
HOUSE BILL 1235

State of Washington 53rd Legislature 1993 Regular Session

By Representatives Appelwick, Padden, Ludwig and Johanson

Read first time 01/20/93. Referred to Committee on Judiciary.

1 AN ACT Relating to partnerships; adding a new chapter to Title 25
2 RCW; and providing an effective date.

3 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF WASHINGTON:

4 **ARTICLE I. GENERAL PROVISIONS**

5 NEW SECTION. **Sec. 101.** DEFINITIONS. As used in this chapter,
6 unless the context otherwise requires:

7 (1) "Certificate of formation" means the certificate referred to in
8 section 201 of this act, and the certificate as amended.

9 (2) "Event of dissociation" means an event that causes a person to
10 cease to be a member as provided in section 304 of this act.

11 (3) "Foreign limited liability company" means an entity that is:

12 (a) An unincorporated enterprise;

13 (b) Organized under the laws of a state other than the laws of this
14 state, or under the laws of any foreign country;

15 (c) Organized under a statute pursuant to which an enterprise may
16 be formed that affords to each of its members limited liability with
17 respect to the liabilities of the entity; and

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

26 (b) Indemnify any member or manager from and against any judgments,
27 settlements, penalties, fines, or expenses incurred in a proceeding to
28 which an individual is a party because he or she is, or was, a member
29 or a manager, provided that no such indemnity shall indemnify a member
30 or a manager from or on account of acts or omissions of the member or
31 manager finally adjudged to be intentional misconduct or a knowing
32 violation of law by the member or manager, conduct of the member or
33 manager adjudged to be in violation of section 605 of this act, or any
34 transaction with respect to which it was finally adjudged that such
35 member or manager received a benefit in money, property, or services to
36 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.

23 (2) For purposes of applying the provisions of chapter 18.100 RCW
24 to a professional limited liability company, the terms "director" or
25 "officer" shall mean manager, "shareholder" shall mean member,
26 "corporation" shall mean professional limited liability company,
27 "articles of incorporation" shall mean certificate of formation,
28 "shares" or "capital stock" shall mean a limited liability company
29 interest, "incorporator" shall mean the person who executes the
30 certificate of formation, and "bylaws" shall mean the limited liability
31 company agreement.

32 (3) The name of a professional limited liability company must
33 contain either the words "Professional Limited Liability Company," or
34 the words "Professional Limited Liability" and the abbreviation "Co.,"
35 or the abbreviation "P.L.L.C." provided that the name of a professional
36 limited liability company organized to render dental services shall
37 contain the full names or surnames of all members and no other word

1 than "chartered" or the words "professional services" or the
2 abbreviation "P.L.L.C."

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

7 (a) A professional corporation, if its shareholders, directors, and
8 its officers other than the secretary and the treasurer, are licensed
9 or otherwise legally authorized to render the same specific
10 professional services as the professional limited liability company;
11 and

12 (b) Another professional limited liability company, if the managers
13 and members of both professional limited liability companies are
14 licensed or otherwise legally authorized to render the same specific
15 professional services.

16 **ARTICLE II. FORMATION: CERTIFICATE OF FORMATION, AMENDMENT,**
17 **FILING AND EXECUTION**

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

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

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

26 (c) The address of the principal place of business of the limited
27 liability company;

28 (d) If the limited liability company is to have a specific date of
29 dissolution, the latest date on which the limited liability company is
30 to dissolve;

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

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

34 (g) The name and address of each person executing the certificate
35 of formation.

36 (2) Effect of filing:

1 (a) Unless a delayed effective date is specified, a limited
2 liability company is formed when its certificate of formation is filed
3 by the secretary of state. A delayed effective date for a certificate
4 of formation may be no later than the ninetieth day after the date it
5 is filed.

6 (b) The secretary of state's filing of the certificate of formation
7 is conclusive proof that the persons executing the certificate
8 satisfied all conditions precedent to the formation except in a
9 proceeding by the state to cancel the certificate.

10 (c) A limited liability company formed under this chapter shall be
11 a separate legal entity, the existence of which as a separate legal
12 entity shall continue until cancellation of the limited liability
13 company's certificate of formation.

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

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

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

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

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

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

27 (4) Unless otherwise provided in this chapter or unless a later
28 effective date (which shall be a date not later than the ninetieth day
29 after the date it is filed) is provided for in the certificate of
30 amendment, a certificate of amendment shall be effective when filed by
31 the secretary of state.

32 NEW SECTION. **Sec. 203.** CANCELLATION OF CERTIFICATE. A
33 certificate of formation shall be canceled upon the effective date of
34 the certificate of cancellation, or as provided in section 805 of this
35 act, or upon the filing of articles of merger if the limited liability
36 company is not the surviving or resulting entity in a merger. A
37 certificate of cancellation shall be filed in the office of the

1 secretary of state to accomplish the cancellation of a certificate of
2 formation upon the dissolution and the completion of winding up of a
3 limited liability company and shall set forth:

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

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

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

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

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

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

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

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

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

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

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

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

28 (g) If a surviving domestic limited liability company is filing
29 articles of merger, the articles of merger must be signed by at least
30 one manager, or by a member if management of the limited liability
31 company is reserved to the members, or if the articles of merger are
32 being filed by a surviving foreign limited liability company, limited
33 partnership, or corporation, the articles of merger must be signed by
34 a person authorized by such foreign limited liability company, limited
35 partnership, or corporation; and

36 (h) A foreign limited liability company's application for
37 registration as a foreign limited liability company doing business

1 within the state must be signed by any member or manager of the foreign
2 limited liability company.

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

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

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

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

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

33 NEW SECTION. **Sec. 206.** FILING. (1) The original signed copy,
34 together with a duplicate copy that may be either a signed,
35 photocopied, or conformed copy, of the certificate of formation or any
36 other document required to be filed pursuant to this chapter shall be
37 delivered to the secretary of state. If the secretary of state

1 determines that the documents conform to the filing provisions of this
2 chapter, he or she shall, when all required filing fees have been paid:

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

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

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

9 (2) If the secretary of state is unable to make the determination
10 required for filing by subsection (1) of this section at the time any
11 documents are delivered for filing, the documents are deemed to have
12 been filed at the time of delivery if the secretary of state
13 subsequently determines that:

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

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

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

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

35 NEW SECTION. **Sec. 207.** RESTATED CERTIFICATE. (1) A limited
36 liability company may, whenever desired, integrate into a single
37 instrument all of the provisions of its certificate of formation which
38 are then in effect and operative as a result of there having

1 theretofore been filed with the secretary of state one or more
2 certificates or other instruments pursuant to any of the sections
3 referred to in this chapter and it may at the same time also further
4 amend its certificate of formation by adopting a restated certificate
5 of formation.

