

your
guide to

Frank LaRose
Ohio Secretary of State

Starting a Limited Liability Company

in
Ohio



your
BUSINESS
begins here



FRANK LAROSE
Ohio Secretary of State



Ohio Secretary of State
Business Services Division

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Preface

This guide has been prepared for informational purposes only and does not constitute legal advice. It is recommended that you seek legal and tax counsel before acting upon this information.

Personal Information

The Secretary of State's Office has the authority to reject any document containing a Social Security number or federal tax identification number. Please remove all personal information from documents prior to filing them.

What Is a Limited Liability Company?

A limited liability company (LLC) is a business entity which combines elements of partnership and corporate structures, and may be formed in Ohio for a profit or nonprofit purpose.

Many people decide to form a limited liability company because this business type is typically more flexible than a corporation and it is well-suited for companies with only one owner. Although owners have limited liability, this does not mean they are fully protected from personal liabilities. For example, if a limited liability company is sued, generally the assets of the owners are protected because the business assets are distinct from the personal assets, but there are exceptions under certain circumstances.

Ultimately, you may wish to consult an attorney and/or tax professional before deciding which entity type is best for your company.

Forms

Pursuant to Ohio Revised Code Section 1705.04, the Secretary of State's Office authorizes limited liability companies to conduct business in Ohio. Documents must be filed with the Secretary of State's Office before a limited liability company may legally conduct business in Ohio. All forms that are required to be filed with the Secretary of State, including, but not limited to, Articles of Organization, Statutory Agent Updates, Amendments, Conversions, Mergers and Dissolutions, can be obtained directly from the Secretary of State's Office.

Some forms, including the Articles of Organization to Form a Limited Liability Company (Form 533A), may be filed online at the Secretary of State's Ohio Business Central website at www.OHBusinessCentral.com. For more information, or to obtain other filing forms, visit the Ohio Secretary of State's website at www.OhioSecretaryofState.gov and click on "Businesses." You may also request forms be sent to you via fax or regular mail by calling (877) SOS-FILE (877-767-3453). The filing fee associated with each filing, as well as completion instructions, are provided on each form.

Forming a Limited Liability Company

Ohio Revised Code Section 1705.04 provides that "one or more persons, without regard to residence, domicile, or state of organization, may form a limited liability company." All limited liability companies must register with the Ohio Secretary of State to lawfully conduct business in Ohio.

Filing Articles of Organization

In order to be legally organized, a limited liability company must file Articles of Organization (Articles) with the Ohio Secretary of State. Ohio Revised Code Section 1705.04 provides a list of the information that must be included.

The Articles must include the following:

1. The name of the company, which must include one of the following: "limited liability company," "LLC," "L.L.C.," "Ltd," "Ltd.," or "limited."
2. The period of its duration, but if the Articles or operating agreement do not set forth the period of the duration of the company, its duration is perpetual.
3. Any other provisions that are from the operating agreement or that are not inconsistent with applicable law and that the members elect to set out in the Articles for the regulation of the affairs of the company.
4. An original appointment and acceptance of statutory agent.

The Articles may include the following:

1. The purpose or purposes for which individuals may associate themselves, including for any profit or nonprofit purpose. If no purpose is provided, the purpose of the company is to engage in any for-profit, lawful act or activity for which a limited liability company may be formed.
2. The effective date of organization of the limited liability company, if other than the filing date.
3. The Articles may also include any additional provisions allowed by Chapter 1705 of the Ohio Revised Code.

The limited liability company's legal existence begins upon filing the Articles with the Secretary of State or upon a later date specified in the Articles. The effective date must be the date of filing or a future date and cannot be more than 90 days from the date of filing with the Secretary of State. If the effective date provided has already passed or exceeds the date of filing by more than 90 days, the effective date of organization will be the date of filing (i.e., the date the filing is received by the Secretary of State).

Please note: A limited liability company's operating agreement and other internal documents are not required to be filed with the Ohio Secretary of State.

The Articles must be signed by an authorized representative of the limited liability company. The legal existence of the company begins upon the filing of the Articles of Organization or on a later date specified in the Articles that is not more than 90 days after the filing.

