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HOUSE BILL 2322

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State of Washington

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By Representatives Esser, Lantz, Constantine, Carlson and Hurst

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Committee on Judiciary.

1 AN ACT Relating to partnerships and limited liability companies;  
2 amending RCW 25.15.005, 25.15.130, 25.15.270, 25.10.080, 25.10.220,  
3 25.10.230, 25.10.440, 25.10.660, 25.05.050, and 25.05.225; and adding  
4 a new section to chapter 25.15 RCW.

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

6 **Sec. 1.** RCW 25.15.005 and 1995 c 337 s 13 are each amended to read  
7 as follows:

8 As used in this chapter, unless the context otherwise requires:

9 (1) "Certificate of formation" means the certificate referred to in  
10 RCW 25.15.070, and the certificate as amended.

11 (2) "Event of dissociation" means an event that causes a person to  
12 cease to be a member as provided in RCW 25.15.130.

13 (3) "Foreign limited liability company" means an entity that is  
14 formed under:

15 (a) The limited liability company laws of any state other than this  
16 state; or

17 (b) The laws of any foreign country that is: ~~((A){(i)})~~ (i) An  
18 unincorporated association, ~~((B){(ii)})~~ (ii) formed under a statute  
19 pursuant to which an association may be formed that affords to each of

1 its members limited liability with respect to the liabilities of the  
2 entity, and ~~((C))~~ ~~((iii))~~ (iii) not required, in order to transact  
3 business or conduct affairs in this state, to be registered or  
4 qualified under Title 23B or 24 RCW, or any other chapter of the  
5 Revised Code of Washington authorizing the formation of a domestic  
6 entity and the registration or qualification in this state of similar  
7 entities formed under the laws of a jurisdiction other than this state.

8 (4) "Limited liability company" and "domestic limited liability  
9 company" means a limited liability company having one or more members  
10 that is organized and existing under this chapter.

11 (5) "Limited liability company agreement" means any written  
12 agreement of the members, or any written statement of the sole member,  
13 as to the affairs of a limited liability company and the conduct of its  
14 business which is binding upon ~~((all of))~~ the member or members.

15 (6) "Limited liability company interest" means a member's share of  
16 the profits and losses of a limited liability company and a member's  
17 right to receive distributions of the limited liability company's  
18 assets.

19 (7) "Manager" or "managers" means, with respect to a limited  
20 liability company that has set forth in its certificate of formation  
21 that it is to be managed by managers, the person, or persons designated  
22 in accordance with RCW 25.15.150(2).

23 (8) "Member" means a person who has been admitted to a limited  
24 liability company as a member as provided in RCW 25.15.115 and who has  
25 not been dissociated from the limited liability company.

26 (9) "Person" means a natural person, partnership (whether general  
27 or limited and whether domestic or foreign), limited liability company,  
28 foreign limited liability company, trust, estate, association,  
29 corporation, custodian, nominee, or any other individual or entity in  
30 its own or any representative capacity.

31 (10) "Professional limited liability company" means a limited  
32 liability company which is organized for the purpose of rendering  
33 professional service and whose certificate of formation sets forth that  
34 it is a professional limited liability company subject to RCW  
35 25.15.045.

36 (11) "Professional service" means the same as defined under RCW  
37 18.100.030.

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

4 **Sec. 2.** RCW 25.15.130 and 1995 c 337 s 17 are each amended to read  
5 as follows:

6 (1) A person ceases to be a member of a limited liability company,  
7 and the person or its successor in interest attains the status of an  
8 assignee as set forth in RCW 25.15.250(2), upon the occurrence of one  
9 or more of the following events:

10 (a) The member dies or withdraws by voluntary act from the limited  
11 liability company as provided in subsection (3) of this section;

12 (b) The member ceases to be a member as provided in RCW  
13 25.15.250(2)(b) following an assignment of all the member's limited  
14 liability company interest;

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

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

31 (e) Unless otherwise provided in the limited liability company  
32 agreement, or with the consent of all other members at the time, one  
33 hundred twenty days after the commencement of any proceeding against  
34 the member seeking reorganization, arrangement, composition,  
35 readjustment, liquidation, dissolution, or similar relief under any  
36 statute, law, or regulation, the proceeding has not been dismissed, or  
37 if within ninety days after the appointment without his or her consent  
38 or acquiescence of a trustee, receiver, or liquidator of the member or

1 of all or any substantial part of the member's properties, the  
2 appointment is not vacated or stayed, or within ninety days after the  
3 expiration of any stay, the appointment is not vacated;

4 (f) Unless otherwise provided in the limited liability company  
5 agreement, or with written consent of all other members at the time, in  
6 the case of a member who is an individual, the entry of an order by a  
7 court of competent jurisdiction adjudicating the member incapacitated,  
8 as used and defined under chapter 11.88 RCW, as to his or her estate;

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

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

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

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

27 (3) A member may withdraw from a limited liability company at the  
28 time or upon the happening of events specified in and in accordance  
29 with the limited liability company agreement. If the limited liability  
30 company agreement does not specify the time or the events upon the  
31 happening of which a member may withdraw, a member may not withdraw  
32 prior to the time for the dissolution and commencement of winding up of  
33 the limited liability company, without the written consent of all other  
34 members at the time.