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

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

1 (4) Upon the filing of a restated certificate of formation with the
2 secretary of state, or upon the future effective date or time of a
3 restated certificate of formation as provided for therein, the initial
4 certificate of formation, as theretofore amended or supplemented, shall
5 be superseded; thenceforth, the restated certificate of formation,
6 including any further amendment or changes made thereby, shall be the
7 certificate of formation of the limited liability company, but the
8 original effective date of formation shall remain unchanged.

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

14 ARTICLE III. MEMBERS

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

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

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

24 (2) After the formation of a limited liability company, a person
25 acquiring a limited liability company interest is admitted as a member
26 of the limited liability company:

27 (a) In the case of a person acquiring a limited liability company
28 interest directly from the limited liability company, at the time
29 provided in and upon compliance with the limited liability company
30 agreement or, if the limited liability company agreement does not so
31 provide or does not exist, upon the consent of all members and when the
32 person's admission is reflected in the records of the limited liability
33 company; or

34 (b) In the case of an assignee of a limited liability company
35 interest who meets the conditions for membership set forth in section
36 704(1) of this act, at the time provided in and upon compliance with

1 the limited liability company agreement or, if the limited liability
2 company agreement does not so provide or does not exist, when any such
3 assignee's admission as a member is reflected in the records of the
4 limited liability company.

5 NEW SECTION. **Sec. 302.** VOTING AND CLASSES OF MEMBERSHIP. (1)
6 Except as provided in this chapter, or in the limited liability company
7 agreement, and subject to subsection (2) of this section, the
8 affirmative vote, approval, or consent of members contributing, or
9 required to contribute, more than fifty percent of the agreed value (as
10 stated in the records of the limited liability company required to be
11 kept pursuant to section 305 of this act) of the contributions made, or
12 required to be made, by all members shall be necessary for actions
13 requiring member approval.

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

17 (a) Amend the limited liability company agreement; or

18 (b) Authorize a manager, member, or other person to do any act on
19 behalf of the limited liability company that contravenes the limited
20 liability company agreement, including any provision thereof which
21 expressly limits the purpose, business, or affairs of the limited
22 liability company or the conduct thereof.

23 (3) A limited liability company agreement may provide for classes
24 or groups of members having such relative rights, powers, and duties as
25 the limited liability company agreement may provide, and may make
26 provision for the future creation in the manner provided in the limited
27 liability company agreement of additional classes or groups of members
28 having such relative rights, powers, and duties as may from time to
29 time be established, including rights, powers, and duties senior to
30 existing classes and groups of members. A limited liability company
31 agreement may provide for the taking of an action, including the
32 amendment of the limited liability company agreement, without the vote
33 or approval of any member or class or group of members, including an
34 action to create under the provisions of the limited liability company
35 agreement a class or group of limited liability company interests that
36 was not previously outstanding.

37 (4) A limited liability company agreement may grant to all or
38 certain identified members or a specified class or group of the members

1 the right to vote separately or with all or any class or group of the
2 members or managers, on any matter. If the limited liability company
3 agreement so provides, voting by members may be on a per capita,
4 number, profit share, class, group, or any other basis.

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

12 NEW SECTION. Sec. 303. LIABILITY OF MEMBERS AND MANAGERS TO THIRD
13 PARTIES. Except as otherwise provided by this chapter, the debts,
14 obligations, and liabilities of a limited liability company, whether
15 arising in contract, tort or otherwise, shall be solely the debts,
16 obligations, and liabilities of the limited liability company; and no
17 member or manager of a limited liability company shall be obligated
18 personally for any such debt, obligation, or liability of the limited
19 liability company solely by reason of being a member or acting as a
20 manager of the limited liability company.

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

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

26 (b) The member ceases to be a member as provided in section
27 702(2)(b) of this act following an assignment of all the member's
28 limited liability company interest;

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

31 (d) Unless otherwise provided in the limited liability company
32 agreement, or with the written consent of all other members at the
33 time, the member (i) makes a general assignment for the benefit of
34 creditors; (ii) files a voluntary petition in bankruptcy; (iii) becomes
35 the subject of an order for relief in bankruptcy proceedings; (iv)
36 files a petition or answer seeking for himself or herself any
37 reorganization, arrangement, composition, readjustment, liquidation,

1 dissolution, or similar relief under any statute, law, or regulation;
2 (v) files an answer or other pleading admitting or failing to contest
3 the material allegations of a petition filed against him or her in any
4 proceeding of this nature; or (vi) seeks, consents to, or acquiesces in
5 the appointment of a trustee, receiver, or liquidator of the member or
6 of all or any substantial part of the member's properties;

7 (e) Unless otherwise provided in the limited liability company
8 agreement, or with the consent of all other members at the time, one
9 hundred twenty days after the commencement of any proceeding against
10 the member seeking reorganization, arrangement, composition,
11 readjustment, liquidation, dissolution, or similar relief under any
12 statute, law, or regulation, the proceeding has not been dismissed, or
13 if within ninety days after the appointment without his or her consent
14 or acquiescence of a trustee, receiver, or liquidator of the member or
15 of all or any substantial part of the member's properties, the
16 appointment is not vacated or stayed, or within ninety days after the
17 expiration of any stay, the appointment is not vacated;

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

23 (g) 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 another limited liability company, the
26 dissolution and commencement of winding up of such limited liability
27 company;

28 (h) Unless otherwise provided in the limited liability company
29 agreement, or with written consent of all other members at the time, in
30 the case of a member that is a corporation, the filing of articles of
31 dissolution or the equivalent for the corporation or the administrative
32 dissolution of the corporation and the lapse of any period authorized
33 for application for reinstatement; or

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

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

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

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

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

12 (b) A copy of its certificate of formation and all amendments
13 thereto;

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

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

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

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

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

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

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

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

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

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

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

9 NEW SECTION. **Sec. 306.** REMEDIES FOR BREACH OF LIMITED LIABILITY
10 COMPANY AGREEMENT BY MEMBER. A limited liability company agreement may
11 provide that (1) a member who fails to perform in accordance with, or
12 to comply with the terms and conditions of, the limited liability
13 company agreement shall be subject to specified penalties or specified
14 consequences, and (2) at the time or upon the happening of events
15 specified in the limited liability company agreement, a member shall be
16 subject to specified penalties or specified consequences.

17 **ARTICLE IV. MANAGEMENT AND MANAGERS**

18 NEW SECTION. **Sec. 401.** MANAGEMENT. (1) Unless the certificate of
19 formation vests management of the limited liability company in a
20 manager or managers, management of the business or affairs of the
21 limited liability company shall be vested in the members. Subject to
22 any provisions in the limited liability company agreement or this
23 chapter restricting or enlarging the management rights and duties of
24 any person or group or class of persons, the members shall have the
25 right and authority to manage the affairs of the limited liability
26 company and to make all decisions with respect thereto.

