

1 (d) Is not required, in order to transact business or conduct
2 affairs in this state, to be registered or organized under any statute
3 of this state other than this chapter.

4 (4) "Limited liability company" and "domestic limited liability
5 company" means a limited liability company organized and existing under
6 this chapter.

7 (5) "Limited liability company agreement" means any written
8 agreement as to the affairs of a limited liability company and the
9 conduct of its business which is binding upon all of the members.

10 (6) "Limited liability company interest" means a member's share of
11 the profits and losses of a limited liability company and a member's
12 right to receive distributions of the limited liability company's
13 assets.

14 (7) "Manager" or "managers" means, with respect to a limited
15 liability company that has set forth in its certificate of formation
16 that it is to be managed by managers, the person, or persons designated
17 in accordance with section 401(2) of this act.

18 (8) "Member" means a person who has been admitted to a limited
19 liability company as a member as provided in section 301 of this act
20 and who has not been dissociated from the limited liability company.

21 (9) "Person" means a natural person, partnership (whether general
22 or limited and whether domestic or foreign), limited liability company,
23 foreign limited liability company, trust, estate, association,
24 corporation, custodian, nominee, or any other individual or entity in
25 its own or any representative capacity.

26 (10) "Professional limited liability company" means a limited
27 liability company which is organized for the purpose of rendering
28 professional service and whose certificate of formation sets forth that
29 it is a professional limited liability company subject to section 109
30 of this act.

31 (11) "Professional service" means any type of personal service to
32 the public which requires as a condition precedent to the rendering of
33 such service the obtaining of a license or other legal authorization,
34 including, but not by way of limitation, certified public accountants,
35 chiropractors, dentists, osteopaths, physicians, podiatrists,
36 chiropodists, architects, veterinarians, and attorneys at law.

37 (12) "State" means the District of Columbia or the Commonwealth of
38 Puerto Rico or any state, territory, possession, or other jurisdiction
39 of the United States other than the state of Washington.

1 NEW SECTION. **Sec. 102.** NAME SET FORTH IN CERTIFICATE OF
2 FORMATION. (1) The name of each limited liability company as set forth
3 in its certificate of formation:

4 (a) Must contain either the words "Limited Liability Company," the
5 words "Limited Liability" and abbreviation "Co.," or the abbreviation
6 "L.L.C.";

7 (b) Except as provided in subsection (1)(d) of this section, may
8 contain the name of a member or manager;

9 (c) Must not contain language stating or implying that the limited
10 liability company is organized for a purpose other than those permitted
11 by section 106 of this act;

12 (d) Must not contain any of the words or phrases: "Bank,"
13 "banking," "banker," "trust," "cooperative," "partnership,"
14 "corporation," "incorporated," or the abbreviations "corp.," "ltd.," or
15 "inc.," or "L.P.," or any combination of the words "industrial" and
16 "loan," or any combination of any two or more of the words "building,"
17 "savings," "loan," "home," "association," and "society," or any other
18 words or phrases prohibited by any statute of this state; and

19 (e) Must be distinguishable upon the records of the secretary of
20 state from the names described in RCW 23B.04.010(1)(d), and the names
21 of any limited liability company reserved, registered, or formed under
22 the laws of this state or qualified to do business as a foreign limited
23 liability company in this state.

24 (2) A limited liability company may apply to the secretary of state
25 for authorization to use any name which is not distinguishable upon the
26 records of the secretary of state from one or more of the names
27 described in subsection (1)(e) of this section. The secretary of state
28 shall authorize use of the name applied for if the other corporation,
29 limited partnership, or limited liability company consents in writing
30 to the use and files with the secretary of state documents necessary to
31 change its name or the name reserved or registered to a name that is
32 distinguishable upon the records of the secretary of state from the
33 name of the applying limited liability company.

34 (3) A name shall not be considered distinguishable upon the records
35 of the secretary of state by virtue of:

36 (a) A variation in the designation, under subsection (1)(a) of this
37 section, used for the same name;

38 (b) The addition or deletion of an article or conjunction such as
39 "the" or "and" from the same name;

1 (c) Punctuation, capitalization, or special characters or symbols
2 in the same name; or

3 (d) Use of abbreviation or the plural form of a word in the same
4 name.

5 (4) This chapter does not control the use of assumed business names
6 or "trade names."

7 NEW SECTION. **Sec. 103.** RESERVED NAME--REGISTERED NAME. (1)
8 Reserved Name.

9 (a) A person may reserve the exclusive use of a limited liability
10 company name by delivering an application to the secretary of state for
11 filing. The application must set forth the name and address of the
12 applicant and the name proposed to be reserved. If the secretary of
13 state finds that the limited liability company name applied for is
14 available, the secretary of state shall reserve the name for the
15 applicant's exclusive use for a nonrenewable one hundred eighty-day
16 period.

17 (b) The owner of a reserved limited liability company name may
18 transfer the reservation to another person by delivering to the
19 secretary of state a signed notice of the transfer that states the name
20 and address of the transferee.

21 (2) Registered Name.

22 (a) A foreign limited liability company may register its name if
23 the name is distinguishable upon the records of the secretary of state
24 from the names specified in section 102(1)(e) of this act.

25 (b) A foreign limited liability company registers its name by
26 delivering to the secretary of state for filing an application that:

27 (i) Sets forth its name and the state or country and date of its
28 organization; and

29 (ii) Is accompanied by a certificate of existence, or a document of
30 similar import, from the state or country of organization.

31 (c) The name is registered for the applicant's exclusive use upon
32 the effective date of the application and until the close of the
33 calendar year in which the application for registration is filed.

34 (d) A foreign limited liability company whose registration is
35 effective may renew it for successive years by delivering to the
36 secretary of state for filing a renewal application, which complies
37 with the requirements of (b) of this subsection, between October 1st

1 and December 31st of the preceding year. The renewal application when
2 filed renews the registration for the following calendar year.

3 (e) A foreign limited liability company whose registration is
4 effective may thereafter qualify as a foreign limited liability company
5 under the registered name, or consent in writing to the use of that
6 name by a limited liability company thereafter organized under this
7 chapter, by a corporation thereafter formed under Title 23B RCW, by a
8 limited partnership thereafter formed under chapter 25.10 RCW, or by
9 another foreign limited liability company, foreign corporation, or
10 foreign limited partnership thereafter authorized to transact business
11 in this state. The registration terminates when the domestic limited
12 liability company is organized, the domestic corporation is
13 incorporated, or the domestic limited partnership is formed, or the
14 foreign limited liability company qualifies or consents to the
15 qualification of another foreign limited liability company,
16 corporation, or limited partnership under the registered name.

17 NEW SECTION. **Sec. 104.** REGISTERED OFFICE--REGISTERED AGENT. (1)
18 Each limited liability company shall continuously maintain in this
19 state:

20 (a) A registered office, which may but need not be a place of its
21 business in this state. The registered office shall be at a specific
22 geographic location in this state, and be identified by number, if any,
23 and street, or building address or rural route, or, if a commonly known
24 street or rural route address does not exist, by legal description. A
25 registered office may not be identified by post office box number or
26 other nongeographic address. For purposes of communicating by mail,
27 the secretary of state may permit the use of a post office address in
28 the same city as the registered office in conjunction with the
29 registered office address if the limited liability company also
30 maintains on file the specific geographic address of the registered
31 office where personal service of process may be made;

32 (b) A registered agent for service of process on the limited
33 liability company, which agent may be either an individual resident of
34 this state whose business office is identical with the limited
35 liability company's registered office, or a domestic corporation,
36 limited partnership, or limited liability company, or a foreign
37 corporation, limited partnership, or limited liability company

1 authorized to do business in this state having a business office
2 identical with such registered office; and

3 (c) A registered agent who shall not be appointed without having
4 given prior written consent to the appointment. The written consent
5 shall be filed with the secretary of state in such form as the
6 secretary may prescribe. The written consent shall be filed with or as
7 a part of the document first appointing a registered agent.

8 (2) A registered agent may change the address of the registered
9 office of the limited liability company or companies for which such
10 registered agent is registered agent to another address in this state
11 by filing with the secretary of state a certificate, executed by such
12 registered agent, setting forth the names of all the limited liability
13 companies represented by such registered agent, and the address at
14 which such registered agent has maintained the registered office for
15 each of such limited liability companies, and further certifying to the
16 new address to which each such registered office will be changed on a
17 given day, and at which new address such registered agent will
18 thereafter maintain the registered office for each of the limited
19 liability companies recited in the certificate. Upon the filing of
20 such certificate, the secretary of state shall furnish to the
21 registered agent a certified copy of the same, and thereafter, or until
22 further change of address, as authorized by law, the registered office
23 in this state of each of the limited liability companies recited in the
24 certificate shall be located at the new address of the registered agent
25 thereof as given in the certificate. In the event of a change of name
26 of any person acting as a registered agent of a limited liability
27 company, such registered agent shall file with the secretary of state
28 a certificate, executed by such registered agent, setting forth the new
29 name of such registered agent, the name of such registered agent before
30 it was changed, the names of all the limited liability companies
31 represented by such registered agent, and the address at which such
32 registered agent has maintained the registered office for each of such
33 limited liability companies. Upon the filing of such certificate, the
34 secretary of state shall furnish to the registered agent a certified
35 copy of the certificate. Filing a certificate under this section shall
36 be deemed to be an amendment of the certificate of formation of each
37 limited liability company affected thereby and each such limited
38 liability company shall not be required to take any further action with
39 respect thereto, to amend its certificate of formation under section

1 202 of this act. Any registered agent filing a certificate under this
2 section shall promptly, upon such filing, deliver a copy of any such
3 certificate to each limited liability company affected thereby.

4 (3) The registered agent of one or more limited liability companies
5 may resign and appoint a successor registered agent by filing a
6 certificate with the secretary of state, stating that it resigns and
7 the name and address of the successor registered agent. There shall be
8 attached to such certificate a statement executed by each affected
9 limited liability company ratifying and approving such change of
10 registered agent. Upon such filing, the successor registered agent
11 shall become the registered agent of such limited liability companies
12 as have ratified and approved such substitution and the successor
13 registered agent's address, as stated in such certificate, shall become
14 the address of each such limited liability company's registered office
15 in this state. The secretary of state shall furnish to the successor
16 registered agent a certified copy of the certificate of resignation.
17 Filing of such certificate of resignation shall be deemed to be an
18 amendment of the certificate of formation of each limited liability
19 company affected thereby and each such limited liability company shall
20 not be required to take any further action with respect thereto, to
21 amend its certificate of formation under section 202 of this act.

22 (4) The registered agent of a limited liability company may resign
23 without appointing a successor registered agent by filing a certificate
24 with the secretary of state stating that it resigns as registered agent
25 for the limited liability company identified in the certificate, but
26 such resignation shall not become effective until one hundred twenty
27 days after the certificate is filed. There shall be attached to such
28 certificate an affidavit of such registered agent, that at least thirty
29 days prior to and on or about the date of the filing of said
30 certificate, notices were sent by certified or registered mail to the
31 limited liability company for which such registered agent is resigning
32 as registered agent, at the principal office thereof within or outside
33 this state, if known to such registered agent or, if not, to the last
34 known address of the attorney or other individual at whose request such
35 registered agent was appointed for such limited liability company, of
36 the resignation of such registered agent. After receipt of the notice
37 of the resignation of its registered agent, the limited liability
38 company for which such registered agent was acting shall obtain and

1 designate a new registered agent, to take the place of the registered
2 agent so resigning.

3 NEW SECTION. **Sec. 105.** SERVICE OF PROCESS ON DOMESTIC LIMITED
4 LIABILITY COMPANIES. (1) A limited liability company's registered
5 agent is its agent for service of process, notice, or demand required
6 or permitted by law to be served on the limited liability company.

7 (2) The secretary of state shall be an agent of a limited liability
8 company upon whom any such process, notice, or demand may be served if:

9 (a) The limited liability company fails to appoint or maintain a
10 registered agent in this state; or

11 (b) The registered agent cannot with reasonable diligence be found
12 at the registered office.

13 (3) Service on the secretary of state of any such process, notice,
14 or demand shall be made by delivering to and leaving with the secretary
15 of state, or with any duly authorized clerk of the secretary of state's
16 office, the process, notice, or demand. In the event any such process,
17 notice, or demand is served on the secretary of state, the secretary of
18 state shall immediately cause a copy thereof to be forwarded by
19 certified mail, addressed to the limited liability company at its
20 principal place of business as it appears on the records of the
21 secretary of state. Any service so had on the secretary of state shall
22 be returnable in not less than thirty days.

23 (4) The secretary of state shall keep a record of all processes,
24 notices, and demands served upon the secretary of state under this
25 section, and shall record therein the time of such service and the
26 secretary of state's action with reference thereto.

27 (5) This section does not limit or affect the right to serve any
28 process, notice, or demand required or permitted by law to be served
29 upon a limited liability company in any other manner now or hereafter
30 permitted by law.

31 NEW SECTION. **Sec. 106.** NATURE OF BUSINESS PERMITTED--POWERS. (1)
32 Every limited liability company formed under this chapter may carry on
33 any lawful business or activity unless a more limited purpose is set
34 forth in the certificate of formation. A limited liability company may
35 not be formed under this chapter for the purposes of banking or
36 engaging in business as an insurer.

1 (2) Unless this chapter, its certificate of formation, or its
2 limited liability company agreement provides otherwise, a limited
3 liability company has the same powers as an individual to do all things
4 necessary or convenient to carry out its business and affairs.

