

**ACT No. 261**

Regular Session, 2014

HOUSE BILL NO. 841

BY REPRESENTATIVE LEGER

1 AN ACT

2 To amend and reenact R.S. 12:1301(A)(18) and 1316 and to enact R.S. 12:1318(E) and  
3 1370, relative to limited liability companies; to provide for the definition of person  
4 as it relates to limited liability companies; to provide relative to voting of managers;  
5 to provide relative to voting by proxy; and to provide for related matters.

6 Be it enacted by the Legislature of Louisiana:

7 Section 1. R.S. 12:1301(A)(18) and 1316 are hereby amended and reenacted and  
8 R.S. 12:1318(E) and 1370 are hereby enacted to read as follows:

9 §1301. Definitions

10 A. As used in this Chapter, unless the context otherwise requires:

11 \* \* \*

12 (18) "Person" means a natural person, corporation, partnership, limited  
13 partnership, domestic or foreign limited liability company, joint venture, trust  
14 including a common law trust, business trust, statutory trust, voting trust, or any  
15 other form of trust, estate, or association.

16 \* \* \*

17 §1316. Voting by managers

18 Except as otherwise provided in the articles of organization or an operating  
19 agreement, if the limited liability company has more than one manager, each  
20 manager shall be entitled to a single vote on all matters properly brought before the  
21 managers, and all decisions of the managers shall be made by majority vote of the  
22 managers. In the absence of such a provision in the articles or operating agreement,  
23 no manager shall have the right to vote by proxy.

24 \* \* \*

25 §1318. Voting rights of members

26 \* \* \*

1           E.(1) A member shall have the right to cast his vote either in person or,  
2           subject to the following provisions, by proxy duly authorized in writing, signed by  
3           the member and filed in the registered office of the limited liability company at or  
4           before the meeting.

5           (2) The authority of the holder of a proxy to act shall not be revoked by the  
6           death of the member who executed the proxy unless, before the authority is  
7           exercised, written notice of such death is received by the registered office of the  
8           limited liability company.

9           (3)(a) A proxy shall be revocable at will, unless otherwise validly provided  
10          by agreement or by any provision of the proxy. The validity of every unrevoked  
11          proxy shall cease eleven months after the date of its execution, unless some other  
12          definite period of validity is expressly provided. In no case shall an outstanding  
13          proxy be valid for longer than three years.

14          (b) The revocation of a proxy, if revocable, shall not be effective until  
15          written notice has been given to the office of the limited liability company, or unless  
16          a proxy of later date is filed with the office at or before the meeting.

17          (4) A proxy regular on its face and signed in the name of a member entitled  
18          to vote at the meeting shall be deemed valid unless challenged before it is voted, and  
19          the burden of proving invalidity shall be on the challenger.

20          (5) When shares are registered in the names of two or more persons, other  
21          than trustees, a proxy signed by any one or more of them shall be deemed valid  
22          unless the limited liability company receives written notice to the contrary from a  
23          nonsigning member before the proxy is voted.

24          (6) Except as otherwise provided in the articles or bylaws, without limiting  
25          the manner in which a member may authorize another person or persons to act for  
26          him as proxy, pursuant to this Subsection, the following shall constitute a valid  
27          means by which a member may grant such authority:

28          (a) A member may execute a writing authorizing another person or persons  
29          to act for him as proxy. Execution may be accomplished by the member or his  
30          authorized officer, director, employee, or agent signing such writing or causing his

1 signature to be affixed to such writing by any reasonable means, including but not  
 2 limited to facsimile signature.

3 (b)(i) A member may authorize another person or persons to act for him as  
 4 proxy by transmitting or authorizing the transmission of a telegram, cablegram, or  
 5 other means of electronic transmission to the person who will be the holder of the  
 6 proxy, or to a proxy solicitation firm, proxy support service organization, or like  
 7 agent duly authorized by the person who will be the holder of the proxy to receive  
 8 such transmission.

9 (ii) Any such telegram, cablegram, or other means of electronic transmission  
 10 shall be submitted with information from which it can be determined that the  
 11 telegram, cablegram, or other electronic transmission was authorized by the member.  
 12 If it is determined that such telegrams, cablegrams, or other electronic transmissions  
 13 are valid, the inspectors or other such persons making that determination shall  
 14 specify the information upon which they relied.

