

Chapter 25.15 RCW
LIMITED LIABILITY COMPANIES

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ARTICLE I. GENERAL PROVISIONS

RCW 25.15.006 Definitions. The definitions in this section apply throughout this chapter unless the context clearly requires otherwise.

(1) "Agreed value" means the value of the contributions made by a member to the limited liability company. Such value shall equal the amount agreed upon in a limited liability company agreement or, if no value is agreed upon, the value shall be determined based on the records of the limited liability company.

(2) "Certificate of formation" means the certificate of formation required by RCW 25.15.071 and such certificate as amended or restated.

(3) "Distribution" means a transfer of money or other property from a limited liability company to a member in the member's capacity as a member or to a transferee on account of a transferable interest owned by the transferee.

(4) "Execute," "executes," or "executed" means with present intent to authenticate or adopt a record:

(a) To sign or adopt a tangible symbol; or

(b) To attach to or logically associate with the record an electronic symbol, sound, or process.

(5) "Foreign limited liability company" means an unincorporated entity formed under the law of a jurisdiction other than this state and denominated by that law as a limited liability company.

(6) "Foreign professional limited liability company" means a foreign limited liability company formed for the purpose of rendering professional services.

(7) "Limited liability company" or "domestic limited liability company" means a limited liability company having one or more members or transferees that is formed under this chapter.

(8) "Limited liability company agreement" means the agreement, including the agreement as amended or restated, whether oral, implied, in a record, or in any combination, of the member or members of a limited liability company concerning the affairs of the limited liability company and the conduct of its business.

(9) "Manager" means a person, or a board, committee, or other group of persons, named as a manager of a limited liability company in, or designated as a manager of a limited liability company pursuant to, a limited liability company agreement.

(10) "Manager-managed" means, with respect to a limited liability company, that the limited liability company agreement vests management of the limited liability company in one or more managers.

(11) "Member" means a person who has been admitted to a limited liability company as a member as provided in RCW 25.15.116 and who has not been dissociated from the limited liability company.

(12) "Member-managed" means, with respect to a limited liability company, that the limited liability company is not manager-managed.

(13) "Person" means an individual, corporation, business trust, estate, trust, partnership, limited partnership, limited liability company, association, joint venture, government, governmental subdivision, agency, or instrumentality or any other legal or commercial entity.

(14) "Principal office" means the office, in or out of this state, so designated in the annual report, where the principal executive offices of a domestic or foreign limited liability company are located.

(15) "Professional limited liability company" means a limited liability company that is formed in accordance with RCW 25.15.046 for the purpose of rendering professional service.

(16) "Professional service" means the same as defined under RCW 18.100.030.

(17) "Record" means information that is inscribed on a tangible medium or that is stored in an electronic or other medium and is retrievable in perceivable form.

(18) "State" means a state of the United States, the District of Columbia, Puerto Rico, the United States Virgin Islands, or any territory or insular possession subject to the jurisdiction of the United States.

(19) "Tangible medium" means a writing, copy of a writing, facsimile, or a physical reproduction, each on paper or on other tangible material.

(20) "Transfer" includes an assignment, conveyance, deed, bill of sale, lease, gift, and transfer by operation of law, except as otherwise provided in RCW 25.15.251(6).

(21) "Transferable interest" means a member's or transferee's right to receive distributions of the limited liability company's assets.

(22) "Transferee" means a person to which all or part of a transferable interest has been transferred, whether or not the transferor is a member.

(23) "Withdraw" or "withdrawal" means, with respect to a member of a limited liability company or a holder of a transferable interest in a limited liability company, that the member or holder of the transferable interest provides written notice to the limited liability company of its intent to surrender all of its transferable interest and rights as a member to the limited liability company. A withdrawal is effective as of the later of the date the limited liability company receives the written notice of withdrawal or the date specified in such notice. [2022 c 42 § 301; 2020 c 57 § 82; 2015 c 188 § 1.]

RCW 25.15.011 Name of limited liability company. The name of each limited liability company as set forth in its certificate of formation must comply with Article 3 of chapter 23.95 RCW. [2015 c 176 § 7101; 2015 c 188 § 3.]

Effective date—Contingent effective date—2015 c 176: See note following RCW 23.95.100.

RCW 25.15.016 Reserved name. (1) Reserved Name—Domestic Limited Liability Company. A person may reserve the exclusive use of a limited liability company name by delivering an application to the secretary of state for filing in accordance with RCW 23.95.310.

(2) Reserved Name—Foreign Limited Liability Company. A foreign limited liability company may reserve its name by delivering to the secretary of state for filing an application in accordance with RCW 23.95.315. [2015 c 176 § 7102; 2015 c 188 § 4.]

Effective date—Contingent effective date—2015 c 176: See note following RCW 23.95.100.

RCW 25.15.018 Effect of limited liability company agreement—Nonwaivable provisions. (1) Except as otherwise provided in subsections (2) and (3) of this section, the limited liability company agreement governs:

(a) Relations among the members as members and between the members and the limited liability company; and

(b) The rights and duties under this chapter of a person in the capacity of manager.

(2) To the extent the limited liability company agreement does not otherwise provide for a matter described in subsection (1) of this section, this chapter governs the matter.

(3) A limited liability company agreement may not:

(a) Vary a limited liability company's power under RCW 25.15.031 to sue, be sued, and defend in its own name;

(b) Vary the law applicable to a limited liability company under RCW 25.15.033;

(c) Eliminate or limit the duties of a member or manager in a manner prohibited by RCW 25.15.038(6);

(d) Eliminate or limit the liability of a member or manager in a manner prohibited by RCW 25.15.038(7);

(e) Indemnify a member or manager in a manner prohibited by RCW 25.15.041;

(f) Vary the requirements of RCW 25.15.086;

(g) Vary the records required under RCW 25.15.136(1) or unreasonably restrict the right to records or information under RCW 25.15.136;

(h) Vary the power of a manager to resign under RCW 25.15.176;

(i) Vary the requirements of RCW 25.15.231;

(j) Eliminate or limit the liability of a member, manager, or transferee under RCW 25.15.236;

(k) Vary the power of a court to decree dissolution in the circumstances specified in RCW 25.15.274;

(l) Vary the requirement to wind up the limited liability company's business as specified in RCW 25.15.297 (1), (2), (4), and (5);

(m) Unreasonably restrict the right to maintain an action under Article X of this chapter;

(n) Restrict the right of a member that will have personal liability with respect to a surviving or converted organization to approve a merger or conversion under RCW 25.15.456; or

(o) Restrict the rights under this chapter of a person other than a member, a transferee, or a manager. [2015 c 188 § 5.]

RCW 25.15.021 Registered agent. (1) Each limited liability company shall continuously maintain in this state a registered agent in accordance with Article 4 of chapter 23.95 RCW.

(2) A limited liability company may change its registered agent by delivering to the secretary of state for filing a statement of change in accordance with RCW 23.95.430.

(3) A registered agent may change its information on file with the secretary of state in accordance with RCW 23.95.435 or 23.95.440.

(4) A registered agent may resign as agent by executing and delivering to the secretary of state for filing a statement of resignation in accordance with RCW 23.95.445. [2015 c 176 § 7103; 2015 c 188 § 6.]

Effective date—Contingent effective date—2015 c 176: See note following RCW 23.95.100.

RCW 25.15.026 Service of process, notice, or demand. Service of process, notice, or demand required or permitted by law to be served on the limited liability company may be made in accordance with RCW 23.95.450. [2015 c 176 § 7104; 2015 c 188 § 7.]

Effective date—Contingent effective date—2015 c 176: See note following RCW 23.95.100.

RCW 25.15.031 Purpose and powers. (1) A limited liability company may be formed under this chapter for any lawful purpose, regardless of whether for profit.

(2) Unless this chapter, its certificate of formation, or its limited liability company agreement provides otherwise, a limited liability company has the same powers as an individual to do all things necessary or convenient to carry on its activities. [2015 c 188 § 8.]

RCW 25.15.033 Law of this state governs. The law of this state governs:

(1) The internal affairs of a limited liability company; and
(2) The liability of a member as member and a manager as manager for the debts, obligations, or other liabilities of a limited liability company. [2015 c 188 § 9.]

RCW 25.15.036 Business transactions of member or manager with the limited liability company. A member or manager may lend money to and transact other business with a limited liability company and, subject to other applicable law, has the same rights and obligations with respect to the loan or other transaction as a person who is not a member or manager. [2015 c 188 § 10.]

RCW 25.15.038 General standards—Limitation of liability.

(1)(a) The only fiduciary duties that a member in a member-managed limited liability company or a manager has to the limited liability company and its members are the duties of loyalty and care under subsections (2) and (3) of this section.

(b) If a manager is a board, committee, or other group of persons, this section applies to each person included in such board, committee, or other group of persons as if such person were a manager.

(2) The duty of loyalty is limited to the following:

(a) To account to the limited liability company and hold as trustee for it any property, profit, or benefit derived by such manager or member in the conduct and winding up of the limited liability company's activities or derived from a use by such manager or member of limited liability company property, including the appropriation of a limited liability company opportunity;

(b) To refrain from dealing with the limited liability company as or on behalf of a party having an interest adverse to the limited liability company; and

(c) To refrain from competing with the limited liability company in the conduct or winding up of the limited liability company's activities.

(3)(a) The duty of care is limited to refraining from engaging in grossly negligent or reckless conduct, intentional misconduct, or a knowing violation of law in the conduct and winding up of the limited liability company's activities.

(b) A member or manager is not in violation of the duty of care as set forth in (a) of this subsection if, in discharging such duty, the member or manager relies in good faith upon the records of the limited liability company and upon such opinions, reports, or statements presented to the limited liability company by any person,

including any manager, member, officer, or employee of the limited liability company, as to matters which the member or manager reasonably believes are within such other person's professional or expert competence and who has been selected with reasonable care by or on behalf of the limited liability company, including opinions, reports, or statements as to the value and amount of the assets, liabilities, profits, or losses of the limited liability company or any other facts pertinent to the existence and amount of assets from which distributions to members might properly be paid.

(4) A manager or member does not violate a duty under this chapter or under the limited liability company agreement merely because the manager's or member's conduct furthers the manager's or member's own interest.

(5) A manager or member is not liable to the limited liability company or its members for the manager's or member's good faith reliance on the limited liability company agreement.

(6) To the extent that, at law or in equity, a member or manager has duties (including fiduciary duties) to a limited liability company or to another member, manager, or other person bound by a limited liability company agreement, the member's or manager's duties may be modified, expanded, restricted, or eliminated by the provisions of a limited liability company agreement; provided that such provisions are not inconsistent with law and do not eliminate or limit:

(a) The duty of a member or manager to avoid intentional misconduct and knowing violations of law, or violations of RCW 25.15.231; or

(b) The implied contractual duty of good faith and fair dealing.

(7) A limited liability company agreement may contain provisions not inconsistent with law that eliminate or limit the personal liability of a member or manager to the limited liability company or its members or other persons bound by a limited liability company agreement for conduct as a member or manager, provided that such provisions do not eliminate or limit the liability of a member or manager for acts or omissions that involve intentional misconduct or a knowing violation of law by a member or manager, for conduct of the member or manager violating RCW 25.15.231, or for any act or omission that constitutes a violation of the implied contractual duty of good faith and fair dealing. [2015 c 188 § 11.]

RCW 25.15.041 Indemnification. (1) A limited liability company may indemnify any member or manager from and against any judgments, settlements, penalties, fines, or expenses incurred in a proceeding or obligate itself to advance or reimburse expenses incurred in a proceeding to which a person is a party because such person is, or was, a member or a manager, provided that no such indemnity shall indemnify a member or a manager from or on account of acts or omissions of the member or manager finally adjudged to be intentional misconduct or a knowing violation of law by the member or manager, or conduct of the member or manager adjudged to be in violation of RCW 25.15.231.

