

SENATE BILL No. 1418

September 18, 2002, Introduced by Senator BULLARD and referred to the Committee on Financial Services.

A bill to amend 1993 PA 23, entitled "Michigan limited liability company act," by amending sections 102, 103, 104, 105, 106, 202, 203, 204, 207, 210, 214, 301, 303, 304, 307, 403, 405, 406, 501, 502, 503, 504, 506, 515, 603, 705a, 801, 804, 909, 1005, and 1101 (MCL 450.4102, 450.4103, 450.4104, 450.4105, 450.4106, 450.4202, 450.4203, 450.4204, 450.4207, 450.4210, 450.4214, 450.4301, 450.4303, 450.4304, 450.4307, 450.4403, 450.4405, 450.4406, 450.4501, 450.4502, 450.4503, 450.4504, 450.4506, 450.4515, 450.4603, 450.4705a, 450.4801, 450.4804, 450.4909, 450.5005, and 450.5101), section 102 as amended by 2000 PA 336 and sections 103, 202, 203, 204, 207, 301, 303, 304, 307, 403, 405, 501, 502, 503, 506, 603, 801, 909, and 1101 as amended and sections 214, 515, and 705a as added by 1997 PA 52, and by adding sections 207a and 215.

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THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Sec. 102. (1) Unless the context requires otherwise, the
2 definitions in this section control the interpretation of this
3 act.

4 (2) As used in this act:

5 (a) "Administrator" means the director of the department ~~of~~
6 ~~consumer and industry services~~ or his or her designated
7 representative.

8 (b) "Articles of organization" means the original documents
9 filed to organize a limited liability company, as amended or
10 restated by certificates of correction, amendment, or merger, by
11 restated articles, or by other instruments filed or issued under
12 any statute.

13 (c) "Constituent" means a party to a plan of merger, includ-
14 ing the survivor.

15 (d) "Contribution" means anything of value that a person
16 contributes to the limited liability company as a prerequisite
17 for, or in connection with, membership, including cash, property,
18 services performed, or a promissory note or other binding obliga-
19 tion to contribute cash or property, or to perform services.

20 (e) "Corporation" or "domestic corporation" means any of the
21 following:

22 (i) A corporation formed under the business corporation act,
23 1972 PA 284, MCL 450.1101 to 450.2098.

24 (ii) A corporation existing on January 1, 1973 and formed
25 under another statute of this state for a purpose for which a

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1 corporation may be formed under the business corporation act,
2 1972 PA 284, MCL 450.1101 to 450.2098.

3 (iii) A corporation formed under the professional service
4 corporation act, 1962 PA 192, MCL 450.221 to 450.235.

5 (F) "DEPARTMENT" MEANS THE DEPARTMENT OF CONSUMER AND INDUS-
6 TRY SERVICES.

7 (G) ~~(f)~~ "Distribution" means a direct or indirect transfer
8 of money or other property or the incurrence of indebtedness by a
9 limited liability company to or for the benefit of its members or
10 assignees of its members in respect of the members' membership
11 interests.

12 (H) "ELECTRONIC TRANSMISSION" OR "ELECTRONICALLY
13 TRANSMITTED" MEANS ANY FORM OF COMMUNICATION THAT MEETS ALL OF
14 THE FOLLOWING:

15 (i) IT DOES NOT DIRECTLY INVOLVE THE PHYSICAL TRANSMISSION
16 OF PAPER.

17 (ii) IT CREATES A RECORD THAT MAY BE RETAINED AND RETRIEVED
18 BY THE RECIPIENT.

19 (iii) IT MAY BE DIRECTLY REPRODUCED IN PAPER FORM BY THE
20 RECIPIENT THROUGH AN AUTOMATED PROCESS.

21 (I) ~~(g)~~ "Foreign limited liability company" means a
22 limited liability company formed under laws other than the laws
23 of this state.

24 (J) ~~(h)~~ "Foreign limited partnership" means a limited
25 partnership formed under laws other than the laws of this state.

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1 (K) ~~(i)~~ "Limited liability company" or "domestic limited
2 liability company" means an entity that is an unincorporated
3 membership organization formed under this act.

4 (l) ~~(j)~~ "Limited partnership" or "domestic limited
5 partnership" means a limited partnership formed under the
6 Michigan revised uniform limited partnership act, 1982 PA 213,
7 MCL 449.1101 to 449.2108.

8 (M) "MAJORITY IN INTEREST" MEANS A MAJORITY OF VOTES AS
9 ALLOCATED BY AN OPERATING AGREEMENT, OR BY THE STATUTE IN THE
10 ABSENCE OF AN ALLOCATION BY OPERATING AGREEMENT, AND HELD BY MEM-
11 BERS ENTITLED TO VOTE ON A MATTER SUBMITTED FOR A VOTE BY
12 MEMBERS.

13 (N) ~~(k)~~ "Manager" or "managers" means a person or persons
14 designated ~~by the members of a limited liability company~~ to
15 manage the limited liability company ~~as provided~~ PURSUANT TO A
16 PROVISION in the articles of organization ~~or in an operating~~
17 ~~agreement.~~ STATING THAT THE BUSINESS IS TO BE MANAGED BY OR
18 UNDER THE AUTHORITY OF MANAGERS.

19 (O) ~~(t)~~ "Member" means a person who has been admitted to a
20 limited liability company as provided in section 501, ~~and who~~
21 ~~has the rights and obligations specified under this act,~~ or, in
22 the case of a foreign limited liability company, a person who is
23 a member of the foreign limited liability company in accordance
24 with the laws under which the foreign limited liability company
25 is organized.

26 (P) ~~(m)~~ "Membership interest" or "interest" means a
27 member's rights in the limited liability company, including, but

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1 not limited to, ~~the~~ ANY right to receive distributions of the
2 limited liability company's assets and any right to vote or par-
3 ticipate in management.

4 (Q) ~~(n)~~ "Operating agreement" means a ~~valid~~ written
5 agreement BY THE MEMBER OF A LIMITED LIABILITY COMPANY THAT HAS 1
6 MEMBER, OR BETWEEN ALL of the members of a limited liability com-
7 pany having more than 1 member, ~~as~~ PERTAINING to the affairs of
8 the limited liability company and the conduct of its business.
9 ~~and~~ THE TERM includes any provision in the articles of organi-
10 zation pertaining to the affairs of the limited liability company
11 and the conduct of its business.

12 (R) ~~(o)~~ "Person" means an individual, partnership, limited
13 liability company, trust, custodian, estate, association, corpo-
14 ration, governmental entity, or any other legal entity.

15 (S) ~~(p)~~ "Services in a learned profession" means services
16 rendered by a dentist, an osteopathic physician, a physician, a
17 surgeon, a doctor of divinity or other clergy, or an
18 attorney-at-law.

19 (T) ~~(q)~~ "Surviving company", "surviving entity", or
20 "survivor" means the constituent ~~surviving~~ THAT SURVIVES a
21 merger, as identified in the certificate of merger.

22 (U) ~~(r)~~ "Vote" means an affirmative vote, approval, or
23 consent.

24 Sec. 103. (1) ~~The original articles of organization shall~~
25 ~~be signed by 1~~ ONE or more persons ~~forming the~~ ORGANIZING A
26 limited liability company SHALL SIGN THE ORIGINAL ARTICLES OF
27 ORGANIZATION AS ORGANIZERS. The ARTICLES SHALL STATE THE names

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1 of the ~~persons signing the document shall be stated~~ ORGANIZERS
2 beneath or opposite their signatures.

3 (2) Any ~~other~~ document OTHER THAN ORIGINAL ARTICLES OF
4 ORGANIZATION required or permitted to be filed under this act
5 that ~~is also required by~~ this act ~~to~~ REQUIRES be executed on
6 behalf of the domestic limited liability company shall be signed
7 by a manager of the company if management is vested in 1 or more
8 managers, ~~or~~ by at least 1 member if management remains in the
9 members, OR BY AN AUTHORIZED AGENT OF THE COMPANY. A document
10 required to be executed on behalf of a foreign limited liability
11 company shall be signed by a person with authority to do so under
12 the laws of the jurisdiction of its organization. The DOCUMENT
13 SHALL STATE THE name of the person signing the document and the
14 capacity in which he or she signs ~~shall be stated~~ beneath or
15 opposite his or her signature.

16 (3) A person executing a document under this section may
17 sign the document by an attorney in fact. Powers of attorney
18 relating to the signing of a document by an attorney in fact need
19 not be sworn to, verified, acknowledged, or filed with the
20 administrator. A DOCUMENT SIGNED BY A PERSON BY AN ATTORNEY IN
21 FACT SHALL STATE THE CAPACITY OF THE PERSON SIGNING THE DOCUMENT
22 BY THE ATTORNEY IN FACT.

