

CHAPTER 1150**STUDY OF LEGAL BURDENS RELATED TO WORKERS' COMPENSATION***H.F. 2214*

AN ACT relating to an insurance division study regarding legal burdens imposed on employers related to workers' compensation.

Be It Enacted by the General Assembly of the State of Iowa:

Section 1. The commissioner of insurance shall study, in consultation with all affected groups, the issue and ramifications of purported differentials in the legal burdens imposed in this state on employers purchasing workers' compensation insurance versus those legal burdens imposed on individual and group self-insured employers. Issues to be studied include, but are not limited to, the following:

1. The existence or nonexistence of a differential, and a measure of the relative size or burden of any net differential.
2. Any effect on the volume of writings in the voluntary market for workers' compensation and the impact on the high risk pool or involuntary market.
3. Current trends in workers' compensation resulting from employers' funding mechanisms.
4. All other subsumed and appropriate issues.

The commissioner of insurance shall report to the house of representatives committee on commerce and the senate committee on commerce all findings and recommendations. If as a result of this the commissioner recommends corrective legislation, a draft of that legislation shall be provided to the committees no later than December 1, 1992.

Approved April 27, 1992

CHAPTER 1151**LIMITED LIABILITY COMPANIES***H.F. 2369*

AN ACT authorizing limited liability companies in Iowa and including penalties.

Be It Enacted by the General Assembly of the State of Iowa:

**SUBCHAPTER I
GENERAL PROVISIONS
PART 1**

Section 1. Section 4.1, subsection 13, Code 1991, is amended to read as follows:

13. **PERSON.** Unless otherwise provided by law, "person" means individual, corporation, limited liability company, government or governmental subdivision or agency, business trust, estate, trust, partnership or association, or any other legal entity.

Sec. 2. Section 172C.1, Code Supplement 1991, is amended by adding the following new subsection:

NEW SUBSECTION. 13A. "Limited liability company" means a limited liability company as defined in section 490A.102.

Sec. 3. Section 172C.1, subsection 16, Code Supplement 1991, is amended by adding the following new paragraph:

NEW PARAGRAPH. f. A limited liability company organized in the United States or elsewhere, beneficial ownership of which is held, directly or indirectly, by nonresident alien individuals.

Sec. 4. Section 172C.1, subsection 17, Code Supplement 1991, is amended to read as follows:

17. "Processor" means a person, firm, corporation, limited liability company, or limited partnership, which alone or in conjunction with others, directly or indirectly controls the manufacturing, processing or preparation for sale of beef or pork products having a total annual wholesale value of ten million dollars or more. Any person, firm, corporation, limited liability company, or limited partner with a ten percent or greater interest in another person, firm, corporation, limited liability company, or limited partnership involved in the manufacturing, processing or preparation for sale of beef or pork products having a total annual wholesale value of ten million dollars or more shall also be considered a processor.

Sec. 5. Section 172C.2, unnumbered paragraph 1, Code 1991, is amended to read as follows:

In order to preserve free and private enterprise, prevent monopoly, and protect consumers, it is unlawful for any processor of beef or pork or limited partnership in which a processor holds partnership shares as a general partner or partnership shares as a limited partner, or limited liability company in which a processor is a member, to own, control or operate a feedlot in Iowa in which hogs or cattle are fed for slaughter. In addition, a processor shall not directly or indirectly control the manufacturing, processing, or preparation for sale of pork products derived from swine if the processor contracted for the care and feeding of the swine in this state. However, this section does not apply to a cooperative association organized under chapter 497, 498, or 499, if the cooperative association contracts for the care and feeding of swine with a member of the cooperative association who is actively engaged in farming. This section does not apply to an association organized as a cooperative in which another cooperative association organized under chapter 497, 498, or 499 is a member, if the association contracts with a member which is a cooperative association organized under chapter 497, 498, or 499, which contracts for the care and feeding of swine with a member of the cooperative who is actively engaged in farming. This section shall not preclude a processor or limited partnership from contracting for the purchase of hogs or cattle, provided that where the contract sets a date for delivery which is more than twenty days after the making of the contract it shall:

Sec. 6. NEW SECTION. 172C.3A LIMITED LIABILITY COMPANIES — PROHIBITIONS.

A limited liability company shall not, either directly or indirectly, hold or acquire or otherwise obtain, lease, or have a legal or beneficial interest in any agricultural land in this state. A limited liability company shall not be a shareholder in a corporation, a limited partner in a limited partnership, or beneficiary of a trust which holds or leases any agricultural land in this state. A limited liability company violating the provisions of this section shall be subject to the same penalty as provided in section 172C.4. The courts of this state may prevent and restrain violators of this section through the issuance of an injunction. The attorney general or a county attorney shall institute suits on behalf of the state to prevent or restrain violators of this section.

Sec. 7. Section 422.32, subsection 1, Code 1991, is amended to read as follows:

1. The word "corporation" includes joint stock companies, and associations organized for pecuniary profit, other than limited liability companies, and publicly traded partnerships taxed as corporations under the Internal Revenue Code.

Sec. 8. NEW SECTION. 490A.100 SHORT TITLE.

This chapter is entitled and may be cited as the "Iowa Limited Liability Company Act."

Sec. 9. NEW SECTION. 490A.101 RESERVATION OF POWER TO AMEND OR REPEAL.

The general assembly has the power to amend or repeal all or part of this chapter at any time and all domestic and foreign limited liability companies subject to this chapter shall be governed by the amendment or repeal.

Sec. 10. NEW SECTION. 490A.102 DEFINITIONS.

In this chapter, unless the context otherwise requires:

1. "Articles of organization" means documents filed under section 490A.301 for the purpose of forming a limited liability company and includes amended and restated articles of organization, and articles of merger.
2. "Bankruptcy" means, with respect to any person, being the subject of an order for relief under Title 11 of the United States Code.
3. "Capital contribution" means any cash, property, or services rendered, or a promissory note or other binding obligation to contribute cash or property or to perform services, which a member contributes to a limited liability company in the capacity of a member.
4. "Constituent entity" means each limited liability company, limited partnership, or corporation which is party to a plan of merger pursuant to subchapter XII.
5. "Corporation" means a domestic corporation formed under the law of this state or subject to the law of this state, or a foreign corporation as defined in this chapter.
6. "Court" includes every court having jurisdiction of the case.
7. "Distribution" means a direct or indirect transfer of money or other property, or inurrence of indebtedness by a limited liability company to or for the benefit of its members in respect of their interests.
8. "Entity" includes corporation and foreign corporation; nonprofit corporation; profit and nonprofit unincorporated association; business trust, estate, partnership, limited liability company, trust, and two or more persons having a joint or common economic interest; and state, United States, and foreign government.
9. "Foreign corporation" means a corporation for profit incorporated under a law other than the law of this state.
10. "Foreign limited liability company" means a limited liability company organized under a law other than the law of this state.
11. "Foreign limited partnership" means a limited partnership organized under a law other than the law of this state.
12. "Individual" includes the estate of an incompetent, a ward, or a deceased individual.
13. "Limited liability company" or "domestic limited liability company" means an entity that is an unincorporated association having two or more members, and that is organized under or subject to this chapter.
14. "Limited partnership" means a limited partnership organized under the law of this state or a foreign limited partnership as defined in this section.
15. "Manager" or "managers" means a person or persons designated by the members of a limited liability company to manage the limited liability company as provided in the articles of organization or an operating agreement.
16. "Member" means a person with a membership interest in a limited liability company.
17. "Membership interest" or "interest" means a member's share of the profits and the losses of the limited liability company and the right to receive distributions of the limited liability company's assets, and any right to vote or participate in management.
18. "Operating agreement" means any agreement of the members as to the affairs of a limited liability company and the conduct of its business.
19. "Person" has the same meaning as specified in section 4.1, subsection 13.
20. "Principal office" means the office, in or out of this state, where the principal executive offices of a domestic or foreign limited liability company are located.
21. "Secretary of state" means the Iowa secretary of state.
22. "State," when referring to a part of the United States, includes a state, commonwealth, and their agencies and governmental subdivisions; and a territory or insular possession, and their agencies and governmental subdivisions, of the United States.
23. "Surviving entity" means the constituent entity surviving the merger, as identified in the articles of merger provided for in subchapter XII.

24. "United States" includes a district, authority, bureau, commission, department, and any other agency of the United States.

PART 2

Sec. 11. NEW SECTION. 490A.120 FILING REQUIREMENTS.

1. A document must satisfy the requirements of this section, and of any other section that adds to or varies these requirements, to be entitled to filing.

2. The document must be one that this chapter requires or permits to be filed with the secretary of state.

3. The document must contain the information required by this chapter. It may contain other information as well.

4. The document must be typewritten or printed. The typewritten or printed portion shall be in black. Manually signed photocopies, or other reproduced copies, including facsimiles and other electronically or computer-generated copies of typewritten or printed documents may be filed.

5. The document must be in the English language. A limited liability company name need not be in English if written in English letters or Arabic or Roman numerals. The articles of organization, duly authenticated by the official having custody of the applicable records in the state or country under whose law the limited liability company is formed, which are required of foreign limited liability companies, need not be in English if accompanied by a reasonably authenticated English translation.

6. The document must be executed by one of the following persons:

a. A manager, or if no managers have been selected, by any member of the limited liability company.

b. If the limited liability company has not been formed, by the person forming the limited liability company.

c. If the limited liability company is in the hands of a receiver, trustee, or other court-appointed fiduciary, that fiduciary.

7. The person executing the document shall sign it and state beneath or opposite the person's signature the person's name and the capacity in which the person signs.

8. If, pursuant to any provision of this chapter, the secretary of state has prescribed a mandatory form for the document, the document shall be in or on the prescribed form.

9. The document must be delivered to the secretary of state for filing and must be accompanied by the correct filing fee.

Sec. 12. NEW SECTION. 490A.121 FILING DUTY OF SECRETARY OF STATE.

1. If a document delivered to the office of the secretary of state for filing satisfies the requirements of section 490A.120, the secretary of state shall file it and issue any necessary certificate.

2. The secretary of state files a document by stamping or otherwise endorsing "filed", together with the secretary of state's name and official title and the date and time of receipt, on both the document and the receipt for the filing fee, and recording the document in the records of the secretary of state. After filing a document, and except as provided in section 490A.503, the secretary of state shall deliver the document, with the filing fee receipt, or acknowledgment of receipt if no fee is required, attached, to the domestic or foreign limited liability company or its representative.

3. If the secretary of state refuses to file a document, the secretary of state shall return it to the domestic or foreign limited liability company or its representative within ten days after the document was received by the secretary of state, together with a brief, written explanation of the reason for the refusal.

4. The secretary of state's duty to file documents under this section is ministerial. Filing or refusing to file a document does not:

a. Affect the validity or invalidity of the document in whole or part.

b. Relate to the correctness or incorrectness of information contained in the document.

c. Create a presumption that the document is valid or invalid or that information contained in the document is correct or incorrect.

Sec. 13. NEW SECTION. 490A.122 EFFECTIVE TIME AND DATE OF DOCUMENTS.

