Chapter 57D.

North Carolina Limited Liability Company Act.

Article 1.

General Provisions.

Part 1. Short Title; Reservation of Power; Definitions.

§ 57D-1-01. Short title.

This Chapter is the "North Carolina Limited Liability Company Act" and may be cited by that name. (2013-157, s. 2.)

§ 57D-1-02. Governing law; jurisdiction of the superior courts; intent; reservation of power to amend or repeal.

(a) This Chapter and any other applicable laws of this State govern (i) the internal affairs of every LLC, including the interpretation, construction, and enforcement of operating agreements and determining the rights and duties of interest owners, managers, and other company officials and (ii) any liability that interest owners or managers or other company officials may have for the liabilities of the LLC.

(b) The superior courts of this State have jurisdiction to enforce the provisions of this Chapter.

(c) The General Assembly may amend or repeal all or any part of this Chapter at any time, and all LLCs and the rights and duties of interest owners, managers, and other company officials subject to this Chapter will be subject to any such amendment or repeal. Except as otherwise provided in this Chapter, all amendments of this Chapter apply to all LLCs, foreign LLCs, interest owners, and managers and other company officials, including those LLCs and foreign LLCs in existence or person having such interests and status, at the time of the enactment of any such amendment.

(d) Each provision of this Chapter is severable, such that if any provision, including any clause of any provision, of this Chapter or application thereof to any person or in a particular context is held to be invalid, such invalidity will not affect other provisions or applications of this Chapter that can be given effect without the invalid provision or application. (2013-157, s. 2.)

§ 57D-1-03. Definitions.

Unless otherwise specifically provided, the following definitions apply in this Chapter:

(1) Approve. – With respect to a manager or other company official, member, or organizer and a decision or other action to be taken by the managers or other applicable company officials, members, or organizers, as the case may be, (i) the affirmative vote of that person at a meeting of the managers or other applicable company officials, members, or organizers, as applicable, or (ii) any other expression of assent to the action to be taken that is made in the manner or form required to establish the assent of the members to amendments of the operating agreement.

(2) Articles of organization. – The document filed under G.S. 57D-2-20 (or former G.S. 57C-2-20 for LLCs formed before January 1, 2014), for the purpose of forming an LLC, as amended or restated.

(3) Business. – Any lawful trade, investment, or other purpose or activity, whether or not conducted or undertaken for profit, except that the term "business," as

used in Article 7 of this Chapter, or to which reference is otherwise made in this Chapter to a foreign LLC "transacting business" (or is authorized or required to be authorized to "transact business") in this State, has the same meaning in that context as applied in Article 15 of Chapter 55 of the General Statutes.

(4) Capital interest. – An interest owner's interest in or share of the owners' equity of the LLC which may be based on the method of accounting consistently applied under which the LLC maintains its financial records to be made available to the members under G.S. 57D-3-04(a)(2).

(5) Company official. – Any person exercising any management authority over the limited liability company whether the person is a manager or referred to as a manager, director, or officer or given any other title.

(6) Contribution amount. – The fair market value, net of liabilities assumed (or to which any property contributed to the LLC is subject, but not in excess of the fair market value of the property that is subject to the liability), or other consideration paid by the LLC, of contributions in any form described in G.S. 57D-4-01 made in respect of an economic interest, determined as of the time the contribution is made, reduced by any money or other property or services promised to be transferred or rendered to or on behalf of the LLC in respect of the economic interest that are discharged without performance.

(7) Corporation. – A domestic corporation or a foreign corporation as those terms are defined in G.S. 55-1-40.

(8) Debtor in bankruptcy. – A person who is the subject of either of the following:
   a. An order for relief under Title 11 of the United States Code or a successor statute of general application.
   b. A comparable order under federal, State, or foreign law governing insolvency.

