

**DRAFT ONLY
NOT APPROVED FOR
INTRODUCTION**

HOUSE BILL NO. _____

Limited liability companies-revisions.

Sponsored by: Joint Corporations, Elections and Political
Subdivisions Interim Committee

A BILL

for

1 AN ACT relating to limited liability companies; generally
2 updating and modifying statutes to comply with the revised
3 uniform limited liability company act; making conforming
4 amendments; and providing for an effective date.

5

6 *Be It Enacted by the Legislature of the State of Wyoming:*

7

8 **Section 1.** W.S. 17-25-110, 17-25-111 and 17-29-101
9 through 17-29-1105 are created to read:

10

11 **17-25-110. Sharing of profits and losses;**
12 **distributions.**

13

1 (a) A close limited liability company may divide and
2 allocate the profits and losses of its business among the
3 members and transferees of the company upon the basis
4 provided in the operating agreement. If the operating
5 agreement does not so provide, profits and losses shall be
6 allocated on the basis of the value of contributions to the
7 company by each member and transferee to the extent they
8 have been received by the company and have not been
9 returned.

10

11 (b) Distributions by a close limited liability
12 company before its dissolution and winding up may be made
13 among the members and transferees of the company upon the
14 basis provided in the operating agreement. If the
15 operating agreement does not so provide, distributions
16 shall be made on the basis of the value of contributions to
17 the company by each member and transferee to the extent
18 they have been received by the company and have not been
19 returned.

20

21 **17-25-110. Transferability of interest.**

22

1 All interests in a close limited liability company,
 2 including transferable interests, shall only be transferred
 3 as provided in the operating agreement. If the operating
 4 agreement does not so provide, no transfer of a close
 5 limited liability company interest, including a
 6 transferable interest, shall be made without the consent of
 7 all members of the company.

8

9

CHAPTER 29

10

WYOMING LIMITED LIABILITY COMPANY ACT

11

12

ARTICLE 1

13

GENERAL PROVISIONS

14

17-29-101. Short title.

16

17 This chapter may be cited as the Wyoming Limited Liability
 18 Company Act.

19

17-29-102. Definitions.

21

22 (a) As used in this chapter:

23

1 (i) "Articles of organization" means the articles
2 required by 17-29-201(b). The term includes the articles
3 as amended or restated;

4
5 (ii) "Contribution" means any benefit provided
6 by a person to a limited liability company:

7
8 (A) In order to become a member upon
9 formation of the company and in accordance with an
10 agreement between or among the persons that have agreed to
11 become the initial members of the company;

12
13 (B) In order to become a member after
14 formation of the company and in accordance with an
15 agreement between the person and the company; or

16
17 (C) In the person's capacity as a member
18 and in accordance with the operating agreement or an
19 agreement between the member and the company.

20
21 (iii) "Debtor in bankruptcy" means a person that
22 is the subject of:

23

1 (A) An order for relief under Title 11 of
2 the United States Code or a successor statute of general
3 application; or

4

5 (B) A comparable order under federal,
6 state, or foreign law governing insolvency.

7

8 (iv) "Designated office" means:

9

10 (A) The office of a registered agent that a
11 limited liability company is required to designate and
12 maintain under W.S. 17-28-101; or

13

14 (B) The principal office of a foreign
15 limited liability company.

16

17 (v) "Distribution", except as otherwise provided
18 in W.S. 17-29-405(g), means a transfer of money or other
19 property from a limited liability company to another person
20 on account of a transferable interest;

21

22 (vi) "Effective" with respect to a record
23 required or permitted to be delivered to the Secretary of

1 state for filing under this article, means effective under
2 W.S. 17-29-205(c);

3

4 (vii) "Foreign limited liability company" means
5 an unincorporated entity formed under the law of a
6 jurisdiction other than this state and denominated by that
7 law as a limited liability company or which appears to the
8 secretary of state to possess characteristics sufficiently
9 similar to those of a limited liability company organized
10 under this chapter;

11

12 (viii) "Limited liability company", except in
13 the phrase "foreign limited liability company", means an
14 entity formed under this chapter;

15

16 (ix) "Low profit limited liability company"
17 means a limited liability company that has set forth in its
18 articles of organization a business purpose that satisfies,
19 and which limited liability company is at all times
20 operated to satisfy, each of the following requirements:

21

22 (A) The entity significantly furthers the
23 accomplishment of one (1) or more charitable or educational

1 purposes within the meaning of section 170(c)(2)(B) of the
2 Internal Revenue Code and would not have been formed but
3 for the entity's relationship to the accomplishment of
4 charitable or educational purposes;

5

6 (B) No significant purpose of the entity is
7 the production of income or the appreciation of property
8 provided, however, that the fact that an entity produces
9 significant income or capital appreciation shall not, in
10 the absence of other factors, be conclusive evidence of a
11 significant purpose involving the production of income or
12 the appreciation of property; and

13

14 (C) No purpose of the entity is to
15 accomplish one (1) or more political or legislative
16 purposes within the meaning of section 170(c)(2)(D) of the
17 Internal Revenue Code.

18

19 (x) "Manager" means a person that under the
20 operating agreement of a manager-managed limited liability
21 company is responsible, alone or in concert with others,
22 for performing the management functions stated in W.S. 17-
23 29-407(c);

1

2 (xi) "Manager-managed limited liability company"
3 means a limited liability company that qualifies under W.S.
4 17-29-407(a);

5

6 (xii) "Member" means a person that has become a
7 member of a limited liability company under W.S. 17-29-401
8 and has not dissociated under W.S. 17-29-602;

9

10 (xiii) "Member-managed limited liability
11 company" means a limited liability company that is not a
12 manager-managed limited liability company;

13

14 (xiv) "Operating agreement" means the agreement,
15 whether or not referred to as an operating agreement and
16 whether oral, in a record, implied or in any combination
17 thereof, of all the members of a limited liability company,
18 including a sole member, concerning the matters described
19 in W.S. 17-29-110(a). The term includes the agreement as
20 amended or restated;

21

22 (xv) "Organizer" means a person that acts under
23 W.S. 17-29-201 to form a limited liability company;

1

2 (xvi) "Principal office" means the principal
3 executive office of a limited liability company or foreign
4 limited liability company, whether or not the office is
5 located in this state;

6

7 (xvii) "Record" means information that is
8 inscribed on a tangible medium or that is stored in an
9 electronic or other medium and is retrievable in
10 perceivable form;

11

12 (xviii) "Sign" or "signature" includes any
13 manual, facsimile, conformed or electronic signature;

14

15 (xix) "State" means a state of the United
16 States, the District of Columbia, Puerto Rico, the United
17 States Virgin Islands, or any territory or insular
18 possession subject to the jurisdiction of the United
19 States;

20

21 (xx) "Transfer" includes an assignment,
22 conveyance, deed, bill of sale, lease, mortgage, security
23 interest, encumbrance, gift or transfer by operation of

1 law;

2

3 (xxi) "Transferable interest" means the right,
4 as originally associated with a person's capacity as a
5 member, to receive distributions from a limited liability
6 company in accordance with the operating agreement, whether
7 or not the person remains a member or continues to own any
8 part of the right;

9

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

13

14 **17-29-103. Knowledge; notice.**

15

16 (a) A person knows a fact when the person:

17

18 (i) Has actual knowledge of it; or

19

20 (ii) Is deemed to know it under subsection
21 (d)(i) of this section or law other than this chapter.

