



## **YOU'VE FORMED AN LLC FOR YOUR INVESTMENT REAL ESTATE HOLDINGS, NOW WHAT?**

Congratulations! You have taken the first step toward protecting your considerable financial investment in real estate by forming a limited liability company. If managed properly, this will contain any losses within the entity you've created and not allow them to spread to your other assets.

There are steps you need to take, however, to continue to enjoy the benefits of your new company.

### **1 – Obtain a Federal Employer Identification Number**

While single member LLCs are not required for Federal income tax purposes (unless they want to be treated as corporations for tax purposes), they are required for multi-member LLCs. In addition, banks typically require an EIN for an entity before setting up a bank account. Some companies that will do business with your LLC may also require an EIN. Obtaining an EIN is a simple process and can be found: <https://www.irs.gov/businesses/small-businesses-self-employed/apply-for-an-employer-identification-number-ein-online>.

### **2 – Open a bank account in the LLC's name**

While the creation of the LLC was an important first step in minimizing liability for your personal assets, you must continue to operate with it as a separate entity. As with any other entity, there should be no commingling of funds. Receipts of rent, payment of insurance, maintenance and taxes should all be handled through the LLC's bank account.

### **3 – If the property was previously purchased, change the title of the property into the LLC**

You will have created the LLC for no purpose if the title does not rest within the LLC. Most often, banks will not lend monies to LLCs to purchase the property. This means that after you acquire title, you will need to transfer it to the LLC. Failure to do so renders your LLC moot.

### **4 – Either obtain property insurance or transfer it into the name of the LLC**

There is a debate among real estate investors as to whether liability insurance is adequate in and of itself to protect the property owner. The issue with insurance is simply that insurance companies draft policies that have terms, limits and exclusions. That is why insurance alone is insufficient to protect you and your totality of assets. Since you have formed an LLC, you've prevented the spread of loss to your other assets. However, the purchase of insurance to now protect the asset within the LLC is always well advised and, should there be a mortgage on the property, typically required.



## **5 – Transfer any leases of the property to the LLC**

Investment property is usually leased out to at least one tenant. With the creation of the LLC, it is now time to transfer the lease over to the LLC. Ensure that your tenant(s) pay rent to the new entity, in its new name, beginning at the first applicable month. You want to be very clear that the ownership rests with the LLC.

## **6 – Require tenants to obtain sufficient renter’s insurance**

One of the largest exposures to a landlord are the acts or omissions of their tenants. If there is an incident at the location, the landlord can be relatively certain that any resulting claims will name not only the tenant but also the owner of the property as defendants. To help mitigate losses, you should require that your tenants carry proper renter’s insurance, with adequate limits for their own property and – most importantly – liability for acts to third persons. They should have their insurance broker name your LLC as an additional insured under the policy.

## **7 – Maintain a registered agent at all times**

Registered agents are known to the Department of State of New York and are able to accept service of process on behalf of the entity. Having an attorney named as your registered agent protects your privacy as the Registered Agent is listed on the public files, rather than your own name and home address.

## **8 – If the property is within New York City, register it with the NYC Housing Preservation & Development Department**

NYC requires that all rental properties are registered with the NYC Housing Preservation & Development Department. This includes buildings that have 3 units and 1 is owner occupied; or a 1-2 unit residence that is *not* occupied by either the owner or a close relative. The registration is due annual on July 1 and the amount is minimal (as of this writing it is \$13.00). Failure to register may bring about financial penalties, have code violations issued against it, and will be unable to use the housing court to recover possession of the premises due to nonpayment of rent by a tenant.

## **9 – If the property has 4 or more units, Nassau and Suffolk Counties have additional requirements.**

Nassau and Suffolk Counties, as a whole, require registration for properties that have 4 or more units. However, owners should be aware that local towns and municipalities may have more restrictive registration requirements and you should consult with an attorney to ensure compliance.

**LOVE LAW FIRM** loves helping real estate investors achieve their dreams! Reach out to talk about your investment portfolio and how to best protect it!

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