(9) Distribution. – Except as provided in the last sentence of this definition of distribution with respect to G.S. 57D-4-05, 57D-4-06, and 57D-6-12, the direct or indirect transfer of money or other property to, or incurrence of indebtedness by, an LLC for the benefit of an interest owner in respect of the interest owner's ownership interest. The amount of a distribution is the fair market value of the property distributed, net of liabilities assumed, or other consideration paid by the interest owner (or to which any property distributed to the interest owner is subject, but not in excess of the fair market value of the property that is subject to the liability), determined as of the time the distribution is made. As used in G.S. 57D-4-05, 57D-4-06, and 57D-6-12, "distribution" does not include payments made to, or an account of, an interest owner that constitute compensation for services and does not include payments made in the ordinary course of business under a bona fide retirement plan or other benefits program.

(10) Economic interest. – The proprietary interest of an interest owner in the capital, income, losses, credits, and other economic rights and interests of a limited liability company, including the right of the owner of the interest to receive distributions from the limited liability company.

(11) Economic interest owner. – A person, including a special economic interest owner, who owns an economic interest but is not a member.

(12) Entity. – A corporation, limited liability company, partnership (including a limited partnership), unincorporated association, trust, estate, government or governmental agency, instrumentality, or other entity.

(13) Foreign LLC. – An unincorporated entity organized under the law of (i) a state other than this State that is denominated thereunder as a limited liability company or (ii) a foreign jurisdiction other than a state, and the statute under which it is organized is substantially similar to the limited liability company statute of any state and is not more appropriately characterized as a corporation, partnership, or trust.

(14) Individual. – A human being.

(15) Interest owner. – A member, an economic interest owner, or a special economic interest owner.

(16) Liabilities, debts, and obligations. – Have the same meaning and are used interchangeably throughout this Chapter. Reference to "liabilities," "debts," or "obligations," whether individually or in any combination, means all liabilities, debts, and obligations, whether arising in contract, tort, or other applicable law.

(17) Limited liability company. – An LLC or foreign LLC.

(18) Limited partnership. – A domestic limited partnership or a foreign limited partnership as those terms are defined in G.S. 59-102.

(19) LLC. – An entity formed under this Chapter (or former Chapter 57C of the General Statutes) that has not become another entity or form of entity by merger, conversion, or other means.

(20) Manager. – Has the following meanings: (i) with respect to an LLC, any person designated as a manager as provided in the operating agreement or, if applicable, in G.S. 57D-3-20(d) and (ii) with respect to a foreign LLC, any person designated as a manager under the law of the jurisdiction in which the foreign LLC is organized.

(21) Member. – A person who has been admitted as a member of the LLC as provided in the operating agreement or G.S. 57D-3-01, who was a member of the LLC immediately before the repeal of Chapter 57C of the General Statutes until the person ceases to be a member as provided in the operating agreement or G.S. 57D-3-02, or, with respect to a foreign LLC, a person who has been admitted as a member of the foreign LLC under the law of the jurisdiction in which the foreign LLC is organized until the person ceases to be a member under that law.

(22) Nonprofit corporation. – A domestic corporation or a foreign corporation as those terms are defined in G.S. 55A-1-40.

(23) Operating agreement. – Any agreement concerning the LLC or any ownership interest in the LLC to which each interest owner is a party or is otherwise bound as an interest owner. Subject to other controlling law, the operating agreement may be in any form, including written, oral, or implied, or any combination thereof. The operating agreement may specify the form that the operating agreement must take, in which case any purported amendment to the operating agreement or other agreement expressed in a nonconforming manner will not be deemed to be part of the operating agreement and will not be enforceable to the extent it would be part of the operating agreement if it were in proper form.

Subject to G.S. 57D-2-21 and the other provisions of this Chapter governing articles of organization, the articles of organization are to be deemed to be, or be part of, the operating agreement. If the LLC has only one interest owner and no operating agreement to which another person is a party, then any document or record intended by the interest owner to serve as the operating agreement will be the operating agreement.

(24) Organizer. – A person who executes the articles of organization in the capacity of an organizer.

(25) Ownership interest. – All of an interest owner's rights and obligations as an interest owner in an LLC, including (i) any economic interest, (ii) any right to participate in the management or approve actions proposed by persons responsible for the management of the LLC, (iii) any right to bring a derivative action, and (iv) any right to inspect the books and records of or receive information from the LLC.