23 Sec. 104. (1) A document required or permitted to be filed
24 under this act shall be filed by delivering the document to the
25 administrator together with the fees and accompanying documents
26 required by law. The administrator may establish procedures for

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1 accepting delivery by means of facsimile OR OTHER ELECTRONIC
2 transmission.

3 (2) If the document substantially conforms to the require-
4 ments of this act, the administrator shall indorse upon it the
5 word "filed" with his or her official title and the date of
6 receipt and of filing, and shall file and index the document or a
7 photostatic, micrographic, photographic, optical disc media, or
8 other reproduced copy in his or her office. If so requested at
9 the time of the delivery of the document to his or her office,
10 the administrator shall include the hour of filing in his or her
11 indorsement.

12 (3) The administrator shall prepare and return a true copy
13 of the document, or at his or her discretion the original, to the
14 person who submitted it for filing showing the filing date.

15 (4) The records and files of the administrator relating to
16 domestic and foreign limited liability companies shall be open to
17 reasonable inspection by the public. The records or files may be
18 maintained either in their original form or in a photostatic,
19 micrographic, photographic, optical disc media, or other repro-
20 duced form.

21 (5) The administrator may make copies of all documents filed
22 under this act or any predecessor act by a photostatic, micro-
23 graphic, photographic, optical disc media, or other process, and
24 may destroy the originals of the documents so copied. A photo-
25 static, micrographic, photographic, optical disc media, or other
26 reproduced copy certified by the administrator, which may be sent
27 by facsimile OR OTHER ELECTRONIC transmission, shall be

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1 considered an original for all purposes and is admissible in
2 evidence in like manner as an original.

3 (6) The document is effective at the time it is indorsed
4 unless a subsequent effective time is set forth in the document
5 that is not later than 90 days after the date of delivery.

6 (7) The administrator may require that a document required
7 or permitted to be filed under this act be on a form prescribed
8 by the administrator.

9 Sec. 105. (1) If the administrator fails promptly to file a
10 document submitted for filing under this act, the administrator,
11 within 10 days after receipt from the person submitting the docu-
12 ment for filing of a written request for the filing of the docu-
13 ment, shall give to that person written notice of the refusal to
14 file that states the reasons for the failure to file the
15 document. IF THE DOCUMENT WAS ORIGINALLY SUBMITTED BY ELECTRONIC
16 TRANSMISSION, THE ADMINISTRATOR MAY GIVE THE WRITTEN NOTICE BY
17 ELECTRONIC TRANSMISSION.

18 (2) A person may seek judicial review of the administrator's
19 decision ~~pursuant to~~ UNDER sections 103, 104, and 106 of the
20 administrative procedures act of 1969, ~~Act No. 306 of the Public~~
21 ~~Acts of 1969, being sections 24.303, 24.304, and 24.306 of the~~
22 ~~Michigan Compiled Laws~~ 1969 PA 306, MCL 24.303, 24.304, AND
23 24.305.

24 (3) If the administrator refuses or revokes the authoriza-
25 tion of a foreign limited liability company to transact business
26 in this state pursuant to this act, the foreign limited liability
27 company may seek judicial review ~~pursuant to~~ UNDER sections

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1 103, 104, and 106 of ~~Act No. 306 of the Public Acts of 1969~~ THE
2 ADMINISTRATIVE PROCEDURES ACT OF 1969, 1969 PA 306, MCL 24.303,
3 24.304, AND 24.305.

4 Sec. 106. (1) If a document relating to a domestic or for-
5 eign limited liability company filed with the administrator under
6 this act was at the time of filing an inaccurate record of the
7 action referred to in the document, or was defectively or errone-
8 ously executed, OR WAS ELECTRONICALLY TRANSMITTED AND THE ELEC-
9 TRONIC TRANSMISSION WAS DEFECTIVE, the document may be corrected
10 by filing with the administrator a certificate of correction on
11 behalf of the company.

12 (2) The certificate shall be signed as provided by this act
13 in the same manner as required for the document being corrected.

14 (3) The certificate shall set forth the name of the company,
15 the date the document to be corrected was filed by the adminis-
16 trator, the provision in the document as it should have origi-
17 nally appeared, and if the execution was defective, the proper
18 execution.

19 (4) The corrected document is effective in its corrected
20 form as of its original filing date except as to a person who
21 relied upon the inaccurate portion of the document and was as a
22 result of the inaccurate portion of the document adversely
23 affected by the correction.

24 Sec. 202. (1) One or more persons, who ~~will be~~ MAY OR MAY
25 NOT BECOME members, may ~~form~~ BE THE ORGANIZERS OF a limited
26 liability company by filing executed articles of organization.

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1 (2) The existence of the limited liability company begins on
2 the effective date of the articles of organization as provided in
3 section 104. Filing is conclusive evidence that all conditions
4 precedent required to be performed under this act are fulfilled
5 and that the company is formed under this act, except in an
6 action or special proceeding by the attorney general. The maxi-
7 mum duration of the limited liability company is perpetual unless
8 otherwise provided in the articles of organization.

9 Sec. 203. (1) The articles of organization shall contain
10 all of the following:

11 (a) The name of the limited liability company.

12 (b) The purposes for which the limited liability company is
13 formed. It is sufficient to state substantially, alone or with
14 specifically enumerated purposes, that the limited liability com-
15 pany may engage in any activity for which limited liability com-
16 panies may be formed under this act.

17 (c) The street address, and the mailing address if different
18 from the street address, of the limited liability company's ini-
19 tial registered office and the name of its initial resident agent
20 at that address.

21 (d) If the business of the limited liability company is to
22 be managed by managers, a statement that ~~it~~ THE BUSINESS is to
23 be managed by OR UNDER THE AUTHORITY OF managers.

24 (e) The maximum duration of the limited liability company,
25 if other than perpetual.

26 (2) The articles of organization ~~, at the discretion of the~~
27 ~~organizers or members,~~ may contain any provision not

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1 inconsistent with this act or another statute of this state,
2 including any provision that is required or permitted to be in an
3 operating agreement under this act.

4 (3) The articles of organization need not set out the powers
5 of the limited liability company as described in section 210.

6 Sec. 204. (1) The name of a domestic limited liability com-
7 pany shall contain the words "limited liability company" or the
8 abbreviation "L.L.C." or "L.C.", with or without periods or
9 other punctuation.

10 (2) The name of a domestic or foreign limited liability com-
11 pany formed under or subject to this act shall conform to all of
12 the following:

13 (a) Shall not contain a word or phrase, or abbreviation or
14 derivative of a word or phrase, that indicates or implies that
15 the company is formed for a purpose other than the purpose or
16 purposes permitted by its articles of organization.

17 (b) Shall not contain the word "corporation" or
18 "incorporated" or the abbreviation "corp." or "inc.".

19 (c) Shall distinguish the name upon the records in the
20 office of the administrator from all of the following:

21 (i) The name of a domestic limited liability company, or a
22 foreign limited liability company authorized to transact business
23 in this state, THAT IS IN GOOD STANDING.

24 (ii) The name of a corporation subject to the business cor-
25 poration act, 1972 PA 284, MCL 450.1101 to 450.2098, or a non-
26 profit corporation subject to the nonprofit corporation act, 1982
27 PA 162, MCL 450.2101 to 450.3192.

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1 (iii) A name reserved, registered, or assumed under this
2 act, under the business corporation act, 1972 PA 284,
3 MCL 450.1101 to 450.2098, or under the nonprofit corporation act,
4 1982 PA 162, MCL 450.2101 to 450.3192.

5 (iv) The name of a domestic or foreign limited partnership
6 as filed or registered, reserved, or assumed under the Michigan
7 revised uniform limited partnership act, 1982 PA 213,
8 MCL 449.1101 to 449.2108.

9 (d) Shall not contain a word or phrase, an abbreviation, or
10 derivative of a word or phrase, the use of which is prohibited or
11 restricted by any other statute of this state.