(2) A limited liability company may indemnify and advance expenses under subsection (1) of this section to an officer, employee, or agent of the limited liability company who is not a member or manager to the same extent as to a member or manager.

(3) For purposes of this section:

(a) "Expenses" include counsel fees.

(b) "Party" includes a person who was, is, or is threatened to be made a named defendant or respondent in a proceeding.

(c) "Proceeding" means any threatened, pending, or completed action, suit, or proceeding, whether civil, criminal, administrative, or investigative and whether formal or informal. [2015 c 188 § 12.]

RCW 25.15.046 Professional limited liability companies. (1) A person or group of persons duly licensed or otherwise legally authorized to render the same professional services within this state may form and become a member or members of a professional limited liability company under the provisions of this chapter for the purposes of rendering professional service.

(2) A professional limited liability company is subject to all the provisions of chapter 18.100 RCW that apply to a professional corporation. A professional limited liability company's managers, members, agents, and employees are subject to all the provisions of chapter 18.100 RCW that apply to the directors, officers, shareholders, agents, or employees of a professional corporation, except as provided otherwise in this section and RCW 25.15.048.

(3) If the limited liability company's members are required to be licensed to practice such profession, and the limited liability company fails to maintain for itself and for its members practicing in this state a policy of professional liability insurance, bond, or other evidence of financial responsibility of a kind designated by rule by the state insurance commissioner and in the amount of at least one million dollars or a greater amount as the state insurance commissioner may establish by rule for a licensed profession or for any specialty within a profession, taking into account the nature and size of the business, then the limited liability company's members are personally liable to the extent that, had the insurance, bond, or other evidence of responsibility been maintained, it would have covered the liability in question.

(4) For purposes of applying chapter 18.100 RCW to a professional limited liability company, the terms "director" or "officer" means manager, "shareholder" means member, "corporation" means professional limited liability company, "articles of incorporation" means certificate of formation, "shares" or "capital stock" means a limited liability company interest, "incorporator" means the person who executes the certificate of formation, and "bylaws" means the limited liability company agreement.

(5) The name of a professional limited liability company must comply with RCW 23.95.305.

(6) Subject to Article VII of this chapter, the following may be a member of a professional limited liability company and may be the transferee of the interest of an ineligible person or deceased member of the professional limited liability company:

(a) A professional corporation, if its shareholders, directors, and its officers, other than the secretary and the treasurer, are licensed or otherwise legally authorized to render the same specific professional services as the professional limited liability company;

(b) Another professional limited liability company, if the managers and members of both professional limited liability companies are licensed or otherwise legally authorized to render the same specific professional services; and

(c) A foreign professional limited liability company, if the managers and members of the foreign professional limited liability

company are duly licensed or otherwise legally authorized to render the same specific professional services in any jurisdiction other than this state as the managers and members of the professional limited liability company.

(7) Formation of a limited liability company under this section does not restrict the application of the uniform disciplinary act under chapter 18.130 RCW, or any applicable health care professional statutes under Title 18 RCW, including but not limited to restrictions on persons practicing a health profession without being appropriately credentialed and persons practicing beyond the scope of their credential. [2022 c 42 § 302; 2015 c 176 § 7105; 2015 c 188 § 13.]

Effective date—Contingent effective date—2015 c 176: See note following RCW 23.95.100.

RCW 25.15.048 Professional limited liability company—Licensing.

(1) No limited liability company formed under this chapter may render professional services except through a person or persons who are duly licensed or otherwise legally authorized to render such professional services within this state. However, this chapter does not:

(a) Prohibit a person duly licensed or otherwise legally authorized to render professional services in any jurisdiction other than this state from becoming a member of a professional limited liability company formed in this state for the purpose of rendering the same professional services; or

(b) Prohibit a professional limited liability company from rendering services outside this state through individuals who are not duly licensed or otherwise legally authorized to render professional services within this state.

(2) Persons engaged in a profession and otherwise meeting the requirements of this chapter may operate under this chapter as a professional limited liability company so long as each member personally engaged in the practice of the profession in this state is duly licensed or otherwise legally authorized to practice the profession in this state and:

(a) At least one manager of the limited liability company is duly licensed or otherwise legally authorized to practice the profession in this state; or

(b) A member is in charge of each office of the limited liability company in this state and that member is duly licensed or otherwise legally authorized to practice the profession in this state. [2015 c 188 § 14.]

RCW 25.15.051 Foreign professional limited liability company. A foreign professional limited liability company may render professional services in this state so long as it complies with Article IX of this chapter and each individual rendering professional services in this state is duly licensed or otherwise legally authorized to render such professional services within this state. [2015 c 188 § 15.]

RCW 25.15.054 Membership residency. This chapter does not require a limited liability company to restrict membership to persons residing in or engaging in business in this state. [2015 c 188 § 16.]

RCW 25.15.061 Piercing the veil. Members of a limited liability company are personally liable for any act, debt, obligation, or liability of the limited liability company to the extent that shareholders of a Washington business corporation would be liable in analogous circumstances. In this regard, the court may consider the factors and policies set forth in established case law with regard to piercing the corporate veil, except that the failure to hold meetings of members or managers or the failure to observe formalities pertaining to the calling or conduct of meetings is not a factor tending to establish that the members have personal liability for any act, debt, obligation, or liability of the limited liability company if the certificate of formation and limited liability company agreement do not expressly require the holding of meetings of members or managers. [2015 c 188 § 17.]

ARTICLE II. FORMATION: CERTIFICATE OF FORMATION, AMENDMENT, FILING,
AND EXECUTION

RCW 25.15.071 Formation—Certificate of formation. (1) In order to form a limited liability company, one or more persons must execute a certificate of formation. The certificate of formation must be delivered to the office of the secretary of state for filing in accordance with Article 2 of chapter 23.95 RCW and set forth:

- (a) The name of the limited liability company;
- (b) The name and address of the registered agent for service of process required to be maintained by RCW 25.15.021 and Article 4 of chapter 23.95 RCW;
- (c) The address of the principal office of the limited liability company;
- (d) If the limited liability company is to have a specific date of dissolution, the latest date on which the limited liability company is to dissolve;
- (e) Any other matters the members decide to include; and
- (f) The name and address of each person executing the certificate of formation.

(2) (a) Unless a delayed effective date is specified in accordance with RCW 23.95.210, a limited liability company is formed when its certificate of formation is filed by the secretary of state.

(b) The secretary of state's filing of the certificate of formation is conclusive proof that the persons executing the certificate satisfied all conditions precedent to the formation.

(3) A limited liability company formed under this chapter is a separate legal entity and has a perpetual existence.

(4) Any person may apply to the secretary of state under RCW 23.95.235 to furnish a certificate of existence for a domestic limited liability company or a certificate of registration for a foreign limited liability company. [2015 c 176 § 7106; 2015 c 188 § 18.]

Effective date—Contingent effective date—2015 c 176: See note following RCW 23.95.100.

RCW 25.15.076 Amendment to certificate of formation. (1) A certificate of formation is amended by delivering a certificate of

amendment to the secretary of state for filing. The certificate of amendment shall set forth:

(a) The name of the limited liability company; and

(b) The amendment to the certificate of formation.

(2) A manager or, if there is no manager, then any member who becomes aware that any statement in a certificate of formation was false when made, or that any matter described has changed making the certificate of formation false in any material respect, must promptly amend the certificate of formation.

(3) A certificate of formation may be amended at any time for any other proper purpose.

(4) Unless a delayed effective date is provided for in the certificate of amendment in accordance with RCW 23.95.210, a certificate of amendment is effective when filed by the secretary of state as provided in RCW 23.95.210. [2015 c 176 § 7107; 2015 c 188 § 19.]

Effective date—Contingent effective date—2015 c 176: See note following RCW 23.95.100.

RCW 25.15.081 Restated certificate. (1) A limited liability company may, whenever desired, integrate into a single instrument all of the provisions of its certificate of formation which are then in effect and operative as a result of there having been filed with the secretary of state one or more certificates or other instruments pursuant to any of the sections referred to in this chapter and it may at the same time also further amend its certificate of formation by delivering a restated certificate of formation to the secretary of state for filing in accordance with Article 2 of chapter 23.95 RCW.

(2) A restated certificate of formation must state, either in its heading or in an introductory paragraph, the limited liability company's name and, if it is not to be effective upon filing, the future effective date or time, which must comply with RCW 23.95.210. If a restated certificate only restates and integrates and does not further amend a limited liability company's certificate of formation as amended or supplemented, it must state that fact as well.

(3) Upon the filing of a restated certificate of formation by the secretary of state, or upon the future effective date or time of a restated certificate of formation as provided for, the initial certificate of formation, as amended or supplemented, is superseded; and the restated certificate of formation, including any further amendment or changes made thereby, is thereafter the certificate of formation of the limited liability company, but the original effective date of formation remains unchanged.

(4) Any amendment or change effected in connection with the restatement of the certificate of formation is subject to any other provision of this chapter, not inconsistent with this section, which would apply if a separate certificate of amendment were filed to effect such amendment or change. [2015 c 176 § 7108; 2015 c 188 § 20.]

Effective date—Contingent effective date—2015 c 176: See note following RCW 23.95.100.

RCW 25.15.086 Execution. Each record required or permitted by this chapter to be filed in the office of the secretary of state must comply with the requirements of Article 2 of chapter 23.95 RCW and must be executed in the following manner:

- (1) Each original certificate of formation must be executed by the person or persons forming the limited liability company;
- (2) A reservation of name may be executed by any person;
- (3) A transfer of reservation of name must be executed by, or on behalf of, the applicant for the reserved name;
- (4) A registration of name must be executed by any member or manager of the foreign limited liability company;
- (5) A certificate of amendment or restatement must be executed by at least one manager, or by a member if management of the limited liability company is reserved to the members;
- (6) A certificate of dissolution must be executed by the person or persons authorized to wind up the limited liability company's affairs pursuant to RCW 25.15.297(3);
- (7) If a surviving domestic limited liability company is filing articles of merger, the articles of merger must be executed by at least one manager, or by a member if management of the limited liability company is reserved to the members, or if the articles of merger are being filed by a surviving foreign limited liability company, limited partnership, corporation, or other person, the articles of merger must be executed by a person authorized by such foreign limited liability company, limited partnership, corporation, or other person;
- (8) A foreign limited liability company's application for registration as a foreign limited liability company doing business within the state must be executed by any member or manager of the foreign limited liability company; and
- (9) If a converting limited liability company is filing articles of conversion, the articles of conversion must be executed by at least one manager, or by a member if management of the limited liability company is reserved to the members. [2015 c 176 § 7109; 2015 c 188 § 21.]

Effective date—Contingent effective date—2015 c 176: See note following RCW 23.95.100.

RCW 25.15.091 Execution or amendment by judicial order. (1) If a person required to execute a certificate required by this chapter fails or refuses to do so, any other person who is adversely affected by the failure or refusal may petition the superior courts to direct the execution of the certificate under RCW 23.95.245.

(2) If a person required to execute a limited liability company agreement or amendment thereof fails or refuses to do so, any other person who is adversely affected by the failure or refusal may petition the superior courts to direct the execution of the limited liability company agreement or amendment thereof. If the court finds that the limited liability company agreement or amendment thereof should be executed and that any person required to execute the limited liability company agreement or amendment thereof has failed or refused to do so, it shall enter an order granting appropriate relief. [2015 c 176 § 7110; 2015 c 188 § 22.]

Effective date—Contingent effective date—2015 c 176: See note following RCW 23.95.100.

RCW 25.15.096 Duty of secretary of state to file—Review of refusal to file. RCW 23.95.225 governs the secretary of state's duty to file records delivered to the secretary of state for filing, the manner and effect of filing, and procedures that apply when the secretary of state refuses to file a record. [2015 c 176 § 7111; 2015 c 188 § 23.]