(26) Person. – An individual or an entity.

(27) Principal office. – The principal executive office of the limited liability company as stated in its most recent annual report filed by the Secretary of State or, if the limited liability company has never filed an annual report, in its articles of organization or application for a certificate of authority.

(28) Proceeding. – Any civil or criminal proceeding or other action pending before any court of law or other governmental body or agency or any arbitration proceeding.

(29) Professional service. – Has the meaning provided in G.S. 55B-2.

(30) Professional limited liability company. – A limited liability company subject to G.S. 57D-2-02.

(31) Record. – When used as a noun, information that is inscribed on a tangible medium or that is stated in an electronic or other medium and is retrievable in readable form.

(32) Secretary of State. – The Secretary of State of North Carolina.

(32a) Service-disabled veteran. – A veteran with a disability that was incurred or aggravated during the veteran's service in the Armed Forces of the United States.

(32b) Service-disabled veteran-owned small business. – A business that satisfies both of the following requirements:

a. The business's net annual receipts do not exceed one million dollars ($1,000,000).

b. One or more service-disabled veterans own more than fifty percent (50%) of the business.

(32c) Special economic interest owner. – A person who owns an economic interest and, as provided in G.S. 57D-3-02, has rights to information and to seek dissolution but is not a member.

(33) State. – A state, territory, or possession of the United States, the District of Columbia, or the Commonwealth of Puerto Rico, and "this State" refers to the State of North Carolina.

(34) Transfer. – As a noun, the transfer of legal, equitable, or beneficial ownership by sale, exchange, assignment, gift, donation, grant, or other conveyance or

disposition of any kind, whether voluntary or involuntary, including transfers by operation of law or legal process and includes, with respect to the ownership interest of an interest owner for purposes of G.S. 57D-3-02(a)(3), any (i) appointment of a receiver, trustee, liquidator, custodian, or other similar official for that interest owner or all or any part of the property of that interest owner under any law of bankruptcy or insolvency; (ii) gift, donation, transfer by will or intestacy, or other similar type of transfer or disposition, whether during one's life or because of death; (iii) appointment of a personal or other legal representative or other person serving in a similar capacity of a deceased interest owner; (iv) appointment of a guardian or other person serving in a similar capacity of an interest owner who has been adjudicated to be incompetent by a court of competent jurisdiction; and (v) other transfer or disposition to a spouse or former spouse (including by reason of a separation agreement or divorce, equitable, community or marital property distribution, judicial decree, or other court order concerning the division or partition of property between spouses, former spouses, or other persons); and, as a verb, the act of making any transfer.

(35) Veteran. – An individual entitled to any benefits or rights under the laws of the United States by reason of service in the Armed Forces of the United States.

(36) Veteran-owned small business. – A business that satisfies both of the following requirements:

a. The business's net annual receipts do not exceed one million dollars ($1,000,000).

b. One or more veterans own more than fifty percent (50%) of the business. (2013-157, s. 2; 2017-90, s. 4; 2017-212, s. 8.7(a); 2025-55, s. 1.)

§ 57D-1-04: Reserved for future codification purposes.

§ 57D-1-05: Reserved for future codification purposes.

§ 57D-1-06: Reserved for future codification purposes.

§ 57D-1-07: Reserved for future codification purposes.

§ 57D-1-08: Reserved for future codification purposes.

§ 57D-1-09: Reserved for future codification purposes.

§ 57D-1-10: Reserved for future codification purposes.

§ 57D-1-11: Reserved for future codification purposes.

§ 57D-1-12: Reserved for future codification purposes.

§ 57D-1-13: Reserved for future codification purposes.

§ 57D-1-14: Reserved for future codification purposes.

§ 57D-1-15: Reserved for future codification purposes.

§ 57D-1-16: Reserved for future codification purposes.

§ 57D-1-17: Reserved for future codification purposes.

§ 57D-1-18: Reserved for future codification purposes.