The filing fee for the Articles is \$99.00 and the filing may be expedited for an additional fee (see page 11 for expedite information).

Choosing a Business Name

The Articles must include a business name. Under Ohio law, limited liability company names must be distinguishable from the name of any other domestic corporation, licensed foreign corporation, limited liability company, limited liability partnership, limited partnership or trade name previously registered with the Secretary of State. If a name is not distinguishable (i.e., conflicts with a previously registered name), it is generally unavailable for registration without consent from the prior registrant.

Before filing Articles, please check the availability of the limited liability company name you wish to use. To determine whether the name you wish to use is available, you may conduct a search on the Secretary of State's website at www.OhioSecretaryofState.gov, or call (877) SOS-FILE (877-767-3453), or e-mail the Secretary of State's Office at busserv@OhioSecretaryofState.gov.

If a limited liability company submits Articles using a name that is not distinguishable based upon the Secretary of State's records, the Articles will be rejected. The rejection letter will identify the previously-registered, conflicting name and provide contact information for the name's registrant so that the limited liability company may request written consent to use the name. If the prior registrant gives consent, the limited liability company must submit with its Articles the Consent for Use of Similar Name (Form 590). If the prior registrant refuses consent, a new limited liability company name must be chosen.

The Secretary of State's Office is authorized to cancel an entity's license under certain circumstances. The office must hold a canceled entity's name for one year from the date of cancellation to give the entity an opportunity to correct the reason for cancellation and return to good standing using its original name. A canceled corporation lacks legal authority to act and, therefore, cannot consent to the use of its name unless and until it is reinstated. Because of this requirement, if you wish to use a canceled entity's name, you must generally wait one year from the date of cancellation to register the name.

Please note: The Secretary of State will make the final determination on the availability of a business name when the Articles are filed. It is a good idea not to order signs, letterhead or other supplies reflecting the business name until the name is registered. Also, consider having two or three alternative business names in mind in case the desired name is unavailable.

A trade name or fictitious name can be registered by filing a Name Registration (Form 534A). This form can be filed online at the Secretary of State's Ohio Business Central website at www.OHBusinessCentral.com. The filing fee is \$39.00.

Special Name Considerations

Some business names are subject to unique name requirements or restrictions. For example, if a business wishes to use the word “bank” or “trust” in its name, it must seek approval from the Ohio Department of Commerce - Division of Financial Institutions before filing its Articles with the Secretary of State. Please refer to the Guide to Name Availability on the Secretary of State’s website to learn more regarding specific name requirements and restrictions.

Name Reservation

If you choose a business name that is available but you are not ready to file the Articles with the Secretary of State’s Office, you may reserve the name. A name reservation grants the applicant exclusive rights to use the name for a period of 180 days. The Articles may be filed any time within that 180-day period to form the limited liability company using the reserved name. After 180 days, the name reservation will expire, and the name will again become available for anyone to use. To reserve a name for a proposed new limited liability company name, please submit the Name Reservation (Form 534B) and \$39.00 filing fee.

Appointing a Statutory Agent

At the time of filing its Articles, a limited liability company is required to appoint a statutory agent. The statutory agent is the person or corporation designated to accept any legal process, notice or demand that is served upon the company and is responsible for sharing this information with the limited liability company.

The statutory agent must be one of the following: (1) A natural person who is a resident of this state; or (2) A domestic or foreign corporation, nonprofit corporation, limited liability company, partnership, limited partnership, limited liability partnership, limited partnership association, professional association, business trust, or unincorporated nonprofit association that has a business address in this state. If the agent is a business entity then the agent must meet the requirements of Title XVII of the Revised Code to transact business or exercise privileges in Ohio.

The Original Appointment of Statutory Agent must include the statutory agent's name and address. The statutory agent **must sign to accept the appointment**. For convenience, the Original Appointment of Statutory Agent has been incorporated into the Articles form.

In the event the name or address of a company's statutory agent changes, or the statutory agent resigns or dies, the entity must choose a new statutory agent and submit the Statutory Agent Update (Form 521) and filing fee of \$25.00. This form can be filed online at the Secretary of State's Ohio Business Central website at www.OHBusinessCentral.com.

