

## **The Series LLC**

LLCs are common in today's business world. However, a relatively new form of LLC could be of great use to South Texas property investors. The Texas Series LLC provision was added to the Texas Business Organizations Code in 2009, and offers a unique twist on the ability of an LLC to diversify its overall holdings while limiting its liabilities. A Series LLC essentially has the ability to create separate "series" or cells which may have different assets, members or managers, and distinct business purposes and objectives. If certain formalities are maintained, the debts of one series may not be recovered from the general assets of the LLC or any other series. More simply, a series can function as if it were its own LLC and protect itself from the liabilities of other series and the "parent" LLC as well.

An example of using a Series LLC is as follows: An upstart property investor decides he would like to purchase multiple properties in the Rio Grande Valley. If the investor creates a standard LLC, all the properties would be purchased in the name of the LLC and comprise the LLC's overall assets. However, under this form of ownership, every property is exposed to the liabilities of the LLC in general. Therefore, if a lawsuit arises out of an occurrence on one property, a judgment could be collected against the other properties held by the LLC.

To protect the other properties in against this result, the investor could instead create a Series LLC. Assuming that all the formalities are met, if the investor keeps each property in a separate series, the liability of each series is limited to the assets held within the name of that particular series (*i.e.* the single property in this example).

A series has the ability to contract, hold title to assets, grant liens and security interests, and sue and be sued. Thus, a series can operate much like a traditional LLC while still affording the Parent LLC the enhanced liability protection. For investors looking to pass on responsibility to family members this feature can offer many possibilities.

While both the Series LLC and a traditional LLC provide liability protection, it is important to remember that limited liability is no substitute for insurance. The cost of defense alone can quickly exceed the amount claimed in a lawsuit. Furthermore, Series LLCs come with various practical and legal issues. For example, not all states have adopted a Series LLC statute. When an investor does business outside the state, the limits of liability may not apply if an out-of-state court decides not to recognize the Texas Series LLC statute.

Therefore, the Series LLC is currently recommended solely for the purpose of doing business in Texas or other states that recognize the Series LLC. Furthermore, in order to maintain the liability limitations, the assets of each series must be kept separate from those of other series. Even the slightest "commingling" of assets can destroy the individualized liability protection of the Series LLC. Accordingly, the need for detailed bookkeeping is necessary.

— Knowledge and Experience You Can Trust —

Series LLCs require special considerations, and it is advisable to speak with an attorney knowledgeable in the nuances of dealing with this type of business entity. However, if properly drafted and administered, the Series LLC may present great advantages for those looking to invest in South Texas. ©