15 (c) Any copy, facsimile telecommunication, or other reliable reproduction  
 16 of the writing or transmission, created pursuant to this Subsection may be substituted  
 17 or used in lieu of the original writing or transmission for all purposes for which the  
 18 original writing or transmission could be used. Such copy, facsimile  
 19 telecommunication, or other reliable reproduction shall be a complete reproduction  
 20 of the entire original writing or transmission.

21 \* \* \*

22 §1370. Voting trusts

23 A. One or more members of a limited liability company may, pursuant to an  
 24 agreement in writing, transfer voting shares to any one or more persons or company  
 25 having authority to act as trustees, for the purpose of vesting in the transferees, as  
 26 trustees, for a period not exceeding fifteen years and upon the terms and conditions  
 27 stated in the agreement, all voting or other rights pertaining to such shares. The  
 28 voting trust agreement may stipulate that the time of the agreement may be extended  
 29 under the same terms and conditions for an additional period, not to exceed ten years  
 30 from the date of expiration of the original agreement. When the original agreement

1           contains such a stipulation, it shall provide for the manner, method, time, and place  
2           for a meeting of all of the depositing members to vote on the extension. At least a  
3           majority in interest of all depositing members, and a larger percentage if stipulated,  
4           must vote for extension if the original agreement is to remain effective beyond its  
5           original expiration date.

6           B. Unless the agreement provides otherwise, any other member may at any  
7           time transfer his voting shares to the same trustee or trustees upon the terms and  
8           conditions stated in the agreement, and thereupon shall be bound by, and shall have  
9           the benefits of, all of the provisions of the voting trust agreement.

10          C. The certificates of voting shares transferred to a trustee or trustees shall  
11          be surrendered and cancelled, and new certificates therefor issued in the name of the  
12          trustee or trustees. In the new certificates it shall appear that they are issued pursuant  
13          to the voting trust agreement. In the entry of transfer on the records of the limited  
14          liability company, it shall be noted that the transfer is made pursuant to the  
15          agreement.

16          D. The trustee or trustees shall execute and deliver voting trust certificates  
17          to the transferors. Such voting trust certificates shall be transferable in the same  
18          manner and with the same effect as a membership interest under the provisions of  
19          R.S. 12:1330.

20          E. The trustee or trustees shall possess all voting and other rights pertaining  
21          to the shares transferred and registered in his or their names, subject to the terms and  
22          conditions of, and for the period specified in, the agreement.

23          F. Unless otherwise provided in the agreement, the following shall apply:

24            (1) The trustee or trustees may vote in person or by proxy.

25            (2) If there are two or more trustees, the manner of voting shall be  
26            determined by the will of the majority of the trustees, unless the voting trust  
27            agreement appointing the trustees directs that the shares shall be voted in some other  
28            way. When, in any case, the trustees are equally divided as to the manner of voting  
29            shares transferred jointly in their names, any court of competent jurisdiction may,  
30            upon petition filed by any of the trustees or by any member, appoint an additional

1 person to act with the trustees in determining the manner in which the shares shall  
2 be voted on the particular questions as to which the trustees are divided.

3 (3) Vacancies among the trustees shall be filled by the remaining trustee or  
4 trustees.

5 (4) A trustee shall incur no responsibility as trustee except for his individual  
6 neglect or malfeasance.

7 G. The trustee or trustees shall keep at a place available to holders of voting  
8 trust certificates, correct and complete books and records of account relating to the  
9 trust, and a record containing the names and addresses of all persons who are holders  
10 of voting trust certificates, the number of shares represented by each certificate held  
11 by them, and the dates when they became the owners of the shares. The record may  
12 be in written form or in any other form capable of being converted into written form  
13 within a reasonable time.

14 H. A duplicate of every voting trust agreement shall be filed in the registered  
15 office of the limited liability company. The duplicate and the record of voting trust  
16 certificate holders shall be subject to the same right of inspection by a member or a  
17 holder of a voting trust certificate, in person or by agent or attorney, as are the  
18 records of the limited liability company under R.S. 12:1319.

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SPEAKER OF THE HOUSE OF REPRESENTATIVES

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PRESIDENT OF THE SENATE

\_\_\_\_\_  
GOVERNOR OF THE STATE OF LOUISIANA

APPROVED: \_\_\_\_\_