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Md. LLCs seek 'benefit' status for eco-friendly causes

Legislation mirrors 'benefit corporations' bill passed last year

Premium content from Baltimore Business Journal - by Gary Haber, Staff

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Maryland limited liability companies would have the same right as corporations to promote social causes, as well as make money, under a bill introduced this month in the General Assembly.

Senate Bill 595 and its companion bill, House Bill 1151, follow on the heels of legislation signed into law last year by Gov. **Martin O'Malley**. The law, which went into effect Oct. 1, made Maryland the first state in the country to recognize what are known as "benefit corporations." These are companies that, as part of their mission, commit themselves to improving their community or helping the environment, as well as turning a profit.

Unlike a traditional corporation, the directors and officers of a benefit corporation can't be sued by shareholders for making business decisions that put the environment or social justice over making a profit.

But after the bill became law, some limited liability companies, or LLCs, said they, too, wanted the same protection, said Sen. **Jamie Raskin**, D-Montgomery County. Raskin sponsored the original legislation in the Senate and is the sponsor of SB 595.

"We realized we had overlooked the possibility of benefit LLCs," Raskin said.

Since Maryland is staking its claim to become "the Delaware of benefit corporations," he said, it made sense to expand the protection to LLCs that wanted the same opportunity.

"We want to be a beacon for companies that want to incorporate in this way and to set the standard," Raskin said.

Vermont is the only other state to pass a benefit corporation law. Its legislation was passed in May 2010, and goes into effect on July 1. But, like Maryland's law, it does not cover LLCs. So if Raskin's bill becomes law, Maryland would be the first state to include LLCs.

LLCs tend to be the format favored by many startup businesses and smaller companies. They offer greater operating flexibility than a corporation and certain tax benefits because their income is passed through to the individual members, rather than taxed at the LLC level.

That many small businesses are LLCs meant they were excluded from the law, said **Ida Cheinman**, the principal and creative director of Substance151, a Baltimore branding and marketing firm.

"Maryland is a small business state and a lot of small businesses are LLCs," Cheinman said. She plans to register her company as a benefit LLC if Raskin's bill becomes law. Her company prides itself on its environmental friendliness. It offsets its energy use by buying renewable energy credits and tries to do its written communications with clients by e-mail, to cut down on the use of paper.

Being designated as a benefit LLC is something the company could use to set itself apart from competitors and appeal to like-minded customers, Cheinman said.

Cheinman is not the only one thinking that way.

Laura Jordan, a Washington, D.C., lawyer who has lectured about benefit corporations, said several of her clients have expressed interest in forming benefit LLCs.

"It's a really useful corporate form, and an idea whose time has come," Jordan said.

Expanding the benefit corporation law's reach to LLCs would increase the number of businesses applying for that status. It could also make Maryland a more attractive place for companies to incorporate, said Del. **Brian Feldman**, D-Montgomery County, and HB 1151's sponsor.

"If you wanted to incorporate, and take advantage of this, it would give you a reason to incorporate in Maryland," Feldman said.

Since the benefit corporation law went into effect in October, fewer than 50 companies have incorporated as benefit corporations, said **Robert Young**, acting deputy director of the Maryland Department of Assessments and Taxation. The department does not have an exact tally because when companies file, they do not specify in the corporation's name that they are filing as a benefit corporation, Young said.

Senate Bill 595 is scheduled for a hearing on March 9 before the Senate Judicial Proceedings Committee. No date has been set yet for a hearing on the House bill.

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Ida Cheinman would like to turn Substance151 into a benefit LLC.

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