

BILL ANALYSIS

S.B. 1773
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Business & Industry
Committee Report (Unamended)

BACKGROUND AND PURPOSE

Current law provides that a member or manager is not liable for the debts, obligations or liabilities of a limited liability company, except as and to the extent the company agreement or regulations specifically provide otherwise. This language prohibits a court from holding the members or managers liable for the debts, obligations, and liabilities of the limited liability company. However, recent court cases have applied corporate veil piercing principles to limited liability companies, causing confusion as to the proper standards to be applied.

S.B. 1773 clarifies the standards that make a member or manager liable for the debts, obligations, or liabilities of a limited liability company by adopting the standards set forth in the corporate statutes.

RULEMAKING AUTHORITY

It is the committee's opinion that this bill does not expressly grant any additional rulemaking authority to a state officer, department, agency, or institution.

ANALYSIS

S.B. 1773 amends the Business Organizations Code to make the following provisions applicable to a limited liability company and the company's members, owners, assignees, and subscribers, subject to provisions making a member or manager of a limited liability company not liable for a debt, obligation, or liability of the company:

- provisions relating to the limited liability of a corporation's shareholders for obligations;
- provisions establishing that the limited liability of a corporation's shareholders for certain obligations is exclusive and preempts other liability imposed under common law or otherwise;
- provisions relating to exceptions to the limited liability of a corporation's shareholders; and
- provisions making a pledgee or other holder of shares as collateral security or a trust administrator not personally liable as a shareholder.

S.B. 1773 establishes that for the purposes of the applicability of those provisions:

- a reference to "shares" includes "membership interests";
- a reference to "holder," "owner," or "shareholder" includes a "member" and an "assignee";
- a reference to "corporation" or "corporate" includes a "limited liability company";
- a reference to "directors" includes "managers" of a manager-managed limited liability company and "members" of a member-managed limited liability company;
- a reference to "bylaws" includes "company agreement"; and
- the reference to "Sections 21.157-21.162" in Section 21.223(a)(1) refers to the provisions of Subchapter D, Chapter 101.

S.B. 1773 amends the Texas Limited Liability Company Act to make provisions of the Texas Business Corporation Act relating to the liability of subscribers and shareholders, in addition to other provisions of the act, applicable to a limited liability company and its members, managers, and officers.

EFFECTIVE DATE

September 1, 2009.