

House Study Bill 209 - Introduced

HOUSE FILE _____
BY (PROPOSED COMMITTEE
ON JUDICIARY BILL BY
CHAIRPERSON HOLT)

A BILL FOR

1 An Act relating to business entities, by providing for
2 different types of limited liability companies and the
3 dissolution of limited liability companies, providing for
4 fees, and including effective date provisions.

5 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28
29
30
31
32
33
34
35

DIVISION I
UNIFORM PROTECTED SERIES ACT — ENACTMENT
ARTICLE 12
PART 1
UNIFORM PROTECTED SERIES ACT
SUBPART A
GENERAL PROVISIONS

Section 1. NEW SECTION. 489.12101 Short title.

This part may be cited as the "*Uniform Protected Series Act*".

Sec. 2. NEW SECTION. 489.12102 Definitions.

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

1. "*Asset*" means any of the following:

a. Property in which a series limited liability company or protected series has rights.

b. Property as to which the company or protected series has the power to transfer rights.

2. "*Associated asset*" means an asset that meets the requirements of section 489.12301.

3. "*Associated member*" means a member that meets the requirements of section 489.12302.

4. "*Foreign protected series*" means an arrangement, configuration, or other structure established by a foreign limited liability company which has attributes comparable to a protected series established under this part. The term applies whether or not the law under which the foreign company is organized refers to "protected series".

5. "*Foreign series limited liability company*" means a foreign limited liability company that has at least one foreign protected series.

6. "*Nonassociated asset*" means any of the following:

a. An asset of a series limited liability company which is not an associated asset of the company.

b. An asset of a protected series of the company which is not an associated asset of the protected series.

7. "*Person*" means the same as defined in section 4.1 and

1 includes a protected series.

2 8. "*Protected series*", except in the phrase "*foreign*
3 *protected series*", means a protected series established under
4 section 489.12201.

5 9. "*Protected-series manager*" means a person under whose
6 authority the powers of a protected series are exercised
7 and under whose direction the activities and affairs of the
8 protected series are managed under the operating agreement,
9 this part, and this chapter.

10 10. "*Protected-series transferable interest*" means a right to
11 receive a distribution from a protected series.

12 11. "*Protected-series transferee*" means a person to which
13 all or part of a protected-series transferable interest of a
14 protected series of a series limited liability company has
15 been transferred, other than the company. The term includes a
16 person that owns a protected-series transferable interest as
17 a result of ceasing to be an associated member of a protected
18 series.

19 12. "*Series limited liability company*", except in the phrase
20 "*foreign series limited liability company*", means a limited
21 liability company that has at least one protected series.

22 Sec. 3. NEW SECTION. 489.12103 **Nature of protected series.**

23 A protected series of a series limited liability company is a
24 person distinct from all of the following:

25 1. The company, subject to section 489.12104, subsection
26 3, section 489.12501, subsection 1, and section 489.12502,
27 subsection 4.

28 2. Another protected series of the company.

29 3. A member of the company, whether or not the member is an
30 associated member of the protected series.

31 4. A protected-series transferee of a protected series of
32 the company.

33 5. A transferee of a transferable interest of the company.

34 Sec. 4. NEW SECTION. 489.12104 **Powers and duration of**
35 **protected series.**

1 1. A protected series of a series limited liability company
2 has the capacity to sue and be sued in its own name.

3 2. Except as otherwise provided in subsections 3 and 4, a
4 protected series of a series limited liability company has the
5 same powers and purposes as the company.

6 3. A protected series of a series limited liability company
7 ceases to exist not later than when the company completes its
8 winding up.

9 4. A protected series of a series limited liability company
10 shall not do any of the following:

11 a. Be a member of the company.

12 b. Establish a protected series.

13 c. Except as permitted by law of this state other than this
14 part, have a purpose or power that the law of this state other
15 than this part prohibits a limited liability company from doing
16 or having.

17 Sec. 5. NEW SECTION. 489.12105 Governing law.

18 The law of this state governs all of the following:

19 1. The internal affairs of a protected series of a series
20 limited liability company, including all of the following:

21 a. Relations among any associated members of the protected
22 series.

23 b. Relations among the protected series and any of the
24 following:

25 (1) Any associated member.

26 (2) The protected-series manager.

27 (3) Any protected-series transferee.

28 c. Relations between any associated member and any of the
29 following:

30 (1) The protected-series manager.

31 (2) Any protected-series transferee.

32 d. The rights and duties of a protected-series manager.

33 e. Governance decisions affecting the activities and affairs
34 of the protected series and the conduct of those activities and
35 affairs.

1 *f.* Procedures and conditions for becoming an associated
2 member or protected-series transferee.

3 2. The relations between a protected series of a series
4 limited liability company and each of the following:

5 *a.* The company.

6 *b.* Another protected series of the company.

7 *c.* A member of the company which is not an associated member
8 of the protected series.

9 *d.* A protected-series manager that is not a protected-series
10 manager of the protected series.

11 *e.* A protected-series transferee that is not a
12 protected-series transferee of the protected series.

13 3. The liability of a person for a debt, obligation, or
14 other liability of a protected series of a series limited
15 liability company if the debt, obligation, or liability is
16 asserted solely by reason of the person being or acting as any
17 of the following:

18 *a.* An associated member, protected-series transferee, or
19 protected-series manager of the protected series.

20 *b.* A member of the company which is not an associated member
21 of the protected series.

22 *c.* A protected-series manager that is not a protected-series
23 manager of the protected series.

24 *d.* A protected-series transferee that is not a
25 protected-series transferee of the protected series.

26 *e.* A manager of the company.

27 *f.* A transferee of a transferable interest of the company.

28 4. The liability of a series limited liability company for
29 a debt, obligation, or other liability of a protected series of
30 the company if the debt, obligation, or liability is asserted
31 solely by reason of the company doing any of the following:

32 *a.* Having delivered to the secretary of state for filing
33 under section 489.12201, subsection 2, a protected series
34 designation pertaining to the protected series or under section
35 489.12201, subsection 4, or section 489.12202, subsection 3,

1 a statement of designation change pertaining to the protected
2 series.

3 *b.* Being or acting as a protected-series manager of the
4 protected series.

5 *c.* Having the protected series be or act as a manager of the
6 company.

7 *d.* Owning a protected-series transferable interest of the
8 protected series.

9 5. The liability of a protected series of a series limited
10 liability company for a debt, obligation, or other liability of
11 the company or of another protected series of the company if
12 the debt, obligation, or liability is asserted solely by reason
13 of any of the following:

14 *a.* The protected series is any of the following:

15 (1) A protected series of the company or having as a
16 protected-series manager the company or another protected
17 series of the company.

18 (2) Acting as a protected-series manager of another
19 protected series of the company or a manager of the company.

20 *b.* The company owning a protected-series transferable
21 interest of the protected series.

22 **Sec. 6. NEW SECTION. 489.12106 Relation of operating**
23 **agreement, this part, and this chapter.**

24 1. Except as otherwise provided in this section and subject
25 to sections 489.12107 and 489.12108, the operating agreement
26 of a series limited liability company governs all of the
27 following:

28 *a.* The internal affairs of a protected series, including all
29 of the following:

30 (1) Relations among any associated members of the protected
31 series.

32 (2) Relations among the protected series and any of the
33 following:

34 (a) Any associated member.

35 (b) The protected-series manager.

- 1 (c) Any protected-series transferee.
- 2 (3) Relations between any associated member and any of the
3 following:
- 4 (a) The protected-series manager.
- 5 (b) Any protected-series transferee.
- 6 (4) The rights and duties of a protected-series manager.
- 7 (5) Governance decisions affecting the activities and
8 affairs of the protected series and the conduct of those
9 activities and affairs.
- 10 (6) Procedures and conditions for becoming an associated
11 member or protected-series transferee.
- 12 *b.* Relations among the protected series, the company, and
13 any other protected series of the company.
- 14 *c.* Relations between all of the following:
- 15 (1) The protected series, its protected-series manager,
16 any associated member of the protected series, or any
17 protected-series transferee of the protected series.
- 18 (2) A person in the person's capacity as any of the
19 following:
- 20 (a) A member of the company which is not an associated
21 member of the protected series.
- 22 (b) A protected-series transferee or protected-series
23 manager of another protected series.
- 24 (c) A transferee of the company.
- 25 2. If this chapter otherwise restricts the power of an
26 operating agreement to affect a matter, the restriction
27 applies to a matter under this part in accordance with section
28 489.12108.
- 29 3. If law of this state other than this part imposes a
30 prohibition, limitation, requirement, condition, obligation,
31 liability, or other restriction on a limited liability
32 company, a member, manager, or other agent of the company, or a
33 transferee of the company, except as otherwise provided in law
34 of this state other than this part, the restriction applies in
35 accordance with section 489.12108.

1 4. Except as otherwise provided in section 489.12107, if
2 the operating agreement of a series limited liability company
3 does not provide for a matter described in subsection 1 in a
4 manner permitted by this article, the matter is determined in
5 accordance with the following rules:

6 a. To the extent this part addresses the matter, this part
7 governs.

8 b. To the extent this part does not address the matter, the
9 other articles of this chapter governs the matter in accordance
10 with section 489.12108.

11 Sec. 7. NEW SECTION. 489.12107 Additional limitations on
12 operating agreement.

13 1. An operating agreement shall not vary the effect of any
14 of the following:

15 a. This section.

16 b. Section 489.12103.

17 c. Section 489.12104, subsection 1.

18 d. Section 489.12104, subsection 2, to provide a protected
19 series a power beyond the powers this chapter provides a
20 limited liability company.

21 e. Section 489.12104, subsection 3 or 4.

22 f. Section 489.12105.

23 g. Section 489.12106.

24 h. Section 489.12108.

25 i. Section 489.12201, except to vary the manner in which
26 a limited liability company approves establishing a protected
27 series.

28 j. Section 489.12202.

29 k. Section 489.12301.

30 l. Section 489.12302.

31 m. Section 489.12303, subsection 1 or 2.

32 n. Section 489.12304, subsection 3 or 6.

33 o. Section 489.12401, except to decrease or eliminate a
34 limitation of liability stated in section 489.12401.

