



# CLIENT ADVISORY

## Corporate Adopted Legislation *September 2007*

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### **The Contractor Prompt Payment Act**

This Public Act creates the Contractor Prompt Payment Act. Upon submission of a "payment application" to the owner, this Act requires payment to the contractor within 15 days of approval by the owner. The contractor must have performed in accordance with the provisions of the construction contract. The application for payment is deemed approved 25 days after the owner receives it, unless the owner provides a written statement of the amount of payment that will be withheld and the reason for withholding payment. If payment is not made in a timely manner, the delinquent party must pay the amount of the payment plus 10% interest per year. The contractor, or subcontractor, after providing 7 days notice, may also suspend performance under the contract if not promptly paid. Additionally, the interest paid is separate from any additional interest charged under the Mechanics Lien Act.

Effective August 31, 2007. *See Public Act 95-0567.*

### **Illinois Procurement Code**

The Illinois Procurement Code is amended to provide that all bids, offers or proposals, other than small purchases as defined in the Code, must include a disclosure stating whether the bidder, offeror or proposing entity, or their corporate parents or subsidiaries, within 24 months of the submission of the bid, had business operations that involved contracts or the provision of supplies or services to Iran, or to companies in which Iran has a share, or to any projects commissioned by Iran, or to companies involved in projects commissioned by Iran. The company must also

be involved in oil or mineral extraction activities or have made investments of \$20 million or more concerning Iran's petroleum resources.

Effective January 1, 2008. *See Public Act 95-0616.*

### **Rental Equipment Liens**

This Public Act amends the Mechanics Lien Act to extend the Act to leases of construction equipment. A contractor or subcontractor who leases construction equipment has a lien for the rental value of the equipment to the same extent as any other lien under the Act. This section does not apply if the equipment is used in the improvement of a single family residence or building of 12 or fewer units.

Effective August 17, 2007. *See Public Act 95-0274.*

### **Administrative Dissolution**

The Business Corporation Act and General Not For Profit Corporation Act have been amended to provide that the Secretary of State shall not allow another corporation to use the name of an administratively dissolved domestic corporation until 3 years after the date of issuance of the dissolution. If the corporation is reinstated within those three years, it may continue under its previous name without impacting its legal status.

Effective August 28, 2007. *See Public Act 95-0507.*

## **Business Corporation, Not For Profit Corporation and LLC Changes**

The Business Corporation Act has been amended in several areas as follows:

A new section has been added concerning electronic filing, which requires the name of the person making the submission to be included in the filing.

Professional corporations may now consolidate or merge not only with other professional corporations that provide the same or related services, but also with domestic LLC's that render the same or related professional services. Consolidation with a foreign LLC is now also prohibited.

The General Not For Profit Corporation Act has also been amended as follows:

A new section has added the same language concerning electronic filing as disclosed above.

The provisions regarding Boards of Directors has been amended so that the affairs of the corporation shall be managed by the Board unless otherwise provided in the Articles of Incorporation, but have deleted the ability to provide for other directions through the Bylaws.

The Limited Liability Company Act has been amended in several areas as follows:

Articles of Amendment requirements have been revised so that the Articles must now only set forth the name, the text of each amendment and a statement that the amendment was approved as required by the operating agreement or the Act. The Articles will no longer state whether the amendment was approved by the minimum required number of managers or whether member action was or was not required, or that the amendment was approved by the minimum required number of members. Also, the effective date cannot be more than 30 days after the date of filing by the Secretary of State. A new section has added the

same language concerning electronic filing as discussed above.

The statement of correction provisions have been amended to establish that a statement of correction may not be used to alter the ability to establish a series.

The provisions regarding a series of members, managers or limited liability company interests has been amended to provide that, except with foreign limited liability companies that have adopted an assumed name, the name of a limited liability series must contain the entire name and be distinguishable from the names of other series. For foreign limited liability companies that have adopted an assumed name, the name of the limited liability series must contain the entire name under which the foreign limited liability company has been admitted to transact business in the State.

Additional changes have also been made to the Uniform Partnership Act, the Uniform Limited Partnership Act, and the Cooperative Act.

Effective July 1, 2007. *See Public Act 95-0368.*

## **Limited Liability of Board Members**

The General Not For Profit Corporation Act has been amended to limit the liability of board members who serve without compensation. This protection applies to board members, except for any willful or wanton conduct, as long as the board members serve without compensation, other than reimbursement for actual expenses. Additionally, board members are not liable for the action of the executive director concerning the false reporting or intentional tampering of financial records of the organization, if the executive director's actions result in legal

action. However, this protection does not apply to actions taken by the Attorney General to protect charitable assets or enforce the Charitable Trust Act or Solicitation for Charity Act.

Effective January 1, 2008. *See Public Act 95-0342.*

### **Exterior Building Design Review**

This Public Act amends the Illinois Municipal Code to allow municipalities to establish local standards for the review of the exterior design of buildings and structures and designate a board or commission to implement the review process. Utility facilities and off-premises advertising signs are exempt from these requirements.

Effective January 1, 2008. *See Public Act 95-0475.*