5 NEW SECTION. **Sec. 107.** BUSINESS TRANSACTIONS OF MEMBER OR MANAGER
6 WITH THE LIMITED LIABILITY COMPANY. Except as provided in a limited
7 liability company agreement, a member or manager may lend money to, act
8 as a surety, guarantor, or endorser for, guarantee or assume one or
9 more specific obligations of, provide collateral for, and transact
10 other business with a limited liability company and, subject to other
11 applicable law, has the same rights and obligations with respect to any
12 such matter as a person who is not a member or manager.

13 NEW SECTION. **Sec. 108.** LIMITATION OF LIABILITY AND
14 INDEMNIFICATION. (1) The limited liability company agreement may
15 contain provisions not inconsistent with law that:

16 (a) Except as provided in sections 208 and 303 of this act,
17 eliminate or limit the personal liability of a member or manager to the
18 limited liability company or its members for monetary damages for
19 conduct as a member or manager, provided that such provisions shall not
20 eliminate or limit the liability of a member or manager for acts or
21 omissions that involve intentional misconduct or a knowing violation of
22 law by a member or manager, for conduct of the member or manager,
23 violating section 605 of this act, or for any transaction from which
24 the member or manager will personally receive a benefit in money,
25 property, or services to which the member or manager is not legally
26 entitled; or

27 (b) Indemnify any member or manager from and against any judgments,
28 settlements, penalties, fines, or expenses incurred in a proceeding to
29 which an individual is a party because he or she is, or was, a member
30 or a manager, provided that no such indemnity shall indemnify a member
31 or a manager from or on account of acts or omissions of the member or
32 manager finally adjudged to be intentional misconduct or a knowing
33 violation of law by the member or manager, conduct of the member or
34 manager adjudged to be in violation of section 605 of this act, or any
35 transaction with respect to which it was finally adjudged that such
36 member or manager received a benefit in money, property, or services to
37 which such member or manager was not legally entitled.

1 (2) To the extent that, at law or in equity, a member or manager
2 has duties (including fiduciary duties) and liabilities relating
3 thereto to a limited liability company or to another member or manager
4 (a) any such member or manager acting under a limited liability company
5 agreement shall not be liable to the limited liability company or to
6 any such other member or manager for the member's or manager's good
7 faith reliance on the provisions of the limited liability company
8 agreement, and (b) the member's or manager's duties and liabilities may
9 be expanded or restricted by provisions in a limited liability company
10 agreement.

11 NEW SECTION. **Sec. 109.** PROFESSIONAL LIMITED LIABILITY COMPANIES.

12 (1) A person or group of persons licensed or otherwise legally
13 authorized to render professional services within this state may
14 organize and become a member or members of a professional limited
15 liability company under the provisions of this chapter for the purposes
16 of rendering professional service. A "professional limited liability
17 company" is subject to all the provisions of chapter 18.100 RCW that
18 apply to a professional corporation, and its managers, members, agents,
19 and employees shall be subject to all the provisions of chapter 18.100
20 RCW that apply to the directors, officers, shareholders, agents, or
21 employees of a professional corporation, except as provided otherwise
22 in this section. Nothing in this section prohibits a person duly
23 licensed or otherwise legally authorized to render professional
24 services in any jurisdiction other than this state from becoming a
25 member of a professional limited liability company organized for the
26 purpose of rendering the same professional services. Nothing in this
27 section prohibits a professional limited liability company from
28 rendering professional services outside this state through individuals
29 who are not duly licensed or otherwise legally authorized to render
30 such professional services within this state. Notwithstanding RCW
31 18.100.065, persons engaged in a profession and otherwise meeting the
32 requirements of this chapter may operate under this chapter as a
33 professional limited liability company so long as:

34 (a) At least one manager of the company is duly licensed or
35 otherwise legally authorized to practice the profession in this state;
36 and

37 (b) Each resident manager or member in charge of an office of the
38 company in this state and each resident manager or member personally

1 engaged in this state in the practice of the profession is duly
2 licensed or otherwise legally authorized to practice the profession in
3 this state.

4 (2) For purposes of applying the provisions of chapter 18.100 RCW
5 to a professional limited liability company, the terms "director" or
6 "officer" shall mean manager, "shareholder" shall mean member,
7 "corporation" shall mean professional limited liability company,
8 "articles of incorporation" shall mean certificate of formation,
9 "shares" or "capital stock" shall mean a limited liability company
10 interest, "incorporator" shall mean the person who executes the
11 certificate of formation, and "bylaws" shall mean the limited liability
12 company agreement.

13 (3) The name of a professional limited liability company must
14 contain either the words "Professional Limited Liability Company," or
15 the words "Professional Limited Liability" and the abbreviation "Co.,"
16 or the abbreviation "P.L.L.C." provided that the name of a professional
17 limited liability company organized to render dental services shall
18 contain the full names or surnames of all members and no other word
19 than "chartered" or the words "professional services" or the
20 abbreviation "P.L.L.C."

21 (4) Subject to the provisions in article VII of this chapter, the
22 following may be a member of a professional limited liability company
23 and may be the transferee of the interest of an ineligible person or
24 deceased member of the professional limited liability company:

25 (a) A professional corporation, if its shareholders, directors, and
26 its officers other than the secretary and the treasurer, are licensed
27 or otherwise legally authorized to render the same specific
28 professional services as the professional limited liability company;
29 and

30 (b) Another professional limited liability company, if the managers
31 and members of both professional limited liability companies are
32 licensed or otherwise legally authorized to render the same specific
33 professional services.

34 NEW SECTION. **Sec. 110.** MEMBER AGREEMENTS. In addition to
35 agreeing among themselves with respect to the provisions of this
36 chapter, the members of a limited liability company or professional
37 limited liability company may agree among themselves to any otherwise
38 lawful provision governing the company which is not in conflict with

1 this chapter. Such agreements include, but are not limited to, buy-
2 sell agreements among the members and agreements relating to expulsion
3 of members.

4 NEW SECTION. **Sec. 111.** MEMBERSHIP RESIDENCY. Nothing in this
5 chapter requires a limited liability company or a professional limited
6 liability company to restrict membership to persons residing in or
7 engaging in business in this state.

8 **ARTICLE II. FORMATION: CERTIFICATE OF FORMATION, AMENDMENT,**
9 **FILING AND EXECUTION**

10 NEW SECTION. **Sec. 201.** CERTIFICATE OF FORMATION. (1) In order to
11 form a limited liability company, one or more persons must execute a
12 certificate of formation. The certificate of formation shall be filed
13 in the office of the secretary of state and set forth:

14 (a) The name of the limited liability company;

15 (b) The address of the registered office and the name and address
16 of the registered agent for service of process required to be
17 maintained by section 104 of this act;

18 (c) The address of the principal place of business of the limited
19 liability company;

20 (d) If the limited liability company is to have a specific date of
21 dissolution, the latest date on which the limited liability company is
22 to dissolve;

23 (e) If management of the limited liability company is vested in a
24 manager or managers, a statement to that effect;

25 (f) Any other matters the members decide to include therein; and

26 (g) The name and address of each person executing the certificate
27 of formation.

28 (2) Effect of filing:

29 (a) Unless a delayed effective date is specified, a limited
30 liability company is formed when its certificate of formation is filed
31 by the secretary of state. A delayed effective date for a certificate
32 of formation may be no later than the ninetieth day after the date it
33 is filed.

34 (b) The secretary of state's filing of the certificate of formation
35 is conclusive proof that the persons executing the certificate

1 satisfied all conditions precedent to the formation except in a
2 proceeding by the state to cancel the certificate.

3 (c) A limited liability company formed under this chapter shall be
4 a separate legal entity, the existence of which as a separate legal
5 entity shall continue until cancellation of the limited liability
6 company's certificate of formation.

7 NEW SECTION. **Sec. 202.** AMENDMENT TO CERTIFICATE OF FORMATION.

8 (1) A certificate of formation is amended by filing a certificate of
9 amendment thereto with the secretary of state. The certificate of
10 amendment shall set forth:

11 (a) The name of the limited liability company; and

12 (b) The amendment to the certificate of formation.

13 (2) A manager or, if there is no manager, then any member who
14 becomes aware that any statement in a certificate of formation was
15 false when made, or that any matter described has changed making the
16 certificate of formation false in any material respect, shall promptly
17 amend the certificate of formation.

18 (3) A certificate of formation may be amended at any time for any
19 other proper purpose.

20 (4) Unless otherwise provided in this chapter or unless a later
21 effective date (which shall be a date not later than the ninetieth day
22 after the date it is filed) is provided for in the certificate of
23 amendment, a certificate of amendment shall be effective when filed by
24 the secretary of state.

25 NEW SECTION. **Sec. 203.** CANCELLATION OF CERTIFICATE. A

26 certificate of formation shall be canceled upon the effective date of
27 the certificate of cancellation, or as provided in section 805 of this
28 act, or upon the filing of articles of merger if the limited liability
29 company is not the surviving or resulting entity in a merger. A
30 certificate of cancellation shall be filed in the office of the
31 secretary of state to accomplish the cancellation of a certificate of
32 formation upon the dissolution and the completion of winding up of a
33 limited liability company and shall set forth:

34 (1) The name of the limited liability company;

35 (2) The date of filing of its certificate of formation;

36 (3) The reason for filing the certificate of cancellation;

1 (4) The future effective date (which shall be a date not later than
2 the ninetieth day after the date it is filed) of cancellation if it is
3 not to be effective upon the filing of the certificate; and

4 (5) Any other information the person filing the certificate of
5 cancellation determines.

6 NEW SECTION. Sec. 204. EXECUTION. (1) Each document required by
7 this chapter to be filed in the office of the secretary of state shall
8 be executed in the following manner:

9 (a) Each original certificate of formation must be signed by the
10 person or persons forming the limited liability company;

11 (b) A reservation of name may be signed by any person;

12 (c) A transfer of reservation of name must be signed by the
13 applicant for the reserved name;

14 (d) A registration of name must be signed by any member or manager
15 of the foreign limited liability company;

16 (e) A certificate of amendment or restatement must be signed by at
17 least one manager, or by a member if management of the limited
18 liability company is reserved to the members;

19 (f) A certificate of cancellation must be signed by the person or
20 persons authorized to wind up the limited liability company's affairs
21 pursuant to section 806(1) of this act;

22 (g) If a surviving domestic limited liability company is filing
23 articles of merger, the articles of merger must be signed by at least
24 one manager, or by a member if management of the limited liability
25 company is reserved to the members, or if the articles of merger are
26 being filed by a surviving foreign limited liability company, limited
27 partnership, or corporation, the articles of merger must be signed by
28 a person authorized by such foreign limited liability company, limited
29 partnership, or corporation; and

30 (h) A foreign limited liability company's application for
31 registration as a foreign limited liability company doing business
32 within the state must be signed by any member or manager of the foreign
33 limited liability company.

34 (2) Any person may sign a certificate, articles of merger, or
35 limited liability company agreement by an attorney-in-fact, so long as
36 each document signed in such manner identifies the capacity in which
37 the signator signed.

1 (3) The person executing the document shall sign it and state
2 beneath or opposite the signature the name of the person and capacity
3 in which the person signs. The document must be typewritten or
4 printed, and must meet such legibility or other standards as may be
5 prescribed by the secretary of state.

6 (4) The execution of a certificate or articles of merger by any
7 person constitutes an affirmation under the penalties of perjury that
8 the facts stated therein are true.

9 NEW SECTION. **Sec. 205.** EXECUTION, AMENDMENT, OR CANCELLATION BY
10 JUDICIAL ORDER. (1) If a person required to execute a certificate
11 required by this chapter fails or refuses to do so, any other person
12 who is adversely affected by the failure or refusal may petition the
13 superior courts to direct the execution of the certificate. If the
14 court finds that the execution of the certificate is proper and that
15 any person so designated has failed or refused to execute the
16 certificate, it shall order the secretary of state to record an ap-
17 propriate certificate.

18 (2) If a person required to execute a limited liability company
19 agreement or amendment thereof fails or refuses to do so, any other
20 person who is adversely affected by the failure or refusal may petition
21 the superior courts to direct the execution of the limited liability
22 company agreement or amendment thereof. If the court finds that the
23 limited liability company agreement or amendment thereof should be
24 executed and that any person required to execute the limited liability
25 company agreement or amendment thereof has failed or refused to do so,
26 it shall enter an order granting appropriate relief.

27 NEW SECTION. **Sec. 206.** FILING. (1) The original signed copy,
28 together with a duplicate copy that may be either a signed,
29 photocopied, or conformed copy, of the certificate of formation or any
30 other document required to be filed pursuant to this chapter shall be
31 delivered to the secretary of state. If the secretary of state
32 determines that the documents conform to the filing provisions of this
33 chapter, he or she shall, when all required filing fees have been paid:

34 (a) Endorse on each signed original and duplicate copy the word
35 "filed" and the date of its acceptance for filing;

36 (b) Retain the signed original in the secretary of state's files;
37 and

1 (c) Return the duplicate copy to the person who filed it or the
2 person's representative.

3 (2) If the secretary of state is unable to make the determination
4 required for filing by subsection (1) of this section at the time any
5 documents are delivered for filing, the documents are deemed to have
6 been filed at the time of delivery if the secretary of state
7 subsequently determines that:

8 (a) The documents as delivered conform to the filing provisions of
9 this chapter; or

10 (b) Within twenty days after notification of nonconformance is
11 given by the secretary of state to the person who delivered the
12 documents for filing or the person's representative, the documents are
13 brought into conformance.

