**A** **BILL**

TO AMEND THE CODE OF LAWS OF SOUTH CAROLINA, 1976, BY ADDING CHAPTER 43 TO TITLE 33 SO AS TO PROVIDE FOR THE MANNER, PROCEDURES, AND REQUIREMENTS BY OR UNDER WHICH NONPROFIT LIMITED LIABILITY COMPANIES MAY BE FORMED IN SOUTH CAROLINA.

Be it enacted by the General Assembly of the State of South Carolina:

SECTION 1. Title 33 of the 1976 Code is amended by adding:

“CHAPTER 43

Nonprofit Limited Liability Companies

Section 33‑43‑110. This chapter may be cited as the ‘South Carolina Nonprofit Limited Liability Company Act of 2016’.

Section 33‑43‑120. Chapter 44, Title 33 applies to nonprofit limited liability companies, whether domestic or foreign, to the extent not inconsistent with the provisions of this chapter.

Section 33‑43‑130. In this chapter:

(1) ‘Limited liability company’ means a limited liability company, whether domestic or foreign, that is organized under or subject to Chapter 44, Title 33.

(2) ‘Nonprofit corporation’ means a nonprofit corporation, whether domestic or foreign, that is incorporated under or subject to Chapter 31, Title 33.

(3) ‘Nonprofit limited liability company’ means a limited liability company that is organized under this chapter and that complies with the requirements provided under Section 33‑43‑140.

Section 33‑43‑140. (A) A domestic or foreign nonprofit limited liability company formed under or governed by this chapter must:

(1) be disregarded as an entity for federal income tax purposes; and

(2) have as its sole member either a nonprofit corporation, whether domestic or foreign, that is incorporated under or that is subject to Chapter 31, Title 33; or a subdivision, unit, or agency of the United States, a state, or a local government.

(B) A natural person may not be a member of a nonprofit limited liability company, or own any financial rights or governance rights in a nonprofit limited liability company.

Section 33‑43‑150. (A) A nonprofit corporation, or a subdivision, unit, or agency of the United States, a state, or a local government, may form a nonprofit limited liability company by filing articles of organization with the Secretary of State, provided that it meets the requirements under Section 33‑43‑140.

(B) Articles of organization of a nonprofit limited liability company must be in a medium prescribed or permitted by the Secretary of State and must comply with the requirements provided in Section 33‑43‑203. In addition, the articles of organization must set forth:

(1) the name and address of the sole member of the company;

(2) a statement that the sole member is disregarded as an entity for federal income tax purposes; and

(3) a statement that the company is a nonprofit limited liability company subject to this chapter.

Section 33‑43‑160. (A) A foreign nonprofit limited liability company may obtain a certificate of authority to transact business under Chapter 44, Title 33 and thereby become subject to and governed by this chapter as a nonprofit limited liability company, only if the foreign nonprofit limited liability company meets the requirements of Section 33‑43‑140.

(B) A foreign nonprofit limited liability company may apply for a certificate of authority to transact business in this State by delivering an application to the Secretary of State for filing. The application for a certificate of authority to transact business must be in a medium prescribed or permitted by the Secretary of State and must comply with the requirements provided in Section 33‑44‑1002. In addition, the application for a certificate of authority must set forth:

(1) the name and address of the sole member of the company;

(2) a statement that the sole member is disregarded as an entity for federal income tax purposes; and

(3) a statement that the company is a nonprofit limited liability company subject to this chapter.

Section 33‑43‑170. (A) The standards of conduct provided in Subarticle C of Article 8, Chapter 31, Title 33 shall apply to the directors, managers, and officers of a nonprofit limited liability company organized under or subject to this chapter as if the directors, managers, or officers were directors of a nonprofit corporation.

(B) The provisions governing liability for unlawful distributions provided in Section 33‑31‑833 shall apply to the directors, managers, and officers of a nonprofit limited liability company organized under or subject to this chapter as if the directors, managers, or officers were directors of a nonprofit corporation.

(C) The provisions governing immunity provided in Section 33‑31‑834 shall apply to the directors, managers, and officers of a nonprofit limited liability company organized under or subject to this chapter as if the directors, managers, or officers were directors of a nonprofit corporation.

(D) The provisions governing indemnification provided in Subarticle E of Article 8, Chapter 31, Title 33 shall apply to a nonprofit limited liability company organized under or subject to this chapter as if it were a nonprofit corporation.

Section 33‑43‑180. The Attorney General has the same authority, rights, and obligations with regard to a nonprofit limited liability company as the Attorney General has with regard to nonprofit corporations pursuant to Chapter 31, Title 33.”

SECTION 2. This act takes effect upon approval by the Governor.

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