



PROTECT PEOPLE &  
PROMOTE BUSINESS

## HB 4449

The Corporations, Securities, and Commercial Licensing Bureau (CSCL) within LARA regulates the formation of business entities and maintains copies of entity filings. The documents filed with CSCL's Corporations Division by businesses ensure that their publicly available information is accurate, protect them from fraud, and hold them accountable to consumers. HB 4449 jeopardizes those protections and exposes professional limited liability companies (PLLCs) and the public to unnecessary risk.

### **Highlights**

- Removing the annual report certifying that owners providing professional services are licensed removes a layer of accountability to the public and exposes PLLCs to an Attorney General investigation or complaint.
- 20% of annual reports filed by PLLCs are filed by paper and require extended review to ensure they were completed correctly before uploading the reports to the Corporations Online Filing System.
- The online system for all business entity reports, including PLLCs reports, has a maintenance cost of \$1,295,877 per year.
- The bill would make it impossible for the department to know if a PLLC has failed to update information resulting in loss of good standing status, and the process for the PLLC to regain good standing status (i.e. certificate of restoration) would be unattainable for many with the current requirements.

### **Background on PLLCs & Annual Reports**

An individual or a group that is licensed to provide a professional service in a "learned profession" (e.g., dentistry, medicine, theology, or law) is *required* to organize as a PLLC, and ownership/membership is limited to those licensed professionals. An individual or an organization licensed or otherwise legally authorized to practice any other professional service may *choose* whether to organize as a PLLC. In the case of architects, engineers, surveyors, or accountants, only a certain percentage of owners must be licensed to provide the professional service. A PLLC can shield owners/members from some types of personal liability, but it cannot shield a member from liability associated with their own malpractice.

The annual report:

- Accurately and completely identifies the individuals offering and providing professional services to the public, including a certification that they are legally authorized to offer and provide those services.
- Requires a PLLC to annually verify that its information on file with Corporations Division was not modified by an unauthorized individual since the last time its annual report was filed.
- Ensures that a company preserves the use of its name.

### **Important Uses for the Information Contained in Annual Reports**

- **Service of Process** – If a PLLC is sued or prosecuted, service of process must be made on its resident agent and the Michigan Supreme Court is amending the court rules to allow service of process on members. Because PLLCs frequently change members and resident agents and their addresses, requiring a business to review and update its information with the state annually ensures that a consumer seeking to engage their professional services knows the individuals they are receiving services from and holds those individuals accountable to consumers and potential consumers.
- **Government Regulators** - Federal, state, and local law enforcement agencies frequently request and review this information in connection with criminal and administrative investigations and prosecutions.
- **Financial Institutions** rely on the accuracy of a PLLC's membership information to ensure compliance with federal reporting requirements and the ability to accurately assess risk.

- **Insurance Companies** use membership information to assess risk when reviewing applications for malpractice insurance.

Any change to annual reporting frequency will undeniably disrupt business practices due to the ongoing prevalence of identity theft and other financial fraud. It will reduce a PLLC's level of transparency and accountability to consumers, and hinder the progress of civil, criminal, and administrative investigations and proceedings.

***Budget Impact***

- LARA would see a potential reduction of \$642,000 in annual revenue from PLLC annual reports due to the removal of the \$50.00 annual report filing fee.
- Implementation of HB 4449 would cause significant changes to the online system currently being used and would have an IT cost of at least \$104,000.
- The late filing penalty provides an incentive for each PLLC to annually verify that its information is accurate and ensure that a PLLC is complying. Eliminating the \$50 late filing fee would remove a layer of a PLLC's accountability to the public and will impact revenue generated from these late filing fees.

***Other Relevant Information***

- Under section 906, complaints received by CSCL regarding members, managers, employees, or agents of a PLLC becoming legally disqualified to render the professional service or the PLLC otherwise violating the law are referred to the Attorney General's office to pursue an action for dissolution. CSCL has no direct authority to dissolve a PLLC or investigate violations of the Michigan Limited Liability Company Act.
- As of October 1, 2020, 15,836 domestic PLLCs are in good standing, and 13,201 domestic PLLCs are not in good standing.