Additional Filings

Over the life of a limited liability company, additional filings with the Ohio Secretary of State may be required. Although limited liability companies are not required to submit annual or biennial filings, certain actions taken by the limited liability company may trigger a filing requirement.

The following is information regarding some of the most common filings the Secretary of State's Office receives from limited liability companies. This information is not intended to be exhaustive. You should consider consulting legal counsel and/or the Ohio Revised Code to determine whether and when additional filings must be made with the Secretary of State's Office.

Amendments/Restated Articles

As provided in Ohio Revised Code Section 1705.08, a limited liability company may amend or restate the Articles at any time and for any purpose by filing a Certificate of Amendment or Restatement (Form 543A) with the Secretary of State's Office.

Articles **must** be amended within 30 days after the occurrence of any of the following:

1. The name of the limited liability company is changed.
2. The period of the limited liability company's duration is changed.
3. Any other information that is set forth in the Articles is changed.

Mergers and Consolidations

Under Ohio law, a limited liability company may merge or consolidate with other types of business entities. A merger is the combining of one or more business entities (also known as merging entities) into one existing entity (also known as the surviving entity). All other entities merging into the surviving entity will cease to exist.

A consolidation differs from a merger in that two or more entities (also known as constituent entities) combine to form an entirely new entity. All consolidating entities cease to exist following the consolidation.

If an Ohio limited liability company is involved in a merger or consolidation, a Certificate of Merger (Form 551) or Certificate of Consolidation (Form 550) must be filed with the Ohio Secretary of State. The filing fee for these forms is \$99.00 for each. Under certain circumstances, additional documentation may also be required. Please refer to Ohio Revised Code Section 1705.38 for details regarding filing requirements.

Conversions

A conversion takes place when a domestic or foreign entity converts into a different type of domestic or foreign entity. The Ohio Revised Code chapter governing each type of entity must permit the conversion. For example, an Ohio limited liability company (the converting entity) may convert into an Ohio corporation (the converted entity) so long as the Ohio Revised Code chapters governing limited liability companies and corporations permit the conversion.

Additionally, a domestic limited liability company may convert into a foreign entity. When two different jurisdictions are involved in a conversion, the laws of each jurisdiction must permit the conversion. For example, if an Ohio limited liability company converts to a Delaware corporation, the laws of Ohio and Delaware must both permit the conversion.

Ohio law currently permits corporations, limited liability companies, limited partnerships, limited liability partnerships and general partnerships to convert.

When a limited liability company adopts a declaration of conversion pursuant to Ohio Revised Code Section 1705.361 or 1705.371, or at a

later time as authorized by the declaration of conversion, the converting entity must file a Certificate of Conversion (Form 700 or 800) with the Secretary of State's Office accompanied by a \$125.00 filing fee. Please refer to Ohio Revised Code Section 1705.381 for more information regarding filing requirements.

Frequently Asked Questions

Q: How can I serve a complaint on a limited liability company that has failed to maintain a valid statutory agent?

A: Pursuant to Ohio Revised Code Section 1705.06(H) (2), service may be made upon the Secretary of State. You must submit (1) four copies of the summons and complaint; (2) an affidavit stating the agent cannot be found, no longer has the address listed in Secretary of State's Office, or the limited liability company failed to maintain an agent; and (3) a filing fee of \$5.00.

Q: If I serve a limited liability company through the Secretary of State, will the office notify me that service has been made?

A: Yes. After completing service upon a limited liability company that has failed to maintain a statutory agent, the Secretary of State will send you a "Proof of Service" certificate indicating that service has been made pursuant to Ohio Revised Code Section 1705.06(H).

Q: Can a for-profit limited liability company become a nonprofit limited liability company?

A: Yes. Pursuant to Ohio Revised Code Section 1705.08, a limited liability company may amend any information set forth in the Articles of Incorporation. Ohio Revised Code Section 1705.02 permits a limited liability company to be formed for any lawful profit or nonprofit purpose, which is set forth in the Articles of Organization. To change the purpose of the limited liability company, please submit a Certificate of Amendment or Restatement (Form 543A) and amend the language in the purpose clause.

