

Second Regular Session
Sixty-seventh General Assembly
STATE OF COLORADO

REDRAFT

1.13.10

Double underlining
denotes changes from
prior draft

DRAFT

LLS NO. 10-0654.01 Christy Chase

HOUSE BILL

HOUSE SPONSORSHIP

Miklosi,

SENATE SPONSORSHIP

(None),

SHORT TITLE: "Low-profit Limited Liability Companies"

DEADLINES: Finalize by: 01/13/10 File by: 01/18/10

A BILL FOR AN ACT

101 CONCERNING THE CREATION OF LOW-PROFIT LIMITED LIABILITY
102 COMPANIES.

Bill Summary

(Note: This summary applies to this bill as introduced and does not reflect any amendments that may be subsequently adopted. If this bill passes third reading in the house of introduction, a bill summary that applies to the reengrossed version of this bill will be available at <http://www.leg.state.co.us/billsummaries>.)

The bill allows the formation of low-profit limited liability companies, or "L3Cs", in Colorado, organized with the primary business objective of furthering a charitable or educational purpose but permitted to produce income or capital appreciation as long as the production of income or appreciation of property is not a significant purpose of the

*Capital letters indicate new material to be added to existing statute.
Dashes through the words indicate deletions from existing statute.*

company.

In addition to filing articles of organization, an L3C would have to register with, file its operating agreement with, and submit an annual financial report to the secretary of state and pay fees in connection with such filings and submissions.

1 *Be it enacted by the General Assembly of the State of Colorado:*

2 **SECTION 1.** 7-80-102, Colorado Revised Statutes, is amended
3 BY THE ADDITION OF A NEW SUBSECTION to read:

4 **7-80-102. Definitions.** As used in this article, unless the context
5 otherwise requires:

6 (7.7) "LOW-PROFIT LIMITED LIABILITY COMPANY" OR "L3C"
7 MEANS A LIMITED LIABILITY COMPANY FORMED UNDER THIS ARTICLE THAT
8 IS ORGANIZED FOR A BUSINESS PURPOSE THAT SATISFIES AND IS OPERATED
9 AT ALL TIMES TO SATISFY EACH OF THE FOLLOWING REQUIREMENTS:

10 (a) THE LIMITED LIABILITY COMPANY SIGNIFICANTLY FURTHERS
11 THE ACCOMPLISHMENT OF ONE OR MORE CHARITABLE OR EDUCATIONAL
12 PURPOSES DESCRIBED IN 26 U.S.C. SEC. 170 (c) (2) (B) OF THE FEDERAL
13 "INTERNAL REVENUE CODE OF 1986", AS AMENDED, AND WOULD NOT
14 HAVE BEEN FORMED EXCEPT TO ACCOMPLISH THOSE CHARITABLE OR
15 EDUCATIONAL PURPOSES.

16 (b) THE PRODUCTION OF INCOME OR APPRECIATION OF PROPERTY
17 IS NOT A SIGNIFICANT PURPOSE OF THE LIMITED LIABILITY COMPANY;
18 HOWEVER, IN THE ABSENCE OF OTHER FACTORS, THE FACT THAT A LIMITED
19 LIABILITY COMPANY PRODUCES SIGNIFICANT INCOME OR CAPITAL
20 APPRECIATION IS NOT CONCLUSIVE EVIDENCE OF A SIGNIFICANT PURPOSE
21 INVOLVING THE PRODUCTION OF INCOME OR THE APPRECIATION OF
22 PROPERTY.

23 (c) THE PURPOSES OF THE LIMITED LIABILITY COMPANY DO NOT

1 INCLUDE ACCOMPLISHING ONE OR MORE POLITICAL OR LEGISLATIVE
2 PURPOSES DESCRIBED IN 26 U.S.C. SEC. 170 (C) (2) (D) OF THE FEDERAL
3 "INTERNAL REVENUE CODE OF 1986", AS AMENDED.