14 (3) If the filing and determination requirements of this chapter
15 are not satisfied completely within the time prescribed in subsection
16 (2)(b) of this section, the documents shall not be filed.

17 (4) Upon the filing of a certificate of amendment (or judicial
18 decree of amendment) or restated certificate in the office of the
19 secretary of state, or upon the future effective date or time of a
20 certificate of amendment (or judicial decree thereof) or restated
21 certificate, as provided for therein, the certificate of formation
22 shall be amended or restated as set forth therein. Upon the filing of
23 a certificate of cancellation (or a judicial decree thereof), or
24 articles of merger which act as a certificate of cancellation, or upon
25 the future effective date or time of a certificate of cancellation (or
26 a judicial decree thereof) or of articles of merger which act as a
27 certificate of cancellation, as provided for therein, or as specified
28 in section 805 of this act, the certificate of formation is canceled.

29 NEW SECTION. **Sec. 207.** RESTATED CERTIFICATE. (1) A limited
30 liability company may, whenever desired, integrate into a single
31 instrument all of the provisions of its certificate of formation which
32 are then in effect and operative as a result of there having
33 theretofore been filed with the secretary of state one or more
34 certificates or other instruments pursuant to any of the sections
35 referred to in this chapter and it may at the same time also further
36 amend its certificate of formation by adopting a restated certificate
37 of formation.

1 (2) If a restated certificate of formation merely restates and
2 integrates but does not amend the initial certificate of formation, as
3 theretofore amended or supplemented by any instrument that was executed
4 and filed pursuant to any of the sections in this chapter, it shall be
5 specifically designated in its heading as a "Restated Certificate of
6 Formation" together with such other words as the limited liability
7 company may deem appropriate and shall be executed by at least one
8 manager, or by a member if management of the limited liability company
9 is reserved to its members, and filed as provided in section 206 of
10 this act in the office of the secretary of state. If a restated
11 certificate restates and integrates and also amends in any respect the
12 certificate of formation, as theretofore amended or supplemented, it
13 shall be specifically designated in its heading as an "Amended and
14 Restated Certificate of Formation" together with such other words as
15 the limited liability company may deem appropriate and shall be
16 executed by at least one manager, or by a member if management of the
17 limited liability company is reserved to its members, and filed as
18 provided in section 206 of this act in the office of the secretary of
19 state.

20 (3) A restated certificate of formation shall state, either in its
21 heading or in an introductory paragraph, the limited liability
22 company's present name, and, if it has been changed, the name under
23 which it was originally filed, and the date of filing of its original
24 certificate of formation with the secretary of state, and the future
25 effective date (which shall be a date not later than the ninetieth day
26 after the date it is filed) of the restated certificate if it is not to
27 be effective upon the filing of the restated certificate. A restated
28 certificate shall also state that it was duly executed and is being
29 filed in accordance with this section. If a restated certificate only
30 restates and integrates and does not further amend a limited liability
31 company's certificate of formation as theretofore amended or
32 supplemented and there is no discrepancy between those provisions and
33 the restated certificate, it shall state that fact as well.

34 (4) Upon the filing of a restated certificate of formation with the
35 secretary of state, or upon the future effective date or time of a
36 restated certificate of formation as provided for therein, the initial
37 certificate of formation, as theretofore amended or supplemented, shall
38 be superseded; thenceforth, the restated certificate of formation,
39 including any further amendment or changes made thereby, shall be the

1 certificate of formation of the limited liability company, but the
2 original effective date of formation shall remain unchanged.

3 (5) Any amendment or change effected in connection with the
4 restatement and integration of the certificate of formation shall be
5 subject to any other provision of this chapter, not inconsistent with
6 this section, which would apply if a separate certificate of amendment
7 were filed to effect such amendment or change.

8 NEW SECTION. **Sec. 208.** LIABILITY INSURANCE. (1) The protection
9 from personal liability afforded by section 303 of this act, and any
10 limited liability company agreement provision that purports to
11 eliminate or limit the personal liability of a member or manager as
12 authorized under section 108 of this act are ineffective up to the
13 dollar amounts of insurance coverage specified in this section:

14 (a) With respect to liability arising from the operation of a motor
15 vehicle, unless the company maintains liability insurance coverage in
16 accordance with and in the dollar amounts required by chapter 46.30
17 RCW;

18 (b) With respect to general commercial liability, unless the
19 company maintains general commercial liability insurance in an amount
20 of at least two hundred fifty thousand dollars per person in a form
21 approved by the insurance commissioner; and

22 (c) With respect to products liability, unless the company
23 maintains products liability insurance in an amount of at least five
24 hundred thousand dollars per person in a form approved by the insurance
25 commissioner.

26 (2) Subsection (1) of this section applies only to the extent that
27 had insurance been maintained as required by this section, it would
28 have covered the liability in question.

29 (3) Any liability resulting from the operation of subsection (1) of
30 this section shall be satisfied first from the assets of the limited
31 liability company. If those assets are insufficient, remaining
32 liability is joint and several among the members and managers of the
33 company.

34 **ARTICLE III. MEMBERS**

1 NEW SECTION. **Sec. 301.** ADMISSION OF MEMBERS. (1) In connection
2 with the formation of a limited liability company, a person acquiring
3 a limited liability company interest is admitted as a member of the
4 limited liability company upon the later to occur of:

5 (a) The formation of the limited liability company; or

6 (b) The time provided in and upon compliance with the limited
7 liability company agreement or, if the limited liability company
8 agreement does not so provide or does not exist, when the person's
9 admission is reflected in the records of the limited liability company.

10 (2) After the formation of a limited liability company, a person
11 acquiring a limited liability company interest is admitted as a member
12 of the limited liability company:

13 (a) In the case of a person acquiring a limited liability company
14 interest directly from the limited liability company, at the time
15 provided in and upon compliance with the limited liability company
16 agreement or, if the limited liability company agreement does not so
17 provide or does not exist, upon the consent of all members and when the
18 person's admission is reflected in the records of the limited liability
19 company; or

20 (b) In the case of an assignee of a limited liability company
21 interest who meets the conditions for membership set forth in section
22 704(1) of this act, at the time provided in and upon compliance with
23 the limited liability company agreement or, if the limited liability
24 company agreement does not so provide or does not exist, when any such
25 assignee's admission as a member is reflected in the records of the
26 limited liability company.

27 NEW SECTION. **Sec. 302.** VOTING AND CLASSES OF MEMBERSHIP. (1)
28 Except as provided in this chapter, or in the limited liability company
29 agreement, and subject to subsection (2) of this section, the
30 affirmative vote, approval, or consent of members contributing, or
31 required to contribute, more than fifty percent of the agreed value (as
32 stated in the records of the limited liability company required to be
33 kept pursuant to section 305 of this act) of the contributions made, or
34 required to be made, by all members shall be necessary for actions
35 requiring member approval.

36 (2) Except as provided in the limited liability company agreement,
37 the affirmative vote, approval, or consent of all members shall be
38 required to:

1 (a) Amend the limited liability company agreement; or
2 (b) Authorize a manager, member, or other person to do any act on
3 behalf of the limited liability company that contravenes the limited
4 liability company agreement, including any provision thereof which
5 expressly limits the purpose, business, or affairs of the limited
6 liability company or the conduct thereof.

7 (3) A limited liability company agreement may provide for classes
8 or groups of members having such relative rights, powers, and duties as
9 the limited liability company agreement may provide, and may make
10 provision for the future creation in the manner provided in the limited
11 liability company agreement of additional classes or groups of members
12 having such relative rights, powers, and duties as may from time to
13 time be established, including rights, powers, and duties senior to
14 existing classes and groups of members. A limited liability company
15 agreement may provide for the taking of an action, including the
16 amendment of the limited liability company agreement, without the vote
17 or approval of any member or class or group of members, including an
18 action to create under the provisions of the limited liability company
19 agreement a class or group of limited liability company interests that
20 was not previously outstanding.

21 (4) A limited liability company agreement may grant to all or
22 certain identified members or a specified class or group of the members
23 the right to vote separately or with all or any class or group of the
24 members or managers, on any matter. If the limited liability company
25 agreement so provides, voting by members may be on a per capita,
26 number, profit share, class, group, or any other basis.

27 (5) A limited liability company agreement which contains provisions
28 related to voting rights of members may set forth provisions relating
29 to notice of the time, place, or purpose of any meeting at which any
30 matter is to be voted on by any members, waiver of any such notice,
31 action by consent without a meeting, the establishment of a record
32 date, quorum requirements, voting in person or by proxy, or any other
33 matter with respect to the exercise of any such right to vote.

34 NEW SECTION. **Sec. 303.** LIABILITY OF MEMBERS AND MANAGERS TO THIRD
35 PARTIES. (1) Except as otherwise provided by this chapter, the debts,
36 obligations, and liabilities of a limited liability company, whether
37 arising in contract, tort or otherwise, shall be solely the debts,
38 obligations, and liabilities of the limited liability company; and no

1 member or manager of a limited liability company shall be obligated
2 personally for any such debt, obligation, or liability of the limited
3 liability company solely by reason of being a member or acting as a
4 manager of the limited liability company.

5 (2) A member or manager of a limited liability company is
6 personally liable for his or her own torts.

7 (3) Members and managers of a limited liability company are jointly
8 and severally personally liable for claims against the company relating
9 to hazardous wastes or substances or solid waste disposal sites.

10 NEW SECTION. Sec. 304. EVENTS OF DISSOCIATION. (1) A person
11 ceases to be a member of a limited liability company upon the
12 occurrence of one or more of the following events:

13 (a) The member withdraws by voluntary act from the limited
14 liability company as provided in subsection (3) of this section;

15 (b) The member ceases to be a member as provided in section
16 702(2)(b) of this act following an assignment of all the member's
17 limited liability company interest;

18 (c) The member is removed as a member in accordance with the
19 limited liability company agreement;

20 (d) Unless otherwise provided in the limited liability company
21 agreement, or with the written consent of all other members at the
22 time, the member (i) makes a general assignment for the benefit of
23 creditors; (ii) files a voluntary petition in bankruptcy; (iii) becomes
24 the subject of an order for relief in bankruptcy proceedings; (iv)
25 files a petition or answer seeking for himself or herself any
26 reorganization, arrangement, composition, readjustment, liquidation,
27 dissolution, or similar relief under any statute, law, or regulation;
28 (v) files an answer or other pleading admitting or failing to contest
29 the material allegations of a petition filed against him or her in any
30 proceeding of the nature described in (d) (i) through (iv) of this
31 subsection; or (vi) seeks, consents to, or acquiesces in the
32 appointment of a trustee, receiver, or liquidator of the member or of
33 all or any substantial part of the member's properties;

34 (e) Unless otherwise provided in the limited liability company
35 agreement, or with the consent of all other members at the time, one
36 hundred twenty days after the commencement of any proceeding against
37 the member seeking reorganization, arrangement, composition,
38 readjustment, liquidation, dissolution, or similar relief under any

1 statute, law, or regulation, the proceeding has not been dismissed, or
2 if within ninety days after the appointment without his or her consent
3 or acquiescence of a trustee, receiver, or liquidator of the member or
4 of all or any substantial part of the member's properties, the
5 appointment is not vacated or stayed, or within ninety days after the
6 expiration of any stay, the appointment is not vacated;

7 (f) Unless otherwise provided in the limited liability company
8 agreement, or with written consent of all other members at the time, in
9 the case of a member who is an individual, the entry of an order by a
10 court of competent jurisdiction adjudicating the member incompetent to
11 manage his or her person or estate;

12 (g) Unless otherwise provided in the limited liability company
13 agreement, or with written consent of all other members at the time, in
14 the case of a member that is another limited liability company, the
15 dissolution and commencement of winding up of such limited liability
16 company;

17 (h) Unless otherwise provided in the limited liability company
18 agreement, or with written consent of all other members at the time, in
19 the case of a member that is a corporation, the filing of articles of
20 dissolution or the equivalent for the corporation or the administrative
21 dissolution of the corporation and the lapse of any period authorized
22 for application for reinstatement; or

23 (i) Unless otherwise provided in the limited liability company
24 agreement, or with written consent of all other members at the time, in
25 the case of a member that is a limited partnership, the dissolution and
26 commencement of winding up of such limited partnership.

27 (2) The limited liability company agreement may provide for other
28 events the occurrence of which result in a person ceasing to be a
29 member of the limited liability company.

30 (3) Unless otherwise provided in the limited liability company
31 agreement, a member may withdraw from a limited liability company at
32 any time by giving thirty days' written notice to the other members.

33 NEW SECTION. **Sec. 305.** RECORDS AND INFORMATION. (1) A limited
34 liability company shall keep at its principal place of business the
35 following:

36 (a) A current and a past list, setting forth the full name and last
37 known mailing address of each member and manager, if any;

1 (b) A copy of its certificate of formation and all amendments
2 thereto;

3 (c) A copy of its current limited liability company agreement and
4 all amendments thereto, and a copy of any prior agreements no longer in
5 effect;

6 (d) Unless contained in its certificate of formation or limited
7 liability company agreement, a written statement of:

8 (i) The amount of cash and a description of the agreed value of the
9 other property or services contributed by each member (including that
10 member's predecessors in interest), and which each member has agreed to
11 contribute;

12 (ii) The times at which or events on the happening of which any
13 additional contributions agreed to be made by each member are to be
14 made; and

15 (iii) Any right of any member to receive distributions which
16 include a return of all or any part of the member's contribution.