35 p. Section 489.12402.

1 *q.* Section 489.12403.

2 *r.* Section 489.12404.

3 *s.* Section 489.12501, subsections 1, 4, and 5.

4 *t.* Section 489.12502, except to designate a different person
5 to manage winding up.

6 *u.* Section 489.12503.

7 *v.* Article 6.

8 *w.* Article 7.

9 *x.* Article 8, except to vary any of the following:

10 (1) The manner in which a series limited liability company
11 may elect under section 489.12803, subsection 1, paragraph "b",
12 to be subject to this part.

13 (2) The person that has the right to sign and deliver to the
14 secretary of state for filing a record under section 489.12803,
15 subsection 2, paragraph "b".

16 *y.* A provision of this part pertaining to any of the
17 following:

18 (1) Registered agents.

19 (2) The secretary of state, including provisions pertaining
20 to records authorized or required to be delivered to the
21 secretary of state for filing under this part.

22 2. An operating agreement shall not unreasonably restrict
23 the duties and rights under section 489.12305 but may impose
24 reasonable restrictions on the availability and use of
25 information obtained under section 489.12305 and may provide
26 appropriate remedies, including liquidated damages, for a
27 breach of any reasonable restriction on use.

28 Sec. 8. NEW SECTION. 489.12108 Rules for applying to
29 specified provisions of this chapter to specified provisions of
30 this part.

31 1. Except as otherwise provided in subsection 2 and section
32 489.12107, the following rules apply in applying section
33 489.12106, section 489.12304, subsections 3 and 6, section
34 489.12501, subsection 4, paragraph "a", section 489.12502,
35 subsection 1, and section 489.12503, subsection 2:

- 1 *a.* A protected series of a series limited liability company
2 is deemed to be a limited liability company that is formed
3 separately from the series limited liability company and is
4 distinct from the series limited liability company and any
5 other protected series of the series limited liability company.
6 *b.* An associated member of the protected series is deemed to
7 be a member of the company deemed to exist under paragraph "a".
8 *c.* A protected-series transferee of the protected series is
9 deemed to be a transferee of the company deemed to exist under
10 paragraph "a".
11 *d.* A protected-series transferable interest of the protected
12 series is deemed to be a transferable interest of the company
13 deemed to exist under paragraph "a".
14 *e.* A protected-series manager is deemed to be a manager of
15 the company deemed to exist under paragraph "a".
16 *f.* An asset of the protected series is deemed to be an asset
17 of the company deemed to exist under paragraph "a", whether or
18 not the asset is an associated asset of the protected series.
19 *g.* Any creditor or other obligee of the protected series
20 is deemed to be a creditor or obligee of the company deemed to
21 exist under paragraph "a".

22 2. Subsection 1 does not apply if its application would do
23 any of the following:

24 *a.* Contravene section 489.110.

25 *b.* Authorize or require the secretary of state to do any of
26 the following:

27 (1) Accept for filing a type of record that neither this
28 part nor any of the other articles of this chapter authorizes
29 or requires a person to deliver to the secretary of state for
30 filing.

31 (2) Make or deliver a record that neither this part nor
32 the other articles of this chapter authorizes or requires the
33 secretary of state to make or deliver.

34

SUBPART B

35

ESTABLISHING PROTECTED SERIES

1 Sec. 9. NEW SECTION. **489.12201 Protected series designation**
2 **— amendment.**

3 1. With the affirmative vote or consent of all members
4 of a limited liability company, the company may establish a
5 protected series.

6 2. To establish a protected series, a limited liability
7 company shall deliver to the secretary of state for filing a
8 protected series designation, signed by the company, stating
9 the name of the company and the name of the protected series to
10 be established.

11 3. A protected series is established when the protected
12 series designation takes effect under section 489.205.

13 4. To amend a protected series designation, a series limited
14 liability company shall deliver to the secretary of state
15 for filing a statement of designation change, signed by the
16 company, that changes the name of the company, the name of the
17 protected series to which the designation applies, or both.
18 The change takes effect when the statement of designation
19 change takes effect under section 489.205.

20 Sec. 10. NEW SECTION. **489.12202 Name.**

21 1. Except as otherwise provided in subsection 2, the name of
22 a protected series must comply with section 489.108.

23 2. The name of a protected series of a series limited
24 liability company must do all of the following:

25 *a.* Begin with the name of the company, including any word or
26 abbreviation required by section 489.108.

27 *b.* Contain the phrase "*Protected Series*" or "*protected*
28 *series*" or the abbreviation "P.S." or "PS".

29 3. If a series limited liability company changes its name,
30 the company shall deliver to the secretary of state for filing
31 a statement of designation change for each of the company's
32 protected series, changing the name of each protected series to
33 comply with this section.

34 Sec. 11. NEW SECTION. **489.12203 Registered agent.**

35 1. The registered agent in this state for a series limited

1 liability company is the registered agent in this state for
2 each protected series of the company.

3 2. Before delivering a protected series designation to the
4 secretary of state for filing, a limited liability company
5 shall agree with a registered agent that the agent will serve
6 as the registered agent in this state for both the company and
7 the protected series.

8 3. A person that signs a protected series designation
9 delivered to the secretary of state for filing affirms as a
10 fact that the limited liability company on whose behalf the
11 designation is delivered has complied with subsection 2.

12 4. A person that ceases to be the registered agent for a
13 series limited liability company ceases to be the registered
14 agent for each protected series of the company.

15 5. A person that ceases to be the registered agent for a
16 protected series of a series limited liability company, other
17 than as a result of the termination of the protected series,
18 ceases to be the registered agent of the company and any other
19 protected series of the company.

20 6. Except as otherwise agreed by a series limited liability
21 company and its registered agent, the agent is not obligated to
22 distinguish between a process, notice, demand, or other record
23 concerning the company and a process, notice, demand, or other
24 record concerning a protected series of the company.

25 **Sec. 12. NEW SECTION. 489.12204 Service of process, notice,**
26 **demand, or other record.**

27 1. A protected series of a series limited liability company
28 may be served with a process, notice, demand, or other record
29 required or permitted by law by any of the following:

30 a. Serving the company.

31 b. Serving the registered agent of the protected series.

32 c. Other means authorized by law of this state other than
33 the other articles of this chapter.

34 2. Service of a summons and complaint on a series limited
35 liability company is notice to each protected series of

1 the company of service of the summons and complaint and the
2 contents of the complaint.

3 3. Service of a summons and complaint on a protected series
4 of a series limited liability company is notice to the company
5 and any other protected series of the company of service of the
6 summons and complaint and the contents of the complaint.

7 4. Service of a summons and complaint on a foreign series
8 limited liability company is notice to each foreign protected
9 series of the foreign company of service of the summons and
10 complaint and the contents of the complaint.

11 5. Service of a summons and complaint on a foreign protected
12 series of a foreign series limited liability company is notice
13 to the foreign company and any other foreign protected series
14 of the company of service of the summons and complaint and the
15 contents of the complaint.

16 6. Notice to a person under subsection 2, 3, 4, or 5 is
17 effective whether or not the summons and complaint identify
18 the person if the summons and complaint name as a party and
19 identify any of the following:

20 a. The series limited liability company or a protected
21 series of the company.

22 b. The foreign series limited liability company or a foreign
23 protected series of the foreign company.

24 Sec. 13. NEW SECTION. 489.12205 **Certificate of existence**
25 **for protected series.**

26 1. On request of any person, the secretary of state shall
27 issue a certificate of existence for a protected series of a
28 series limited liability company or a certificate of authority
29 for a foreign protected series in the following circumstances:

30 a. In the case of a protected series, if all of the
31 following apply:

32 (1) No statement of dissolution, termination, or relocation
33 pertaining to the protected series has been filed.

34 (2) The company has delivered to the secretary of state
35 for filing the most recent biennial report required by section

1 489.209 and the report includes the name of the protected
2 series, unless any of the following applies:

3 (a) When the company delivered the report for filing, the
4 protected series designation pertaining to the protected series
5 had not yet taken effect.

6 (b) After the company delivered the report for filing,
7 the company delivered to the secretary of state for filing
8 a statement of designation change changing the name of the
9 protected series.

10 *b.* In the case of a foreign protected series, it is
11 authorized to do business in this state.

12 2. A certificate issued under subsection 1 must state all
13 of the following:

14 *a.* In the case of a protected series, all of the following:

15 (1) The name of the protected series of the series limited
16 liability company and the name of the company.

17 (2) That the requirements of subsection 1 are met.

18 (3) The date the protected series designation pertaining to
19 the protected series took effect.

20 (4) If a statement of designation change pertaining to
21 the protected series has been filed, the effective date and
22 contents of the statement.

23 *b.* In the case of a foreign protected series, that it is
24 authorized to do business in this state.

25 *c.* That all fees, taxes, interest, and penalties due under
26 this chapter or other law to the secretary of state have been
27 paid if all of the following apply:

28 (1) Payment is reflected in the records of the secretary of
29 state.

30 (2) Nonpayment affects the existence or good standing of the
31 protected series.

32 *d.* Other facts reflected in the records of the secretary of
33 state pertaining to the protected series or foreign protected
34 series which the person requesting the certificate reasonably
35 requests.

1 3. Subject to any qualification stated by the secretary
2 of state in a certificate issued under subsection 1, the
3 certificate may be relied on as conclusive evidence of the
4 facts stated in the certificate.

5 Sec. 14. NEW SECTION. 489.12206 Information required in
6 biennial report — effect of failure to provide.

7 1. In the biennial report required by section 489.209, a
8 series limited liability company shall include the name of each
9 protected series of the company for which all of the following
10 applies:

11 a. For which the company has previously delivered to the
12 secretary of state for filing a protected series designation.

13 b. Which has not dissolved and completed winding up.

14 2. A failure by a series limited liability company to comply
15 with subsection 1 with regard to a protected series prevents
16 issuance of a certificate of good standing pertaining to the
17 protected series but does not otherwise affect the protected
18 series.