Effective date—Contingent effective date—2015 c 176: See note following RCW 23.95.100.

RCW 25.15.106 Initial and annual reports. Each domestic limited liability company, and each foreign limited liability company authorized to transact business in this state, must deliver to the secretary of state for filing initial and annual reports in accordance with RCW 23.95.255. [2015 c 176 § 7112; 2015 c 188 § 24.]

Effective date—Contingent effective date—2015 c 176: See note following RCW 23.95.100.

ARTICLE III. MEMBERS

RCW 25.15.116 Admission of members. (1) In connection with the admission of the initial member or members of a limited liability company, a person acquiring a limited liability company interest is admitted as a member of the limited liability company upon the later to occur of:

(a) The formation of the limited liability company; or

(b) The time provided in the limited liability company agreement or, if the limited liability company agreement does not so provide or does not exist, when the person's admission is reflected in the records of the limited liability company.

(2) After the admission of the initial member or members of a limited liability company, a person acquiring a limited liability company interest is admitted as a member of the limited liability company:

(a) In the case of a person acquiring a limited liability company interest directly from the limited liability company, at the time provided in the limited liability company agreement or, if the limited liability company agreement does not so provide or does not exist, upon the consent of all members and when the person's admission is reflected in the records of the limited liability company;

(b) In the case of a transferee of a limited liability company interest, upon compliance with any procedure for admission provided in the limited liability company agreement or, if the limited liability company agreement does not so provide or does not exist, upon the consent of all members and when the person's admission is reflected in the records of the limited liability company agreement;

(c) In the case of a person being admitted as a member of a surviving or resulting limited liability company pursuant to a merger

or conversion approved in accordance with this chapter, as provided in the limited liability company agreement of the surviving or resulting limited liability company or in the agreement of merger or plan of merger or conversion, and in the event of any inconsistency, the terms of the agreement of merger or plan of merger or conversion control; and in the case of a person being admitted as a member of a limited liability company pursuant to a merger or conversion in which such limited liability company is not the surviving or resulting limited liability company in the merger or conversion, as provided in the limited liability company agreement of such limited liability company; or

(d) In the case of a transferee acquiring all of the transferor's limited liability company interest from a transferor that is the only member of the limited liability company, upon the effectiveness of the transfer.

(3) A person may be admitted as a member of a limited liability company without acquiring a transferable interest and without making or being obligated to make a contribution to the limited liability company. [2022 c 42 § 303; 2015 c 188 § 25.]

RCW 25.15.121 Voting and classes of membership. (1) Except as otherwise provided by this chapter, the affirmative vote, approval, or consent of a majority of the members is necessary for actions requiring member approval.

(2) The affirmative vote, approval, or consent of all members is required to:

(a) Amend the certificate of formation, except as provided in RCW 25.15.076(2);

(b) Amend the limited liability company agreement;

(c) Authorize a manager, member, or other person to do any act on behalf of the limited liability company that contravenes the limited liability company agreement, including any provision that expressly limits the purpose, business, or affairs of the limited liability company or the conduct thereof;

(d) Admit as a member of the limited liability company a person acquiring a limited liability company interest directly from the limited liability company as provided in RCW 25.15.116(2)(a);

(e) Admit as a member of the limited liability company a transferee of a limited liability company interest as provided in RCW 25.15.116(2)(b);

(f) Authorize a member's removal as a member of the limited liability company as provided in RCW 25.15.131(1)(e);

(g) Waive a member's dissociation as a member of the limited liability company as provided in RCW 25.15.131(1)(f), (g), or (h);

(h) Compromise any member's obligation to make a contribution or return cash or other property paid or distributed to the member in violation of this chapter as provided in RCW 25.15.196(2);

(i) Amend the certificate of formation and extend the date of dissolution, if a dissolution date is specified in the certificate of formation, as provided in RCW 25.15.265(1);

(j) Dissolve the limited liability company as provided in RCW 25.15.265(3);

(k) Approve a plan of conversion as provided in RCW 25.15.441(1);

(l) Sell, lease, exchange, or otherwise dispose of all, or substantially all, of the limited liability company's property, other than in the ordinary course of the limited liability company's

activities or activities of the kind carried on by the limited liability company; or

(m) Undertake any other act outside the ordinary course of the limited liability company's activities.

(3) A limited liability company agreement may provide for classes or groups of members having such relative rights, powers, and duties as the limited liability company agreement may provide, and may make provision for the future creation in the manner provided in the limited liability company agreement of additional classes or groups of members having such relative rights, powers, and duties as may from time to time be established, including rights, powers, and duties senior to existing classes and groups of members. A limited liability company agreement may provide for the taking of an action, including the amendment of the limited liability company agreement, without the vote or approval of any member or class or group of members, including an action to create under the provisions of the limited liability company agreement a class or group of limited liability company interests that was not previously outstanding. A limited liability company agreement may provide that any member or class or group of members do not have voting rights.

(4) A limited liability company agreement may grant to all or certain identified members or a specified class or group of the members the right to vote separately or with all or any class or group of the members or managers, on any matter. If the limited liability company agreement so provides, voting by members may be on a per capita, profit share, class, group, or any other basis.

(5) A limited liability company agreement may set forth provisions relating to notice of the time, place, or purpose of any meeting at which any matter is to be voted on by any members, waiver of any such notice, action by consent without a meeting, the establishment of a record date, quorum requirements, voting in person or by proxy, or any other matter with respect to the exercise of any such right to vote. [2022 c 42 § 304; 2015 c 188 § 26.]

RCW 25.15.126 Liability of members and managers to third parties. (1) Except as otherwise provided by this chapter, the debts, obligations, and liabilities of a limited liability company, whether arising in contract, tort or otherwise, are solely the debts, obligations, and liabilities of the limited liability company; and no member or manager of a limited liability company is obligated personally for any such debt, obligation, or liability of the limited liability company solely by reason of being or acting as a member or manager respectively of the limited liability company.

(2) Notwithstanding subsection (1) of this section, under a limited liability company agreement or under another agreement, a member or manager may agree to be obligated personally for any or all of the debts, obligations, and liabilities of the limited liability company.

(3) A member or manager of a limited liability company is personally liable for such person's own torts. [2015 c 188 § 27.]

RCW 25.15.131 Member dissociation. (1) A person is dissociated as a member of a limited liability company upon the occurrence of one or more of the following events:

(a) The member dies or withdraws from the limited liability company as provided in subsection (2) of this section;

(b) The transfer of all of the member's transferable interest in the limited liability company;

(c) The member is removed as a member in accordance with the limited liability company agreement;

(d) The occurrence of an event upon which the member ceases to be a member under the limited liability company agreement;

(e) The person is a corporation, limited liability company, general partnership, or limited partnership, and the person is removed as a member by the unanimous consent of the other members, which may be done under this subsection (1)(e) only if:

(i) The person has filed articles of dissolution, a certificate of dissolution or the equivalent, or the person has been administratively or judicially dissolved, or its right to conduct business has been suspended or revoked by the jurisdiction of its incorporation, or the person has otherwise been dissolved; and

(ii) The dissolution has not been revoked or the person or its right to conduct business has not been reinstated within ninety days after the limited liability company notifies the person that it will be removed as a member for any reason identified in (e)(i) of this subsection;

(f) Unless all other members otherwise agree at the time, the member (i) makes a general assignment for the benefit of creditors;

(ii) files a voluntary petition in bankruptcy; (iii) becomes the subject of an order for relief in bankruptcy proceedings; (iv) files a petition or answer seeking for the member any reorganization, arrangement, composition, readjustment, liquidation, dissolution, or similar relief under any statute, law, or regulation; (v) files an answer or other pleading admitting or failing to contest the material allegations of a petition filed against the member in any proceeding of the nature described in (f)(i) through (iv) of this subsection; or (vi) seeks, consents to, or acquiesces in the appointment of a trustee, receiver, or liquidator of the member or of all or any substantial part of the member's properties;

(g) Unless all other members otherwise agree at the time, if within one hundred twenty days after the commencement of any proceeding against the member seeking reorganization, arrangement, composition, readjustment, liquidation, dissolution, or similar relief under any statute, law, or regulation, the proceeding has not been dismissed, or if within ninety days after the appointment without his or her consent or acquiescence of a trustee, receiver, or liquidator of the member or of all or any substantial part of the member's properties, the appointment is not vacated or stayed, or within ninety days after the expiration of any stay, the appointment is not vacated; or

(h) Unless all other members otherwise agree at the time, in the case of a member who is an individual, the entry of an order by a court of competent jurisdiction adjudicating the member as being subject to a conservatorship under RCW 11.130.360.

(2) A member may withdraw from a limited liability company at any time. The withdrawn member or transferee shall have no right to payment from the limited liability company as a consequence of its withdrawal.

(3) When a person is dissociated as a member of a limited liability company:

(a) The person's right to participate as a member in the management and conduct of the limited liability company's activities terminates;

(b) If the limited liability company is member-managed, the person's fiduciary duties as a member end with regard to matters arising and events occurring after the person's dissociation; and

(c) Subject to subsection (5) of this section, any transferable interest owned by the person immediately before dissociation in the person's capacity as a member is owned by the person solely as a transferee.

(4) A person's dissociation as a member of a limited liability company does not of itself discharge the person from any debt, obligation, or other liability to the limited liability company or the other members which the person incurred while a member.

(5) If a member dies, the deceased member's personal representative or other legal representative may exercise the rights of a transferee provided in RCW 25.15.251 and, for the purposes of settling the estate, the rights of a current member under RCW 25.15.136. [2022 c 42 § 305; 2020 c 312 § 727; 2015 c 188 § 28.]

Effective dates—2020 c 312: See note following RCW 11.130.915.

RCW 25.15.136 Records and information. (1) A limited liability company must keep at its principal office the following:

(a) A copy of its certificate of formation and all amendments thereto;

(b) A copy of any limited liability company agreement made in a record and any amendments made in a record to a limited liability company agreement;

(c) Unless contained in its certificate of formation, a statement in a record of:

(i) The amount of cash and a description and statement of the agreed value of the other benefits contributed and agreed to be contributed by each member;

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

(iii) Any right of any member to receive distributions which include a return of all or any part of the member's contribution; and

(iv) Any events upon the happening of which the limited liability company is to be dissolved and its activities wound up;

(d) A copy of the limited liability company's federal, state, and local tax returns and reports, if any, for the three most recent years;

(e) A copy of any financial statements of the limited liability company for the three most recent years;

(f) A copy of any record made by the limited liability company during the past three years of any consent given by or vote taken of any member pursuant to this chapter or the limited liability company agreement;

(g) A copy of the three most recent annual reports delivered by the limited liability company to the secretary of state pursuant to RCW 25.15.106;

(h) A copy of any filed articles of conversion or merger; and

(i) A copy of any certificate of dissolution or certificate of revocation of dissolution.

(2) On ten days' demand, made in a record received by the limited liability company, a member may inspect and copy, during regular business hours at the limited liability company's principal office, the records required by subsection (1) of this section to be kept by a limited liability company. The member need not have any particular purpose for seeking the records. However, if the records contain information specified in subsection (3)(a) of this section, the limited liability company may substitute copies of the records that are redacted to protect information specified in subsection (3)(a) of this section, unless the member meets the requirements of subsection (4) of this section.

(3) During regular business hours and at a reasonable location specified by the limited liability company, a member may inspect and copy the following records of the limited liability company if the member meets the requirements of subsection (4) of this section:

(a) A current and a past list, setting forth the full name and last known mailing address of each member and manager, if any;

(b) Excerpts from any meeting of the managers or members, and records of limited liability company action approved by the members or manager without a meeting; and

(c) Accounting records of the limited liability company.

