

ILLINOIS SERIES LLC'S: Cost Effective Means to Limit Liability

Approximately two years ago, the Illinois Limited Liability Company Act was amended to allow for the creation of series limited liability companies ("Series LLCs"). Illinois followed Delaware, which introduced the Series LLC in 1996 in an effort to allow business owners to lower up-front costs and long term maintenance expenses for limited liability companies. While Series LLCs are widely used, especially within the real estate business sector, many business owners still do not know or understand the advantages of operating their business as a Series LLC.

Like a corporation or a non-series limited liability company, a Series LLC is treated as a single legal entity. A Series LLC files a single annual report and pays a single annual fee. However, the "master" or "parent" Series LLC is permitted to form multiple or "subs" or "mini" limited liability companies under the framework of the master. Each sub formed under the master may have the same or different ownership and management structure.

By electing to designate limited liability company as a Series LLC, a business owner may, at any time, form a sub by filing a registration of series with the Illinois Secretary of State. The up-front costs are a bit more than for a standard limited liability company, \$750.00 compared to \$500.00, but each registration of a new sub is only \$50.00. Previously established limited liability companies may also be converted to a Series LLC by filing an article of amendment with the Illinois Secretary of State along with the appropriate filing fee. The real savings, again comes with the filing of only one annual report rather than one for each limited liability company.

Once a series is formed, the business owner must treat each sub as an independent legal entity. The finances of one sub cannot be co-mingled with the finances of the master or another sub. Separate books and records must be maintained for each sub as well as the master.

Series LLCs are being utilized primarily by real estate developers. One real estate holding company, the master, may set up numerous subs; one for each of the properties owned or partially owned by the holding company. The holding company lowers its start up costs as well as its operating costs by filing an annual report for the Series LLC. While Series LLCs work well for real estate businesses, their use should not be limited to only one sector of business.

A business owner who offers multiple services may benefit from a Series LLC. For example, a metal manufacturer may create a Series LLC and register a sub for the operating company which actually manufactures the metal products, a sub for a scrap or recycling business which uses the left over metal from the operating company, and a series for the ownership of the property where the companies are located. Another example of a non-real estate use of a Series LLC is for artists or musicians. A musician may set up a Series LLC and create a sub for income earned at his performances, a sub to hold all copyrights and trademarks, and a sub for the manufacturing and sale of merchandise. In both examples, a Series LLC will save a business or individual money while providing insulation and protection from personal liability.

The potential uses of Series LLCs are potentially limitless. However, due to the relative infancy of the Series LLC there is limited case law related to them. For now business owners and their attorneys should continue to monitor the courts both here in Illinois and in Delaware for any cases challenging the legitimacy of Series LLCs.

Please contact Levin Ginsburg for Series LLC guidance or any related questions you may have.