§ 57D-1-19: Reserved for future codification purposes.

Part 2. Filing Documents.

§ 57D-1-20. Filing requirements.

(a) A document required or permitted by this Chapter to be filed by the Secretary of State must be filed as provided in Chapter 55D of the General Statutes.

(b) A document submitted on behalf of a limited liability company must be executed by one of the following:

(1) A manager or other company official.

(2) If the document is the articles of organization, a person acting in the capacity of an organizer or a member as provided in G.S. 57D-2-21(a)(2).

(3) If the LLC has never had any members, an organizer.

(4) If the LLC is in the hands of a receiver, trustee, or other court-appointed fiduciary, by that fiduciary. (2013-157, s. 2)

§ 57D-1-21. Forms.

(a) The Secretary of State may promulgate and furnish on request forms for the following:

(1) An application for a certificate of existence.

(2) A foreign LLC's application for a certificate of authority to transact business in this State.

(3) A foreign LLC's application for a certificate of withdrawal.

(b) If the Secretary of State so requires, use of the forms listed in subsection (a) of this section is mandatory.

(c) The Secretary of State may promulgate and furnish on request forms for other documents required or permitted to be filed by this Chapter, but their use is not mandatory. (2013-157, s. 2.)

§ 57D-1-22. Filing, service, and copying fees.

(a) The Secretary of State shall collect the following fees when the documents described in this subsection are delivered to the Secretary of State for filing:

Document	Fee
(1) Articles of organization	$125.00
(2) Application for reserved name	10.00
(3) Notice of transfer of reserved name	10.00
(4) Application for registered name	10.00

(5)	Application for renewal of registered name	10.00
(6)	Limited liability company's statement of change of registered agent or registered office or both	5.00
(7)	Agent's statement of change of registered office for each affected limited liability company	5.00
(8)	Agent's statement of resignation	No fee
(9)	Designation of registered agent or registered office or both	5.00
(10)	Amendment of articles of organization	50.00
(11)	Restated articles of organization without amendment of articles	10.00
(12)	Restated articles of organization with amendment of articles	50.00
(13)	Articles of conversion (other than articles of conversion included as part of another document)	50.00
(14)	Articles of merger	50.00
(15)	Articles of dissolution	30.00
(16)	Cancellation of articles of dissolution	10.00
(17)	Certificate of administrative dissolution	No fee
(18)	Application for reinstatement following administrative dissolution	100.00
(19)	Certificate of reinstatement	No fee
(20)	Certificate of judicial dissolution	No fee
(21)	Application for certificate of authority	250.00
(22)	Application for amended certificate of authority	50.00
(23)	Application for certificate of withdrawal	10.00
(24)	Certificate of revocation of authority to transact business	No fee
(25)	Articles of correction	10.00
(26)	Application for certificate of existence or authorization (paper)	15.00
(27)	Application for certificate of existence or authorization (electronic)	10.00
(28)	Annual report	200.00
(29)	Any other document required or permitted to be filed by this Chapter	10.00

(b) The Secretary of State shall collect a fee of ten dollars ($10.00) each time process is served on the Secretary of State under this Chapter. The party to a proceeding causing service of process is entitled to recover this fee as costs if the party prevails in the proceeding.

(c) The Secretary of State shall collect the following fees for copying and certifying a copy of any filed document relating to a limited liability company:

(1) One dollar ($1.00) a page for copying.

(2) Fifteen dollars ($15.00) for a paper certificate.

(3) Ten dollars ($10.00) for an electronic certificate. (2013-157, s. 2.)

§ 57D-1-23. Execution by judicial act.

Any person who is adversely affected by the failure or refusal of any person to execute and deliver to the Secretary of State for filing any document to be filed under this Chapter may petition the superior court in the county where the limited liability company's principal office or, if none in this State, its registered office is or was last located or, if there is no such office, in the County of Wake to direct the execution and delivery to the Secretary of State for filing of the document. If the court finds that it is proper for the document to be executed and delivered to the Secretary of State for filing and there has been failure or refusal by the applicable company officials to do so, it shall order the Secretary of State to make the filing. (2013-157, s. 2.)