(4) A member may inspect and copy the records described in subsection (3) of this section if:

(a) The member seeks the records for a purpose reasonably related to the member's interest in the limited liability company;

(b) The member makes a demand in a record received by the limited liability company, describing with reasonable particularity the records sought and the purpose for seeking the records; and

(c) The records sought are directly connected to the member's purpose.

(5) Within ten days after receiving a demand pursuant to subsection (4) of this section, the limited liability company in a record must inform the member that made the demand:

(a) What records the limited liability company will provide in response to the demand;

(b) When and where the limited liability company will provide the records; and

(c) If the limited liability company declines to provide any demanded records, the limited liability company's reasons for declining.

(6) A person dissociated as a member may inspect and copy the records required by subsection (1) of this section during regular business hours in the limited liability company's principal office if:

(a) The records pertain to the period during which the person was a member or transferee;

(b) The person seeks the records in good faith; and

(c) The person meets the requirements of subsection (4) of this section.

(7) The limited liability company must respond to a demand made pursuant to subsection (6) of this section in the same manner as provided in subsection (5) of this section.

(8) The limited liability company may impose reasonable restrictions on the use of records and information obtained under this section.

(9) A limited liability company may charge a person that makes a demand under this section reasonable costs of copying, limited to the costs of labor and material.

(10) A member, or a person dissociated as a member, may exercise the rights under this section through an attorney or other agent. Any restriction imposed under subsection (8) of this section or by the limited liability company agreement applies both to the attorney or other agent and to the member or person dissociated as a member.

(11) The rights stated in this section do not extend to a person as transferee, but the rights under subsections (2) and (3) of this section may be exercised by a deceased member's personal representative for purposes of settling the estate, or by the legal representative of an individual under legal disability who is dissociated as a member pursuant to RCW 25.15.131(1)(f).

(12) Each manager, or each member of the manager if the manager is a board, committee, or other group of persons, without having any particular purpose for seeking the information, may inspect and copy during regular business hours:

(a) At the limited liability company's principal office, the records required by subsection (1) of this section; and

(b) At a reasonable location specified by the limited liability company, any other records maintained by the limited liability company regarding the limited liability company's activities and financial condition, or that otherwise relate to the management of the limited liability company.

(13) Any action to enforce any right arising under this section must be brought in the superior courts. [2015 c 188 § 29.]

RCW 25.15.141 Remedies for breach of limited liability company agreement by member. A limited liability company agreement may provide that (1) a member who fails to perform in accordance with, or to comply with the terms and conditions of, the limited liability company agreement is subject to specified remedies or specified consequences, and (2) at the time or upon the happening of events specified in the limited liability company agreement, a member is subject to specified remedies or specified consequences. Such specified remedies or specified consequences may include and take the form of any remedy or consequence set forth in RCW 25.15.196(3). [2015 c 188 § 30.]

ARTICLE IV. MANAGEMENT AND MANAGERS

RCW 25.15.151 Member-managed limited liability companies. (1) If the limited liability company is member-managed:

(a) Management of the activities of the limited liability company is vested in the members; and

(b) A difference arising as to a matter in the ordinary course of the activities of the limited liability company may be decided by the vote, approval, or consent of a majority of the members, except as otherwise provided in RCW 25.15.121 or otherwise in this chapter.

(2) If the limited liability company is member-managed, each member is an agent of the limited liability company and has the authority to bind the limited liability company with regard to matters in the ordinary course of its activities. [2015 c 188 § 31.]

RCW 25.15.154 Manager-managed limited liability companies. (1)

If the limited liability company is manager-managed:

(a) Management of the activities of the limited liability company is vested in one or more managers; and

(b) Each manager of the limited liability company:

(i) Is designated, appointed, elected, removed, or replaced by a vote, approval, or consent of a majority of the members;

(ii) Need not be a member of the limited liability company or a natural person; and

(iii) Unless the manager has been earlier removed or has earlier resigned, holds office until a successor has been elected.

(2) If the limited liability company is manager-managed:

(a) Each manager is an agent of the limited liability company and has the authority to bind the limited liability company with regard to matters in the ordinary course of its activities; and

(b) No member, acting solely in its capacity as a member, is an agent of the limited liability company.

(3) If the manager is a board, committee, or other group of persons:

(a) Subsection (1)(b) of this section applies to each person included in such board, committee, or other group of persons; and

(b) No person acting solely in such person's capacity as a participant in such board, committee, or other group of persons is an agent of the limited liability company. [2015 c 188 § 32.]

RCW 25.15.157 Delegation of rights and powers to manage. A

member or manager of a limited liability company has the power and authority to delegate to one or more other persons the member's or manager's rights and powers to manage and control the business and affairs of the limited liability company, including to delegate to agents, officers, and employees of a member or manager or the limited liability company, and to delegate by a management agreement or another agreement with, or otherwise to, other persons. Such delegation by a member or manager of a limited liability company does not cause the member or manager to cease to be a member or manager of the limited liability company or cause the person to whom any such rights and powers have been delegated to be a member or manager of the limited liability company. [2015 c 188 § 33.]

RCW 25.15.161 Manager—Member's rights and duties. A person who

is both a manager and a member has the rights and powers, and is subject to the restrictions and liabilities, of a manager and also has the rights and powers, and is subject to the restrictions and liabilities, of a member to the extent of such person's participation in the limited liability company as a member. [2015 c 188 § 34.]

RCW 25.15.166 Voting and classes of managers. (1) In a manager-

managed limited liability company:

(a) A difference arising as to a matter in the ordinary course of the activities of the limited liability company may be decided by the vote, approval, or consent of a majority of the managers; and

(b) No manager consent, approval, or recommendation is required for any act approved by the members as provided in RCW 25.15.121(2),

for a conversion approved as provided in RCW 25.15.441, or for a merger approved as provided in RCW 25.15.421.

(2) A limited liability company agreement may provide for classes or groups of managers having such relative rights, powers, and duties as the limited liability company agreement may provide, and may make provision for the future creation in the manner provided in the limited liability company agreement of additional classes or groups of managers having such relative rights, powers, and duties as may from time to time be established, including rights, powers, and duties senior to existing classes and groups of managers. A limited liability company agreement may provide for the taking of an action, including the amendment of the limited liability company agreement, without the vote or approval of any manager or class or group of managers, including an action to create under the provisions of the limited liability company agreement a class or group of limited liability company interests that was not previously outstanding.

(3) A limited liability company agreement may grant to all or certain identified managers or a specified class or group of the managers the right to vote, separately or with all or any class or group of managers or members, on any matter. If the limited liability company agreement so provides, voting by managers may be on a financial interest, class, group, or any other basis.

(4) A limited liability company agreement which contains provisions related to voting rights of managers may set forth provisions relating to notice of the time, place, or purpose of any meeting at which any matter is to be voted on by any manager or class or group of managers, waiver of any such notice, action by consent without a meeting, the establishment of a record date, quorum requirements, voting in person or by proxy, or any other matter with respect to the exercise of any such right to vote. [2015 c 188 § 35.]

RCW 25.15.171 Remedies for breach of limited liability company agreement by manager. A limited liability company agreement may provide that (1) a manager who fails to perform in accordance with, or to comply with the terms and conditions of, the limited liability company agreement is subject to specified penalties or specified consequences, and (2) at the time or upon the happening of events specified in the limited liability company agreement, a manager is subject to specified penalties or specified consequences. [2015 c 188 § 36.]

RCW 25.15.176 Resignation of manager. A manager may resign as a manager of a limited liability company at the time or upon the happening of events specified in a limited liability company agreement and in accordance with the limited liability company agreement. A limited liability company agreement may provide that a manager does not have the right to resign as a manager of a limited liability company. Notwithstanding that a limited liability company agreement provides that a manager does not have the right to resign as a manager of a limited liability company, a manager may resign as a manager of a limited liability company at any time by giving written notice to the members and other managers. If the resignation of a manager violates a limited liability company agreement, in addition to any remedies otherwise available under applicable law, a limited liability company may recover from the resigning manager damages for breach of the

limited liability company agreement and offset the damages against any amount otherwise due to the resigning manager pursuant to the limited liability company agreement. [2015 c 188 § 37.]

RCW 25.15.181 Loss of sole remaining manager. In the event of the death, resignation, or removal of the sole remaining manager, or if one of the events described in RCW 25.15.131(1) (e) through (h) occurs with regard to the sole remaining manager, the limited liability company shall become member-managed unless one or more managers are appointed by a majority of the members within ninety days after the occurrence of such an event. [2015 c 188 § 38.]

ARTICLE V. CONTRIBUTIONS

RCW 25.15.191 Form of contribution. The contribution of a member to a limited liability company may consist of tangible or intangible property or other benefits to the limited liability company, including money, services performed, promissory notes, other agreements to contribute cash or property, or contracts for services to be performed. [2015 c 188 § 39.]

RCW 25.15.196 Liability for contribution. (1) A member is obligated to a limited liability company to perform any promise to contribute cash or property or to perform services, even if the member is unable to perform because of death, disability, or any other reason. If a member does not make the required contribution of property or services, the member is obligated at the option of the limited liability company to contribute cash equal to that portion of the agreed value of the contribution that has not been made. This option is in addition to, and not in lieu of, any other rights, including the right to specific performance, that the limited liability company may have against such member under the limited liability company agreement or applicable law.

(2) The obligation of a member to make a contribution or return money or other property paid or distributed in violation of this chapter may be compromised only by consent of all the members. Notwithstanding the compromise, a creditor of a limited liability company who extends credit, after either the certificate of formation, limited liability company agreement or an amendment thereto, or records of the limited liability company reflect the obligation, and before the amendment of any thereof to reflect the compromise, may enforce the original obligation to the extent that, in extending credit, the creditor reasonably relied on the obligation of a member to make a contribution or return money or other property to the limited liability company. A conditional obligation of a member to make a contribution or return money or other property to a limited liability company may not be enforced unless the conditions of the obligation have been satisfied or waived as to or by such member. Conditional obligations include contributions payable upon a discretionary call of a limited liability company prior to the time the call occurs.

(3) A limited liability company agreement may provide that the interest of any member who fails to make any contribution that the

member is obligated to make is subject to specified penalties for, or specified consequences of, such failure. Such penalty or consequence may take the form of reducing or eliminating the defaulting member's proportionate interest in a limited liability company, subordinating the member's limited liability company interest to that of nondefaulting members, a forced sale of the member's limited liability company interest, forfeiture of the member's limited liability company interest, the lending by other members of the amount necessary to meet the member's commitment, a fixing of the value of the member's limited liability company interest by appraisal or by formula and redemption or sale of the member's limited liability company interest at such value, or other penalty or consequence. [2015 c 188 § 40.]

ARTICLE VI. DISTRIBUTIONS

RCW 25.15.206 Allocation of distributions. Distributions of a limited liability company are made to the members, and to classes or groups of members, in the manner provided in a limited liability company agreement. If the limited liability company agreement does not so provide, distributions are made in proportion to the agreed value of the contributions made and any contributions required to be made, but not yet made, by each member. [2015 c 188 § 41.]

RCW 25.15.211 Interim distributions. A member does not have a right to any distributions before the dissolution and winding up of the limited liability company unless the limited liability company decides to make an interim distribution. [2015 c 188 § 42.]

RCW 25.15.216 Distribution following dissociation. A member does not have a right to receive a distribution on account of dissociation. [2015 c 188 § 43.]

RCW 25.15.221 Distribution in-kind. A member, regardless of the nature of the member's contribution, has no right to receive any distribution from a limited liability company in any form other than money. A limited liability company may distribute an asset in kind to the extent that each member receives a percentage of the asset equal to the member's percentage share of distributions. [2015 c 188 § 44.]