19 SUBPART C

20 ASSOCIATED ASSET, ASSOCIATED MEMBER, PROTECTED-SERIES
21 TRANSFERABLE INTEREST, MANAGEMENT, AND RIGHT OF INFORMATION

22 Sec. 15. NEW SECTION. 489.12301 Associated asset.

23 1. Only an asset of a protected series may be an associated
24 asset of the protected series. Only an asset of a series
25 limited liability company may be an associated asset of the
26 company.

27 2. An asset of a protected series of a series limited
28 liability company is an associated asset of the protected
29 series only if the protected series creates and maintains
30 records that state the name of the protected series and
31 describe the asset with sufficient specificity to permit
32 a disinterested, reasonable individual to do all of the
33 following:

34 a. Identify the asset and distinguish it from any other
35 asset of the protected series, any asset of the company, and

1 any asset of any other protected series of the company.

2 *b.* Determine when and from what person the protected series
3 acquired the asset or how the asset otherwise became an asset
4 of the protected series.

5 *c.* If the protected series acquired the asset from the
6 company or another protected series of the company, determine
7 any consideration paid, the payor, and the payee.

8 3. An asset of a series limited liability company is an
9 associated asset of the company only if the company creates
10 and maintains records that state the name of the company and
11 describe the asset with sufficient specificity to permit
12 a disinterested, reasonable individual to do all of the
13 following:

14 *a.* Identify the asset and distinguish it from any other
15 asset of the company and any asset of any protected series of
16 the company.

17 *b.* Determine when and from what person the company acquired
18 the asset or how the asset otherwise became an asset of the
19 company.

20 *c.* If the company acquired the asset from a protected series
21 of the company, determine any consideration paid, the payor,
22 and the payee.

23 4. The records and recordkeeping required by subsections
24 2 and 3 may be organized by specific listing, category,
25 type, quantity, or computational or allocational formula or
26 procedure, including a percentage or share of any asset, or in
27 any other reasonable manner.

28 5. To the extent permitted by this section and law of this
29 state other than this part, a series limited liability company
30 or protected series of the company may hold an associated asset
31 directly or indirectly, through a representative, nominee, or
32 similar arrangement, except that all of the following applies:

33 *a.* A protected series shall not hold an associated asset
34 in the name of the company or another protected series of the
35 company.

1 *b.* The company shall not hold an associated asset in the
2 name of a protected series of the company.

3 Sec. 16. NEW SECTION. **489.12302 Associated member.**

4 1. Only a member of a series limited liability company may
5 be an associated member of a protected series of the company.

6 2. A member of a series limited liability company becomes an
7 associated member of a protected series of the company if the
8 operating agreement or a procedure established by the agreement
9 states all of the following:

10 *a.* That the member is an associated member of the protected
11 series.

12 *b.* The date on which the member became an associated member.

13 *c.* Any protected-series transferable interest the associated
14 member has in connection with becoming or being an associated
15 member.

16 3. If a person that is an associated member of a protected
17 series of a series limited liability company is dissociated
18 from the company, the person ceases to be an associated member
19 of the protected series.

20 Sec. 17. NEW SECTION. **489.12303 Protected-series**
21 **transferable interest.**

22 1. A protected-series transferable interest of a protected
23 series of a series limited liability company must be owned
24 initially by an associated member of the protected series or
25 the company.

26 2. If a protected series of a series limited liability
27 company has no associated members when established, the
28 company owns the protected-series transferable interests in the
29 protected series.

30 3. In addition to acquiring a protected series transferable
31 series interest under subsection 2, a series limited liability
32 company may acquire a protected-series transferable interest
33 through a transfer from another person or as provided in the
34 operating agreement.

35 4. Except for section 489.12108, subsection 1,

1 paragraph "c", a provision of this part which applies to
2 a protected-series transferee of a protected series of a
3 series limited liability company applies to the company in
4 its capacity as an owner of a protected-series transferable
5 interest of the protected series. A provision of the operating
6 agreement of a series limited liability company which applies
7 to a protected-series transferee of a protected series of the
8 company applies to the company in its capacity as an owner of a
9 protected-series transferable interest of the protected series.

10 Sec. 18. NEW SECTION. **489.12304 Management.**

11 1. A protected series may have more than one
12 protected-series manager.

13 2. If a protected series has no associated members, the
14 series limited liability company is the protected-series
15 manager.

16 3. Section 489.12108 applies to determine any duties of
17 a protected-series manager of a protected series of a series
18 limited liability company to all of the following:

19 a. The protected series.

20 b. Any associated member of the protected series.

21 c. Any protected-series transferee of the protected series.

22 4. Solely by reason of being or acting as a protected-series
23 manager of a protected series of a series limited liability
24 company, a person owes no duty to any of the following:

25 a. The company.

26 b. Another protected series of the company.

27 c. Another person in that person's capacity as any of the
28 following:

29 (1) A member of the company which is not an associated
30 member of the protected series.

31 (2) A protected-series transferee or protected-series
32 manager of another protected series.

33 (3) A transferee of the company.

34 5. An associated member of a protected series of a series
35 limited liability company has the same rights as any other

1 member of the company to vote on or consent to an amendment to
2 the company's operating agreement or any other matter being
3 decided by the members, whether or not the amendment or matter
4 affects the interests of the protected series or the associated
5 member.

6 6. Article 9 applies to a protected series in accordance
7 with section 489.12108.

8 Sec. 19. NEW SECTION. **489.12305 Right of person not**
9 **associated member of protected series to information concerning**
10 **protected series.**

11 1. A member of a series limited liability company which
12 is not an associated member of a protected series of the
13 company has a right to information concerning the protected
14 series to the same extent, in the same manner, and under
15 the same conditions that a member that is not a manager of
16 a manager-managed limited liability company has a right to
17 information concerning the company under section 489.410,
18 subsection 2.

19 2. A person formerly an associated member of a protected
20 series has a right to information concerning the protected
21 series to the same extent, in the same manner, and under
22 the same conditions that a person dissociated as a member of
23 a manager-managed limited liability company has a right to
24 information concerning the company under section 489.410,
25 subsection 3.

26 3. If an associated member of a protected series dies, the
27 legal representative of the deceased associated member has a
28 right to information concerning the protected series to the
29 same extent, in the same manner, and under the same conditions
30 that the legal representative of a deceased member of a limited
31 liability company has a right to information concerning the
32 company under section 489.504.

33 4. A protected-series manager of a protected series has a
34 right to information concerning the protected series to the
35 same extent, in the same manner, and under the same conditions

1 that a manager of a manager-managed limited liability company
2 has a right to information concerning the company under section
3 489.410, subsection 2.

4 SUBPART D

5 LIMITATION ON LIABILITY AND ENFORCEMENT OF CLAIMS

6 Sec. 20. NEW SECTION. **489.12401** **Limitations on liability.**

7 1. A person is not liable, directly or indirectly, by way
8 of contribution or otherwise, for a debt, obligation, or other
9 liability of any of the following:

10 a. A protected series of a series limited liability company
11 solely by reason of being or acting as any of the following:

12 (1) An associated member, protected-series manager, or
13 protected-series transferee of the protected series.

14 (2) A member, manager, or a transferee of the company.

15 b. A series limited liability company solely by reason
16 of being or acting as an associated member, protected-series
17 manager, or protected-series transferee of a protected series
18 of the company.

19 2. Subject to section 489.12404, all of the following rules
20 apply:

21 a. A debt, obligation, or other liability of a series
22 limited liability company is solely the debt, obligation, or
23 liability of the company.

24 b. A debt, obligation, or other liability of a protected
25 series is solely the debt, obligation, or liability of the
26 protected series.

27 c. A series limited liability company is not liable,
28 directly or indirectly, by way of contribution or otherwise,
29 for a debt, obligation, or other liability of a protected
30 series of the company solely by reason of the protected series
31 being a protected series of the company or the company for any
32 of the following:

33 (1) Being or acting as a protected-series manager of the
34 protected series.

35 (2) Having the protected series manage the company.

1 (3) Owning a protected-series transferable interest of the
2 protected series.

3 d. A protected series of a series limited liability company
4 is not liable, directly or indirectly, by way of contribution
5 or otherwise, for a debt, obligation, or other liability of the
6 company or another protected series of the company solely by
7 reason of any of the following:

8 (1) Being a protected series of the company.

9 (2) Being or acting as a manager of the company or a
10 protected-series manager of another protected series of the
11 company.

12 (3) Having the company or another protected series of
13 the company be or act as a protected-series manager of the
14 protected series.

15 Sec. 21. NEW SECTION. 489.12402 Claim seeking to disregard
16 limitation of liability.

17 1. Except as otherwise provided in subsection 2, a claim
18 seeking to disregard a limitation in section 489.12401 is
19 governed by the principles of law and equity, including a
20 principle providing a right to a creditor or holding a person
21 liable for a debt, obligation, or other liability of another
22 person, which would apply if each protected series of a series
23 limited liability company were a limited liability company
24 formed separately from the series limited liability company
25 and distinct from the series limited liability company and any
26 other protected series of the series limited liability company.

27 2. The failure of a limited liability company or a protected
28 series to observe formalities relating to the exercise of
29 its powers or management of its activities and affairs is
30 not a ground to disregard a limitation in section 489.12401,
31 subsection 1, but may be a ground to disregard a limitation in
32 section 489.12401, subsection 2.

33 3. This section applies to a claim seeking to disregard a
34 limitation of liability applicable to a foreign series limited
35 liability company or foreign protected series and comparable

1 to a limitation stated in section 489.12401, if any of the
2 following apply:

3 *a.* The claimant is a resident of this state or doing
4 business or authorized to do business in this state.

5 *b.* The claim is to establish or enforce a liability arising
6 under law of this state other than this part or from an act or
7 omission in this state.

8 Sec. 22. NEW SECTION. **489.12403 Remedies of judgment**
9 **creditor of associated member or protected-series transferee.**

10 Section 489.503 applies to a judgment creditor of any of the
11 following:

12 1. An associated member or protected-series transferee of a
13 protected series.

14 2. A series limited liability company, to the extent the
15 company owns a protected-series transferable interest of a
16 protected series.

