

LEGISLATURE OF NEBRASKA
ONE HUNDRED EIGHTH LEGISLATURE
SECOND SESSION

LEGISLATIVE BILL 628

FINAL READING

Introduced by Jacobson, 42.

Read first time January 18, 2023

Committee: Banking, Commerce and Insurance

- 1 A BILL FOR AN ACT relating to corporations and other companies; to amend
2 sections 21-102, 21-185, 21-186, 21-188, 21-2202, and 21-2216,
3 Reissue Revised Statutes of Nebraska; to redefine terms; to change
4 provisions relating to limited liability companies and professional
5 corporations; to harmonize provisions; and to repeal the original
6 sections.
7 Be it enacted by the people of the State of Nebraska,

1 Section 1. Section 21-102, Reissue Revised Statutes of Nebraska, is
2 amended to read:

3 21-102 (RULLCA 102) In the Nebraska Uniform Limited Liability
4 Company Act:

5 (1) Certificate of organization means the certificate required by
6 section 21-117. The term includes the certificate as amended or restated.

7 (2) Certificate of registration means either (a) a document prepared
8 and issued by a regulatory body or (b) verification, by the Secretary of
9 State, that all of those members, managers, professional employees, and
10 agents who are required by law to do so are duly licensed or otherwise
11 legally authorized to render the professional service for which the
12 limited liability company is organized to do business or a service
13 ancillary to those which the limited liability company renders, through
14 the electronic accessing of the regulatory body's licensing records or
15 through compacts or other certifying organizations recognized by the
16 regulatory body by the Secretary of State.

17 (3) Contribution means any benefit provided by a person to a limited
18 liability company:

19 (A) in order to become a member upon formation of the company and in
20 accordance with an agreement between or among the persons that have
21 agreed to become the initial members of the company;

22 (B) in order to become a member after formation of the company and
23 in accordance with an agreement between the person and the company; or

24 (C) in the person's capacity as a member and in accordance with the
25 operating agreement or an agreement between the member and the company.

26 (4) Debtor in bankruptcy means a person that is the subject of:

27 (A) an order for relief under Title 11 of the United States Code or
28 a successor statute of general application; or

29 (B) a comparable order under federal, state, or foreign law
30 governing insolvency.

31 (5) Designated office means:

1 (A) the office that a limited liability company is required to
2 designate and maintain under section 21-113; or

3 (B) the principal office of a foreign limited liability company.

4 (6) Distribution, except as otherwise provided in subsection (g) of
5 section 21-134, means a transfer of money or other property from a
6 limited liability company to another person on account of a transferable
7 interest.

8 (7) Effective, with respect to a record required or permitted to be
9 delivered to the Secretary of State for filing under the Nebraska Uniform
10 Limited Liability Company Act, means effective under subsection (c) of
11 section 21-121.

12 (8) Foreign limited liability company means an unincorporated entity
13 formed under the law of a jurisdiction other than this state and
14 denominated by that law as a limited liability company.

15 (9) Limited liability company, except in the phrase foreign limited
16 liability company, means an entity formed under the Nebraska Uniform
17 Limited Liability Company Act.

18 (10) Manager means a person that under the operating agreement of a
19 manager-managed limited liability company is responsible, alone or in
20 concert with others, for performing the management functions stated in
21 subsection (c) of section 21-136.

22 (11) Manager-managed limited liability company means a limited
23 liability company that qualifies under subsection (a) of section 21-136.

24 (12) Member means a person that has become a member of a limited
25 liability company under section 21-130 and has not dissociated under
26 section 21-145.

27 (13) Member-managed limited liability company means a limited
28 liability company that is not a manager-managed limited liability
29 company.

30 (14) Operating agreement means the agreement, whether or not
31 referred to as an operating agreement and whether oral, in a record,

1 implied, or in any combination thereof, of all the members of a limited
2 liability company, including a sole member. The term includes the
3 agreement as amended or restated.

4 (15) Organizer means a person that acts under section 21-117 to form
5 a limited liability company.

