

#### **490A.305 Series of members, managers, or membership interests.**

1. An operating agreement may establish or provide for the establishment of designated series of members, managers, or membership interests having separate rights, powers, or duties with respect to specified property or obligations of the limited liability company or profits and losses associated with specified property or obligations, and, to the extent provided in the operating agreement, any such series may have a separate business purpose or investment objective.
2. Notwithstanding contrary provisions of this chapter, the debts, liabilities, and obligations incurred, contracted for, or otherwise existing with respect to a particular series shall be enforceable against the assets of that series only, and not against the assets of the limited liability company generally, if all of the following apply:
  - a. The operating agreement creates one or more series.
  - b. Separate and distinct records are maintained for the series and the assets associated with the series are held and accounted for separately from the other assets of the limited liability company, or from any other series of the limited liability company.
  - c. The operating agreement provides for such limitation on liabilities.
  - d. Notice of the limitation on liabilities of a series is set forth in the articles of organization of the limited liability company. Filing of articles of organization containing a notice of the limitation on liabilities of a series in the office of the secretary of state constitutes notice of the limitation on liabilities of such series.
3. Notwithstanding section 490A.601, or a contrary provision in an operating agreement, a member or manager may agree to be obligated personally for any or all of the debts, obligations, or liabilities of one or more series.
4. An operating agreement may provide for classes or groups of members or managers associated with a series having such relative rights, powers, and duties as the operating agreement may provide. The operating agreement may provide for the future creation of additional classes or groups of members or managers associated with the series having such relative rights, powers, and duties as may from time to time be established, including rights, powers, and duties senior to existing classes and groups of members or managers associated with the series. An operating agreement may provide for the taking of an action, including the amendment of the operating agreement, without the vote or approval of any member or manager or class or group of members or managers, including all action to create under the provisions of the operating agreement a class or group of the series of membership interests that was not previously outstanding. An operating agreement may provide that any member or class or group of members associated with a series have no voting rights.
5. An operating agreement may grant to all or certain identified members or managers or a specified class or group of the members or managers associated with a series the right to vote on any matter separately or with all or any class or group of the members or managers associated with the series. Voting by members or managers associated with a series may be on a per capita, number, financial interest, class, group, or other basis.
6. Unless otherwise provided in an operating agreement, the management of a series shall be vested in the members associated with such series in proportion to the then-current percentage or other interest of members in the profits of the series owned by all of the members associated with such series. The decision of members owning more than fifty percent of the series or other interest in the profits shall control. However, if an operating agreement provides for the management of the series, in whole or in part, by a manager, the management of the series, to the extent so provided, is vested in the manager who shall be chosen as provided

in the operating agreement. The manager of the series shall also hold the offices and have the responsibilities accorded to managers as set forth in the operating agreement. A series may have more than one manager. A manager shall cease to be a manager with respect to a series as provided in the operating agreement. Except as otherwise provided in the operating agreement, an event under this chapter or identified in an operating agreement that causes a manager to cease to be a manager with respect to a series, by itself, shall not cause the manager to cease to be a manager of the limited liability company or with respect to any other series of the limited liability company.

7. Notwithstanding any other provision of this chapter, except subsections 8 and 11 and unless otherwise provided in an operating agreement, at the time a member associated with a series that has been established pursuant to subsection 1 becomes entitled to receive a distribution with respect to such series, the member has the status of, and is entitled to, all remedies available to a creditor of the series with respect to the distribution. An operating agreement may provide for the establishment of a record date with respect to allocations and distributions with respect to a series.

8. Notwithstanding any other provision of this chapter, a limited liability company may make a distribution with respect to a series that has been established pursuant to subsection 1. However, a limited liability company shall not make a distribution with respect to a series that has been established pursuant to subsection 1 to the extent that at the time of the distribution, after giving effect to the distribution, all liabilities of such series, other than liabilities to members on account of their membership interests with respect to such series and liabilities for which the recourse of creditors is limited to specified property of such series, exceed the fair value of the assets associated with such series. However, the fair value of an asset of the series that is subject to a liability for which the recourse of creditors is limited shall be included in the assets associated with such series only to the extent that the fair value of that asset exceeds that liability. A member who receives a distribution in violation of this subsection, and who knew at the time of the distribution that the distribution violated this subsection, is liable for the amount of the distribution. Subject to section 490A.807, which applies to any distribution made with respect to a series under this subsection, this subsection shall not affect any obligation or liability of a member under an agreement or other applicable law for the amount of a distribution.

9. Unless otherwise provided in the operating agreement, a member shall cease to be associated with a series and to have the power to exercise any rights or powers of a member with respect to such series upon the assignment of all of the member's membership interest with respect to such series. Except as otherwise provided in an operating agreement, an event under this chapter or identified in an operating agreement that causes a member to cease to be associated with a series, by itself, shall not cause such member to cease to be associated with any other series or terminate the continued membership of a member in the limited liability company.

10. Subject to section 490A.1301, except to the extent otherwise provided in the operating agreement, a series may be terminated and its affairs wound up without causing the dissolution of the limited liability company. The termination of a series established pursuant to subsection 1 shall not affect the limitation on liabilities of such series provided by subsection 2. A series is terminated and its affairs shall be wound up upon the dissolution of the limited liability company under section 490A.1301 or otherwise upon the first to occur of the following:

- a. At the time specified in the operating agreement.
- b. Upon the happening of events specified in the operating agreement.
- c. Unless otherwise provided in the operating agreement, upon the written consent of all members associated with such series.
- d. The termination of such series under subsection 10.

11. Notwithstanding section 490A.1303, unless otherwise provided in the operating agreement, any of the following persons may wind up the affairs of the series:

- a.* A manager associated with a series who has not wrongfully terminated the series.
- b.* If there is no manager of a series, the members associated with the series or a person approved by the members associated with the series.
- c.* If there is more than one class or group of members associated with the series, then by each class or group of members associated with the series, in either case, by members who own more than fifty percent of the then-current percentage or other interest in the profits of the series owned by all of the members associated with the series or by the members of each class or group associated with the series.

However, if the series has been established pursuant to subsection 1, the district court of the county in which the limited liability company has its principal place of business, upon cause shown, may wind up the affairs of the series upon application of any member associated with the series or the member's legal representative or assignee, and in connection with such winding up, may appoint a liquidating trustee. The persons winding up the affairs of a series, in the name of the limited liability company and for and on behalf of the limited liability company and such series, may take all actions with respect to the series as are permitted under section 490A.1303. The persons winding up the affairs of a series shall provide for the claims and obligations of the series as provided in section 490A.1304 and distribute the assets of the series as provided in section 490A.1304. Actions taken pursuant to this subsection shall not affect the liability of members and shall not impose liability on a liquidating trustee.

12. On application by or for a member or manager associated with a series established pursuant to subsection 1, the district court in the county in which the limited liability company has its principal place of business may enter an order for dissolution of such series if it is not reasonably practicable to carry on the business of the series in conformity with the operating agreement.

13. A foreign limited liability company that is registering to do business in this state under this chapter which is governed by an operating agreement that establishes or provides for the establishment of designated series of members, managers, or membership interests having separate rights, powers, or duties with respect to specified property or obligations of the foreign limited liability company, or profits and losses associated with the specified property or obligations, shall indicate that fact on the application for registration as a foreign limited liability company. In addition, the foreign limited liability company shall state on the application whether the debts, liabilities, and obligations incurred, contracted for, or otherwise existing with respect to a particular series, if any, are enforceable against the assets of such series only, and not against the assets of the foreign limited liability company generally.