

2020 Regular Session

HOUSE BILL NO. 313

BY REPRESENTATIVE PRESSLY

COMMERCIAL REGULATIONS: Provides for the recognition of separate legal personalities among affiliated corporations and other business entities

1 AN ACT

2 To enact R.S. 12:1705, relative to commercial regulations; to provide relative to separate
3 juridical personalities of a business organization; to provide for definitions; to
4 provide for an exception; to provide for applicability; and to provide for related
5 matters.

6 Be it enacted by the Legislature of Louisiana:

7 Section 1. R.S. 12:1705 is hereby enacted to read as follows:

8 §1705. Business organizations; juridical personalities

9 A. The separate juridical personality of a business organization shall not be
10 disregarded as between one business organization and another except on grounds that
11 would justify disregarding the separate personality of a business organization as
12 between the business organization and a natural person.

13 B. Notwithstanding Subsection A of this Section, the separate juridical
14 personality of a business organization may not be disregarded merely because one
15 or more of the following circumstances exist:

16 (1) They control one another or are under the common control of the same
17 person or business organization.

18 (2) They have common directors, officers, shareholders, members, managers,
19 partners, or employees.

20 (3) They have common offices.

- 1 (4) They are subject to unified administrative control.
- 2 (5) They utilize a centralized accounting system.
- 3 (6) One business organization finances, incorporates, or organizes another.
- 4 (7) One business organization makes properly documented payments on
5 behalf of another or makes properly documented use of the property of another.
- 6 (8) The employees of one business organization provides properly
7 documented services for another.
- 8 (9) One business organization receives no business other than that given to
9 it by another.
- 10 C. For purposes of this Section, the term "business organization" means a
11 business corporation, nonprofit corporation, limited liability company, partnership,
12 or other form of business organization that is treated as a juridical person or legal
13 entity pursuant to the laws of the state or country under which it is incorporated or
14 organized.
- 15 D. This Section shall not affect any law or administrative rule that permits
16 or requires a group of business organizations to be consolidated, unified, or
17 disregarded for the purposes provided in the applicable law or administrative rule.
- 18 Section 2. The provisions of this Act shall only be given prospective application.

DIGEST

The digest printed below was prepared by House Legislative Services. It constitutes no part of the legislative instrument. The keyword, one-liner, abstract, and digest do not constitute part of the law or proof or indicia of legislative intent. [R.S. 1:13(B) and 24:177(E)]

HB 313 Engrossed

2020 Regular Session

Pressly

Abstract: Provides relative to single business entities and affiliated juridical personalities.

Present law as developed in jurisprudence permits courts to disregard the separate legal personalities otherwise existing between two or more business entities for purposes of imposing liability, based on a list of factors that include many control-related characteristics that are lawful and commonly found among affiliated business entities.

Proposed law provides that a separate juridical personality of an affiliated business organization shall not be disregarded between one business organization and another, except on grounds that would justify a disregard of the separate personality of a business organization, as between the business organization and a natural person.

Proposed law provides that the separate juridical personalities of business organizations may not be disregarded merely because one or more of the following circumstances exist for business organizations:

- (1) Control of one another or under common control of the same person or business organization.
- (2) Common directors, officers, shareholders, members, managers, partners, or employees.
- (3) Common offices.
- (4) Subject to unified administrative control.
- (5) Utilizes a centralized accounting system.
- (6) One business organization finances, incorporates, or organizes another.
- (7) One business organization makes properly documented payments on behalf of another or makes properly documented use of the property of another.
- (8) Employees of one business organization provide properly documented services for another.
- (9) One business organization receives no business other than that given to it by another.

Proposed law defines "business organization" as a business corporation, nonprofit corporation, limited liability company, partnership, or other form of business organization that is treated as a juridical person or legal entity under the laws of the state or country under which it is incorporated or organized.

Proposed law does not affect any law or administrative rule that permits or requires a group of business organizations to be consolidated, unified, or disregarded for the purposes provided in the applicable law or administrative rule.

Proposed law shall have prospective application.

The provisions of the proposed law legislatively overrule *Green v. Champion Ins. Co.*, 577 So. 2d 249 (La. App. 1st Cir. 1991) in favor of a traditional veil piercing analysis.

(Adds R.S. 12:1705)

Summary of Amendments Adopted by House

The Committee Amendments Proposed by House Committee on Commerce to the original bill:

1. Make technical changes.