RCW 25.15.226 Right to distribution. Subject to RCW 25.15.231 and 25.15.305, at the time a member becomes entitled to receive a distribution, that member has the status of, and is entitled to all remedies available to, a creditor of a limited liability company with respect to the distribution. A limited liability company agreement may provide for the establishment of a record date with respect to allocations and distributions by a limited liability company. The limited liability company's obligation to make a distribution is subject to offset for any amount due and payable to the limited liability company by the person on whose account the distribution is made. [2015 c 188 § 45.]

RCW 25.15.231 Limitations on distribution. (1) A limited liability company must not make a distribution in violation of the limited liability company agreement.

(2) A limited liability company must not make a distribution to the extent that at the time of the distribution, after giving effect to the distribution (a) the limited liability company would not be able to pay its debts as they became due in the usual course of its activities, or (b) all liabilities of the limited liability company, other than liabilities to members on account of their limited liability company interests and liabilities for which the recourse of creditors is limited to specified property of the limited liability company, exceed the fair value of the assets of the limited liability company, except that the fair value of property that is subject to a liability for which the recourse of creditors is limited is included in the assets of the limited liability company only to the extent that the fair value of that property exceeds that liability.

(3) A limited liability company may base a determination that a distribution is not prohibited under subsection (2) of this section on financial statements prepared on the basis of accounting practices and principles that are reasonable in the circumstances or on a fair valuation or other method that is reasonable in the circumstances.

(4) Except as otherwise provided in subsection (7) of this section, the effect of a distribution under subsection (2) of this section is measured:

(a) In the case of distribution by purchase, redemption, or other acquisition of a transferable interest in the limited liability company, as of the date money or other property is transferred or debt incurred by the limited liability company; and

(b) In all other cases, as of the date:

(i) The distribution is authorized, if the payment occurs within one hundred twenty days after that date; or

(ii) The payment is made, if payment occurs more than one hundred twenty days after the distribution is authorized.

(5) A limited liability company's indebtedness to a member incurred by reason of a distribution made in accordance with this section is at parity with the limited liability company's indebtedness to its general, unsecured creditors.

(6) A limited liability company's indebtedness, including indebtedness issued in connection with or as part of a distribution, is not considered a liability for purposes of subsection (2) of this section if the terms of the indebtedness provide that payment of principal and interest are made only to the extent that a distribution could then be made to members under this section.

(7) The effect of a distribution of indebtedness under subsection (2) of this section is measured:

(a) In the case of a distribution of indebtedness described in subsection (6) of this section, each payment of principal or interest is treated as a distribution, the effect of which is measured on the date the payment is actually made; and

(b) In the case of a distribution of any other indebtedness, the effect of the distribution is measured as of the date the indebtedness is distributed. [2015 c 188 § 46.]

RCW 25.15.236 Liability for improper distributions. (1) Except as otherwise provided in subsection (2) of this section, a member of a member-managed limited liability company or manager of a manager-

managed limited liability company that consents to a distribution made in violation of RCW 25.15.231 is personally liable to the limited liability company for the amount of the distribution that exceeds the amount that could have been distributed without the violation of RCW 25.15.231 if it is established that in consenting to the distribution the members or managers failed to comply with the duty of care.

(2) To the extent the limited liability company agreement of a member-managed limited liability company expressly relieves a member of the authority and responsibility to consent to distributions and imposes that authority and responsibility on one or more other members, the liability provided in subsection (1) of this section applies to the other members and not the member that the limited liability company agreement relieves of authority and responsibility.

(3) A member or transferee that received a distribution knowing that the distribution to that member or transferee was made in violation of RCW 25.15.231 is personally liable to the limited liability company but only to the extent that the distribution received by the member or transferee exceeded the amount that could have been properly paid under RCW 25.15.231.

(4) A member or manager against which an action is commenced under subsection (1) of this section may:

(a) Implead in the action any other person that is liable under subsection (1) of this section and compel contribution from the person; and

(b) Implead in the action any person that received a distribution in violation of subsection (3) of this section and compel contribution from the person in the amount the person received in violation of subsection (3) of this section.

(5) An action under this section is barred if it is not commenced within two years after the distribution. [2015 c 188 § 47.]

ARTICLE VII. ASSIGNMENT OF LIMITED LIABILITY COMPANY INTERESTS

**RCW 25.15.246 Nature of limited liability company interest—
Certificate of interest.** (1) The only interest of a member that is transferable is the member's transferable interest. A transferable interest is personal property. A member has no interest in specific limited liability company property.

(2) A limited liability company agreement may provide that a transferable interest may be evidenced by a certificate of limited liability company interest issued by the limited liability company and may also provide for the transfer of any transferable interest represented by such a certificate and make other provisions with respect to such certificate. [2015 c 188 § 48.]

RCW 25.15.251 Transfer of transferable interest. (1) A transfer, in whole or in part, of a transferable interest:

(a) Is permissible; and

(b) Does not, as against the members or the limited liability company, entitle the transferee to participate in the management of the limited liability company's activities, to require access to information concerning the limited liability company's transactions

except as provided in subsection (5) of this section or in RCW 25.15.136(11), or to obtain access to information to which a member is otherwise entitled pursuant to RCW 25.15.136 or the limited liability company's other records.

(2) A transfer of a transferable interest entitles the transferee to receive distributions to which the transferor would otherwise be entitled, to the extent transferred.

(3) Upon transfer of less than the transferor's entire transferable interest in the limited liability company, the transferor retains the rights, duties, and obligations of the transferor immediately prior to the transfer other than the transferable interest transferred.

(4) Except as otherwise provided in (b) of this subsection, a transferee that becomes a member with respect to a transferable interest is liable for the transferor's obligations with respect to the transferable interest. Except to the extent such liabilities are assumed by agreement:

(a) Until a transferee of a transferable interest becomes a member with respect to the transferable interest, the transferee has no liability as a member solely as a result of the transfer; and

(b) A transferee is not obligated for liabilities associated with a transferable interest that are unknown to the transferee at the time the transferee becomes a member.

(5) In a dissolution and winding up, a transferee is entitled to an account of the limited liability company's transactions only from the date of dissolution.

(6) For the purposes of this chapter:

(a) The pledge of, or granting of a security interest, lien, or other encumbrance in or against, any or all of a transferable interest is not a transfer of the transferable interest, but a foreclosure or execution sale or exercise of similar rights with respect to any or all of transferable interest is a transfer of the transferable interest to the transferee pursuant to such foreclosure or execution sale or exercise of similar rights.

(b) Where a transferable interest is held in a trust or estate, or is held by a trustee, personal representative, or other fiduciary, the transfer of the transferable interest, whether to a beneficiary of the trust or estate or otherwise, is a transfer of such transferable interest, but the mere substitution or replacement of the trustee, personal representative, or other fiduciary does not constitute a transfer of such transferable interest. [2015 c 188 § 49.]

RCW 25.15.256 Rights of judgment creditor. (1) On application to a court of competent jurisdiction by any judgment creditor of a member or transferee, the court may charge the transferable interest of the judgment debtor with payment of the unsatisfied amount of the judgment with interest. To the extent so charged, the judgment creditor has only the rights of a transferee. The court may appoint a receiver of the share of the distributions due or to become due to the judgment creditor in respect of the limited liability company and make all other orders, directions, accounts, and inquiries the judgment debtor might have made or that the circumstances of the case may require to give effect to the charging order.

(2) A charging order constitutes a lien on the judgment debtor's transferable interest. The court may order a foreclosure upon the

transferable interest subject to the charging order at any time. The purchaser at the foreclosure sale has the rights of a transferee.

(3) At any time before foreclosure, a transferable interest charged may be redeemed:

(a) By the judgment debtor;

(b) With property other than limited liability company property, by one or more of the other members; or

(c) With limited liability company property, by the limited liability company with the consent of all members whose interests are not so charged.

(4) This chapter does not deprive any member or transferee of the benefit of any exemption laws applicable to the member's or transferee's transferable interest.

(5) This section provides the exclusive remedy by which a judgment creditor of a member or transferee may satisfy a judgment out of the judgment debtor's transferable interest. [2015 c 188 § 50.]

ARTICLE VIII. DISSOLUTION

RCW 25.15.265 Dissolution. A limited liability company is dissolved and its affairs must be wound up upon the first to occur of the following:

(1) The dissolution date, if any, specified in the certificate of formation. If a dissolution date is specified in the certificate of formation, the certificate of formation may be amended and the date of dissolution of the limited liability company may be extended by vote of all the members;

(2) The happening of events specified in a limited liability company agreement;

(3) The written consent of all members;

(4) Ninety days following an event of dissociation of the last remaining member, unless those having the rights of transferees in the limited liability company under RCW 25.15.131(1) have, by the ninetieth day, voted to admit one or more members, voting as though they were members, and in the manner set forth in RCW 25.15.121(1);

(5) The entry of a decree of judicial dissolution under RCW 25.15.274; or

(6) The administrative dissolution of the limited liability company by the secretary of state under RCW 23.95.610, unless the limited liability company is reinstated by the secretary of state under RCW 23.95.615. [2015 c 176 § 7113; 2015 c 188 § 51.]

Effective date—Contingent effective date—2015 c 176: See note following RCW 23.95.100.

RCW 25.15.269 After dissolution under RCW 25.15.265. (1) After dissolution occurs under RCW 25.15.265, the limited liability company may deliver to the secretary of state for filing a certificate of dissolution.

(2) A certificate of dissolution filed under subsection (1) of this section must set forth:

(a) The name of the limited liability company; and

(b) A statement that the limited liability company is dissolved under RCW 25.15.265. [2015 c 188 § 52.]

RCW 25.15.274 Judicial dissolution. On application by a member or manager the superior courts may order dissolution of a limited liability company whenever: (1) It is not reasonably practicable to carry on the limited liability company's activities in conformity with the certificate of formation and the limited liability company agreement; or (2) other circumstances render dissolution equitable. [2015 c 188 § 53.]

RCW 25.15.279 Administrative dissolution—Commencement of proceeding. The secretary of state may commence a proceeding to administratively dissolve a limited liability company under the circumstances and procedures provided in Article 6 of chapter 23.95 RCW. [2015 c 176 § 7114; 2015 c 188 § 54.]

Effective date—Contingent effective date—2015 c 176: See note following RCW 23.95.100.

RCW 25.15.289 Administrative dissolution—Reinstatement. A limited liability company that has been administratively dissolved under RCW 23.95.610 may apply to the secretary of state for reinstatement in accordance with RCW 23.95.615. [2015 c 176 § 7115; 2015 c 188 § 56.]

Effective date—Contingent effective date—2015 c 176: See note following RCW 23.95.100.

RCW 25.15.294 Voluntary dissolution—Revocation of dissolution—When effective—Effect. (1) A limited liability company dissolved under RCW 25.15.265 (2) or (3) may revoke its dissolution in accordance with this section at any time, except that a limited liability company that has filed a certificate of dissolution may not revoke its dissolution under this section more than one hundred twenty days after the filing of its certificate of dissolution.

(2)(a) Except as provided in (b) of this subsection, revocation of dissolution must be approved in the same manner as the dissolution was approved unless that approval permitted revocation in some other manner, in which event the dissolution may be revoked in the manner permitted.

(b) If dissolution occurred upon the happening of events specified in the limited liability company agreement, revocation of dissolution must be approved in the manner necessary to amend the provisions of the limited liability company agreement specifying the events of dissolution.

(3) A limited liability company that has filed a certificate of dissolution may, at any time after revocation of its dissolution has been approved but not more than one hundred twenty days after the filing of its certificate of dissolution, revoke the dissolution by delivering to the secretary of state for filing a certificate of revocation of dissolution that sets forth:

(a) The name of the limited liability company and a statement that the name satisfies the requirements of Article 3 of chapter 23.95 RCW; if the name is not available, the limited liability company must deliver to the secretary of state for filing a certificate of amendment changing its name with the certificate of revocation of dissolution;

(b) The effective date of the dissolution that was revoked;

(c) The date that the revocation of dissolution was approved; and

(d) A statement that the revocation was approved in the manner required by subsection (2) of this section.

