

Office of the Governor
State of Louisiana

JOHN BEL EDWARDS
GOVERNOR



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June 12, 2020

VIA HAND DELIVERY

Honorable Clay J. Schexnayder
Speaker of the House
Louisiana House of Representatives
Post Office Box 94062
Baton Rouge, Louisiana 70804-9062

RE: Veto of House Bill 313 of the 2020 Regular Session

Dear Speaker Schexnayder:

Please be advised that I have vetoed House Bill 313 of the 2020 Regular Session.

House Bill 313 would have effectively eliminated the Single Business Enterprise Doctrine, a jurisprudential doctrine that allows courts to consider closely related businesses to be a single business entity when attempting to impose liability or collect debts. This rarely used and difficult to prove doctrine is designed to prevent bad actors from establishing undercapitalized shell corporations in an effort to avoid creditors and shirk public obligations. Such a significant change in this doctrine could make it more difficult for creditors to pursue their claims and could inadvertently hurt small businesses, independent contractors, investors, and pension funds in Louisiana.

Additionally, some of the language of House Bill 313 could lead to confusion and possible unintended consequences. For example, the proposed La. R.S. 12:1705(C) defines "business organization" to include a trust. According to the Louisiana Trust Code (La. R.S. 9:1721, *et seq.*), a trust is a contractual fiduciary relationship — not a distinct juridical person or "business organization." If House Bill 313 were to become law, the potential unintended, unforeseen, and unstudied consequences of such a change in our law would be problematic and unjustified.

Sincerely,

A handwritten signature in black ink, appearing to read "John Bel Edwards".

John Bel Edwards
Governor

cc: Honorable Patrick Page Cortez
Louisiana Senate President

2020 Regular Session

HOUSE BILL NO. 313

BY REPRESENTATIVE PRESSLY

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

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AN ACT

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

Be it enacted by the Legislature of Louisiana:

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

§1705. Business organizations; juridical personalities

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

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

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

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

(3) They have common offices.

(4) They are subject to unified administrative control.

(5) They utilize a centralized accounting system.

1 (6) One business organization finances, incorporates, or organizes another.

2 (7) One business organization makes properly documented payments on
3 behalf of another or makes properly documented use of the property of another.

4 (8) The employees of one business organization provides properly
5 documented services for another.

6 (9) One business organization receives no business other than that given to
7 it by another.

8 C. For purposes of this Section, the term "business organization" means a
9 business corporation, nonprofit corporation, limited liability company, partnership,
10 trust, or other form of business organization that is treated as a juridical person or
11 legal entity pursuant to the laws of the state or country under which it is incorporated
12 or organized.

13 D. (1) This Section shall not affect any legal or regulatory action taken by
14 the commissioner of insurance pursuant to the Louisiana Insurance Code, Chapter
15 9 of Title 22 of the Louisiana Revised Statutes of 1950.

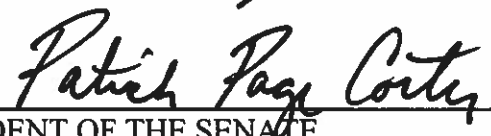
16 (2) This Section shall not affect any law or administrative rule that permits
17 or requires a group of business organizations to be consolidated, unified, or
18 disregarded for the purposes provided in the applicable law or administrative rule.

19 Section 2. The provisions of this Act shall apply prospectively to all business
20 organizations including those in existence on the effective date of this Act.

Handwritten signature: Keith...



SPEAKER OF THE HOUSE OF REPRESENTATIVES



PRESIDENT OF THE SENATE

GOVERNOR OF THE STATE OF LOUISIANA

APPROVED: *MPS*
10 June 2020

CODING: Words in ~~struck through~~ type are deletions from existing law; words underscored are additions.