35 NEW SECTION. **Sec. 3.** A new section is added to chapter 25.15 RCW  
36 under the subchapter heading "Article IV" to read as follows:

37 In the event of the death, resignation, or removal of the sole  
38 remaining manager, or if one of the events described in RCW

1 25.15.130(1) (d) through (i) occurs with regard to the sole remaining  
2 manager, and unless the limited liability company agreement provides  
3 otherwise, the limited liability company shall become member-managed  
4 unless one or more managers are appointed by majority vote of the  
5 members within ninety days after the occurrence of such an event.

6 **Sec. 4.** RCW 25.15.270 and 1997 c 21 s 1 are each amended to read  
7 as follows:

8 A limited liability company is dissolved and its affairs shall be  
9 wound up upon the first to occur of the following:

10 (1) ~~The dissolution date, if any, specified in ((a limited~~  
11 ~~liability company agreement. If a date is not specified in the~~  
12 ~~agreement or the agreement does not specify perpetual existence, then~~  
13 ~~the dissolution date is thirty years after the date of formation)) the~~  
14 ~~certificate of formation. If a dissolution date is not specified in~~  
15 ~~the certificate of formation, the limited liability company's existence~~  
16 ~~will continue until the first to occur of the events described in~~  
17 ~~subsections (2) through (6) of this section. If a dissolution date is~~  
18 ~~specified in the ((agreement, it is renewable by consent)) certificate~~  
19 ~~of formation, the certificate of formation may be amended and the~~  
20 ~~existence of the limited liability company may be extended by vote of~~  
21 ~~all the members;~~

22 (2) The happening of events specified in a limited liability  
23 company agreement;

24 (3) The written consent of all members;

25 (4) Unless the limited liability company agreement provides  
26 otherwise, ninety days following an event of dissociation of ((a)) the  
27 last remaining member, unless ((the business of the limited liability  
28 company is continued either by the consent of all the remaining members  
29 within ninety days following the occurrence of any such event or  
30 pursuant to a right to continue stated in the limited liability company  
31 agreement)) those having the rights of assignees in the limited  
32 liability company under RCW 25.15.130(1) have not, by the ninetieth  
33 day, voted to admit one or more members, voting as though they were  
34 members, and in the manner set forth in RCW 25.15.120(1);

35 (5) The entry of a decree of judicial dissolution under RCW  
36 25.15.275; or

1 (6) The expiration of two years after the effective date of  
2 dissolution under RCW 25.15.285 without the reinstatement of the  
3 limited liability company.

4 **Sec. 5.** RCW 25.10.080 and 1987 c 55 s 5 are each amended to read  
5 as follows:

6 (1) In order to form a limited partnership a certificate of limited  
7 partnership must be executed and duplicate originals filed in the  
8 office of the secretary of state. The certificate shall set forth:

9 (a) The name of the limited partnership;

10 (b) The address of the office for records and the name and address  
11 of the agent for service of process appointed pursuant to RCW  
12 25.10.040;

13 (c) The name and the geographical and mailing addresses of each  
14 general partner;

15 (d) If the limited partnership is to have a specific date of  
16 dissolution, the latest date upon which the limited partnership is to  
17 dissolve; and

18 (e) Any other matters the general partners determine to include  
19 therein.

20 (2) A limited partnership is formed at the time of the filing of  
21 the certificate of limited partnership in the office of the secretary  
22 of state or at any later time specified in the certificate of limited  
23 partnership if, in either case, there has been substantial compliance  
24 with the requirements of this section.

25 **Sec. 6.** RCW 25.10.220 and 1981 c 51 s 22 are each amended to read  
26 as follows:

27 Unless otherwise provided in the partnership agreement, after the  
28 filing of a limited partnership's original certificate of limited  
29 partnership, additional general partners may be admitted only with the  
30 specific written consent of each general partner, if any, and limited  
31 partners representing at least two-thirds of the agreed value, as  
32 stated in the records of the partnership required to be kept under RCW  
33 25.10.050, of contributions made, or required to be made, by all  
34 limited partners.