1. Except as provided in subsection 2 and section 490A.123, subsection 3, a document accepted for filing is effective at the later of the following times:

a. At the time of filing on the date it is filed, as evidenced by the secretary of state's date and time endorsement on the original document.

b. At the time specified in the document as its effective time on the date it is filed.

2. A document may specify a delayed effective time and date, and if it does so the document becomes effective at the time and date specified. If a delayed effective date but no time is specified, the document is effective at the close of business on that date. A delayed effective date for a document shall not be later than the ninetieth day after the date it is filed.

Sec. 14. NEW SECTION. 490A.123 CORRECTING FILED DOCUMENTS.

1. A domestic or foreign limited liability company may correct a document filed by the secretary of state if the document satisfies one or both of the following requirements:

a. Contains an incorrect statement.

b. Was defectively executed, attested, sealed, verified, or acknowledged.

2. A document is corrected by complying with both of the following:

a. By preparing articles of correction that satisfy all of the following requirements:

(1) Describe the document, including its filing date, or attach a copy of it to the articles.

(2) Specify the incorrect statement and the reason it is incorrect or the manner in which the execution was defective.

(3) Correct the incorrect statement or defective execution.

b. By delivering the articles to the secretary of state for filing.

3. Articles of correction are effective on the effective date of the document they correct except as to persons relying on the uncorrected document and adversely affected by the correction. As to those persons, articles of correction are effective when filed.

Sec. 15. NEW SECTION. 490A.124 FEES.

1. The secretary of state shall collect the following fees when documents described in this subsection are delivered to the secretary's office for filing:

a. Articles of organization	\$ 50
b. Application for use of indistinguishable name	\$ 10
c. Application for reserved name	\$ 10
d. Notice of transfer of reserved name	\$ 10
e. Application for registered name per month or part thereof	\$ 2
f. Application for renewal of registered name	\$ 20
g. Statement of change of registered agent or registered office or both	No fee
h. Agent's statement of change of registered office for each affected limited liability company	No fee
i. Agent's statement of resignation	No fee
j. Amendment of articles of organization	\$ 50
k. Restatement of articles of organization with amendment of articles	\$ 50
l. Articles of merger	\$ 50
m. Articles of dissolution	\$ 5
n. Articles of revocation of dissolution	\$ 5
o. Certificate of administrative dissolution	No fee
p. Application for reinstatement following administrative dissolution	\$ 5
q. Certificate of reinstatement	No fee

r. Certificate of judicial dissolution	No fee
s. Application for certificate of authority	\$100
t. Application for amended certificate of authority	\$100
u. Application for certificate of withdrawal	\$ 10
v. Certificate of revocation of authority to transact business ...	No fee
w. Articles of correction	\$ 5
x. Application for certificate of existence or authorization	\$ 5
y. Any other document required or permitted to be filed by this chapter	\$ 5

2. The secretary of state shall collect a fee of five dollars each time process is served on the secretary under this chapter. The party to a proceeding causing service of process is entitled to recover this fee as costs if the party prevails in the proceeding.

3. The secretary of state shall collect the following fees for copying and certifying the copy of any filed document relating to a domestic or foreign corporation:

- a. One dollar a page for copying.
- b. Five dollars for the certificate.

Sec. 16. NEW SECTION. 490A.125 FORMS.

1. The secretary of state may prescribe and furnish on request forms including but not limited to the following:

- a. An application for a certificate of existence.
- b. A foreign limited liability company's application for a certificate of authority to transact business in this state.
- c. A foreign limited liability company's application for a certificate of withdrawal.

If the secretary of state so requires, use of these listed forms prescribed by the secretary of state is mandatory.

2. The secretary of state may prescribe and furnish on request forms for other documents required or permitted to be filed by this chapter but their use is not mandatory.

Sec. 17. NEW SECTION. 490A.126 APPEAL FROM SECRETARY OF STATE'S REFUSAL TO FILE DOCUMENT.

1. If the secretary of state refuses to file a document delivered to the secretary's office for filing, the domestic or foreign limited liability company may appeal the refusal, within thirty days after the return of the document, to the district court for the county in which the limited liability company's principal office or, if none in this state, its registered office is or will be located. The appeal is commenced by petitioning the court to compel filing the document and by attaching to the petition the document and the secretary of state's explanation of the refusal to file.

2. The court may summarily order the secretary of state to file the document or take other action the court considers appropriate.

3. The court's final decision may be appealed as in other civil proceedings.

Sec. 18. NEW SECTION. 490A.127 EVIDENTIARY EFFECT OF COPY OF FILED DOCUMENT.

A certificate attached to a copy of a document filed by the secretary of state, bearing the secretary of state's signature, which may be in facsimile, and the seal of the secretary of state, is conclusive evidence that the original document is on file with the secretary of state.

Sec. 19. NEW SECTION. 490A.128 CERTIFICATE OF EXISTENCE.

1. Anyone may apply to the secretary of state to furnish a certificate of existence for a domestic limited liability company or a certificate of authorization for a foreign limited liability company.

2. A certificate of existence or authorization must set forth all of the following:

- a. The domestic limited liability company's name or the foreign limited liability company's name used in this state.

b. That one of the following applies:

(1) If it is a domestic limited liability company, that it is duly organized under the law of this state, the date of its organization, and the period of its duration.

(2) If it is a foreign limited liability company, that it is authorized to transact business in this state.

c. That all fees required by this chapter have been paid.

d. That articles of dissolution have not been filed.

e. Other facts of record in the office of the secretary of state that may be requested by the applicant.

3. Subject to any qualification stated in the certificate, a certificate of existence or authorization issued by the secretary of state may be relied upon as conclusive evidence that the domestic or foreign limited liability company is in existence or is authorized to transact business in this state.

Sec. 20. NEW SECTION. 490A.129 PENALTY FOR SIGNING FALSE DOCUMENT.

1. A person commits an offense if that person signs a document the person knows is false in any material respect with intent that the document be delivered to the secretary of state for filing.

2. An offense under this section is a serious misdemeanor punishable by a fine of not to exceed one thousand dollars.

Sec. 21. NEW SECTION. 490A.130 SECRETARY OF STATE — POWERS.

The secretary of state has the power reasonably necessary to perform the duties required of the secretary of state by this chapter.

SUBCHAPTER II PURPOSES AND POWERS

Sec. 22. NEW SECTION. 490A.201 PURPOSES.

1. A limited liability company organized under this chapter has the purpose of engaging in any lawful business unless a more limited purpose is set forth in the articles of organization.

2. A limited liability company engaging in a business that is subject to regulation under another statute of this state may organize under this chapter only if permitted by, and subject to all limitations of, the other statute.

Sec. 23. NEW SECTION. 490A.202 POWERS.

Unless its articles of organization provide otherwise, a limited liability company has the same powers as an individual to do all things necessary or convenient to carry out its business and affairs, including without limitation power to do all of the following:

1. Sue and be sued, complain, and defend in its name.

2. Transact its business, carry on its operations, and have and exercise the powers granted by this chapter in any state and in any foreign country.

3. Purchase, receive, lease, or otherwise acquire, and own, hold, improve, use, and otherwise deal with, real or personal property, or any legal or equitable interest in property, wherever located.

4. Sell, convey, transfer, mortgage, pledge, lease, exchange, and otherwise dispose of all or any part of its property.

5. Purchase, receive, subscribe for, or otherwise acquire and hold, to sell, mortgage, lend, pledge, or otherwise dispose of, and deal in and with, shares or other interests in, or obligations of any other person.

6. Make contracts and guaranties, incur liabilities, borrow money, issue its notes, bonds, and other obligations, which may be convertible into or include the option to purchase other securities of the limited liability company, and secure any of its obligations by mortgage, deed of trust, or pledge of any of its property, franchises, or income.

7. Lend money, invest and reinvest its funds, and receive and hold real and personal property as security for repayment.

8. Elect and appoint managers, employees, and agents of the limited liability company, define their duties, fix their compensation, and lend them money and credit.

9. Pay pensions and establish pension plans, pension trusts, profit sharing plans, and benefit and incentive plans for all or any of its current or former members, managers, employees, and agents.

10. Make donations for the public welfare or for religious, charitable, scientific, or educational purposes.

11. Make payments or donations, or do any other act, not inconsistent with law, that furthers the business and affairs of the limited liability company.

12. Cease its activities and dissolve.

13. Be a promoter, stockholder, partner, member, associate, agent, or manager of any corporation, partnership, limited liability company, joint venture, trust, or other entity.

14. Make and amend operating agreements, not inconsistent with its articles of organization or with the law of this state, for the administration and regulation of its affairs.

15. Transact any lawful business that a corporation, partnership, or other entity may conduct under the law of this state subject, however, to any and all laws and restrictions that govern or limit the conduct of such activity by such corporation, partnership, or other entity.

16. Have and exercise all powers necessary or convenient to effect any or all of the purposes for which the limited liability company is organized.

SUBCHAPTER III FORMATION

Sec. 24. NEW SECTION. 490A.301 FORMATION.

One or more persons may form a limited liability company by executing and delivering articles of organization to the secretary of state for filing. Such person or persons need not be members of the limited liability company after formation has occurred.

Sec. 25. NEW SECTION. 490A.302 LIABILITY.

All persons purporting to act as or on behalf of a limited liability company, knowing there is no organization under this chapter, are jointly and severally liable for all liabilities created while so acting.

Sec. 26. NEW SECTION. 490A.303 ARTICLES OF ORGANIZATION.

1. The articles of organization must set forth all of the following:

a. A name for the limited liability company that satisfies the requirements of section 490A.401.

b. The street address of the limited liability company's initial registered office and the name of its initial registered agent at that office.

c. The street address of the principal office of the limited liability company, which may be the same as the registered office, but need not be within this state.

d. The period of its duration which shall not be perpetual.

2. The articles of organization may set forth any other provision not inconsistent with law, including, but not limited to, a statement of whether there are limitations on the authority of members to bind the limited liability company.

3. The articles of organization need not set forth any of the powers enumerated in this chapter.

4. The articles of organization or an operating agreement may provide that a member's interest in a limited liability company may be evidenced by a certificate of membership interest issued by the limited liability company and may also provide for assignment or transfer of any membership interest represented by such a certificate and make other provisions with respect to such a certificate.

SUBCHAPTER IV NAMES

Sec. 27. NEW SECTION. 490A.401 NAME.

1. A limited liability company name must contain the words "Limited Company" or the abbreviation "L.C." or words or abbreviations of like import in another language.

