

The Legal Strategist

S. BARRETT P.C.

WWW.SBARRETLAW.COM

FIRST QUARTER 2025

TEXAS ESOTERIC FACTS

In Texas you are not required to have an operating agreement for a limited liability company (LLC). If your LLC does not have a formal operating agreement, signed by all Members or Managers, your LLC will be governed by Title 3 of the Texas Business Organizations Code (BOC). A question I often am asked is “do I need an operating agreement if I am a single Member LLC?” The simple answer is “no” but I highly recommend adopting an operating agreement for your single member LLC.

- ♦ The Weather Modification Act of 1967 prohibits the modification of the weather.
- ♦ Before 1973, it was illegal to plant Johnson grass on another person's property

The Feature Topic is a cursory review. If you would like more information on this, or any other topic previously covered in my newsletter, which can be viewed on *The Legal Strategist* tab of my web site, please contact my office at 713.526.1883.

Scott Barrett

FEATURE TOPIC: SINGLE MEMBER LLC OPERATING AGREEMENTS

An LLC is the most popular structure for businesses in Texas. The designation was created largely to increase small business access to the protection from liability afforded to corporate shareholders.

An LLC operating agreement identifies the company, states its ownership, defines member duties and lays out other structural features of the business. It usually includes basic information about the LLC and its owners (known as members), the company's elected tax treatment and guidelines for how certain key procedures will be handled.

A written operating agreement lends credibility to your single member LLC. It also helps show that your LLC is a legitimate business entity that's separate from you, not just a sham that's been created to avoid liability. That's really important for single member LLCs because, without the formality of an agreement, a single member LLC can look like a sole proprietorship. Banks and lenders will ask to see an operating agreement before they'll agree to open an account or issue you a loan in your LLC's name.

Another important aspect of having an operating agreement for a single member LLC is that without an operating agreement, courts might not take as seriously the limited liability status when considering a business claims. The legal separation, or “veil,” between a business and its members or owners is central to limiting personal liability and is strengthened by the inclusion of a liability statement in an LLC operating agreement.

As mentioned previously, if you do not adopt an operating agreement, your single member LLC will be governed by Title 3 of the BOC. By adopting an operating agreement for your single member LLC, your operations, to a great extent, will be governed by the operating agreement, which gives you much greater flexibility than the statutory regulations contained in the BOC.

So, while you are not required to have an operating agreement for any LLC in Texas, An operating agreement is a powerful tool for single member LLCs to protect their interests, maintain compliance, and operate with confidence. By creating a clear and comprehensive operating agreement, you ensure your single member LLC is well-prepared for challenges, from legal disputes to financial audits and beyond.

If you would like more information on this or any other topic covered in *The Legal Strategist*, please contact [Scott Barrett](#) to set up a consultation.