27 (2) If the certificate of formation vests management of the limited
28 liability company in one or more managers, then such persons shall have
29 such power to manage the business or affairs of the limited liability
30 company as is provided in the limited liability company agreement.
31 Unless otherwise provided in the limited liability company agreement,
32 such persons:

33 (a) Shall be designated, appointed, elected, removed, or replaced
34 by a vote, approval, or consent of members contributing, or required to
35 contribute, more than fifty percent of the agreed value (as stated in

1 the records of the limited liability company required to be kept
2 pursuant to section 305 of this act) of the contributions made, or
3 required to be made, by all members at the time of such action;

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

6 (c) Unless they have been earlier removed or have earlier resigned,
7 shall hold office until their successors shall have been elected and
8 qualified.

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

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

14 (1) A member or manager shall not be liable, responsible, or
15 accountable in damages or otherwise to the limited liability company or
16 to the members of the limited liability company for any action taken or
17 failure to act on behalf of the limited liability company unless such
18 act or omission constitutes gross negligence, intentional misconduct,
19 or a knowing violation of law.

20 (2) Every member and manager must account to the limited liability
21 company and hold as trustee for it any profit or benefit derived by him
22 or her without the consent of a majority of the disinterested managers
23 or members, or other persons participating in the management of the
24 business or affairs of the limited liability company from (a) any
25 transaction connected with the conduct or winding up of the limited
26 liability company or (b) any use by him or her of its property,
27 including, but not limited to, confidential or proprietary information
28 of the limited liability company or other matters entrusted to him or
29 her as a result of his or her status as manager or member.

30 NEW SECTION. **Sec. 403.** MANAGER-MEMBERS' RIGHTS AND DUTIES. A
31 person who is both a manager and a member has the rights and powers,
32 and is subject to the restrictions and liabilities, of a manager and,
33 except as provided in a limited liability company agreement, also has
34 the rights and powers, and is subject to the restrictions and
35 liabilities, of a member to the extent of his or her participation in
36 the limited liability company as a member.

1 NEW SECTION. **Sec. 404.** VOTING AND CLASSES OF MANAGERS. (1)

2 Unless the limited liability company agreement provides otherwise, the
3 affirmative vote, approval, or consent of more than one-half by number
4 of the managers shall be required to decide any matter connected with
5 the business and affairs of the limited liability company.

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

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

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

34 NEW SECTION. **Sec. 405.** REMEDIES FOR BREACH OF LIMITED LIABILITY
35 COMPANY AGREEMENT BY MANAGER. A limited liability company agreement
36 may provide that (1) a manager who fails to perform in accordance with,
37 or to comply with the terms and conditions of, the limited liability
38 company agreement shall be subject to specified penalties or specified

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

4 NEW SECTION. **Sec. 406.** RELIANCE ON REPORTS AND INFORMATION BY
5 MEMBER OR MANAGER. In discharging the duties of a manager or a member,
6 a member or manager of a limited liability company is entitled to rely
7 in good faith upon the records of the limited liability company and
8 upon such information, opinions, reports, or statements presented to
9 the limited liability company by any of its other managers, members,
10 officers, employees, or committees of the limited liability company, or
11 by any other person, as to matters the member or manager reasonably
12 believes are within such other person's professional or expert
13 competence and who has been selected with reasonable care by or on
14 behalf of the limited liability company, including information,
15 opinions, reports, or statements as to the value and amount of the
16 assets, liabilities, profits, or losses of the limited liability
17 company or any other facts pertinent to the existence and amount of
18 assets from which distributions to members might properly be paid.

19 NEW SECTION. **Sec. 407.** RESIGNATION OF MANAGER. A manager may
20 resign as a manager of a limited liability company at the time or upon
21 the happening of events specified in a limited liability company
22 agreement and in accordance with the limited liability company
23 agreement. A limited liability company agreement may provide that a
24 manager shall not have the right to resign as a manager of a limited
25 liability company. Notwithstanding that a limited liability company
26 agreement provides that a manager does not have the right to resign as
27 a manager of a limited liability company, a manager may resign as a
28 manager of a limited liability company at any time by giving written
29 notice to the members and other managers. If the resignation of a
30 manager violates a limited liability company agreement, in addition to
31 any remedies otherwise available under applicable law, a limited
32 liability company may recover from the resigning manager damages for
33 breach of the limited liability company agreement and offset the
34 damages against the amount otherwise distributable to the resigning
35 manager.

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

6 NEW SECTION. **Sec. 502.** LIABILITY FOR CONTRIBUTION. (1) Except as
7 provided in a limited liability company agreement, a member is
8 obligated to a limited liability company to perform any promise to
9 contribute cash or property or to perform services, even if the member
10 is unable to perform because of death, disability, or any other reason.
11 If a member does not make the required contribution of property or
12 services, the member is obligated at the option of the limited
13 liability company to contribute cash equal to that portion of the
14 agreed value (as stated in the records of the limited liability company
15 required to be kept pursuant to section 305 of this act) of the
16 contribution that has not been made. This option shall be in addition
17 to, and not in lieu of, any other rights, including the right to
18 specific performance, that the limited liability company may have
19 against such member under the limited liability company agreement or
20 applicable law.

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

1 discretionary call of a limited liability company prior to the time the
2 call occurs.

3 (3) A limited liability company agreement may provide that the
4 interest of any member who fails to make any contribution that the
5 member is obligated to make shall be subject to specified penalties
6 for, or specified consequences of, such failure. Such penalty or
7 consequence may take the form of reducing or eliminating the defaulting
8 member's proportionate interest in a limited liability company,
9 subordinating the member's limited liability company interest to that
10 of nondefaulting members, a forced sale of the member's limited
11 liability company interest, forfeiture of the member's limited
12 liability company interest, the lending by other members of the amount
13 necessary to meet the member's commitment, a fixing of the value of the
14 member's limited liability company interest by appraisal or by formula
15 and redemption or sale of the member's limited liability company
16 interest at such value, or other penalty or consequence.

17 NEW SECTION. **Sec. 503.** ALLOCATION OF PROFITS AND LOSSES. The
18 profits and losses of a limited liability company shall be allocated
19 among the members, and among classes or groups of members, in the
20 manner provided in a limited liability company agreement. If the
21 limited liability company agreement does not so provide, profits and
22 losses shall be allocated in proportion to the agreed value (as stated
23 in the records of the limited liability company required to be kept
24 pursuant to section 305 of this act) of the contributions made, or
25 required to be made, by each member.

26 NEW SECTION. **Sec. 504.** ALLOCATION OF DISTRIBUTIONS.
27 Distributions of cash or other assets of a limited liability company
28 shall be allocated among the members, and among classes or groups of
29 members, in the manner provided in a limited liability company
30 agreement. If the limited liability company agreement does not so
31 provide, distributions shall be made in proportion to the agreed value
32 (as stated in the records of the limited liability company required to
33 be kept pursuant to section 305 of this act) of the contributions made,
34 or required to be made, by each member.