4 **SECTION 2.** 7-80-204 (1), Colorado Revised Statutes, is
5 amended BY THE ADDITION OF A NEW PARAGRAPH to read:

6 **7-80-204. Articles of organization.** (1) The articles of
7 organization shall state:

8 (d.5) WHETHER THE COMPANY IS A LOW-PROFIT LIMITED LIABILITY
9 COMPANY OR L3C;

10 **SECTION 3.** Part 2 of article 80 of title 7, Colorado Revised
11 Statutes, is amended BY THE ADDITION OF A NEW SECTION to
12 read:

13 **7-80-210. Low-profit limited liability company - registration**
14 **- required filings with secretary of state - fees - rules.** (1) IN ADDITION
15 TO FILING ITS ARTICLES OF ORGANIZATION PURSUANT TO SECTION
16 7-80-203, A LOW-PROFIT LIMITED LIABILITY COMPANY ORGANIZED
17 PURSUANT TO THIS ARTICLE SHALL:

18 (a) REGISTER WITH THE SECRETARY OF STATE AND SUBMIT A
19 REGISTRATION FEE OF ONE HUNDRED FIFTY DOLLARS WITH THE
20 REGISTRATION; AND

21 (b) FILE ITS OPERATING AGREEMENT WITH THE SECRETARY OF
22 STATE PURSUANT TO PART 3 OF ARTICLE 90 OF THIS TITLE, WITH
23 CONFIDENTIAL ORGANIZATIONAL INFORMATION REDACTED, AND SUBMIT
24 A TWENTY-FIVE DOLLAR FILING FEE WITH THE OPERATING AGREEMENT.
25 THE SECRETARY OF STATE AND THE ATTORNEY GENERAL, IN
26 CONSULTATION WITH L3CS, SHALL DEVELOP GUIDELINES TO ASSIST IN
27 DETERMINING WHAT CONSTITUTES CONFIDENTIAL ORGANIZATIONAL

1 INFORMATION THAT SHOULD BE REDACTED FROM THE OPERATING
2 AGREEMENT. THE SECRETARY OF STATE SHALL DETERMINE, BY RULE, THE
3 DEADLINE FOR FILING THE OPERATING AGREEMENT.

4 (2) AN L3C SHALL FILE AN ANNUAL FINANCIAL REPORT WITH THE
5 SECRETARY OF STATE PURSUANT TO PART 3 OF ARTICLE 90 OF THIS TITLE,
6 BY A DATE AND IN A FORMAT DETERMINED BY THE SECRETARY OF STATE
7 BY RULE, AND SUBMIT A TWENTY-FIVE DOLLAR FEE WITH THE FINANCIAL
8 REPORT. THE SECRETARY OF STATE MAY ACCEPT THE L3C'S EXECUTED
9 COPIES OF FEDERAL INTERNAL REVENUE SERVICE TAX RETURNS AND
10 REPORTS IN SATISFACTION OF THIS REQUIREMENT. THE FINANCIAL REPORT
11 SHALL INCLUDE A STATEMENT OF ANY CHANGES IN PURPOSE OR ANY
12 OTHER INFORMATION REQUIRED AS PART OF THE REGISTRATION FORM
13 FILED PURSUANT TO SUBSECTION (1) OF THIS SECTION.

14 (3) THE SECRETARY OF STATE SHALL TRANSMIT FEES COLLECTED
15 PURSUANT TO THIS SECTION TO THE STATE TREASURER FOR DEPOSIT IN THE
16 DEPARTMENT OF STATE CASH FUND CREATED IN SECTION 24-21-104 (3)
17 (b), C.R.S.

18 **SECTION 4. Act subject to petition - effective date.** This act
19 shall take effect at 12:01 a.m. on the day following the expiration of the
20 ninety-day period after final adjournment of the general assembly (August
21 11, 2010, if adjournment sine die is on May 12, 2010); except that, if a
22 referendum petition is filed pursuant to section 1 (3) of article V of the
23 state constitution against this act or an item, section, or part of this act
24 within such period, then the act, item, section, or part shall not take effect
25 unless approved by the people at the general election to be held in
26 November 2010 and shall take effect on the date of the official
27 declaration of the vote thereon by the governor.