17 (e) A copy of the limited liability company's federal, state, and
18 local tax returns and reports, if any, for the three most recent years;
19 and

20 (f) A copy of any financial statements of the limited liability
21 company for the three most recent years.

22 (2) The records required by subsection (1) of this section to be
23 kept by a limited liability company are subject to inspection and
24 copying at the reasonable request, and at the expense, of any member
25 during ordinary business hours. A member's agent or attorney has the
26 same inspection and copying rights as the member.

27 (3) Each manager shall have the right to examine all of the
28 information described in subsection (1) of this section for a purpose
29 reasonably related to his or her position as a manager.

30 (4) A limited liability company may maintain its records in other
31 than a written form if such form is capable of conversion into written
32 form within a reasonable time.

33 (5) Any action to enforce any right arising under this section
34 shall be brought in the superior courts.

35 NEW SECTION. **Sec. 306.** REMEDIES FOR BREACH OF LIMITED LIABILITY
36 COMPANY AGREEMENT BY MEMBER. A limited liability company agreement may
37 provide that (1) a member who fails to perform in accordance with, or
38 to comply with the terms and conditions of, the limited liability

1 company agreement shall be subject to specified penalties or specified
2 consequences, and (2) at the time or upon the happening of events
3 specified in the limited liability company agreement, a member shall be
4 subject to specified penalties or specified consequences.

5 **ARTICLE IV. MANAGEMENT AND MANAGERS**

6 NEW SECTION. **Sec. 401.** MANAGEMENT. (1) Unless the certificate of
7 formation vests management of the limited liability company in a
8 manager or managers, management of the business or affairs of the
9 limited liability company shall be vested in the members. Subject to
10 any provisions in the limited liability company agreement or this
11 chapter restricting or enlarging the management rights and duties of
12 any person or group or class of persons, the members shall have the
13 right and authority to manage the affairs of the limited liability
14 company and to make all decisions with respect thereto.

15 (2) If the certificate of formation vests management of the limited
16 liability company in one or more managers, then such persons shall have
17 such power to manage the business or affairs of the limited liability
18 company as is provided in the limited liability company agreement.
19 Unless otherwise provided in the limited liability company agreement,
20 such persons:

21 (a) Shall be designated, appointed, elected, removed, or replaced
22 by a vote, approval, or consent of members contributing, or required to
23 contribute, more than fifty percent of the agreed value (as stated in
24 the records of the limited liability company required to be kept
25 pursuant to section 305 of this act) of the contributions made, or
26 required to be made, by all members at the time of such action;

27 (b) Need not be members of the limited liability company or natural
28 persons; and

29 (c) Unless they have been earlier removed or have earlier resigned,
30 shall hold office until their successors shall have been elected and
31 qualified.

32 (3) If the certificate of formation vests management of the limited
33 liability company in a manager or managers, no member, acting solely in
34 the capacity as a member, is an agent of the limited liability company.

1 NEW SECTION. **Sec. 402.** LIABILITY OF MANAGERS AND MEMBERS. Unless
2 otherwise provided in the limited liability company agreement:

3 (1) A member or manager shall not be liable, responsible, or
4 accountable in damages or otherwise to the limited liability company or
5 to the members of the limited liability company for any action taken or
6 failure to act on behalf of the limited liability company unless such
7 act or omission constitutes gross negligence, intentional misconduct,
8 or a knowing violation of law.

9 (2) Every member and manager must account to the limited liability
10 company and hold as trustee for it any profit or benefit derived by him
11 or her without the consent of a majority of the disinterested managers
12 or members, or other persons participating in the management of the
13 business or affairs of the limited liability company from (a) any
14 transaction connected with the conduct or winding up of the limited
15 liability company or (b) any use by him or her of its property,
16 including, but not limited to, confidential or proprietary information
17 of the limited liability company or other matters entrusted to him or
18 her as a result of his or her status as manager or member.

19 NEW SECTION. **Sec. 403.** MANAGER-MEMBERS' RIGHTS AND DUTIES. A
20 person who is both a manager and a member has the rights and powers,
21 and is subject to the restrictions and liabilities, of a manager and,
22 except as provided in a limited liability company agreement, also has
23 the rights and powers, and is subject to the restrictions and
24 liabilities, of a member to the extent of his or her participation in
25 the limited liability company as a member.

26 NEW SECTION. **Sec. 404.** VOTING AND CLASSES OF MANAGERS. (1)
27 Unless the limited liability company agreement provides otherwise, the
28 affirmative vote, approval, or consent of more than one-half by number
29 of the managers shall be required to decide any matter connected with
30 the business and affairs of the limited liability company.

31 (2) A limited liability company agreement may provide for classes
32 or groups of managers having such relative rights, powers, and duties
33 as the limited liability company agreement may provide, and may make
34 provision for the future creation in the manner provided in the limited
35 liability company agreement of additional classes or groups of managers
36 having such relative rights, powers, and duties as may from time to
37 time be established, including rights, powers, and duties senior to

1 existing classes and groups of managers. A limited liability company
2 agreement may provide for the taking of an action, including the
3 amendment of the limited liability company agreement, without the vote
4 or approval of any manager or class or group of managers, including an
5 action to create under the provisions of the limited liability company
6 agreement a class or group of limited liability company interests that
7 was not previously outstanding.

8 (3) A limited liability company agreement may grant to all or
9 certain identified managers or a specified class or group of the
10 managers the right to vote, separately or with all or any class or
11 group of managers or members, on any matter. If the limited liability
12 company agreement so provides, voting by managers may be on a financial
13 interest, class, group, or any other basis.

14 (4) A limited liability company agreement which contains provisions
15 related to voting rights of managers may set forth provisions relating
16 to notice of the time, place, or purpose of any meeting at which any
17 matter is to be voted on by any manager or class or group of managers,
18 waiver of any such notice, action by consent without a meeting, the
19 establishment of a record date, quorum requirements, voting in person
20 or by proxy, or any other matter with respect to the exercise of any
21 such right to vote.

22 NEW SECTION. **Sec. 405.** REMEDIES FOR BREACH OF LIMITED LIABILITY
23 COMPANY AGREEMENT BY MANAGER. A limited liability company agreement
24 may provide that (1) a manager who fails to perform in accordance with,
25 or to comply with the terms and conditions of, the limited liability
26 company agreement shall be subject to specified penalties or specified
27 consequences, and (2) at the time or upon the happening of events
28 specified in the limited liability company agreement, a manager shall
29 be subject to specified penalties or specified consequences.

30 NEW SECTION. **Sec. 406.** RELIANCE ON REPORTS AND INFORMATION BY
31 MEMBER OR MANAGER. In discharging the duties of a manager or a member,
32 a member or manager of a limited liability company is entitled to rely
33 in good faith upon the records of the limited liability company and
34 upon such information, opinions, reports, or statements presented to
35 the limited liability company by any of its other managers, members,
36 officers, employees, or committees of the limited liability company, or
37 by any other person, as to matters the member or manager reasonably

1 believes are within such other person's professional or expert
2 competence and who has been selected with reasonable care by or on
3 behalf of the limited liability company, including information,
4 opinions, reports, or statements as to the value and amount of the
5 assets, liabilities, profits, or losses of the limited liability
6 company or any other facts pertinent to the existence and amount of
7 assets from which distributions to members might properly be paid.

8 NEW SECTION. **Sec. 407.** RESIGNATION OF MANAGER. A manager may
9 resign as a manager of a limited liability company at the time or upon
10 the happening of events specified in a limited liability company
11 agreement and in accordance with the limited liability company
12 agreement. A limited liability company agreement may provide that a
13 manager shall not have the right to resign as a manager of a limited
14 liability company. Notwithstanding that a limited liability company
15 agreement provides that a manager does not have the right to resign as
16 a manager of a limited liability company, a manager may resign as a
17 manager of a limited liability company at any time by giving written
18 notice to the members and other managers. If the resignation of a
19 manager violates a limited liability company agreement, in addition to
20 any remedies otherwise available under applicable law, a limited
21 liability company may recover from the resigning manager damages for
22 breach of the limited liability company agreement and offset the
23 damages against the amount otherwise distributable to the resigning
24 manager.

25 **ARTICLE V. FINANCE**

26 NEW SECTION. **Sec. 501.** FORM OF CONTRIBUTION. The contribution of
27 a member to a limited liability company may be made in cash, property
28 or services rendered, or a promissory note or other obligation to
29 contribute cash or property or to perform services.

30 NEW SECTION. **Sec. 502.** LIABILITY FOR CONTRIBUTION. (1) Except as
31 provided in a limited liability company agreement, a member is
32 obligated to a limited liability company to perform any promise to
33 contribute cash or property or to perform services, even if the member
34 is unable to perform because of death, disability, or any other reason.

1 If a member does not make the required contribution of property or
2 services, the member is obligated at the option of the limited
3 liability company to contribute cash equal to that portion of the
4 agreed value (as stated in the records of the limited liability company
5 required to be kept pursuant to section 305 of this act) of the
6 contribution that has not been made. This option shall be in addition
7 to, and not in lieu of, any other rights, including the right to
8 specific performance, that the limited liability company may have
9 against such member under the limited liability company agreement or
10 applicable law.

11 (2) Unless otherwise provided in a limited liability company
12 agreement, the obligation of a member to make a contribution or return
13 money or other property paid or distributed in violation of this
14 chapter may be compromised only by consent of all the members.
15 Notwithstanding the compromise, a creditor of a limited liability
16 company who extends credit, after either the certificate of formation,
17 limited liability company agreement or an amendment thereto, or records
18 required to be kept under section 305 of this act reflect the
19 obligation, and before the amendment of any thereof to reflect the
20 compromise, may enforce the original obligation to the extent that, in
21 extending credit, the creditor reasonably relied on the obligation of
22 a member to make a contribution or return. A conditional obligation of
23 a member to make a contribution or return money or other property to a
24 limited liability company may not be enforced unless the conditions of
25 the obligation have been satisfied or waived as to or by such member.
26 Conditional obligations include contributions payable upon a
27 discretionary call of a limited liability company prior to the time the
28 call occurs.

29 (3) A limited liability company agreement may provide that the
30 interest of any member who fails to make any contribution that the
31 member is obligated to make shall be subject to specified penalties
32 for, or specified consequences of, such failure. Such penalty or
33 consequence may take the form of reducing or eliminating the defaulting
34 member's proportionate interest in a limited liability company,
35 subordinating the member's limited liability company interest to that
36 of nondefaulting members, a forced sale of the member's limited
37 liability company interest, forfeiture of the member's limited
38 liability company interest, the lending by other members of the amount
39 necessary to meet the member's commitment, a fixing of the value of the

1 member's limited liability company interest by appraisal or by formula
2 and redemption or sale of the member's limited liability company
3 interest at such value, or other penalty or consequence.

4 NEW SECTION. **Sec. 503.** ALLOCATION OF PROFITS AND LOSSES. The
5 profits and losses of a limited liability company shall be allocated
6 among the members, and among classes or groups of members, in the
7 manner provided in a limited liability company agreement. If the
8 limited liability company agreement does not so provide, profits and
9 losses shall be allocated in proportion to the agreed value (as stated
10 in the records of the limited liability company required to be kept
11 pursuant to section 305 of this act) of the contributions made, or
12 required to be made, by each member.

13 NEW SECTION. **Sec. 504.** ALLOCATION OF DISTRIBUTIONS.
14 Distributions of cash or other assets of a limited liability company
15 shall be allocated among the members, and among classes or groups of
16 members, in the manner provided in a limited liability company
17 agreement. If the limited liability company agreement does not so
18 provide, distributions shall be made in proportion to the agreed value
19 (as stated in the records of the limited liability company required to
20 be kept pursuant to section 305 of this act) of the contributions made,
21 or required to be made, by each member.

22 **ARTICLE VI. DISTRIBUTIONS AND RESIGNATION**

23 NEW SECTION. **Sec. 601.** INTERIM DISTRIBUTIONS. Except as provided
24 in this article, to the extent and at the times or upon the happening
25 of the events specified in a limited liability company agreement, a
26 member is entitled to receive from a limited liability company
27 distributions before the member's dissociation from the limited
28 liability company and before the dissolution and winding up thereof.

29 NEW SECTION. **Sec. 602.** DISTRIBUTION ON EVENT OF DISSOCIATION.
30 Upon the occurrence of an event of dissociation under section 304 of
31 this act which does not cause dissolution (other than an event of
32 dissociation specified in section 304(2) of this act where the
33 dissociating member's assignee is admitted as a member), a dissociating

1 member (or the member's assignee) is entitled to receive any
2 distribution to which the member (or assignee) is entitled under the
3 limited liability company agreement and, if not otherwise provided in
4 a limited liability company agreement, the member (or the member's
5 assignee) is entitled to receive, within a reasonable time after
6 dissociation, the fair value of the member's limited liability company
7 interest as of the date of the dissociation based upon the member's
8 right to share in distributions from the limited liability company.

9 NEW SECTION. **Sec. 603.** DISTRIBUTION IN-KIND. Except as provided
10 in a limited liability company agreement, a member, regardless of the
11 nature of the member's contribution, has no right to demand and receive
12 any distribution from a limited liability company in any form other
13 than cash. Except as provided in a limited liability company
14 agreement, a member may not be compelled to accept a distribution of
15 any asset in-kind from a limited liability company to the extent that
16 the percentage of the asset distributed to the member exceeds a
17 percentage of that asset which is equal to the percentage in which he
18 or she shares in distributions from the limited liability company.

