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HOUSE BILL 2299

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State of Washington

57th Legislature

2002 Regular Session

By Representatives Esser, Lantz and Benson

Read first time 01/14/2002. Referred to Committee on Judiciary.

1 AN ACT Relating to defining person under the business corporation  
2 act, uniform limited partnership act, and limited liability company  
3 act; and amending RCW 23B.01.400, 25.10.010, and 25.15.005.

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

5 **Sec. 1.** RCW 23B.01.400 and 2000 c 168 s 1 are each amended to read  
6 as follows:

7 Unless the context clearly requires otherwise, the definitions in  
8 this section apply throughout this title.

9 (1) "Articles of incorporation" include amended and restated  
10 articles of incorporation and articles of merger.

11 (2) "Authorized shares" means the shares of all classes a domestic  
12 or foreign corporation is authorized to issue.

13 (3) "Conspicuous" means so written that a reasonable person against  
14 whom the writing is to operate should have noticed it. For example,  
15 printing in italics or boldface or contrasting color, or typing in  
16 capitals or underlined, is conspicuous.

17 (4) "Corporation" or "domestic corporation" means a corporation for  
18 profit, which is not a foreign corporation, incorporated under or  
19 subject to the provisions of this title.

1 (5) "Deliver" includes (a) mailing and (b) for purposes of  
2 delivering a demand, consent, or waiver to the corporation or one of  
3 its officers, transmission by facsimile equipment.

4 (6) "Distribution" means a direct or indirect transfer of money or  
5 other property, except its own shares, or incurrence of indebtedness by  
6 a corporation to or for the benefit of its shareholders in respect to  
7 any of its shares. A distribution may be in the form of a declaration  
8 or payment of a dividend; a distribution in partial or complete  
9 liquidation, or upon voluntary or involuntary dissolution; a purchase,  
10 redemption, or other acquisition of shares; a distribution of  
11 indebtedness; or otherwise.

12 (7) "Effective date of notice" has the meaning provided in RCW  
13 23B.01.410.

14 (8) "Electronic transmission" or "electronically transmitted" means  
15 any process of electronic communication not directly involving the  
16 physical transfer of paper that is suitable for the retention,  
17 retrieval, and reproduction of the transmitted information by the  
18 recipient.

19 (9) "Employee" includes an officer but not a director. A director  
20 may accept duties that make the director also an employee.

21 (10) "Entity" includes a corporation and foreign corporation, not-  
22 for-profit corporation, profit and not-for-profit unincorporated  
23 association, business trust, estate, partnership, trust, and two or  
24 more persons having a joint or common economic interest, and the state,  
25 United States, and a foreign government.

26 (11) "Foreign corporation" means a corporation for profit  
27 incorporated under a law other than the law of this state.

28 (12) "Foreign limited partnership" means a partnership formed under  
29 laws other than of this state and having as partners one or more  
30 general partners and one or more limited partners.

31 (13) "Governmental subdivision" includes authority, county,  
32 district, and municipality.

33 (14) "Includes" denotes a partial definition.

34 (15) "Individual" includes the estate of an incompetent or deceased  
35 individual.

36 (16) "Limited partnership" or "domestic limited partnership" means  
37 a partnership formed by two or more persons under the laws of this  
38 state and having one or more general partners and one or more limited  
39 partners.

1 (17) "Means" denotes an exhaustive definition.

2 (18) "Notice" has the meaning provided in RCW 23B.01.410.

3 (19) "Person" (~~((includes an individual and an entity))~~) means an  
4 individual, corporation, business trust, estate, trust, partnership,  
5 limited liability company, association, joint venture, government,  
6 governmental subdivision, agency, or instrumentality, or any other  
7 legal or commercial entity.

8 (20) "Principal office" means the office, in or out of this state,  
9 so designated in the annual report where the principal executive  
10 offices of a domestic or foreign corporation are located.

11 (21) "Proceeding" includes civil suit and criminal, administrative,  
12 and investigatory action.

13 (22) "Public company" means a corporation that has a class of  
14 shares registered with the federal securities and exchange commission  
15 pursuant to section 12 or 15 of the securities exchange act of 1934, or  
16 section 8 of the investment company act of 1940, or any successor  
17 statute.

18 (23) "Record date" means the date established under chapter 23B.07  
19 RCW on which a corporation determines the identity of its shareholders  
20 and their shareholdings for purposes of this title. The determinations  
21 shall be made as of the close of business on the record date unless  
22 another time for doing so is specified when the record date is fixed.

23 (24) "Secretary" means the corporate officer to whom the board of  
24 directors has delegated responsibility under RCW 23B.08.400(3) for  
25 custody of the minutes of the meetings of the board of directors and of  
26 the shareholders and for authenticating records of the corporation.

27 (25) "Shares" means the units into which the proprietary interests  
28 in a corporation are divided.

29 (26) "Shareholder" means the person in whose name shares are  
30 registered in the records of a corporation or the beneficial owner of  
31 shares to the extent of the rights granted by a nominee certificate on  
32 file with a corporation.

33 (27) "State," when referring to a part of the United States,  
34 includes a state and commonwealth, and their agencies and governmental  
35 subdivisions, and a territory and insular possession, and their  
36 agencies and governmental subdivisions, of the United States.

37 (28) "Subscriber" means a person who subscribes for shares in a  
38 corporation, whether before or after incorporation.