2. A limited liability company name shall not contain any of the following:
 - a. The words "Corporation", "Incorporated", "Limited Partnership" or the abbreviations "Corp.", "Inc." or "L.P." or words or abbreviations of like import in another language.
 - b. Any word or phrase the use of which is prohibited by law for such a limited liability company.
3. Except as authorized by subsections 4 and 5, a limited liability company name must be distinguishable upon the records of the secretary of state from all of the following:
 - a. The name of a limited liability company, limited partnership, or corporation organized under the law of this state or registered as a foreign limited liability company, foreign limited partnership, or foreign corporation in this state.
 - b. A name reserved in the manner provided under the law of this state.
 - c. The fictitious name adopted by a foreign corporation, foreign limited partnership, or foreign limited liability company authorized to transact business in this state, because its real name is unavailable.
 - d. The corporate name of a nonprofit corporation incorporated or authorized to transact business in this state.
4. A limited liability company may apply to the secretary of state for authorization to use a name that is not distinguishable upon the secretary's records from one or more of the names described in subsection 3. The secretary of state shall authorize use of the name applied for if one of the following conditions applies:
 - a. The other entity consents to the use in writing and submits an undertaking in form satisfactory to the secretary of state to change its name to a name that is distinguishable upon the records of the secretary of state from the name of the applying limited liability company.
 - b. The applicant delivers to the secretary of state a certified copy of the final judgment of a court of competent jurisdiction establishing the applicant's right to use the name applied for in this state.
5. A limited liability company may use the name, including the fictitious name, of another entity that is used in this state if the other entity is formed under the law of this state or is authorized to transact business in this state and the proposed user limited liability company meets one of the following conditions:
 - a. Has merged with the other entity.
 - b. Has been formed by reorganization of the other entity.
 - c. Has acquired all or substantially all of the assets, including the name, of the other entity.
6. This chapter does not control the use of fictitious names; however, if a limited liability company uses a fictitious name in this state it shall deliver to the secretary of state for filing a certified copy of the resolution of the limited liability company adopting the fictitious name.

Sec. 28. NEW SECTION. 490A.402 RESERVED NAME.

1. A person may reserve the exclusive use of a limited liability company name, including a fictitious name for a foreign limited liability company whose limited liability company name is not available, by delivering an application to the secretary of state for filing. The application must set forth the name and address of the applicant and the name proposed to be reserved. If the secretary of state finds that the limited liability company name applied for is available, the secretary of state shall reserve the name for the applicant's exclusive use for a nonrenewable one hundred twenty-day period.
2. The owner of a reserved limited liability company name may transfer the reservation to another person by delivering to the secretary of state a signed notice of the transfer that states the name and address of the transferee.

**SUBCHAPTER V
REGISTERED OFFICE AND AGENT**

Sec. 29. NEW SECTION. 490A.501 REGISTERED OFFICE AND REGISTERED AGENT. Each limited liability company must continuously maintain in this state each of the following:

1. A registered office that may be the same as any of its places of business.

2. A registered agent who may be any of the following:
 - a. An individual who is a resident of this state and whose business office is identical with the registered office.
 - b. A domestic corporation, domestic limited liability company, or not-for-profit domestic corporation whose business office is identical with the registered office.
 - c. A foreign corporation, foreign limited liability company, or not-for-profit foreign corporation authorized to transact business in this state whose business office is identical with the registered office.

Sec. 30. NEW SECTION. 490A.502 CHANGE OF REGISTERED OFFICE OR REGISTERED AGENT.

1. Each limited liability company may change its registered office or registered agent by delivering to the secretary of state for filing a statement of change that sets forth the following:
 - a. The name of the limited liability company or foreign limited liability company.
 - b. The street address of its current registered office.
 - c. If the current registered office is to be changed, the street address of the new registered office.
 - d. The name of its current registered agent.
 - e. If the current registered agent is to be changed, the name of the new registered agent and the new agent's written consent either on the statement or attached to it, to the appointment.
 - f. That after the change or changes are made, the street address of its registered office and the business office of its registered agent will be identical.
2. A statement of change shall forthwith be filed in the office of the secretary of state by a limited liability company whenever its registered agent dies, resigns, or ceases to satisfy the requirements of section 490A.501.
3. If a registered agent changes the registered agent's business address to another place, the registered agent may change the business address and the address of the registered agent by filing a statement as required in subsection 1 for each limited liability company, or a single statement for all limited liability companies named in the notice, except that it need be signed only by the registered agent or agents and need not be responsive to subsection 1, paragraph "e", and must recite that a copy of the statement has been mailed to each limited liability company named in the notice.

Sec. 31. NEW SECTION. 490A.503 RESIGNATION OF REGISTERED AGENT.

1. A registered agent may resign the agent's agency appointment by signing and delivering to the secretary of state for filing the signed original and two exact copies or conformed copies of a statement of resignation. The statement may include a statement that the registered office is also discontinued. After filing the statement the secretary of state shall mail one copy to the registered office, if not discontinued, and the other copy to the limited liability company at its principal office.
2. The agency appointment is terminated, and the registered office discontinued if so provided, on the thirty-first day after the date on which the statement was filed.

Sec. 32. NEW SECTION. 490A.504 SERVICE ON LIMITED LIABILITY COMPANY.

1. A domestic or foreign limited liability company's registered agent is the limited liability company's agent for service of process, notice, or demand required or permitted by law to be served on the limited liability company.
2. If a limited liability company has no registered agent, or the agent cannot with reasonable diligence be served, the limited liability company may be served by registered or certified mail, return receipt requested, addressed to the limited liability company at its principal office. Service is perfected under this subsection at the earliest of:
 - a. The date the limited liability company receives the mail.
 - b. The date shown on the return receipt, if signed on behalf of the limited liability company.

c. Five days after its deposit in the United States mail, as evidenced by the postmark, if mailed postpaid and correctly addressed.

3. This section does not prescribe the only means, or necessarily the required means, of serving a domestic or foreign limited liability company.

SUBCHAPTER VI
RELATIONSHIP OF A
LIMITED LIABILITY COMPANY
AND ITS MEMBERS TO THIRD PERSONS

Sec. 33. NEW SECTION. 490A.601 LIABILITY TO THIRD PARTIES.

Except as otherwise provided by this chapter or as expressly provided in the articles of organization, no member or manager of a limited liability company is personally liable for the acts or debts of the limited liability company.

Sec. 34. NEW SECTION. 490A.602 PARTIES TO ACTIONS.

A member of a limited liability company is not a proper party to a proceeding by or against a limited liability company, except where either of the following applies:

1. The object is to enforce a member's right against or liability to the limited liability company.
2. As provided in subchapter 10.

SUBCHAPTER VII
RELATIONSHIP OF MEMBERS TO EACH OTHER

Sec. 35. NEW SECTION. 490A.701 VOTING RIGHTS OF MEMBERS.

1. Unless otherwise provided in the articles of organization or an operating agreement, the members of a limited liability company shall vote in proportion to their capital contributions to the limited liability company, as adjusted from time to time to reflect any additional contributions or withdrawals.

2. Unless otherwise provided in the articles of organization or an operating agreement, a unanimous vote shall be required to approve the following matters:

- a. The dissolution and winding up of the limited liability company.
- b. The sale, exchange, lease, mortgage, pledge, or other transfer of all or substantially all of the assets of the limited liability company.
- c. Merger of the limited liability company with another entity.
- d. An amendment to the articles of organization or operating agreement.

Sec. 36. NEW SECTION. 490A.702 MANAGEMENT OF LIMITED LIABILITY COMPANY.

Unless the articles of organization or an operating agreement provides for management of a limited liability company by a manager or managers, management of a limited liability company shall be vested in its members.

Sec. 37. NEW SECTION. 490A.703 OPERATING AGREEMENT.

1. The members of a limited liability company may enter into an operating agreement to establish or regulate the affairs of the limited liability company, the conduct of its business and the relations of its members. An operating agreement may contain any provisions regarding the affairs of a limited liability company and the conduct of its business to the extent that such provisions are not inconsistent with law or the articles of organization.

2. An operating agreement must initially be agreed to by all of the members. Unless the articles of organization specifically permit otherwise, an operating agreement shall be in writing.

3. A court may enforce an operating agreement by injunction or by other relief that the court determines to be fair and appropriate in the circumstances. As an alternative to injunctive or other equitable relief, when the provisions of section 490A.1302 are applicable, the court may order dissolution of the limited liability company.

Sec. 38. NEW SECTION. 490A.704 WITHDRAWAL OF MEMBER.

A member may withdraw from a limited liability company at the time or upon the happening of events specified in writing in the articles of organization or an operating agreement. If

the articles of organization or an operating agreement does not specify in writing the time or the events upon the happening of which a member may withdraw, a member may withdraw upon not less than six months' prior written notice to each member at the member's address on the books of the limited liability company.

Sec. 39. NEW SECTION. 490A.705 MANAGEMENT OF A LIMITED LIABILITY COMPANY BY A MANAGER OR MANAGERS.

1. The articles of organization or an operating agreement of a limited liability company may apportion responsibility for managing a limited liability company among one or more managers who may be, but need not be, members.

2. The articles of organization or an operating agreement may prescribe qualifications for managers.

3. The number of managers shall be fixed by or in the manner provided in the articles of organization or an operating agreement. The number of managers may be increased or decreased by amendment to, or in the manner provided in, the articles of organization or an operating agreement.

4. Unless otherwise provided in the articles of organization or an operating agreement, managers shall be elected by the majority vote of the members.

5. Unless otherwise provided in the articles of organization or an operating agreement, any vacancy occurring in the office of manager shall be filled by a majority vote of the members.

6. All managers or any lesser number may be removed in the manner provided in the articles of organization or an operating agreement. If the articles of organization or an operating agreement does not provide for the removal of managers, then all managers or any lesser number may be removed with or without cause by a majority vote of the members.

7. Unless otherwise provided in the articles of organization or an operating agreement, if the limited liability company has more than one manager, all decisions of the managers shall be by majority vote of the managers.

8. Unless the articles of organization or an operating agreement require a different number, a quorum for a meeting of managers consists of a majority of the managers.

Sec. 40. NEW SECTION. 490A.706 GENERAL STANDARDS OF CONDUCT FOR MANAGERS.

1. A manager shall discharge that manager's duties as a manager in good faith, with the care an ordinary prudent person in a like position would exercise under similar circumstances, and in a manner the manager believes to be in the best interests of the limited liability company.

2. In discharging the manager's duties, a manager is entitled to rely on information, opinions, reports, or statements, including financial statements and other financial data, if prepared or presented by any of the following:

a. One or more managers or employees of the limited liability company whom the manager reasonably believes to be reliable and competent in the matters presented.

b. Legal counsel, public accountants, or other persons as to matters the manager reasonably believes are within the person's professional or expert competence.

c. A committee of managers of which the manager is not a member if the manager reasonably believes the committee merits confidence.

3. A manager is not acting in good faith if the manager has knowledge concerning the matter in question that makes reliance otherwise permitted by subsection 2 unwarranted.

4. A manager is not liable for any action taken as a manager or any failure to take any action, if the manager performed the duties of the manager's office in compliance with this section, or if, and to the extent that, liability for any such action or failure to act has been limited by the articles of organization pursuant to section 490A.707.

Sec. 41. NEW SECTION. 490A.707 LIMITATION OF LIABILITY OF MANAGERS.

The articles of organization may contain a provision eliminating or limiting the personal liability of a manager to the limited liability company or its members for monetary damages for breach of fiduciary duty as a manager, if the provision does not eliminate or limit the liability of a manager for any of the following:

1. Breach of the manager's duty of loyalty to the limited liability company or its members.
2. Acts or omissions not in good faith or which involve intentional misconduct or a knowing violation of law.
3. Transaction from which the manager derives an improper personal benefit or a wrongful distribution in violation of section 490A.807.