1 entitled to all remedies available to, a creditor of a limited
2 liability company with respect to the distribution. A limited
3 liability company agreement may provide for the establishment of a
4 record date with respect to allocations and distributions by a limited
5 liability company.

6 NEW SECTION. **Sec. 605.** LIMITATIONS ON DISTRIBUTION. (1) A
7 limited liability company shall not make a distribution to a member to
8 the extent that at the time of the distribution, after giving effect to
9 the distribution (a) the limited liability company would not be able to
10 pay its debts as they became due in the usual course of business, or
11 (b) all liabilities of the limited liability company, other than
12 liabilities to members on account of their limited liability company
13 interests and liabilities for which the recourse of creditors is
14 limited to specified property of the limited liability company, exceed
15 the fair value of the assets of the limited liability company, except
16 that the fair value of property that is subject to a liability for
17 which the recourse of creditors is limited shall be included in the
18 assets of the limited liability company only to the extent that the
19 fair value of that property exceeds that liability.

20 (2) A member who receives a distribution in violation of subsection
21 (1) of this section, and who knew at the time of the distribution that
22 the distribution violated subsection (1) of this section, shall be
23 liable to a limited liability company for the amount of the
24 distribution. A member who receives a distribution in violation of
25 subsection (1) of this section, and who did not know at the time of the
26 distribution that the distribution violated subsection (1) of this
27 section, shall not be liable for the amount of the distribution.
28 Subject to subsection (3) of this section, this subsection (2) shall
29 not affect any obligation or liability of a member under a limited
30 liability company agreement or other applicable law for the amount of
31 a distribution.

32 (3) Unless otherwise agreed, a member who receives a distribution
33 from a limited liability company shall have no liability under this
34 chapter or other applicable law for the amount of the distribution
35 after the expiration of three years from the date of the distribution
36 unless an action to recover the distribution from such member is
37 commenced prior to the expiration of the said three-year period and an

1 adjudication of liability against such member is made in the said
2 action.

3 **ARTICLE VII. ASSIGNMENT OF LIMITED LIABILITY**
4 **COMPANY INTERESTS**

5 NEW SECTION. **Sec. 701.** NATURE OF LIMITED LIABILITY COMPANY
6 INTEREST--CERTIFICATE OF INTEREST. (1) A limited liability company
7 interest is personal property. A member has no interest in specific
8 limited liability company property.

9 (2) A limited liability company agreement may provide that a
10 member's interest in a limited liability company may be evidenced by a
11 certificate of limited liability company interest issued by the limited
12 liability company.

13 NEW SECTION. **Sec. 702.** ASSIGNMENT OF LIMITED LIABILITY COMPANY
14 INTEREST. (1) A limited liability company interest is assignable in
15 whole or in part except as provided in a limited liability company
16 agreement. The assignee of a member's limited liability company
17 interest shall have no right to participate in the management of the
18 business and affairs of a limited liability company except:

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

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

23 (2) Unless otherwise provided in a limited liability company
24 agreement:

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

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

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

34 (a) The pledge of, or granting of a security interest, lien, or
35 other encumbrance in or against, any or all of the limited liability

1 company interest of a member shall not be deemed to be an assignment of
2 the member's limited liability company interest, but a foreclosure or
3 execution sale or exercise of similar rights with respect to all of a
4 member's limited liability company interest shall be deemed to be an
5 assignment of the member's limited liability company interest to the
6 transferee pursuant to such foreclosure or execution sale or exercise
7 of similar rights;

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

11 (c) Where a limited liability company interest is held in a trust
12 or estate, or is held by a trustee, personal representative, or other
13 fiduciary, the transfer of the limited liability company interest,
14 whether to a beneficiary of the trust or estate or otherwise, shall be
15 deemed to be an assignment of such limited liability company interest,
16 but the mere substitution or replacement of the trustee, personal
17 representative, or other fiduciary shall not constitute an assignment
18 of any portion of such limited liability company interest.

19 (4) Unless otherwise provided in a limited liability company
20 agreement and except to the extent assumed by agreement, until an
21 assignee of a limited liability company interest becomes a member, the
22 assignee shall have no liability as a member solely as a result of the
23 assignment.

24 NEW SECTION. **Sec. 703.** RIGHTS OF JUDGMENT CREDITOR. On
25 application to a court of competent jurisdiction by any judgment
26 creditor of a member, the court may charge the limited liability
27 company interest of the member with payment of the unsatisfied amount
28 of the judgment with interest. To the extent so charged, the judgment
29 creditor has only the rights of an assignee of the limited liability
30 company interest. This chapter does not deprive any member of the
31 benefit of any exemption laws applicable to the member's limited
32 liability company interest.

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

1 (a) The approval of all of the members of the limited liability
2 company other than the member assigning his or her limited liability
3 company interest; or

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

6 (2) An assignee who has become a member has, to the extent
7 assigned, the rights and powers, and is subject to the restrictions and
8 liabilities, of a member under a limited liability company agreement
9 and this chapter. An assignee who becomes a member is liable for the
10 obligations of his or her assignor to make contributions as provided in
11 section 502 of this act, and for the obligations of his or her assignor
12 under article VI of this chapter.

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

17 **ARTICLE VIII. DISSOLUTION**

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

21 (1) The date specified in a limited liability company agreement, or
22 thirty years from the date of the formation of the limited liability
23 company if no such date is set forth in the limited liability company
24 agreement;

25 (2) The happening of events specified in a limited liability
26 company agreement;

27 (3) The written consent of all members;

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

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

35 (6) At any time there are fewer than two members unless, within
36 ninety days following the event of dissociation upon which the number

1 of members is reduced below two, one or more additional members are
2 admitted so that there are at least two members; or

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

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

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

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

18 (2) The limited liability company does not notify the secretary of
19 state within sixty days that its registered agent or registered office
20 has been changed, that its registered agent has resigned, or that its
21 registered office has been discontinued.

22 NEW SECTION. **Sec. 804.** ADMINISTRATIVE DISSOLUTION--NOTICE--
23 OPPORTUNITY TO CORRECT DEFICIENCIES. (1) If the secretary of state
24 determines that one or more grounds exist under section 803 of this act
25 for dissolving a limited liability company, the secretary of state
26 shall give the limited liability company written notice of the
27 determination by first class mail, postage prepaid, reciting the
28 grounds therefor. Notice shall be sent to the address of the principal
29 place of business of the limited liability company as it appears in the
30 records of the secretary of state.

31 (2) If the limited liability company does not correct each ground
32 for dissolution or demonstrate to the reasonable satisfaction of the
33 secretary of state that each ground determined by the secretary of
34 state does not exist within sixty days after notice is sent, the
35 limited liability company is thereupon dissolved. The secretary of
36 state shall give the limited liability company written notice of the

1 dissolution that recites the ground or grounds therefor and its
2 effective date.