19 NEW SECTION. **Sec. 604.** RIGHT TO DISTRIBUTION. Subject to
20 sections 605 and 807 of this act, and unless otherwise provided in a
21 limited liability company agreement, at the time a member becomes
22 entitled to receive a distribution, he or she has the status of, and is
23 entitled to all remedies available to, a creditor of a limited
24 liability company with respect to the distribution. A limited
25 liability company agreement may provide for the establishment of a
26 record date with respect to allocations and distributions by a limited
27 liability company.

28 NEW SECTION. **Sec. 605.** LIMITATIONS ON DISTRIBUTION. (1) A
29 limited liability company shall not make a distribution to a member to
30 the extent that at the time of the distribution, after giving effect to
31 the distribution (a) the limited liability company would not be able to
32 pay its debts as they became due in the usual course of business, or
33 (b) all liabilities of the limited liability company, other than
34 liabilities to members on account of their limited liability company
35 interests and liabilities for which the recourse of creditors is
36 limited to specified property of the limited liability company, exceed

1 the fair value of the assets of the limited liability company, except
2 that the fair value of property that is subject to a liability for
3 which the recourse of creditors is limited shall be included in the
4 assets of the limited liability company only to the extent that the
5 fair value of that property exceeds that liability.

6 (2) A member who receives a distribution in violation of subsection
7 (1) of this section, and who knew at the time of the distribution that
8 the distribution violated subsection (1) of this section, shall be
9 liable to a limited liability company for the amount of the
10 distribution. A member who receives a distribution in violation of
11 subsection (1) of this section, and who did not know at the time of the
12 distribution that the distribution violated subsection (1) of this
13 section, shall not be liable for the amount of the distribution.
14 Subject to subsection (3) of this section, this subsection (2) shall
15 not affect any obligation or liability of a member under a limited
16 liability company agreement or other applicable law for the amount of
17 a distribution.

18 (3) Unless otherwise agreed, a member who receives a distribution
19 from a limited liability company shall have no liability under this
20 chapter or other applicable law for the amount of the distribution
21 after the expiration of three years from the date of the distribution
22 unless an action to recover the distribution from such member is
23 commenced prior to the expiration of the said three-year period and an
24 adjudication of liability against such member is made in the said
25 action.

26 **ARTICLE VII. ASSIGNMENT OF LIMITED LIABILITY**
27 **COMPANY INTERESTS**

28 NEW SECTION. **Sec. 701.** NATURE OF LIMITED LIABILITY COMPANY
29 INTEREST--CERTIFICATE OF INTEREST. (1) A limited liability company
30 interest is personal property. A member has no interest in specific
31 limited liability company property.

32 (2) A limited liability company agreement may provide that a
33 member's interest in a limited liability company may be evidenced by a
34 certificate of limited liability company interest issued by the limited
35 liability company.

1 NEW SECTION. **Sec. 702.** ASSIGNMENT OF LIMITED LIABILITY COMPANY

2 INTEREST. (1) A limited liability company interest is assignable in
3 whole or in part except as provided in a limited liability company
4 agreement. The assignee of a member's limited liability company
5 interest shall have no right to participate in the management of the
6 business and affairs of a limited liability company except:

7 (a) Upon the approval of all of the members of the limited
8 liability company other than the member assigning his or her limited
9 liability company interest; or

10 (b) As provided in a limited liability company agreement.

11 (2) Unless otherwise provided in a limited liability company
12 agreement:

13 (a) An assignment entitles the assignee to share in such profits
14 and losses, to receive such distributions, and to receive such
15 allocation of income, gain, loss, deduction, or credit or similar item
16 to which the assignor was entitled, to the extent assigned; and

17 (b) A member ceases to be a member and to have the power to
18 exercise any rights or powers of a member upon assignment of all of his
19 or her limited liability company interest.

20 (3) For the purposes of this chapter, unless otherwise provided in
21 a limited liability company agreement:

22 (a) The pledge of, or granting of a security interest, lien, or
23 other encumbrance in or against, any or all of the limited liability
24 company interest of a member shall not be deemed to be an assignment of
25 the member's limited liability company interest, but a foreclosure or
26 execution sale or exercise of similar rights with respect to all of a
27 member's limited liability company interest shall be deemed to be an
28 assignment of the member's limited liability company interest to the
29 transferee pursuant to such foreclosure or execution sale or exercise
30 of similar rights;

31 (b) The death of a member who is an individual shall be deemed to
32 be an assignment of that member's entire limited liability company
33 interest to his or her personal representative;

34 (c) Where a limited liability company interest is held in a trust
35 or estate, or is held by a trustee, personal representative, or other
36 fiduciary, the transfer of the limited liability company interest,
37 whether to a beneficiary of the trust or estate or otherwise, shall be
38 deemed to be an assignment of such limited liability company interest,
39 but the mere substitution or replacement of the trustee, personal

1 representative, or other fiduciary shall not constitute an assignment
2 of any portion of such limited liability company interest.

3 (4) Unless otherwise provided in a limited liability company
4 agreement and except to the extent assumed by agreement, until an
5 assignee of a limited liability company interest becomes a member, the
6 assignee shall have no liability as a member solely as a result of the
7 assignment.

8 NEW SECTION. **Sec. 703.** RIGHTS OF JUDGMENT CREDITOR. On
9 application to a court of competent jurisdiction by any judgment
10 creditor of a member, the court may charge the limited liability
11 company interest of the member with payment of the unsatisfied amount
12 of the judgment with interest. To the extent so charged, the judgment
13 creditor has only the rights of an assignee of the limited liability
14 company interest. This chapter does not deprive any member of the
15 benefit of any exemption laws applicable to the member's limited
16 liability company interest.

17 NEW SECTION. **Sec. 704.** RIGHT OF ASSIGNEE TO BECOME MEMBER. (1)
18 An assignee of a limited liability company interest may become a member
19 upon:

20 (a) The approval of all of the members of the limited liability
21 company other than the member assigning his or her limited liability
22 company interest; or

23 (b) Compliance with any procedure provided for in the limited
24 liability company agreement.

25 (2) An assignee who has become a member has, to the extent
26 assigned, the rights and powers, and is subject to the restrictions and
27 liabilities, of a member under a limited liability company agreement
28 and this chapter. An assignee who becomes a member is liable for the
29 obligations of his or her assignor to make contributions as provided in
30 section 502 of this act, and for the obligations of his or her assignor
31 under article VI of this chapter.

32 (3) Whether or not an assignee of a limited liability company
33 interest becomes a member, the assignor is not released from his or her
34 liability to a limited liability company under articles V and VI of
35 this chapter.

ARTICLE VIII. DISSOLUTION

1

2 NEW SECTION. **Sec. 801.** DISSOLUTION. A limited liability company
3 is dissolved and its affairs shall be wound up upon the first to occur
4 of the following:

5 (1) The date specified in a limited liability company agreement, or
6 thirty years from the date of the formation of the limited liability
7 company if no such date is set forth in the limited liability company
8 agreement;

9 (2) The happening of events specified in a limited liability
10 company agreement;

11 (3) The written consent of all members;

12 (4) An event of dissociation of a member, unless the business of
13 the limited liability company is continued either by the consent of all
14 the remaining members within ninety days following the occurrence of
15 any such event or pursuant to a right to continue stated in the limited
16 liability company agreement;

17 (5) The entry of a decree of judicial dissolution under section 802
18 of this act;

19 (6) At any time there are fewer than two members unless, within
20 ninety days following the event of dissociation upon which the number
21 of members is reduced below two, one or more additional members are
22 admitted so that there are at least two members; or

23 (7) The expiration of two years after the effective date of
24 dissolution under section 804 of this act without the reinstatement of
25 the limited liability company.

26 NEW SECTION. **Sec. 802.** JUDICIAL DISSOLUTION. On application by
27 or for a member or manager the superior courts may decree dissolution
28 of a limited liability company whenever: (1) It is not reasonably
29 practicable to carry on the business in conformity with a limited
30 liability company agreement; or (2) other circumstances render
31 dissolution equitable.

32 NEW SECTION. **Sec. 803.** ADMINISTRATIVE DISSOLUTION--COMMENCEMENT
33 OF PROCEEDING. The secretary of state may commence a proceeding under
34 section 804 of this act to administratively dissolve a limited
35 liability company if:

1 (1) The limited liability company is without a registered agent or
2 registered office in this state for sixty days or more; or

3 (2) The limited liability company does not notify the secretary of
4 state within sixty days that its registered agent or registered office
5 has been changed, that its registered agent has resigned, or that its
6 registered office has been discontinued.

7 NEW SECTION. **Sec. 804.** ADMINISTRATIVE DISSOLUTION--NOTICE--
8 OPPORTUNITY TO CORRECT DEFICIENCIES. (1) If the secretary of state
9 determines that one or more grounds exist under section 803 of this act
10 for dissolving a limited liability company, the secretary of state
11 shall give the limited liability company written notice of the
12 determination by first class mail, postage prepaid, reciting the
13 grounds therefor. Notice shall be sent to the address of the principal
14 place of business of the limited liability company as it appears in the
15 records of the secretary of state.

16 (2) If the limited liability company does not correct each ground
17 for dissolution or demonstrate to the reasonable satisfaction of the
18 secretary of state that each ground determined by the secretary of
19 state does not exist within sixty days after notice is sent, the
20 limited liability company is thereupon dissolved. The secretary of
21 state shall give the limited liability company written notice of the
22 dissolution that recites the ground or grounds therefor and its
23 effective date.

24 (3) A limited liability company administratively dissolved
25 continues its existence but may not carry on any business except as
26 necessary to wind up and liquidate its business and affairs.

27 (4) The administrative dissolution of a limited liability company
28 does not terminate the authority of its registered agent.

29 NEW SECTION. **Sec. 805.** ADMINISTRATIVE DISSOLUTION--
30 REINSTATEMENT--APPLICATION--WHEN EFFECTIVE. (1) A limited liability
31 company administratively dissolved under section 804 of this act may
32 apply to the secretary of state for reinstatement within two years
33 after the effective date of dissolution. The application must:

34 (a) Recite the name of the limited liability company and the
35 effective date of its administrative dissolution;

36 (b) State that the ground or grounds for dissolution either did not
37 exist or have been eliminated; and

1 (c) State that the limited liability company's name satisfies the
2 requirements of section 102 of this act.

3 (2) If the secretary of state determines that the application
4 contains the information required by subsection (1) of this section and
5 that the name is available, the secretary of state shall reinstate the
6 limited liability company and give the limited liability company
7 written notice, as provided in section 804(1) of this act, of the
8 reinstatement that recites the effective date of reinstatement. If the
9 name is not available, the limited liability company must file with its
10 application for reinstatement an amendment to its certificate of
11 formation reflecting a change of name.

12 (3) When the reinstatement is effective, it relates back to and
13 takes effect as of the effective date of the administrative dissolution
14 and the limited liability company may resume carrying on its business
15 as if the administrative dissolution had never occurred.

16 (4) If an application for reinstatement is not made within the two-
17 year period set forth in subsection (1) of this section, or if the
18 application made within this period is not granted, the secretary of
19 state shall cancel the limited liability company's certificate of
20 formation.

21 NEW SECTION. **Sec. 806.** WINDING UP. (1) Unless otherwise provided
22 in a limited liability company agreement, a manager who has not
23 wrongfully dissolved a limited liability company or, if none, the
24 members or a person approved by the members or, if there is more than
25 one class or group of members, then by each class or group of members,
26 in either case, by members contributing, or required to contribute,
27 more than fifty percent of the agreed value (as stated in the records
28 of the limited liability company required to be kept pursuant to
29 section 305 of this act) of the contributions made, or required to be
30 made, by all members, or by the members in each class or group, as
31 appropriate, may wind up the limited liability company's affairs. The
32 superior courts, upon cause shown, may wind up the limited liability
33 company's affairs upon application of any member or manager, his or her
34 legal representative or assignee, and in connection therewith, may
35 appoint a receiver.

36 (2) Upon dissolution of a limited liability company and until the
37 filing of a certificate of cancellation as provided in section 203 of
38 this act, the persons winding up the limited liability company's

1 affairs may, in the name of, and for and on behalf of, the limited
2 liability company, prosecute and defend suits, whether civil, criminal,
3 or administrative, gradually settle and close the limited liability
4 company's business, dispose of and convey the limited liability
5 company's property, discharge or make reasonable provision for the
6 limited liability company's liabilities, and distribute to the members
7 any remaining assets of the limited liability company.

8 NEW SECTION. **Sec. 807.** DISTRIBUTION OF ASSETS. (1) Upon the
9 winding up of a limited liability company, the assets shall be
10 distributed as follows:

11 (a) To creditors, including members and managers who are creditors,
12 to the extent otherwise permitted by law, in satisfaction of
13 liabilities of the limited liability company (whether by payment or the
14 making of reasonable provision for payment thereof) other than
15 liabilities for which reasonable provision for payment has been made
16 and liabilities for distributions to members under section 601 or 604
17 of this act;

18 (b) Unless otherwise provided in a limited liability company
19 agreement, to members and former members in satisfaction of liabilities
20 for distributions under section 601 or 604 of this act; and

21 (c) Unless otherwise provided in a limited liability company
22 agreement, to members first for the return of their contributions and
23 second respecting their limited liability company interests, in the
24 proportions in which the members share in distributions.