6 (16) Person means an individual, corporation, business trust,
7 estate, trust, partnership, limited liability company, association, joint
8 venture, public corporation, government or governmental subdivision,
9 agency, or instrumentality, or any other legal or commercial entity.

10 (17) Principal office means the principal executive office of a
11 limited liability company or foreign limited liability company, whether
12 or not the office is located in this state.

13 (18) Professional service means any personal service rendered by an
14 attorney, a certified public accountant, a public accountant, a dentist,
15 an osteopathic physician, a physician and surgeon, a real estate broker,
16 an associate real estate broker, a real estate salesperson, or a
17 veterinarian. ~~type of personal service to the public which requires as a~~
18 ~~condition precedent to the rendering of such service the obtaining of a~~
19 ~~license or other legal authorization and which includes, but is not~~
20 ~~limited to, personal services rendered by a certified public accountant,~~
21 ~~dentist, osteopathic physician, physician and surgeon, veterinarian, real~~
22 ~~estate broker, associate real estate broker, real estate salesperson, or~~
23 ~~attorney at law.~~ For purposes of the act, those professions pertaining to
24 the diagnosis, care, and treatment of humans shall be considered to be of
25 the same profession.

26 (19) Record means information that is inscribed on a tangible medium
27 or that is stored in an electronic or other medium and is retrievable in
28 perceivable form.

29 (20) Regulatory body means a board, commission, court, or
30 governmental authority which is charged with licensing or regulating the
31 rendering of a professional service in this state.

1 (21) Sign means, with the present intent to authenticate or adopt a
2 record:

3 (A) to execute or adopt a tangible symbol; or

4 (B) to attach to or logically associate with the record an
5 electronic symbol, sound, or process.

6 (22) State means a state of the United States, the District of
7 Columbia, Puerto Rico, the United States Virgin Islands, or any territory
8 or insular possession subject to the jurisdiction of the United States.

9 (23) Transfer includes an assignment, conveyance, deed, bill of
10 sale, lease, mortgage, trust deed, security interest, encumbrance, gift,
11 and transfer by operation of law.

12 (24) Transferable interest means the right, as originally associated
13 with a person's capacity as a member, to receive distributions from a
14 limited liability company in accordance with the operating agreement,
15 whether or not the person remains a member or continues to own any part
16 of the right.

17 (25) Transferee means a person to which all or part of a
18 transferable interest has been transferred, whether or not the transferor
19 is a member.

20 Sec. 2. Section 21-185, Reissue Revised Statutes of Nebraska, is
21 amended to read:

22 21-185 (1) Each member, manager, professional employee, or agent of
23 a limited liability company who renders a professional service shall hold
24 a valid license or otherwise be duly authorized to render that
25 professional service under the law of this state if such member, manager,
26 professional employee, or agent renders a professional service within
27 this state or under the law of the state or other jurisdiction in which
28 such person renders the professional service.

29 (2) Before rendering a professional service, a limited liability
30 company shall (a)(i) deliver to the Secretary of State for filing a
31 certificate of registration issued to the limited liability company by

1 the regulatory body of the particular profession for which the limited
2 liability company is organized to do business, which certificate sets
3 forth the name and ~~residence~~ address of every member, manager,
4 professional employee, and agent of the limited liability company who is
5 required by law to be licensed or otherwise authorized to render the
6 professional service for which the limited liability company is organized
7 to do business or a service ancillary to those which the limited
8 liability company renders as of the last day of the month preceding the
9 date of delivery of the certificate, and (ii) certify that all of those
10 members, managers, professional employees, and agents of the limited
11 liability company who are required by law to do so are duly licensed or
12 otherwise authorized to render the professional service for which the
13 limited liability company is organized to do business or a service
14 ancillary to those which the limited liability company renders or (b)
15 comply with and qualify under the procedures set forth in subsection (2)
16 of section 21-186.

