

## HOUSE BILL NO. 293

## AMENDMENT IN THE NATURE OF A SUBSTITUTE

(Proposed by the House Committee on Communications, Technology and Innovation

on \_\_\_\_\_)

(Patron Prior to Substitute—Delegate Helmer)

*A BILL to amend the Code of Virginia by adding in Title 13.1 a chapter numbered 15, containing articles numbered 1 through 5, consisting of sections numbered 13.1-1300 through 13.1-1318, relating to corporations; limited liability decentralized autonomous organizations.*

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

**1. That the Code of Virginia is amended by adding in Title 13.1 a chapter numbered 15, containing articles numbered 1 through 5, consisting of sections numbered 13.1-1300 through 13.1-1318, as follows:**

*CHAPTER 15.**LIMITED LIABILITY DECENTRALIZED AUTONOMOUS ORGANIZATION ACT.**Article 1.**General Provisions.***§ 13.1-1300. Short title.**

*This chapter shall be known as the Limited Liability Decentralized Autonomous Organization Act.*

**§ 13.1-1301. Definitions.**

*As used in this chapter, unless the context requires a different meaning:*

*"Blockchain" means a digital ledger or database that is chronological, consensus based, decentralized, and mathematically verified in nature.*

*"Bylaws" means rules and regulations adopted by the LLD that govern its operations, management, participant rights and interests, amendment procedures, and dispute resolution, and include the information described in § 13.1-1308.*

*"Commission" means the State Corporation Commission.*

*"Dissenting participant" means a participant that votes against using LLD assets to satisfy a judgment or other obligation.*

*"Governance token" means a digital unit or asset signifying a participant interest in an LLD. Ownership of a governance token may or may not signify on-blockchain contributions of digital assets or capital to an LLD.*

*"Hard fork" means a divergence in the blockchain protocol creating alternative chains that may affect the*

LLD's governance or assets. "Hard fork" may include a blockchain software upgrade that is not compatible with previous versions of the blockchain software and requires all participants to upgrade to the latest version of the blockchain software.

"LLD registered agent" means a person or entity authorized to act on behalf of the LLD in the Commonwealth for off-blockchain legal and administrative matters.

"LLD" or "limited liability decentralized autonomous organization" means a legal entity formed under the provisions of this chapter that operates through decentralized governance using blockchain technology and smart contracts that execute decentralized decision-making mechanisms.

"On-blockchain contribution" means any contribution of assets or value made to the LLD through blockchain transactions or smart contracts. Making an "on-blockchain contribution" may or may not signify the ownership of a participant interest in an LLD.

"Participant" means a person that has governance rights through a participant interest in an LLD. "Participant" does not include a person that has involuntarily received governance tokens, unless that person has chosen to participate in the LLD in a manner consistent with its bylaws. A person is considered a "participant" from the time the person's ownership of governance tokens is established.

"Participant interest" means a participant's ownership share in an LLD as signified by the ownership of governance tokens or otherwise signified as specified in the LLD's bylaws.

"Smart contract" means an automated transaction, as defined in § 59.1-501.2, or any substantially similar analogue, that is comprised of code, script, or programming language that executes the terms of an agreement and that may include taking custody of and transferring an asset, administering participant interest votes with respect to a decentralized autonomous organization, or issuing executable instructions for these actions, based on the occurrence or nonoccurrence of specified conditions.

### **§ 13.1-1302. Relation to Virginia Limited Liability Company Act.**

A. Nothing in this chapter shall be construed as repealing or modifying any statute or rule that applies to a limited liability company organized under the Virginia Limited Liability Company Act (§ 13.1-1000 et seq.).

B. To the extent not inconsistent with the provisions of this chapter, the following provisions of the Virginia Limited Liability Company Act (§ 13.1-1000 et seq.) shall apply to LLDs:

1. An LLD may be subject to automatic cancellation under the same conditions as a limited liability company under § 13.1-1050.2;

2. LLDs shall be subject to the same annual registration fees as limited liability companies under Article

11 (§ 13.1-1061 et seq.); and

3. The provisions of Article 13 (§ 13.2-1069.1 et seq.), related to mergers of limited liability companies, and Article 15 (§ 13.1-1081 et seq.), related to conversion limited liability companies, shall apply to LLDs.