22

23 (b) A person has notice of a fact when the person:

1

2 (i) Has reason to know the fact from all of the

3 facts known to the person at the time in question; or

4

5 (ii) Is deemed to have notice of the fact under

6 subsection (d)(ii) of this section.

7

8 (c) A person notifies another of a fact by taking

9 steps reasonably required to inform the other person in

10 ordinary course, whether or not the other person knows the

11 fact.

12

13 (d) A person that is not a member is deemed:

14

15 (i) To know of a limitation on authority to

16 transfer real property as provided in W.S. 17-29-302(g);

17 and

18

19 (ii) To have notice of a limited liability

20 company's:

21

22 (A) Dissolution, ninety (90) days after

23 articles of dissolution under W.S. 17-29-702(b)(ii)(A) and

1 the limitation on the member's or manager's authority as a
2 result of the statement of dissolution becomes effective;

3

4 (B) Reserved; and

5

6 (C) Merger, conversion, continuance,
7 transfer or domestication, ninety (90) days after articles
8 of merger, conversion, continuance, transfer or
9 domestication under article 10 of this chapter become
10 effective.

11

12 **17-29-104. Nature, purpose, and duration of limited**
13 **liability company.**

14

15 (a) A limited liability company is an entity distinct
16 from its members.

17

18 (b) A limited liability company may have any lawful
19 purpose, regardless of whether for profit.

20

21 (c) A limited liability company has perpetual
22 duration.

23

1 (d) Limited liability companies may be organized
2 under this chapter for any lawful purpose, except for the
3 purpose of banking or acting as an insurer as defined in
4 W.S. 26-1-102(a)(xvi).

5
6 (e) Nothing in this chapter shall be interpreted as
7 precluding an individual whose occupation requires
8 licensure under Wyoming law from forming a limited
9 liability company if the applicable licensing statutes do
10 not prohibit it and the licensing body does not prohibit it
11 by rule or regulation adopted consistent with the
12 appropriate licensing statute. No limited liability
13 company may offer professional services or practice a
14 profession except by and through its licensed members or
15 licensed employees, each of whom shall retain his
16 professional license in good standing and shall remain as
17 fully liable and responsible for his professional
18 activities, and subject to all rules, regulations,
19 standards and requirements pertaining thereto, as though
20 practicing individually rather than in a limited liability
21 company.

22
23 **17-29-105. Powers.**

1

2 A limited liability company has the capacity to sue and be
3 sued in its own name and the power to do all things
4 necessary or convenient to carry on its activities.

5

6 **17-29-106. Governing law.**

7

8 (a) The law of this state governs:

9

10 (i) The internal affairs of a limited liability
11 company; and

12

13 (ii) The liability of a member as member and a
14 manager as manager for the debts, obligations or other
15 liabilities of a limited liability company.

16

17 **17-29-107. Supplemental principles of law.**

18

19 Unless displaced by particular provisions of this chapter,
20 the principles of law and equity supplement this chapter.

21

22 **17-29-108. Name.**

23

1 (a) The words "limited liability company," or its
2 abbreviations "LLC" or "L.L.C.," "limited company," or its
3 abbreviations "LC" or "L.C.," "Ltd. liability company,"
4 "Ltd. liability co." or "limited liability co." shall be
5 included in the name of every limited liability company
6 formed under the provisions of this act except the name of
7 a low profit limited liability company, as defined in W.S.
8 17-29-102(a)(ix) shall contain the abbreviations "L3C,"
9 "l3c," "low profit ltd. liability company," "low profit
10 ltd. liability co." or "low profit limited liability co."
11 In addition, the limited liability company name may not:

12

13 (i) Contain a word or phrase which indicates or
14 implies that it is organized for a purpose other than one
15 (1) or more of the purposes contained in its articles of
16 organization;

17

18 (ii) Be the same as, or deceptively similar to,
19 any trademark or service mark registered in this state and
20 shall be distinguishable upon the records of the secretary
21 of state from other business names as provided in W.S. 17-
22 16-401;

23

1 (iii) Contain a word or phrase which indicates
2 or implies that it is organized under the Wyoming Business
3 Corporation Act, the Wyoming Statutory Close Corporation
4 Supplement, or the Nonprofit Corporation Act.

5
6 (b) Nothing in this article shall prohibit the use of
7 a tradename in accordance with applicable law.

8
9 **17-29-109. Reservation of name.**

10
11 (a) A person may reserve the exclusive use of the
12 name of a limited liability company, including a fictitious
13 or assumed name for a foreign limited liability company
14 whose name is not available, by delivering an application
15 to the Secretary of state for filing. The application must
16 state the name and address of the applicant and the name
17 proposed to be reserved. If the secretary of state finds
18 that the name for which application has been made is
19 available, it shall be reserved for the applicant's
20 exclusive use for a one hundred twenty (120) day period.

21
22 (b) The owner of a name reserved for a limited
23 liability company may transfer the reservation to another

1 person by delivering to the secretary of state for filing a
2 signed notice of the transfer which states the name and
3 address of the transferee.

4

5 **17-29-110. Operating agreement; scope, function, and**
6 **limitations.**

7

8 (a) Except as otherwise provided in subsections (b)
9 and (c) of this section, the operating agreement governs:

10

11 (i) Relations among the members as members and
12 between the members and the limited liability company;

13

14 (ii) The rights and duties under this chapter of
15 a person in the capacity of manager;

16

17 (iii) The activities of the company and the
18 conduct of those activities; and

19

20 (iv) The means and conditions for amending the
21 operating agreement.

22

23 (b) To the extent the operating agreement does not

1 otherwise provide for a matter described in subsection (a)
2 of this section, this chapter governs the matter.

3

4 (c) An operating agreement shall not:

5

6 (i) Vary a limited liability company's capacity
7 under W.S. 17-29-105 to sue and be sued in its own name;

8

9 (ii) Vary the law applicable under W.S. 17-29-
10 106;

11

12 (iii) Vary the power of the court under 17-29-
13 204;

14

15 (iv) Reserved;

16

17 (v) Reserved;

18

19 (vi) Reserved;

20

21 (vii) Vary the power of a court to decree
22 dissolution in the circumstances specified in W.S. 17-29-
23 701(a)(iv) and (v);

1

2 (viii) Vary the requirement to wind up a limited
3 liability company's business as specified in W.S. 17-29-
4 702(a) and (b)(i);

5

6 (ix) Unreasonably restrict the right of a member
7 to maintain an action under article 9 of this chapter;

8

9 (x) Reserved; or

10

11 (xi) Reserved.

