



## 94TH GENERAL ASSEMBLY

### State of Illinois

2005 and 2006

SB0504

Introduced 2/17/2005, by Sen. Don Harmon

#### SYNOPSIS AS INTRODUCED:

805 ILCS 180/37-40 new  
805 ILCS 180/50-10

Amends the Limited Liability Company Act. Provides that an operating agreement may establish designated series of members, managers or limited liability company interests having separate rights, powers or duties with respect to specified property or obligations of the limited liability company or profits and losses associated with specified property or obligations, and to the extent provided in the operating agreement, any such series may have a separate business purpose or investment objective. Establishes the procedures for management, dissolution, and operation of a series. Provides the fee for filing articles of organization, annual reports, and certificates of designation for a series of a limited liability company. Effective July 1, 2005.

LRB094 05337 RXD 35381 b

FISCAL NOTE ACT  
MAY APPLY

1 AN ACT concerning business.

2 **Be it enacted by the People of the State of Illinois,**  
3 **represented in the General Assembly:**

4 Section 5. The Limited Liability Company Act is amended by  
5 changing Section 50-10 and by adding Section 37-40 as follows:

6 (805 ILCS 180/37-40 new)

7 Sec. 37-40. Series of members, managers or limited  
8 liability company interests.

9 (a) An operating agreement may establish or provide for the  
10 establishment of designated series of members, managers or  
11 limited liability company interests having separate rights,  
12 powers or duties with respect to specified property or  
13 obligations of the limited liability company or profits and  
14 losses associated with specified property or obligations, and  
15 to the extent provided in the operating agreement, any such  
16 series may have a separate business purpose or investment  
17 objective.

18 (b) Notwithstanding anything to the contrary set forth in  
19 this Section or under other applicable law, in the event that  
20 an operating agreement creates one or more series, and if  
21 separate and distinct records are maintained for any such  
22 series and the assets associated with any such series are held  
23 (directly or indirectly, including through a nominee or  
24 otherwise) and accounted for separately from the other assets  
25 of the limited liability company, or any other series thereof,  
26 and if the operating agreement so provides, and notice of the  
27 limitation on liabilities of a series as referenced in this  
28 subsection is set forth in the articles of organization of the  
29 limited liability company and if the limited liability company  
30 has filed a certificate of designation for each series which is  
31 to have limited liability under this Section, then the debts,  
32 liabilities and obligations incurred, contracted for or

1 otherwise existing with respect to a particular series shall be  
2 enforceable against the assets of such series only, and not  
3 against the assets of the limited liability company generally  
4 or any other series thereof, and unless otherwise provided in  
5 the operating agreement, none of the debts, liabilities,  
6 obligations and expenses incurred, contracted for or otherwise  
7 existing with respect to the limited liability company  
8 generally or any other series thereof shall be enforceable  
9 against the assets of such series. The fact that the articles  
10 of organization contain the foregoing notice of the limitation  
11 on liabilities of a series and a certificate of designation for  
12 a series is on file in the Office of the Secretary of State  
13 shall constitute notice of such limitation on liabilities of a  
14 series. A series with limited liability shall be treated as a  
15 separate entity to the extent set forth in the articles of  
16 organization. Each series with limited liability may, in its  
17 own name, contract, hold title to assets, grant security  
18 interests, sue and be sued and otherwise conduct business and  
19 exercise the powers of a limited liability company under this  
20 Act. The limited liability company and any of its series may  
21 elect to consolidate their operations as a single taxpayer to  
22 the extent permitted under applicable law, elect to work  
23 cooperatively, elect to contract jointly or elect to be treated  
24 as a single business for purposes of qualification to do  
25 business in this or any other state. Such elections shall not  
26 affect the limitation of liability set forth in this Section  
27 except to the extent that the series have specifically accepted  
28 joint liability by contract.

29 (c) The name of the series with limited liability must  
30 contain the entire name of the limited liability company and be  
31 distinguishable from the names of the other series set forth in  
32 the articles of organization.