**§ 13.1-1303. Status as Limited Liability Decentralized Autonomous Organization; statement required.**

A. An LLD is a distinct legal entity with bylaws that contain a statement that the company is operating as an LLD.

B. An LLD shall include the following statement within its bylaws and LLD articles of organization:

THE RIGHTS OF PARTICIPANTS OF A LIMITED LIABILITY DECENTRALIZED AUTONOMOUS ORGANIZATION MAY DIFFER MATERIALLY FROM THE RIGHTS OF PARTICIPANTS OF OTHER LIMITED LIABILITY COMPANIES. THE LIMITED LIABILITY DECENTRALIZED AUTONOMOUS ORGANIZATION ACT OR THE BYLAWS, THE OPERATING AGREEMENT, OR ANY UNDERLYING SMART CONTRACTS OF A LIMITED LIABILITY DECENTRALIZED AUTONOMOUS ORGANIZATION MAY DEFINE, REDUCE, OR ELIMINATE FIDUCIARY DUTIES AND MAY RESTRICT THE TRANSFER OF OWNERSHIP INTERESTS, WITHDRAWAL OR RESIGNATION FROM THE LIMITED LIABILITY DECENTRALIZED AUTONOMOUS ORGANIZATION, RETURN OF CAPITAL CONTRIBUTIONS, AND DISSOLUTION OF THE LIMITED LIABILITY DECENTRALIZED AUTONOMOUS ORGANIZATION.

Article 2.

Formation.

**§ 13.1-1304. LLD articles of organization.**

A. Any person or entity may form an LLD by filing LLD articles of organization with the Commission that shall set forth:

1. A name for the LLD that satisfies the requirements of § 13.1-1305;
2. A statement that the organization is an LLD pursuant to § 13.1-1303;
3. A statement of the intent to utilize decentralized governance and smart contracts or to manage, facilitate, or operate the LLD and the process by which participants select, design, or otherwise decide on the operations or provisions of any smart contract used in the operation of the LLD;
4. The name and post office address, including the street and number, if any, of the LLD registered agent;
5. The public blockchain address or addresses used for governance and transactions of the LLD; and
6. Initial bylaws that include a description of the DAO's governance structure, including management, participant roles, voting rights, and smart contract auditability.

B. No participant of an LLD shall have a vested property right resulting from any provision of the LLD

95 *articles of organization.*

96 *C. If the Commission finds that the LLD articles of organization comply with the requirements of this*  
97 *section and that all required fees have been paid, it shall issue a certificate of formation to the LLD.*

98 ***§ 13.1-1305. Name.***

99 *A. A limited liability decentralized autonomous organization name shall contain the abbreviation "LLD,"*  
100 *to denote its status as a limited liability decentralized autonomous organization.*

101 *B. The name of an LLD shall be distinguishable upon the records of the Commission from the name of any*  
102 *entity registered with the Commission or any trademark or service mark registered with the Commission.*

103 *C. The Commission shall not approve for filing a name that implies that an LLD is an agency of the*  
104 *Commonwealth or any of its political subdivisions.*

105 ***§ 13.1-1306. Amendment of LLD articles of organization.***

106 *A. An LLD may amend its LLD articles of organization at any time to add or change a provision that is*  
107 *required or permitted or to delete a provision not required in the articles.*

108 *B. An amendment to the LLD articles of organization is required when (i) there is a change in the name of*  
109 *the LLD, (ii) any significant identifying or operating information has changed, or (iii) the LLD's smart*  
110 *contracts have been removed or replaced.*

111 *C. To amend its LLD articles of organization, an LLD shall file with the Commission articles of*  
112 *amendment setting forth:*

113 *1. The name of the LLD;*

114 *2. The text of each amendment adopted;*

115 *3. The date of each amendment's adoption; and*

116 *4. A statement that the amendment was adopted by a vote of the participants or upon the execution of a*  
117 *smart contract or blockchain mechanism, as the case may be.*

118 *If the Commission finds that the articles of amendment comply with the requirements of this chapter and*  
119 *that all required fees have been paid, it shall issue a certificate of amendment.*

120 ***§ 13.1-1307. LLD registered agent.***

121 *A. An LLD shall maintain an LLD registered agent located in the Commonwealth for the purposes of off-*  
122 *blockchain legal and administrative obligations.*

123 *B. Legal and administrative obligations of the LLD shall be carried out by the LLD registered agent in the*  
124 *manner provided in the bylaws and as evidenced by authorization displayed through a publicly accessible*  
125 *format. The registered agent may undertake and execute any and all acts included within the scope of*

authorization in the bylaws.

*C. Service of process on the LLD shall be made through the LLD registered agent.*

*D. An LLD registered agent shall not be personally liable for acts performed on behalf of the LLD.*

*Article 3.*

*Governance and Participation.*

**§ 13.1-1308. Bylaws.**

*A. An LLD shall adopt bylaws that set forth the following aspects of the LLD's governance and procedures for:*

*1. Relations among participants and relations between participants and the LLD;*

*2. Rights and duties under this chapter of a participant of an LLD;*

*3. Activities of the LLD and the conduct of those activities;*

*4. Rights and voting rights of participants;*

*5. Transferability of participant interests and withdrawal of participants;*

*6. Methods for making distributions to participants that withdraw or upon dissolution of the LLD;*

