

POST-OLMSTEAD LLC ACTION GUIDE

What Should LLCs in Florida do in Light of the Florida Supreme Court’s Ruling in *Olmstead v. FTC*?

Caveat: This Guide is provided as general information only. Specific legal action should be discussed with an experienced attorney.

OUTSIDE LIABILITY PROTECTION & RISK	Single-Member LLCs	Multiple-Member LLCs
Florida* Holding LLCs	No Protection; High Risk	Moderate Protection; High Risk
Florida* Operating LLCs	No Protection; Moderate Risk	Moderate Protection; Moderate Risk
“Exclusive Remedy” Jurisdiction† LLCs	Strong Protection	

LLC Category	General Recommendations
Single-Member Florida* Holding LLC	Immediate Action Required Alternatives to Consider: <ul style="list-style-type: none"> Adding additional members; convert to a Multiple-Member LLC Changing state of organization (“re-domesticating”) to an “Exclusive Remedy” Jurisdiction† Transferring ownership to a Multiple-Member and/or “Exclusive Remedy” Jurisdiction Holding LLC or LLP
Multiple-Member Florida* Holding LLC	Immediate Action Should be Considered Alternatives to Consider: <ul style="list-style-type: none"> Changing state of organization (“re-domesticating”) to an “Exclusive Remedy” Jurisdiction† Converting to an LLLP Changing LLC management from “Member-Managed” to “Manager-Managed” Adopting an Operating Agreement that limits the rights of members’ judgment creditors
Single-Member Florida* Operating LLC	Immediate Action Should be Considered Alternatives to Consider: <ul style="list-style-type: none"> Adding additional members; convert to a Multiple-Member LLC Changing state of organization (“re-domesticating”) to an “Exclusive Remedy” Jurisdiction† Transferring ownership to a Multiple-Member and/or “Exclusive Remedy” Jurisdiction† Holding LLC or LLP Changing LLC management from “Member-Managed” to “Manager-Managed” Distributing excess cash and investing in exempt assets
Multiple-Member Florida* Operating LLC	Action Should be Considered Alternatives to Consider: <ul style="list-style-type: none"> Changing state of organization (“re-domesticating”) to an “Exclusive Remedy” Jurisdiction† Changing LLC management from “Member-Managed” to “Manager-Managed” Adopting an Operating Agreement that limits the rights of members’ judgment creditors Waiting to see how the Florida Legislature responds
“Exclusive Remedy” Jurisdiction† LLC	Action May Not be Necessary

* Also any LLC organized in a Non-“Exclusive Remedy” jurisdiction and operating or holding property in Florida.

† 18 U.S. states: Alabama, Alaska, Arizona, Delaware, Georgia, Kansas, Maine (eff. 07/11), Minnesota, Mississippi (eff. 01/11), Nevada, North Dakota, Oklahoma, South Dakota, Tennessee, Texas, Virginia, West Virginia, Wyoming; several foreign countries as well.