

ASSEMBLY JUDICIARY COMMITTEE

STATEMENT TO

ASSEMBLY, No. 2875

with committee amendments

STATE OF NEW JERSEY

DATED: MAY 1, 1997

The Assembly Judiciary Committee reports favorably and with committee amendments Assembly Bill No. 2875.

This bill makes revisions to the "New Jersey Limited Liability Company Act" as suggested by the 1995 Annual Report of the New Jersey Corporate and Business Law Study Commission, and in recognition of recent Internal Revenue Service "check-the-box" regulations, to put domestic and foreign business entities authorized to transact business in New Jersey on a more "level playing field" with similar entities in other states.

The bill: allows for perpetual existence of a limited liability company, as permitted by the recent IRS rules; permits a limited liability company to continue temporarily with only one member, so long as one or more additional members are added within 90 days; revises the termination of membership provisions; authorizes each member of a limited liability company, when managed by its members, to bind the limited liability company, including the authority to file for insolvency or reorganization on behalf of the limited liability company; clarifies the rights of a resigning member to receive the fair value of the member's interest as of the date of resignation; and finally, adds a new section to the act requiring limited liability companies to file an annual report with the Secretary of State.

The New Jersey Corporate and Business Law Study Commission is charged with studying and reviewing statutes, legislation and decisions of the courts of New Jersey and other states relating to business entities, including business and nonprofit corporations, partnerships and the issuance of ownership interests and securities.

The committee amendments made certain changes in section 5 of the bill. "Without" is changed to "with" in subsection b.(2)(a). In b.(2)(b) "or substantially all" is deleted. In b.(d) "or a partnership" is inserted and in b.(7) "termination" is changed to "dissolution".

The amendment in section 10 is technical and merely inserts a missing "the." A new section is inserted to amend N.J.S.A. 42:2B-65 to include certain new fees; a \$50.00 fee for filing an annual report and a late filing fee of \$200.00 for reinstatement of a certificate and a \$50.00 reinstatement filing fee. The amendments also add a new

paragraph (3) to section 14 of the bill (section 13 in the bill as introduced). This new paragraph provides for reinstatement of certificates that have been transferred to the inactive list or revoked. It further provides for relation back of the reinstatement to validate actions taken in the interim. The Secretary of State shall provide the forms necessary for effecting these annual report reinstatements.