12 (3) If a foreign limited liability company is unable to
13 obtain a certificate of authority to transact business in this
14 state because its name does not comply with subsection (1) or
15 (2), the foreign limited liability company may apply for author-
16 ity to transact business in this state by adding to its name in
17 the application a word, abbreviation, or other distinctive and
18 distinguishing element, or alternatively, adopting for use in
19 this state an assumed name otherwise available for use. If in
20 the judgment of the administrator that name would comply with
21 subsections (1) and (2), those subsections shall not bar the
22 issuance to the foreign limited liability company of a certifi-
23 cate of authority to transact business in this state. The cer-
24 tificate of authority to transact business in this state issued
25 to the foreign limited liability company shall be issued in the
26 name applied for and the foreign limited liability company shall

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1 use that name in all its dealings with the administrator and in
2 the transaction of business in this state.

3 (4) THE FACT THAT A LIMITED LIABILITY COMPANY NAME COMPLIES
4 WITH THIS SECTION DOES NOT CREATE SUBSTANTIVE RIGHTS TO THE USE
5 OF THE NAME.

6 Sec. 207. (1) Each domestic limited liability company and
7 foreign limited liability company authorized to transact business
8 in this state shall have and continuously maintain in this state
9 both of the following:

10 (a) A registered office that may, but need not be, the same
11 as its place of business.

12 (b) A resident agent. ~~, which~~ THE RESIDENT agent may be
13 either an individual resident in this state whose business office
14 or residence is identical with the registered office or any of
15 the following having a business office identical with the regis-
16 tered office:

17 (i) A domestic corporation.

18 (ii) A foreign corporation authorized to transact business
19 in this state.

20 (iii) A domestic limited liability company.

21 (iv) A foreign limited liability company authorized to
22 transact business in this state.

23 (2) The resident agent appointed by a limited liability com-
24 pany is an agent of the company upon whom any process, notice, or
25 demand required or permitted by law to be served upon the company
26 may be served.

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1 ~~(3) A person, whether a resident or nonresident of this~~
2 ~~state, who is a member of a limited liability company or who~~
3 ~~accepts election, appointment, or employment as a manager of a~~
4 ~~limited liability company organized under this act, by the accep-~~
5 ~~tance, is held to have appointed the resident agent of the com-~~
6 ~~pany as his or her agent upon whom process may be served while~~
7 ~~the person is a member or manager of the limited liability com-~~
8 ~~pany in any action commenced in a court of general jurisdiction~~
9 ~~in this state arising out of or founded upon any action of the~~
10 ~~limited liability company or of a person as a member or manager~~
11 ~~of the limited liability company. Upon accepting service of pro-~~
12 ~~cess, the resident agent shall promptly forward it to the member~~
13 ~~or manager of the limited liability company at his or her last~~
14 ~~known address.~~

15 (3) ~~(4)~~ A domestic limited liability company or foreign
16 limited liability company authorized to transact business in this
17 state shall file with the administrator an annual statement exe-
18 cuted as provided in section 103 containing the name of its resi-
19 dent agent and the address of its registered office in this
20 state. The statement shall be filed not later than February 15
21 of each year, except that a limited liability company formed
22 after September 30 or a foreign limited liability company autho-
23 rized to transact business in this state after September 30 need
24 not file a statement on the February 15 immediately succeeding
25 its formation or authorization.

26 (4) IF A LIMITED LIABILITY COMPANY FAILS TO APPOINT OR
27 MAINTAIN AN AGENT FOR SERVICE OF PROCESS, OR THE AGENT FOR

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1 SERVICE OF PROCESS CANNOT BE FOUND OR SERVED THROUGH THE EXERCISE
2 OF REASONABLE DILIGENCE, SERVICE OF PROCESS MAY BE MADE BY DELIV-
3 ERING OR MAILING BY REGISTERED MAIL TO THE ADMINISTRATOR A SUM-
4 MONS AND COPY OF THE COMPLAINT.

5 SEC. 207A. (1) EXCEPT AS PROVIDED IN THIS SECTION, AND
6 SECTION 909 FOR A PROFESSIONAL LIMITED LIABILITY COMPANY, FROM
7 THE EFFECTIVE DATE OF THE ARTICLES OF ORGANIZATION AS PROVIDED IN
8 SECTION 104 UNTIL DISSOLUTION FOR A DOMESTIC LIMITED LIABILITY
9 COMPANY, OR FROM THE EFFECTIVE DATE OF THE CERTIFICATE OF AUTHOR-
10 ITY TO TRANSACT BUSINESS IN THIS STATE UNTIL WITHDRAWAL FROM THIS
11 STATE FOR A FOREIGN LIMITED LIABILITY COMPANY, A LIMITED LIABIL-
12 ITY COMPANY IS ENTITLED TO ISSUANCE BY THE ADMINISTRATOR, UPON
13 REQUEST, OF A CERTIFICATE OF GOOD STANDING. A CERTIFICATE OF
14 GOOD STANDING ISSUED TO A DOMESTIC LIMITED LIABILITY COMPANY
15 SHALL STATE THAT IT HAS BEEN VALIDLY ORGANIZED AS A DOMESTIC
16 LIMITED LIABILITY COMPANY, THAT IT IS VALIDLY IN EXISTENCE UNDER
17 THE LAWS OF THIS STATE, AND THAT IT HAS SATISFIED ITS ANNUAL
18 FILING OBLIGATIONS. A CERTIFICATE OF GOOD STANDING ISSUED TO A
19 FOREIGN LIMITED LIABILITY COMPANY SHALL STATE THAT IT HAS BEEN
20 VALIDLY AUTHORIZED TO TRANSACT BUSINESS IN THIS STATE, THAT IT
21 HOLDS A VALID CERTIFICATE OF AUTHORITY TO TRANSACT BUSINESS IN
22 THIS STATE, AND THAT IT HAS SATISFIED ITS ANNUAL FILING
23 OBLIGATIONS.

24 (2) IF A DOMESTIC LIMITED LIABILITY COMPANY OR A FOREIGN
25 LIMITED LIABILITY COMPANY AUTHORIZED TO TRANSACT BUSINESS IN THIS
26 STATE FAILS TO FILE AN ANNUAL STATEMENT REQUIRED BY SECTION 207
27 FOR 2 CONSECUTIVE YEARS, THE ADMINISTRATOR SHALL NOTIFY THE

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1 COMPANY OF THE CONSEQUENCES OF THE FAILURE TO FILE UNDER
2 SUBSECTION (3).

3 (3) IF A LIMITED LIABILITY COMPANY DOES NOT FILE ALL ANNUAL
4 STATEMENTS IT HAS FAILED TO FILE, AND THE APPLICABLE FEES, WITHIN
5 60 DAYS AFTER THE ADMINISTRATOR'S NOTICE UNDER SUBSECTION (2) IS
6 SENT, THE LIMITED LIABILITY COMPANY IS NOT IN GOOD STANDING. A
7 LIMITED LIABILITY COMPANY THAT IS NOT IN GOOD STANDING IS NOT
8 ENTITLED TO ISSUANCE BY THE ADMINISTRATOR OF A CERTIFICATE OF
9 GOOD STANDING DESCRIBED IN SUBSECTION (1), THE NAME OF THE COM-
10 PANY IS AVAILABLE FOR USE BY ANOTHER ENTITY FILING WITH THE
11 ADMINISTRATOR, AND THE ADMINISTRATOR SHALL NOT ACCEPT FOR FILING
12 ANY DOCUMENT SUBMITTED BY THE LIMITED LIABILITY COMPANY OTHER
13 THAN A CERTIFICATE OF RESTORATION OF GOOD STANDING PROVIDED FOR
14 IN SUBSECTION (4). A LIMITED LIABILITY COMPANY THAT IS NOT IN
15 GOOD STANDING REMAINS IN EXISTENCE AND MAY CONTINUE TO TRANSACT
16 BUSINESS IN THIS STATE.

17 (4) A DOMESTIC LIMITED LIABILITY COMPANY OR A FOREIGN
18 LIMITED LIABILITY COMPANY AUTHORIZED TO TRANSACT BUSINESS IN THIS
19 STATE THAT IS NOT IN GOOD STANDING UNDER SUBSECTION (3) MAY FILE
20 A CERTIFICATE OF RESTORATION OF GOOD STANDING, ACCOMPANIED BY THE
21 ANNUAL STATEMENTS AND FEES FOR ALL OF THE YEARS FOR WHICH THEY
22 WERE NOT FILED AND PAID, AND THE FEE FOR FILING THE CERTIFICATE
23 OF RESTORATION OF GOOD STANDING. THE CERTIFICATE SHALL INCLUDE
24 ALL OF THE FOLLOWING:

25 (A) THE NAME OF THE LIMITED LIABILITY COMPANY AT THE TIME IT
26 CEASED TO BE IN GOOD STANDING. IF THAT NAME IS NOT AVAILABLE
27 WHEN THE CERTIFICATE OF RESTORATION OF GOOD STANDING IS FILED,

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1 THE LIMITED LIABILITY COMPANY SHALL SELECT A NEW NAME THAT
2 COMPLIES WITH SECTION 204. THE NEW NAME SHALL BE THE NAME OF THE
3 DOMESTIC LIMITED LIABILITY COMPANY OR THE NAME USED IN THIS STATE
4 BY THE FOREIGN LIMITED LIABILITY COMPANY FROM THE DATE OF FILING
5 OF THE CERTIFICATE.