17 Sec. 23. NEW SECTION. **489.12404 Enforcement against**
18 **nonassociated asset.**

19 1. As used in this section:

20 *a.* "*Enforcement date*" means 12:01 a.m. on the date on which
21 a claimant first serves process on a series limited liability
22 company or protected series in an action seeking to enforce
23 under this section a claim against an asset of the company or
24 protected series by attachment, levy, or the like.

25 *b.* Subject to section 489.12608, subsection 2, "*incurrence*
26 *date*" means the date on which a series limited liability company
27 or protected series incurred the liability giving rise to a
28 claim that a claimant seeks to enforce under this section.

29 2. If a claim against a series limited liability company or
30 a protected series of the company has been reduced to judgment,
31 in addition to any other remedy provided by law or equity,
32 the judgment may be enforced in accordance with the following
33 rules:

34 *a.* A judgment against the company may be enforced against
35 an asset of a protected series of the company if any of the

1 following applies:

2 (1) The asset was a nonassociated asset of the protected
3 series on the incurrence date.

4 (2) The asset is a nonassociated asset of the protected
5 series on the enforcement date.

6 *b.* A judgment against a protected series may be enforced
7 against an asset of the company if any of the following apply:

8 (1) The asset was a nonassociated asset of the company on
9 the incurrence date.

10 (2) The asset is a nonassociated asset of the company on the
11 enforcement date.

12 *c.* A judgment against a protected series may be enforced
13 against an asset of another protected series of the company if
14 any of the following applies:

15 (1) The asset was a nonassociated asset of the other
16 protected series on the incurrence date.

17 (2) The asset is a nonassociated asset of the other
18 protected series on the enforcement date.

19 3. In addition to any other remedy provided by law or
20 equity, if a claim against a series limited liability company
21 or a protected series has not been reduced to a judgment
22 and law other than this part permits a prejudgment remedy by
23 attachment, levy, or the like, the court may apply subsection 2
24 as a prejudgment remedy.

25 4. In a proceeding under this section, the party asserting
26 that an asset is or was an associated asset of a series limited
27 liability company or a protected series of the company has the
28 burden of proof on the issue.

29 5. This section applies to an asset of a foreign series
30 limited liability company or foreign protected series if all of
31 the following applies:

32 *a.* The asset is real or tangible property located in this
33 state.

34 *b.* The claimant is a resident of this state or doing
35 business or authorized to do business in this state, or the

1 claim under section 489.12404 is to enforce a judgment, or to
2 seek a prejudgment remedy, pertaining to a liability arising
3 from law of this state other than this part or an act or
4 omission in this state.

5 c. The asset is not identified in the records of the foreign
6 series limited liability company or foreign protected series
7 in a manner comparable to the manner required by section
8 489.12301.

9

SUBPART E

10

DISSOLUTION AND WINDING UP OF PROTECTED SERIES

11

Sec. 24. NEW SECTION. 489.12501 Events causing dissolution

12

of protected series.

13

A protected series of a series limited liability company is
14 dissolved, and its activities and affairs must be wound up,
15 only on any of the following:

16

1. Dissolution of the company.

17

2. Occurrence of an event or circumstance the operating
18 agreement states causes dissolution of the protected series.

19

3. Affirmative vote or consent of all members.

20

4. Entry by the court of an order dissolving the
21 protected series on application by an associated member or
22 protected-series manager of the protected series subject to all
23 of the following:

24

a. In accordance with section 489.12108.

25

b. To the same extent, in the same manner, and on the same
26 grounds the court would enter an order dissolving a limited
27 liability company on application by a member or manager of the
28 company.

29

5. Entry by the court of an order dissolving the protected
30 series on application by the company or a member of the company
31 on the ground that the conduct of all or substantially all the
32 activities and affairs of the protected series is illegal.

33

Sec. 25. NEW SECTION. 489.12502 Winding up dissolved

34

protected series.

35

1. Subject to subsections 2 and 3 and in accordance with

1 section 489.12108 all of the following apply:

2 a. A dissolved protected series shall wind up its activities
3 and affairs in the same manner that a limited liability company
4 winds up its activities and affairs under sections 489.702
5 through 489.704 subject to the same requirements and conditions
6 and with the same effects.

7 b. Judicial supervision or another judicial remedy is
8 available in the winding up of the protected series to the same
9 extent, in the same manner, under the same conditions, and with
10 the same effects that apply under section 489.702, subsection
11 5.

12 2. When a protected series of a series limited liability
13 company dissolves, the company may deliver to the secretary of
14 state for filing a statement of protected series dissolution
15 stating the name of the company and the protected series
16 and that the protected series is dissolved. The filing of
17 the statement by the secretary of state has the same effect
18 as the filing by the secretary of state of a statement of
19 dissolution under section 489.103, subsection 4, paragraph "b",
20 subparagraph (1).

21 3. When a protected series of a series limited liability
22 company has completed winding up, the company may deliver to
23 the secretary of state for filing a statement of designation
24 cancellation stating the name of the company and the protected
25 series and that the protected series is terminated. The filing
26 of the statement by the secretary of state has the same effect
27 as the filing by the secretary of state of a statement of
28 termination under section 489.103, subsection 4, paragraph "b",
29 subparagraph (2).

30 4. A series limited liability company has not completed its
31 winding up until each of the protected series of the company
32 has completed its winding up.

33 Sec. 26. NEW SECTION. 489.12503 Effect of reinstatement
34 of series limited liability company or revocation of voluntary
35 dissolution.

1 If a series limited liability company that has been
2 administratively dissolved is reinstated, or a series limited
3 liability company that voluntarily dissolved rescinds its
4 dissolution both of the following apply:

- 5 1. Each protected series of the company ceases winding up.
- 6 2. The provisions of section 489.706 apply to each protected
7 series of the company in accordance with section 489.12108.

8 SUBPART F

9 ENTITY TRANSACTIONS RESTRICTED

10 Sec. 27. NEW SECTION. 489.12601 Definitions.

11 As used in this subpart:

12 1. *"After a merger"* or *"after the merger"* means when a merger
13 under section 489.12604 becomes effective and afterwards.

14 2. *"Before a merger"* or *"before the merger"* means before a
15 merger under section 489.12604 becomes effective.

16 3. *"Continuing protected series"* means a protected series of
17 a surviving company which continues in uninterrupted existence
18 after a merger under section 489.12604.

19 4. *"Merging company"* means a limited liability company that
20 is party to a merger under section 489.12604.

21 5. *"Nonsurviving company"* means a merging company that
22 does not continue in existence after a merger under section
23 489.12604.

24 6. *"Relocated protected series"* means a protected series
25 of a nonsurviving company which, after a merger under section
26 489.12604, continues in uninterrupted existence as a protected
27 series of the surviving company.

28 7. *"Surviving company"* means a merging company that
29 continues in existence after a merger under section 489.12604.

30 Sec. 28. NEW SECTION. 489.12602 Protected series shall not
31 be party to entity transaction.

32 A protected series shall not do any of the following:

33 1. Be an acquiring, acquired, converting, converted,
34 merging, or surviving entity.

35 2. Participate in a domestication.

1 3. Be a party to or be formed, organized, established, or
2 created in a transaction substantially like a merger, interest
3 exchange, conversion, or domestication.

4 Sec. 29. NEW SECTION. **489.12603 Restriction on entity**
5 **transaction involving protected series.**

6 A series limited liability company shall not be any of the
7 following:

8 1. An acquiring, acquired, converting, converted,
9 domesticating, or domesticated entity.

10 2. Except as otherwise provided in section 489.12604, a
11 party to or the surviving company of a merger.

12 Sec. 30. NEW SECTION. **489.12604 Merger authorized —**
13 **parties restricted.**

14 A series limited liability company may be party to a merger
15 in accordance with sections 489.1001 through 489.1005, this
16 section, and sections 489.12605 through 489.12608 only if all
17 of the following apply:

18 1. Each other party to the merger is a limited liability
19 company.

20 2. The surviving company is not created in the merger.

21 Sec. 31. NEW SECTION. **489.12605 Plan of merger.**

22 In a merger under section 489.12604, the plan of merger must
23 do all of the following:

24 1. Comply with section 489.1002.

25 2. State in a record all of the following:

26 a. For any protected series of a nonsurviving company,
27 whether after the merger the protected series will be a
28 relocated protected series or be dissolved, wound up, and
29 terminated.

30 b. For any protected series of the surviving company
31 which exists before the merger, whether after the merger the
32 protected series will be a continuing protected series or be
33 dissolved, wound up, and terminated.

34 c. For each relocated protected series or continuing
35 protected series all of the following:

1 (1) The name of any person that becomes an associated member
2 or protected-series transferee of the protected series after
3 the merger, any consideration to be paid by, on behalf of, or
4 in respect of the person, the name of the payor, and the name
5 of the payee.

6 (2) The name of any person whose rights or obligations
7 in the person's capacity as an associated member or
8 protected-series transferee will change after the merger.

9 (3) Any consideration to be paid to a person who before the
10 merger was an associated member or protected-series transferee
11 of the protected series and the name of the payor.

12 (4) If after the merger the protected series will be a
13 relocated protected series, its new name.

14 d. For any protected series to be established by the
15 surviving company as a result of the merger all of the
16 following:

17 (1) The name of the protected series.

18 (2) Any protected-series transferable interest to be
19 owned by the surviving company when the protected series is
20 established.

21 (3) The name of and any protected-series transferable
22 interest owned by any person that will be an associated
23 member of the protected series when the protected series is
24 established.

25 e. For any person that is an associated member of a
26 relocated protected series and will remain a member after
27 the merger, any amendment to the operating agreement of the
28 surviving company which is all of the following:

29 (1) Is or is proposed to be in a record.

30 (2) Is necessary or appropriate to state the rights and
31 obligations of the person as a member of the surviving company.

32 **Sec. 32. NEW SECTION. 489.12606 Articles of merger.**

33 In a merger under section 489.12604, the articles of merger
34 must do all of the following:

35 1. Comply with section 489.1004.

1 2. Include as an attachment the following records, each to
2 become effective when the merger becomes effective upon any of
3 the following:

4 *a.* For a protected series of a merging company being
5 terminated as a result of the merger, a statement of
6 termination signed by the company.