(4) If a limited liability company has not filed a certificate of dissolution, revocation of dissolution becomes effective upon approval of the revocation as provided in subsection (2) of this section. If a limited liability company has filed a certificate of dissolution, revocation of dissolution becomes effective upon the filing of a certificate of revocation of dissolution. The filing of a certificate of revocation of dissolution automatically revokes any certificate of dissolution previously filed with respect to the limited liability company.

(5) Revocation of dissolution relates back to and takes effect as of the effective date of the dissolution and the limited liability company may resume carrying on its activities as if the dissolution had never occurred. [2015 c 176 § 7116; 2015 c 188 § 57.]

Effective date—Contingent effective date—2015 c 176: See note following RCW 23.95.100.

RCW 25.15.297 Winding up. (1) A limited liability company continues after dissolution only for the purpose of winding up its activities.

(2) In winding up its activities, the limited liability company:

(a) May file a certificate of dissolution with the secretary of state to provide notice that the limited liability company is dissolved; preserve the limited liability company's business or property as a going concern for a reasonable time; prosecute and defend actions and proceedings, whether civil, criminal, or administrative, transfer the limited liability company's property; settle disputes; and perform other necessary acts; and

(b) Shall discharge the limited liability company's liabilities, settle and close the limited liability company's activities, and marshal and distribute the assets of the limited liability company.

(3) The persons responsible for managing the business and affairs of a limited liability company under RCW 25.15.151 or 25.15.154 are responsible for winding up the activities of a dissolved limited liability company. If a dissolved limited liability company does not have any managers or members, the legal representative of the last person to have been a member may wind up the activities of the dissolved limited liability company, in which event the legal representative is a manager for the purposes of RCW 25.15.038.

(4) If the persons responsible for winding up the activities of a dissolved limited liability company under subsection (3) of this section decline or fail to wind up the limited liability company's activities, a person to wind up the dissolved limited liability company's activities may be appointed by the consent of a majority of the transferees. A person appointed under this subsection:

- (a) Is a manager for the purposes of RCW 25.15.038; and
- (b) Shall promptly amend the certificate of formation to state:
 - (i) The name of the person who has been appointed to wind up the limited liability company; and
 - (ii) The street and mailing address of the person.
- (5) The superior court may order judicial supervision of the winding up, including the appointment of a person to wind up the dissolved limited liability company's activities, if:
 - (a) On application of a member, the applicant establishes good cause; or
 - (b) On application of a transferee, a limited liability company does not have any managers or members and within a reasonable time following the dissolution no person has been appointed pursuant to subsection (3) or (4) of this section. [2015 c 188 § 58.]

RCW 25.15.301 Disposition of known claims—Definition. (1) A dissolved limited liability company that has filed a certificate of dissolution with the secretary of state may dispose of the known claims against it by following the procedure described in subsection (2) of this section.

(2) A dissolved limited liability company may notify its known claimants of the dissolution in a record. The notice must:

- (a) Specify the information required to be included in a known claim;
- (b) Provide a mailing address to which the known claim must be sent;
- (c) State the deadline for receipt of the known claim, which may not be fewer than one hundred twenty days after the date the notice is received by the claimant; and
- (d) State that the known claim will be barred if not received by the deadline.

(3) A known claim against a dissolved limited liability company is barred if the requirements of subsection (2) of this section are met and:

- (a) The known claim is not received by the specified deadline; or
- (b) In the case of a known claim that is timely received but rejected by the dissolved limited liability company, the claimant does not commence an action to enforce the known claim against the limited liability company within ninety days after the receipt of the notice of rejection.

(4) For purposes of this section, "known claim" means any claim or liability that either:

- (a) (i) Has matured sufficiently, before or after the effective date of the dissolution, to be legally capable of assertion against the dissolved limited liability company, whether or not the amount of the claim or liability is known or determinable; or (ii) is unmatured, conditional, or otherwise contingent but may subsequently arise under any executory contract to which the dissolved limited liability company is a party, other than under an implied or statutory warranty as to any product manufactured, sold, distributed, or handled by the dissolved limited liability company; and

(b) As to which the dissolved limited liability company has knowledge of the identity and the mailing address of the holder of the claim or liability and, in the case of a matured and legally assertable claim or liability, actual knowledge of existing facts that

either (i) could be asserted to give rise to, or (ii) indicate an intention by the holder to assert, such a matured claim or liability. [2015 c 188 § 59.]

RCW 25.15.305 Distribution of assets. (1) Upon the winding up of a limited liability company, the assets are distributed as follows:

(a) To creditors, including members and managers who are creditors, to the extent otherwise permitted by law, in satisfaction of liabilities of the limited liability company, whether by payment or the making of reasonable provision for payment thereof, other than liabilities for which reasonable provision for payment has been made and liabilities for distributions to members under RCW 25.15.211 or 25.15.226;

(b) To members and former members in satisfaction of liabilities for distributions under RCW 25.15.211 or 25.15.226; and

(c) To members first for the return of their contributions and second respecting their limited liability company interests, in the proportions in which the members share in distributions.

(2) A limited liability company that has dissolved must pay or make reasonable provision to pay all claims and obligations, including all contingent, conditional, or unmatured claims and obligations, known to the limited liability company and all claims and obligations which are known to the limited liability company but for which the identity of the claimant is unknown. A limited liability company shall not be required to make provision to pay claims that are or later become barred under RCW 25.15.301 or 25.15.309 or other applicable law. If there are sufficient assets, such claims and obligations must be paid in full and any such provision for payment made must be made in full. If there are insufficient assets, such claims and obligations must be paid or provided for according to their priority and, among claims and obligations of equal priority, ratably to the extent of assets available therefor. Any remaining assets must be distributed as provided in this chapter. Any person winding up a limited liability company's affairs who has complied with this section is not personally liable to the claimants of the dissolved limited liability company by reason of such person's actions in winding up the limited liability company. [2015 c 188 § 60.]

RCW 25.15.309 Remedies available after distribution. (1) A claim against a dissolved limited liability company is barred if the limited liability company has filed a certificate of dissolution under RCW 25.15.269 that has not been revoked under RCW 25.15.294, and an action or other proceeding thereon is not commenced within three years after the filing of the certificate of dissolution.

(2) The dissolution of a limited liability company does not take away or impair any remedy available to or, except as provided in subsection (1) of this section or RCW 25.15.301, against that limited liability company, its managers, or its members for any right or claim existing, or any liability incurred at any time, whether prior to or after dissolution. Such an action or proceeding by or against the limited liability company may be prosecuted or defended by the limited liability company in its own name. [2015 c 188 § 61.]

ARTICLE IX. FOREIGN LIMITED LIABILITY COMPANIES

RCW 25.15.316 Law governing. A foreign limited liability company registered to do business in this state is subject to RCW 23.95.500 relating to the effect of registration and the governing law for registered foreign limited liability companies. [2015 c 176 § 7117; 2015 c 188 § 62.]

Effective date—Contingent effective date—2015 c 176: See note following RCW 23.95.100.

RCW 25.15.321 Registration required. Before doing business in this state, a foreign limited liability company must register with the secretary of state in accordance with Article 5 of chapter 23.95 RCW. [2015 c 176 § 7118; 2015 c 188 § 63.]

Effective date—Contingent effective date—2015 c 176: See note following RCW 23.95.100.

RCW 25.15.331 Name—Registered agent. (1) A foreign limited liability company may register with the secretary of state under any name that complies with RCW 23.95.525 and Article 3 of chapter 23.95 RCW.

(2) Each foreign limited liability company must continuously maintain in this state a registered agent in accordance with Article 4 of chapter 23.95 RCW.

(3) A foreign limited liability company may change its registered agent by delivering to the secretary of state for filing a statement of change in accordance with RCW 23.95.430.

(4) A registered agent of a foreign limited liability company may change its information on file with the secretary of state in accordance with RCW 23.95.435 or 23.95.440.

(5) A registered agent of any foreign limited liability company may resign as agent by executing and delivering to the secretary of state for filing a statement of resignation in accordance with RCW 23.95.445. [2015 c 176 § 7119; 2015 c 188 § 65.]

Effective date—Contingent effective date—2015 c 176: See note following RCW 23.95.100.

RCW 25.15.336 Amendments to application. A registered foreign limited liability company must amend its foreign registration statement under the circumstances provided in RCW 23.95.515. [2015 c 176 § 7120; 2015 c 188 § 66.]

Effective date—Contingent effective date—2015 c 176: See note following RCW 23.95.100.

RCW 25.15.341 Withdrawal of registration. A foreign limited liability company may withdraw its registration by delivering to the secretary of state for filing a statement of withdrawal in accordance with RCW 23.95.530. [2015 c 176 § 7121; 2015 c 188 § 67.]

Effective date—Contingent effective date—2015 c 176: See note following RCW 23.95.100.

RCW 25.15.346 Doing business without registration. A foreign limited liability company doing business in this state without registering with the secretary of state is subject to RCW 23.95.505. [2015 c 176 § 7122; 2015 c 188 § 68.]

Effective date—Contingent effective date—2015 c 176: See note following RCW 23.95.100.

RCW 25.15.351 Enjoinder from doing business in this state. A foreign limited liability company may be enjoined from doing business in this state under RCW 23.95.555. [2015 c 176 § 7123; 2015 c 188 § 69.]

Effective date—Contingent effective date—2015 c 176: See note following RCW 23.95.100.

RCW 25.15.356 Activities not constituting transacting business. A nonexhaustive list of activities that do not constitute transacting business in this state is provided in RCW 23.95.520. [2015 c 176 § 7124; 2015 c 188 § 70.]

Effective date—Contingent effective date—2015 c 176: See note following RCW 23.95.100.

RCW 25.15.361 Service of process on registered foreign limited liability companies. Service of process, notice, or demand required or permitted by law to be served on the foreign limited liability company may be made in accordance with RCW 23.95.450. [2015 c 176 § 7125; 2015 c 188 § 71.]

Effective date—Contingent effective date—2015 c 176: See note following RCW 23.95.100.

RCW 25.15.367 Service of process on unregistered foreign limited liability companies. Any foreign limited liability company which does business in this state without having registered under Article 5 of chapter 23.95 RCW has thereby consented to service of legal process in accordance with RCW 23.95.450 in any civil action, suit, or proceeding against it in any state or federal court in this state arising or growing out of any business done by it within this state. The doing of business in this state by such foreign limited liability company is a signification of the agreement of such foreign limited liability company that any such process when so served is of the same legal

force and validity as if served upon a registered agent personally within this state. [2015 c 176 § 7126; 2015 c 188 § 72.]

Effective date—Contingent effective date—2015 c 176: See note following RCW 23.95.100.

RCW 25.15.371 Termination of registration. The secretary of state may terminate the registration of a foreign limited liability company registered in this state under the circumstances and procedures specified in RCW 23.95.550. [2015 c 176 § 7127; 2015 c 188 § 73.]

Effective date—Contingent effective date—2015 c 176: See note following RCW 23.95.100.

ARTICLE X. DERIVATIVE ACTIONS

RCW 25.15.386 Right to bring action. A member may bring a derivative action to enforce a right of a limited liability company if:

(1) The member first makes a demand on the members in a member-managed limited liability company, or on the managers of a manager-managed limited liability company, requesting that they cause the limited liability company to bring an action to enforce the right, and the managers or other members do not bring the action within a reasonable time; or

(2) A demand would be futile. [2015 c 188 § 75.]