6 (B) THE NAME OF THE LIMITED LIABILITY COMPANY'S CURRENT RES-
7 IDENT AGENT AND THE ADDRESS OF THE CURRENT REGISTERED OFFICE IN
8 THIS STATE.

9 (C) A STATEMENT THAT THE CERTIFICATE IS ACCOMPANIED BY THE
10 ANNUAL STATEMENTS AND APPLICABLE FEES FOR ALL OF THE YEARS FOR
11 WHICH STATEMENTS WERE NOT FILED AND FEES WERE NOT PAID.

12 Sec. 210. Subject to the limitations provided in this act,
13 any other statute of this state, or its articles of organization,
14 a limited liability company has all powers necessary or conven-
15 ient to effect any purpose for which the company is formed,
16 including all powers granted to corporations in ~~section 261 of~~
17 the business corporation act, ~~Act No. 284 of the Public Acts of~~
18 ~~1972, being section 450.1261 of the Michigan Compiled Laws 1972~~
19 PA 284, MCL 450.1101 TO 450.2098.

20 Sec. 214. If there is a conflict between the articles of
21 organization and an operating agreement OF A LIMITED LIABILITY
22 COMPANY, the articles of organization shall control.

23 SEC. 215. AN OPERATING AGREEMENT OF A LIMITED LIABILITY
24 COMPANY THAT HAS 1 MEMBER IS NOT UNENFORCEABLE BECAUSE ONLY 1
25 PERSON IS A PARTY TO THE OPERATING AGREEMENT.

26 Sec. 301. (1) ~~The~~ A contribution of a member to a limited
27 liability company may consist of any tangible or intangible

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1 property or benefit to the company, including cash, property,
2 services performed, promissory notes, contracts for services to
3 be performed, or other binding obligation to contribute cash or
4 property or to perform services.

5 (2) A contribution of an obligation to contribute cash or
6 property or to perform services may be in exchange for a present
7 membership interest or for a future membership interest, includ-
8 ing a future profits interest, as provided in an operating
9 agreement. ~~, or, in the case of a single-member limited liabil-~~
10 ~~ity company, in a written agreement between the member and the~~
11 ~~company.~~

12 Sec. 303. (1) Distributions of cash or other assets of a
13 limited liability company shall be allocated among the members
14 and among classes of members in the manner provided in an operat-
15 ing agreement. If an operating agreement does not provide for an
16 allocation, distributions shall be allocated as follows:

17 (a) Prior to ~~the effective date of the amendatory act that~~
18 ~~added subsection (2)~~ JULY 1, 1997, on the basis of the value, as
19 stated in the ~~limited liability company~~ records ~~required to be~~
20 ~~kept pursuant to~~ THE LIMITED LIABILITY COMPANY IS REQUIRED TO
21 KEEP UNDER section 213 or AS determined by any other reasonable
22 method, of the contributions made by each member to the extent
23 that the contributions have been received by the limited liabil-
24 ity company and have not been returned.

25 (b) On and after ~~the effective date of the amendatory act~~
26 ~~that added subsection (2)~~ JULY 1, 1997, except as otherwise
27 provided in subsection (2), in equal shares to all members. A

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1 MEMBERSHIP INTEREST HELD BY 2 OR MORE PERSONS, WHETHER AS
2 FIDUCIARIES, MEMBERS OF A PARTNERSHIP, TENANTS IN COMMON, JOINT
3 TENANTS, TENANTS BY THE ENTIRETY, OR OTHERWISE, IS CONSIDERED AS
4 HELD BY 1 MEMBER FOR AN ALLOCATION UNDER THIS SUBDIVISION.

5 (2) If a limited liability company in existence before ~~the~~
6 ~~effective date of the amendatory act that added this subsection~~
7 JULY 1, 1997 allocated distributions on the basis of subsection
8 (1)(a), the limited liability company shall continue to allocate
9 distributions pursuant to subsection (1)(a) until the allocation
10 is changed by an operating agreement.

11 Sec. 304. Except as otherwise provided in this act, a
12 member is entitled to receive distributions from a limited
13 liability company before the withdrawal of the member from the
14 limited liability company and before the dissolution and winding
15 up of the limited liability company to the extent and at the
16 times or upon the happening of the events specified in an operat-
17 ing agreement. ~~, or, in the case of a single-member limited~~
18 ~~liability company, as determined by the member or authorized by~~
19 ~~the managers of the limited liability company.~~

20 Sec. 307. (1) Except as otherwise provided in
21 subsection (5), a distribution shall not be made if, after giving
22 the distribution effect, 1 or more of the following situations
23 would occur:

24 (a) The limited liability company would not be able to pay
25 its debts as they become due in the usual course of business.

26 (b) The limited liability company's total assets would be
27 less than the sum of its total liabilities plus, unless an

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1 operating agreement provides otherwise, the amount that would be
2 needed, if the limited liability company were to be dissolved at
3 the time of the distribution, to satisfy the preferential rights
4 of other members upon dissolution that are superior to the rights
5 of the member or members receiving the distribution.

6 (2) The limited liability company may base a determination
7 that a distribution is not prohibited under subsection (1) on
8 financial statements prepared on the basis of accounting prac-
9 tices and principles that are reasonable under the circumstances,
10 on a fair valuation, or on another method that is reasonable
11 under the circumstances.

12 (3) The effect of a distribution under subsection (1) is
13 measured at the following times:

14 (a) Except as provided in subsection (5), in the case of a
15 distribution ~~of the fair value of a withdrawing member's~~
16 ~~interest~~ TO A WITHDRAWING MEMBER, as of the earlier of the date
17 money or other property is transferred or debt incurred by the
18 limited liability company, or the date the member ceases to be a
19 member.

20 (b) In the case of any other distribution of indebtedness,
21 as of the date the indebtedness is authorized if distribution
22 occurs within 120 days after the date of authorization, or the
23 date the indebtedness is distributed if it occurs more than 120
24 days after the date of authorization.

25 (c) In all other cases, as of the date the distribution is
26 authorized if the payment occurs within 120 days after the date

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1 of authorization, or the date the payment is made if it occurs
2 more than 120 days after the date of authorization.

3 (4) At the time a member becomes entitled to receive a dis-
4 tribution, the member has the status of, and is entitled to all
5 remedies available to, a creditor of the limited liability com-
6 pany with respect to the distribution. A company's indebtedness
7 to a member incurred by reason of a distribution made in accord-
8 ance with this section is at parity with the company's indebted-
9 ness to its general, unsecured creditors except as otherwise
10 agreed.

11 (5) If the limited liability company distributes an obliga-
12 tion to make future payments ~~as payment of the fair value of a~~
13 ~~withdrawing member's interest~~ TO A WITHDRAWING MEMBER, and dis-
14 tribution of the obligation would otherwise be prohibited under
15 subsection (1) at the time it is made, the company may issue the
16 obligation and the following apply:

17 (a) The portion of the obligation that could have been dis-
18 tributed without violating subsection (1) is indebtedness to the
19 WITHDRAWING member ~~as described in~~ UNDER subsection (4).

20 (b) All of the following apply to the portion of the obliga-
21 tion that exceeds the amount of the obligation that is indebted-
22 ness to the WITHDRAWING member under subdivision (a):

23 (i) At any time prior to the due date of the obligation,
24 payments of principal and interest may be made as a distribution
25 to the extent that a distribution may then be made under this
26 section.

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1 (ii) At any time on or after the due date, the obligation to
2 pay principal and interest is considered distributed and treated
3 as indebtedness described in subsection (4) to the extent that a
4 distribution may then be made under this section.

5 (c) Unless otherwise provided in an agreement with the with-
6 drawing member, the obligation is considered a liability or debt
7 for purposes of determining whether distributions other than pay-
8 ments on the obligation may be made under this section, EXCEPT
9 FOR PURPOSES OF DETERMINING WHETHER DISTRIBUTIONS MAY BE MADE TO
10 MEMBERS HAVING PREFERENTIAL RIGHTS SUPERIOR TO THE RIGHTS OF THE
11 WITHDRAWING MEMBER.