Q: Can a nonprofit limited liability company become a for-profit limited liability company?

A: Yes. Pursuant to Ohio Revised Code Section 1705.08, a limited liability company may amend any information set forth in the

Articles of Incorporation. Ohio Revised Code Section 1705.02 permits a limited liability company to be formed for any lawful profit or nonprofit purpose, which is set forth in the Articles of Organization. To change the purpose of the limited liability company, please submit a Certificate of Amendment or Restatement (Form 543A) and amend the language in the purpose clause.

Submitting Filings

For quick and accurate service, complete filing forms online at www.ohbusinesscentral.com and pay with any major credit card. Filings will either be processed automatically upon submission or a review may be required and approval certificate will be sent to your email address after submission.

If you prefer, please obtain a filing form to be submitted by mail or dropped off in person at www.OhioSecretaryofState.gov. Please mail the form to the address provided on the first page of the filing form as well as a check, money order or credit card authorization form.

To submit a filing in person please go to the Secretary of State's Client Service Center at 180 E. Broad St., suite 103 (Ground Floor), Columbus, OH 43215 between 8 a.m. and 5 p.m., Monday to Friday. The Client Service Center is closed on holidays and the day after Thanksgiving.

Expedite Service

The Ohio Secretary of State offers three levels of expedite service for filings. The expedite level 1 filing may be mailed, submitted in person, or filed online. Levels 2 and 3 may only be submitted in person at the Client Service Center or filed online.

Levels of Expedite	Additional Fee	Turnaround Time
Expedite 1	\$100.00	2 Business Days
Expedite 2	\$200.00	1 Business Day
Expedite 3	\$300.00	4 Hours*

The expedite filing fee must be added to each filing submitted. If only some of your filings require expedite service, please submit a separate check for the expedited filings.

In the event of an expedite 3 filing containing an error, the customer will be notified. If a filing is re-submitted by 1:00 p.m., the filing will be processed by 5:00 p.m.

***Please note:** Expedite level 3 filings submitted after 1:00 p.m. will be available the next business day.

Contact Business Services

Ohio Secretary of State

Business Services Division
180 E. Broad St., 16th floor
Columbus, Ohio 43215
(614) 466-3910
(877) SOS-FILE (877-767-3453)
TTY: (614) 466-0562
Toll Free TTY: (877) 644-6889
Fax: (614) 995-2238

Walk-In Client Service Center

180 E. Broad St., Suite 103 (ground floor)
Columbus, Ohio 43215

E-mail: busserv@OhioSecretaryofState.gov
Website: www.OhioSecretaryofState.gov
File online: www.OHBusinessCentral.com

Available Resources

This guide focuses on the forms and processes of the Secretary of State's Office with respect to forming a limited liability company in Ohio. However, there are other agencies that regulate and/or assist Ohio limited liability companies. Below is a list of some state agencies that new entities should contact to learn more about additional legal requirements or to obtain useful information.

Ohio Attorney General

30 E. Broad St., 14th floor
Columbus, Ohio 43215
(614) 466-4986
Toll Free: (800) 282-0515
www.ohioattorneygeneral.gov

Ohio State Bar Association

(800) 282-6556
www.ohioabar.org

Ohio Chamber of Commerce

(614) 228-4201
www.ohiochamber.com

Ohio Civil Rights Commission

30 E. Broad St., 5th floor
Columbus, Ohio 43215
(614) 466-2785
www.crc.ohio.gov

Ohio Department of Commerce

77 S. High St., 23rd floor
Columbus, Ohio 43215
(614) 466-3636
www.com.state.oh.us

Division of Financial Institutions

77 S. High St., 21st floor
Columbus, Ohio 43215
(614) 728-8400
com.ohio.gov/fiin

Ohio Development Services Agency

77 S. High St.
Columbus, Ohio 43215-6130
Toll Free: (800) 848-1300
development.ohio.gov

Ohio Economic Development Association

(800) 632-7763
www.ohioeda.com

Ohio Department of Health

246 N. High St.
Columbus, Ohio 43215
(614) 466-3543
www.odh.ohio.gov

Ohio Department of Insurance

50 W. Town St., Suite 300
Columbus, Ohio 43215
(614) 644-2658
Consumer Hotline: (800) 686-1526
Fraud Hotline: (800) 686-1527
OSHIP Hotline: (800) 686-1578
TDD Number: (614) 644-3745
www.insurance.ohio.gov