12

13 ***** Staff note: Subsections 110(d) through (h) of the**
14 **model act were not recommended by the working group as the**
15 **group prefers to recommend the contractual approach. *****

16

17 **17-29-111. Operating agreement; effect on limited**
18 **liability company and persons becoming members;**
19 **preformation agreement.**

20

21 (a) A limited liability company is bound by and may
22 enforce the operating agreement, whether or not the company
23 has itself manifested assent to the operating agreement.

24

25 (b) A person that becomes a member of a limited

1 liability company is deemed to assent to the operating
2 agreement.

3

4 (c) Two (2) or more persons intending to become the
5 initial members of a limited liability company may make an
6 agreement providing that upon the formation of the company
7 the agreement will become the operating agreement. One (1)
8 person intending to become the initial member of a limited
9 liability company may assent to terms providing that upon
10 the formation of the company the terms will become the
11 operating agreement.

12

13 **17-29-112. Operating agreement; effect on third**
14 **parties and relationship to records effective on behalf of**
15 **limited liability company.**

16

17 (a) An operating agreement may specify that its
18 amendment requires the approval of a person that is not a
19 party to the operating agreement or the satisfaction of a
20 condition. An amendment is ineffective if its adoption
21 does not include the required approval or satisfy the
22 specified condition.

23

1 (b) The obligations of a limited liability company
2 and its members to a person in the person's capacity as a
3 transferee or dissociated member are governed by the
4 operating agreement. An amendment to the operating
5 agreement made after a person becomes a transferee or
6 dissociated member is effective with regard to any debt,
7 obligation or other liability of the limited liability
8 company or its members to the person in the person's
9 capacity as a transferee or dissociated member.

10

11 (c) If a record that has been delivered by a limited
12 liability company to the secretary of state for filing and
13 has become effective under this chapter contains a
14 provision that would be ineffective under W.S. 17-29-110(c)
15 if contained in the operating agreement, the provision is
16 likewise ineffective in the record.

17

18 (d) Subject to subsection (c) of this section, if a
19 record that has been delivered by a limited liability
20 company to the Secretary of state for filing and has become
21 effective under this chapter conflicts with a provision of
22 the operating agreement:

23

1 (i) The operating agreement prevails as to
2 members, dissociated members, transferees and managers; and

3

4 (ii) The record prevails as to other persons to
5 the extent they reasonably rely on the record.

6

7 **17-29-113. Registered office and registered agent to**
8 **be maintained.**

9

10 (a) Each limited liability company shall have and
11 continuously maintain in this state:

12

13 (i) A registered office as provided in W.S. 17-
14 28-101 through 17-28-111;

15

16 (ii) A registered agent as provided in W.S. 17-
17 28-101 through 17-28-111.

18

19 (b) The provisions of W.S. 17-28-101 through 17-28-111
20 shall apply to all limited liability companies.

21

22 ***** Staff note: The working group recommends not**
23 **adopting uniform language for section 113 and instead using**
24 **current Wyoming statute. *****

1

2

ARTICLE 2

3

FORMATION, ARTICLES OF ORGANIZATION AND OTHER FILINGS

4

5

17-29-201. Formation of limited liability company;

6

articles of organization.

7

8

(a) One (1) or more persons may act as organizers to

9

form a limited liability company by signing and delivering

10

to the secretary of state for filing articles of

11

organization.

12

13

(b) Articles of organization shall state:

14

15

(i) The name of the limited liability company,

16

which must comply with W.S. 17-29-108;

17

18

(ii) The street address of the corporation's

19

initial registered office and the name of its initial

20

registered agent at that office; and

21

22

(iii) Reserved.

23

1 (c) The articles of organization shall be accompanied
2 by a written consent to appointment signed by the
3 registered agent.

4

5 (d) Subject to W.S. 17-29-112(c), articles of
6 organization may also contain statements as to matters
7 other than those required by subsection (b) of this
8 section. However, a statement in articles of organization
9 is not effective as a statement of authority.

10

11 (e) The following rules apply:

12

13 (i) A limited liability company is formed when
14 the articles of organization become effective, unless the
15 articles state a delayed effective date pursuant to W.S.
16 17-29-205(c).

17

18 (ii) If the articles state a delayed effective
19 date, a limited liability company is not formed if, before
20 the articles take effect, a statement of cancellation is
21 signed and delivered to the secretary of state for filing
22 and the secretary of state files the articles.

23

1 (iii) Subject to any delayed effective date and
2 except in a proceeding by this state to dissolve a limited
3 liability company, the filing of the articles of
4 organization by the secretary of state is conclusive proof
5 that the organizer satisfied all conditions to the
6 formation of a limited liability company.

7
8 **17-29-202. Amendment or restatement of articles of**
9 **organization.**

10
11 (a) Articles of organization may be amended or
12 restated at any time. Articles of organization shall be
13 amended when:

14
15 (i) There is a change in the name of the limited
16 liability company;

17
18 (ii) There is a false or erroneous statement in
19 the articles of organization;

20
21 (iii) The members desire to make a change in any
22 other statement in the articles of organization in order
23 that it shall accurately represent the agreement between or

1 among them.

2

3 (b) To amend its articles of organization, a limited
4 liability company must deliver to the secretary of state
5 for filing an amendment stating:

6

7 (i) The name of the company;

8

9 (ii) The date of filing of its articles of
10 organization; and

11

12 (iii) The changes the amendment makes to the
13 articles as most recently amended or restated.

14

15 (c) To restate its articles of organization, a
16 limited liability company shall deliver to the secretary of
17 state for filing a restatement, designated as such in its
18 heading, stating:

19

20 (i) In the heading or an introductory paragraph,
21 the company's present name and the date of the filing of
22 the company's initial articles of organization; and

23

1 (ii) The changes the restatement makes to the
2 articles as most recently amended or restated.

3

4 (d) Subject to W.S. 17-29-112(c) and 17-29-205(c), an
5 amendment to or restatement of articles of organization is
6 effective when delivered for filing with the secretary of
7 state.

8

9 (e) If a member of a member-managed limited liability
10 company, or a manager of a manager-managed limited
11 liability company, knows that any information in filed
12 articles of organization was inaccurate when the articles
13 were filed or has become inaccurate owing to changed
14 circumstances, the member or manager shall promptly:

15

16 (i) Cause the articles to be amended; or

17

18 (ii) If appropriate, deliver to the secretary of
19 state for filing a statement of correction under W.S. 17-
20 28-102 or a statement of correction under W.S. 17-29-206.