17 (3) The registration certificate requirements of this section and
18 sections 21-186 to 21-188 shall apply to both limited liability companies
19 and foreign limited liability companies.

20 (4) Any limited liability company that, prior to the effective date
21 of this act, has a certificate of registration pursuant to subsection (1)
22 or (2) of section 21-186 may continue to render professional service if
23 the certificate of registration is maintained continuously on and after
24 the effective date of this act.

25 Sec. 3. Section 21-186, Reissue Revised Statutes of Nebraska, is
26 amended to read:

27 21-186 (1)(a) An application for issuance of a certificate of
28 registration shall be made by the limited liability company to the
29 regulatory body in writing and shall contain the names of all of those
30 members, managers, professional employees, and agents of the limited
31 liability company who are required by law to be licensed or otherwise

1 authorized to render the professional service for which the limited
2 liability company is organized to do business or a service ancillary to
3 those which the limited liability company renders, the street address at
4 which the applicant proposes to render a professional service, and such
5 other information as may be required by the regulatory body. If it
6 appears to the regulatory body that each member, manager, professional
7 employee, and agent of the applicant required by law to be licensed is
8 licensed or otherwise authorized to practice the profession for which the
9 applicant is organized to do business and that each member, manager,
10 professional employee, or agent required by law to be licensed or
11 otherwise authorized to practice the profession for which the applicant
12 is organized to do business is not otherwise disqualified from rendering
13 the professional service of the applicant, such regulatory body shall
14 issue a certificate in duplicate upon a form bearing its date of issuance
15 and prescribed by such regulatory body certifying that the proposed or
16 existing limited liability company complies with the provisions of the
17 Nebraska Uniform Limited Liability Company Act and of the applicable
18 rules and regulations of the regulatory body. Each applicant for such
19 certificate shall pay the regulatory body a fee of twenty-five dollars
20 for the issuance of the certificate.

21 (b) One copy of a certificate of registration issued pursuant to
22 this subsection shall be prominently displayed to public view upon the
23 premises of the principal place of business of the limited liability
24 company, and, except as provided in subsection (2) of this section, one
25 copy shall be delivered for filing to the Secretary of State who shall
26 charge a fee as specified in section 21-192 for filing the same. The
27 certificate shall be delivered to the Secretary of State for filing with
28 the certificate of organization. A certificate of registration bearing an
29 issuance date more than twelve months old shall not be eligible for
30 filing by the Secretary of State.

31 (2) When licensing records of regulatory bodies are electronically

1 accessible to the Secretary of State, the regulatory body, in conjunction
2 with the Secretary of State, shall develop an automated process to allow
3 the Secretary of State to electronically access and verify the records.
4 The access of the records shall be made in lieu of a certificate of
5 registration being prepared and issued by the regulatory body for
6 delivery to the Secretary of State for filing. The limited liability
7 company shall deliver to the Secretary of State for filing an application
8 setting forth the names of all of those members, managers, professional
9 employees, and agents of such limited liability company who are required
10 by law to be licensed or otherwise authorized to render the professional
11 service for which the limited liability company is organized to do
12 business, or a service ancillary to those which the limited liability
13 company renders, as of the last day of the month preceding the date of
14 application and shall deliver to the Secretary of State for filing an
15 annual update thereafter. The application shall be completed on a form
16 prescribed by the Secretary of State and shall contain such other
17 information as the Secretary of State may require. The application shall
18 be accompanied by a license verification fee as specified in section
19 21-192.