12 (6) The enforceability of a guaranty or other undertaking by
13 a third party relating to a distribution is not affected by the
14 prohibition of the distribution under subsection (1).

15 (7) If a claim is made to recover a distribution made con-
16 trary to subsection (1) or if a violation of subsection (1) is
17 raised as a defense to a claim based upon a distribution, this
18 section does not prevent the person receiving the distribution
19 from asserting a right of rescission or other legal or equitable
20 rights.

21 Sec. 403. (1) ~~Unless otherwise provided in an operating~~
22 ~~agreement, selection of~~ A VOTE OF A MAJORITY IN INTEREST OF THE
23 MEMBERS ENTITLED TO VOTE IN ACCORDANCE WITH SECTION 502(1) IS
24 REQUIRED TO SELECT managers to fill initial positions or
25 vacancies. ~~shall be by majority vote of the members entitled to~~
26 ~~vote in accordance with section 502(1).~~

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1 (2) The members may remove 1 or more managers with or
2 without cause unless an operating agreement provides that
3 managers may be removed only for cause.

4 (3) ~~Removal for cause may be~~ THE MEMBERS MAY REMOVE A MAN-
5 AGER FOR CAUSE ONLY at a meeting called expressly for that pur-
6 pose, and ~~a~~ THAT manager ~~to be removed for cause~~ shall have
7 reasonable advance notice of the allegations against him or her
8 and an opportunity to be heard at the meeting.

9 Sec. 405. (1) Except as otherwise provided in ~~this act~~
10 THE ARTICLES OF ORGANIZATION or an operating agreement, voting by
11 managers shall be as provided in this section.

12 (2) If MANAGEMENT OF A LIMITED LIABILITY COMPANY IS DELE-
13 GATED TO MANAGERS UNDER SECTION 402 AND the limited liability
14 company has more than 1 manager, ~~the~~ EACH MANAGER HAS 1 VOTE
15 AND THE vote of a majority of all managers is required to decide
16 or resolve any difference on any matter connected with carrying
17 on the business of the limited liability company that is within
18 the scope of the managers' authority. ~~If management of the~~
19 ~~limited liability company is delegated to managers pursuant to~~
20 ~~section 402, each manager has 1 vote.~~

21 (3) If management of ~~the~~ A limited liability company
22 remains in the members, SECTION 502 APPLIES TO VOTING BY the
23 members. ~~shall vote in accordance with section 502.~~

24 Sec. 406. ~~Every~~ A manager is an agent of the limited
25 liability company for the purpose of its business, and the act of
26 ~~every~~ A manager, including the execution in the limited
27 liability company name of any instrument, ~~for~~ THAT apparently

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1 ~~carrying~~ CARRIES on in the usual way the business of the
2 limited liability company of which he or she is a manager binds
3 the limited liability company, unless BOTH OF the FOLLOWING
4 APPLY:

5 (A) THE manager ~~so acting~~ does not have the authority to
6 act for the limited liability company in ~~the~~ THAT particular
7 matter. ~~and the~~

8 (B) THE person with whom ~~he or she~~ THE MANAGER is dealing
9 has ACTUAL knowledge ~~of the fact~~ that ~~he or she has no~~ THE
10 MANAGER LACKS authority TO ACT OR THE ARTICLES OF ORGANIZATION OR
11 THIS ACT ESTABLISHES THAT THE MANAGER LACKS AUTHORITY TO ACT.

12 Sec. 501. (1) A person ~~is~~ MAY BE admitted as a member of
13 a limited liability company in 1 or more of the following ways:

14 (a) ~~Upon~~ IN CONNECTION WITH the formation of the limited
15 liability company, by ~~executing and filing the articles of~~
16 ~~organization or by~~ signing the initial operating agreement.

17 (b) After the formation of the limited liability company, in
18 1 or more of the following ways:

19 (i) In the case of a person acquiring a membership interest
20 directly from the limited liability company, by complying with
21 the provisions of an operating agreement prescribing the require-
22 ments for admission or, in the absence of provisions prescribing
23 the requirements for admission in an operating agreement, upon
24 the unanimous vote of the members entitled to vote.

25 (ii) In the case of an assignee of a membership interest, as
26 provided in section 506.

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1 (2) A LIMITED LIABILITY COMPANY MAY ADMIT A PERSON AS A
2 MEMBER WHO DOES NOT MAKE A CONTRIBUTION OR INCUR AN OBLIGATION TO
3 MAKE A CONTRIBUTION TO THE LIMITED LIABILITY COMPANY.

4 (3) ~~(2)~~ Unless otherwise provided by law or in an operat-
5 ing agreement, a person who is a member or manager, or both, of a
6 limited liability company is not liable for the acts, debts, or
7 obligations of the limited liability company.

8 Sec. 502. (1) An operating agreement may establish and
9 allocate the voting rights of members and may provide that cer-
10 tain members or groups of members have only limited or no voting
11 rights. If an operating agreement does not address voting
12 rights, votes ~~shall be~~ ARE allocated as follows:

13 (a) Prior to ~~the effective date of the amendatory act that~~
14 ~~added subsection (2)~~ JULY 1, 1997, the members of a limited
15 liability company shall vote in proportion to their shares of
16 distributions of the company, as determined in accordance with
17 section 303.

18 (b) On and after ~~the effective date of the amendatory act~~
19 ~~that added subsection (2)~~ JULY 1, 1997, except as otherwise pro-
20 vided in subsection (2), each member of a limited liability com-
21 pany ~~shall have~~ HAS 1 vote. FOR PURPOSES OF THIS SUBDIVISION,
22 A MEMBERSHIP INTEREST HELD BY 2 OR MORE PERSONS, WHETHER AS FIDU-
23 CIARIES, MEMBERS OF A PARTNERSHIP, TENANTS IN COMMON, JOINT
24 TENANTS, TENANTS BY THE ENTIRETY, OR OTHERWISE, IS TREATED AS
25 HELD BY 1 MEMBER.

26 (2) If a limited liability company in existence before ~~the~~
27 ~~effective date of the amendatory act that added this subsection~~

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1 JULY 1, 1997 allocated votes on the basis of subsection (1)(a),
2 the company shall continue to allocate votes pursuant to subsec-
3 tion (1)(a) until the allocation is changed by an operating
4 agreement.

5 (3) IF A MEMBERSHIP INTEREST THAT HAS VOTING RIGHTS IS HELD
6 BY 2 OR MORE PERSONS, WHETHER AS FIDUCIARIES, MEMBERS OF A PART-
7 NERSHIP, TENANTS IN COMMON, JOINT TENANTS, TENANTS BY THE ENTIRE-
8 TY, OR OTHERWISE, THE VOTING OF THE INTEREST SHALL BE IN ACCORD-
9 ANCE WITH THE INSTRUMENT OR ORDER APPOINTING THEM OR CREATING THE
10 RELATIONSHIP IF A COPY OF THAT INSTRUMENT OR ORDER IS FURNISHED
11 TO THE LIMITED LIABILITY COMPANY. IF AN INSTRUMENT OR ORDER IS
12 NOT FURNISHED TO THE LIMITED LIABILITY COMPANY, 1 OF THE FOLLOW-
13 ING APPLIES TO THE VOTING OF THAT MEMBERSHIP INTEREST:

14 (A) IF AN OPERATING AGREEMENT APPLIES TO THE VOTING OF THE
15 MEMBERSHIP INTEREST, THE VOTE SHALL BE IN ACCORDANCE WITH THAT
16 OPERATING AGREEMENT.

17 (B) IF AN OPERATING AGREEMENT DOES NOT APPLY TO THE VOTING
18 OF THE MEMBERSHIP INTEREST AND ONLY 1 OF THE PERSONS WHO HOLD THE
19 MEMBERSHIP INTEREST VOTES, THAT PERSON'S VOTE DETERMINES THE
20 VOTING OF THE MEMBERSHIP INTEREST.

21 (C) IF AN OPERATING AGREEMENT DOES NOT APPLY TO THE VOTING
22 OF THE MEMBERSHIP INTEREST AND 2 OR MORE OF THE PERSONS WHO HOLD
23 THE MEMBERSHIP INTEREST VOTE, THE VOTE OF A MAJORITY DETERMINES
24 THE VOTING OF THE MEMBERSHIP INTEREST, AND IF THERE IS NO MAJORI-
25 TY, THE VOTING OF THE MEMBERSHIP INTEREST IS DIVIDED AMONG THOSE
26 VOTING.