7 *b.* For a protected series of a nonsurviving company which
8 after the merger will be a relocated protected series all of
9 the following:

10 (1) A statement of relocation signed by the nonsurviving
11 company which contains the name of the company and the name of
12 the protected series before and after the merger.

13 (2) A statement of protected series designation signed by
14 the surviving company.

15 *c.* For a protected series being established by the
16 surviving company as a result of the merger, a protected series
17 designation signed by the company.

18 Sec. 33. NEW SECTION. **489.12607 Effect of merger.**

19 When a merger under section 489.12604 becomes effective, in
20 addition to the effects stated in section 489.1005, all of the
21 following apply:

22 1. As provided in the plan of merger, each protected series
23 of each merging company which was established before the merger
24 is any of the following:

25 *a.* Is a relocated protected series or continuing protected
26 series.

27 *b.* Is dissolved, wound up, and terminated.

28 2. Any protected series to be established as a result of the
29 merger is established.

30 3. Any relocated protected series or continuing protected
31 series is the same person without interruption as it was before
32 the merger.

33 4. All property of a relocated protected series or
34 continuing protected series continues to be vested in the
35 protected series without transfer, reversion, or impairment.

1 5. All debts, obligations, and other liabilities of a
2 relocated protected series or continuing protected series
3 continue as debts, obligations, and other liabilities of the
4 protected series.

5 6. Except as otherwise provided by law or the plan of
6 merger, all the rights, privileges, immunities, powers,
7 and purposes of a relocated protected series or continuing
8 protected series remain in the protected series.

9 7. The new name of a relocated protected series may be
10 substituted for the former name of the protected series in any
11 pending action or proceeding.

12 8. If provided in the plan of merger all of the following
13 apply:

14 a. A person becomes an associated member or protected-series
15 transferee of a relocated protected series or continuing
16 protected series.

17 b. A person becomes an associated member of a protected
18 series established by the surviving company as a result of the
19 merger.

20 c. Any change in the rights or obligations of a person
21 in the person's capacity as an associated member or
22 protected-series transferee of a relocated protected series or
23 continuing protected series take effect.

24 d. Any consideration to be paid to a person that before the
25 merger was an associated member or protected-series transferee
26 of a relocated protected series or continuing protected series
27 is due.

28 9. Any person that is a member of a relocated protected
29 series becomes a member of the surviving company, if not
30 already a member.

31 Sec. 34. NEW SECTION. 489.12608 Application of section
32 489.12404 after merger.

33 1. A creditor's right that existed under section 489.12404
34 immediately before a merger under section 489.12604 may
35 be enforced after the merger in accordance with all of the

1 following:

2 *a.* A creditor's right that existed immediately before the
3 merger against the surviving company, a continuing protected
4 series, or a relocated protected series continues without
5 change after the merger.

6 *b.* A creditor's right that existed immediately before the
7 merger against a nonsurviving company all of the following
8 apply:

9 (1) May be asserted against an asset of the nonsurviving
10 company which vested in the surviving company as a result of
11 the merger.

12 (2) Does not otherwise change.

13 *c.* Subject to subsection 2, all of the following apply:

14 (1) In addition to the remedy stated in paragraph "a", a
15 creditor with a right under section 489.12404 which existed
16 immediately before the merger against a nonsurviving company or
17 a relocated protected series may assert the right against any
18 of the following:

19 (a) An asset of the surviving company, other than an asset
20 of the nonsurviving company which vested in the surviving
21 company as a result of the merger.

22 (b) An asset of a continuing protected series.

23 (c) An asset of a protected series established by the
24 surviving company as a result of the merger.

25 (d) If the creditor's right was against an asset of the
26 nonsurviving company, an asset of a relocated series.

27 (e) If the creditor's right was against an asset of a
28 relocated protected series, an asset of another relocated
29 protected series.

30 (2) In addition to the remedy stated in paragraph "b",
31 a creditor with a right that existed immediately before the
32 merger against the surviving company or a continuing protected
33 series may assert the right against any of the following:

34 (a) An asset of a relocated protected series.

35 (b) An asset of a nonsurviving company which vested in the

1 surviving company as a result of the merger.

2 2. For the purposes of subsection 1, paragraph "c", and
3 section 489.12404, subsection 2, paragraph "a", subparagraph
4 (1); section 489.12404, subsection 2, paragraph "b",
5 subparagraph (1); and section 489.12404, subsection 2,
6 paragraph "c", subparagraph (1), the incurrence date is deemed
7 to be the date on which the merger becomes effective.

8 3. A merger under section 489.12604 does not affect the
9 manner in which section 489.12404 applies to a liability
10 incurred after the merger.

11 SUBPART G

12 FOREIGN PROTECTED SERIES

13 Sec. 35. NEW SECTION. 489.12701 **Governing law.**

14 The law of the jurisdiction of formation of a foreign series
15 limited liability company governs all of the following:

16 1. The internal affairs of a foreign protected series of the
17 company, including all of the following:

18 a. Relations among any associated members of the foreign
19 protected series.

20 b. Relations between the foreign protected series and any
21 of the following:

22 (1) Any associated member.

23 (2) The protected-series manager.

24 (3) Any protected-series transferee.

25 c. Relations between any associated member and any of the
26 following:

27 (1) The protected-series manager.

28 (2) Any protected-series transferee.

29 d. The rights and duties of a protected-series manager.

30 e. Governance decisions affecting the activities and affairs
31 of the foreign protected series and the conduct of those
32 activities and affairs.

33 f. Procedures and conditions for becoming an associated
34 member or protected-series transferee.

35 2. Relations between the foreign protected series and all

1 of the following:

2 *a.* The company.

3 *b.* Another foreign protected series of the company.

4 *c.* A member of the company which is not an associated member
5 of the foreign protected series.

6 *d.* A foreign protected-series manager that is not a
7 protected-series manager of the protected series.

8 *e.* A foreign protected-series transferee that is not a
9 foreign protected-series transferee of the protected series.

10 *f.* A transferee of a transferable interest of the company.

11 3. Except as otherwise provided in sections 489.12402 and
12 489.12404, the liability of a person for a debt, obligation,
13 or other liability of a foreign protected series of a foreign
14 series limited liability company if the debt, obligation, or
15 liability is asserted solely by reason of the person being or
16 acting as any of the following:

17 *a.* An associated member, protected-series transferee, or
18 protected-series manager of the foreign protected series.

19 *b.* A member of the company which is not an associated member
20 of the foreign protected series.

21 *c.* A protected-series manager of another foreign protected
22 series of the company.

23 *d.* A protected-series transferee of another foreign
24 protected series of the company.

25 *e.* A manager of the company.

26 *f.* A transferee of a transferable interest of the company.

27 4. Except as otherwise provided in sections 489.12402 and
28 489.12404 all of the following apply:

29 *a.* The liability of the foreign series limited liability
30 company for a debt, obligation, or other liability of a foreign
31 protected series of the company if the debt, obligation, or
32 liability is asserted solely by reason of the foreign protected
33 series being a foreign protected series of the company or the
34 company as a consequence of any of the following:

35 (1) Being or acting as a foreign protected-series manager of

1 the foreign protected series.

2 (2) Having the foreign protected series manage the company.

3 (3) Owning a protected-series transferable interest of the
4 foreign protected series.

5 b. The liability of a foreign protected series for a
6 debt, obligation, or other liability of the company or
7 another foreign protected series of the company if the debt,
8 obligation, or liability is asserted solely by reason of
9 the foreign protected series as a consequence of any of the
10 following:

11 (1) Being a foreign protected series of the company or
12 having the company or another foreign protected series of the
13 company be or act as foreign protected-series manager of the
14 foreign protected series.

15 (2) Managing the company or being or acting as a foreign
16 protected-series manager of another foreign protected series
17 of the company.

18 Sec. 36. NEW SECTION. 489.12702 No attribution of
19 activities constituting doing business or for establishing
20 jurisdiction.

21 In determining whether a foreign series limited liability
22 company or foreign protected series of the company does
23 business in this state or is subject to the personal
24 jurisdiction of the courts of this state all of the following
25 apply:

26 1. The activities and affairs of the company are not
27 attributable to a foreign protected series of the company
28 solely by reason of the foreign protected series being a
29 foreign protected series of the company.

30 2. The activities and affairs of a foreign protected
31 series are not attributable to the company or another foreign
32 protected series of the company solely by reason of the foreign
33 protected series being a foreign protected series of the
34 company.

35 Sec. 37. NEW SECTION. 489.12703 Authorization of foreign

1 **protected series.**

2 1. Except as otherwise provided in this section and
3 subject to sections 489.12402 and 489.12404, the law of this
4 state governing the filing of a certificate of authority of
5 a foreign limited liability company to do business in this
6 state, including the consequences of not complying with that
7 law, applies to a foreign protected series of a foreign series
8 limited liability company as if the foreign protected series
9 were a foreign limited liability company formed separately
10 from the foreign series limited liability company and distinct
11 from the foreign series limited liability company and any
12 other foreign protected series of the foreign series limited
13 liability company.

14 2. An application by a foreign protected series of a foreign
15 series limited liability company for a certificate of authority
16 to do business in this state must include all of the following:

17 a. The name and jurisdiction of formation of the foreign
18 series limited liability company.

19 b. If the company has other foreign protected series,
20 the name and street and mailing address of an individual who
21 knows the name and street and mailing address of all of the
22 following:

23 (1) Each other foreign protected series of the foreign
24 series limited liability company.

25 (2) The foreign protected-series manager of and agent for
26 service of process for each other foreign protected series of
27 the foreign series limited liability company.

28 2A. If the jurisdiction under whose law the foreign
29 protected series was organized does not provide for the
30 protected series to obtain a certificate of existence,
31 the foreign protected series shall attach a certificate of
32 existence for the series limited liability company of which
33 it is a protected series. In that case, a foreign protected
34 series of the foreign series limited liability company will
35 be deemed to be in existence and good standing as long as the

1 series limited liability company is in existence and good
2 standing.