20 The Secretary of State shall verify that all of those members,
21 managers, professional employees, and agents who are required by law to
22 do so are duly licensed or otherwise legally authorized to render the
23 professional service for which the applicant is organized to do business
24 or a service ancillary to ancillary service as those which the limited
25 liability company renders through electronic accessing of the regulatory
26 body's records or through compacts or other certifying organizations
27 recognized by the regulatory body. If any member, manager, professional
28 employee, or agent who is required by law to be licensed or otherwise
29 authorized to render the professional service for which the limited
30 liability company is organized to do business, or a service ancillary to
31 those which the limited liability company renders, is not licensed or

1 otherwise legally authorized to render the professional service for which
2 the limited liability company is organized to do business or a service
3 ancillary to those which the limited liability company renders, the
4 limited liability company shall be suspended. The suspension shall remain
5 in effect and a biennial report shall not be delivered to the Secretary
6 of State for filing or filed by the Secretary of State until the limited
7 liability company attests in writing that all of those members, managers,
8 professional employees, or agents who are required by law to be licensed
9 or otherwise authorized to render the professional service for which the
10 limited liability company is organized to do business, or a service
11 ancillary to those which the limited liability company renders, are duly
12 licensed or otherwise legally authorized to render the professional
13 service for which the limited liability company is organized to do
14 business or a service ancillary to those which the limited liability
15 company renders and that information is verified by the Secretary of
16 State or all unlicensed or unauthorized members, managers, professional
17 employees, or agents are no longer members, managers, professional
18 employees, or agents of the limited liability company.

19 Sec. 4. Section 21-188, Reissue Revised Statutes of Nebraska, is
20 amended to read:

21 21-188 A regulatory body may, upon a form prescribed by it, suspend
22 or revoke any certificate of registration issued to any limited liability
23 company pursuant to subsection (1) of section 21-186 upon the suspension
24 or revocation of the license or other authorization to render a
25 professional service by any member, manager, professional employee, or
26 agent of the limited liability company who is required by law to be
27 licensed or otherwise authorized to render the professional service for
28 which the limited liability company is organized to do business or a
29 service ancillary to those which the limited liability company renders.
30 Notice of such suspension or revocation shall be provided to the limited
31 liability company affected by sending by certified or registered mail a

1 certified copy of such suspension or revocation to the limited liability
2 company at its principal place of business set forth in the certificate
3 so suspended or revoked. At the same time, the regulatory body shall
4 forward by regular mail a certified copy of such suspension or revocation
5 to the Secretary of State who shall remove the suspended or revoked
6 registration certificate from his or her files and deliver it to the
7 regulatory body.

8 Sec. 5. Section 21-2202, Reissue Revised Statutes of Nebraska, is
9 amended to read:

10 21-2202 For purposes of the Nebraska Professional Corporation Act,
11 unless the context otherwise requires:

12 (1) Certificate of registration or registration certificate from or
13 by the regulating board means either (a) a document prepared and issued
14 by the regulating board or (b) verification, by the Secretary of State,
15 that all of those directors, officers, shareholders, and professional
16 employees listed on the application filed with the Secretary of State,
17 except for the secretary and assistant secretary, are duly licensed or
18 otherwise legally authorized to render the professional service for which
19 the professional corporation is organized or a service ancillary to those
20 which the professional corporation renders, through the electronic
21 accessing of the regulating board's licensing records or through compacts
22 or other certifying organizations recognized by the regulating board by
23 the Secretary of State;

24 (2) Professional corporation means a corporation which is organized
25 under the act for the specific purpose of rendering professional service
26 and which has as its shareholders only individuals who themselves are
27 duly licensed or otherwise legally authorized within this state to render
28 the same professional service as the corporation;

29 (3) Professional service means any personal service services
30 rendered by an attorney ~~at law~~, a certified public accountant, a public
31 accountant, a dentist, an osteopathic physician, a physician and surgeon,

1 a real estate broker, an associate real estate broker, a real estate
2 salesperson, or a veterinarian. For purposes of the act, those
3 professions pertaining to the diagnosis, care, and treatment of humans
4 shall be considered to be of the same profession; and

5 (4) Regulating board means a board which is charged with the
6 licensing and regulating of the practice or profession which the
7 professional corporation is organized to render.

