

1 HOUSE BILL NO. 309  
 2 AMENDMENT IN THE NATURE OF A SUBSTITUTE  
 3 (Proposed by the House Committee on Commerce and Energy  
 4 on \_\_\_\_\_)  
 5 (Patron Prior to Substitute--Delegate Rasoul)

6 A BILL to amend and reenact § 13.1-1062 of the Code of Virginia, relating to limited liability companies;  
 7 prepayment of annual registration fees.

8 **Be it enacted by the General Assembly of Virginia:**

9 **1. That § 13.1-1062 of the Code of Virginia is amended and reenacted as follows:**

10 **§ 13.1-1062. Assessment of annual registration fees; annual registration fees to be paid by**  
 11 **domestic and foreign limited liability companies.**

12 A. Every domestic limited liability company, every protected series, every foreign limited liability  
 13 company registered to transact business in the Commonwealth, and every foreign protected series  
 14 registered to transact business in the Commonwealth shall pay into the state treasury on or before the last  
 15 day of the twelfth month next succeeding the month in which it was organized, established, or registered  
 16 to transact business in the Commonwealth, and by such date in each year thereafter, an annual registration  
 17 fee of \$50, provided that (i) for a domestic limited liability company that became a domestic limited  
 18 liability company by conversion from a domestic stock corporation or nonstock corporation, or by  
 19 domestication from a foreign limited liability company that was registered to transact business in the  
 20 Commonwealth at the time of the domestication, the annual registration fee shall be paid each year on or  
 21 before the date on which its annual registration fee was due prior to the conversion or domestication and  
 22 (ii) for a domestic limited liability company that became a domestic limited liability company by  
 23 conversion from a domestic limited partnership or business trust, the annual registration fee shall be paid  
 24 each year on or before the last day of the twelfth month next succeeding the month in which it was  
 25 originally incorporated, organized, or formed as an entity, except the initial annual registration fee to be  
 26 paid by the domestic limited liability company shall be due in the year after the calendar year in which

27 the conversion became effective when the annual registration fee of the domestic limited partnership or  
28 business trust was paid for the calendar year in which it was converted, or when the month in which the  
29 conversion was effective precedes the month in which the domestic limited partnership or business trust  
30 was originally incorporated, organized, or formed as an entity by two months or less.

31 The annual registration fee shall be imposed irrespective of any specific license tax or other tax or  
32 fee imposed by law upon the domestic or foreign limited liability company or any protected series thereof  
33 for the privilege of carrying on its business in the Commonwealth or upon its franchise, property, or  
34 receipts.

35 B. Each year, the Commission shall ascertain from its records each domestic limited liability  
36 company, each protected series, each foreign limited liability company registered to transact business in  
37 the Commonwealth, and each foreign protected series registered to transact business in the  
38 Commonwealth, as of the first day of the second month next preceding the month in which it was  
39 organized, established, or registered to transact business in the Commonwealth, and, except as provided  
40 in subsection A, shall assess against each such limited liability company and each such protected series  
41 the annual registration fee herein imposed. Notwithstanding the foregoing, (i) for a domestic limited  
42 liability company that became a domestic limited liability company by conversion from a domestic stock  
43 corporation or nonstock corporation, or by domestication from a foreign limited liability company that  
44 was registered to transact business in the Commonwealth at the time of the domestication, the assessment  
45 shall be made as of the first day of the second month next preceding the month in which its annual  
46 registration fee was due prior to the conversion or domestication and (ii) for a domestic limited liability  
47 company that became a domestic limited liability company by conversion from a domestic limited  
48 partnership or business trust, except as provided in subsection A, the assessment shall be made as of the  
49 first day of the second month next preceding the month in which the domestic limited liability company  
50 was originally incorporated, organized, or formed as an entity.

51 C. At the discretion of the Commission, the annual registration fee due date for a limited liability  
52 company may be extended, on a monthly basis for a period of not less than one month nor more than 11  
53 months, at the request of its registered agent of record or as may be necessary to distribute annual

54 registration fee due dates of limited liability companies as equally as practicable throughout the year on a  
55 monthly basis.

56 D. A statement of the assessment, when made, shall be forwarded by the clerk of the Commission  
57 to the Comptroller and to each domestic and foreign limited liability company and each protected series  
58 thereof.

59 E. A domestic or foreign limited liability company shall not be required to pay the annual  
60 registration fee assessed against it pursuant to subsection B in any year if (i) the Commission issues or  
61 files any of the following types of certificate or instrument and (ii) the certificate or instrument is effective  
62 on or before the annual registration fee due date:

63 1. A certificate of cancellation of existence or a certificate of organization surrender for a domestic  
64 limited liability company;

65 2. A certificate of cancellation for a foreign limited liability company;

66 3. A certificate of merger or an authenticated copy of an instrument of merger for a domestic or  
67 foreign limited liability company that has merged into a surviving domestic limited liability company or  
68 other business entity or into a surviving foreign limited liability company or other business entity; or

69 4. An authenticated copy of an instrument of entity conversion for a foreign limited liability  
70 company that has converted to a different entity type.

71 The Commission shall cancel the annual registration fee assessments specified in this subsection  
72 that remain unpaid.

73 F. Annual registration assessments that have been paid shall not be refunded.

74 G. The fees paid into the state treasury under this section and the fees collected under § 13.1-1005  
75 shall be set aside and paid into the special fund created under § 13.1-775.1, and shall be used only by the  
76 Commission as it deems necessary to defray the costs of the Commission and of the office of the clerk of  
77 the Commission in supervising, implementing, administering and enforcing the provisions of this chapter.  
78 The projected excess of fees collected over the costs of administration and enforcement so incurred shall  
79 be paid into the general fund prior to the close of each fiscal year, based on the unexpended balance of the

80 special fund at the end of the prior fiscal year. An adjustment of this transfer amount to reflect actual fees  
81 collected shall occur during the first quarter of the succeeding fiscal year.

82 H. Notwithstanding the provisions of this section, the Commission is authorized to establish a  
83 process for online prepayment of the annual registration fees required by this section whereby a domestic  
84 or foreign limited liability company may prepay its annual registration fees for two or three years.

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