§ 57D-1-24. Certificate of existence; certificate of authorization.

(a) Anyone may apply to the Secretary of State for a certificate of existence for an LLC or a certificate of authorization for a foreign LLC.

(b) A certificate of existence or authorization sets forth the following:

(1) The limited liability company's name and, in the case of a foreign LLC, any different name that the foreign LLC is authorized under Article 3 of Chapter 55D of the General Statutes to use to transact business in this State, as provided in the foreign LLC's certificate of authority.

(2) That (i) the articles of organization for the LLC have been filed and are in effect and the date on which the filed articles of organization became effective or (ii) a certificate of authority has been issued to the foreign LLC and is in effect and the date on which the certificate of authority became effective.

(3) That the articles of organization of an LLC or the certificate of authority of a foreign LLC are not suspended under G.S. 57D-1-32(a) (or for limited liability companies formed before January 1, 2014, former G.S. 57C-1-32(a)) for failure to answer interrogatories propounded by the Secretary of State or under G.S. 105-230 for failure to pay a tax or fee or file a report or return.

(4) That the LLC has not been administratively dissolved under G.S. 57D-6-06 (or for limited liability companies formed before January 1, 2014, former G.S. 57C-6-03) and no decree of judicial dissolution has been filed under G.S. 57D-6-05 (or, for limited liability companies formed before January 1, 2014, former G.S. 57C-6-02) or, with respect to a foreign LLC, no application for a certificate of withdrawal or a certificate of revocation has been filed under Article 7 of this Chapter (or, for limited liability companies formed before January 1, 2014, former Article 7 of Chapter 57C of the General Statutes).

(5) That, in the case of an LLC, articles of dissolution have not been filed nor have articles of merger or conversion been filed causing it to merge or convert into another entity or form of entity.

(6) Other facts of record in the Office of the Secretary of State pertaining to the limited liability company that may be requested by the applicant.

(c) A certificate of existence or authorization issued by the Secretary of State may be relied upon as conclusive evidence as to the accuracy of its contents.

(d) A nonresident business solely performing disaster-related work in this State during a disaster response period at the request of a critical infrastructure company is not required to obtain a certificate of authority from the Secretary of State. The definitions and provisions of G.S. 166A-19.70A apply to this subsection. (2013-157, s. 2; 2019-187, s. 1(c).)

§ 57D-1-25: Reserved for future codification purposes.

§ 57D-1-26: Reserved for future codification purposes.

§ 57D-1-27: Reserved for future codification purposes.

§ 57D-1-28: Reserved for future codification purposes.

§ 57D-1-29: Reserved for future codification purposes.

Part 3. Secretary of State.

§ 57D-1-30. Powers of the Secretary of State.

The Secretary of State has the power necessary to perform the duties required by this Chapter. (2013-157, s. 2.)

§ 57D-1-31. Interrogatories by Secretary of State.

The Secretary of State may propound to any limited liability company that the Secretary of State has reason to believe is subject to the provisions of this Chapter, and to any manager or other company official thereof, such written interrogatories as may be necessary and proper to enable the Secretary of State to ascertain whether the limited liability company has complied with all of the provisions of this Chapter applicable to it. Subject to applicable jurisdictional requirements, the interrogatories must be answered within 30 days after the mailing thereof, or within such additional time as the Secretary of State may fix, and the answers thereto must be full and complete and made in writing and under oath. If the interrogatories are directed to an individual, they must be answered by the individual, and if directed to a limited liability company, they must be answered by a manager or other company official thereof. The Secretary of State shall certify to the Attorney General for such action all interrogatories and answers thereto that disclose a violation of any of the provisions of this Chapter requiring or permitting action by the Attorney General. (2013-157, s. 2.)

§ 57D-1-32. Penalties imposed on limited liability companies for failure to answer interrogatories.