A provision shall not eliminate or limit the liability of a manager for an act or omission occurring prior to the date when the provision in the articles of organization becomes effective.

Sec. 42. NEW SECTION. 490A.708 BUSINESS TRANSACTIONS OF MANAGERS WITH THE LIMITED LIABILITY COMPANY.

1. A conflict of interest transaction is a transaction with the limited liability company in which a manager of the limited liability company has a direct or indirect interest. A conflict of interest transaction is not voidable by the limited liability company solely because of the manager's interest in the transaction if any one of the following is true:

a. The material facts of the transaction and the manager's interest were disclosed or known to the managers or a committee of managers and the managers or a committee of managers authorized, approved, or ratified the transaction.

b. The material facts of the transaction and the manager's interest were disclosed or known to the members entitled to vote and they authorized, approved, or ratified the transaction.

c. The transaction was fair to the limited liability company.

2. For purposes of this section, a manager of the limited liability company has an indirect interest in a transaction if either:

a. Another entity in which the manager has a material financial interest or in which the manager is a general partner is a party to the transaction.

b. Another entity of which the manager is a director, officer, manager, or trustee is a party to the transaction and the transaction is or should be considered by the limited liability company.

3. For purposes of subsection 1, paragraph "a", a conflict of interest transaction is authorized, approved, or ratified if it receives the affirmative vote of a majority of the managers or of the committee of managers, who have no direct or indirect interest in the transaction, but a transaction may not be authorized, approved, or ratified under this section by a single manager. If a majority of the managers who have no direct or indirect interest in the transaction vote to authorize, approve, or ratify the transaction, a quorum is present for the purpose of taking action under this section. The presence of, or a vote cast by, a manager with a direct or indirect interest in the transaction does not affect the validity of any action taken under subsection 1, paragraph "a", if the transaction is otherwise authorized, approved, or ratified as provided in that subsection.

4. For purposes of subsection 1, paragraph "b", a conflict of interest transaction is authorized, approved, or ratified if it receives the vote of a majority of the members entitled to vote under this subsection. Interests owned by or voted under the control of a manager who has a direct or indirect interest in the transaction, and interests owned by or voted under the control of an entity described in subsection 2, paragraph "a", shall not be counted in a vote of members to determine whether to authorize, approve, or ratify a conflict of interest transaction under subsection 1, paragraph "b". The vote of those members, however, is counted in determining whether the transaction is approved under other sections of this chapter. Members, whether or not present, that are entitled to be counted in a vote on the transaction under this subsection constitute a quorum for the purpose of taking action under this section.

Sec. 43. NEW SECTION. 490A.709 INFORMATION AND RECORDS.

1. Each limited liability company shall keep at its principal office the following:

a. A current list of the full name and last known business address of each member and manager.

b. A copy of the articles of organization and all articles of amendment thereto.

c. Copies of the limited liability company's federal, state, and local income tax returns and reports, if any, for the three most recent years.

d. Copies of any then-effective written operating agreement and of any financial statements of the limited liability company for the three most recent years.

e. Unless contained in a written operating agreement, a writing setting out:

(1) The amount of cash and a description and statement of the agreed value of the other property or services contributed by each member and which each member has agreed to contribute.

(2) The times at which or events on the happening of which any additional contributions agreed to be made by each member are to be made.

(3) Any right of a member to receive, or of the limited liability company to make, distributions to a member which include a return of all or any part of the member's contribution.

(4) Any events upon the happening of which the limited liability company is to dissolve and its affairs be wound up.

2. Each member has the right, upon reasonable request and subject to reasonable standards as may be set forth in an operating agreement, to do any of the following:

a. Inspect and copy any of the limited liability company records required to be maintained by this section; and

b. Obtain from the manager or managers, or if the limited liability company has no manager or managers, from any member or other person with access to such information, from time to time upon reasonable demand any of the following:

(1) True and full information regarding the state of the business and financial condition of the limited liability company.

(2) Promptly after it becomes available, a copy of the limited liability company's federal, state, and local income tax returns for each year.

(3) Other information regarding the affairs of the limited liability company as is just and reasonable.

SUBCHAPTER VIII FINANCE

Sec. 44. NEW SECTION. 490A.801 CONTRIBUTIONS.

1. The contributions of a member to a limited liability company may be in cash, property, or services rendered, or a promissory note or other binding obligation to contribute cash or property or to perform services.

2. Unless otherwise provided in the articles of organization or an operating agreement, a member is obligated to the limited liability company to perform any enforceable promise to contribute cash or property or to perform services, even if the member is unable to perform because of death, disability, or any other reason. If a member does not make the contribution, the member is obligated at the option of the limited liability company to contribute cash equal to that portion of the value of the contribution that has not been made as stated in the limited liability company records required to be kept by section 490A.709. A promise by a member to contribute to a limited liability company is not enforceable unless set out in a writing signed by the member.

3. Unless otherwise provided in the articles of organization or an operating agreement, the obligation of a member to make a contribution or return money or other property paid or distributed in violation of this chapter may be compromised only by consent of all the members. Notwithstanding the compromise, a creditor of a limited liability company who extends credit or otherwise acts in reliance on the original obligation may enforce the original obligation.

Sec. 45. NEW SECTION. 490A.802 SHARING OF PROFITS AND LOSSES.

The profits and losses of a limited liability company shall be allocated among the members, and among classes of members, in the manner provided in writing in the articles of organization or an operating agreement. If the articles of organization or an operating agreement do not so provide in writing, profits and losses shall be allocated on the basis of their respective capital contributions, as adjusted from time to time to reflect any additional contributions or withdrawals.

Sec. 46. NEW SECTION. 490A.803 SHARING OF DISTRIBUTIONS.

Distributions of cash or other assets of a limited liability company shall be allocated among the members, and among classes of members, in the manner provided in writing in the articles of organization or an operating agreement. If the articles of organization or an operating agreement do not so provide in writing, distributions shall be made on the basis of their respective capital contributions, as adjusted from time to time to reflect any additional contributions or withdrawals.

Sec. 47. NEW SECTION. 490A.804 INTERIM DISTRIBUTIONS.

Except as otherwise provided in this chapter, a member is entitled to receive distributions from a limited liability company before the member's withdrawal from the limited liability company and before the dissolution and winding up of the company to the extent and at the times or upon the happening of the events specified in the articles of organization or an operating agreement.

Sec. 48. NEW SECTION. 490A.805 DISTRIBUTION UPON WITHDRAWAL.

Except as otherwise provided in this chapter, upon withdrawal, a withdrawing member is entitled to receive any distribution to which the member is entitled under the articles of organization or an operating agreement. If not otherwise provided in the articles of organization or an operating agreement, the member is entitled to receive, within a reasonable time after withdrawal, the fair value of the member's membership interest as of the date of withdrawal, based on the member's right to share in distributions from the limited liability company.

Sec. 49. NEW SECTION. 490A.806 DISTRIBUTION IN KIND.

Unless otherwise provided in the articles of organization or an operating agreement, a member, regardless of the nature of the member's contribution, has no right to demand and receive any distribution from a limited liability company in any form other than cash. Unless otherwise provided in the articles of organization or an operating agreement, a member shall not be compelled to accept a distribution of any asset in kind from a limited liability company to the extent that the percentage of the asset distributed to the member exceeds the percentage of the member's membership interest in the limited liability company.

Sec. 50. NEW SECTION. 490A.807 RESTRICTIONS ON MAKING DISTRIBUTION.

1. A distribution shall not be made if, after giving it effect, either of the following would result:
 - a. The limited liability company would not be able to pay its debts as they became due in the usual course of business.
 - b. The limited liability company's total assets would be less than the sum of its total liabilities plus, unless the articles of organization or an operating agreement permit otherwise, the amount that would be needed, if the limited liability company were to be dissolved at the time of the distribution, to satisfy the preferential rights upon dissolution of members whose preferential rights are superior to the rights of members receiving the distribution.
2. The limited liability company may base a determination that a distribution is not prohibited under subsection 1 of this section on either of the following:
 - a. Financial statements prepared on the basis of accounting practices and principles that are reasonable in the circumstances.
 - b. A fair valuation or other method that is reasonable in the circumstances.
3. The effect of a distribution under subsection 1 of this section is measured as of one of the following:
 - a. The date the distribution is authorized if the payment occurs within one hundred twenty days after the date of authorization.
 - b. The date the payment is made if it occurs more than one hundred twenty days after the date of authorization.
4. A limited liability company's indebtedness to a member incurred by reason of a distribution made in accordance with this section is at parity with the limited liability company's indebtedness to its general unsecured creditors, except to the extent subordinated by agreement.

Sec. 51. NEW SECTION. 490A.808 LIABILITY UPON WRONGFUL DISTRIBUTION.

If a member has received a distribution in violation of the articles of organization or an operating agreement or in violation of section 490A.807 of this chapter, then the member is liable to the limited liability company for a period of five years thereafter for the amount of the distribution wrongfully made.

**SUBCHAPTER IX
RIGHTS OF AND ASSIGNMENT BY MEMBERS**

Sec. 52. NEW SECTION. 490A.901 NATURE OF INTEREST IN LIMITED LIABILITY COMPANY.

A membership interest in a limited liability company is personal property.

Sec. 53. NEW SECTION. 490A.902 ASSIGNMENT OF INTEREST.

Unless otherwise provided in the articles of organization or an operating agreement, a membership interest in a limited liability company is assignable in whole or in part. An assignment of an interest in a limited liability company does not of itself dissolve the limited liability company. An assignment does not entitle the assignee to participate in the management and affairs of the limited liability company or to become or to exercise any rights of a member. Such an assignment entitles the assignee to receive, to the extent assigned, only the distribution to which the assignor would be entitled. Except as provided in the articles of organization or an operating agreement, a member ceases to be a member upon assignment of the member's entire membership interest.

Unless otherwise provided in the articles of organization or an operating agreement, the pledge of, or granting of a security interest, lien, or other encumbrance in or against, any or all of the membership interest of a member shall not cause the member to cease to be a member and shall not deprive the member of the power to exercise any rights or powers of a member.

Unless otherwise provided in the articles of organization or an operating agreement and except to the extent assumed by agreement, until an assignee of a membership interest becomes a member, the assignee shall have no liability as a member as a result of the assignment except for liability for a wrongful distribution to the assignee described in section 490A.808.

Sec. 54. NEW SECTION. 490A.903 RIGHT OF ASSIGNEE TO BECOME MEMBER.

1. Unless otherwise provided in the articles of organization or an operating agreement, an assignee of an interest in a limited liability company may become a member only if the other members unanimously consent. The consent of a member may be evidenced in any manner specified in the articles of organization or an operating agreement. In the absence of such specification consent shall be evidenced by a written instrument, dated and signed by the requisite number of members, or evidenced by a vote taken at a meeting of members called for that purpose.