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1 (4) ~~-(3)~~ The following actions may be authorized only by
2 ONLY members of a limited liability company, and not ~~by the~~ ITS
3 managers, MAY AUTHORIZE THE FOLLOWING ACTIONS:

4 (a) The dissolution of the limited liability company pursu-
5 ant to section 801(c).

6 (b) Merger of the limited liability company pursuant to sec-
7 tions 701 through 706.

8 (c) An amendment to the articles of organization.

9 (5) ~~-(4)~~ Unless authorized in advance by an operating
10 agreement, a transaction with the limited liability company or a
11 transaction connected with the conduct or winding up of the
12 limited liability company in which a manager of the limited
13 liability company has a direct or indirect interest or a
14 manager's personal use of property of the limited liability com-
15 pany may be authorized or ratified only by a vote of the
16 DISINTERESTED members ~~of the limited liability company~~ ENTITLED
17 TO VOTE. The manager shall disclose all material facts regarding
18 the transaction and the manager's interest in the transaction or
19 all material facts about the manager's personal use of the
20 limited liability company's property before the members vote on
21 that transaction or use.

22 (6) ~~-(5)~~ Unless otherwise provided in an operating agree-
23 ment, the sale, exchange, lease, or other transfer of all or sub-
24 stantially all of the assets of a limited liability company,
25 other than in the ordinary course of business, may be authorized
26 only by a vote of the members ~~of the limited liability company~~
27 ENTITLED TO VOTE.

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1 (7) ~~-(6)-~~ The articles of organization or an operating
2 agreement may provide for additional voting rights of members of
3 the limited liability company.

4 (8) ~~-(7)-~~ Unless THE VOTE OF a greater ~~vote~~ PERCENTAGE OF
5 THE VOTING INTEREST OF MEMBERS is required by this act, ~~by~~ the
6 articles of organization, or ~~by~~ an operating agreement, a vote
7 of a majority ~~of all~~ IN INTEREST OF THE members entitled to
8 vote is required to approve any matter submitted for a vote by
9 the members. ~~A vote of a majority of all disinterested members~~
10 ~~entitled to vote is required to approve an action described in~~
11 ~~subsection (4).~~

12 Sec. 503. (1) Upon written request of a member, a limited
13 liability company shall ~~mail to the member~~ SEND a copy of its
14 most recent annual financial statement and its most recent feder-
15 al, state, and local income tax returns and reports TO THE MEMBER
16 BY MAIL OR ELECTRONIC TRANSMISSION. Upon reasonable request, a
17 member may obtain true and full information regarding the current
18 state of the limited liability company's ~~business and~~ financial
19 condition.

20 (2) Upon reasonable written request and during ordinary
21 business hours, a member or his or her designated representative
22 may inspect and copy, at the member's expense, any of the records
23 required to be maintained under section 213, at the location
24 where the records are kept.

25 (3) Upon reasonable written request, a member may obtain
26 other information regarding the limited liability company's
27 affairs or may inspect, personally or through a representative

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1 and during ordinary business hours, other books and records of
2 the limited liability company, as is just and reasonable.

3 (4) A member may have a formal accounting of the limited
4 liability company's affairs as provided in an operating agreement
5 or whenever circumstances render it just and reasonable.

6 Sec. 504. A membership interest is personal property AND
7 MAY BE HELD IN ANY MANNER IN WHICH PERSONAL PROPERTY MAY BE
8 HELD. A HUSBAND AND WIFE MAY HOLD A MEMBERSHIP INTEREST IN JOINT
9 TENANCY IN THE SAME MANNER AND SUBJECT TO THE SAME RESTRICTIONS,
10 CONSEQUENCES, AND CONDITIONS THAT APPLY TO THE OWNERSHIP OF REAL
11 ESTATE HELD JOINTLY BY A HUSBAND AND WIFE UNDER THE LAWS OF THIS
12 STATE, WITH FULL RIGHT OF OWNERSHIP BY SURVIVORSHIP IN CASE OF
13 THE DEATH OF EITHER.

14 (2) A member has no interest in specific limited liability
15 company property.

16 Sec. 506. (1) Unless otherwise provided in an operating
17 agreement, an assignee of a membership interest in a limited
18 liability company having more than 1 member may become a member
19 only upon ~~the~~ A unanimous ~~consent~~ VOTE of the members enti-
20 tled to vote. An assignee of a membership interest in a limited
21 liability company having 1 member may become a member in accord-
22 ance with the terms of the agreement between the member and the
23 assignee.

24 (2) An assignee who becomes a member has, to the extent
25 assigned, the rights and powers, and is subject to the restric-
26 tions and liabilities, of a member under the articles of
27 organization, ~~any~~ AN operating agreement, and this act. An

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1 assignee who becomes a member also is liable for any obligations
2 of his or her assignor to make contributions and to return dis-
3 tributions under sections 302 and 308(3). An assignee is not
4 obligated for liabilities unknown to the assignee when he or she
5 became a member unless the liabilities are shown on the financial
6 records of the limited liability company.

7 Sec. 515. (1) A member of a limited liability company may
8 bring an action in the circuit court of the county in which the
9 limited liability company's principal place of business or regis-
10 tered office is located to establish that acts of the managers or
11 members in control of the limited liability company are illegal
12 ~~—, OR~~ fraudulent ~~—, or~~ CONSTITUTE willfully unfair and oppres-
13 sive ~~to~~ CONDUCT TOWARD the limited liability company or ~~to~~
14 the member. If the member establishes grounds for relief, the
15 circuit court may issue an order or grant relief as it considers
16 appropriate, including, but not limited to, an order providing
17 for any of the following:

18 (a) The dissolution and liquidation of the assets and busi-
19 ness of the limited liability company.

20 (b) The cancellation or alteration of a provision in the
21 articles of organization or in an operating agreement.

22 (c) The direction, alteration, or prohibition of an act of
23 the limited liability company, or of members, managers, or other
24 persons party to the action.

25 (d) The purchase at fair value of the member's interest in
26 the limited liability company, either by the company or by the
27 managers or other members responsible for the wrongful acts.

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1 (e) An award of damages to the limited liability company or
2 to the member. AN ACTION SEEKING AN AWARD OF DAMAGES MUST BE
3 COMMENCED WITHIN 3 YEARS AFTER THE CAUSE OF ACTION UNDER THIS
4 SECTION HAS ACCRUED OR WITHIN 2 YEARS AFTER THE MEMBER DISCOVERS
5 OR REASONABLY SHOULD HAVE DISCOVERED THE CAUSE OF ACTION UNDER
6 THIS SECTION, WHICHEVER OCCURS FIRST.

7 (2) AS USED IN THIS SECTION, "WILLFULLY UNFAIR AND OPPRES-
8 SIVE CONDUCT" MEANS A CONTINUING COURSE OF CONDUCT OR A SIGNIFI-
9 CANT ACTION OR SERIES OF ACTIONS THAT SUBSTANTIALLY INTERFERES
10 WITH THE INTERESTS OF THE MEMBER AS A MEMBER. THE TERM DOES NOT
11 INCLUDE CONDUCT OR ACTIONS THAT ARE PERMITTED BY THE ARTICLES OF
12 ORGANIZATION, AN OPERATING AGREEMENT, ANOTHER AGREEMENT TO WHICH
13 THE MEMBER IS A PARTY, OR A CONSISTENTLY APPLIED WRITTEN COMPANY
14 POLICY OR PROCEDURE.

15 Sec. 603. The articles of organization are amended by
16 filing a certificate of amendment ~~executed~~ SIGNED as provided
17 in section 103 ~~and setting forth~~ THAT CONTAINS all of the
18 following:

19 (a) The name of the limited liability company.

20 (b) The date of filing of its original articles of
21 organization.

22 (c) The entire article or articles being amended, or the
23 section or sections being amended if the article being amended is
24 divided into identified sections.

25 (d) A statement that the amendment or amendments were
26 approved by the unanimous vote of all of the members entitled to
27 vote or by a majority ~~of the members entitled to vote~~ IN

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1 INTEREST if an operating agreement authorizes amendment of the
2 articles of organization by majority vote.

3 Sec. 705a. (1) As used in this section:

4 (a) "Business organization" means a domestic or foreign cor-
5 poration, limited partnership, general partnership, or any other
6 type of domestic or foreign business enterprise, incorporated or
7 unincorporated, except a domestic limited liability company.

8 (b) "Entity" means a business organization or a domestic
9 limited liability company.

10 (c) "Obligated person" means a general partner of a limited
11 partnership, a partner of a general partnership, or a participant
12 in or an owner of an interest in any other type of business
13 enterprise who, under applicable law, is generally liable for the
14 obligations of the business enterprise.