RCW 25.15.391 Proper plaintiff. In a derivative action, the plaintiff must be a member at the time of bringing the action and:

(1) At the time of the transaction of which the plaintiff complains; or

(2) The plaintiff's status as a member had devolved upon the person by operation of law or pursuant to the terms of a limited liability company agreement from a person who was a member at the time of the transaction. [2015 c 188 § 76.]

RCW 25.15.396 Complaint. In a derivative action, the complaint must set forth with particularity:

(1) The date and content of plaintiff's demand and the members' or managers' response to the demand; or

(2) Why a demand should be excused as futile. [2015 c 188 § 77.]

RCW 25.15.401 Expenses. If a derivative action is successful, in whole or in part, as a result of a judgment, compromise, or settlement of any such action, the court may award the plaintiff reasonable expenses, including reasonable attorneys' fees, from the recovery of the limited liability company. [2015 c 188 § 78.]

ARTICLE XI. MERGERS AND CONVERSIONS

RCW 25.15.411 Definitions. In this article:

- (1) "Constituent limited liability company" means a limited liability company that is a party to a merger.
- (2) "Constituent organization" means an organization that is party to a merger.
- (3) "Converted organization" means the organization into which a converting organization converts under RCW 25.15.436 through 25.15.451.
- (4) "Converting limited liability company" means a converting organization that is a limited liability company.
- (5) "Converting organization" means an organization that converts into another organization pursuant to RCW 25.15.436.
- (6) "Governing statute" of an organization means the statute that governs the organization's internal affairs.
- (7) "Organization" means a general partnership, including a limited liability partnership; limited partnership, including a limited liability limited partnership; limited liability company; business trust; corporation; or any other person having a governing statute. The term includes domestic and foreign organizations whether or not formed for profit.
- (8) "Organizational documents" means:
 - (a) For a domestic or foreign general partnership, its partnership agreement;
 - (b) For a limited partnership or foreign limited partnership, its certificate of limited partnership and partnership agreement;
 - (c) For a domestic or foreign limited liability company, its certificate of formation and limited liability company agreement, or comparable records as provided in its governing statute;
 - (d) For a business trust, its agreement of trust and declaration of trust;
 - (e) For a domestic or foreign corporation for profit, its articles of incorporation, bylaws, and other agreements among its shareholders which are authorized by its governing statute, or comparable records as provided in its governing statute; and
 - (f) For any other organization, the basic records that create the organization and determine its internal governance and the relations among the persons that own it, have an interest in it, or are members of it.
- (9) "Personal liability" means personal liability for a debt, liability, or other obligation of an organization which is imposed on a person that co-owns, has an interest in, or is a member of the organization:
 - (a) By the organization's governing statute solely by reason of the person co-owning, having an interest in, or being a member of the organization; or
 - (b) By the organization's organizational documents under a provision of the organization's governing statute authorizing those documents to make one or more specified persons liable for all or specified debts, liabilities, and other obligations of the organization solely by reason of the person or persons co-owning, having an interest in, or being a member of the organization.

(10) "Surviving organization" means an organization into which one or more other organizations are merged. [2015 c 188 § 79.]

RCW 25.15.416 Merger—Plan. (1) A limited liability company may merge with one or more other constituent organizations pursuant to this section and RCW 25.15.421 through 25.15.431 and a plan of merger, if:

(a) The governing statute of each of the other organizations authorizes the merger;

(b) The merger is not prohibited by the law of a jurisdiction that enacted any of those governing statutes; and

(c) Each of the other organizations complies with its governing statute in effecting the merger.

(2) The plan of merger must be in a record and must set forth:

(a) The name and form of each constituent organization;

(b) The name and form of the surviving organization;

(c) The terms and conditions of the merger, including the manner and basis of converting the interests in each constituent organization into any combination of the interests, shares, obligations, or other securities of the surviving organization or any other organization or into cash or other property in whole or part; and

(d) Any amendments to be made by the merger to the surviving organization's organizational documents.

(3) The plan of merger may set forth other provisions relating to the merger. [2015 c 188 § 80.]

RCW 25.15.421 Merger—Plan—Approval. (1) A plan of merger of a constituent limited liability company must be approved, and such approval shall occur when:

(a) The plan is approved by a majority of the members; and

(b) Any written consents required by RCW 25.15.456 have been obtained.

(2) Subject to RCW 25.15.456 and any contractual rights, after a merger is approved, and at any time before a filing is made under RCW 25.15.426, a constituent limited liability company may amend the plan or abandon the planned merger:

(a) As provided in the plan; and

(b) Except as prohibited by the plan, with the same approval as was required to approve the plan.

(3) If a domestic limited partnership is a party to the merger, the plan of merger must be adopted and approved as provided in RCW 25.10.781.

(4) If a domestic corporation is a party to the merger, the plan of merger must be adopted and approved as provided in chapter 23B.11 RCW.

(5) If a domestic partnership is a party to the merger, the plan of merger must be approved as provided in RCW 25.05.375. [2015 c 188 § 81.]

RCW 25.15.426 Articles of merger—Filing—Effective date. (1) After each constituent organization has approved a merger, articles of merger must be executed on behalf of each constituent organization by an authorized representative.

(2) The articles of merger must include:

(a) The name and form of each constituent organization and the jurisdiction of its governing statute;

(b) The name and form of the surviving organization and the jurisdiction of its governing statute;

(c) The date the merger is effective under the governing statute of the surviving organization;

(d) Any amendments provided for in the plan of merger for the organizational document that created the surviving organization;

(e) A statement as to each constituent organization that the merger was approved as required by the organization's governing statute;

(f) If the surviving organization is a foreign organization not registered to transact business in this state, the street and mailing address of the surviving organization's principal office for the purposes of service of process under RCW 23.95.450; and

(g) Any additional information required by the governing statute of any constituent organization.

(3) The surviving organization must deliver the articles of merger for filing in the office of the secretary of state.

(4) The effective time of a merger is:

(a) If the surviving organization is a limited liability company, upon the later of:

(i) Filing of the articles of merger in the office of the secretary of state; or

(ii) Subject to subsection (5) of this section, as specified in the articles of merger; or

(b) If the surviving organization is not a limited liability company, as provided by the governing statute of the surviving organization.

(5) If the articles of merger do not specify a delayed effective date, the articles of merger become effective upon filing as provided in RCW 23.95.210. The articles of merger may specify a delayed effective time and date in accordance with RCW 23.95.210. [2015 c 176 § 7128; 2015 c 188 § 82.]

Effective date—Contingent effective date—2015 c 176: See note following RCW 23.95.100.

RCW 25.15.431 Effect of merger. (1) When a merger becomes effective:

(a) The surviving organization continues;

(b) Each constituent organization that merges into the surviving organization ceases to exist as a separate entity;

(c) The title to all real estate and other property owned by each constituent organization is vested in the surviving organization without reversion or impairment;

(d) The surviving organization has all liabilities of each constituent organization;

(e) A proceeding pending by or against any constituent organization may be continued as if the merger did not occur or the surviving organization may be substituted in the proceeding for the constituent organization whose existence ceased;

(f) Except as prohibited by other law, all of the rights, privileges, immunities, powers, and purposes of each constituent organization that ceases to exist vest in the surviving organization;

(g) Except as otherwise provided in the plan of merger, the terms and conditions of the plan of merger take effect;

(h) The organizational documents of the surviving organization are amended to the extent provided in the articles of merger; and

(i) The former holders of interests of every constituent limited liability company are entitled only to the rights provided in the plan of merger and to their rights under article XII of this chapter.

(2) A merger of a limited liability company, including a limited liability company which is not the surviving organization in the merger, does not require the limited liability company to wind up its affairs under RCW 25.15.297 or pay its liabilities and distribute its assets under RCW 25.15.305.

(3) A surviving organization that is a foreign organization consents to the jurisdiction of the courts of this state to enforce any obligation owed by a constituent organization, if before the merger the constituent organization was subject to suit in this state on the obligation. A surviving organization that is a foreign organization and not registered to transact business in this state may be served with process pursuant to RCW 23.95.450 for the purposes of enforcing an obligation under this subsection. [2015 c 176 § 7129; 2015 c 188 § 83.]

Effective date—Contingent effective date—2015 c 176: See note following RCW 23.95.100.

RCW 25.15.436 Conversion. (1) An organization other than a limited liability company may convert into a limited liability company, and a limited liability company may convert into an organization pursuant to this section and RCW 25.15.441 through 25.15.451 and a plan of conversion, if:

(a) The other organization's governing statute authorizes the conversion;

(b) The conversion is not prohibited by the law of the jurisdiction that enacted the other organization's governing statute; and

(c) The other organization complies with its governing statute in effecting the conversion.

(2) A plan of conversion must be in a record and must include:

(a) The name and form of the organization before conversion;

(b) The name and form of the organization after conversion;

(c) The terms and conditions of the conversion, including the manner and basis for converting interests in the converting organization into any combination of the interests, shares, obligations, or other securities of the converted organization or any other organization or into cash or other property in whole or part; and

(d) The organizational documents of the converted organization. [2015 c 188 § 84.]

RCW 25.15.441 Action on plan of conversion by converting limited liability company. (1) Subject to RCW 25.15.456, a plan of conversion

must be approved either by all the members of a converting limited liability company or as provided in a written limited liability company agreement.

(2) Subject to RCW 25.15.456 and any contractual rights, after a conversion is approved, and at any time before a filing is made under RCW 25.15.446, a converting limited liability company may amend the plan or abandon the planned conversion:

(a) As provided in the plan; and

(b) Except as prohibited by the plan, by the same approval as was required to approve the plan. [2022 c 42 § 306; 2015 c 188 § 85.]

RCW 25.15.446 Filing required for conversion—Effective date.

(1) After a plan of conversion is approved, the converting organization must make one of the following filings to complete the conversion:

(a) A converting limited liability company must deliver to the secretary of state for filing articles of conversion, which must include:

(i) A statement that the limited liability company has been converted into another organization;

(ii) The name and form of the converted organization and the jurisdiction of its governing statute;

(iii) The date the conversion is effective under the governing statute of the converted organization;

(iv) A statement that the conversion was approved as required by this chapter;

(v) A statement that the conversion was approved as required by the governing statute of the converted organization; and

(vi) If the converted organization is a foreign organization not registered to transact business in this state, the street and mailing address of the converted organization's principal office for the purposes of service of process under RCW 23.95.450; or

(b) A converting organization that is not a limited liability company must deliver to the secretary of state for filing a certificate of formation, together with articles of conversion, which must include:

(i) A statement that the limited liability company was converted from another organization;

(ii) The name and form of the converting organization and the jurisdiction of its governing statute; and

(iii) A statement that the conversion was approved in a manner that complied with the converting organization's governing statute.

(2) The effective time of a conversion is either:

(a) If the converted organization is a limited liability company, when the certificate of formation takes effect; or

(b) If the converted organization is not a limited liability company, as provided by the governing statute of the converted organization.

(3) If the certificate of formation filed pursuant to this section does not specify a delayed effective date, it becomes effective upon filing as provided in RCW 23.95.210. The certificate of formation may specify a delayed effective time and date in accordance with RCW 23.95.210. [2015 c 176 § 7130; 2015 c 188 § 86.]

Effective date—Contingent effective date—2015 c 176: See note following RCW 23.95.100.

RCW 25.15.451 Effect of conversion. (1) An organization that has been converted pursuant to this article is for all purposes the same entity that existed before the conversion.

(2) When a conversion takes effect:

(a) The title to all real estate and other property owned by the converting organization remains vested in the converted organization without reversion or impairment;

(b) All debts, liabilities, and other obligations of the converting organization continue as obligations of the converted organization;

(c) An action or proceeding pending by or against the converting organization may be continued as if the conversion had not occurred;

(d) Except as prohibited by other law, all of the rights, privileges, immunities, powers, and purposes of the converting organization remain vested in the converted organization;

(e) Except as otherwise provided in the plan of conversion, the terms and conditions of the plan of conversion take effect; and

(f) Except as otherwise agreed, the conversion does not dissolve a converting limited liability company for the purposes of article VIII of this chapter.