35 **Sec. 7.** RCW 25.10.230 and 1987 c 55 s 18 are each amended to read  
36 as follows:

1 Except as approved by the specific written consent of all partners  
2 at the time, a person ceases to be a general partner of a limited  
3 partnership, and the person or its successor in interest attains the  
4 status of an assignee as set forth in RCW 25.10.400(1), upon the  
5 happening of any of the following events:

6 (1) The general partner withdraws from the limited partnership as  
7 provided in RCW 25.10.320;

8 (2) The general partner ceases to be a member of the limited  
9 partnership as provided in RCW 25.10.400;

10 (3) The general partner is removed as a general partner in  
11 accordance with the partnership agreement;

12 (4) Unless otherwise provided in writing in the partnership  
13 agreement, the general partner:

14 (a) Makes an assignment for the benefit of creditors;

15 (b) Files a voluntary petition in bankruptcy;

16 (c) Is adjudicated a bankrupt or insolvent;

17 (d) Files a petition or answer seeking for himself or herself any  
18 reorganization, arrangement, composition, readjustment, liquidation,  
19 dissolution, or similar relief under any statute, law, or regulation;

20 (e) Files an answer or other pleading admitting or failing to  
21 contest the material allegations of a petition filed against him or her  
22 in any proceeding of this nature; or

23 (f) Seeks, consents to, or acquiesces in the appointment of a  
24 trustee, receiver, or liquidator of the general partner or of all or  
25 any substantial part of his or her properties;

26 (5) Unless otherwise provided in the certificate of limited  
27 partnership, ninety days after the commencement of any proceeding  
28 against the general partner seeking reorganization, arrangement,  
29 composition, readjustment, liquidation, dissolution, or similar relief  
30 under any statute, law, or regulation, the proceeding has not been  
31 dismissed, or if within sixty days after the appointment without the  
32 general partner's consent or acquiescence of a trustee, receiver, or  
33 liquidator of the general partner of all or any substantial part of his  
34 or her properties, the appointment is not vacated or stayed, or within  
35 sixty days after the expiration of any such stay, the appointment is  
36 not vacated;

37 (6) In the case of a general partner who is a natural person:

38 (a) His or her death; or

1 (b) The entry by a court of competent jurisdiction adjudicating the  
2 general partner incompetent to manage his or her person or estate;

3 (7) In the case of a general partner who is acting as a general  
4 partner by virtue of being a trustee of a trust, the termination of the  
5 trust (but not merely the substitution of a new trustee);

6 (8) In the case of a general partner that is a separate  
7 partnership, the dissolution and commencement of winding up of the  
8 separate partnership;

9 (9) In the case of a general partner that is a corporation, the  
10 filing of a certificate of dissolution, or its equivalent, for the  
11 corporation or the revocation of its charter; or

12 (10) In the case of an estate, the distribution by the fiduciary of  
13 the estate's entire interest in the partnership.

14 **Sec. 8.** RCW 25.10.440 and 1996 c 76 s 3 are each amended to read  
15 as follows:

16 A limited partnership is dissolved and its affairs shall be wound  
17 up upon the happening of the first to occur of the following:

18 (1) ~~((At))~~ The dissolution date, if any, specified in the  
19 certificate of limited partnership ((as amended from time to time, or  
20 if no date is specified, at a date which is thirty years after the  
21 effective date of filing the original certificate of limited  
22 partnership)). If a dissolution date is not specified in the  
23 certificate of limited partnership, the limited partnership's existence  
24 shall continue until the first to occur of the events described in  
25 subsections (2) through (6) of this section. If a dissolution date is  
26 specified in the certificate of limited partnership and unless the  
27 limited partnership agreement provides otherwise, the certificate of  
28 limited partnership may be amended and the existence of the limited  
29 partnership may be extended by the vote of all the partners;

30 (2) Upon the happening of events specified in the partnership  
31 agreement;

32 (3) Written consent of all partners;

33 (4) ~~((An event of withdrawal of a general partner unless at the~~  
34 ~~time there is at least one other general partner and the partnership~~  
35 ~~agreement permits the business of the limited partnership to be carried~~  
36 ~~on by the remaining general partner and that partner does so, but the~~  
37 ~~limited partnership is not dissolved and is not required to be wound up~~  
38 ~~by reason of any event of withdrawal if, within ninety days after the~~



1 ~~withdrawal, all partners agree in writing to continue the business of~~  
2 ~~the limited partnership and to the appointment of one or more~~  
3 ~~additional general partners if necessary or desired))~~ Unless the  
4 limited partnership agreement provides otherwise, ninety days  
5 following:

6 (a) The withdrawal of, or the assignment of the interest of, the  
7 last remaining limited partner if by the ninetieth day a majority of  
8 the number of general partners have failed to vote to admit one or more  
9 limited partners; or

10 (b) An event of withdrawal with respect to the last remaining  
11 general partner if by the ninetieth day the limited partners have  
12 failed to vote to admit one or more general partners. For the purposes  
13 of this subsection (4)(b) and unless the limited partnership agreement  
14 provides otherwise, the vote of the limited partners shall be the vote  
15 of limited partners representing two-thirds of the total agreed value,  
16 as stated in the records of the partnership required to be kept under  
17 RCW 25.10.050, of contributions made, or required to be made, by all  
18 limited partners;

19 (5) Entry of a decree of judicial dissolution under RCW 25.10.450;  
20 or

21 (6) Administrative dissolution under RCW 25.10.455.