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

6 (4) The administrative dissolution of a limited partnership does
7 not terminate the authority of its registered agent.

8 NEW SECTION. **Sec. 805.** ADMINISTRATIVE DISSOLUTION--

9 REINSTATEMENT--APPLICATION--WHEN EFFECTIVE. (1) A limited liability
10 company administratively dissolved under section 804 of this act may
11 apply to the secretary of state for reinstatement within two years
12 after the effective date of dissolution. The application must:

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

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

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

19 (2) If the secretary of state determines that the application
20 contains the information required by subsection (1) of this section and
21 that the name is available, the secretary of state shall reinstate the
22 limited liability company and give the limited liability company
23 written notice, as provided in section 804(1) of this act, of the
24 reinstatement that recites the effective date of reinstatement. If the
25 name is not available, the limited liability company must file with its
26 application for reinstatement an amendment to its certificate of
27 formation reflecting a change of name.

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

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

1 NEW SECTION. **Sec. 806.** WINDING UP. (1) Unless otherwise provided
2 in a limited liability company agreement, a manager who has not
3 wrongfully dissolved a limited liability company or, if none, the
4 members or a person approved by the members or, if there is more than
5 one class or group of members, then by each class or group of members,
6 in either case, by members contributing, or required to contribute,
7 more than fifty percent of the agreed value (as stated in the records
8 of the limited liability company required to be kept pursuant to
9 section 305 of this act) of the contributions made, or required to be
10 made, by all members, or by the members in each class or group, as
11 appropriate, may wind up the limited liability company's affairs. The
12 superior courts, upon cause shown, may wind up the limited liability
13 company's affairs upon application of any member or manager, his or her
14 legal representative or assignee, and in connection therewith, may
15 appoint a receiver.

16 (2) Upon dissolution of a limited liability company and until the
17 filing of a certificate of cancellation as provided in section 203 of
18 this act, the persons winding up the limited liability company's
19 affairs may, in the name of, and for and on behalf of, the limited
20 liability company, prosecute and defend suits, whether civil, criminal,
21 or administrative, gradually settle and close the limited liability
22 company's business, dispose of and convey the limited liability
23 company's property, discharge or make reasonable provision for the
24 limited liability company's liabilities, and distribute to the members
25 any remaining assets of the limited liability company.

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

29 (a) To creditors, including members and managers who are creditors,
30 to the extent otherwise permitted by law, in satisfaction of
31 liabilities of the limited liability company (whether by payment or the
32 making of reasonable provision for payment thereof) other than
33 liabilities for which reasonable provision for payment has been made
34 and liabilities for distributions to members under section 601 or 604
35 of this act;

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

1 (c) Unless otherwise provided in a limited liability company
2 agreement, to members first for the return of their contributions and
3 second respecting their limited liability company interests, in the
4 proportions in which the members share in distributions.

5 (2) A limited liability company which has dissolved shall pay or
6 make reasonable provision to pay all claims and obligations, including
7 all contingent, conditional, or unmatured claims and obligations, known
8 to the limited liability company and all claims and obligations which
9 are known to the limited liability company but for which the identity
10 of the claimant is unknown. If there are sufficient assets, such
11 claims and obligations shall be paid in full and any such provision for
12 payment made shall be made in full. If there are insufficient assets,
13 such claims and obligations shall be paid or provided for according to
14 their priority and, among claims and obligations of equal priority,
15 ratably to the extent of assets available therefor. Unless otherwise
16 provided in a limited liability company agreement, any remaining assets
17 shall be distributed as provided in this chapter. Any person winding
18 up a limited liability company's affairs who has complied with this
19 section shall not be personally liable to the claimants of the
20 dissolved limited liability company by reason of such person's actions
21 in winding up the limited liability company.

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

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

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

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

32 (2) A foreign limited liability company shall be subject to section
33 106 of this act.

34 NEW SECTION. **Sec. 902.** REGISTRATION REQUIRED--APPLICATION.
35 Before doing business in this state, a foreign limited liability

1 company shall register with the secretary of state. In order to
2 register, a foreign limited liability company shall submit to the
3 secretary of state, an application for registration as a foreign
4 limited liability company executed by any member or manager of the
5 foreign limited liability company, setting forth:

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

9 (2) The state, territory, possession, or other jurisdiction or
10 country where formed, the date of its formation and a duly
11 authenticated statement from the secretary of state or other official
12 having custody of limited liability company records in the jurisdiction
13 under whose law it was formed, that as of the date of filing the
14 foreign limited liability company validly exists as a limited liability
15 company under the laws of the jurisdiction of its formation;

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

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

21 (5) The address of the principal place of business of the foreign
22 limited liability company;

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

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

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

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

35 (b) File the endorsed application.

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

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

2 (1) A foreign limited liability company may register with the secretary
3 of state under any name (whether or not it is the name under which it
4 is registered in the jurisdiction of its formation) that includes the
5 words "Limited Liability Company," the words "Limited Liability" and
6 the abbreviation "Co.," or the abbreviation "L.L.C." and that could be
7 registered by a domestic limited liability company. A foreign limited
8 liability company may apply to the secretary of state for authorization
9 to use a name which is not distinguishable upon the records of the
10 office of the secretary of state from the names described in RCW
11 23B.04.010(1)(d), and the names of any domestic or foreign limited
12 liability company reserved, registered, or formed under the laws of
13 this state. The secretary of state shall authorize use of the name
14 applied for if the other corporation, limited liability company, or
15 limited partnership consents in writing to the use and files with the
16 secretary of state documents necessary to change its name, or the name
17 reserved or registered to a name that is distinguishable upon the
18 records of the secretary of state from the name of the applying foreign
19 limited liability company.

20 (2) Each foreign limited liability company shall continuously
21 maintain in this state:

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

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

1 foreign corporation authorized to do business in this state having a
2 business office 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 filled with or
7 as a part of the document first appointing a registered agent. In the
8 event any individual, limited liability company, limited partnership,
9 or corporation has been appointed agent without consent, that person or
10 corporation may file a notarized statement attesting to that fact, and
11 the name shall forthwith be removed from the records of the secretary
12 of state.