15 (2) If all of the business organizations in a merger with 1
16 or more domestic limited liability companies are foreign limited
17 liability companies, the merger shall comply with section 705 and
18 not this section.

19 (3) Except as otherwise provided in subsection (2), 1 or
20 more domestic limited liability companies may merge with 1 or
21 more business organizations if all of the following requirements
22 are satisfied:

23 (a) The merger is permitted under the law of the jurisdic-
24 tion in which each constituent business organization is organized
25 and each constituent business organization complies with that law
26 in effecting the merger.

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1 (b) Each foreign constituent business organization
2 transacting business in this state complies with the applicable
3 laws of this state.

4 (c) Each domestic limited liability company complies with
5 this section.

6 (4) If 1 or more domestic limited liability companies pro-
7 pose to merge with 1 or more business organizations, each domes-
8 tic limited liability company shall prepare a plan of merger
9 ~~setting forth~~ THAT CONTAINS all of the following:

10 (a) The name of each constituent entity, the name of the
11 surviving entity, the street address of the surviving entity's
12 principal place of business, and the type of organization of the
13 surviving entity.

14 (b) The terms and conditions of the proposed merger, includ-
15 ing the manner and basis of converting the shares, partnership
16 interests, membership interests, or other ownership interests of
17 each constituent entity into ownership interests or obligations
18 of the surviving entity, or into cash or other consideration,
19 which may include ownership interests or obligations of an entity
20 not a party to the merger, or into a combination thereof.

21 (c) If the surviving entity is to be a domestic limited
22 liability company, a statement of ~~any amendment~~ THE AMENDMENTS
23 to the articles of organization of the surviving company ~~to be~~
24 ~~effected~~ IF THE ARTICLES ARE CHANGED by the merger, ~~or any~~ A
25 restatement of the articles of organization, or a statement that
26 ~~no changes are to be made in~~ the articles of organization of
27 the surviving domestic limited liability company ARE UNCHANGED.

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1 (d) Any other provision that the domestic limited liability
2 COMPANY considers necessary or desirable.

3 (5) ~~The plan of merger shall be submitted to the members of~~
4 ~~the~~ A constituent domestic limited liability company SHALL
5 SUBMIT A PLAN OF MERGER TO THE MEMBERS for approval. A unanimous
6 vote by the members entitled to vote in the constituent domestic
7 limited liability company is required to approve a plan of merger
8 unless an operating agreement of the constituent domestic limited
9 liability company provides otherwise.

10 (6) If an operating agreement of a constituent domestic
11 limited liability company provides for approval by less than
12 unanimous vote of members entitled to vote and the merger is
13 approved, a member who voted against the merger may withdraw from
14 the domestic limited liability company and receive, within a rea-
15 sonable time, the fair value of the member's interest in the
16 domestic limited liability company, based upon the member's share
17 of distributions as determined under section 303.

18 (7) If a plan of merger is approved, a certificate of merger
19 shall be executed as provided in section 103 and filed on behalf
20 of each constituent domestic limited liability company. The cer-
21 tificate of merger shall ~~set forth~~ CONTAIN all of the
22 following:

23 (a) The information required under subsection (4)(a) and the
24 statement required under subsection (4)(c).

25 (b) A statement that the plan of merger was approved by the
26 members of each constituent domestic limited liability company in
27 accordance with subsection (5).

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1 (c) A statement of any assumed names of merging entities
2 transferred to the surviving entity in accordance with section
3 206(6), specifying each transferred assumed name and the name of
4 the entity from which it is transferred. If the surviving entity
5 is a domestic limited liability company or a foreign limited
6 liability company authorized to transact business in this state,
7 the certificate may include a statement of ~~the~~ 1 OR MORE names
8 or assumed names of merging entities that are to be treated as
9 ~~newly filed~~ NEW CERTIFICATES OF assumed names of the surviving
10 company ~~pursuant to~~ UNDER section 206(7).

11 (d) The effective date of the merger if later than the date
12 the certificate of merger is filed.

13 (8) A certificate of merger is effective in accordance with
14 section 104.

15 (9) When a merger is effective under this section, all of
16 the following apply:

17 (a) Every other constituent entity merges into the surviving
18 entity and the separate existence of every entity except the sur-
19 viving entity ceases.

20 (b) The title to all property, real, personal, and mixed,
21 and rights owned by each constituent entity are vested in the
22 surviving entity without reversion or impairment.

23 (c) A surviving company may use the name and the assumed
24 names of any merging entity if a filing required under section
25 206(6) or (7) or other applicable statute is made.

26 (d) The surviving entity has all of the liabilities of each
27 constituent entity. This section does not affect liability, if

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1 any, of a person who was an obligated person with respect to a
2 merging entity for acts or omissions that occurred before the
3 merger.

4 (e) A proceeding pending against any constituent entity may
5 be continued as if the merger did not occur or the surviving
6 entity may be substituted in the proceeding for the entity whose
7 existence ceased.

8 (f) The articles of organization of a surviving domestic
9 limited liability company are amended to the extent provided in
10 the plan of merger.

11 (g) The ownership interests of each constituent entity that
12 are to be converted into ownership interests or obligations of
13 the surviving entity or into cash or other property are
14 converted.

15 (10) If the surviving entity is a foreign business organiza-
16 tion, it is subject to the laws of this state pertaining to the
17 transaction of business in this state by a foreign business
18 organization if it transacts business in this state. The surviv-
19 ing entity is liable for, and is subject to service of process in
20 a proceeding in this state for the enforcement of, any obligation
21 of a constituent domestic limited liability company, including an
22 obligation to a member of the constituent domestic limited
23 liability company who has dissented from the merger and withdrawn
24 in accordance with subsection (6).

25 Sec. 801. A limited liability company is dissolved and its
26 affairs shall be wound up when the first of the following
27 occurs:

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1 (a) ~~At~~ AUTOMATICALLY AT the time specified in the articles
2 of organization.

3 (b) Upon the happening of an event specified in the articles
4 of organization or in an operating agreement, including a vote of
5 members.

6 (c) Upon the unanimous vote of all members entitled to
7 vote.

8 (d) ~~Upon~~ AUTOMATICALLY UPON the entry of a decree of judi-
9 cial dissolution.

10 Sec. 804. Upon the dissolution and commencement of winding
11 up of the limited liability company UNDER SECTION 801(B) OR (C),
12 a certificate of dissolution shall be ~~executed~~ SIGNED as pro-
13 vided in section 103 and filed with the administrator. The cer-
14 tificate shall set forth all of the following:

15 (a) The name of the limited liability company.

16 (b) The reason for the dissolution.

17 (c) The effective date of the dissolution if later than the
18 date of filing of the certificate of dissolution.

19 Sec. 909. (1) ~~A~~ IN ADDITION TO THE ANNUAL STATEMENT
20 REQUIRED IN SECTION 207(3), A professional limited liability com-
21 pany shall file with the administrator an annual report, together
22 with a \$50.00 filing fee, listing the names and addresses of all
23 members and managers and certifying that each member and manager
24 is a licensed person in 1 or more of the professional services
25 rendered by the company. The report shall also certify that any
26 member or manager not licensed or otherwise legally authorized to

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1 render professional services in this state does not render
2 professional services in this state.

3 (2) The professional limited liability company shall file
4 the annual report not later than February 15 of each year, and a
5 penalty of \$50.00 shall be added to the fee if the annual report
6 is not filed or the fee is not paid by February 15, except that
7 if a professional limited liability company is formed after
8 September 30, it need not file an annual report on the February
9 15 immediately succeeding its formation.

10 (3) IF A PROFESSIONAL LIMITED LIABILITY COMPANY FAILS TO
11 FILE AN ANNUAL REPORT REQUIRED BY THIS SECTION FOR 2 CONSECUTIVE
12 YEARS, THE ADMINISTRATOR SHALL NOTIFY THE COMPANY OF THE CONSE-
13 QUENCES OF THE FAILURE TO FILE UNDER SUBSECTION (4).