22 **Sec. 9.** RCW 25.10.660 and 1981 c 51 s 66 are each amended to read  
23 as follows:

24 In any case not provided for in this chapter, the provisions of the  
25 Washington revised uniform partnership act, or its successor statute,  
26 govern.

27 **Sec. 10.** RCW 25.05.050 and 1998 c 103 s 201 are each amended to  
28 read as follows:

29 (1) A partnership is an entity distinct from its partners.

30 (2) A limited liability partnership continues to be the same entity  
31 that existed before the filing of (~~a statement of qualification under~~  
32 ~~RCW 25.05.420~~) an application under RCW 25.05.500(2).

33 **Sec. 11.** RCW 25.05.225 and 1998 c 103 s 601 are each amended to  
34 read as follows:

35 A partner is dissociated from a partnership upon the occurrence of  
36 any of the following events:

1 (1) The partnership's having notice of the partner's express will  
2 to withdraw as a partner or on a later date specified by the partner;  
3 (2) An event agreed to in the partnership agreement as causing the  
4 partner's dissociation;  
5 (3) The partner's expulsion pursuant to the partnership agreement;  
6 (4) The partner's expulsion by the unanimous vote of the other  
7 partners if:  
8 (a) It is unlawful to carry on the partnership business with that  
9 partner;  
10 (b) There has been a transfer of all or substantially all of that  
11 partner's transferable interest in the partnership, other than a  
12 transfer for security purposes or a court order charging the partner's  
13 interest which, in either case, has not been foreclosed;  
14 (c) Within ninety days after the partnership notifies a corporate  
15 partner that it will be expelled because it has filed articles of  
16 dissolution, it has been administratively or judicially dissolved, or  
17 its right to conduct business has been suspended by the jurisdiction of  
18 its incorporation, and there is no revocation of the articles of  
19 dissolution, no reinstatement following its administrative dissolution,  
20 or reinstatement of its right to conduct business by the jurisdiction  
21 of its incorporation, as applicable; or  
22 (d) A partnership or limited liability company that is a partner  
23 has been dissolved and its business is being wound up;  
24 (5) On application by the partnership or another partner, the  
25 partner's expulsion by judicial determination because:  
26 (a) The partner engaged in wrongful conduct that adversely and  
27 materially affected the partnership business;  
28 (b) The partner willfully or persistently committed a material  
29 breach of the partnership agreement or of a duty owed to the  
30 partnership or the other partners under RCW 25.05.165; or  
31 (c) The partner engaged in conduct relating to the partnership  
32 business which makes it not reasonably practicable to carry on the  
33 business in partnership with the partner;  
34 (6) The partner's:  
35 (a) Becoming a debtor in bankruptcy;  
36 (b) Executing an assignment for the benefit of creditors;  
37 (c) Seeking, consenting to, or acquiescing in the appointment of a  
38 trustee, receiver, or liquidator of that partner or of all or  
39 substantially all of that partner's property; or

1 (d) Failing, within ninety days after the appointment, to have  
2 vacated or stayed the appointment of a trustee, receiver, or liquidator  
3 of the partner or of all or substantially all of the partner's property  
4 obtained without the partner's consent or acquiescence, or failing  
5 within ninety days after the expiration of a stay to have the  
6 appointment vacated;

7 (7) In the case of a partner who is an individual:

8 (a) The partner's death;

9 (b) The appointment of a guardian or general conservator for the  
10 partner; or

11 (c) A judicial determination that the partner has otherwise become  
12 incapable of performing the partner's duties under the partnership  
13 agreement;

14 (8) In the case of a partner that is a trust or is acting as a  
15 partner by virtue of being a trustee of a trust, distribution of the  
16 trust's entire transferable interest in the partnership, but not merely  
17 by reason of the substitution of a successor trustee;

18 (9) In the case of a partner that is an estate or is acting as a  
19 partner by virtue of being a personal representative of an estate,  
20 distribution of the estate's entire transferable interest in the  
21 partnership, but not merely by reason of the substitution of a  
22 successor personal representative; or

23 (10) Termination of a partner who is not an individual,  
24 partnership, corporation, limited liability company, trust, or estate.

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