21

22 **17-29-203. Signing of records to be delivered for**
23 **filing to secretary of state.**

1

2 (a) A record delivered to the secretary of state for
3 filing pursuant to this chapter shall be signed as follows:

4

5 (i) Except as otherwise provided in paragraphs
6 (ii) through (iv) of this subsection, a record signed on
7 behalf of a limited liability company shall be signed by a
8 person authorized by the company;

9

10 (ii) A limited liability company's initial
11 articles of organization shall be signed by at least one
12 (1) person acting as an organizer;

13

14 (iii) Reserved;

15

16 (iv) A record filed on behalf of a dissolved
17 limited liability company that has no members shall be
18 signed by the person winding up the company's activities
19 under W.S. 17-29-702(c) or a person appointed under W.S.
20 17-29-702(d) to wind up those activities.

21

22 (v) A statement of cancellation under W.S. 17-
23 29-201(d)(ii) shall be signed by each organizer that signed

1 the initial articles of organization, but a personal
2 representative of a deceased or incompetent organizer may
3 sign in the place of the decedent or incompetent;

4
5 (vi) A statement of denial by a person under
6 W.S. 17-29-303 shall be signed by that person; and

7
8 (vii) Any other record shall be signed by the
9 person on whose behalf the record is delivered to the
10 secretary of state.

11
12 (b) Any record filed under this chapter may be signed
13 by an agent.

14
15 **17-29-204. Signing and filing pursuant to judicial**
16 **order.**

17
18 (a) If a person required by this chapter to sign a
19 record or deliver a record to the secretary of state for
20 filing under this chapter does not do so, any other person
21 that is aggrieved may petition the appropriate court to
22 order:

23

1 (i) The person to sign the record;

2

3 (ii) The person to deliver the record to the
4 secretary of state for filing; or

5

6 (iii) The secretary of state to file the record
7 unsigned.

8

9 (b) If a petitioner under subsection (a) of this
10 section is not the limited liability company or foreign
11 limited liability company to which the record pertains, the
12 petitioner shall make the company a party to the action.

13

14 **17-29-205. Delivery to and filing of records by**
15 **secretary of state; effective time and date.**

16

17 (a) A record authorized or required to be delivered
18 to the secretary of state for filing under this chapter
19 shall be captioned to describe the record's purpose, be in
20 a medium permitted by the secretary of state, and be
21 delivered to the secretary of state. If the filing fees
22 have been paid, unless the secretary of state determines
23 that a record does not comply with the filing requirements

1 of this chapter, the secretary of state shall file the
2 record and:

3

4 (i) For a statement of denial under W.S. 17-29-
5 303, send a copy of the filed statement and a receipt for
6 the fees to the person on whose behalf the statement was
7 delivered for filing and to the limited liability company;
8 and

9

10 (ii) For all other records, send a copy of the
11 filed record and a receipt for the fees to the person on
12 whose behalf the record was filed.

13

14 (b) Upon request and payment of the requisite fee,
15 the secretary of state shall send to the requester a
16 certified copy of a requested record.

17

18 (c) Except as otherwise provided in W.S. 17-28-103
19 and 17-29-206, a record delivered to the secretary of state
20 for filing under this article shall be effective as
21 provided in W.S. 17-16-123.

22

23 **17-29-206. Correcting filed record.**

1

2 (a) A limited liability company or foreign limited
3 liability company may deliver to the secretary of state for
4 filing a statement of correction to correct a record
5 previously delivered by the company to the secretary of
6 state and filed by the secretary of state, if at the time
7 of filing the record contained inaccurate information or
8 was defectively signed.

9

10 (b) A statement of correction under subsection (a) of
11 this section may not state a delayed effective date and
12 shall:

13

14 (i) Describe the record to be corrected,
15 including its filing date, or attach a copy of the record
16 as filed;

17

18 (ii) Specify the inaccurate information and the
19 reason it is inaccurate or the manner in which the signing
20 was defective; and

21

22 (iii) Correct the defective signature or
23 inaccurate information.

1

2 (c) When filed by the secretary of state, a statement
3 of correction under subsection (a) of this section is
4 effective retroactively as of the effective date of the
5 record the statement corrects, but the statement is
6 effective when filed:

7

8 (i) For the purposes of W.S. 17-29-103(d); and

9

10 (ii) As to persons that previously relied on the
11 uncorrected record and would be adversely affected by the
12 retroactive effect.

13

14 **17-29-207. Liability for inaccurate information in**
15 **filed record.**

16

17 (a) If a record delivered to the secretary of state
18 for filing under this chapter and filed by the secretary of
19 state contains inaccurate information, a person that
20 suffers a loss by reliance on the information may recover
21 damages for the loss from:

22

23 (i) A person that signed the record, or caused

1 another to sign it on the person's behalf, and knew the
2 information to be inaccurate at the time the record was
3 signed; and

4

5 (ii) Subject to subsection (b) of this section,
6 a member of a member-managed limited liability company or
7 the manager of a manager-managed limited liability company,
8 if:

9

10 (A) The record was delivered for filing on
11 behalf of the company; and

12

13 (B) The member or manager had notice of the
14 inaccuracy for a reasonably sufficient time before the
15 information was relied upon so that, before the reliance,
16 the member or manager reasonably could have:

17

18 (I) Effected an amendment under W.S.
19 17-29-202;

20

21 (II) Filed a petition under W.S. 17-
22 29-204; or

23

1 (III) Delivered to the secretary of
2 state for filing a statement of correction under W.S. 17-
3 28-102 or a statement of correction under W.S. 17-29-206.

4
5 (b) To the extent that the operating agreement of a
6 member-managed limited liability company expressly relieves
7 a member of responsibility for maintaining the accuracy of
8 information contained in records delivered on behalf of the
9 company to the secretary of state for filing under this
10 chapter and imposes that responsibility on one (1) or more
11 other members, the liability stated in subsection (a)(ii)
12 of this section applies to those other members and not to
13 the member that the operating agreement relieves of the
14 responsibility.

15
16 (c) An individual who signs a record authorized or
17 required to be filed under this chapter affirms under
18 penalty of perjury that the information stated in the
19 record is accurate.

20

21 **17-29-208. Certificate of existence or authorization.**

22

23 (a) The secretary of state, upon request and payment

1 of the requisite fee, shall furnish to any person a
2 certificate of existence for a limited liability company if
3 the records filed in the office of the secretary of state
4 show that the company has been formed under W.S. 17-29-201
5 and the secretary of state has not filed articles of
6 dissolution pertaining to the company. A certificate of
7 existence shall state:

8

9 (i) The company's name;

10

11 (ii) That the company was duly formed under the
12 laws of this state and the date of formation;

13

14 (iii) Whether all fees, taxes and penalties due
15 under this chapter or other law to the secretary of state
16 have been paid;

17

18 (iv) Whether the company's most recent annual
19 report required by W.S. 17-29-209 has been filed by the
20 secretary of state;

21

22 (v) Whether the secretary of state has
23 administratively dissolved the company;

1

2 (vi) Whether the company has delivered to the
3 secretary of state for filing articles of dissolution;

4

5 (vii) Reserved; and

6

7 (viii) Other facts of record in the office of
8 the secretary of state which are specified by the person
9 requesting the certificate.