25 (2) A limited liability company which has dissolved shall pay or
26 make reasonable provision to pay all claims and obligations, including
27 all contingent, conditional, or unmatured claims and obligations, known
28 to the limited liability company and all claims and obligations which
29 are known to the limited liability company but for which the identity
30 of the claimant is unknown. If there are sufficient assets, such
31 claims and obligations shall be paid in full and any such provision for
32 payment made shall be made in full. If there are insufficient assets,
33 such claims and obligations shall be paid or provided for according to
34 their priority and, among claims and obligations of equal priority,
35 ratably to the extent of assets available therefor. Unless otherwise
36 provided in a limited liability company agreement, any remaining assets
37 shall be distributed as provided in this chapter. Any person winding
38 up a limited liability company's affairs who has complied with this

1 section shall not be personally liable to the claimants of the
2 dissolved limited liability company by reason of such person's actions
3 in winding up the limited liability company.

4 **ARTICLE IX. FOREIGN LIMITED LIABILITY COMPANIES**

5 NEW SECTION. **Sec. 901.** LAW GOVERNING. (1) Subject to the
6 Constitution of the state of Washington:

7 (a) The laws of the state, territory, possession, or other
8 jurisdiction or country under which a foreign limited liability company
9 is organized govern its organization and internal affairs and the
10 liability of its members and managers; and

11 (b) A foreign limited liability company may not be denied
12 registration by reason of any difference between those laws and the
13 laws of this state.

14 (2) A foreign limited liability company shall be subject to
15 sections 106 and 208 of this act.

16 (3) A foreign limited liability company and its members and
17 managers doing business in this state thereby submit to personal
18 jurisdiction of the courts of this state and are subject to section 303
19 of this act.

20 NEW SECTION. **Sec. 902.** REGISTRATION REQUIRED--APPLICATION.
21 Before doing business in this state, a foreign limited liability
22 company shall register with the secretary of state. In order to
23 register, a foreign limited liability company shall submit to the
24 secretary of state, an application for registration as a foreign
25 limited liability company executed by any member or manager of the
26 foreign limited liability company, setting forth:

27 (1) The name of the foreign limited liability company and, if
28 different, the name under which it proposes to register and do business
29 in this state;

30 (2) The state, territory, possession, or other jurisdiction or
31 country where formed, the date of its formation and a duly
32 authenticated statement from the secretary of state or other official
33 having custody of limited liability company records in the jurisdiction
34 under whose law it was formed, that as of the date of filing the

1 foreign limited liability company validly exists as a limited liability
2 company under the laws of the jurisdiction of its formation;

3 (3) The nature of the business or purposes to be conducted or
4 promoted in this state;

5 (4) The address of the registered office and the name and address
6 of the registered agent for service of process required to be
7 maintained by section 904(2) of this act;

8 (5) The address of the principal place of business of the foreign
9 limited liability company;

10 (6) A statement that the secretary of state is appointed the agent
11 of the foreign limited liability company for service of process under
12 the circumstances set forth in section 910(2) of this act; and

13 (7) The date on which the foreign limited liability company first
14 did, or intends to do, business in this state.

15 NEW SECTION. **Sec. 903.** ISSUANCE OF REGISTRATION. (1) If the
16 secretary of state finds that an application for registration conforms
17 to law and all requisite fees have been paid, the secretary shall:

18 (a) Certify that the application has been filed in his or her
19 office by endorsing upon the original application the word "Filed," and
20 the date of the filing. This endorsement is conclusive of the date of
21 its filing in the absence of actual fraud;

22 (b) File the endorsed application.

23 (2) The duplicate of the application, similarly endorsed, shall be
24 returned to the person who filed the application or that person's
25 representative.

26 NEW SECTION. **Sec. 904.** NAME--REGISTERED OFFICE--REGISTERED AGENT.

27 (1) A foreign limited liability company may register with the secretary
28 of state under any name (whether or not it is the name under which it
29 is registered in the jurisdiction of its formation) that includes the
30 words "Limited Liability Company," the words "Limited Liability" and
31 the abbreviation "Co.," or the abbreviation "L.L.C." and that could be
32 registered by a domestic limited liability company. A foreign limited
33 liability company may apply to the secretary of state for authorization
34 to use a name which is not distinguishable upon the records of the
35 office of the secretary of state from the names described in RCW
36 23B.04.010(1)(d), and the names of any domestic or foreign limited
37 liability company reserved, registered, or formed under the laws of

1 this state. The secretary of state shall authorize use of the name
2 applied for if the other corporation, limited liability company, or
3 limited partnership consents in writing to the use and files with the
4 secretary of state documents necessary to change its name, or the name
5 reserved or registered to a name that is distinguishable upon the
6 records of the secretary of state from the name of the applying foreign
7 limited liability company.

8 (2) Each foreign limited liability company shall continuously
9 maintain in this state:

10 (a) A registered office, which may but need not be a place of its
11 business in this state. The registered office shall be at a specific
12 geographic location in this state, and be identified by number, if any,
13 and street, or building address or rural route, or, if a commonly known
14 street or rural route address does not exist, by legal description. A
15 registered office may not be identified by post office box number or
16 other nongeographic address. For purposes of communicating by mail,
17 the secretary of state may permit the use of a post office address in
18 the same city as the registered office in conjunction with the
19 registered office address if the foreign limited liability company also
20 maintains on file the specific geographic address of the registered
21 office where personal service of process may be made;

22 (b) A registered agent for service of process on the foreign
23 limited liability company, which agent may be either an individual
24 resident of this state whose business office is identical with the
25 foreign limited liability company's registered office, or a domestic
26 corporation, a limited partnership or limited liability company, or a
27 foreign corporation authorized to do business in this state having a
28 business office identical with such registered office; and

29 (c) A registered agent who shall not be appointed without having
30 given prior written consent to the appointment. The written consent
31 shall be filed with the secretary of state in such form as the
32 secretary may prescribe. The written consent shall be filled with or
33 as a part of the document first appointing a registered agent. In the
34 event any individual, limited liability company, limited partnership,
35 or corporation has been appointed agent without consent, that person or
36 corporation may file a notarized statement attesting to that fact, and
37 the name shall forthwith be removed from the records of the secretary
38 of state.

1 (3) A registered agent may change the address of the registered
2 office of the foreign limited liability company or companies for which
3 the registered agent is registered agent to another address in this
4 state by filing with the secretary of state a certificate, executed by
5 such registered agent, setting forth the names of all the foreign
6 limited liability companies represented by such registered agent, and
7 the address at which such registered agent has maintained the
8 registered office for each of such foreign limited liability companies,
9 and further certifying to the new address to which each such registered
10 office will be changed on a given day, and at which new address such
11 registered agent will thereafter maintain the registered office for
12 each of the foreign limited liability companies recited in the
13 certificate. Upon the filing of such certificate, the secretary of
14 state shall furnish to the registered agent a certified copy of the
15 same, and thereafter, or until further change of address, as authorized
16 by law, the registered office in this state of each of the foreign
17 limited liability companies recited in the certificate shall be located
18 at the new address of the registered agent thereof as given in the
19 certificate. In the event of a change of name of any person acting as
20 a registered agent of a foreign limited liability company, such
21 registered agent shall file with the secretary of state a certificate,
22 executed by such registered agent, setting forth the new name of such
23 registered agent, the name of such registered agent before it was
24 changed, the names of all the foreign limited liability companies
25 represented by such registered agent, and the address at which such
26 registered agent has maintained the registered office for each of such
27 foreign limited liability companies. Upon the filing of such
28 certificate, the secretary of state shall furnish to the registered
29 agent a certified copy of the same. Filing a certificate under this
30 section shall be deemed to be an amendment of the application for
31 registration of each foreign limited liability company affected thereby
32 and each foreign limited liability company shall not be required to
33 take any further action with respect thereto, to amend its application
34 under section 905 of this act. Any registered agent filing a
35 certificate under this section shall promptly, upon such filing,
36 deliver a copy of any such certificate to each foreign limited
37 liability company affected thereby.

38 (4) The registered agent of one or more foreign limited liability
39 companies may resign and appoint a successor registered agent by filing

1 a certificate with the secretary of state, stating that it resigns and
2 the name and address of the successor registered agent. There shall be
3 attached to such certificate a statement executed by each affected
4 foreign limited liability company ratifying and approving such change
5 of registered agent. Upon such filing, the successor registered agent
6 shall become the registered agent of such foreign limited liability
7 company as has ratified and approved such substitution and the
8 successor registered agent's address, as stated in such certificate,
9 shall become the address of each such foreign limited liability
10 company's registered office in this state. The secretary of state
11 shall furnish to the successor registered agent a certified copy of the
12 certificate of resignation. Filing of such certificate of resignation
13 shall be deemed to be an amendment of the application for registration
14 of each foreign limited liability company affected thereby and each
15 such foreign limited liability company shall not be required to take
16 any further action with respect thereto, to amend its application under
17 section 905 of this act.

18 (5) The registered agent of a foreign limited liability company may
19 resign without appointing a successor registered agent by filing a
20 certificate with the secretary of state stating that it resigns as
21 registered agent for the foreign limited liability company identified
22 in the certificate, but such resignation shall not become effective
23 until one hundred twenty days after the certificate is filed. There
24 shall be attached to such certificate an affidavit of such registered
25 agent, if an individual, or of the president, a vice-president, or the
26 secretary thereof if a corporation, that at least thirty days prior to
27 and on or about the date of the filing of said certificate, notices
28 were sent by certified or registered mail to the foreign limited
29 liability companies for which such registered agent is resigning as
30 registered agent, at the principal office thereof within or outside
31 this state, if known to such registered agent or, if not, to the last
32 known address of the attorney or other individual at whose request such
33 registered agent was appointed for such foreign limited liability
34 company, of the resignation of such registered agent. After receipt of
35 the notice of the resignation of its registered agent, the foreign
36 limited liability company for which such registered agent was acting
37 shall obtain and designate a new registered agent, to take the place of
38 the registered agent so resigning. If such foreign limited liability
39 company fails to obtain and designate a new registered agent as

1 aforesaid prior to the expiration of the period of one hundred twenty
2 days after the filing by the registered agent of the certificate of
3 resignation, such foreign limited liability company shall not be
4 permitted to do business in this state and its registration shall be
5 deemed to be canceled. After the resignation of the registered agent
6 shall have become effective as provided in this section and if no new
7 registered agent shall have been obtained and designated in the time
8 and manner aforesaid, service of legal process against the foreign
9 limited liability company for which the resigned registered agent had
10 been acting shall thereafter be upon the secretary of state in
11 accordance with section 911 of this act.

12 NEW SECTION. **Sec. 905.** AMENDMENTS TO APPLICATION. If any
13 statement in the application for registration of a foreign limited
14 liability company was false when made or any arrangements or other
15 facts described have changed, making the application false in any
16 respect, the foreign limited liability company shall promptly file in
17 the office of the secretary of state a certificate, executed by any
18 member or manager, correcting such statement.

19 NEW SECTION. **Sec. 906.** CANCELLATION OF REGISTRATION. (1) A
20 foreign limited liability company may cancel its registration by filing
21 with the secretary of state a certificate of cancellation, executed by
22 any member or manager. A cancellation does not terminate the authority
23 of the secretary of state to accept service of process on the foreign
24 limited liability company with respect to causes of action arising out
25 of the doing of business in this state.

26 (2) The certificate of cancellation shall set forth:

27 (a) The name of the foreign limited liability company;

28 (b) The date of filing of its certificate of registration;

29 (c) The reason for filing the certificate of cancellation;

30 (d) The future effective date (not later than the ninetieth day
31 after the date it is filed) of cancellation if it is not to be
32 effective upon filing of the certificate;

33 (e) The address to which service of process may be forwarded; and

34 (f) Any other information the person filing the certificate of
35 cancellation desires.

1 NEW SECTION. **Sec. 907.** DOING BUSINESS WITHOUT REGISTRATION. (1)

2 A foreign limited liability company doing business in this state may
3 not maintain any action, suit, or proceeding in this state until it has
4 registered in this state, and has paid to this state all fees and
5 penalties for the years or parts thereof, during which it did business
6 in this state without having registered.

7 (2) The failure of a foreign limited liability company to register
8 in this state does not impair:

9 (a) The validity of any contract or act of the foreign limited
10 liability company;

11 (b) The right of any other party to the contract to maintain any
12 action, suit, or proceeding on the contract; or

13 (c) Prevent the foreign limited liability company from defending
14 any action, suit, or proceeding in any court of this state.

15 (3) A member or a manager of a foreign limited liability company is
16 not liable for the obligations of the foreign limited liability company
17 solely by reason of the limited liability company's having done
18 business in this state without registration.

19 NEW SECTION. **Sec. 908.** FOREIGN LIMITED LIABILITY COMPANIES DOING
20 BUSINESS WITHOUT HAVING QUALIFIED--INJUNCTIONS. The superior courts
21 shall have jurisdiction to enjoin any foreign limited liability
22 company, or any agent thereof, from doing any business in this state if
23 such foreign limited liability company has failed to register under
24 this article or if such foreign limited liability company has secured
25 a certificate of registration from the secretary of state under section
26 903 of this act on the basis of false or misleading representations.
27 The secretary of state shall, upon the secretary's own motion or upon
28 the relation of proper parties, proceed for this purpose by complaint
29 in any county in which such foreign limited liability company is doing
30 or has done business.