3 3. The name of a foreign protected series applying for a
4 certificate of authority or authorized to do business in this
5 state must comply with section 489.12202 and may do so using a
6 fictitious name pursuant to section 489.108, if the fictitious
7 name complies with section 489.12202.

8 4. A foreign protected series that has in effect a
9 certificate of authority pursuant to this section shall file
10 with the secretary of state an amendment to its application if
11 there is any change in the information required by subsection
12 2.

13 **Sec. 38. NEW SECTION. 489.12704 Disclosure required when**
14 **foreign series limited liability company or foreign protected**
15 **series party to proceeding.**

16 1. Not later than thirty days after becoming a party
17 to a proceeding before a civil, administrative, or other
18 adjudicative tribunal of or located in this state or a tribunal
19 of the United States located in this state all of the following
20 apply:

21 *a.* A foreign series limited liability company shall disclose
22 to each other party the name and street and mailing address of
23 all of the following:

24 (1) Each foreign protected series of the company.

25 (2) Each foreign protected-series manager of and a
26 registered agent for service of process for each foreign
27 protected series of the company.

28 *b.* A foreign protected series of a foreign series limited
29 liability company shall disclose to each other party the name
30 and street and mailing address of all of the following:

31 (1) The company and each manager of the company and an agent
32 for service of process for the company.

33 (2) Any other foreign protected series of the company and
34 each foreign protected-series manager of and an agent for
35 service of process for the other foreign protected series.

1 2. If a foreign series limited liability company or foreign
2 protected series challenges the personal jurisdiction of
3 the tribunal, the requirement that the foreign company or
4 foreign protected series make disclosure under subsection 1 is
5 tolled until the tribunal determines whether it has personal
6 jurisdiction.

7 3. If a foreign series limited liability company or foreign
8 protected series does not comply with subsection 1, a party to
9 the proceeding may do any of the following:

10 a. Request the tribunal to treat the noncompliance as a
11 failure to comply with the tribunal's discovery rules.

12 b. Bring a separate proceeding in the court to enforce
13 subsection 1.

14 SUBPART H

15 TRANSITIONAL PROVISIONS

16 Sec. 39. NEW SECTION. 489.12803 Transitional provisions.

17 1. Before January 1, 2021, this part governs only the
18 following:

19 a. A series limited liability company formed, or a protected
20 series established, on or after January 1, 2020.

21 b. A limited liability company that is a series limited
22 liability company before January 1, 2020, and elects, in the
23 manner provided in its operating agreement or by law for
24 amending the operating agreement, to be subject to this part.

25 2. If a series limited liability company elects under
26 subsection 1, paragraph "b", to be subject to this part:

27 a. The election applies to each protected series of the
28 company, whenever established.

29 b. A manager of the company has the right to sign and
30 deliver to the secretary of state for filing any record
31 necessary to comply with this part, whether the record pertains
32 to the company, a protected series of the company, or both.

33 3. On and after January 1, 2021, this part governs all
34 series limited liability companies and protected series.

35 4. Until January 1, 2021, sections 489.12402 and 489.12404

1 do not apply to a foreign protected series that was established
2 before January 1, 2020, or a foreign limited liability company
3 that became a foreign series limited liability company before
4 January 1, 2020.

5 5. This section is repealed on January 1, 2021.

6 Sec. 40. NEW SECTION. 489.12804 Savings clause.

7 This part does not affect an action commenced, proceeding
8 brought, or right accrued before January 1, 2020.

9 Sec. 41. EFFECTIVE DATE. This division of this Act takes
10 effect January 1, 2020.

11

DIVISION II

12

UNIFORM PROTECTED SERIES ACT — CONFORMING AMENDMENTS

13 Sec. 42. Section 10.1, subsections 9 and 17, Code 2019, are
14 amended to read as follows:

15 9. a. *"Farmers cooperative limited liability company"*
16 means a limited liability company organized under [chapter 489](#),
17 if cooperative associations hold one hundred percent of all
18 membership interests in the limited liability company. Farmers
19 cooperative associations must hold at least seventy percent
20 of all membership interests in the limited liability company.
21 If more than one type of membership interest is established,
22 ~~including any series as provided in [section 489.1201](#) or~~
23 ~~any class or group as provided in [section 489.1201](#),~~ farmers
24 cooperative associations must hold at least seventy percent of
25 all membership interests of each type.

26 b. As used in paragraph "a", a type of membership interest
27 in a limited liability company includes any of the following:

28 (1) (a) A series as provided in chapter 489, article 12.

29 (b) This subparagraph is repealed on January 1, 2021.

30 (2) A protected series as provided in chapter 489, article
31 12.

32 17. *"Networking farmers limited liability company"* means a
33 limited liability company, other than a family farm limited
34 liability company as defined in [section 9H.1](#), organized under
35 chapter 489 if all of the following conditions are satisfied:

1 a. (1) Qualified farmers must hold at least fifty-one
2 percent of all membership interests in the limited liability
3 company. If more than one type of membership interest is
4 established, ~~including any series as provided in section~~
5 ~~489.1201 or any class or group as provided in [section 489.1201](#),~~
6 qualified farmers must hold at least fifty-one percent of all
7 membership interests of each type.

8 b. (2) Qualified persons must hold at least seventy percent
9 of all membership interests in the limited liability company.
10 If more than one type of membership interest is established,
11 ~~including any series as provided in [section 489.1201](#) or any~~
12 ~~class or group as provided in [section 489.1201](#),~~ qualified
13 persons must hold at least seventy percent of all membership
14 interests of each type.

15 b. As used in paragraph "a", a type of membership interest
16 in a limited liability company includes any of the following:

17 (1) (a) A series as provided in chapter 489, article 12.

18 (b) This subparagraph is repealed on January 1, 2021.

19 (2) A protected series of a series limited liability company
20 as provided in chapter 489, article 12.

21 Sec. 43. Section 10.10, subsection 1, paragraph c, Code
22 2019, is amended to read as follows:

23 c. (1) Less than fifty percent of the interest in the
24 farmers cooperative limited liability company is held by
25 members which are parties to intra-company loan agreements.
26 If more than one type of membership interest is established,
27 ~~including any series as provided in [section 489.1201](#) or any~~
28 ~~class or group as provided in [section 489.1201](#),~~ less than
29 fifty percent of the interest in each type of membership shall
30 be held by members which are parties to intra-company loan
31 agreements.

32 (2) As used in subparagraph (1), a type of membership
33 interest in a limited liability company includes any of the
34 following:

35 (a) (i) A series as provided in chapter 489, article 12.

1 (ii) This subparagraph division is repealed on January 1,
2 2021.

3 (b) A protected series of a series limited liability company
4 as provided in chapter 489, article 12.

5 Sec. 44. Section 489.101, Code 2019, is amended to read as
6 follows:

7 **489.101 Short title.**

8 1. This chapter may be cited as the "*Revised Uniform Limited*
9 *Liability Company Act*".

10 2. In addition, article 12, part 1, of this chapter may be
11 cited as provided in section 489.1201.

12 Sec. 45. Section 489.801, subsection 1, Code 2019, is
13 amended to read as follows:

14 1. The Subject to sections 489.12402 and 489.12404, the
15 law of the state or other jurisdiction under which a foreign
16 limited liability company is formed governs all of the
17 following:

18 a. The internal affairs of the company.

19 b. The liability of a member as member and a manager as
20 manager for the debts, obligations, or other liabilities of the
21 company.

22 Sec. 46. Section 489.1201, Code 2019, is amended by adding
23 the following new subsection:

24 NEW SUBSECTION. 8. This section is repealed on January 1,
25 2021.

26 Sec. 47. Section 489.1202, Code 2019, is amended by adding
27 the following new subsection:

28 NEW SUBSECTION. 7. This section is repealed on January 1,
29 2021.

30 Sec. 48. Section 489.1203, Code 2019, is amended by adding
31 the following new subsection:

32 NEW SUBSECTION. 14. This section is repealed on January 1,
33 2021.

34 Sec. 49. Section 489.1204, Code 2019, is amended to read as
35 follows:

1 **489.1204 Dissociation from a series.**

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

13 2. This section is repealed on January 1, 2021.

14 Sec. 50. Section 489.1205, Code 2019, is amended by adding
15 the following new subsection:

16 NEW SUBSECTION. 4. This section is repealed on January 1,
17 2021.

18 Sec. 51. Section 489.1206, Code 2019, is amended to read as
19 follows:

20 **489.1206 Foreign series.**

21 1. A foreign limited liability company that is authorized
22 to do business in this state under **article 8** which is governed
23 by an operating agreement that establishes or provides for the
24 establishment of designated series of transferable interests
25 having separate rights, powers, or duties with respect to
26 specified property or obligations of the foreign limited
27 liability company, or profits and losses associated with the
28 specified property or obligations, shall indicate that fact on
29 the application for a certificate of authority as a foreign
30 limited liability company. In addition, the foreign limited
31 liability company shall state on the application whether the
32 debts, liabilities, and obligations incurred, contracted for,
33 or otherwise existing with respect to a particular series, if
34 any, are enforceable against the assets of such series only,
35 and not against the assets of the foreign limited liability

1 company generally.

2 2. This section is repealed on January 1, 2021.

3 Sec. 52. CODE EDITOR DIRECTIVE.

4 1. The Code editor is directed to make the following
5 transfers:

6 a. Section 489.1201, as amended by this division of this
7 Act, to section 489.12901.

8 b. Section 489.1202, as amended by this division of this
9 Act, to section 489.12902.

10 c. Section 489.1203, as amended by this division of this
11 Act, to section 489.12903.

12 d. Section 489.1204, as amended by this division of this
13 Act, to section 489.12904.

14 e. Section 489.1205, as amended by this division of this
15 Act, to section 489.12905.

16 f. Section 489.1206, as amended by this division of this
17 Act, to section 489.12906.

18 2. The Code editor shall codify the sections described in
19 subsection 1 as new part 2 of article 12 of chapter 489.

20 3. The Code editor shall correct internal references in the
21 Code and in any enacted legislation as necessary due to the
22 enactment of this section.