10

11 (c) Subject to any qualification stated in the
12 certificate, a certificate of existence or certificate of
13 authorization issued by the secretary of state is
14 conclusive evidence that the limited liability company is
15 in existence.

16

17 **17-29-209. Annual report for secretary of state.**

18

19 (a) Every limited liability company organized under
20 the laws of this state and every foreign limited liability
21 company which obtains the right to transact and carry on
22 business within this state (except banks, insurance
23 companies and savings and loan associations) shall file

1 with the secretary of state on or before the first day of
2 the month of organization of every year a certification,
3 under the penalty of perjury, by its treasurer or other
4 fiscal agent setting forth its capital, property and assets
5 located and employed in the state of Wyoming. The
6 statement shall give the address of its principal office.
7 On or before the first day of the month of organization of
8 every year the limited liability company or foreign limited
9 liability company shall pay to the secretary of state in
10 addition to all other statutory taxes and fees a license
11 fee based upon the sum of its capital, property and assets
12 reported, of fifty dollars (\$50.00) or two-tenths of one
13 mill on the dollar (\$.0002), whichever is greater.

14

15 (b) The provisions of subsection (a) of this section
16 shall be modified as follows:

17

18 (i) Any limited liability company or foreign
19 limited liability company engaged in the public calling of
20 carrying goods, passengers or information interstate is not
21 required to comply with the provisions of subsection (a) of
22 this section except to the extent of capital, property and
23 assets used in intrastate business in this state;

1

2 (ii) The value of all mines and mining claims
3 from which gold, silver and other precious metals, soda,
4 saline, coal, mineral oil or other valuable deposit, is or
5 shall be produced is deemed equivalent to the assessed
6 value of the gross product thereof, for the previous year;

7

8 (iii) The assessed value of any property shall
9 be its actual value.

10

11 (c) Financial information in the annual report shall
12 be current as of the end of the limited liability company's
13 or foreign limited liability company's fiscal year
14 immediately preceding the date the annual report is
15 executed on behalf of the company. All other information
16 in the annual report shall be current as of the date the
17 annual report is executed on behalf of the company.

18

19 (d) If an annual report does not contain the
20 information required by this section, the secretary of
21 state shall promptly notify the reporting domestic or
22 foreign limited liability company in writing and return the
23 report to it for correction.

1

2 (e) Every limited liability company or foreign
3 limited liability company registered or authorized to do
4 business in the state of Wyoming shall preserve for three
5 (3) years at its principal place of business, suitable
6 records and books as may be necessary to determine the
7 amount of fee for which it is liable for under this
8 section. All records and books shall be available for
9 examination by the secretary of state or his designee
10 during regular business hours except as arranged by mutual
11 consent.

12

13 **17-29-210. Fees; annual fee.**

14

15 (a) The secretary of state shall charge and collect
16 fees from limited liability companies and foreign limited
17 liability companies for:

18

19 (i) Filing the original articles of organization
20 or issuing a certificate of authority for a foreign limited
21 liability company, one hundred dollars (\$100.00);

22

23 (ii) For amending the articles of organization,

1 a filing fee of fifty dollars (\$50.00);

2

3 (iii) An annual fee accompanying the report
4 required in W.S. 17-29-209, due and payable on or before
5 the date of the filing under W.S. 17-29-209;

6

7 (iv) Filing, service and copying fees for those
8 services provided by his office for which a fee is not
9 otherwise established. A fee shall not exceed the cost of
10 providing the service.

11

12 (b) Except for articles of organization, any
13 document to be filed with the secretary of state shall be
14 signed by the member, members, manager, managers or other
15 authorized individual as set forth in the operating
16 agreement. A person signing a document, including the
17 articles of organization, he knows is false in any material
18 respect with intent that the document be delivered to the
19 secretary of state for filing under this act is guilty of a
20 misdemeanor punishable by a fine of not more than one
21 thousand dollars (\$1,000.00), by imprisonment for not more
22 than six (6) months, or both.

23

1 (c) Any foreign limited liability company transacting
2 business in this state without qualifying is subject to the
3 penalties provided by W.S. 17-16-1502(d).

4
5 ***** Staff note: There is no corresponding provision**
6 **for fees in the uniform act, but the working group**
7 **recommends adding this section 210, taken from W.S. 17-15-**
8 **132 to give the SOS authority to collect fees. *****
9

10 ARTICLE 3

11 RELATIONS OF MEMBERS AND MANAGERS

12 TO PERSONS DEALING WITH LIMITED LIABILITY COMPANY

13
14 **17-29-301. No agency power of member as member.**

15
16 (a) A member is not an agent of a limited liability
17 company solely by reason of being a member.

18
19 (b) A person's status as a member does not prevent or
20 restrict law other than this chapter from imposing
21 liability on a limited liability company because of the
22 person's conduct.

23
24 **17-29-302. Statement of authority.**
25

1 (a) A limited liability company may deliver to the
2 secretary of state for filing a statement of authority.

3 The statement:

4

5 (i) Shall include the name of the company and
6 the street and mailing addresses of its designated office;

7

8 (ii) With respect to any position that exists in
9 or with respect to the company, may state the authority, or
10 limitations on the authority, of all persons holding the
11 position to:

12

13 (A) Execute an instrument transferring real
14 property held in the name of the company; or

15

16 (B) Enter into other transactions on behalf
17 of, or otherwise act for or bind, the company; and

18

19 (iii) May state the authority, or limitations on
20 the authority, of a specific person to:

21

22 (A) Execute an instrument transferring real
23 property held in the name of the company; or

1

2

(B) Enter into other transactions on behalf of, or otherwise act for or bind, the company.

4

5

(b) To amend or cancel a statement of authority filed by the secretary of state under W.S. 17-29-205(a), a limited liability company shall deliver to the secretary of state for filing an amendment or cancellation stating:

9

10

(i) The name of the company;

11

12

(ii) The street and mailing addresses of the company's designated office;

14

15

(iii) The caption of the statement being amended or canceled and the date the statement being affected became effective; and

18

19

(iv) The contents of the amendment or a declaration that the statement being affected is canceled.

21

22

(c) A statement of authority affects only the power of a person to bind a limited liability company to persons

23

1 that are not members.

2

3 (d) Subject to subsection (c) of this section and
4 W.S. 17-29-103(d) and except as otherwise provided in
5 subsections (f), (g), and (h) of this section, a limitation
6 on the authority of a person or a position contained in an
7 effective statement of authority is not by itself evidence
8 of knowledge or notice of the limitation by any person.

9

10 (e) Subject to subsection (c) of this section, a
11 grant of authority not pertaining to transfers of real
12 property and contained in an effective statement of
13 authority is conclusive in favor of a person that gives
14 value in reliance on the grant, except to the extent that
15 when the person gives value:

16

17 (i) The person has knowledge to the contrary;

18

19 (ii) The statement has been canceled or
20 restrictively amended under subsection (b) of this section;

21 or

22

23 (iii) A limitation on the grant is contained in

1 another statement of authority that became effective after
2 the statement containing the grant became effective.