8 Sec. 6. Section 21-2216, Reissue Revised Statutes of Nebraska, is
9 amended to read:

10 21-2216 (1) No corporation shall open, operate, or maintain an
11 establishment or do business for any purposes set forth in the Nebraska
12 Professional Corporation Act without (a) filing with the Secretary of
13 State a certificate of registration from the regulating board of the
14 particular profession for which the professional corporation is organized
15 to do business, which certificate shall set forth the name and ~~residence~~
16 addresses of all shareholders as of the last day of the month preceding
17 such filing, and (b) certifying that all shareholders, directors, and
18 officers, except the secretary and the assistant secretary, are duly
19 licensed to render the same professional services as those for which the
20 corporation was organized. Application for a certificate of registration
21 shall be made by the professional corporation to the regulating board in
22 writing and shall contain the names of all officers, directors,
23 shareholders, and professional employees of the professional corporation,
24 the street address at which the applicant proposes to perform
25 professional services, and such other information as may be required by
26 the regulating board.

27 (2) If it appears to the regulating board that each shareholder,
28 officer, director, and professional employee of the applicant, except the
29 secretary and the assistant secretary, is licensed to practice the
30 profession of the applicant and that each shareholder, officer, director,
31 or professional employee is not otherwise disqualified from performing

1 the professional services of the applicant, such regulating board shall
2 certify, in duplicate upon a form bearing its date of issuance and
3 prescribed by such regulating board, that such proposed or existing
4 professional corporation complies with the provisions of the act and of
5 the applicable rules and regulations of such regulating board. Each
6 applicant for such registration certificate shall pay such regulating
7 board a fee of twenty-five dollars for the issuance of such duplicate
8 certificate.

9 (3) One copy of such certificate shall be prominently exposed to
10 public view upon the premises of the principal place of business of each
11 professional corporation organized under the act, and one copy shall be
12 filed by the professional corporation with the Secretary of State who
13 shall charge a fee as specified in section 21-205. The certificate from
14 the regulating board shall be filed in the office of the Secretary of
15 State together with the articles of incorporation. A registration
16 certificate bearing an issuance date more than twelve months old shall
17 not be eligible for filing with the Secretary of State.

18 (4) When licensing records of regulating boards are electronically
19 accessible, the regulating board, in conjunction with the Secretary of
20 State, shall develop an automated process to allow the Secretary of State
21 to electronically access and verify the records. The access shall be made
22 in lieu of the certificate of registration or registration certificate
23 being prepared and issued by the regulating board. The professional
24 corporation shall file with the Secretary of State an application setting
25 forth the name and residence addresses of all officers, directors,
26 shareholders, and professional employees as of the last day of the month
27 preceding the date of the application and shall file with the Secretary
28 of State an annual update thereafter. Each application shall be
29 accompanied by a licensure verification fee as specified in section
30 21-205. The Secretary of State shall verify that all of the directors,
31 officers, shareholders, and professional employees listed on the

1 application, except for the secretary and assistant secretary, are duly
2 licensed or otherwise legally authorized to render the same professional
3 service ~~or an ancillary service as those~~ for which the professional
4 corporation was organized or a service ancillary to those which the
5 professional corporation renders. Verification shall be done by
6 electronically accessing the regulating board's licensing records or
7 through compacts or other certifying organizations recognized by the
8 regulating board. If any director, officer, shareholder, or professional
9 employee is not licensed or otherwise legally authorized to perform the
10 professional service that the professional corporation was organized to
11 render, or a service ancillary to those which the professional
12 corporation renders, the corporation will be suspended. The biennial
13 report and tax cannot be filed and paid in the office of the Secretary of
14 State until the corporation attests in writing that the director,
15 officer, shareholder, or professional employee is licensed or otherwise
16 legally authorized to practice, which shall be verified by the Secretary
17 of State, or is no longer a director, officer, shareholder, or
18 professional employee of the corporation. When the biennial report and
19 the tax become delinquent, the corporation shall be dissolved for
20 nonpayment of taxes in compliance with section 21-323.

21 Sec. 7. Original sections 21-102, 21-185, 21-186, 21-188, 21-2202,
22 and 21-2216, Reissue Revised Statutes of Nebraska, are repealed.