(a) In addition to the recourse that the Secretary of State may have under G.S. 57D-6-06 and Part 3 of Article 7 of this Chapter to administratively dissolve an LLC or revoke the certificate of authority of the foreign LLC, if a limited liability company knowingly fails or refuses to answer truthfully and fully within the time prescribed in this Chapter interrogatories propounded by the Secretary of State in accordance with the provisions of this Chapter, the Secretary of State may suspend its articles of organization or its certificate of authority to do business in this State. The Secretary of State shall immediately notify by mail the limited liability company of its suspension. The powers, privileges, and franchises conferred on the limited liability company by the articles of organization or the certificate of authority terminate upon their suspension. Any act performed or attempted to be performed during the period of suspension is invalid and of no effect unless and to the extent the Secretary of State reinstates the limited liability company.

(b) The Secretary of State shall reinstate a limited liability company upon the limited liability company fully complying with its obligations under G.S. 57D-1-31, paying all State taxes, fees, and penalties due from it (which total amount due may be computed, for years before and after the suspension, in the same manner as if the suspension had not taken place) and paying to the Secretary of State twenty-five dollars ($25.00) to cover the cost of reinstatement. Upon reinstatement of an LLC's articles of organization or a foreign LLC's certificate of authority by the Secretary of State, (i) the limited liability company may again exercise its rights, privileges, and franchises in this State, and (ii) the Secretary of State shall make the appropriate entry thereof on the records of the Secretary of State. The entry of reinstatement in the records of the Secretary of State relates back to and takes effect as of the date of the suspension by the Secretary of State, and the limited liability company may resume conducting its business as if the suspension had never occurred, subject to the rights of any person who relied, to that person's prejudice, on the

suspension. The Secretary of State shall immediately notify by mail the limited liability company of the reinstatement.

(c) When the articles of organization or certificate of authority of a limited liability company have or has been suspended by the Secretary of State under subsection (a) of this section and the limited liability company has ceased to operate as a going concern, if there remains property held in the name of the limited liability company that is not disposed at the time of the suspension, or there remain future interests that may accrue to the limited liability company, its successor, or its interest owners, then any interested party may apply to the superior court for the appointment of a receiver. Application for the receiver may be made in a civil action to which all interest owners are made parties. The applicant may serve persons whom the applicant either is unable to locate or are unknown by publication made in the same manner as the publication of notice under G.S. 57D-6-11. A guardian ad litem may be appointed for any interest owners who are infants or incompetent. The receiver shall enter into a bond if the court requires one and shall give notice to creditors by publication or otherwise as the court may prescribe. Any creditor who fails to file a claim with the receiver within the time set will be barred of the right to participate in the distribution of the assets. The receiver may (i) sell the property interests of the limited liability company on such terms and in such manner as the court may order, (ii) apply the proceeds to the payments of any debt of the limited liability company, and (iii) distribute the remainder among the interest owners in accordance with the manner in which liquidating distributions are to be made by the limited liability company. Amounts due to any interest owner who is unknown or whose whereabouts are unknown are to be paid to the office of the clerk of the superior court and disbursed according to law. If the records of the limited liability company are lost or do not reflect the owners of the property interests, the court shall determine the owners from the best evidence available, and the receiver will be protected in acting in accordance with the court's finding. This proceeding is authorized for the sole purpose of providing a procedure for disposing of the assets of the limited liability company by payment of its debts and by the transfer to its interest owners, or their representatives, of their shares of the limited liability company's remaining assets.

(d) Each manager or other company official of a limited liability company who fails or refuses within the time prescribed by this Chapter to answer truthfully and fully interrogatories propounded to the manager or other company official by the Secretary of State in accordance with the provisions of this Chapter shall be guilty of a Class 1 misdemeanor. (2013-157, s. 2.)

§ 57D-1-33. Information disclosed by interrogatories.

Interrogatories propounded by the Secretary of State and the answers thereto will not be open to public inspection nor shall the Secretary of State disclose any facts or information obtained therefrom, except to the extent applicable law requires the Secretary of State to make the information public or the interrogatories or the answers thereto are required for evidence in any proceedings by this State. (2013-157, s. 2.)