14 (4) IF A PROFESSIONAL LIMITED LIABILITY COMPANY DOES NOT
15 FILE ALL ANNUAL REPORTS IT HAS FAILED TO FILE, THE APPLICABLE
16 FEES, AND THE PENALTY DESCRIBED IN SUBSECTION (2) WITHIN 60 DAYS
17 AFTER THE ADMINISTRATOR'S NOTICE UNDER SUBSECTION (3) IS SENT,
18 THE PROFESSIONAL LIMITED LIABILITY COMPANY IS NOT IN GOOD
19 STANDING. A PROFESSIONAL LIMITED LIABILITY COMPANY THAT IS NOT
20 IN GOOD STANDING IS NOT ENTITLED TO ISSUANCE BY THE ADMINISTRATOR
21 OF A CERTIFICATE OF GOOD STANDING DESCRIBED IN SECTION 207A, THE
22 NAME OF THE COMPANY IS AVAILABLE FOR USE BY ANOTHER ENTITY FILING
23 WITH THE ADMINISTRATOR, AND THE ADMINISTRATOR SHALL NOT ACCEPT
24 FOR FILING ANY DOCUMENT SUBMITTED BY THE PROFESSIONAL LIMITED
25 LIABILITY COMPANY OTHER THAN A CERTIFICATE OF RESTORATION OF GOOD
26 STANDING PROVIDED FOR IN SUBSECTION (5). A PROFESSIONAL LIMITED

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1 LIABILITY COMPANY THAT IS NOT IN GOOD STANDING REMAINS IN
2 EXISTENCE AND MAY CONTINUE TO TRANSACT BUSINESS IN THIS STATE.

3 (5) A PROFESSIONAL LIMITED LIABILITY COMPANY THAT IS NOT IN
4 GOOD STANDING UNDER SUBSECTION (4) MAY FILE A CERTIFICATE OF RES-
5 TORATION OF GOOD STANDING, ACCOMPANIED BY THE ANNUAL REPORTS AND
6 FEES FOR ALL OF THE YEARS FOR WHICH THEY WERE NOT FILED AND PAID,
7 THE PENALTY DESCRIBED IN SUBSECTION (2), AND THE FEE FOR FILING
8 THE CERTIFICATE OF RESTORATION OF GOOD STANDING. THE CERTIFICATE
9 SHALL INCLUDE ALL OF THE FOLLOWING:

10 (A) THE NAME OF THE PROFESSIONAL LIMITED LIABILITY COMPANY
11 AT THE TIME IT CEASED TO BE IN GOOD STANDING. IF THAT NAME IS
12 NOT AVAILABLE WHEN THE CERTIFICATE OF RESTORATION OF GOOD STAND-
13 ING IS FILED, THE PROFESSIONAL LIMITED LIABILITY COMPANY SHALL
14 SELECT A NEW NAME THAT COMPLIES WITH THIS ACT. THE NEW NAME
15 SHALL BE THE NAME OF THE PROFESSIONAL LIMITED LIABILITY COMPANY
16 FROM THE DATE OF FILING OF THE CERTIFICATE.

17 (B) THE NAME OF THE PROFESSIONAL LIMITED LIABILITY COMPANY'S
18 CURRENT RESIDENT AGENT AND THE ADDRESS OF THE CURRENT REGISTERED
19 OFFICE IN THIS STATE.

20 (C) A STATEMENT THAT THE CERTIFICATE IS ACCOMPANIED BY THE
21 ANNUAL REPORTS AND APPLICABLE FEES FOR ALL OF THE YEARS FOR WHICH
22 REPORTS WERE NOT FILED AND FEES WERE NOT PAID AND THE PENALTY
23 DESCRIBED IN SUBSECTION (2).

24 (6) A PROFESSIONAL LIMITED LIABILITY COMPANY THAT FAILS TO
25 FILE ANNUAL STATEMENTS UNDER SECTION 207 AS WELL AS ANNUAL
26 REPORTS UNDER THIS SECTION MUST COMPLY WITH SECTION 207A AND THIS
27 SECTION TO MAINTAIN OR RESTORE ITS GOOD STANDING.

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1 Sec. 1005. (1) If any statement in the application for
2 certificate of authority of a foreign limited liability company
3 was false when made or any arrangements or other facts described
4 have changed, making the application inaccurate in any respect,
5 the foreign limited liability company shall promptly file with
6 the administrator a certificate, ~~executed~~ SIGNED as provided in
7 section 103, correcting the statement, except that a change in
8 the resident agent or registered office may be made ~~pursuant to~~
9 UNDER section 209.

10 (2) If a foreign limited liability company authorized to
11 transact business in this state is the survivor of a merger per-
12 mitted by the laws of the jurisdiction of its organization, the
13 foreign limited liability company shall file, not later than 30
14 days after the merger becomes effective, a certificate issued by
15 the proper officer of the jurisdiction of its organization
16 attesting to the occurrence of the merger. If the merger has
17 changed the name of the foreign limited liability company or has
18 otherwise affected the information set forth in the application,
19 the foreign company shall also comply with subsection (1).

20 (3) A foreign limited liability company authorized to trans-
21 act business in this state shall file an annual statement as
22 required by section ~~207(4)~~ 207(3), AND SECTION 207A APPLIES TO
23 THE GOOD STANDING OF THE COMPANY AND TO FAILURES TO FILE.

24 Sec. 1101. (1) The fees to be paid to the administrator
25 when the documents described in this subsection are delivered to
26 him or her for filing are as follows:

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- 1 (a) Certificate of correction, \$25.00.
- 2 (b) Articles of organization, \$50.00.
- 3 (c) Amendment to the articles of organization, \$25.00.
- 4 (d) Restated articles of organization, \$50.00.
- 5 (e) Application for reservation of name, \$25.00.
- 6 (f) Certificate of assumed name or a certificate of termina-
7 tion of assumed name, \$25.00.
- 8 (g) Annual statement of resident agent and registered
9 office, \$5.00.
- 10 (H) CERTIFICATE OF RESTORATION OF GOOD STANDING, \$50.00.
- 11 (I) ~~(h)~~ Notice of resignation of resident agent, or state-
12 ment of change of registered office or resident agent, \$5.00.
- 13 (J) ~~(i)~~ Certificate of merger as provided in article 7,
14 \$100.00.
- 15 (K) ~~(j)~~ Certificate of abandonment, \$10.00.
- 16 (L) ~~(k)~~ Certificate of conversion, \$25.00.
- 17 (M) ~~(l)~~ Certificate of dissolution, \$10.00.
- 18 (N) ~~(m)~~ Application of a foreign limited liability company
19 for a certificate of authority to transact business in this
20 state, \$50.00.
- 21 (O) ~~(n)~~ Certificate correcting statement contained in an
22 application for a certificate of authority to transact business
23 in this state, \$25.00.
- 24 (P) ~~(o)~~ Certificate attesting to the occurrence of a
25 merger of a foreign limited liability company, as provided in
26 section 1005, \$10.00.

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1 (Q) ~~(P)~~ Application for withdrawal and issuance of a
2 certificate of withdrawal of a foreign limited liability company,
3 \$10.00.

4 (2) ~~(Q)~~ In addition to ~~the~~ A fee required to file a doc-
5 ument, the administrator may charge a fee of \$50.00 if the docu-
6 ment is filed by facsimile OR OTHER ELECTRONIC transmission or
7 the administrator is requested to transmit a document by ~~a~~ fac-
8 simile ~~machine~~ OR OTHER ELECTRONIC TRANSMISSION.

9 (3) ~~(2)~~ The fees prescribed in ~~subsection (1)~~
10 SUBSECTIONS (1) AND (2), no part of which shall be refunded, when
11 collected shall be paid into the treasury of the state and cred-
12 ited to the administrator to be used solely by the ~~corporation~~
13 ~~and securities bureau~~ DEPARTMENT in carrying out those duties
14 required by law.

15 (4) ~~(3)~~ A minimum charge of \$1.00 for each certificate and
16 50 cents per folio shall be paid to the administrator for certi-
17 fying a part of a file or record pertaining to a domestic or for-
18 eign limited liability company ~~for which provision for payment~~
19 IF A FEE is not set forth in subsection (1). The administrator
20 may furnish copies of documents, reports, and papers required or
21 permitted by law to be filed with the administrator, and shall
22 charge for those copies pursuant to a schedule of fees that the
23 administrator shall adopt with the approval of the state adminis-
24 trative board. The administrator shall retain the revenue col-
25 lected under this subsection to be used by the ~~corporation and~~
26 ~~securities bureau~~ DEPARTMENT to defray the costs of its copying
27 and certifying services.

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1 (5) ~~-(4)-~~ If a domestic or foreign limited liability company
2 pays fees or penalties by check and the check is dishonored, the
3 fee is considered unpaid and the filing of all related documents
4 will be rescinded.

5 (6) ~~-(5)-~~ The administrator may accept a credit card,
6 instead of cash or check, as payment of a fee under this act.
7 The administrator shall determine which credit cards may be
8 accepted for payment.