3

4 (f) Subject to subsection (c) of this section, an
5 effective statement of authority that grants authority to
6 transfer real property held in the name of the limited
7 liability company and that is recorded by certified copy in
8 the office for recording transfers of the real property is
9 conclusive in favor of a person that gives value in
10 reliance on the grant without knowledge to the contrary,
11 except to the extent that when the person gives value:

12

13 (i) The statement has been canceled or
14 restrictively amended under subsection (b) of this section
15 and a certified copy of the cancellation or restrictive
16 amendment has been recorded in the office for recording
17 transfers of the real property; or

18

19 (ii) A limitation on the grant is contained in
20 another statement of authority that became effective after
21 the statement containing the grant became effective and a
22 certified copy of the later-effective statement is recorded
23 in the office for recording transfers of the real property.

1

2 (g) Subject to subsection (c) of this section, if a
3 certified copy of an effective statement containing a
4 limitation on the authority to transfer real property held
5 in the name of a limited liability company is recorded in
6 the office for recording transfers of that real property,
7 all persons are deemed to know of the limitation.

8

9 (h) Subject to subsection (j) of this section, an
10 effective statement of dissolution or termination is a
11 cancellation of any filed statement of authority for the
12 purposes of subsection (f) of this section and is a
13 limitation on authority for the purposes of subsection (g)
14 of this section.

15

16 (j) After a statement of dissolution becomes
17 effective, a limited liability company may deliver to the
18 secretary of state for filing and, if appropriate, may
19 record a statement of authority that is designated as a
20 post-dissolution statement of authority. The statement
21 operates as provided in subsections (f) and (g) of this
22 section.

23

1 (k) Unless earlier canceled, an effective statement
2 of authority is canceled by operation of law five (5) years
3 after the date on which the statement, or its most recent
4 amendment, becomes effective. This cancellation operates
5 without need for any recording under subsections (f) or (g)
6 of this section.

7

8 (m) An effective statement of denial operates as a
9 restrictive amendment under this section and may be
10 recorded by certified copy for the purposes of subsection
11 (f)(i) of this section.

12

13 **17-29-303. Statement of denial.**

14

15 (a) A person named in a filed statement of authority
16 granting that person authority may deliver to the secretary
17 of state for filing a statement of denial that:

18

19 (i) Provides the name of the limited liability
20 company and the caption of the statement of authority to
21 which the statement of denial pertains; and

22

23 (ii) Denies the grant of authority.

1

2 **17-29-304. Liability of members and managers.**

3

4 (a) The debts, obligations or other liabilities of a
5 limited liability company, whether arising in contract,
6 tort or otherwise:

7

8 (i) Are solely the debts, obligations or other
9 liabilities of the company; and

10

11 (ii) Do not become the debts, obligations or
12 other liabilities of a member or manager solely by reason
13 of the member acting as a member or manager acting as a
14 manager.

15

16 (b) The failure of a limited liability company to
17 observe any particular formalities relating to the exercise
18 of its powers or management of its activities is not a
19 ground for imposing liability on the members or managers
20 for the debts, obligations or other liabilities of the
21 company.

22

23

ARTICLE 4

1 RELATIONS OF MEMBERS TO EACH OTHER AND TO THE LIMITED
2 LIABILITY COMPANY

3

4 **17-29-401. Becoming a member.**

5

6 (a) If a limited liability company is to have only
7 one (1) member upon formation, the person becomes a member
8 as determined by that person and the organizer of the
9 company. That person and the organizer may be, but need
10 not be, different persons. If different, the organizer
11 acts on behalf of the initial member.

12

13 (b) If a limited liability company is to have more
14 than one (1) member upon formation, those persons become
15 members as agreed by them. The organizer acts on behalf of
16 the persons in forming the company and may be, but need not
17 be, one of the persons.

18

19 (c) Reserved.

20

21 (d) After formation of a limited liability company, a
22 person becomes a member:

23

1 (i) As provided in the operating agreement;

2

3 (ii) As the result of a transaction effective
4 under article 10 of this chapter;

5

6 (iii) With the consent of all the members; or

7

8 (vi) If, within ninety (90) consecutive days
9 after the company ceases to have any members:

10

11 (A) The last person to have been a member,
12 or the legal representative of that person, designates a
13 person to become a member; and

14

15 (B) The designated person consents to
16 become a member.

17

18 (e) A person may become a member without acquiring a
19 transferable interest and without making or being obligated
20 to make a contribution to the limited liability company.

21

22 **17-29-402. Form of contribution.**

23

1 A contribution may consist of tangible or intangible
2 property or other benefit to a limited liability company,
3 including money, services performed, promissory notes,
4 other agreements to contribute money or property, and
5 contracts for services to be performed.

6

7

8 **17-29-403. Liability for contributions.**

9

10 A person's obligation to make a contribution to a limited
11 liability company is not excused by the person's death,
12 disability or other inability to perform personally. If a
13 person does not make a required contribution, the person or
14 the person's estate is obligated to contribute money equal
15 to the value of the part of the contribution which has not
16 been made, at the option of the company.

17

18

19 **17-29-404. Sharing of and right to distributions**
20 **before dissolution.**

21

22 (a) Any distributions made by a limited liability
23 company before its dissolution and winding up shall be in

1 equal shares among members and dissociated members, except
2 to the extent necessary to comply with any transfer
3 effective under W.S. 17-29-502 and any charging order in
4 effect under W.S. 17-29-503.

5

6 (b) A person has a right to a distribution before the
7 dissolution and winding up of a limited liability company
8 only if the company decides to make an interim
9 distribution. A person's dissociation does not entitle the
10 person to a distribution.

11

12 (c) A person does not have a right to demand or
13 receive a distribution from a limited liability company in
14 any form other than money. Except as otherwise provided in
15 W.S. 17-29-708(c), a limited liability company may
16 distribute an asset in kind if each part of the asset is
17 fungible with each other part and each person receives a
18 percentage of the asset equal in value to the person's
19 share of distributions.

20

21 (d) If a member or transferee becomes entitled to
22 receive a distribution, the member or transferee has the
23 status of, and is entitled to all remedies available to, a

1 creditor of the limited liability company with respect to
2 the distribution.

3

4 **17-29-405. Limitations on distribution.**

5

6 (a) A limited liability company shall not make a
7 distribution if after the distribution:

8

9 (i) The company would not be able to pay its
10 debts as they become due in the ordinary course of the
11 company's activities; or

12

13 (ii) The company's total assets would be less
14 than the sum of its total liabilities plus the amount that
15 would be needed, if the company were to be dissolved, wound
16 up and terminated at the time of the distribution, to
17 satisfy the preferential rights upon dissolution, winding
18 up and termination of members whose preferential rights are
19 superior to those of persons receiving the distribution.