13 (3) A registered agent may change the address of the registered
14 office of the foreign limited liability company or companies for which
15 the registered agent is registered agent to another address in this
16 state by filing with the secretary of state a certificate, executed by
17 such registered agent, setting forth the names of all the foreign
18 limited liability companies represented by such registered agent, and
19 the address at which such registered agent has maintained the
20 registered office for each of such foreign limited liability companies,
21 and further certifying to the new address to which each such registered
22 office will be changed on a given day, and at which new address such
23 registered agent will thereafter maintain the registered office for
24 each of the foreign limited liability companies recited in the
25 certificate. Upon the filing of such certificate, the secretary of
26 state shall furnish to the registered agent a certified copy of the
27 same, and thereafter, or until further change of address, as authorized
28 by law, the registered office in this state of each of the foreign
29 limited liability companies recited in the certificate shall be located
30 at the new address of the registered agent thereof as given in the
31 certificate. In the event of a change of name of any person acting as
32 a registered agent of a foreign limited liability company, such
33 registered agent shall file with the secretary of state a certificate,
34 executed by such registered agent, setting forth the new name of such
35 registered agent, the name of such registered agent before it was
36 changed, the names of all the foreign limited liability companies
37 represented by such registered agent, and the address at which such
38 registered agent has maintained the registered office for each of such
39 foreign limited liability companies. Upon the filing of such

1 certificate, the secretary of state shall furnish to the registered
2 agent a certified copy of the same. Filing a certificate under this
3 section shall be deemed to be an amendment of the application for
4 registration of each foreign limited liability company affected thereby
5 and each foreign limited liability company shall not be required to
6 take any further action with respect thereto, to amend its application
7 under section 905 of this act. Any registered agent filing a
8 certificate under this section shall promptly, upon such filing,
9 deliver a copy of any such certificate to each foreign limited
10 liability company affected thereby.

11 (4) The registered agent of one or more foreign limited liability
12 companies may resign and appoint a successor registered agent by filing
13 a certificate with the secretary of state, stating that it resigns and
14 the name and address of the successor registered agent. There shall be
15 attached to such certificate a statement executed by each affected
16 foreign limited liability company ratifying and approving such change
17 of registered agent. Upon such filing, the successor registered agent
18 shall become the registered agent of such foreign limited liability
19 company as has ratified and approved such substitution and the
20 successor registered agent's address, as stated in such certificate,
21 shall become the address of each such foreign limited liability
22 company's registered office in this state. The secretary of state
23 shall furnish to the successor registered agent a certified copy of the
24 certificate of resignation. Filing of such certificate of resignation
25 shall be deemed to be an amendment of the application for registration
26 of each foreign limited liability company affected thereby and each
27 such foreign limited liability company shall not be required to take
28 any further action with respect thereto, to amend its application under
29 section 905 of this act.

30 (5) The registered agent of a foreign limited liability company may
31 resign without appointing a successor registered agent by filing a
32 certificate with the secretary of state stating that it resigns as
33 registered agent for the foreign limited liability company identified
34 in the certificate, but such resignation shall not become effective
35 until one hundred twenty days after the certificate is filed. There
36 shall be attached to such certificate an affidavit of such registered
37 agent, if an individual, or of the president, a vice-president, or the
38 secretary thereof if a corporation, that at least thirty days prior to
39 and on or about the date of the filing of said certificate, notices

1 were sent by certified or registered mail to the foreign limited
2 liability companies for which such registered agent is resigning as
3 registered agent, at the principal office thereof within or outside
4 this state, if known to such registered agent or, if not, to the last
5 known address of the attorney or other individual at whose request such
6 registered agent was appointed for such foreign limited liability
7 company, of the resignation of such registered agent. After receipt of
8 the notice of the resignation of its registered agent, the foreign
9 limited liability company for which such registered agent was acting
10 shall obtain and designate a new registered agent, to take the place of
11 the registered agent so resigning. If such foreign limited liability
12 company fails to obtain and designate a new registered agent as
13 aforesaid prior to the expiration of the period of one hundred twenty
14 days after the filing by the registered agent of the certificate of
15 resignation, such foreign limited liability company shall not be
16 permitted to do business in this state and its registration shall be
17 deemed to be canceled. After the resignation of the registered agent
18 shall have become effective as provided in this section and if no new
19 registered agent shall have been obtained and designated in the time
20 and manner aforesaid, service of legal process against the foreign
21 limited liability company for which the resigned registered agent had
22 been acting shall thereafter be upon the secretary of state in
23 accordance with section 911 of this act.

24 NEW SECTION. **Sec. 905.** AMENDMENTS TO APPLICATION. If any
25 statement in the application for registration of a foreign limited
26 liability company was false when made or any arrangements or other
27 facts described have changed, making the application false in any
28 respect, the foreign limited liability company shall promptly file in
29 the office of the secretary of state a certificate, executed by any
30 member or manager, correcting such statement.

31 NEW SECTION. **Sec. 906.** CANCELLATION OF REGISTRATION. (1) A
32 foreign limited liability company may cancel its registration by filing
33 with the secretary of state a certificate of cancellation, executed by
34 any member or manager. A cancellation does not terminate the authority
35 of the secretary of state to accept service of process on the foreign
36 limited liability company with respect to causes of action arising out
37 of the doing of business in this state.

1 (2) The certificate of cancellation shall set forth:
2 (a) The name of the foreign limited liability company;
3 (b) The date of filing of its certificate of registration;
4 (c) The reason for filing the certificate of cancellation;
5 (d) The future effective date (not later than the ninetieth day
6 after the date it is filed) of cancellation if it is not to be
7 effective upon filing of the certificate;
8 (e) The address to which service of process may be forwarded; and
9 (f) Any other information the person filing the certificate of
10 cancellation desires.

11 NEW SECTION. Sec. 907. DOING BUSINESS WITHOUT REGISTRATION. (1)
12 A foreign limited liability company doing business in this state may
13 not maintain any action, suit, or proceeding in this state until it has
14 registered in this state, and has paid to this state all fees and
15 penalties for the years or parts thereof, during which it did business
16 in this state without having registered.

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

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

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

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

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

29 NEW SECTION. Sec. 908. FOREIGN LIMITED LIABILITY COMPANIES DOING
30 BUSINESS WITHOUT HAVING QUALIFIED--INJUNCTIONS. The superior courts
31 shall have jurisdiction to enjoin any foreign limited liability
32 company, or any agent thereof, from doing any business in this state if
33 such foreign limited liability company has failed to register under
34 this article or if such foreign limited liability company has secured
35 a certificate of registration from the secretary of state under section
36 903 of this act on the basis of false or misleading representations.
37 The secretary of state shall, upon the secretary's own motion or upon

1 the relation of proper parties, proceed for this purpose by complaint
2 in any county in which such foreign limited liability company is doing
3 or has done business.