2. An assignee who has become a member has, to the extent assigned, the rights and powers, and is subject to the restrictions and liabilities, of a member under the articles of organization, an operating agreement, and this chapter. An assignee who becomes a member is liable for any obligations of the member's assignor to make and return contributions as provided in subchapter VII and VIII. However, an assignee who becomes a member is not obligated for liabilities of the assignor unknown to the assignee at the time the assignee became a member, and which could not be ascertained from the articles of organization or an operating agreement.

3. If an assignee of an interest in a limited liability company becomes a member, the assignor is not released from liability to the limited liability company under sections 490A.801 and 490A.808.

Sec. 55. NEW SECTION. 490A.904 RIGHTS OF CREDITOR.

On application to a court of competent jurisdiction by any judgment creditor of a member, the court may charge the interest of the member in the limited liability company with payment of the unsatisfied amount of the judgment with interest. To the extent of the amounts

so charged, the judgment creditor has only the rights of an assignee of the interest in the limited liability company. This chapter does not deprive any member of the benefit of any exemption laws applicable to the member's interest in the limited liability company.

Sec. 56. NEW SECTION. 490A.905 POWERS OF ESTATE OF A DECEASED OR INCOMPETENT MEMBER.

If a member who is an individual dies or a court of competent jurisdiction adjudges the member to be incompetent, the member's executor, administrator, guardian, conservator, or other legal representative may exercise all of the member's rights for the purpose of settling the member's estate or administering the member's property, including any power under the articles of organization or an operating agreement of an assignee to become a member. If a member is a corporation, trust, or other entity and is dissolved or terminated, the powers of that member may be exercised by its legal representative or successor.

SUBCHAPTER X
DERIVATIVE ACTIONS

Sec. 57. NEW SECTION. 490A.1001 RIGHT OF MEMBER TO BRING DERIVATIVE ACTION.

A member may bring an action in the right of the limited liability company to recover a judgment in its favor if all of the following conditions are met:

1. Either management of the limited liability company is vested in a manager or managers who have the sole authority to cause the limited liability company to sue in its own right or management of the limited liability company is reserved to the members but the plaintiff does not have the authority to cause the limited liability company to sue in its own right under the provisions of the articles of organization or an operating agreement.
2. The plaintiff has made demand on those managers or those members with such authority requesting that such managers or such members cause the limited liability company to sue in its own right.
3. The members or managers with such authority have wrongfully refused to bring the action or, after adequate time to consider the demand, have failed to respond to the demand.
4. The plaintiff is a member of the limited liability company at the time of bringing the action and was a member of the limited liability company at the time of the transaction of which the plaintiff complains, or the plaintiff's status as a member of the limited liability company thereafter devolved upon the plaintiff pursuant to the terms of the articles of organization or an operating agreement from a person who was a member at such time.
5. The plaintiff fairly and adequately represents the interests of the members in enforcing the right of the limited liability company.

SUBCHAPTER XI
AMENDMENT OF ARTICLES OF ORGANIZATION

Sec. 58. NEW SECTION. 490A.1101 AMENDMENT OF ARTICLES OF ORGANIZATION.

1. A limited liability company may amend its articles of organization at any time to add or change a provision that is required or permitted in the articles of organization or to delete a provision not required in the articles of organization by delivering articles of amendment to the secretary of state for filing. Whether a provision is required or permitted for the articles of organization is determined as of the effective date of the amendment.
2. To amend its articles of organization, a limited liability company shall deliver to the secretary of state for filing articles of amendment setting forth all of the following:
 - a. The name of the limited liability company.
 - b. The text of each amendment adopted.
 - c. The date of each amendment's adoption.
 - d. A statement that the amendment was adopted by a vote of the members in accordance with this chapter.

Sec. 59. NEW SECTION. 490A.1102 RESTATED ARTICLES OF ORGANIZATION.

1. A limited liability company may restate its articles of organization at any time.
2. The restatement may include one or more amendments to the articles. The restatement must be adopted by a vote of the members as provided by this chapter.
3. A limited liability company restating its articles of organization shall deliver to the secretary of state for filing articles of restatement setting forth the name of the limited liability company and the text of the restated articles of organization together with a certificate setting forth the information required by section 490A.1101, subsection 2.
4. Duly adopted restated articles of organization supersede the original articles of organization and all amendments to them.
5. The secretary of state may certify restated articles of organization, as the articles of organization currently in effect, without including the certificate information required by subsection 3.

Sec. 60. NEW SECTION. 490A.1103 AMENDMENT PURSUANT TO REORGANIZATION.

1. A limited liability company's articles of organization may be amended without action by the members to carry out a plan of reorganization ordered or decreed by a court of competent jurisdiction under federal statute if the articles of organization after amendment contain only provisions required or permitted by section 490A.303.
2. The individual or individuals designated by the court shall deliver to the secretary of state for filing articles of amendment setting forth all of the following:
 - a. The name of the limited liability company.
 - b. The text of each amendment approved by the court.
 - c. The date of the court's order or decree approving the articles of amendment.
 - d. The title of the reorganization proceeding in which the order or decree was entered.
 - e. A statement that the court had jurisdiction of the proceeding under federal statute.
3. This section does not apply after entry of a final decree in the reorganization proceeding even though the court retains jurisdiction of the proceeding for limited purposes unrelated to consummation of the reorganization plan.

Sec. 61. NEW SECTION. 490A.1104 EFFECT OF AMENDMENT.

An amendment to articles of organization does not affect a cause of action existing against or in favor of the limited liability company, a proceeding to which the limited liability company is a party, or the existing rights of persons other than members of the limited liability company. An amendment changing a limited liability company's name does not abate a proceeding brought by or against the limited liability company in its former name.

SUBCHAPTER XII
MERGER

Sec. 62. NEW SECTION. 490A.1201 MERGER.

Any one or more limited liability companies may merge with or into any one or more limited liability companies, limited partnerships, or corporations, provided that no member of a limited liability company that is a party to the merger will, as a result of the merger, become personally liable for the liabilities or obligations of any other person or entity unless that member approves the plan of merger or otherwise consents to becoming personally liable.

Sec. 63. NEW SECTION. 490A.1202 PLAN OF MERGER.

1. Each constituent entity must enter into a written plan of merger, which must be approved in accordance with section 490A.1203.
2. The plan of merger must set forth all of the following:
 - a. The name of each constituent entity in the merger and the name of the surviving entity into which each other constituent entity proposes to merge.
 - b. The terms and conditions of the proposed merger.
 - c. The manner and basis of converting the interests in each constituent entity in the merger into interests, shares, or other securities or obligations of the surviving entity, or of any other entity, or, in whole or in part, into cash or other property.

d. Such amendments to the articles of organization of a limited liability company, articles or certificate of incorporation of a corporation, or certificate of limited partnership of a limited partnership, as the case may be, of the surviving entity as are desired to be effected by the merger, or that no such changes are desired.

e. Other provisions relating to the proposed merger as are deemed necessary or desirable.

Sec. 64. NEW SECTION. 490A.1203 ACTION ON PLAN.

1. A proposed plan of merger complying with the requirements of section 490A.1202 shall be approved in the manner provided by this section:

a. A limited liability company which is a party to a proposed merger shall have the plan of merger authorized and approved as required by section 490A.701.

b. A corporation which is a party to a proposed merger shall have the plan of merger authorized and approved in the manner and by the vote required by chapter 490.

c. A limited partnership which is a party to a proposed merger shall have the plan of merger authorized and approved in the manner and by the vote required by its partnership agreement and in accordance with chapter 545.

2. After a merger is authorized, unless the plan of merger provides otherwise, and at any time before articles of merger as provided for in section 490A.1204 are filed, the plan of merger may be abandoned subject to any contractual rights, in accordance with the procedure set forth in the plan of merger or, if none is set forth, in one of the following ways:

a. By the unanimous consent of the members of each limited liability company that is a constituent entity, unless the articles of organization or an operating agreement of any such limited liability company provides otherwise.

b. In the manner determined by the board of directors of any corporation that is a constituent entity.

c. By the limited partners of any limited partnership that is a constituent entity by the vote, if any, required by its limited partnership agreement and in accordance with the law of this state.

Sec. 65. NEW SECTION. 490A.1204 ARTICLES OF MERGER.

1. After a plan of merger is approved as provided in section 490A.1203, the surviving entity shall deliver to the secretary of state for filing articles of merger duly executed by each constituent entity setting forth all of the following:

a. The name of each constituent entity.

b. The plan of merger.

c. The effective date of the merger if later than the date of filing of the articles of merger.

d. The name of the surviving entity.

e. A statement that the plan of merger was duly authorized and approved by each constituent entity in accordance with section 490A.1203.

2. A merger takes effect upon the later of the effective date of the filing of the articles of merger or the date set forth in the plan of merger.

Sec. 66. NEW SECTION. 490A.1205 EFFECT OF MERGER.

When a merger takes effect all of the following apply:

1. Every other constituent entity merges into the surviving entity and the separate existence of every constituent entity except the surviving entity ceases.

2. The title to all real estate and other property owned by each constituent entity is vested in the surviving entity without reversion or impairment.

3. The surviving entity has all liabilities of each constituent entity.

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

5. The articles or limited partnership agreement of the surviving entity are amended to the extent provided in the plan of merger.

6. The shares or interests of each constituent entity that are to be converted into shares, obligations, or other securities of the surviving or any other entity or into cash or other

property are converted, and the former holders of the shares or interests are entitled only to the rights provided in the articles of merger except for dissenters' rights provided by law.

Sec. 67. NEW SECTION. 490A.1206 MERGER WITH FOREIGN ENTITY.

1. Any one or more limited liability companies of this state may merge with or into one or more foreign liability companies, foreign corporations, or foreign limited partnerships, or any one or more foreign liability companies, foreign corporations, or foreign limited partnerships may merge with or into any one or more limited liability companies of this state, if all of the following apply:

a. The merger is permitted by the law of the state or jurisdiction under whose law each foreign constituent entity is organized or formed and each foreign constituent entity complies with that law in effecting the merger.

b. The foreign constituent entity complies with section 490A.1204 of this division if it is the surviving entity.

c. Each domestic constituent entity complies with the applicable provisions of sections 490A.1202 and 490A.1203 and, if it is the surviving entity, with section 490A.1204.

2. Upon a merger involving one or more domestic limited liability companies taking effect, if the surviving entity is to be governed by the law of any state other than this state or of any foreign country, then the surviving entity shall agree to both of the following:

a. That it may be served with process in this state in any proceeding for enforcement of any obligation of any constituent entity, who was a party to the merger, that was organized under the law of this state, as well as for enforcement of any obligation of the surviving entity arising from the merger.

b. To irrevocably appoint the secretary of state as its agent for service of process in any such proceeding, and the surviving entity shall specify the address to which a copy of the process shall be mailed to it by the secretary of state.

3. The effect of the merger shall be as provided in section 490A.1205, if the surviving entity is to be governed by the law of this state. If the surviving entity is to be governed by the law of any jurisdiction other than this state, the effect of the merger shall be the same as provided in subsection 2 of this section, except insofar as the law of the other jurisdiction provides otherwise.