Internal Revenue Service

Individuals: (800) 829-1040

Businesses: (800) 829-4933

Exempt Organizations: (800) 829-5500

www.irs.gov

Ohio Department of Job & Family Services

30 E. Broad St., 32nd floor

Columbus, Ohio 43215

(614) 466-2455

jfs.ohio.gov

JobsOhio

jobs-ohio.com

National Federation of Independent Business - Ohio

(614) 221-4107

www.nfib.com/ohio

Ohio New Hire Reporting Center

(888) 872-1490 ext. 300

www.OH-NewHire.com

Ohio Business Gateway

(866) OHIO-GOV (644-6468)

ohiobusinessgateway.ohio.gov

Ohio Revised Code Online

codes.ohio.gov

Ohio Relay for the Hearing Impaired

(800) 676-3777

SCORE Ohio Chapters

www.scoreworks.org/ohio.htm

Small Business Administration

401 N. Front St., Suite 200

Columbus, Ohio 43215

(614) 469-6860

www.sba.gov

Ohio Society of Certified Public Accountants

(800) 686-2727

www.ohiocpa.com

State of Ohio

www.ohio.gov

Ohio Department of Taxation

4485 Northland Ridge Blvd.

Columbus, Ohio 43229

(888) 405-4039

www.tax.ohio.gov

Ohio Bureau of Workers' Compensation

30 W. Spring St.

Columbus, Ohio 43215

(800) OHIO-BWC

www.bwc.ohio.gov

Helpful steps as you further develop your business or organization

1. Register with the Ohio Secretary of State.

Register online at www.OHBusinessCentral.com or find the forms needed to file for your business at www.OhioSecretaryofState.gov.

2. Contact the Internal Revenue Service (IRS) to obtain an Employer Identification Number (EIN).

Additional information and an online application are available at www.irs.gov - search "EIN."

3. Then, open a bank account.

You will need your EIN to open a bank account.

4. Contact the Ohio Department of Taxation.

Register with the Ohio Department of Taxation at www.tax.ohio.gov. The Ohio Department of Taxation can assist businesses in determining state and local tax obligations.

5. Report newly hired and re-hired employees to the Ohio New Hire Reporting Center.

Report employee information at www.OH-NewHire.com. More information can be obtained by contacting the Ohio New Hire Reporting Center at (888) 872-1490 ext. 300.

6. Contact the Ohio Bureau of Workers' Compensation.

If your business or organization has an employee or employees visit www.bwc.ohio.gov under "Employers."

7. Contact the Ohio Department of Job & Family Services.

Employers may be required to establish an Unemployment Compensation Tax Account with the Ohio Department of Job & Family Services. Visit jfs.ohio.gov - search "Employer."

8. Finally, obtain the proper licenses and permits.

The Ohio Business Gateway, www.business.ohio.gov, "Licenses & Permits" page provides a list of professional licenses and business permits necessary to do business in Ohio. Contact your county and local government to determine if any special requirements exist for your type of business.

Special Considerations for Nonprofit Organizations

Apply for tax exemption. Visit www.irs.gov to apply to become a tax-exempt organization. Also, contact the Ohio Department of Taxation and your county and local governments to determine how to apply for applicable exemptions.

Register with the Ohio Attorney General's Office if entity is a charitable organization.

Ohio requires charitable organizations located in Ohio and groups that ask Ohioans for contributions to register and file annual reports. Please go to www.ohioattorneygeneral.gov for more information.

Apply for a nonprofit postal permit. Apply for a nonprofit mailing permit from the United States Postal Service at www.usps.com.

Disclaimer: The information contained in this document is not legal or accounting advice. You should consult a legal or accounting professional.

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