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.

92 Acts, ch 1151, §50

Referred to in §490A.305, 490A.707, 490A.808, 490A.809