31 NEW SECTION. **Sec. 909.** TRANSACTIONS NOT CONSTITUTING TRANSACTING
32 BUSINESS. (1) The following activities, among others, do not
33 constitute transacting business within the meaning of this article:

34 (a) Maintaining or defending any action or suit or any
35 administrative or arbitration proceeding, or effecting the settlement
36 thereof or the settlement of claims or disputes;

1 (b) Holding meetings of the members, or managers if any, or
2 carrying on other activities concerning internal limited liability
3 company affairs;

4 (c) Maintaining bank accounts, share accounts in savings and loan
5 associations, custodian or agency arrangements with a bank or trust
6 company, or stock or bond brokerage accounts;

7 (d) Maintaining offices or agencies for the transfer, exchange, and
8 registration of the foreign limited liability company's own securities
9 or interests or maintaining trustees or depositaries with respect to
10 those securities or interests;

11 (e) Selling through independent contractors;

12 (f) Soliciting or procuring orders, whether by mail or through
13 employees or agents or otherwise, where the orders require acceptance
14 outside this state before becoming binding contracts and where the
15 contracts do not involve any local performance other than delivery and
16 installation;

17 (g) Making loans or creating or acquiring evidences of debt,
18 mortgages, or liens on real or personal property, or recording same;

19 (h) Securing or collecting debts or enforcing mortgages and
20 security interests in property securing the debts;

21 (i) Owning, without more, real or personal property;

22 (j) Conducting an isolated transaction that is completed within
23 thirty days and that is not one in the course of repeated transactions
24 of a like nature;

25 (k) Transacting business in interstate commerce;

26 (l) Owning a controlling interest in a corporation or a foreign
27 corporation that transacts business within this state;

28 (m) Participating as a limited partner of a domestic or foreign
29 limited partnership that transacts business within this state; or

30 (n) Participating as a member or a manager of a domestic or foreign
31 limited liability company that transacts business within this state.

32 (2) The list of activities in subsection (1) of this section is not
33 exhaustive.

34 NEW SECTION. **Sec. 910.** SERVICE OF PROCESS ON REGISTERED FOREIGN
35 LIMITED LIABILITY COMPANIES. (1) A foreign limited liability company's
36 registered agent is its agent for service of process, notice, or demand
37 required or permitted by law to be served on the foreign limited
38 liability company.

1 (2) The secretary of state shall be an agent of a foreign limited
2 liability company upon whom any such process, notice, or demand may be
3 served if:

4 (a) The foreign limited liability company fails to appoint or
5 maintain a registered agent in this state; or

6 (b) The registered agent cannot with reasonable diligence be found
7 at the registered office.

8 (3) Service on the secretary of state of any such process, notice,
9 or demand shall be made by delivering to and leaving with the secretary
10 of state, or with any duly authorized clerk of the secretary of state's
11 office, the process, notice, or demand. In the event any such process,
12 notice, or demand is served on the secretary of state, the secretary of
13 state shall immediately cause a copy thereof to be forwarded by
14 certified mail, addressed to the foreign limited liability company at
15 the address of its principal place of business as it appears on the
16 records of the secretary of state. Any service so had on the secretary
17 of state shall be returnable in not less than thirty days.

18 (4) The secretary of state shall keep a record of all processes,
19 notices, and demands served upon the secretary of state under this
20 section, and shall record therein the time of such service and the
21 secretary of state's action with reference thereto.

22 (5) This section does not limit or affect the right to serve any
23 process, notice, or demand required or permitted by law to be served
24 upon a foreign limited liability company in any other manner now or
25 hereafter permitted by law.

26 NEW SECTION. Sec. 911. SERVICE OF PROCESS ON UNREGISTERED FOREIGN
27 LIMITED LIABILITY COMPANIES. (1) Any foreign limited liability company
28 which shall do business in this state without having registered under
29 section 902 of this act shall be deemed to have thereby appointed and
30 constituted the secretary of state its agent for the acceptance of
31 legal process in any civil action, suit, or proceeding against it in
32 any state or federal court in this state arising or growing out of any
33 business done by it within this state. The doing of business in this
34 state by such foreign limited liability company shall be a
35 signification of the agreement of such foreign limited liability
36 company that any such process when so served shall be of the same legal
37 force and validity as if served upon a registered agent personally
38 within this state.

1 (2) In the event of service upon the secretary of state in
2 accordance with subsection (1) of this section, the secretary of state
3 shall forthwith notify the foreign limited liability company thereof by
4 letter, certified mail, return receipt requested, directed to the
5 foreign limited liability company at the address furnished to the
6 secretary of state by the plaintiff in such action, suit, or
7 proceeding. Such letter shall enclose a copy of the process and any
8 other papers served upon the secretary of state. It shall be the duty
9 of the plaintiff in the event of such service to serve process and any
10 other papers in duplicate, to notify the secretary of state that
11 service is being made pursuant to this subsection.

12 **ARTICLE X. DERIVATIVE ACTIONS**

13 NEW SECTION. **Sec. 1001.** RIGHT TO BRING ACTION. A member may
14 bring an action in the superior courts in the right of a limited
15 liability company to recover a judgment in its favor if managers or
16 members with authority to do so have refused to bring the action or if
17 an effort to cause those managers or members to bring the action is not
18 likely to succeed.

19 NEW SECTION. **Sec. 1002.** PROPER PLAINTIFF. In a derivative
20 action, the plaintiff must be a member at the time of bringing the
21 action and:

22 (1) At the time of the transaction of which the plaintiff
23 complains; or

24 (2) The plaintiff's status as a member had devolved upon him or her
25 by operation of law or pursuant to the terms of a limited liability
26 company agreement from a person who was a member at the time of the
27 transaction.

28 NEW SECTION. **Sec. 1003.** COMPLAINT. In a derivative action, the
29 complaint shall set forth with particularity the effort, if any, of the
30 plaintiff to secure initiation of the action by a manager or member or
31 the reasons for not making the effort.

32 NEW SECTION. **Sec. 1004.** EXPENSES. If a derivative action is
33 successful, in whole or in part, as a result of a judgment, compromise,

1 or settlement of any such action, the court may award the plaintiff
2 reasonable expenses, including reasonable attorneys' fees, from any
3 recovery in any such action or from a limited liability company.

4 **ARTICLE XI. MERGERS**

5 NEW SECTION. **Sec. 1101.** MERGER--PLAN--EFFECTIVE DATE. (1) One or
6 more domestic limited liability companies may merge with one or more
7 domestic limited partnerships, domestic limited liability companies, or
8 domestic corporations pursuant to a plan of merger approved or adopted
9 as provided in section 1102 of this act.

10 (2) The plan of merger must set forth:

11 (a) The name of each limited liability company, limited
12 partnership, and corporation planning to merge and the name of the
13 surviving limited liability company, limited partnership, or
14 corporation into which the other limited liability company, limited
15 partnership, or corporation plans to merge;

16 (b) The terms and conditions of the merger; and

17 (c) The manner and basis of converting the interests of each member
18 of each limited liability company, the partnership interests in each
19 limited partnership, and the shares of each corporation party to the
20 merger into the interests, shares, obligations, or other securities of
21 the surviving or any other limited liability company, limited
22 partnership, or corporation or into cash or other property in whole or
23 part.

24 (3) The plan of merger may set forth:

25 (a) Amendments to the certificate of formation of the surviving
26 limited liability company;

27 (b) Amendments to the certificate of limited partnership of the
28 surviving limited partnership;

29 (c) Amendments to the articles of incorporation of the surviving
30 corporation; and

31 (d) Other provisions relating to the merger.

32 (4) If the plan of merger does not specify a delayed effective
33 date, it shall become effective upon the filing of articles of merger.
34 If the plan of merger specifies a delayed effective time and date, the
35 plan of merger becomes effective at the time and date specified. If
36 the plan of merger specifies a delayed effective date but no time is

1 specified, the plan of merger is effective at the close of business on
2 that date. A delayed effective date for a plan of merger may not be
3 later than the ninetieth day after the date it is filed.

4 NEW SECTION. **Sec. 1102.** MERGER--PLAN--APPROVAL. (1) Unless
5 otherwise provided in the limited liability company agreement, approval
6 of a plan of merger by a domestic limited liability company party to
7 the merger shall occur when the plan is approved by the members, or if
8 there is more than one class or group of members, then by each class or
9 group of members, in either case, by members contributing more than
10 fifty percent of the agreed value (as stated in the records of the
11 limited liability company required to be kept pursuant to section 305
12 of this act) of the contributions made, or obligated to be made, by all
13 members or by the members in each class or group, as appropriate.

14 (2) If a domestic limited partnership is a party to the merger, the
15 plan of merger shall be adopted and approved as provided in RCW
16 25.10.810.

17 (3) If a domestic corporation is a party to the merger, the plan of
18 merger shall be adopted and approved as provided in chapter 23B.11 RCW.

19 NEW SECTION. **Sec. 1103.** ARTICLES OF MERGER--FILING. After a plan
20 of merger is approved or adopted, the surviving limited liability
21 company, limited partnership, or corporation shall deliver to the
22 secretary of state for filing articles of merger setting forth:

23 (1) The plan of merger;

24 (2) If the approval of any members, partners, or shareholders of
25 one or more limited liability companies, limited partnerships, or
26 corporations party to the merger was not required, a statement to that
27 effect; or

28 (3) If the approval of any members, partners, or shareholders of
29 one or more of the limited liability companies, limited partnerships,
30 or corporations party to the merger was required, a statement that the
31 merger was duly approved by such members, partners, and shareholders
32 pursuant to section 1102 of this act, RCW 25.10.810, or chapter 23B.11
33 RCW.

34 NEW SECTION. **Sec. 1104.** EFFECT OF MERGER. (1) When a merger
35 takes effect:

1 (a) Every other limited liability company, limited partnership, or
2 corporation that is party to the merger merges into the surviving
3 limited liability company, limited partnership, or corporation and the
4 separate existence of every limited liability company, limited
5 partnership, or corporation except the surviving limited liability
6 company, limited partnership, or corporation ceases;

7 (b) The title to all real estate and other property owned by each
8 limited liability company, limited partnership, and corporation party
9 to the merger is vested in the surviving limited liability company,
10 limited partnership, or corporation without reversion or impairment;

11 (c) The surviving limited liability company, limited partnership,
12 or corporation has all liabilities of each limited liability company,
13 limited partnership, and corporation that is party to the merger;

14 (d) A proceeding pending against any limited liability company,
15 limited partnership, or corporation that is party to the merger may be
16 continued as if the merger did not occur or the surviving limited
17 liability company, limited partnership, or corporation may be
18 substituted in the proceeding for the limited liability company,
19 limited partnership, or corporation whose existence ceased;

20 (e) The certificate of formation of the surviving limited liability
21 company is amended to the extent provided in the plan of merger;

22 (f) The partnership agreement of the surviving limited partnership
23 is amended to the extent provided in the plan of merger;

24 (g) The articles of incorporation of the surviving corporation are
25 amended to the extent provided in the plan of merger; and

26 (h) The former members of every limited liability company party to
27 the merger, holders of the partnership interests of every domestic
28 limited partnership that is party to the merger, and the former holders
29 of the shares of every domestic corporation that is party to the merger
30 are entitled only to the rights provided in the plan of merger, or to
31 their rights under this article, to their rights under RCW 25.10.900
32 through 25.10.955, or to their rights under chapter 23B.13 RCW.

33 (2) Unless otherwise agreed, a merger of a domestic limited
34 liability company, including a domestic limited liability company which
35 is not the surviving entity in the merger, shall not require the
36 domestic limited liability company to wind up its affairs under section
37 806 of this act or pay its liabilities and distribute its assets under
38 section 807 of this act.

1 (3) Unless otherwise agreed, a merger of a domestic limited
2 partnership, including a domestic limited partnership which is not the
3 surviving entity in the merger, shall not require the domestic limited
4 partnership to wind up its affairs under RCW 25.10.460 or pay its
5 liabilities and distribute its assets under RCW 25.10.470.

6 NEW SECTION. Sec. 1105. MERGER--FOREIGN AND DOMESTIC. (1) One or
7 more foreign limited liability companies, one or more foreign limited
8 partnerships, and one or more foreign corporations may merge with one
9 or more domestic limited liability companies, domestic limited
10 partnerships, or domestic corporations if:

11 (a) The merger is permitted by the law of the jurisdiction under
12 which each foreign limited liability company was formed, each foreign
13 limited partnership was organized, and each foreign corporation was
14 incorporated, and each foreign limited liability company, foreign
15 limited partnership, and foreign corporation complies with that law in
16 effecting the merger;

17 (b) The surviving entity complies with section 1103 of this act;

18 (c) Each domestic limited liability company complies with section
19 1102 of this act;

20 (d) Each domestic limited partnership complies with RCW 25.10.810;
21 and

22 (e) Each domestic corporation complies with RCW 23B.11.080.

23 (2) Upon the merger taking effect, a surviving foreign limited
24 liability company, limited partnership, or corporation is deemed to
25 appoint the secretary of state as its agent for service of process in
26 a proceeding to enforce any obligation or the rights of dissenting
27 partners or shareholders of each domestic limited liability company,
28 domestic limited partnership, or domestic corporation party to the
29 merger.

30 **ARTICLE XII. DISSENTERS' RIGHTS**

31 NEW SECTION. Sec. 1201. DEFINITIONS. As used in this article,
32 unless the context otherwise requires:

33 (1) "Limited liability company" means the domestic limited
34 liability company in which the dissenter holds or held a membership
35 interest, or the surviving limited liability company, limited

1 partnership, or corporation by merger, whether foreign or domestic, of
2 that limited liability company.

