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Florida Legislature Passes New Revised Limited Liability Company Act

Florida's new Limited Liability Company Act was signed into law in June of 2013. The Act is considered a default statute, which means that unless your LLC's Operating Agreement states otherwise, the Act will control how your LLC operates. The new law applies to all LLCs created on/after January 1, 2014 and will apply to all LLCs, regardless of when created, effective January 1, 2015. As such, we strongly encourage LLC owners to consider the question, "Does my existing Operating Agreement comply with the new Florida law?" One thing is for certain, your existing Operating Agreement will not be grandfathered in, so it will be in your best interest to have your Operating Agreement reviewed by your attorney.

Here are a few things you should know about the new LLC Act:

- **Effective date:** As of January, 2015, the existing Florida Limited Liability Company Act will no longer be in effect. After January 2015, new LLCs will be subject to the new Act. However, existing LLCs may choose a July 1, 2014 or January 1, 2015 effective date;
- **Managing members:** The new Act eliminates the concept of the managing member as a separate management category. LLCs will be either member-managed or manager-managed LLCs. Inaccurately filed information: The new Act requires an LLC to maintain accurate information with the Department of State. The members or managers of an LLC are obligated to correct information in the Articles of Organization that may become inaccurate. Failure to update information in a timely manner may subject the LLC to third party liability;
- **Non-waivable provisions:** The new Act expands the list of non-waivable default rules from six to sixteen that the Operating Agreement cannot supersede;
- **Statement of Authority:** The new Act authorizes an LLC to file a Statement of Authority with the Florida Department of State, which provides constructive notice as to who has authority to bind the LLC;
- **Amending the Operating Agreement:** The new Act requires the unanimous vote of the members in order to amend the Operating Agreement or the Articles of Organization;
- **Member changes:** The new Act allows a member of an LLC to dissociate at any time. Also, it provides for the admittance of a non-economic member (one who has no obligation to contribute capital, or no economic benefit at stake).
- **Domestication:** allows non-U.S., or non-Florida entities to become LLCs in Florida, while continuing existence in the foreign jurisdiction.

If you are a member or manager of a Florida LLC, or you plan to create a new Florida LLC, it is important to understand the new Florida LLC Act. The Operating Agreement will need to be comprehensive and set forth the understanding of the parties as to all material matters in order to avoid unintended statutory default rules that can override your expectations.

The Law Offices of Hoyt & Bryan assists families in the protection of their loved ones by focusing their practice in the areas of Estate Planning, Probate and Trust Administration, Elder Law including Medicaid and VA Planning and Special Needs Planning, Pet Planning, Business Succession Planning and Real Estate. The founders, Peggy Hoyt and Randy Bryan, are both dual board certified by the Florida Bar in Wills, Trusts and Estates as well as Elder Law. Hoyt & Bryan is the only law firm in Florida with the distinction of two attorneys with these certifications. We offer many complimentary educational workshops each week in our Learning Center at The Law Offices of Hoyt & Bryan and monthly workshops in the Auditorium of One Senior Place in Altamonte Springs. For more information please contact our office at 407-977-8080 or visit our website HoytBryan.com.