

S.F. No. 0036**LLC member and manager liability.**

Sponsored By: Joint Corporations, Elections & Political
Subdivisions Interim Committee

AN ACT relating to limited liability companies; specifying standards for imposing liability on members and managers; repealing a related provision; and providing for an effective date.

1/20/2016 Bill Number Assigned
2/5/2016 S Received for Introduction
2/8/2016 S Introduced and Referred to S07 - Corporations 30-0-0-0-0

ROLL CALL

Ayes: Senator(s) Anderson, Barnard, Bebout, Boner, Burns, Case, Christensen, Coe, Cooper, Craft, Dockstader, Driskill, Emerich, Esquibel, F., Geis, Hastert, Hicks, Johnson, Kinskey, Landen, Meier, Nicholas, P., Pappas, Perkins, Peterson, Ross, Rothfuss, Scott, Von Flatern, Wasserburger

Ayes 30 **Nays** 0 **Excused** 0 **Absent** 0 **Conflicts** 0

2/9/2016 S07 - Corporations:Recommend Do Pass 5-0-0-0-0

ROLL CALL

Ayes: Senator(s) Case, Hicks, Meier, Pappas, Scott

Ayes 5 **Nays** 0 **Excused** 0 **Absent** 0 **Conflicts** 0

2/9/2016 S Placed on General File
2/9/2016 S COW:Passed
2/10/2016 S 2nd Reading:Laid Back

SF0036S2001/ADOPTED

Page 1-line 7 Delete "17-29-304(b)" insert "17-29-304 by
creating a new subsection (c)".

Page 1-lines 11 through 15 Delete and insert:

"(c) Factors intrinsic to the character and operation of a limited liability company, including a limited liability company with a single member and manager, shall not be considered for purposes of imposing liability on any member or manager for the debts, obligations or other liabilities of the company. Factors intrinsic to the character and operation of a limited liability company include:

(i) Treatment as a disregarded or pass-through entity for tax purposes;

(ii) Flexible operation or organization;

(iii) The exercise of ownership, influence and governance by members or managers or by one (1) member or manager;

(iv) The protection of wealth from the acts of the limited liability company.".

Page 2-lines 1 through 3 Delete. NICHOLAS, P.

2/11/2016 S 2nd Reading:Passed
2/15/2016 S 3rd Reading:Laid Back
2/16/2016 S 3rd Reading:Laid Back

SF0036S3001/WITHDRAWN

SF0036S3002/ADOPTED

Delete the Nicholas, P. Second Reading Amendment (SF0036S2001/A) entirely and further amend as follows:

Page 1-line 2 Delete "acts which shall not justify" insert "standards for".

Page 1-line 3 After "managers;" insert "repealing a related provision;".

Page 1-line 7 Delete "17-29-304(b)" insert "17-29-304 by creating new subsections (c) and (d)".

Page 1-lines 11 through 15 Delete and insert:

"(c) For purposes of imposing liability on any member or manager of a limited liability company for the debts, obligations or other liabilities of the company, a court shall consider only the following factors no one (1) of which, except fraud, is sufficient to impose liability:

(i) Fraud;

(ii) Inadequate capitalization;

(iii) Failure to observe company formalities as required by law; and

(iv) Intermingling of assets, business operations and finances of the company and the members to such an extent that there is no distinction between them.

(d) In any analysis conducted under subsection (c) of this section, a court shall not consider factors intrinsic to the character and operation of a limited liability company, including a limited liability company with a single member or manager. Factors intrinsic to the character and operation of a limited liability company include but are not limited to:

(i) Treatment as a disregarded or pass-through entity for tax purposes;

(ii) Flexible operation or organization including the failure to observe any particular formality relating to the exercise of the company's powers or management of its activities;

(iii) The exercise of ownership, influence and governance by a member or manager;

(iv) The protection of members' and managers' personal assets from the obligations and acts of the limited liability company."

Page 2-lines 1 through 3 Delete.

Page 2-after line 3 Insert:

"Section 2. W.S. 17-29-304(b) is repealed."

Page 2-line 5 Delete "2." Insert "3.". CASE, NICHOLAS, P.

2/17/2016 S 3rd Reading:Passed 30-0-0-0-0

ROLL CALL

Ayes: Senator(s) Anderson, Barnard, Bebout, Boner, Burns, Case, Christensen, Coe, Cooper, Craft, Dockstader, Driskill, Emerich, Esquibel, F., Geis, Hastert, Hicks, Johnson, Kinskey, Landen, Meier, Nicholas, P., Pappas, Perkins, Peterson, Ross, Rothfuss, Scott, Von Flatern, Wasserburger

Ayes 30 **Nays** 0 **Excused** 0 **Absent** 0 **Conflicts** 0

2/18/2016 H Received for Introduction

2/19/2016 H Introduced and Referred to H02 - Appropriations

2/22/2016 H02 - Appropriations:Recommend Amend and Do Pass 7-0-0-0-0

ROLL CALL

Ayes: Representative(s) Burkhardt, Connolly, Greear, Harshman, Moniz, Nicholas, B., Stubson

Ayes 7 **Nays** 0 **Excused** 0 **Absent** 0 **Conflicts** 0

2/22/2016 H Placed on General File

SF0036HS001/ADOPTED (TO ENGROSSED COPY)

Page 2-line 18 Delete entirely and insert "company.".

