INTRODUCED

April 19, 2012

**H. 5150**

Introduced by Reps. Harrell, Harrison, Sandifer, Lucas, Hardwick, Howard, Clemmons, Ott, Crawford, Bingham, Owens and White

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Read the first time April 19, 2012.

**A** **BILL**

TO REENACT SECTION 33‑44‑303, CODE OF LAWS OF SOUTH CAROLINA, 1976, RELATING TO THE LIABILITY OF MEMBERS AND MANAGERS OF LIMITED LIABILITY COMPANIES, AND TO EXPRESS THAT IT IS THE CLEAR AND UNAMBIGUOUS INTENT OF THE GENERAL ASSEMBLY TO SHIELD A MEMBER OF A LIMITED LIABILITY COMPANY FROM PERSONAL LIABILITY FOR ACTIONS TAKEN IN THE ORDINARY COURSE OF THE LIMITED LIABILITY COMPANY’S BUSINESS.

Whereas, the South Carolina Supreme Court recently issued the opinion in the case of *16 Jade Street v. R. Design Construction Co., LLC, et al.*, where the Court held that the General Assembly did not intend the Limited Liability Company Act to shield a member of a limited liability company from liability for his own torts; and

Whereas, the Court provided in its majority opinion that “while we agree the language of the LLC Act appears to insulate a member from personal liability, we hold that such a sweeping liability shield was not intended by the General Assembly”; and

Whereas, the Court further provided in its majority opinion that “the right to sue one’s tortfeasor is a long‑standing right in our legal system, and we will only find it abrogated by statute through ‘clear legislative intent’”; and

Whereas, the Court provided in its majority opinion that “we are not persuaded that (limiting personal liability) was the intent of the General Assembly”; and

Whereas, the Court stated in its majority opinion that they “conclude that Section 33‑44‑303(a) only protects non‑tortfeasor members from vicarious liability and does not insulate the tortfeasor himself from personal liability for his actions.” Now, therefore,

Be it enacted by the General Assembly of the State of South Carolina:

SECTION 1. The General Assembly, by this act, reenacts Section 33‑44‑303, Code of Laws of South Carolina, 1976, as of the effective date of this act that was interpreted in the *16 Jade Street* opinion of the South Carolina Supreme Court so that the clear and unambiguous intent of the General Assembly of the State of South Carolina as expressed in the language of that section is that the limited liability act was intended by the General Assembly to shield a member of an LLC from personal liability for actions taken in the ordinary course of business of the LLC.

SECTION 2. This act takes effect upon approval by the Governor.

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