1 (29) "United States" includes a district, authority, bureau,  
2 commission, department, and any other agency of the United States.

3 (30) "Voting group" means all shares of one or more classes or  
4 series that under the articles of incorporation or this title are  
5 entitled to vote and be counted together collectively on a matter at a  
6 meeting of shareholders. All shares entitled by the articles of  
7 incorporation or this title to vote generally on the matter are for  
8 that purpose a single voting group.

9 **Sec. 2.** RCW 25.10.010 and 1987 c 55 s 1 are each amended to read  
10 as follows:

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

12 (1) "Certificate of limited partnership" means the certificate  
13 referred to in RCW 25.10.080, and the certificate as amended or  
14 restated.

15 (2) "Contribution" means any cash, property, services rendered, or  
16 a promissory note or other binding obligation to contribute cash or  
17 property or to perform services, which a partner contributes to a  
18 limited partnership in his capacity as a partner.

19 (3) "Event of withdrawal of a general partner" means an event that  
20 causes a person to cease to be a general partner as provided in RCW  
21 25.10.230.

22 (4) "Foreign limited partnership" means a partnership formed under  
23 laws other than the laws of this state and having as partners one or  
24 more general partners and one or more limited partners.

25 (5) "General partner" means a person who has been admitted to a  
26 limited partnership as a general partner in accordance with the  
27 partnership agreement and named in the certificate of limited  
28 partnership as a general partner.

29 (6) "Limited partner" means a person who has been admitted to a  
30 limited partnership as a limited partner in accordance with the  
31 partnership agreement.

32 (7) "Limited partnership" and "domestic limited partnership" means  
33 a partnership formed by two or more persons under the laws of this  
34 state and having one or more general partners and one or more limited  
35 partners.

36 (8) "Partner" means a limited or general partner.

1 (9) "Partnership agreement" means any valid agreement, written or  
2 oral, of the partners as to the affairs of a limited partnership and  
3 the conduct of its business.

4 (10) "Partnership interest" means a partner's share of the profits  
5 and losses of a limited partnership and the right to receive  
6 distributions of partnership assets.

7 (11) "Person" means ~~((a natural person, partnership, limited  
8 partnership (domestic or foreign), trust, estate, association, or  
9 corporation))~~ an individual, corporation, business trust, estate,  
10 trust, partnership, limited liability company, association, joint  
11 venture, government, governmental subdivision, agency, or  
12 instrumentality, or any other legal or commercial entity.

13 (12) "State" means a state, territory, or possession of the United  
14 States, the District of Columbia, or the Commonwealth of Puerto Rico.

15 (13) "Conforms to law" as used in connection with duties of the  
16 secretary of state in reviewing documents for filing under this  
17 chapter, means the secretary of state has determined the document  
18 complies as to form with the applicable requirements of this chapter.

19 (14) "Effective date" means, in connection with a document filing  
20 made by the secretary of state, the date which is shown by affixing a  
21 "filed" stamp on the documents. When a document is received for filing  
22 by the secretary of state in a form which complies with the  
23 requirements of this chapter and which would entitle the document to be  
24 filed immediately upon receipt, but the secretary of state's approval  
25 action occurs subsequent to the date of receipt, the secretary of  
26 state's filing date shall relate back to the date on which the  
27 secretary of state first received the document in acceptable form. An  
28 applicant may request a specific effective date no more than thirty  
29 days later than the receipt date which might otherwise be applied as  
30 the effective date.

31 **Sec. 3.** RCW 25.15.005 and 2000 c 169 s 1 are each amended to read  
32 as follows:

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

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

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

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

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

5 (b) The laws of any foreign country that is: (i) An unincorporated  
6 association, (ii) formed under a statute pursuant to which an  
7 association may be formed that affords to each of its members limited  
8 liability with respect to the liabilities of the entity, and (iii) not  
9 required, in order to transact business or conduct affairs in this  
10 state, to be registered or qualified under Title 23B or 24 RCW, or any  
11 other chapter of the Revised Code of Washington authorizing the  
12 formation of a domestic entity and the registration or qualification in  
13 this state of similar entities formed under the laws of a jurisdiction  
14 other than this state.

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

18 (5) "Limited liability company agreement" means any written  
19 agreement of the members, or any written statement of the sole member,  
20 as to the affairs of a limited liability company and the conduct of its  
21 business which is binding upon the member or members.

22 (6) "Limited liability company interest" means a member's share of  
23 the profits and losses of a limited liability company and a member's  
24 right to receive distributions of the limited liability company's  
25 assets.

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

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

33 (9) "Person" means (~~(a natural person, partnership (whether general~~  
34 ~~or limited and whether domestic or foreign), limited liability company,~~  
35 ~~foreign limited liability company, trust, estate, association,~~  
36 ~~corporation, custodian, nominee, or any other individual or entity in~~  
37 ~~its own or any representative capacity)) an individual, corporation,~~  
38 ~~business trust, estate, trust, partnership, limited liability company,~~

1 association, joint venture, government, governmental subdivision,  
2 agency, or instrumentality, or any other legal or commercial entity.

3 (10) "Professional limited liability company" means a limited  
4 liability company which is organized for the purpose of rendering  
5 professional service and whose certificate of formation sets forth that  
6 it is a professional limited liability company subject to RCW  
7 25.15.045.

8 (11) "Professional service" means the same as defined under RCW  
9 18.100.030.

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

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