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

7 (a) Maintaining or defending any action or suit or any
8 administrative or arbitration proceeding, or effecting the settlement
9 thereof or the settlement of claims or disputes;

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

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

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

20 (e) Selling through independent contractors;

21 (f) Soliciting or procuring orders, whether by mail or through
22 employees or agents or otherwise, where the orders require acceptance
23 outside this state before becoming binding contracts and where the
24 contracts do not involve any local performance other than delivery and
25 installation;

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

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

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

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

34 (k) Transacting business in interstate commerce;

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

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

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

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

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

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

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

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

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

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

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

35 NEW SECTION. **Sec. 911.** SERVICE OF PROCESS ON UNREGISTERED FOREIGN
36 LIMITED LIABILITY COMPANIES. (1) Any foreign limited liability company
37 which shall do business in this state without having registered under

1 section 902 of this act shall be deemed to have thereby appointed and
2 constituted the secretary of state its agent for the acceptance of
3 legal process in any civil action, suit, or proceeding against it in
4 any state or federal court in this state arising or growing out of any
5 business done by it within this state. The doing of business in this
6 state by such foreign limited liability company shall be a
7 signification of the agreement of such foreign limited liability
8 company that any such process when so served shall be of the same legal
9 force and validity as if served upon a registered agent personally
10 within this state.

11 (2) In the event of service upon the secretary of state in
12 accordance with subsection (1) of this section, the secretary of state
13 shall forthwith notify the foreign limited liability company thereof by
14 letter, certified mail, return receipt requested, directed to the
15 foreign limited liability company at the address furnished to the
16 secretary of state by the plaintiff in such action, suit, or
17 proceeding. Such letter shall enclose a copy of the process and any
18 other papers served upon the secretary of state. It shall be the duty
19 of the plaintiff in the event of such service to serve process and any
20 other papers in duplicate, to notify the secretary of state that
21 service is being made pursuant to this subsection.

22 **ARTICLE X. DERIVATIVE ACTIONS**

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

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

32 (1) At the time of the transaction of which the plaintiff
33 complains; or

34 (2) The plaintiff's status as a member had devolved upon him or her
35 by operation of law or pursuant to the terms of a limited liability

1 company agreement from a person who was a member at the time of the
2 transaction.

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

7 NEW SECTION. **Sec. 1004.** EXPENSES. If a derivative action is
8 successful, in whole or in part, as a result of a judgment, compromise,
9 or settlement of any such action, the court may award the plaintiff
10 reasonable expenses, including reasonable attorneys' fees, from any
11 recovery in any such action or from a limited liability company.

12 **ARTICLE XI. MERGERS**

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

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

19 (a) The name of each limited liability company, limited
20 partnership, and corporation planning to merge and the name of the
21 surviving limited liability company, limited partnership, or
22 corporation into which the other limited liability company, limited
23 partnership, or corporation plans to merge;

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

25 (c) The manner and basis of converting the interests of each member
26 of each limited liability company, the partnership interests in each
27 limited partnership, and the shares of each corporation party to the
28 merger into the interests, shares, obligations, or other securities of
29 the surviving or any other limited liability company, limited
30 partnership, or corporation or into cash or other property in whole or
31 part.

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

33 (a) Amendments to the certificate of formation of the surviving
34 limited liability company;

1 (b) Amendments to the certificate of limited partnership of the
2 surviving limited partnership;

3 (c) Amendments to the articles of incorporation of the surviving
4 corporation; and

5 (d) Other provisions relating to the merger.

6 (4) If the plan of merger does not specify a delayed effective
7 date, it shall become effective upon the filing of articles of merger.
8 If the plan of merger specifies a delayed effective time and date, the
9 plan of merger becomes effective at the time and date specified. If
10 the plan of merger specifies a delayed effective date but no time is
11 specified, the plan of merger is effective at the close of business on
12 that date. A delayed effective date for a plan of merger may not be
13 later than the ninetieth day after the date it is filed.

14 NEW SECTION. **Sec. 1102.** MERGER--PLAN--APPROVAL. (1) Unless
15 otherwise provided in the limited liability company agreement, approval
16 of a plan of merger by a domestic limited liability company party to
17 the merger shall occur when the plan is approved by the members, or if
18 there is more than one class or group of members, then by each class or
19 group of members, in either case, by members contributing more than
20 fifty percent of the agreed value (as stated in the records of the
21 limited liability company required to be kept pursuant to section 305
22 of this act) of the contributions made, or obligated to be made, by all
23 members or by the members in each class or group, as appropriate.

24 (2) If a domestic limited partnership is a party to the merger, the
25 plan of merger shall be adopted and approved as provided in RCW
26 25.10.810.

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

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

33 (1) The plan of merger;

34 (2) If the approval of any members, partners, or shareholders of
35 one or more limited liability companies, limited partnerships, or
36 corporations party to the merger was not required, a statement to that
37 effect; or

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

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

9 (a) Every other limited liability company, limited partnership, or
10 corporation that is party to the merger merges into the surviving
11 limited liability company, limited partnership, or corporation and the
12 separate existence of every limited liability company, limited
13 partnership, or corporation except the surviving limited liability
14 company, limited partnership, or corporation ceases;

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

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

22 (d) A proceeding pending against any limited liability company,
23 limited partnership, or corporation that is party to the merger may be
24 continued as if the merger did not occur or the surviving limited
25 liability company, limited partnership, or corporation may be
26 substituted in the proceeding for the limited liability company,
27 limited partnership, or corporation whose existence ceased;

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

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

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

34 (h) The former members of every limited liability company party to
35 the merger, holders of the partnership interests of every domestic
36 limited partnership that is party to the merger, and the former holders
37 of the shares of every domestic corporation that is party to the merger
38 are entitled only to the rights provided in the plan of merger, or to

1 their rights under this article, to their rights under RCW 25.10.900
2 through 25.10.955, or to their rights under chapter 23B.13 RCW.

3 (2) Unless otherwise agreed, a merger of a domestic limited
4 liability company, including a domestic limited liability company which
5 is not the surviving entity in the merger, shall not require the
6 domestic limited liability company to wind up its affairs under section
7 806 of this act or pay its liabilities and distribute its assets under
8 section 807 of this act.

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

14 NEW SECTION. Sec. 1105. MERGER--FOREIGN AND DOMESTIC. (1) One or
15 more foreign limited liability companies, one or more foreign limited
16 partnerships, and one or more foreign corporations may merge with one
17 or more domestic limited liability companies, domestic limited
18 partnerships, or domestic corporations if:

19 (a) The merger is permitted by the law of the jurisdiction under
20 which each foreign limited liability company was formed, each foreign
21 limited partnership was organized, and each foreign corporation was
22 incorporated, and each foreign limited liability company, foreign
23 limited partnership, and foreign corporation complies with that law in
24 effecting the merger;

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

26 (c) Each domestic limited liability company complies with section
27 1102 of this act;

28 (d) Each domestic limited partnership complies with RCW 25.10.810;
29 and

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

31 (2) Upon the merger taking effect, a surviving foreign limited
32 liability company, limited partnership, or corporation is deemed to
33 appoint the secretary of state as its agent for service of process in
34 a proceeding to enforce any obligation or the rights of dissenting
35 partners or shareholders of each domestic limited liability company,
36 domestic limited partnership, or domestic corporation party to the
37 merger.