3 (2) "Dissenter" means a member who is entitled to dissent from a
4 plan of merger and who exercises that right when and in the manner
5 required by this article.

6 (3) "Fair value," with respect to a dissenter's limited liability
7 company interest, means the value of the member's limited liability
8 company interest immediately before the effectuation of the merger to
9 which the dissenter objects, excluding any appreciation or depreciation
10 in anticipation of the merger unless exclusion would be inequitable.

11 (4) "Interest" means interest from the effective date of the merger
12 until the date of payment, at the average rate currently paid by the
13 limited liability company on its principal bank loans or, if none, at
14 a rate that is fair and equitable under all the circumstances.

15 NEW SECTION. **Sec. 1202.** MEMBER--DISSENT--PAYMENT OF FAIR VALUE.

16 (1) Except as provided in section 1204 or 1206(2) of this act, a member
17 of a domestic limited liability company is entitled to dissent from,
18 and obtain payment of, the fair value of the member's interest in a
19 limited liability company in the event of consummation of a plan of
20 merger to which the limited liability company is a party as permitted
21 by section 1101 or 1105 of this act.

22 (2) A member entitled to dissent and obtain payment for the
23 member's interest in a limited liability company under this article may
24 not challenge the merger creating the member's entitlement unless the
25 merger fails to comply with the procedural requirements imposed by this
26 title, Title 23B RCW, RCW 25.10.800 through 25.10.840, or the limited
27 liability company agreement, or is fraudulent with respect to the
28 member or the limited liability company.

29 (3) The right of a dissenting member in a limited liability company
30 to obtain payment of the fair value of the member's interest in the
31 limited liability company shall terminate upon the occurrence of any
32 one of the following events:

33 (a) The proposed merger is abandoned or rescinded;

34 (b) A court having jurisdiction permanently enjoins or sets aside
35 the merger; or

36 (c) The member's demand for payment is withdrawn with the written
37 consent of the limited liability company.

1 NEW SECTION. **Sec. 1203.** DISSENTERS' RIGHTS--NOTICE--TIMING. (1)
2 Not less than ten days prior to the approval of a plan of merger, the
3 limited liability company must send a written notice to all members who
4 are entitled to vote on or approve the plan of merger that they may be
5 entitled to assert dissenters' rights under this article. Such notice
6 shall be accompanied by a copy of this article.

7 (2) The limited liability company shall notify in writing all
8 members not entitled to vote on or approve the plan of merger that the
9 plan of merger was approved, and send them the dissenters' notice as
10 required by section 1205 of this act.

11 NEW SECTION. **Sec. 1204.** MEMBER--DISSENT--VOTING RESTRICTION. A
12 member of a limited liability company who is entitled to vote on or
13 approve the plan of merger and who wishes to assert dissenters' rights
14 must not vote in favor of or approve the plan of merger. A member who
15 does not satisfy the requirements of this section is not entitled to
16 payment for the member's interest in the limited liability company
17 under this article.

18 NEW SECTION. **Sec. 1205.** MEMBERS--DISSENTERS' NOTICE--
19 REQUIREMENTS. (1) If the plan of merger is approved, the limited
20 liability company shall deliver a written dissenters' notice to all
21 members who satisfied the requirements of section 1204 of this act.

22 (2) The dissenters' notice required by section 1203(2) of this act
23 or by subsection (1) of this section must be sent within ten days after
24 the approval of the plan of merger, and must:

25 (a) State where the payment demand must be sent;

26 (b) Inform members as to the extent transfer of the member's
27 interest in the limited liability company will be restricted as
28 permitted by section 1207 of this act after the payment demand is
29 received;

30 (c) Supply a form for demanding payment;

31 (d) Set a date by which the limited liability company must receive
32 the payment demand, which date may not be fewer than thirty nor more
33 than sixty days after the date the notice under this section is
34 delivered; and

35 (e) Be accompanied by a copy of this article.

1 NEW SECTION. Sec. 1206. MEMBER--PAYMENT DEMAND--ENTITLEMENT. (1)
2 A member of a limited liability company who demands payment retains all
3 other rights of a member of such company until the proposed merger
4 becomes effective.

5 (2) A member of a limited liability company sent a dissenters'
6 notice who does not demand payment by the date set in the dissenters'
7 notice is not entitled to payment for the member's interest in the
8 limited liability company under this article.

9 NEW SECTION. Sec. 1207. MEMBER'S INTERESTS--TRANSFER RESTRICTION.
10 The limited liability company agreement may restrict the transfer of
11 members' interests in the limited liability company from the date the
12 demand for their payment is received until the proposed merger becomes
13 effective or the restriction is released under this article.

14 NEW SECTION. Sec. 1208. PAYMENT OF FAIR VALUE--REQUIREMENTS FOR
15 COMPLIANCE. (1) Within thirty days of the later of the date the
16 proposed merger becomes effective, or the payment demand is received,
17 the limited liability company shall pay each dissenter who complied
18 with section 1206 of this act the amount the limited liability company
19 estimates to be the fair value of the dissenting member's interest in
20 the limited liability company, plus accrued interest.

21 (2) The payment must be accompanied by:

22 (a) Copies of the financial statements for the limited liability
23 company for its most recent fiscal year;

24 (b) An explanation of how the limited liability company estimated
25 the fair value of the member's interest in the limited liability
26 company;

27 (c) An explanation of how the accrued interest was calculated;

28 (d) A statement of the dissenter's right to demand payment; and

29 (e) A copy of this article.

30 NEW SECTION. Sec. 1209. MERGER--NOT EFFECTIVE WITHIN SIXTY DAYS--
31 TRANSFER RESTRICTIONS. (1) If the proposed merger does not become
32 effective within sixty days after the date set for demanding payment,
33 the limited liability company shall release any transfer restrictions
34 imposed as permitted by section 1207 of this act.

35 (2) If, after releasing transfer restrictions, the proposed merger
36 becomes effective, the limited liability company must send a new

1 dissenters' notice as provided in sections 1203(2) and 1205 of this act
2 and repeat the payment demand procedure.

3 NEW SECTION. **Sec. 1210.** DISSENTER'S ESTIMATE OF FAIR VALUE--
4 NOTICE. (1) A dissenting member may notify the limited liability
5 company in writing of the dissenter's own estimate of the fair value of
6 the dissenter's interest in the limited liability company, and amount
7 of interest due, and demand payment of the dissenter's estimate, less
8 any payment under section 1208 of this act, if:

9 (a) The dissenter believes that the amount paid is less than the
10 fair value of the dissenter's interest in the limited liability
11 company, or that the interest due is incorrectly calculated;

12 (b) The limited liability company fails to make payment within
13 sixty days after the date set for demanding payment; or

14 (c) The limited liability company, having failed to effectuate the
15 proposed merger, does not release the transfer restrictions imposed on
16 members' interests as permitted by section 1207 of this act within
17 sixty days after the date set for demanding payment.

18 (2) A dissenter waives the right to demand payment under this
19 section unless the dissenter notifies the limited liability company of
20 the dissenter's demand in writing under subsection (1) of this section
21 within thirty days after the limited liability company made payment for
22 the dissenter's interest in the limited liability company.

23 NEW SECTION. **Sec. 1211.** UNSETTLED DEMAND FOR PAYMENT--
24 PROCEEDING--PARTIES--APPRAISERS. (1) If a demand for payment under
25 section 1206 of this act remains unsettled, the limited liability
26 company shall commence a proceeding within sixty days after receiving
27 the payment demand and petition the court to determine the fair value
28 of the dissenting member's interest in the limited liability company,
29 and accrued interest. If the limited liability company does not
30 commence the proceeding within the sixty-day period, it shall pay each
31 dissenter whose demand remains unsettled the amount demanded.

32 (2) The limited liability company shall commence the proceeding in
33 the superior court. If the limited liability company is a domestic
34 limited liability company, it shall commence the proceeding in the
35 county where its registered office is maintained.

36 (3) The limited liability company shall make all dissenters
37 (whether or not residents of this state) whose demands remain unsettled

1 parties to the proceeding as in an action against their membership
2 interests in the limited liability company and all parties must be
3 served with a copy of the petition. Nonresidents may be served by
4 registered or certified mail or by publication as provided by law.

5 (4) The limited liability company may join as a party to the
6 proceeding any member who claims to be a dissenter but who has not, in
7 the opinion of the limited liability company, complied with the
8 provisions of this article. If the court determines that such member
9 has not complied with the provisions of this article, the member shall
10 be dismissed as a party.

11 (5) The jurisdiction of the court in which the proceeding is
12 commenced is plenary and exclusive. The court may appoint one or more
13 persons as appraisers to receive evidence and recommend decisions on
14 the question of fair value. The appraisers have the powers described
15 in the order appointing them or in any amendment to it. The dissenters
16 are entitled to the same discovery rights as parties in other civil
17 proceedings.

18 (6) Each dissenter made a party to the proceeding is entitled to
19 judgment for the amount, if any, by which the court finds the fair
20 value of the dissenter's membership interest in the limited liability
21 company, plus interest, exceeds the amount paid by the limited
22 liability company.

23 NEW SECTION. Sec. 1212. UNSETTLED DEMAND FOR PAYMENT--COSTS--FEES
24 AND EXPENSES OF COUNSEL. (1) The court in a proceeding commenced under
25 section 1211 of this act shall determine all costs of the proceeding,
26 including the reasonable compensation and expenses of appraisers
27 appointed by the court. The court shall assess the costs against the
28 limited liability company, except that the court may assess the costs
29 against all or some of the dissenters, in amounts the court finds
30 equitable, to the extent the court finds the dissenters acted
31 arbitrarily, vexatiously, or not in good faith in demanding payment.

32 (2) The court may also assess the fees and expenses of counsel and
33 experts for the respective parties, in amounts the court finds
34 equitable:

35 (a) Against the limited liability company and in favor of any or
36 all dissenters if the court finds the limited liability company did not
37 substantially comply with the requirements of this article; or

1 (b) Against either the limited liability company or a dissenter, in
2 favor of any other party, if the court finds that the party against
3 whom the fees and expenses are assessed acted arbitrarily, vexatiously,
4 or not in good faith with respect to the rights provided by this
5 article.

6 (3) If the court finds that the services of counsel for any
7 dissenter were of substantial benefit to other dissenters similarly
8 situated, and that the fees for those services should not be assessed
9 against the limited liability company, the court may award to these
10 counsel reasonable fees to be paid out of the amounts awarded to the
11 dissenters who were benefited.

12 **ARTICLE XIII. MISCELLANEOUS**

13 NEW SECTION. **Sec. 1301.** CONSTRUCTION AND APPLICATION OF CHAPTER
14 AND LIMITED LIABILITY COMPANY AGREEMENT. (1) The rule that statutes in
15 derogation of the common law are to be strictly construed shall have no
16 application to this chapter.

17 (2) It is the policy of this chapter to give the maximum effect to
18 the principle of freedom of contract and to the enforceability of
19 limited liability company agreements.

20 (3) Unless the context otherwise requires, as used in this chapter,
21 the singular shall include the plural and the plural may refer to only
22 the singular. The captions contained herein are for purposes of
23 convenience only and shall not control or affect the construction of
24 this chapter and do not constitute part of the law.

25 NEW SECTION. **Sec. 1302.** ESTABLISHMENT OF FILING FEES AND
26 MISCELLANEOUS CHARGES. (1) The secretary of state shall adopt rules
27 establishing fees which shall be charged and collected for:

28 (a) Filing of a certificate of formation for a domestic limited
29 liability company or an application for registration of a foreign
30 limited liability company;

31 (b) Filing of a certificate of cancellation for a domestic or
32 foreign limited liability company;

33 (c) Filing of a certificate of amendment or restatement for a
34 domestic or foreign limited liability company;

1 (d) Filing an application to reserve, register, or transfer a
2 limited liability company name;

3 (e) Filing any other certificate, statement, or report authorized
4 or permitted to be filed;

5 (f) Copies, certified copies, certificates, service of process
6 filings, and expedited filings or other special services.

7 (2) In the establishment of a fee schedule, the secretary of state
8 shall, insofar as is possible and reasonable, be guided by the fee
9 schedule provided for corporations governed by Title 23B RCW. Fees for
10 copies, certified copies, certificates of record, and service of
11 process filings shall be as provided for in RCW 23B.01.220.

12 (3) All fees collected by the secretary of state shall be deposited
13 with the state treasurer pursuant to law.

14 NEW SECTION. **Sec. 1303.** AUTHORITY TO ADOPT RULES. The secretary
15 of state shall adopt such rules as are necessary to implement the
16 transfer of duties and records required by this chapter.

17 NEW SECTION. **Sec. 1304.** EFFECTIVE DATE. This act shall take
18 effect on July 1, 1994.

19 NEW SECTION. **Sec. 1305.** SHORT TITLE. This chapter may be cited
20 as the "Washington Limited Liability Company Act."

21 NEW SECTION. **Sec. 1306.** SEVERABILITY. If any provision of this
22 act or its application to any person or circumstance is held invalid,
23 the remainder of the act or the application of the provision to other
24 persons or circumstances is not affected.

25 NEW SECTION. **Sec. 1307.** LEGISLATIVE DIRECTIVE. Sections 101
26 through 1306 of this act shall constitute a new chapter in Title 25
27 RCW.

--- END ---