SUBCHAPTER XIII DISSOLUTION

Sec. 68. NEW SECTION. 490A.1301 DISSOLUTION — GENERAL PROVISIONS.

A limited liability company organized under this chapter is dissolved and its affairs shall be wound up upon the happening of the first to occur of the following events:

1. At the time or on the happening of an event specified in the articles of organization or an operating agreement to cause dissolution.

2. Upon the unanimous written consent of the members.

3. Upon the death, withdrawal, expulsion, bankruptcy, or dissolution of a member or occurrence of any other event, except assignment of a membership interest voluntarily or by operation of law, that terminates the continued membership of a member in the limited liability company, unless the business of the limited liability company is continued by the unanimous consent of the remaining members.

4. The entry of a decree of judicial dissolution under section 490A.1302.

Sec. 69. NEW SECTION. 490A.1302 JUDICIAL DISSOLUTION.

On application by or for a member, the district court of the county in which the registered office of the limited liability company is located may decree dissolution of a limited liability company if it is not reasonably practicable to carry on the business in conformity with the articles of organization and any operating agreement.

Sec. 70. NEW SECTION. 490A.1303 WINDING UP.

Unless otherwise provided in the articles of organization or an operating agreement, members who have not wrongfully dissolved a limited liability company may wind up the limited liability company's affairs; but the district court of the county in which the registered office of the limited liability company is located, on cause shown, may wind up the limited liability company's affairs on application of any member, member's legal representative, or member's assignee.

Sec. 71. NEW SECTION. 490A.1304 DISTRIBUTION OF ASSETS UPON DISSOLUTION.

Upon the winding up of a limited liability company, the assets of the limited liability company shall be distributed in the order as follows:

1. To creditors, including members who are creditors, to the extent permitted by law, in satisfaction of liabilities of the limited liability company other than for distributions to members under section 490A.803 or section 490A.805.

2. Unless otherwise provided in the articles of organization or an operating agreement, to members and former members in satisfaction of liabilities for distributions under section 490A.803 or section 490A.805.

3. Unless otherwise provided in the articles of organization or an operating agreement, to members first for the return of their capital contributions and second with respect to their interests in the limited liability company, in the proportions in which the members share in distributions.

Sec. 72. NEW SECTION. 490A.1305 ARTICLES OF DISSOLUTION.

1. Upon the completion of winding up of the limited liability company, articles of dissolution shall be delivered to the secretary of state for filing. The winding up of a limited liability company shall be completed when all debts, liabilities, and obligations of the limited liability company have been paid and discharged or reasonable adequate provision therefor has been made, and all of the remaining property and assets of the limited liability company have been distributed to the members. The articles of dissolution shall set forth all of the following:

- a. The name of the limited liability company.
- b. The date of filing of the articles of organization and each amendment thereto.
- c. The reason for filing the articles of dissolution.
- d. The effective date of dissolution if it is not to be effective on the filing of the articles of dissolution.
- e. Any other information the members or managers determine to include.

2. The limited liability company is dissolved upon the effective date of its articles of dissolution.

Sec. 73. NEW SECTION. 490A.1306 KNOWN CLAIMS AGAINST DISSOLVED LIMITED LIABILITY COMPANIES.

A dissolved limited liability company may dispose of the known claims against it in accordance with this section.

1. The dissolved limited liability company shall notify its known claimants in writing of the dissolution at any time after its effective date. The written notice must do all of the following:

- a. Describe information that must be included in a claim.
- b. Provide a mailing address where a claim may be sent.
- c. State the deadline, which may not be fewer than one hundred twenty days from the effective date of the written notice, by which the dissolved limited liability company must receive the claim.
- d. State that the claim will be barred if not received by the deadline.

2. A claim against the dissolved limited liability company is barred if either of the following occurs:

- a. A claimant who was given written notice under subsection 1 does not deliver the claim to the dissolved limited liability company by the deadline.

b. A claimant whose claim was rejected by the dissolved limited liability company does not commence a proceeding to enforce the claim within ninety days from the effective date of the rejection notice.

3. For purposes of this section, "claim" does not include a contingent liability or a claim based on an event occurring after the effective date of dissolution.

Sec. 74. NEW SECTION. 490A.1307 UNKNOWN CLAIMS AGAINST DISSOLVED LIMITED LIABILITY COMPANY.

1. A dissolved limited liability company may also publish notice of its dissolution and request that persons with claims against the limited liability company present them in accordance with the notice.

2. The notice shall meet all of the following requirements:

a. Be published one time in a newspaper of general circulation in the county where the dissolved limited liability company's principal office or, if none in this state, its registered office is or was last located.

b. Describe the information that must be included in a claim and provide a mailing address where the claim may be sent.

c. State that a claim against the limited liability company will be barred unless a proceeding to enforce the claim is commenced within five years after the publication of the notice.

3. If the dissolved limited liability company publishes a newspaper notice in accordance with subsection 2, the claim of each of the following claimants is barred unless the claimant commences a proceeding to enforce the claim against the dissolved corporation within five years after the publication date of the newspaper notice:

a. A claimant who did not receive written notice under section 490A.1306.

b. A claimant whose claim was timely sent to the dissolved limited liability company but not acted on.

c. A claimant whose claim is contingent or based on an event occurring after the effective date of dissolution.

4. A claim may be enforced under this section in either of the following ways:

a. Against the dissolved limited liability company, to the extent of its undistributed assets.

b. If the assets have been distributed in liquidation, against a member of the dissolved limited liability company to the extent of the member's pro rata share of the claim or the limited liability company assets distributed to the member in liquidation, whichever is less, but a member's total liability for all claims under this section shall not exceed the total amount of assets distributed to the member in liquidation.

**SUBCHAPTER XIV
FOREIGN LIMITED LIABILITY COMPANIES**

Sec. 75. NEW SECTION. 490A.1401 LAW GOVERNING.

The law of the state or other jurisdiction under which a foreign limited liability company is formed governs its formation and internal affairs and the liability of its members and managers. A foreign limited liability company shall not be denied registration by reason of any difference between those laws and the laws of this state. A foreign limited liability company holding a valid registration in this state shall have no greater rights and privileges than a domestic limited liability company. The registration shall not be deemed to authorize the foreign limited liability company to exercise any of its powers or purposes that a domestic limited liability company is forbidden by law to exercise in this state.

Sec. 76. NEW SECTION. 490A.1402 REGISTRATION.

A foreign limited liability company may apply for a certificate of registration to transact business in this state by delivering an application to the secretary of state for filing. An application for registration as a foreign limited liability company shall set forth all of the following:

1. The name of the foreign limited liability company and, if different, the name under which it proposes to register and transact business in this state.

2. The state or other jurisdiction in which the foreign limited liability company was formed and the date of its formation.

3. The street address of the registered office of the foreign limited liability company in this state, the name of the registered agent at the office, and a statement that the registered office and registered agent comply with the requirements of section 490A.501.

4. The address of the office required to be maintained in the state or other jurisdiction of its formation by the law of that state or jurisdiction or, if not so required, of the principal office of the foreign limited liability company.

5. A copy of the articles of organization filed in the foreign limited liability company's state or other jurisdiction of formation authorizing it to do business in that state or other jurisdiction, duly authenticated by the proper officer of the state or other jurisdiction of its formation.

Sec. 77. NEW SECTION. 490A.1403 SERVICE ON FOREIGN LIMITED LIABILITY COMPANY.

1. The registered agent of a foreign limited liability company authorized to transact business in this state is the limited liability company's agent for service of process, notice, or demand required or permitted by law to be served on the foreign limited liability company.

2. A foreign limited liability company may be served by registered or certified mail, return receipt requested, addressed to the foreign limited liability company at its principal office shown in its application for a certificate of authority if the foreign limited liability company meets any of the following conditions:

- a. Has no registered agent or its registered agent cannot with reasonable diligence be served.
- b. Has withdrawn from transacting business in this state under section 490A.1406.
- c. Has had its certificate of authority revoked under section 490A.1410.

3. Service is perfected under subsection 2 at the earliest of:

- a. The date the foreign limited liability company receives the mail.
- b. The date shown on the return receipt, if signed on behalf of the foreign limited liability company.
- c. Five days after its deposit in the United States mail, as evidenced by the postmark, if mailed postpaid and correctly addressed.

4. A foreign limited liability company may also be served in any other manner permitted by law.

Sec. 78. NEW SECTION. 490A.1404 NAME.

A certificate of registration shall not be issued to a foreign limited liability company unless the name of the limited liability company satisfies the requirements of section 490A.401. To obtain or maintain a certificate of registration the company shall comply with the following:

1. The foreign limited company shall add the words "Limited Company" or the abbreviation "L.C." to its name for use in this state.

2. If its real name is unavailable in this state, the foreign limited liability company shall use a fictitious name that is available, and which satisfies the requirements of section 490A.401, and shall inform the secretary of state of the fictitious name.

Sec. 79. NEW SECTION. 490A.1405 CHANGE AND AMENDMENT.

If any statement in the application for registration of a foreign limited liability company was false when made or any arrangements or other facts described have changed, making the application inaccurate in any respect, the foreign limited liability company shall promptly deliver to the secretary of state for filing articles of correction correcting such statement as required by section 490A.123.

Sec. 80. NEW SECTION. 490A.1406 CANCELLATION OF CERTIFICATE OF REGISTRATION.

1. A foreign limited liability company may cancel its certificate of registration by delivering to the secretary of state for filing a certificate of cancellation which shall set forth all of the following:

a. The name of the foreign limited liability company and the name of the state or other jurisdiction under whose jurisdiction it was formed.

b. That the foreign limited liability company is not transacting business in this state and that it surrenders its registration to transact business in this state.

c. That the foreign limited liability company revokes the authority of its registered agent to accept service on its behalf and appoints the secretary of state as its agent for service of process in any proceeding based on a cause of action arising during the time it was authorized to transact business in this state.

d. A mailing address to which the secretary of state may mail a copy of any process served on the secretary of state under paragraph "c" of this subsection.

e. A commitment to notify the secretary of state in the future of any change in the mailing address of the limited liability company.

2. The certificate of registration shall be cancelled upon the filing of the certificate of cancellation by the secretary of state.

Sec. 81. NEW SECTION. 490A.1407 AUTHORITY TO TRANSACT BUSINESS REQUIRED.

1. A foreign limited liability company shall not transact business in this state until it obtains a certificate of authority from the secretary of state.

2. The following activities, among others, do not constitute transacting business within the meaning of subsection 1:

a. Maintaining, defending, or settling any proceeding.

b. Holding meetings of the members or managers or carrying on other activities concerning internal corporate affairs.

c. Maintaining bank accounts.

d. Maintaining offices or agencies for the transfer, exchange, and registration of the limited liability company's own securities or maintaining trustees or depositories with respect to those securities.

e. Selling through independent contractors.

f. Soliciting or obtaining orders, whether by mail or through employees or agents or otherwise, if the orders require acceptance outside this state before they become contracts.

g. Creating or acquiring indebtedness, mortgages, and security interests in real or personal property.

h. Securing or collecting debts or enforcing mortgages and security interests in property securing the debts.

i. Owning, without more, real or personal property.

j. Conducting an isolated transaction that is completed within thirty days and that is not one in the course of repeated transactions of a like nature.

k. Transacting business in interstate commerce.