*7. Methods for making amendments to the LLD articles of organization;*

*8. The means and conditions for amending the bylaws, the operating agreement, or any smart contracts applicable to governance of an LLD;*

*9. Procedures for amendments and upgrades to smart contracts that relate to operation rather than governance of the LLD;*

*10. Procedures for addressing hard forks;*

*11. Duties and obligations of the LLD registered agent; and*

*12. Methods for dispute resolution.*

*B. The bylaws may contain any provision for managing the LLD and regulating its affairs that is not inconsistent with the provisions of this chapter or other applicable law.*

*C. To the extent permitted by law, the bylaws may permit redaction of participant information in public filings, provided that the registered agent of the LLD maintains full records.*

*D. Any smart contracts applicable to governance of the LLD shall be consistent with the bylaws. In the case of a conflict between the bylaws and any applicable smart contracts, the provisions of the bylaws shall prevail unless expressly overridden.*

*E. Any smart contracts applicable to governance of the LLD may satisfy the requirements of the bylaws set forth in this section.*

**§ 13.1-1309. Operating agreement.**

A. To the extent that the LLD articles of organization, bylaws, or any applicable smart contracts do not otherwise provide for a matter described in this chapter, the operation of an LLD may be supplemented by an operating agreement.

B. Any operating agreement applicable to governance of the LLD shall be consistent with the bylaws. In the case of a conflict between the bylaws and an operating agreement, the provisions of the bylaws shall prevail unless expressly overridden.

C. Any smart contracts applicable to governance of the LLD shall be consistent with the LLD's operating agreement, if applicable. In the case of a conflict between the operating agreement and any applicable smart contracts, the applicable smart contracts shall prevail unless expressly overridden.

**§ 13.1-1310. Smart Contracts.**

A. Any smart contracts applicable to governance of the LLD shall be consistent with the bylaws and any applicable operating agreement. In the case of a conflict between the bylaws or operating agreement and any applicable smart contracts, the provisions of the bylaws or operating agreement shall prevail.

B. No provision of a smart contract applicable to governance or operation of an LLD shall be designed or applied to override any provision of the bylaws or operating agreement, if applicable.

C. Amendments to smart contracts shall only be made pursuant to proposal, voting, and execution provisions specified in the bylaws pursuant to § 13.1-1308.

D. Hard forks that occur in the execution of smart contracts, adoption of changes to a smart contract, or as part of the underlying blockchain protocols of the LLD shall be addressed according to procedures specified in the bylaws pursuant to § 13.1-1308.

**§ 13.1-1311. Management of limited liability decentralized autonomous organization.**

A. Management of an LLD shall be vested in its participants or smart contracts, as provided in the LLD articles of organization and bylaws.

B. Unless otherwise provided in the LLD articles of organization, bylaws, or operating agreement, the participants of an LLD shall vote in proportion to their contribution of digital assets to the LLD or ownership of governance tokens offered by the LLD, as adjusted from time to time, and a majority vote of the participants of an LLD shall consist of the vote or other approval of participants having a majority share of the voting power of all participants.

C. Unless otherwise provided in the LLD articles of organization, bylaws, or operating agreement, any action required or permitted to be taken by the participants of an LLD may be taken upon a majority vote of

the participants.

D. Unless otherwise provided in the LLD articles of organization, bylaws, or operating agreement, the participants of an LLD may take action permitted or required to be taken by the participants without a meeting, without prior notice, and without a vote provided that a consent in writing setting forth the action has been signed by participants that have at least the minimum number of votes that would be necessary to authorize or take such action at a meeting. A consent transmitted by a participant by electronic transmission shall be deemed to be signed for the purposes of this section. Unless otherwise provided in the LLD articles of organization, bylaws, or operating agreement, on any matter that is to be voted on by participants, the participants may vote in person or by proxy.

E. The LLD articles of organization, bylaws, or operating agreement may provide for classes or groups of participants having relative rights, powers, and duties and may make provision for the future creation of additional classes or groups of participants having such relative rights, powers, and duties as may from time to time be established, including rights, powers, and duties senior to existing classes and groups of participants.

F. The LLD articles of organization, the bylaws, the operating agreement, or any applicable smart contracts may provide that a dissenting participant's rights with respect to a participant interest shall be available for any class or group of participants in connection with any amendment of an operating agreement, bylaws, or applicable smart contract in which the LLD is a party, any conversion of the LLD to another business form, any transfer to or domestication in any other jurisdiction by the LLD, or the sale of all or substantially all of the LLD's assets.

**§ 13.1-1312. Participant interests.**

A. Participant interests shall be determined by ownership of governance tokens and as otherwise provided in the bylaws.

B. Transferring a participant interest may result in corresponding changes in participants' rights and obligations, as described in the bylaws, the operating agreement, or any applicable smart contracts.

