

Guide to USVI LLC Law



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U.S. Virgin Islands Limited Liability Company Laws

The Uniform Limited Liability Company Act was enacted in the USVI in 1998.ⁱ The members (owners) of a limited liability company (“LLC”) may enter into an operating agreement, which governs the affairs of the LLC and the relations of the members, managers and the company.ⁱⁱ Significantly, the Uniform Limited Liability Company Act governs the relations among the managers, members and the LLC only to the extent that the operating agreement does not otherwise provide, except with respect to certain non-waiveable provisions.ⁱⁱⁱ Therefore, similar to partnerships, the statutory law with respect to such relations is for the most part a default rule, which may be varied by the operating agreement. The operating agreement may not, however, eliminate or unreasonably reduce or restrict certain rights and duties including the right to information and records, the duty of loyalty, the duty of care and the obligation of good faith and fair dealing.^{iv}

An LLC may have unlimited life or may have a term set forth in its articles of organization.^v The name of an LLC must be distinguishable from other trade names and entity names and must include “LLC,” “LC,” “limited liability company,” or “limited company.”^{vi} An LLC that does business under another name must file a certificate of registration of trade name with the Office of the Lt. Governor.^{vii}

An LLC may be formed by one or more members and is a legal entity existing and distinct from its members upon filing of articles of organization with the Office of the Lt. Governor.^{viii} The filing fee is \$300. The articles of organization must contain the following information: (a) the name of the entity; (b) the street and mailing addresses of the designated office; (c) the name and street address of the registered agent; (d) the name and street address of each organizer; (e) the minimum amount of capital with which the company commences business, which must be at least \$1,000; (f) the term of the company or a statement that its duration is unlimited; (g) whether the company is member-managed or manager-managed; and (h) whether the members are personally liable for its obligations.^{ix}

Unless the articles of organization provide otherwise, only the company is liable for its debts, obligations and liabilities, and the liability of members is limited to their capital contributions.^x Unlike a corporation, a failure to observe company formalities does not create a basis for imposing personal liability on the members or managers of an LLC.^{xi} However, a member may become liable for an unlawful distribution, which is a distribution made when the LLC is insolvent or is unable to pay its debts as they become due.^{xii}

In a manager-managed company, one or more managers are appointed by the members, each of which has an equal right to manage the company.^{xiii} In a member-managed company, on the other hand, each member has an equal right to manage the company.^{xiv} Certain decisions must be made by consent of all the members for both manager-managed and member-managed companies, including amendment of the articles of organization, admission of a new member, merger with another entity and sale of all the company’s assets.^{xv} Again, it should be noted that these are the default rules set forth in the statute for management of the LLC, which may be modified by the operating agreement.

An LLC is dissolved upon the occurrence of one or more of the following: (a) an event set forth in the operating agreement; (b) consent of such percentage of the members set forth in the operating agreement; (c) an event that makes the continuation of the business of the LLC illegal unless such failure is cured within ninety days after notice thereof; or (d) upon judicial decree.^{xvi}

Each LLC must file an annual report and pay its annual report fees by June 30 of each year. The first annual report is due on or before June 30 of the year following the calendar year in which the LLC was organized or, with respect to a foreign LLC, authorized.^{xvii} The annual report fee rate is computed at \$1.50 for each \$1,000 of capital used in conducting business in the USVI, with a minimum fee of \$300.00.^{xviii}

Any person or entity doing business in the USVI must obtain a business license for each business activity at each location.^{xix} The fee for a business license ranges from \$10.00 to \$2,000.00 depending on the type of license requested.^{xx} Business licenses generally are issued by the Department of Licensing and Consumer Affairs; however, obtaining certain types of licenses, including those for the legal and medical professions, building contractors, engineers and real estate brokers, requires the applicant to pass examinations and/or meet separate or additional licensing requirements supervised by a professional board.^{xxi} The business license application process involves inspections and approvals of the Police Department, the zoning administrator, the Fire Department and, if applicable, the Department of Health.

ⁱ 13 V.I. CODE ANN. §§ 1101-2203 (2019).

ⁱⁱ *Id.* § 1104(a).

ⁱⁱⁱ *Id.*

^{iv} *Id.* § 1104(b).

^v *Id.* § 1203(a)(6).

^{vi} *Id.* § 1106.

^{vii} 11 V.I. CODE ANN. § 1203(b) (2019).

^{viii} 13 V.I. CODE ANN. §§ 1201, 1202 (2019).

^{ix} *Id.* § 1203.

^x *Id.* § 1303.

^{xi} *Id.* § 1303(b).

^{xii} *Id.* §§ 1406, 1407.

^{xiii} *Id.* § 1404(b).

^{xiv} *Id.* § 1404(a).

^{xv} *Id.* § 1404(c).

^{xvi} *Id.* § 1801.

^{xvii} *Id.* § 1211(c).

^{xviii} *Id.* § 1211(e).

^{xix} 27 V.I. CODE ANN. § 301(a) (2002).

^{xx} *Id.* § 302(a).

^{xxi} *See, e.g., id.* § 32.