3. The list of activities in subsection 2 is not exhaustive.

Sec. 82. NEW SECTION. 490A.1408 CONSEQUENCES OF TRANSACTING BUSINESS WITHOUT AUTHORITY.

1. A foreign limited liability company transacting business in this state without a certificate of authority shall not maintain a proceeding in any court in this state until it obtains a certificate of authority.

2. The successor to a foreign limited liability company that transacted business in this state without a certificate of authority and the assignee of a cause of action arising out of that business shall not maintain a proceeding based on that cause of action in any court in this state until the foreign limited liability company or its successor obtains a certificate of authority.

3. A court may stay a proceeding commenced by a foreign limited liability company, its successor, or assignee until it determines whether the foreign limited liability company or its successor or assignee requires a certificate of authority. If it so determines, the court may further stay the proceeding until the foreign limited liability company or its successor or assignee obtains the certificate.

4. A foreign limited liability company is liable for a civil penalty not to exceed a total of one thousand dollars if it transacts business in this state without a certificate of authority. The attorney general may collect penalties due under this subsection.

5. Notwithstanding subsections 1 and 2, the failure of a foreign limited liability company to obtain a certificate of authority does not impair the validity of its official acts or prevent it from defending any proceeding in this state.

Sec. 83. NEW SECTION. 490A.1409 ACTIONS BY ATTORNEY GENERAL.

The attorney general may bring an action to restrain a foreign limited liability company from transacting business in this state in violation of this chapter.

Sec. 84. NEW SECTION. 490A.1410 REVOCATION OF REGISTRATION.

1. The certificate of registration of a foreign limited liability company to transact business in this state may be revoked by the secretary of state upon the occurrence of any of the following:

a. The foreign limited liability company has failed to:

(1) Pay any fees or penalties prescribed by this chapter.

(2) Appoint and maintain a registered agent as required under section 490A.1402.

(3) Deliver for filing to the secretary of state a report upon any change in the name or address of the registered agent.

(4) Deliver to the secretary of state for filing articles of correction required under section 490A.1405.

b. A misrepresentation has been made of any material matter in any application, report, affidavit, or other documents submitted by the foreign limited liability company under this subchapter.

2. A certificate of registration of a foreign limited liability company shall not be revoked by the secretary of state, unless both of the following apply:

a. The secretary of state has given the foreign limited liability company not less than sixty days' notice thereof by mail addressed to its registered office in this state or, if the foreign limited liability company fails to appoint and maintain a registered agent in this state, addressed to the office required to be maintained pursuant to section 490A.1402.

b. During the sixty-day period, the foreign limited liability company has failed to pay such fees or penalties prescribed by this chapter, to file a report of change regarding the registered agent, to file any necessary articles of correction, or to correct any such misrepresentation.

3. Upon the expiration of sixty days after the mailing of the notice, the authority of the foreign limited liability company to transact business in this state shall cease.

SUBCHAPTER XV
PROFESSIONAL LIMITED LIABILITY COMPANIES

Sec. 85. NEW SECTION. 490A.1501 DEFINITIONS.

As used in this division, unless the context otherwise requires:

1. "Employees" or "agents" does not include clerks, stenographers, secretaries, bookkeepers, technicians, or other persons who are not usually and ordinarily considered by custom and practice to be practicing a profession nor any other person who performs all that person's duties for the professional limited liability company under the direct supervision and control of one or more managers, employees, or agents of the professional limited liability company who are duly licensed in this state to practice a profession which the limited liability company is authorized to practice in this state. This chapter does not require any such persons to be licensed to practice a profession if they are not required to be licensed under any other law of this state.

2. "Foreign professional limited liability company" means a limited liability company organized under laws other than the laws of this state for a purpose for which a professional limited liability company may be organized under this chapter.

3. "Licensed" includes registered, certified, admitted to practice, or otherwise legally authorized under the laws of this state.

4. "Profession" means the profession of certified public accountancy, architecture, chiropractic, dentistry, physical therapy, psychology, professional engineering, land surveying,

landscape architecture, law, medicine and surgery, optometry, osteopathy, osteopathic medicine and surgery, accounting practitioner, podiatry, speech pathology, audiology, veterinary medicine, pharmacy, and nursing.

5. "Professional limited liability company" means a limited liability company subject to this subchapter, except a foreign professional limited liability company.

6. "Regulating board" means any board, commission, court, or governmental authority which, under the laws of this state, is charged with the licensing, registration, certification, admission to practice, or other legal authorization of the practitioners of any profession.

7. "Voluntary transfer" includes a sale, voluntary assignment, gift, pledge, or encumbrance; a voluntary change of legal or equitable ownership or beneficial interest; or a voluntary change of persons having voting rights with respect to any membership interest, except as proxies; but does not include a transfer of an individual's membership interest or other property to a guardian or conservator appointed for that individual or the individual's property.

Sec. 86. NEW SECTION. 490A.1502 PURPOSES AND POWERS.

A professional limited liability company shall be organized only for the purpose of engaging in the practice of one specific profession, or two or more specific professions which could lawfully be practiced in combination by a licensed individual or a partnership of licensed individuals, and for the additional purpose of doing all lawful things which may be incidental to or necessary or convenient in connection with the practice of the profession or professions. The articles of organization of a professional limited liability company shall state in substance that the purposes for which the professional limited liability company is organized are to engage in the general practice of a specified profession or professions, or one or more specified branches or divisions thereof, and to do all lawful things which may be incidental to or necessary or convenient in connection with the practice of the profession or professions.

Sec. 87. NEW SECTION. 490A.1503 NAME.

The name of a professional limited liability company, the name of a foreign professional limited liability company or its name as modified for use in this state, and any fictitious name or trade name adopted by a professional limited liability company or foreign professional limited liability company shall contain the words "Professional Limited Company" or the abbreviation "P.L.C.", and except for the addition of such words or abbreviation, shall be a name which could lawfully be used by a licensed individual or by a partnership of licensed individuals in the practice in this state of a profession which the professional limited liability company is authorized to practice. Each regulating board may by rule adopt additional requirements as to the corporate names and fictitious or trade names of professional limited liability companies and foreign professional limited liability companies which are authorized to practice a profession which is within the jurisdiction of the regulating board.

Sec. 88. NEW SECTION. 490A.1504 WHO MAY ORGANIZE.

Two or more individuals having capacity to contract, each of whom is licensed to practice a profession in this state which the professional limited liability company is to be authorized to practice, may act as organizers of a professional limited liability company.

Sec. 89. NEW SECTION. 490A.1505 PRACTICE BY PROFESSIONAL LIMITED LIABILITY COMPANY.

Notwithstanding any other statute or rule of law, a professional limited liability company may practice a profession, but may do so in this state only through members, managers, employees, and agents who are licensed to practice the same profession in this state. In its practice of a profession, no professional limited liability company shall do any act which could not lawfully be done by individuals licensed to practice the profession which the professional limited liability company is authorized to practice.

Sec. 90. NEW SECTION. 490A.1506 PROFESSIONAL REGULATION.

A professional limited liability company shall not be required to register with or to obtain any license, registration, certificate, or other legal authorization from a regulating board in

order to practice a profession. Except as provided in this section, this subchapter does not restrict or limit in any manner the authority or duties of any regulating board with respect to individuals practicing a profession which is within the jurisdiction of the regulating board, even if the individual is a member, manager, employee, or agent of a professional limited liability company or foreign professional limited liability company and practices the individual's profession through such professional limited liability company.

Sec. 91. NEW SECTION. 490A.1507 RELATIONSHIP AND LIABILITY TO PERSONS SERVED.

This subchapter does not modify any law applicable to the relationship between an individual practicing a profession and a person receiving professional services, including, but not limited to, any liability arising out of such practice and any law respecting privileged communications. This chapter does not modify or affect the ethical standards or standards of conduct of any profession, including, but not limited to, any standards prohibiting or limiting the practice of the profession by a limited liability company or prohibiting or limiting the practice of two or more professions in combination. All such standards shall apply to the members, managers, employees, and agents through whom a professional limited liability company practices any profession in this state, to the same extent that the standards apply to an individual practitioner.

Sec. 92. NEW SECTION. 490A.1508 ISSUANCE OF MEMBERSHIP INTERESTS.

Membership interests of a professional limited liability company shall be issued only to individuals who are licensed to practice in any state a profession which the professional limited liability company is authorized to practice. Membership interests of a professional limited liability company shall not at any time be issued in, transferred into, or held in joint tenancy, tenancy in common, or any other form of joint ownership or co-ownership. The Iowa uniform securities Act shall not be applicable to nor govern any transaction relating to any membership interests of a professional limited liability company.

Sec. 93. NEW SECTION. 490A.1509 ASSIGNMENT OF MEMBERSHIP INTERESTS.

A member or other person shall not make a voluntary assignment of a membership interest in a professional limited liability company to any person, except to the professional limited liability company or to an individual who is licensed to practice in this state a profession which the limited liability company is authorized to practice. The articles of organization or operating agreement of the professional limited liability company may contain any additional provisions restricting the assignment of membership interests. Unless the articles of organization or an operating agreement otherwise provide, a voluntary assignment requires the unanimous consent of the members.

Sec. 94. NEW SECTION. 490A.1510 CONVERTIBLE MEMBERSHIP INTERESTS — RIGHTS AND OPTIONS.

A professional limited liability company shall not create or issue any interest convertible into a membership interest of the professional limited liability company. The provisions of this subchapter with respect to the issuance and transfer of membership interests apply to the creation, issuance, and transfer of any rights or options entitling the holder to purchase from a professional limited liability company any membership interests of the professional limited liability company. Rights or options shall not be transferable, whether voluntarily, involuntarily, by operation of law, or in any other manner. Upon the death of the holder, or when the holder ceases to be licensed to practice a profession in this state which the professional limited liability company is authorized to practice, the rights or options shall expire.

Sec. 95. NEW SECTION. 490A.1511 VOTING TRUST — PROXY.

A member of a professional limited liability company shall not create or enter into a voting trust or any other agreement conferring upon any other person the right to vote or otherwise represent any membership interests of a professional limited liability company, and no such voting trust or agreement is valid or effective. Any proxy of a member of a professional limited

liability company shall be an individual licensed to practice a profession in this state which the professional limited liability company is authorized to practice. Any provision in any proxy instrument denying the right of the member to revoke the proxy at any time or for any period of time is not valid or effective. This section does not otherwise limit the right of a member to vote by proxy, but the articles of organization or operating agreement of the professional limited liability company may further limit or deny the right to vote by proxy.

Sec. 96. NEW SECTION. 490A.1512 REQUIRED PURCHASE BY PROFESSIONAL LIMITED LIABILITY COMPANY OF ITS OWN MEMBERSHIP INTERESTS.

1. Notwithstanding any other statute or rule of law, a professional limited liability company shall purchase its own membership interests as provided in this section; and the members of a professional limited liability company and their executors, administrators, legal representatives, and successors in interest, shall sell and transfer the membership interests held by them as provided in this section.