23 Sec. 53. EFFECTIVE DATE. This division of this Act takes
24 effect January 1, 2020.

25 DIVISION III

26 MANAGEMENT OF LIMITED LIABILITY COMPANIES

27 Sec. 54. Section 489.407, subsection 2, paragraph f, Code
28 2019, is amended by striking the paragraph.

29 DIVISION IV

30 DISSOLUTION

31 Sec. 55. Section 489.105, subsection 2, paragraph a, Code
32 2019, is amended to read as follows:

33 a. Delivering to the secretary of state for filing a
34 statement of change under [section 489.114](#), an amendment to the
35 certificate under [section 489.202](#), a statement of correction

1 under [section 489.206](#), a biennial report under [section 489.209](#),
2 a statement of withdrawal or a statement of rescission under
3 section 489.701A, or a statement of termination under section
4 489.702, subsection 2, paragraph "b", subparagraph (6).

5 Sec. 56. Section 489.117, subsection 1, Code 2019, is
6 amended by adding the following new paragraphs:

7 NEW PARAGRAPH. 0a. Statement of rescission No fee

8 NEW PARAGRAPH. 00a. Statement of withdrawal . . . No fee

9 Sec. 57. NEW SECTION. 489.701A Rescinding dissolution.

10 1. A limited liability company may rescind its dissolution,
11 unless a statement of termination applicable to the company has
12 become effective, a district court has entered an order under
13 section 489.701, subsection 1, paragraph "d", dissolving the
14 company, or the secretary of state has dissolved the company
15 under section 489.705.

16 2. Rescinding dissolution under this section requires all
17 of the following:

18 a. The affirmative vote or consent of each member.

19 b. If the limited liability company has delivered to the
20 secretary of state for filing a statement of dissolution and
21 any of the following applies:

22 (1) The statement has not become effective, delivery
23 to the secretary of state for filing of a statement of
24 withdrawal under section 489.205 applicable to the statement
25 of dissolution.

26 (2) If the statement of dissolution has become effective,
27 delivery to the secretary of state for filing of a statement of
28 rescission stating the name of the company and that dissolution
29 has been rescinded under this section.

30 3. If a limited liability company rescinds its dissolution
31 all of the following apply:

32 a. The company resumes carrying on its activities and
33 affairs as if the dissolution had never occurred.

34 b. Subject to paragraph "c", any liability incurred by the
35 company after the dissolution and before the rescission has

1 become effective is determined as if dissolution had never
2 occurred.

3 c. The rights of a third party arising out of conduct in
4 reliance on the dissolution before the third party knew or had
5 notice of the rescission may not be adversely affected.

6 EXPLANATION

7 The inclusion of this explanation does not constitute agreement with
8 the explanation's substance by the members of the general assembly.

9 GENERAL — "REVISED UNIFORM LIMITED LIABILITY COMPANY
10 ACT". This bill enacts new or amends existing sections in
11 the "Revised Uniform Limited Liability Company Act" (RULLCA)
12 as adopted by the national conference on commissioners of
13 uniform state laws, more commonly referred to as the uniform
14 law commissioners (ULC) (see Code chapter 5), enacted by the
15 General Assembly by 2008 Iowa Acts, chapter 1162, and codified
16 in Code chapter 489.

17 IOWA'S RULLCA. Code chapter 489 includes 13 articles
18 governing limited liability companies (LLCs), including their
19 formation; relations between members, managers, and other
20 persons (e.g., creditors) dealing with an LLC; transferrable
21 interests and rights; members' dissociations; the LLC's
22 dissolution and windup; foreign LLCs; actions by members;
23 mergers, conversions, and domestication; and professional LLCs.
24 Article 12 provides for a special type of business organization
25 referred to as a "series LLC". Article 13 includes a number
26 of miscellaneous provisions, including providing for the
27 uniformity of the Code chapter's application and construction,
28 the relationship of Code chapter 489 to the federal Electronic
29 Signatures in Global and National Commerce Act, and a savings
30 clause (allowing actions commenced prior to the Act's effective
31 date). The bill enacts the Uniform Protected Series Act (UPSA)
32 and amends provisions allowing for the cancellation of an LLC's
33 voluntary dissolution.

34 GENERAL — LLC DESCRIPTION. An LLC is a type of
35 unincorporated business organization that combines features

1 associated with for-profit corporations (Code chapter 490) and
2 partnerships (Code chapter 486A). When adequately capitalized
3 and operating pursuant to its operating agreement, an LLC
4 resembles a corporation operating under its articles of
5 incorporation and bylaws, by shielding its members (equity
6 holders) from the organization's liabilities (debts). It
7 also resembles a partnership in that business income passes
8 through the organization to its members who report their
9 respective share of profits or losses on individual rather
10 than the organization's (corporate) tax returns. An LLC
11 is formed by filing a certificate of organization with the
12 secretary of state (comparable to a corporation's articles
13 of incorporation), while many of its powers and duties are
14 governed by contract (referred to as an operating agreement
15 and generally comparable to a partnership agreement). The
16 operating agreement may control the LLC's governance (e.g.,
17 whether it is member-managed or manager-managed) and the rights
18 and duties of its members and managers. A member's interest
19 refers to the member's proportionate equity position in the LLC
20 and associated control of its business decisions (affairs and
21 internal activities). A transferable interest refers to the
22 right of a member or former member to receive distributions
23 from the LLC in accordance with the LLC's operating agreement.
24 Absent a provision in the operating agreement to the contrary,
25 a transferable interest does not include a unilateral
26 transfer of control rights. Dissociation occurs when a member
27 withdraws from an LLC which may be on either a voluntary or an
28 involuntary basis.

29 GENERAL — IOWA SERIES (ARTICLE 12). Under Code chapter 489,
30 article 12, an LLC's operating agreement may provide for the
31 establishment of a designated series. Under this arrangement,
32 an LLC acts as an umbrella organization for any number of
33 segregated transferable interests. The term commonly used to
34 describe the umbrella organization is a series LLC. So long
35 as certain conditions are satisfied, the liabilities (e.g.,

1 debts) and obligations (e.g., contractual promises) by one
2 series cannot be imputed to either the series LLC or another
3 series under its umbrella (Code section 489.1201). Likewise,
4 as far as income, any gain or loss of a series may be allocated
5 directly to the members of the series rather than to the series
6 LLC or another series. Because a series is a component of a
7 series LLC it cannot be completely independent. The article
8 includes special provisions for a series LLC, including for its
9 formation (Code section 489.1201), management (Code section
10 489.1202), distributions conducted as part of a dissolution
11 (Code section 489.1203), a member's dissociation (Code section
12 489.1204), its termination (Code section 489.1205), and a
13 foreign series LLC (Code section 489.1206).

14 DIVISION I — UNIFORM PROTECTED SERIES ACT — GENERAL.

15 Division I enacts the UPSA adopted by the ULC which in time
16 will entirely replace current article 12. The provisions of
17 the UPSA are codified and fit within the other provisions of
18 the RULLCA. The article as amended contains two parts: part 1
19 includes the sections of the UPSA taking the place of current
20 Iowa series LLC sections and part 2 includes the current Iowa
21 series sections temporarily transferred to another part of
22 article 12 until repealed on January 1, 2021.

23 PART 1, SUBPART A — GENERAL PROVISIONS. This subpart
24 includes definitions, a description of the nature of a
25 protected series; its power, purpose, and duration; how the
26 protected series is governed by the LLC's operating agreement;
27 and rules for applying certain provisions of an existing LLC to
28 a protected series. Specifically, it includes the article's
29 short title (new Code section 489.12101), describes terms used
30 in the article (new Code sections 489.12102 and 489.12103),
31 including defining "protected series" which replaces the term
32 "series" (new Code section 489.12102(18)). It defines "series
33 limited liability company" to mean a LLC that has at least one
34 protected series (or is structured to have a protected series)
35 under its umbrella (new Code section 489.12102(12)). The bill

1 defines a number of other terms such as "asset" which includes
2 property in which a series LLC or protected series holds title
3 and therefore may exercise certain rights including transfer
4 (new Code section 489.12102(1)). An "associated asset" of a
5 series LLC belongs only to (i.e., is "associated with") the
6 series LLC and an "associated asset" of a protected series
7 belongs only to (i.e., is "associated with") that protected
8 series (new Code sections 489.12102(2) and 489.12301(1)).
9 A "protected-series transferable interest" is a type of
10 transferable interest in which an associated member has a
11 right to receive a distribution (share of an asset) from a
12 protected series under an operating agreement (Code section
13 489.12101(10)). A "protected-series manager" (new Code section
14 489.12102(9)) is a type of manager (Code section 489.102) who
15 exercises all powers necessary to direct the activities and
16 affairs of the protected series (Code section 489.12102(9)). A
17 protected series may sue and be sued in its own name (new Code
18 section 489.12104(1)) and has the same powers and purposes as
19 the series LLC (new Code section 489.12104(2)). Generally, a
20 protected series cannot survive the termination of its umbrella
21 series (new Code section 489.12104(3)). A protected series
22 cannot be a member of another series LLC or establish another
23 protected series (new Code section 489.12104(4)). A protected
24 series is subject to choice of law rules in cases where a
25 dispute arises between parties from different states (new Code
26 section 489.12105). A series LLC is governed by an operating
27 agreement (new Code section 489.12106). In certain cases,
28 the UPSA controls the series LLC and any protected series
29 regardless of the terms of an operating agreement (new Code
30 section 489.12107(1)). Various provisions govern how the UPSA
31 and the RULLCA are to be interpreted in harmony.

32 PART 1, SUBPART B — ESTABLISHING PROTECTED SERIES. This
33 subpart provides for how a protected series is established.
34 First, it requires a vote of the series LLC's membership (new
35 Code section 489.12201(1)). A protected series designation

1 must be filed with the secretary of state (new Code section
2 489.12201(2)). The name of a protected series must comply with
3 the naming conventions applicable to an ordinary LLC but have
4 a "protected series" or "PS" designation (new Code section
5 489.12202). A series LLC (acting through its own registered
6 agent) serves as the recipient for service for all its umbrella
7 protected series (new Code section 489.12203(1)). A number
8 of provisions govern how a protected series receives service
9 of process (new Code sections 489.12203 and 489.12204). A
10 protected series may obtain a certificate of existence from
11 the secretary of state (new Code section 489.12205). An LLC
12 is required to file a biennial report with the secretary of
13 state under Code section 489.209. The report must include
14 information regarding its series (new Code section 489.12206).

