contain:

(1) The name of the LLC; and

(2)

(A) If the dissolution is approved under § 48-249-603(b), a statement that the requisite vote of the members was received, or that members validly took action without a meeting; or

(B) If the dissolution occurs under § 48-249-601(a)(2) or (a)(6), a brief statement of the event that caused the dissolution and the date of that event.

SECTION 13. Tennessee Code Annotated, Title 48, Chapter 249, Part 6, is amended by adding the following language as a new section:

A LLC that has been administratively dissolved by the expiration of its period of duration may reinstate within three (3) years of the expiration of the period of duration by:

- (1) Amending its articles of organization to extend its period of duration or set the period of duration to perpetual; and
- (2) Filing an application for reinstatement following administrative dissolution pursuant to § 48-249-606.

SECTION 14. The headings to sections in this act are for reference purposes only and do not constitute a part of the law enacted by this act. However, the Tennessee Code Commission is requested to include the headings in any compilation or publication containing this act.

SECTION 15. This act shall take effect July 1, 2016, the public welfare requiring it.