20

21 (b) A limited liability company may base a
22 determination that a distribution is not prohibited under
23 subsection (a) of this section on financial statements

1 prepared on the basis of accounting practices and
2 principles that are reasonable in the circumstances or on a
3 fair valuation or other method that is reasonable under the
4 circumstances.

5

6 (c) Except as otherwise provided in subsection (f) of
7 this section, the effect of a distribution under subsection
8 (a) of this section is measured:

9

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

14

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

16

17 (A) The distribution is authorized, if the
18 payment occurs within one hundred twenty (120) days after
19 that date; or

20

21 (B) The payment is made, if the payment
22 occurs more than one hundred twenty (120) days after the
23 distribution is authorized.

1

2 (d) Except as otherwise expressly agreed in writing,
3 a limited liability company's indebtedness to a member
4 incurred by reason of a distribution made in accordance
5 with this section is at parity with the company's
6 indebtedness to its general, unsecured creditors.

7

8 (e) A limited liability company's indebtedness,
9 including indebtedness issued in connection with or as part
10 of a distribution, is not a liability for purposes of
11 subsection (a) of this section if the terms of the
12 indebtedness provide that payment of principal and interest
13 are made only to the extent that a distribution could be
14 made to members under this section.

15

16 (f) If indebtedness is issued as a distribution, each
17 payment of principal or interest on the indebtedness is
18 treated as a distribution, the effect of which is measured
19 on the date the payment is made.

20

21 (g) In subsection (a) of this section, "distribution"
22 does not include amounts constituting reasonable
23 compensation for present or past services or reasonable

1 payments made in the ordinary course of business under a
2 bona fide retirement plan or other benefits program.

3

4 **17-29-406. Liability for improper distributions.**

5

6 (a) Except as otherwise provided in subsection (b) of
7 this section, if a member of a member-managed limited
8 liability company or manager of a manager-managed limited
9 liability company consents to a distribution made in
10 violation of W.S. 17-29-405 and in consenting to the
11 distribution fails to comply with W.S. 17-29-409, the
12 member or manager is personally liable to the company for
13 the amount of the distribution that exceeds the amount that
14 could have been distributed without the violation of W.S.
15 17-29-405.

16

17 (b) To the extent the operating agreement of a
18 member-managed limited liability company expressly relieves
19 a member of the authority and responsibility to consent to
20 distributions and imposes that authority and responsibility
21 on one (1) or more other members, the liability stated in
22 subsection (a) of this section applies to the other members
23 and not the member that the operating agreement relieves of

1 authority and responsibility.

2

3 (c) A person that receives a distribution knowing
4 that the distribution to that person was made in violation
5 of W.S. 17-29-405 is personally liable to the limited
6 liability company but only to the extent that the
7 distribution received by the person exceeded the amount
8 that could have been properly paid under W.S. 17-29-405.

9

10 (d) A person against which an action is commenced
11 because the person is liable under subsection (a) of this
12 section may:

13

14 (i) Implead any other person that is subject to
15 liability under subsection (a) of this section and seek to
16 compel contribution from the person; and

17

18 (ii) Implead any person that received a
19 distribution in violation of subsection (c) of this section
20 and seek to compel contribution from the person in the
21 amount the person received in violation of subsection (c)
22 of this section.

23

1 (e) An action under this section is barred if not
2 commenced within two (2) years after the distribution.

3
4 **17-29-407. Management of limited liability company.**

5
6 (a) A limited liability company is a member-managed
7 limited liability company unless the articles of
8 organization or the operating agreement:

9
10 (i) Expressly provides that:

11
12 (A) The company is or will be "manager-
13 managed";

14
15 (B) The company is or will be "managed by
16 managers"; or

17
18 (C) Management of the company is or will be
19 "vested in managers"; or

20
21 (ii) Includes words of similar import.

22
23 (b) In a member-managed limited liability company,

1 the following rules apply:

2

3 (i) The management and conduct of the company
4 are vested in the members;

5

6 (ii) Each member has equal rights in the
7 management and conduct of the company's activities;

8

9 (iii) A difference arising among members as to a
10 matter in the ordinary course of the activities of the
11 company may be decided by a majority of the members;

12

13 (iv) An act outside the ordinary course of the
14 activities of the company may be undertaken only with the
15 consent of all members;

16

17 (v) The operating agreement may be amended only
18 with the consent of all members.

19

20 (c) In a manager-managed limited liability company,
21 the following rules apply:

22

23 (i) Except as otherwise expressly provided in

1 this chapter, any matter relating to the activities of the
2 company is decided exclusively by the managers;

3

4 (ii) Each manager has equal rights in the
5 management and conduct of the activities of the company;

6

7 (iii) A difference arising among managers as to
8 a matter in the ordinary course of the activities of the
9 company may be decided by a majority of the managers;

10

11 (iv) The consent of all members is required to:

12

13 (A) Sell, lease, exchange or otherwise
14 dispose of all, or substantially all, of the company's
15 property, with or without the good will, outside the
16 ordinary course of the company's activities;

17

18 (B) Approve a merger, conversion,
19 continuance, transfer or domestication under article 10 of
20 this chapter;

21

22 (C) Undertake any other act outside the
23 ordinary course of the company's activities; and

1

2

(D) Amend the operating agreement.

3

4

(v) A manager may be chosen at any time by the consent of a majority of the members and remains a manager until a successor has been chosen, unless the manager at an earlier time resigns, is removed or dies, or, in the case of a manager that is not an individual, terminates. A manager may be removed at any time by the consent of a majority of the members without notice or cause;

11

12

(vi) A person need not be a member to be a manager, but the dissociation of a member that is also a manager removes the person as a manager. If a person that is both a manager and a member ceases to be a manager, that cessation does not by itself dissociate the person as a member;

18

19

(vii) A person's ceasing to be a manager does not discharge any debt, obligation or other liability to the limited liability company or members which the person incurred while a manager.

23

1 (d) An action requiring the consent of members under
2 this article may be taken without a meeting, and a member
3 may appoint a proxy or other agent to consent or otherwise
4 act for the member by signing an appointing record,
5 personally or by the member's agent.

6
7 (e) The dissolution of a limited liability company
8 does not affect the applicability of this section.
9 However, a person that wrongfully causes dissolution of the
10 company loses the right to participate in management as a
11 member and a manager.

12
13 (f) This article does not entitle a member to
14 remuneration for services performed for a member-managed
15 limited liability company, except for reasonable
16 compensation for services rendered in winding up the
17 activities of the company.

18
19 **17-29-408. Indemnification and insurance.**

20
21 (a) A limited liability company shall reimburse for
22 any payment made and indemnify for any debt, obligation or
23 other liability incurred by a member of a member-managed

1 company or the manager of a manager-managed company in the
2 course of the member's or manager's activities on behalf of
3 the company, if, in making the payment or incurring the
4 debt, obligation or other liability, the member or manager
5 complied with the duties stated in W.S. 17-29-405 and 17-
6 29-409.