15 PART 1, SUBPART C — ASSETS, MEMBERS, MANAGEMENT, AND
16 INFORMATION. Unless provided otherwise in an operating
17 agreement, the owner of an asset is responsible for meeting
18 the record-keeping requirements for that asset. An asset
19 is only associated with a protected series or series LLC
20 if there are adequate records describing the asset (new
21 Code section 489.12301(2)). Only a member of a series LLC
22 may be an associated member of a protected series holding
23 a transferrable interest in the protected series (new Code
24 section 489.12302(1)). A transferable interest in a protected
25 series must initially be owned either by the series LLC or
26 by an associated member of the protected series (new Code
27 section 489.12303(1)). A protected series may have multiple
28 managers (new Code section 489.12304(1)) in the same manner as
29 an ordinary LLC under Code section 489.407. A manager of a
30 protected series owes a fiduciary duty to the protected series
31 rather than to the series LLC or any other protected series
32 unless the manager also manages that protected series (new
33 Code section 489.12304(4)). Any derivative claim under RULLCA
34 (article 9) applies to such claim brought against a protected
35 series (Code section 489.12304(6)). The bill does not include

1 a provision in the UPSA that states an associated member of a
2 protected series has the same power to act as an agent and may
3 bind the protected series in the same manner as a member of
4 an ordinary LLC (presumably member-managed under Code section
5 489.407). Various parties have a limited right to acquire
6 information regarding a protected series, including a member
7 of the series LLC, a former associated member of a protected
8 series, the legal representative of an associated member of a
9 protected series, and a protected-series manager of a protected
10 series (new Code section 489.12305).

11 PART 1, SUBPART D — LIABILITY LIMITATIONS AND CLAIMS.

12 This subpart limits the liability of certain persons and the
13 enforcement of claims, by creating two types of liability
14 shields: vertical and horizontal. A vertical shield applies
15 to members and managers from liability in the same manner as
16 an ordinary LLC. A horizontal shield applies to a protected
17 series of a series LLC and its associated assets from liability
18 for the debts or obligations of the series LLC or another
19 protected series. A person is not liable for the debts and
20 obligations of a protected series or a series LLC solely
21 because the person is an associated member, protected-series
22 manager, or protected-series transferee of a protected series
23 (new Code section 489.12401(1)). However, notwithstanding
24 these shields, a claimant could bring an action against a
25 protected series under certain circumstances if the same
26 action could be brought against an ordinary LLC (new Code
27 section 489.12402(1)). Remedies afforded a judgment creditor
28 of an associated member, protected-series transferee, or
29 series limited liability company holding a protected-series
30 transferable interest are the same as afforded to a judgment
31 creditor in the case of an ordinary LLC under Code section
32 489.503 (new Code section 489.12403). Creditors are provided
33 different rights to assets if they are asserting a claim to
34 pierce the organization's veil under principles of equity (new
35 Code section 489.12402) or are asserting a claim to reach

1 "nonassociated assets" meaning that the series LLC or protected
2 series has not acquired title (new Code section 489.12404).

3 PART 1, SUBPART E — DISSOLUTION AND WINDING UP AFFAIRS.

4 If a series LLC dissolves then each protected series under
5 its umbrella dissolves simultaneously (new Code section
6 489.12501(1)). The dissolution of a protected series occurs
7 due to a provision in its operating agreement, the unanimous
8 action of its members, or pursuant to court order (new Code
9 section 489.12501(2)-(5)). Once the protected series is to be
10 dissolved, its activities and affairs are to be wound up in the
11 same manner as an ordinary LLC (new Code section 489.12502(1))
12 referring to Code sections 489.702 through 489.704. In the
13 case of the dissolution of a series LLC, it cannot wind up
14 until each of its protected series has wound up (new Code
15 section 489.12502(4)). If a series LLC is administratively
16 dissolved by the secretary of state, and later reinstated,
17 its protected series ceases winding up (new Code section
18 489.12503).

19 PART 1, SUBPART F — CHANGING TRANSACTIONS. This subpart
20 restricts mergers and other changing transactions involving
21 LLCs and protected series. A number of new definitions apply.
22 A "continuing protected series" refers to a protected series
23 that continues as part of the surviving series LLC (new Code
24 section 489.12601(3)). A "relocated protected series" refers
25 to a protected series which was part of a nonsurviving series
26 LLC and becomes part of the surviving series LLC (new Code
27 section 489.12601(6)). A protected series is prohibited from
28 being a direct party to an acquisition, conversion, or merger
29 (new Code section 489.12602(1)). It also cannot be a direct
30 party to a domestication (a business organization formed in
31 multiple states) (new Code section 489.12602(2)). One type of
32 allowed merger involves two existing LLCs, even if one LLC is
33 not a series LLC (new Code sections 489.12603 and 489.12604).
34 A plan of merger must comply with the same requirements
35 applicable to an ordinary LLC under Code sections 489.1001

1 through 489.1005 as well as a number of other requirements
2 stated in a plan of merger (new Code section 489.12605) and
3 articles of merger (new Code section 489.12606). A plan of
4 merger sets forth the management and affairs or affairs of the
5 protected series, including its termination, establishment, or
6 relocation, assets and liabilities, powers and rights, and name
7 (new Code section 489.12607). Generally, a creditor that has a
8 right against an LLC or protected series that was terminated
9 because of a merger may retain rights against the surviving
10 series LLC or protected series (new Code section 489.12608(1)).
11 In other cases, a creditor's rights are not affected so long as
12 the liability was incurred after the merger (new Code section
13 489.12608(3)).

14 PART 1, SUBPART G — FOREIGN PROTECTED SERIES. The law where
15 a foreign (out-of-state) series LLC is created (referred to as
16 the "law of the jurisdiction of formation") generally governs
17 its protected series, including its formation and governance,
18 as well as the rights and duties of its associated members,
19 protected series managers, or protected-series transferees
20 (new Code section 489.12701(1)). A foreign protected series
21 doing business in another state cannot assert that its law
22 governs another foreign protected series not doing business
23 in that state (new Code section 489.12702). Generally, a
24 foreign protected series is to be treated like a foreign LLC
25 for purposes of registering to do in-state business (new Code
26 section 489.12703). In the case of litigation, within 30 days
27 after becoming a party, a foreign series LLC or a foreign
28 protected series must disclose to any adverse party identifying
29 information regarding the foreign series LLC and each of its
30 foreign series (new Code section 489.12704(1)).

31 PART 1, SUBPART H — TRANSITIONAL PROVISIONS. This subpart
32 does not include two sections of the UPSA that are already
33 included in Code chapter 489, article 13, including section
34 801 that addresses uniformity of application (Code section
35 489.1301) and section 802 that addresses the federal Electronic

1 Signatures in Global and National Commerce Act (Code section
2 489.1302). It also does not include a severability clause
3 (that would provide for the retention of other provisions
4 in the part if one provision were held invalid) since that
5 provision already applies throughout the Code (Code section
6 4.12).

7 The provisions of UPSA, codified as new sections in article
8 12, part 1, take effect on January 1, 2020, and applies only
9 to a series LLC formed or a protected series established on or
10 after that date. One exception applies if a series LLC formed
11 prior to that date elects to be governed under the new part
12 (new Code section 489.12803(1)). Otherwise on or after January
13 1, 2021, all series LLCs and each protected series are governed
14 under the new part (new Code section 489.12803(1)). However,
15 until January 1, 2021, certain claims authorized under new
16 Code sections 489.12402 and 489.12404 cannot proceed against a
17 foreign series LLC formed prior to January 1, 2020, or foreign
18 LLC series that became a foreign series before that date (new
19 Code section 489.12803(4)).

20 DIVISION II — UNIFORM PROTECTED SERIES ACT — CONFORMING
21 AMENDMENTS. The bill amends the sections currently codified
22 in article 12 (Iowa series) to provide for their repeal on
23 January 1, 2021, the date when all series LLC and umbrella
24 series must comply with the new Code sections codified in
25 part 1 (UPSA). It also provides for the transfer of current
26 sections to new part 2. It amends other provisions in the
27 Code to conform with part 1, including sections that restrict
28 agricultural landholding by LLCs (Code chapter 10). It also
29 amends provisions relating to the law governing foreign LLCs by
30 referencing foreign series LLCs (Code section 489.801). The
31 division takes effect January 1, 2020.

32 DIVISION III — DISASSOCIATION — MANAGEMENT. The bill
33 eliminates a provision which provides for member-managed
34 limited liability companies, by removing a reference to
35 approving a merger, conversion, or domestication (Code section

1 489.407(2)(f)). There are two different methods of managing
2 a LLC. By statutory default (Code section 489.407(1)), a
3 LLC is member-managed, meaning that all members participate
4 in decisions managing the activities and affairs to the
5 organization (a partnership model). Alternatively, a
6 manager-managed LLC, formed and governed under an operating
7 agreement, provides that certain members or nonmembers are
8 designated to take such actions while the remaining members act
9 as passive investors (corporate model).

10 DIVISION IV — DISSOLUTION. The bill provides that an LLC
11 may rescind a voluntary dissolution (new Code section 489.701A)
12 and consequently the winding up of its affairs and activities
13 (Code section 489.702). A dissolution is a fundamental
14 change transaction that triggers the LLC's termination. It is
15 accomplished by a provision in the operating agreement, the
16 unanimous consent of its members, by district court order in
17 an action for dissolution, or by an administrative declaration
18 issued by the secretary of state (e.g., for nonpayment of
19 a fee). The bill provides that in cases of a voluntary
20 dissolution in which a statement of dissolution is filed, an
21 LLC may rescind such a statement by filing with the secretary
22 of state a statement of rescission. Generally, once an LLC
23 rescinds its dissolution, the LLC carries on its affairs as if
24 the dissolution had never occurred. One exception applies to
25 protect a person (creditor) who would be adversely affected by
26 the retroactive effect of the statement of rescission.