33 (d) Upon the filing of the certificate of designation with  
34 the Secretary of State setting forth the name of each series  
35 with limited liability, the series' existence shall begin, and  
36 each of the duplicate copies stamped "Filed" and marked with

1 the filing date shall be conclusive evidence, except as against  
2 the State, that all conditions precedent required to be  
3 performed have been complied with and that the series has been  
4 or shall be, on a later date if so specified in the articles of  
5 organization or certificate of designation, legally organized  
6 and formed under this Act. If different from the limited  
7 liability company, the certificate of designation for each  
8 series shall list the names of the members if the series is  
9 member managed or the names of the managers if the series is  
10 manager managed. The name of a series with limited liability  
11 under subsection (b) of this Section may be changed by filing  
12 with the Secretary of State a certificate of designation  
13 identifying the series whose name is being changed and the new  
14 name of such series. If not the same as the limited liability  
15 company, the names of the members of a member managed series or  
16 of the managers of a manager managed series may be changed by  
17 filing a new certificate of designation with the Secretary of  
18 State. A series with limited liability under subsection (b) of  
19 this Section may be dissolved by filing with the Secretary of  
20 State a certificate of designation identifying the series being  
21 dissolved or by the dissolution of the limited liability  
22 company as provided in subsection (m) of this Section.  
23 Certificates of designation may be filed by the limited  
24 liability company or any manager, person or entity designated  
25 in the operating agreement for the limited liability company.

26 (e) A series of a limited liability company will be deemed  
27 to be in good standing as long as the limited liability company  
28 is in good standing.

29 (f) The registered agent and registered office for the  
30 limited liability company in Illinois shall serve as the agent  
31 and office for service of process in Illinois for each series.

32 (g) An operating agreement may provide for classes or  
33 groups of members or managers associated with a series having  
34 such relative rights, powers and duties as the operating  
35 agreement may provide, and may make provision for the future  
36 creation of additional classes or groups of members or managers

1 associated with the series having such relative rights, powers  
2 and duties as may from time to time be established, including  
3 rights, powers and duties senior to existing classes and groups  
4 of members or managers associated with the series.

5 (h) A series may be managed by either the member or members  
6 associated with the series or by a manager or managers chosen  
7 by the members of such series, as provided in the operating  
8 agreement. Unless otherwise provided in an operating  
9 agreement, the management of a series shall be vested in the  
10 members associated with such series.

11 (i) An operating agreement may grant to all or certain  
12 identified members or managers or a specified class or group of  
13 the members or managers associated with a series the right to  
14 vote separately or with all or any class or group of the  
15 members or managers associated with the series, on any matter.  
16 An operating agreement may provide that any member or class or  
17 group of members associated with a series shall have no voting  
18 rights.

19 (j) Except to the extent modified in this Section, the  
20 provisions of this Act which are generally applicable to  
21 limited liability companies, their managers, members and  
22 transferees shall be applicable to each particular series with  
23 respect to the operation of such series.

24 (k) Except as otherwise provided in an operating agreement,  
25 any event under this Act or in an operating agreement that  
26 causes a manager to cease to be a manager with respect to a  
27 series shall not, in itself, cause such manager to cease to be  
28 a manager of the limited liability company or with respect to  
29 any other series thereof.

30 (l) Except as otherwise provided in an operating agreement,  
31 any event under this Act or an operating agreement that causes  
32 a member to cease to be associated with a series shall not, in  
33 itself, cause such member to cease to be associated with any  
34 other series or terminate the continued membership of a member  
35 in the limited liability company or cause the termination of  
36 the series, regardless of whether such member was the last

1 remaining member associated with such series.

2 (m) Except to the extent otherwise provided in the  
3 operating agreement, a series may be dissolved and its affairs  
4 wound up without causing the dissolution of the limited  
5 liability company. The dissolution of a series established in  
6 accordance with subsection (b) of this Section shall not affect  
7 the limitation on liabilities of such series provided by  
8 subsection (b) of this Section. A series is terminated and its  
9 affairs shall be wound up upon the dissolution of the limited  
10 liability company under Section 35 of this Act.

11 (n) If a limited liability company with a series does not  
12 register to do business in a foreign jurisdiction for itself  
13 and certain of its series, a series of a limited liability  
14 company may itself register to do business as a limited  
15 liability company in the foreign jurisdiction in accordance  
16 with the laws of the foreign jurisdiction.

17 (o) If a foreign limited liability company, as permitted in  
18 the jurisdiction of its organization, has established a series  
19 having separate rights, powers or duties and has limited the  
20 liabilities of such series so that the debts, liabilities and  
21 obligations incurred, contracted for or otherwise existing  
22 with respect to a particular series are enforceable against the  
23 assets of such series only, and not against the assets of the  
24 limited liability company generally or any other series  
25 thereof, or so that the debts, liabilities, obligations and  
26 expenses incurred, contracted for or otherwise existing with  
27 respect to the limited liability company generally or any other  
28 series thereof are not enforceable against the assets of such  
29 series, then the limited liability company, on behalf of itself  
30 or any of its series, or any of its series on their own behalf  
31 may register to do business in the State in accordance with  
32 Section 45-5 of this Act. The limitation of liability shall be  
33 so stated on the application for admission as a foreign limited  
34 liability company and a certificate of designation shall be  
35 filed for each series being registered to do business in the  
36 State by the limited liability company. Unless otherwise