Page 2-line 19 Delete the line through "manager.".

Page 3-line 14 Delete "." and insert ";".

Page 3-After line 14 insert:

"(v) The operation of a limited liability company with a single member or manager." MONIZ, VICE-CHAIRMAN

2/23/2016 H COW:Passed

2/24/2016 H 2nd Reading:Passed

2/25/2016 H 3rd Reading:Passed 59-0-1-0-0

ROLL CALL

Ayes: Representative(s) Allen, Baker, Baldwin, Barlow, Berger, Blackburn, Blake, Brown, Burkhardt, Byrd, Campbell, Cannady, Clem, Connolly, Dayton, Edmonds, Edwards, Eklund, Esquibel, K., Gay, Greear, Halverson, Harshman, Harvey, Hunt, Jaggi, Jennings, Kasperik, Kinner, Kirkbride, Kroeker, Krone, Larsen, Laursen, Lindholm, Lockhart, Loucks, Madden, McKim, Miller, Moniz, Nicholas, B., Northrup, Paxton, Pelkey, Petroff, Piiparinen, Pownall, Reeder, Schwartz, Sommers, Steinmetz, Stubson, Throne, Walters, Wilson, Winters, Zwonitzer, Dn., Zwonitzer, Dv.

Excused: Representative Freeman

Ayes 59 **Nays** 0 **Excused** 1 **Absent** 0 **Conflicts** 0

2/25/2016 S Received for Concurrence

2/25/2016 S Concur:Failed 0-30-0-0-0

ROLL CALL

Nays: Senator(s) Anderson, Barnard, Bebout, Boner, Burns, Case, Christensen, Coe, Cooper, Craft, Dockstader, Driskill, Emerich, Esquibel, F., Geis, Hastert, Hicks, Johnson, Kinskey, Landen, Meier, Nicholas, P., Pappas, Perkins, Peterson, Ross, Rothfuss, Scott, Von Flatern, Wasserburger

Ayes 0 **Nays** 30 **Excused** 0 **Absent** 0 **Conflicts** 0

2/25/2016 S Appointed JCC01 Members

Senator(s) Case, Perkins, Ross

2/26/2016 H Appointed JCC01 Members

Representative(s) Stubson, Greear, Walters

3/1/2016 S Adopted SF0036JC001: 26-0-4-0-0

SF0036JC001/SADOPTED (TO ENGROSSED COPY)

Delete the following House amendments:

SF0036HS001/AE

Further amend the ENGROSSED COPY as follows:

Page 2-line 18 After "company," delete balance of line and insert "whether a single or multiple member limited liability company.".

Page 2-line 19 Delete line through "manager.".
Page 3-line 1 Delete "Treatment" insert "The ability to elect
treatment". CASE, PERKINS, ROSS, STUBSON,
GREEAR, WALTERS

ROLL CALL

Ayes: Senator(s) Anderson, Barnard, Boner, Burns, Case, Christensen,
Coe, Cooper, Craft, Dockstader, Driskill, Emerich, Esquibel, F., Geis,
Hicks, Johnson, Kinskey, Landen, Meier, Nicholas, P., Pappas, Peterson,
Rothfuss, Scott, Von Flatern, Wasserburger

Excused: Senator(s) Bebout, Hastert, Perkins, Ross

Ayes 26 **Nays** 0 **Excused** 4 **Absent** 0 **Conflicts** 0

3/2/2016 H Adopted SF0036JC001: 57-1-2-0-0

SF0036JC001/SADOPTEDHADOPTED (TO ENGROSSED COPY)

Delete the following House amendments:

SF0036HS001/AE

Further amend the ENGROSSED COPY as follows:

Page 2-line 18 After "company," delete balance of line and
insert "whether a single or multiple member
limited liability company.".

Page 2-line 19 Delete line through "manager.".

Page 3-line 1 Delete "Treatment" insert "The ability to elect
treatment". CASE, PERKINS, ROSS, STUBSON,
GREEAR, WALTERS

ROLL CALL

Ayes: Representative(s) Allen, Baker, Baldwin, Barlow, Berger,
Blackburn, Blake, Brown, Burkhart, Byrd, Campbell, Cannady, Clem,
Connolly, Dayton, Edmonds, Edwards, Eklund, Esquibel, K., Freeman, Gay,
Greear, Halverson, Harshman, Harvey, Hunt, Jaggi, Jennings, Kasperik,
Kinner, Kirkbride, Kroeker, Krone, Larsen, Laursen, Lindholm, Lockhart,
Loucks, Madden, Miller, Moniz, Nicholas, B., Northrup, Paxton, Pelkey,
Petroff, Piiparinen, Pownall, Reeder, Schwartz, Sommers, Steinmetz,
Stubson, Walters, Wilson, Winters, Zwonitzer, Dn.

Nays: Representative McKim

Excused: Representative(s) Throne, Zwonitzer, Dv.

Ayes 57 **Nays** 1 **Excused** 2 **Absent** 0 **Conflicts** 0

3/2/2016 Assigned Number SEA No. 0045
3/3/2016 S President Signed SEA No. 0045
3/3/2016 H Speaker Signed SEA No. 0045
3/4/2016 Governor Signed SEA No. 0045
3/7/2016 Assigned Chapter Number

Chapter No. 54 Session Laws of Wyoming 2016