1 **ARTICLE XII. DISSENTERS' RIGHTS**

2 NEW SECTION. **Sec. 1201.** DEFINITIONS. As used in this article,
3 unless the context otherwise requires:

4 (1) "Limited liability company" means the domestic limited
5 liability company in which the dissenter holds or held a membership
6 interest, or the surviving limited liability company, limited
7 partnership, or corporation by merger, whether foreign or domestic, of
8 that limited liability company.

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

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

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

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

22 (1) Except as provided in section 1204 or 1206(2) of this act, a member
23 of a domestic limited liability company is entitled to dissent from,
24 and obtain payment of, the fair value of the member's interest in a
25 limited liability company in the event of consummation of a plan of
26 merger to which the limited liability company is a party as permitted
27 by section 1101 or 1105 of this act.

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

35 (3) The right of a dissenting member in a limited liability company
36 to obtain payment of the fair value of the member's interest in the

1 limited liability company shall terminate upon the occurrence of any
2 one of the following events:

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

4 (b) A court having jurisdiction permanently enjoins or sets aside
5 the merger; or

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

8 NEW SECTION. **Sec. 1203.** DISSENTERS' RIGHTS--NOTICE--TIMING. (1)

9 Not less than ten days prior to the approval of a plan of merger, the
10 limited liability company must send a written notice to all members who
11 are entitled to vote on or approve the plan of merger that they may be
12 entitled to assert dissenters' rights under this article. Such notice
13 shall be accompanied by a copy of this article.

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

18 NEW SECTION. **Sec. 1204.** MEMBER--DISSENT--VOTING RESTRICTION. A

19 member of a limited liability company who is entitled to vote on or
20 approve the plan of merger and who wishes to assert dissenters' rights
21 must not vote in favor of or approve the plan of merger. A member who
22 does not satisfy the requirements of this section is not entitled to
23 payment for the member's interest in the limited liability company
24 under this article.

25 NEW SECTION. **Sec. 1205.** MEMBERS--DISSENTERS' NOTICE--

26 REQUIREMENTS. (1) If the plan of merger is approved, the limited
27 liability company shall deliver a written dissenters' notice to all
28 members who satisfied the requirements of section 1204 of this act.

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

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

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

- 1 (c) Supply a form for demanding payment;
- 2 (d) Set a date by which the limited liability company must receive
- 3 the payment demand, which date may not be fewer than thirty nor more
- 4 than sixty days after the date the notice under this section is
- 5 delivered; and
- 6 (e) Be accompanied by a copy of this article.

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

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

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

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

27 (2) The payment must be accompanied by:

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

30 (b) An explanation of how the limited liability company estimated
31 the fair value of the member's interest in the limited liability
32 company;

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

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

35 (e) A copy of this article.

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

6 (2) If, after releasing transfer restrictions, the proposed merger
7 becomes effective, the limited liability company must send a new
8 dissenters' notice as provided in sections 1203(2) and 1205 of this act
9 and repeat the payment demand procedure.

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

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

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

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

25 (2) A dissenter waives the right to demand payment under this
26 section unless the dissenter notifies the limited liability company of
27 the dissenter's demand in writing under subsection (1) of this section
28 within thirty days after the limited liability company made payment for
29 the dissenter's interest in the limited liability company.

30 NEW SECTION. **Sec. 1211.** UNSETTLED DEMAND FOR PAYMENT--
31 PROCEEDING--PARTIES--APPRAISERS. (1) If a demand for payment under
32 section 1206 of this act remains unsettled, the limited liability
33 company shall commence a proceeding within sixty days after receiving
34 the payment demand and petition the court to determine the fair value
35 of the dissenting member's interest in the limited liability company,
36 and accrued interest. If the limited liability company does not

1 commence the proceeding within the sixty-day period, it shall pay each
2 dissenter whose demand remains unsettled the amount demanded.

3 (2) The limited liability company shall commence the proceeding in
4 the superior court. If the limited liability company is a domestic
5 limited liability company, it shall commence the proceeding in the
6 county where its registered office is maintained.

7 (3) The limited liability company shall make all dissenters
8 (whether or not residents of this state) whose demands remain unsettled
9 parties to the proceeding as in an action against their membership
10 interests in the limited liability company and all parties must be
11 served with a copy of the petition. Nonresidents may be served by
12 registered or certified mail or by publication as provided by law.

13 (4) The limited liability company may join as a party to the
14 proceeding any member who claims to be a dissenter but who has not, in
15 the opinion of the limited liability company, complied with the
16 provisions of this article. If the court determines that such member
17 has not complied with the provisions of this article, the member shall
18 be dismissed as a party.

19 (5) The jurisdiction of the court in which the proceeding is
20 commenced is plenary and exclusive. The court may appoint one or more
21 persons as appraisers to receive evidence and recommend decisions on
22 the question of fair value. The appraisers have the powers described
23 in the order appointing them or in any amendment to it. The dissenters
24 are entitled to the same discovery rights as parties in other civil
25 proceedings.

26 (6) Each dissenter made a party to the proceeding is entitled to
27 judgment for the amount, if any, by which the court finds the fair
28 value of the dissenter's membership interest in the limited liability
29 company, plus interest, exceeds the amount paid by the limited
30 liability company.

31 NEW SECTION. Sec. 1212. UNSETTLED DEMAND FOR PAYMENT--COSTS--FEES
32 AND EXPENSES OF COUNSEL. (1) The court in a proceeding commenced under
33 section 1211 of this act shall determine all costs of the proceeding,
34 including the reasonable compensation and expenses of appraisers
35 appointed by the court. The court shall assess the costs against the
36 limited liability company, except that the court may assess the costs
37 against all or some of the dissenters, in amounts the court finds

1 equitable, to the extent the court finds the dissenters acted
2 arbitrarily, vexatiously, or not in good faith in demanding payment.

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

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

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

14 (3) If the court finds that the services of counsel for any
15 dissenter were of substantial benefit to other dissenters similarly
16 situated, and that the fees for those services should not be assessed
17 against the limited liability company, the court may award to these
18 counsel reasonable fees to be paid out of the amounts awarded to the
19 dissenters who were benefited.

20 **ARTICLE XIII. MISCELLANEOUS**

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

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

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

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

1 (a) Filing of a certificate of formation for a domestic limited
2 liability company or an application for registration of a foreign
3 limited liability company;

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

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

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

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

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

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

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

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

24 NEW SECTION. **Sec. 1304.** EFFECTIVE DATE. This act shall take
25 effect on July 1, 1993.

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

28 NEW SECTION. **Sec. 1306.** SEVERABILITY. If any provision of this
29 act or its application to any person or circumstance is held invalid,
30 the remainder of the act or the application of the provision to other
31 persons or circumstances is not affected.

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

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