2. Upon the death of a member, the professional limited liability company shall immediately purchase all membership interests held by the deceased member.

3. In order to remain a member of a professional limited liability company, a member shall at all times be licensed to practice in this state a profession which the professional limited liability company is authorized to practice. When a member does not have or ceases to have this qualification, the professional limited liability company shall immediately purchase all membership interests held by that member.

4. When a person other than a member of record becomes entitled to have membership interests of a professional limited liability company transferred into that person's name or to exercise voting rights, except as a proxy, with respect to membership interests of the professional limited liability company, the professional limited liability company shall immediately purchase the membership interests. Without limiting the generality of the foregoing, this section shall be applicable whether the event occurs as a result of appointment of a guardian or conservator for a member or the member's property, transfer of membership interests by operation of law, involuntary transfer of membership interests, judicial proceedings, execution, levy, bankruptcy proceedings, receivership proceedings, foreclosure or enforcement of a pledge or encumbrance, or any other situation or occurrence. However, this section does not apply to any voluntary transfer of membership interests as defined in this chapter.

5. Membership interests purchased by the professional limited liability company under this section shall be transferred to the professional limited liability company as of the close of business on the date of the death or other event which requires purchase. The member and the member's executors, administrators, legal representatives, or successors in interest, shall promptly do all things which may be necessary or convenient to cause transfer to be made as of the transfer date. However, the membership interests shall promptly be transferred on the books and records of the professional limited liability company as of the transfer date, notwithstanding any delay in transferring or surrendering the membership interests or certificates representing the membership interests, and the transfer shall be valid and effective for all purposes as of the close of business on the transfer date. The purchase price for such membership interests shall be paid as provided in this chapter, but the transfer of membership interests to the professional limited liability company as provided in this section shall not be delayed or affected by any delay or default in making payment.

6. Notwithstanding subsections 1 through 5, purchase by the professional limited liability company is not required upon the occurrence of any event other than death of a member, if the professional limited liability company is dissolved within sixty days after the occurrence of the event. The articles of organization or operating agreement of the professional limited liability company may provide that purchase is not required upon the death of a member, if the professional limited liability company is dissolved within sixty days after the date of the member's death.

7. Unless otherwise provided in the articles of organization or an operating agreement of the professional limited liability company or in an agreement among all members of the professional limited liability company all of the following apply:

a. The purchase price for membership interests shall be their book value as of the end of the month immediately preceding the death or other event which requires purchase. Book value shall be determined from the books and records of the professional limited liability company in accordance with the regular method of accounting used by the professional limited liability company, uniformly and consistently applied. Adjustments to book value shall be made, if necessary, to take into account work in process and accounts receivable. A final determination of book value made in good faith by an independent certified public accountant or firm of certified public accountants employed by the professional limited liability company for the purpose shall be conclusive on all persons.

b. The purchase price shall be paid in cash as follows:

(1) Upon the death of a member, thirty percent of the purchase price shall be paid within ninety days after death, and the balance shall be paid in three equal annual installments on the first three anniversaries of the death.

(2) Upon the happening of any other event referred to in this section, one-tenth of the purchase price shall be paid within ninety days after the date of the event, and the balance shall be paid in three equal annual installments on the first three anniversaries of the date of the event.

c. Interest from the date of death or other event shall be payable annually on principal payment dates, at the rate of six percent per annum on the unpaid balance of the purchase price.

d. All persons who are members of the professional limited liability company on the date of death or other event, and their executors, administrators, and legal representatives, shall, to the extent the professional limited liability company fails to meet its obligations under this section, be jointly liable for the payment of the purchase price and interest in proportion to their percentage of ownership of the professional limited liability company's membership interests, disregarding membership interests of the deceased or withdrawing member.

e. The part of the purchase price remaining unpaid after the initial payment shall be evidenced by a negotiable promissory note, which shall be executed by the professional limited liability company and all members liable for payment. Any person liable on the note shall have the right to prepay the note in full or in part at any time.

f. If the person making any payment is not reasonably able to determine which of two or more persons is entitled to receive a payment, or if the payment is payable to a person who is unknown, or who is under disability and there is no person legally competent to receive the payment, or who cannot be found after the exercise of reasonable diligence by the person making the payment, it shall be deposited with the treasurer of state and shall be subject to the provisions of section 490.1440 with respect to funds deposited with the treasurer of state upon the voluntary or involuntary dissolution of a business corporation.

8. Notwithstanding the other provisions of this section, no part of the purchase price shall be required to be paid until the certificates, if any, representing the membership interests have been surrendered to the professional limited liability company.

9. Notwithstanding the other provisions of this section, payment of any part of the purchase price for membership interests of a deceased member shall not be required until the executor or administrator of the deceased member provides any indemnity, release, or other document from any taxing authority, which is reasonably necessary to protect the professional limited liability company against liability for estate, inheritance, and death taxes.

10. The articles of organization or an operating agreement of the professional limited liability company or an agreement among all members of a professional limited liability company may provide for a different purchase price, a different method of determining the purchase price, a different interest rate or no interest, and other terms, conditions, and schedules of payment.

11. The articles of organization or an operating agreement of the professional limited liability company or an agreement among all members of a professional limited liability company may provide for the optional or mandatory purchase of its own membership interests by the professional limited liability company in other situations, subject to any applicable law regarding such a purchase.

Sec. 97. NEW SECTION. 490A.1513 CERTIFICATES REPRESENTING MEMBERSHIP INTERESTS.

Each certificate representing membership interests of a professional limited liability company shall state in substance that the certificate represents membership interests in a professional limited liability company and is not transferable except as expressly provided in this chapter and in the articles of organization or an operating agreement of the professional limited liability company.

Sec. 98. NEW SECTION. 490A.1514 MANAGEMENT.

All managers of a professional limited liability company shall at all times be individuals who are licensed to practice a profession in this state which the limited liability company is authorized to practice. A person who is not licensed shall have no authority or duties in the management or control of the limited liability company. If a manager ceases to have this qualification, the manager shall immediately and automatically cease to hold such management position.

Sec. 99. NEW SECTION. 490A.1515 MERGER.

A professional limited liability company shall not merge with any entity except another professional limited liability company subject to this subchapter or a professional corporation subject to chapter 496C. Merger is not permitted unless the surviving or new professional limited liability company is a professional limited liability company which complies with all requirements of this subchapter.

Sec. 100. NEW SECTION. 490A.1516 DISSOLUTION OR LIQUIDATION.

Violation of any provision of this subchapter by a professional limited liability company or any of its members or managers shall be cause for its involuntary dissolution, or liquidation of its assets and business by the district court, as provided in section 490A.1302. Upon the death of the last remaining member of a professional limited liability company, or when the last remaining member is not licensed or ceases to be licensed to practice a profession in this state which the professional limited liability company is authorized to practice, or when any person other than the member of record becomes entitled to have all membership interests of the last remaining member of the professional limited liability company transferred into that person's name or to exercise voting rights, except as a proxy, with respect to such membership interests, the professional limited liability company shall not practice any profession and it shall be promptly dissolved. However, if prior to dissolution all outstanding membership interests of the professional limited liability company are acquired by one or more persons licensed to practice a profession in this state which the professional limited liability company is authorized to practice, the professional limited liability company need not be dissolved and may practice the profession as provided in this subchapter.

Sec. 101. NEW SECTION. 490A.1517 FOREIGN PROFESSIONAL LIMITED LIABILITY COMPANY.

A foreign professional limited liability company may practice a profession in this state if it complies with the provisions of this chapter and this subchapter. The secretary of state may prescribe forms for this purpose. A foreign professional limited liability company may practice a profession in this state only through members, managers, employees, and agents who are licensed to practice the profession in this state. The provisions of this subchapter with respect to the practice of a profession by a professional limited liability company apply to a foreign professional limited liability company. This subchapter does not prohibit the practice of a profession in this state by an individual who is a member, manager, employee, or agent of a foreign professional limited liability company, if the individual could lawfully practice the profession in this state in the absence of any relationship to a foreign professional limited liability company. The preceding sentence applies regardless of whether or not the foreign professional limited liability company is authorized to practice a profession in this state.

Sec. 102. NEW SECTION. 490A.1518 LIMITED LIABILITY COMPANIES ORGANIZED UNDER OTHER LAWS.

This chapter does not apply to or interfere with the practice of any profession by or through any professional limited liability company organized after the effective date of this Act under any other law of this state or any other state or country, if the practice is lawful under any other statute or rule of law of this state. Any such professional limited liability company may voluntarily elect to adopt this subchapter and become subject to its provisions, by amending its articles of organization to be consistent with all provisions of this subchapter and by stating in its amended articles of organization that the limited liability company has voluntarily elected to adopt this subchapter. Any limited liability company organized under any law of any other state or country may become subject to the provisions of this subchapter by complying with all provisions of this subchapter with respect to foreign professional limited liability companies.

Sec. 103. NEW SECTION. 490A.1519 CONFLICTS WITH OTHER PROVISIONS OF THIS CHAPTER.

The provisions of this subchapter shall prevail over any inconsistent provisions of this chapter.

SUBCHAPTER XVI
PROVISIONS

Sec. 104. NEW SECTION. 490A.1601 PROPERTY TITLE RECORDS.

When by merger or amendment to the articles of organization the name of any domestic or foreign limited liability company is changed, a certificate reciting the change or succession shall be issued by the secretary of state upon request and payment of any applicable fee and the certificate may be admitted to record upon payment of any applicable fee in any recording office within the jurisdiction of which any property of the limited liability company is located in order to maintain the continuity of title records, but no transfer tax shall be due thereon. If a limited liability company or other entity is not a domestic limited liability company or other entity or a foreign limited liability company or other entity authorized to do business in this state, a similar certificate by any competent authority of the state of organization or formation of the limited liability company or other entity may be admitted to record in any recording office within the jurisdiction of which any property of the limited liability company or other entity is located in order to maintain the continuity of title records upon payment of any applicable fee, but no transfer tax shall be due thereon.

Sec. 105. Section 502.207A, subsection 2, paragraph a, Code 1991, is amended to read as follows:

a. The issuer must be a corporation, limited liability company, or partnership organized under the laws of one of the states or possessions of the United States which engages in or proposes to engage in a business other than petroleum exploration or production mining or other extractive industries.

Sec. 106. Section 558.39, Code 1991, is amended by adding the following new subsection:
NEW SUBSECTION. 3A. In the case of limited liability companies:

On this _____ day of _____, A.D. 19____, before me, a _____ (Insert title of acknowledging officer) in and for said county, personally appeared _____, to me personally known, who being by me duly (sworn or affirmed) did say that that person is _____ (Insert title of executing member) of said (limited liability company), that (the seal affixed to said instrument is the seal of said or no seal has been procured by the said) (limited liability company) and that said instrument was signed and sealed on behalf of the said (limited liability company) by authority of its managers and the said _____ acknowledged the execution of said instrument to be the voluntary act and deed of said (limited liability company) by it voluntarily executed.

Approved April 27, 1992