

By: Creighton

H.B. No. 2622

A BILL TO BE ENTITLED

AN ACT

relating to the creation of a low-profit limited liability company.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

SECTION 1. Section 1.002, Business Organizations Code, is amended by amending Subdivision (46) and adding Subdivision (50-a) to read as follows:

(46) "Limited liability company" means an entity governed as a limited liability company under Title 3 or 7. The term includes a professional limited liability company and a low-profit limited liability company.

(50-a) "Low-profit limited liability company" means an entity governed as a limited liability company under Title 3 that meets the requirements of Section 2.013.

SECTION 2. Subchapter A, Chapter 2, Business Organizations Code, is amended by adding Section 2.013 to read as follows:

Sec. 2.013. PURPOSES OF LOW-PROFIT LIMITED LIABILITY COMPANY. (a) A limited liability company organized as a low-profit limited liability company must be organized and operated for a business purpose that significantly furthers the accomplishment of one or more religious, charitable, scientific, literary, or educational purposes as described by 26 U.S.C. Section 170(c)(2)(B).

(b) A limited liability company organized as a low-profit limited liability company may not be operated with a significant

1 purpose of producing income or capital appreciation. The  
2 production of significant income or capital appreciation by a  
3 low-profit limited liability company alone is not conclusive  
4 evidence of a significant purpose prohibited by this subsection.

5 (c) A low-profit limited liability company may not be  
6 operated to accomplish a political or legislative purpose as  
7 described by 26 U.S.C. Section 170(c)(2)(D).

8 (d) A limited liability company that ceases to meet the  
9 requirements of this section:

10 (1) may not be designated as a low-profit limited  
11 liability company; and

12 (2) must change the company's name in accordance with  
13 Section 5.056(a).

14 SECTION 3. Subchapter A, Chapter 3, Business Organizations  
15 Code, is amended by adding Section 3.0101 to read as follows:

16 Sec. 3.0101. SUPPLEMENTAL PROVISIONS REQUIRED IN  
17 CERTIFICATE OF FORMATION OF LOW-PROFIT LIMITED LIABILITY COMPANY.

18 In addition to the information required by Sections 3.005 and  
19 3.010, the certificate of formation of a low-profit limited  
20 liability company must state a purpose or purposes for formation  
21 that meet the requirements of Section 2.013.

22 SECTION 4. Subchapter B, Chapter 3, Business Organizations  
23 Code, is amended by adding Section 3.0612 to read as follows:

24 Sec. 3.0612. SUPPLEMENTAL PROVISIONS FOR RESTATED  
25 CERTIFICATE OF FORMATION FOR LIMITED LIABILITY COMPANY TO OPERATE

26 AS LOW-PROFIT LIMITED LIABILITY COMPANY. In addition to the  
27 provisions authorized or required by Sections 3.059 and 3.0611, a

1 limited liability company may operate as a low-profit limited  
2 liability company if the restated certificate of formation of the  
3 limited liability company contains the information required by  
4 Section 3.0101.

5 SECTION 5. Section 3.151, Business Organizations Code, is  
6 amended by adding Subsection (d) to read as follows:

7 (d) The information kept by a low-profit limited liability  
8 company under Subsection (a) must be sufficient to establish that  
9 the purposes of the entity meet the requirements of Section 2.013.

10 SECTION 6. Section 3.153, Business Organizations Code, is  
11 amended to read as follows:

12 Sec. 3.153. RIGHT OF EXAMINATION BY OWNER OR MEMBER. (a)  
13 Each owner or member of a filing entity may examine the books and  
14 records of the filing entity maintained under Section 3.151 and  
15 other books and records of the filing entity to the extent provided  
16 by the governing documents of the entity and the title of this code  
17 governing the filing entity.

18 (b) In addition to the requirements of Subsection (a), a  
19 private foundation, as defined by 26 U.S.C. Section 509(a), that is  
20 an owner or member of a low-profit limited liability company may  
21 examine the books and records of the company maintained under  
22 Section 3.151 and other books and records of the company,  
23 notwithstanding any provision of the governing documents of the  
24 company or this code, as necessary for the foundation to determine  
25 whether the foundation's operations and investments comply with  
26 federal tax laws.

27 SECTION 7. Subchapter B, Chapter 5, Business Organizations

1 Code, is amended by adding Section 5.0561 to read as follows:

2 Sec. 5.0561. NAME OF LOW-PROFIT LIMITED LIABILITY COMPANY.

3 The name of a low-profit limited liability company must contain:

4 (1) the phrase "low-profit limited liability  
5 company"; or

6 (2) the abbreviation "L.3.C."

7 SECTION 8. Subchapter B, Chapter 11, Business Organizations  
8 Code, is amended by adding Section 11.0561 to read as follows:

9 Sec. 11.0561. SUPPLEMENTAL PROVISIONS FOR LOW-PROFIT  
10 LIMITED LIABILITY COMPANY. In addition to the requirements of  
11 Section 11.056, the failure of a low-profit limited liability  
12 company to meet the requirements of Section 2.013 is an event  
13 requiring winding up under Section 11.051(4) unless, not later than  
14 the 60th day after the date of that event, the company files a  
15 certificate of amendment to change the company's name to conform  
16 with the requirements of Section 5.056.

17 SECTION 9. This Act takes effect September 1, 2013.