1 provided in the operating agreement, the debts, liabilities and  
2 obligations incurred, contracted for or otherwise existing  
3 with respect to a particular series of such a foreign limited  
4 liability company shall be enforceable against the assets of  
5 such series only, and not against the assets of the foreign  
6 limited liability company generally or any other series thereof  
7 and none of the debts, liabilities, obligations and expenses  
8 incurred, contracted for or otherwise existing with respect to  
9 such a foreign limited liability company generally or any other  
10 series thereof shall be enforceable against the assets of such  
11 series.

12 (805 ILCS 180/50-10)

13 Sec. 50-10. Fees.

14 (a) The Secretary of State shall charge and collect in  
15 accordance with the provisions of this Act and rules  
16 promulgated under its authority all of the following:

17 (1) Fees for filing documents.

18 (2) Miscellaneous charges.

19 (3) Fees for the sale of lists of filings and for  
20 copies of any documents.

21 (b) The Secretary of State shall charge and collect for all  
22 of the following:

23 (1) Filing articles of organization ~~of limited~~  
24 ~~liability companies~~ (domestic), application for admission  
25 (foreign), and restated articles of organization  
26 (domestic), \$500. Notwithstanding the foregoing, the fee  
27 for filing articles of organization (domestic),  
28 application for admission (foreign), and restated articles  
29 of organization (domestic) in connection with a limited  
30 liability company with a series pursuant to Section 37-40  
31 of this Act is \$750.

32 (2) Filing amendments:

33 (A) For other than change of registered agent name  
34 or registered office, or both, \$150.

35 (B) For the purpose of changing the registered

- 1 agent name or registered office, or both, \$35.
- 2 (3) Filing articles of dissolution or application for  
3 withdrawal, \$100.
- 4 (4) Filing an application to reserve a name, \$300.
- 5 (5) (Blank).
- 6 (6) Filing a notice of a transfer of a reserved name,  
7 \$100.
- 8 (7) Registration of a name, \$300.
- 9 (8) Renewal of registration of a name, \$100.
- 10 (9) Filing an application for use of an assumed name  
11 under Section 1-20 of this Act, \$150 for each year or part  
12 thereof ending in 0 or 5, \$120 for each year or part  
13 thereof ending in 1 or 6, \$90 for each year or part thereof  
14 ending in 2 or 7, \$60 for each year or part thereof ending  
15 in 3 or 8, \$30 for each year or part thereof ending in 4 or  
16 9, and a renewal for each assumed name, \$150.
- 17 (10) Filing an application for change of an assumed  
18 name, \$100.
- 19 (11) Filing an annual report of a limited liability  
20 company or foreign limited liability company, \$250, if  
21 filed as required by this Act, plus a penalty if  
22 delinquent. Notwithstanding the foregoing, the fee for  
23 filing an annual report of a limited liability company or  
24 foreign limited liability company is \$250 plus \$50 for each  
25 series for which a certificate of designation has been  
26 filed pursuant to Section 37-40 of this Act, plus a penalty  
27 if delinquent.
- 28 (12) Filing an application for reinstatement of a  
29 limited liability company or foreign limited liability  
30 company \$500.
- 31 (13) Filing Articles of Merger, \$100 plus \$50 for each  
32 party to the merger in excess of the first 2 parties.
- 33 (14) Filing an Agreement of Conversion or Statement of  
34 Conversion, \$100.
- 35 (15) Filing a statement of correction, \$25.
- 36 (16) Filing a petition for refund, \$15.



1 (17) Filing any other document, \$100.

2 (18) Filing a certificate of designation of a limited  
3 liability company with a series pursuant to Section 37-40  
4 of this Act, \$50.

5 (c) The Secretary of State shall charge and collect all of  
6 the following:

7 (1) For furnishing a copy or certified copy of any  
8 document, instrument, or paper relating to a limited  
9 liability company or foreign limited liability company, \$1  
10 per page, but not less than \$25, and \$25 for the  
11 certificate and for affixing the seal thereto.

12 (2) For the transfer of information by computer process  
13 media to any purchaser, fees established by rule.

14 (Source: P.A. 92-33, eff. 7-1-01; 93-32, eff. 12-1-03; 93-59,  
15 eff. 7-1-03; revised 9-5-03.)

16 Section 99. Effective date. This Act takes effect July 1,  
17 2005.