(3) A converted organization that is a foreign organization consents to the jurisdiction of the courts of this state to enforce any obligation owed by the converting limited liability company, if before the conversion the converting limited liability company was subject to suit in this state on the obligation. A converted organization that is a foreign organization and not registered to transact business in this state may be served with process in accordance with RCW 23.95.450 for purposes of enforcing an obligation under this subsection. [2015 c 176 § 7131; 2015 c 188 § 87.]

Effective date—Contingent effective date—2015 c 176: See note following RCW 23.95.100.

RCW 25.15.456 Restrictions on approval of conversions. If a member of a converting limited liability company or constituent limited liability company will have personal liability with respect to a converted organization or surviving organization, then, in addition to the applicable approval requirements in RCW 25.15.441(1) or 25.15.421(1) (a), approval of a plan of conversion or plan of merger must also require the execution, by each such member, of a separate written consent to become subject to such personal liability. [2015 c 188 § 88.]

ARTICLE XII. DISSENTERS' RIGHTS

RCW 25.15.466 Definitions. In this article:

(1) "Dissenter" means a member who is entitled to dissent from a plan of merger and who exercises that right when and in the manner required by this article.

(2) "Fair value," with respect to a dissenter's limited liability company interest, means the value of the member's limited liability company interest immediately before the effectuation of the merger to which the dissenter objects, excluding any appreciation or depreciation in anticipation of the merger unless exclusion would be inequitable.

(3) "Interest" means interest from the effective date of the merger until the date of payment, at the average rate currently paid by the limited liability company on its principal bank loans or, if none, at a rate that is fair and equitable under all the circumstances.

(4) "Limited liability company" means the limited liability company in which the dissenter holds or held a membership interest, or the surviving organization by merger, whether foreign or domestic, of that limited liability company. [2015 c 188 § 89.]

RCW 25.15.471 Member—Dissent—Payment of fair value. (1) Except as provided in RCW 25.15.481 or 25.15.491(2), or in a written limited liability company agreement, a member of a limited liability company is entitled to dissent from, and obtain payment of, the fair value of the member's interest in a limited liability company in the event of consummation of a plan of merger to which the limited liability company is a party as permitted by RCW 25.15.416.

(2) A member entitled to dissent and obtain payment for the member's interest in a limited liability company under this article may not challenge the merger creating the member's entitlement unless the merger fails to comply with the procedural requirements imposed by this chapter, Title 23B RCW, chapter 25.05 RCW, chapter 25.10 RCW, or the limited liability company agreement, or is fraudulent with respect to the member or the limited liability company.

(3) The right of a dissenting member in a limited liability company to obtain payment of the fair value of the member's interest in the limited liability company terminates upon the occurrence of any one of the following events:

(a) The proposed merger is abandoned or rescinded;

(b) A court having jurisdiction permanently enjoins or sets aside the merger; or

(c) The member's demand for payment is withdrawn with the written consent of the limited liability company. [2015 c 188 § 90.]

RCW 25.15.476 Dissenters' rights—Notice—Timing. (1) Not less than ten days prior to the approval of a plan of merger, the limited liability company must send a written notice to all members who are entitled to vote on or approve the plan of merger that they may be entitled to assert dissenters' rights under this article. Such notice shall be accompanied by a copy of this article.

(2) The limited liability company must notify in writing all members not entitled to vote on or approve the plan of merger that the plan of merger was approved, and send them the dissenters' notice as required by RCW 25.15.486. [2015 c 188 § 91.]

RCW 25.15.481 Member—Dissent—Voting restriction. A member of a limited liability company who is entitled to vote on or approve the

plan of merger and who wishes to assert dissenters' rights must not vote in favor of or approve the plan of merger. A member who does not satisfy the requirements of this section is not entitled to payment for the member's interest in the limited liability company under this article. [2015 c 188 § 92.]

RCW 25.15.486 Members—Dissenters' notice—Requirement. (1) If the plan of merger is approved, the limited liability company shall deliver a written dissenters' notice to all members who satisfied the requirements of RCW 25.15.481.

(2) The dissenters' notice required by RCW 25.15.476(2) or by subsection (1) of this section must be sent within ten days after the approval of the plan of merger, and must:

(a) State where the payment demand must be sent;

(b) Inform members as to the extent transfer of the member's interest in the limited liability company will be restricted as permitted by RCW 25.15.496 after the payment demand is received;

(c) Supply a form for demanding payment;

(d) Set a date by which the limited liability company must receive the payment demand, which date may not be fewer than thirty nor more than sixty days after the date the notice under this section is delivered; and

(e) Be accompanied by a copy of this article. [2015 c 188 § 93.]

RCW 25.15.491 Member—Payment demand—Entitlement. (1) A member of a limited liability company who demands payment retains all other rights of a member of such limited liability company until the proposed merger becomes effective.

(2) A member of a limited liability company sent a dissenters' notice who does not demand payment by the date set in the dissenters' notice is not entitled to payment for the member's interest in the limited liability company under this article. [2015 c 188 § 94.]

RCW 25.15.496 Members' interests—Transfer restriction. The limited liability company may restrict the transfer of members' interests in the limited liability company from the date the demand for their payment is received until the proposed merger becomes effective or the restriction is released under this article. [2015 c 188 § 95.]

RCW 25.15.501 Payment of fair value—Requirements for compliance. (1) Within thirty days of the later of the date the proposed merger becomes effective, or the payment demand is received, the limited liability company must pay each dissenter who complied with RCW 25.15.491 the amount the limited liability company estimates to be the fair value of the dissenting member's interest in the limited liability company, plus accrued interest.

(2) The payment must be accompanied by:

(a) Copies of the financial statements for the limited liability company for its most recent fiscal year maintained as required by RCW 25.15.136;

(b) An explanation of how the limited liability company estimated the fair value of the member's interest in the limited liability company;

(c) An explanation of how the accrued interest was calculated;

(d) A statement of the dissenter's right to demand payment; and

(e) A copy of this article. [2015 c 188 § 96.]

RCW 25.15.506 Merger—Not effective within sixty days—Transfer restrictions. (1) If the proposed merger does not become effective within sixty days after the date set for demanding payment, the limited liability company must release any transfer restrictions imposed as permitted by RCW 25.15.496.

(2) If, after releasing transfer restrictions, the proposed merger becomes effective, the limited liability company must send a new dissenters' notice as provided in RCW 25.15.476(2) and 25.15.486 and repeat the payment demand procedure. [2015 c 188 § 97.]

RCW 25.15.511 Dissenter's estimate of fair value—Notice. (1) A dissenter may notify the limited liability company in writing of the dissenter's own estimate of the fair value of the dissenter's interest in the limited liability company, and amount of interest due, and demand payment of the dissenter's estimate, less any payment under RCW 25.15.501, if:

(a) The dissenter believes that the amount paid is less than the fair value of the dissenter's interest in the limited liability company, or that the interest due is incorrectly calculated;

(b) The limited liability company fails to make payment within sixty days after the date set for demanding payment; or

(c) The limited liability company, having failed to effectuate the proposed merger, does not release the transfer restrictions imposed on members' interests as permitted by RCW 25.15.496 within sixty days after the date set for demanding payment.

(2) A dissenter waives the right to demand payment under this section unless the dissenter notifies the limited liability company of the dissenter's demand in writing under subsection (1) of this section within thirty days after the limited liability company made payment for the dissenter's interest in the limited liability company. [2015 c 188 § 98.]

RCW 25.15.516 Unsettled demand for payment—Proceeding—Parties—Appraisers. (1) If a demand for payment under RCW 25.15.491 remains unsettled, the limited liability company must commence a proceeding within sixty days after receiving the payment demand and petition the court to determine the fair value of the dissenting member's interest in the limited liability company, and accrued interest. If the limited liability company does not commence the proceeding within the sixty-day period, it must pay each dissenter whose demand remains unsettled the amount demanded.

(2) The limited liability company must commence the proceeding in the superior court of the county where the limited liability company's principal office or, if none in this state, its registered office is located.

(3) The limited liability company must make all dissenters, whether or not residents of this state, whose demands remain unsettled parties to the proceeding as in an action against their membership interests in the limited liability company and all parties must be served with a copy of the petition. Nonresidents may be served by registered or certified mail or by publication as provided by law.

(4) The limited liability company may join as a party to the proceeding any member who claims to be a dissenter but who has not, in the opinion of the limited liability company, complied with the provisions of this article. If the court determines that such member has not complied with the provisions of this article, the member must be dismissed as a party.

(5) The jurisdiction of the court in which the proceeding is commenced is plenary and exclusive. The court may appoint one or more persons as appraisers to receive evidence and recommend decisions on the question of fair value. The appraisers have the powers described in the order appointing them or in any amendment to it. The dissenters are entitled to the same discovery rights as parties in other civil proceedings.

(6) Each dissenter made a party to the proceeding is entitled to judgment for the amount, if any, by which the court finds the fair value of the dissenter's membership interest in the limited liability company, plus interest, exceeds the amount paid by the limited liability company. [2015 c 188 § 99.]

RCW 25.15.521 Unsettled demand for payment—Costs—Fees and expenses of counsel. (1) The court in a proceeding commenced under RCW 25.15.516 must determine all costs of the proceeding, including the reasonable compensation and expenses of appraisers appointed by the court. The court must assess the costs against the limited liability company, except that the court may assess the costs against all or some of the dissenters, in amounts the court finds equitable, to the extent the court finds the dissenters acted arbitrarily, vexatiously, or not in good faith in demanding payment.

(2) The court may also assess the fees and expenses of counsel and experts for the respective parties, in amounts the court finds equitable:

(a) Against the limited liability company and in favor of any or all dissenters if the court finds the limited liability company did not substantially comply with the requirements of this article; or

(b) Against either the limited liability company or a dissenter, in favor of any other party, if the court finds that the party against whom the fees and expenses are assessed acted arbitrarily, vexatiously, or not in good faith with respect to the rights provided by this article.

(3) If the court finds that the services of counsel for any dissenter were of substantial benefit to other dissenters similarly situated, and that the fees for those services should not be assessed against the limited liability company, the court may award to these counsel reasonable fees to be paid out of the amounts awarded to the dissenters who were benefited. [2015 c 188 § 100.]

ARTICLE XIII. MISCELLANEOUS

RCW 25.15.801 Construction and application of chapter and limited liability company agreement. (1) The rule that statutes in derogation of the common law are to be strictly construed has no application to this chapter.

(2) It is the policy of this chapter to give the maximum effect to the principle of freedom of contract and to the enforceability of limited liability company agreements.

(3) Unless the context otherwise requires, as used in this chapter, the singular includes the plural and the plural may refer to only the singular. [2015 c 188 § 101.]

RCW 25.15.806 Applicable fees, charges, and penalties. Limited liability companies are subject to the applicable fees, charges, and penalties established by the secretary of state under RCW 23.95.260 and 43.07.120. [2015 c 176 § 7132; 2015 c 188 § 102.]

Effective date—Contingent effective date—2015 c 176: See note following RCW 23.95.100.

RCW 25.15.811 Authority to adopt rules. The secretary of state has the power and authority reasonably necessary for the efficient and effective administration of this chapter, including the adoption of rules under chapter 34.05 RCW. [2015 c 188 § 103.]

RCW 25.15.903 Effective date—2015 c 188. This act takes effect January 1, 2016. [2015 c 188 § 104.]

RCW 25.15.904 Short title. This chapter may be known and cited as the "Washington limited liability company act." [2015 c 188 § 105.]

RCW 25.15.905 Chapter application. This chapter does not affect an action commenced, proceeding brought, or right accrued before January 1, 2016. [2015 c 188 § 106.]