



April 2017

Meghan E. Smith

## CONNECTICUT'S NEW LIMITED LIABILITY COMPANY ACT

Connecticut recently unveiled the Connecticut Uniform Limited Liability Company Act (“CULLCA”), which takes effect on July 1, 2017. This new law makes some significant changes to the current laws governing limited liability companies (the “Current Act”). The purpose of adopting CULLCA was to make the Current Act more business friendly for a limited liability company (“LLC”). It is important to remember that CULLCA will only govern a matter to the extent the LLC’s operating agreement does not govern a matter. It essentially provides default rules which apply when a matter is not governed by the operating agreement of the LLC. While the new law takes effect on July 1, 2017, all LLCs formed prior to that date will be grandfathered in to the extent that the provisions in the operating agreement do not violate certain provisions of CULLCA.

### I. Notable Changes to the Current Act

1. Agent of the LLC: Under the Current Act, the member or manager of the LLC is an agent of the company for carrying on in the usual way the business or affairs of the company and can bind the company for such purposes unless he or she has, in fact, no authority to act for the company in the particular matter, and the person with whom he or she is dealing has knowledge of that fact, in which case the company will not be bound. Under CULLCA, a member is no longer assumed to be acting as an agent on behalf of the LLC. Parties dealing with an LLC will have to obtain satisfactory evidence of the member or manager’s authority to bind the company.

2. Articles of Organization: Under the Current Act, the LLC formation document is called the “Articles of Organization.” Under CULLCA, it is now called a Certificate of Organization. Besides the name, there are two other changes to this document: (A) There is no longer a requirement to state the LLC’s purpose; and (B) There is no longer a requirement to disclose whether the LLC is member-managed or manager-managed.

3. Annual Reports: Under the Current Act, an LLC is required to file its annual report on the anniversary date of its formation. Under CULLCA, the annual report must now be filed between January 1 and March 31, following the calendar year in which the LLC was formed.

4. New Members: Under the Current Act, the admission of a new member only required a majority in interest of the members. Under CULLCA, it is now required to be by unanimous vote. If it is the desire of the members to admit a new member by less than a unanimous vote of the members, it must be provided in the operating agreement.

5. Member-Managed: Under the Current Act, the member forming the LLC is required to disclose on the Articles of Organization whether it is a member-managed or manager-managed LLC. Under CULLCA, for all new LLCs formed on or after July 1, 2017, they will be deemed to be a member-managed LLC, unless stated otherwise in the operating agreement.

6. Distributions: Under CULLCA, there are specific standards when distributions by LLCs are prohibited. Even more importantly, CULLCA imposes personal liability upon a member-manager or manager who consents to a distribution in violation of the statute and fails to comply with the standards of care under the statute.

## II. How does this affect me?

If you are thinking about forming a new LLC, it is important to have an operating agreement to define how the company will operate based on the members' specific needs. Additionally, you should plan for the unknown: the death of a member, dissociation of a member, and transfer of membership interest, just to name a few. This can be done through the operating agreement or in a separate buy-sell agreement between the members.

If you currently operate your business as an LLC, you may want to consider reviewing your operating agreement to ensure you are in compliance with CULLCA. Additionally, you will want to ensure that any transfer provisions in your operating agreement comply with the statute, or consider having a separate buy-sell agreement between the members.

## III. What's next?

KKC can assist you in drafting your operating agreement, drafting a buy-sell agreement between your members, or in reviewing your current operating agreement to make sure that it complies with CULLCA. If you have questions concerning CULLCA or would like assistance, please feel free to contact the office to discuss the matter with one of our attorneys.

*Meghan E. Smith is an associate attorney in the Business Department at Kahan, Kerensky & Capossela, LLP. She may be reached at 860-812-1735 or e-mail her at [msmith@kkc-law.com](mailto:msmith@kkc-law.com).*

Don't forget to like us!