C. Unless otherwise provided in the bylaws, the operating agreement, or any applicable smart contracts, a participant interest shall not indicate a fiduciary duty to the LLD or any participant of the LLD except that the ownership of a participant interest shall be subject to the implied contractual covenant of good faith and fair dealing.

**§ 13.1-1313. Transferring participation interest; withdrawal of participant.**

A. A participant may only transfer a participation interest or withdraw from an LLD in accordance with

219 *the terms set forth in the bylaws, the operating agreement, or an applicable smart contract.*

220 *B. No participant of an LLD may have the LLD dissolved for a failure to return the participant's*  
221 *contribution to capital.*

222 *C. Unless the LLD's bylaws, the operating agreement, or an applicable smart contract provide otherwise,*  
223 *a withdrawn participant forfeits all participant interests in the LLD, including any governance or economic*  
224 *rights.*

225 **§ 13.1-1314. Legal entity; limited liability.**

226 *A. An LLD shall be deemed a legal entity separate and distinct from the LLD's participants. An LLD shall*  
227 *have the capacity to sue and be sued in the LLD's name and shall have the power to do all things necessary*  
228 *or convenient to carry on the LLD's organization and affairs.*

229 *B. No participant shall be personally liable for the debts, obligations, or liabilities of the LLD except to*  
230 *the extent of their on-blockchain contributions to the LLD.*

231 *C. An LLD shall meet its liabilities through the LLD's assets. Except as provided in subsection D, no*  
232 *participant shall be held personally liable for (i) any excess liability after the LLD's assets have been*  
233 *exhausted, (ii) any obligation incurred by the LLD, or (iii) the wrongful act or omission of any other*  
234 *participant of the LLD.*

235 *D. If a judgment or order is entered against the LLD and the LLD does not have sufficient assets to satisfy*  
236 *the judgment or order, dissenting participants may be liable proportionally to the value of their participant*  
237 *interests. Liability under this section shall be limited to the dissenting participant's on-blockchain*  
238 *contributions and shall not exceed such amount.*

239 *E. The provisions of this section shall not be construed to absolve the personal liability of a participant in*  
240 *tort for the participant's own wrongful act or omission.*

241 *Article 4.*

242 *Dissolution.*

243 **§ 13.1-1315. Dissolution.**

244 *A. An LLD organized under this chapter shall be dissolved upon the occurrence of any of the following:*

245 *1. The expiration of the fixed period for the duration of the LLD expires;*

246 *2. The vote of the majority of participants of an LLD;*

247 *3. At the time, or upon the occurrence of events, specified in an underlying smart contract or as specified*  
248 *in the bylaws or operating agreement; or*

249 *4. By court order.*



*B. Upon dissolution, the LLD shall liquidate assets, satisfy creditors, and distribute remaining value to participants as described in the bylaws.*

*C. Upon dissolution, the LLD registered agent shall file a certificate of termination with the Commission.*

*Article 5.*

*Miscellaneous.*

***§ 13.1-1316. Annual report to the Commission.***

*An LLD shall deliver to the Commission for filing an annual report that states the name of the LLD, the name and address of the LLD registered agent, and all proposals, votes, and amendments made to the LLD articles of organization, the bylaws, the operating agreement, and any underlying smart contracts related to governance or operation of the LLD during the preceding year.*

***§ 13.1-1317. Records and transparency.***

*A. An LLD shall maintain the following records that shall be available for inspection by participants and the LLD registered agent:*

*1. The LLD articles of organization, the bylaws, the operating agreement, and any underlying smart contracts related to governance or operation of the LLD;*

*2. Proposals and votes related to the LLD articles of organization, the bylaws, the operating agreement, or any underlying smart contracts;*

*3. Governance token holdings of participants;*

*4. Hard forks and resulting changes made to the LLD's blockchain protocol or any underlying smart contracts; and*

*5. Transactions involving the sale or transfer of LLD assets, including those automated through smart contracts.*

*B. The Commission shall maintain records related to LLD filings, the name and address of an LLD's LLD registered agent, any amendments to filing submitted to the Commission, and any records or reports relating to a violation by an LLD of the provisions of this chapter or any regulations promulgated by the Commission to effectuate the purposes of this chapter.*

*C. No participant or LLD registered agent shall have an obligation to furnish any information concerning the LLD's activities or other information that is available on an open blockchain network.*

***§ 13.1-1318. Taxation.***

*A. An LLD recognized by this chapter shall be subject to the same state and federal taxation requirements as a limited liability company.*

281      *B. For the purposes of taxation, an LLD shall allocate the distributive share of income, gain, loss,*  
282      *deduction, and credit derived from the LLD's activities to each participant of the LLD in proportion to the*  
283      *participant's interest in the LLD as evidenced by the ownership of governance tokens.*

284      **2. That the provisions of this act shall become effective on January 1, 2028.**