7

8 (b) A limited liability company may purchase and
9 maintain insurance on behalf of a member or manager of the
10 company against liability asserted against or incurred by
11 the member or manager in that capacity or arising from that
12 status.

13

14 **17-29-409. Standards of conduct for members and**
15 **managers.**

16

17 (a) A member of a member-managed limited liability
18 company owes to the company and, subject to W.S. 17-29-
19 901(b), the other members the fiduciary duties of loyalty
20 and care stated in subsections (b) and (c).

21

22 (b) The duty of loyalty of a member in a member-
23 managed limited liability company includes the duties:

1

2 (i) To account to the company and to hold as
3 trustee for it any property, profit or benefit derived by
4 the member:

5

6 (A) In the conduct or winding up of the
7 company's activities;

8

9 (B) From a use by the member of the
10 company's property; or

11

12 (C) From the appropriation of a limited
13 liability company opportunity;

14

15 (ii) To refrain from dealing with the company in
16 the conduct or winding up of the company's activities as or
17 on behalf of a person having an interest adverse to the
18 company; and

19

20 (iii) To refrain from competing with the company
21 in the conduct of the company's activities before the
22 dissolution of the company.

23

1 (c) Subject to the business judgment rule, the duty
2 of care of a member of a member-managed limited liability
3 company in the conduct and winding up of the company's
4 activities is to act with the care that a person in a like
5 position would reasonably exercise under similar
6 circumstances and in a manner the member reasonably
7 believes to be in the best interests or at least not
8 opposed to the best interests of the company. In
9 discharging this duty, a member may rely in good faith upon
10 opinions, reports, statements or other information provided
11 by another person that the member reasonably believes is a
12 competent and reliable source for the information.

13

14 (d) A member in a member-managed limited liability
15 company or a manager-managed limited liability company
16 shall discharge the duties under this chapter or under the
17 operating agreement and exercise any rights consistently
18 with the contractual obligation of good faith and fair
19 dealing.

20

21 (e) It is a defense to a claim under subsection
22 (b)(ii) and any comparable claim in equity or at common law
23 that the transaction was fair to or at least not opposed to

1 the limited liability company.

2

3 (f) All of the members of a member-managed limited
4 liability company or a manager-managed limited liability
5 company may authorize or ratify, after full disclosure of
6 all material facts, a specific act or transaction that
7 otherwise would violate the duty of loyalty.

8

9 (g) In a manager-managed limited liability company,
10 the following rules apply:

11

12 (i) Subsections (a), (b), (c) and (e) of this
13 section apply to the manager or managers and not the
14 members.

15

16 (ii) The duty stated under subsection (b)(iii)
17 of this section continues until winding up is completed.

18

19 (iii) Subsection (d) of this section applies to
20 the members and managers.

21

22 (iv) Subsection (f) of this section applies only
23 to the members.

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23

(v) A member does not have any fiduciary duty to the company or to any other member solely by reason of being a member.

17-29-410. Right of members, managers, and dissociated members to information.

(a) In a member-managed limited liability company, the following rules apply:

(i) On reasonable notice, a member may inspect and copy during regular business hours, at a reasonable location specified by the company, any record maintained by the company regarding the company's activities, financial condition and other circumstances, to the extent the information is material to the member's rights and duties under the operating agreement or this chapter.

(ii) The company shall furnish to each member:

(A) On demand, any information concerning the company's activities, financial condition and other

1 circumstances which the company knows and is material to
2 the proper exercise of the member's rights and duties
3 under the operating agreement or this chapter, except to
4 the extent the company can establish that it reasonably
5 believes the member already knows the information; and

6

7 (B) On demand, any other information
8 concerning the company's activities, financial condition
9 and other circumstances, except to the extent the demand or
10 information demanded is unreasonable or otherwise improper
11 under the circumstances.

12

13 (iii) The duty to furnish information under
14 paragraph (ii) of this subsection also applies to each
15 member to the extent the member knows any of the
16 information described in paragraph (ii) of this subsection.

17

18 (b) In a manager-managed limited liability company,
19 the following rules apply:

20

21 (i) The informational rights stated in
22 subsection (a) of this section and the duty stated in
23 subsection (a)(iii) of this section apply to the managers

1 and not the members.

2

3 (ii) During regular business hours and at a
4 reasonable location specified by the company, a member may
5 obtain from the company and inspect and copy full
6 information regarding the activities, financial condition
7 and other circumstances of the company as is just and
8 reasonable if:

9

10 (A) The member seeks the information for a
11 purpose material to the member's interest as a member;

12

13 (B) The member makes a demand in a record
14 received by the company, describing with reasonable
15 particularity the information sought and the purpose for
16 seeking the information; and

17

18 (C) The information sought is directly
19 connected to the member's purpose.

20

21 (iii) Within ten (10) days after receiving a
22 demand pursuant to paragraph (ii)(B) of this subsection,
23 the company shall in a record inform the member that made

1 the demand:

2

3 (A) Of the information that the company
4 will provide in response to the demand and when and where
5 the company will provide the information; and

6

7 (B) If the company declines to provide any
8 demanded information, the company's reasons for declining.

9

10 (iv) Whenever this chapter or an operating
11 agreement provides for a member to give or withhold consent
12 to a matter, before the consent is given or withheld, the
13 company shall, upon demand, provide the member with all
14 information that is known to the company and is material to
15 the member's decision.

16

17 (c) On ten (10) days' demand made in a record
18 received by a limited liability company, a dissociated
19 member may have access to information to which the person
20 was entitled while a member if the information pertains to
21 the period during which the person was a member, the person
22 seeks the information in good faith and the person
23 satisfies the requirements imposed on a member by

1 subsection (b)(ii) of this section. The company shall
2 respond to a demand made pursuant to this subsection in the
3 manner provided in subsection (b)(iii) of this section.

4

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

8

9 (e) A member or dissociated member may exercise
10 rights under this section through an agent or, in the case
11 of an individual under legal disability, a legal
12 representative. Any restriction or condition imposed by
13 the operating agreement or under subsection (g) of this
14 section applies both to the agent or legal representative
15 and the member or dissociated member.

16

17 (f) The rights under this section do not extend to a
18 person as transferee.

19

20 (g) In addition to any restriction or condition
21 stated in its operating agreement, a limited liability
22 company, as a matter within the ordinary course of its
23 activities, may impose reasonable restrictions and

1 conditions on access to and use of information to be
2 furnished under this section, including designating
3 information confidential and imposing nondisclosure and
4 safeguarding obligations on the recipient. In a dispute
5 concerning the reasonableness of a restriction under this
6 subsection, the company has the burden of proving
7 reasonableness.

8

9

ARTICLE 5

10

TRANSFERABLE INTERESTS AND RIGHTS OF TRANSFEREES

11

AND CREDITORS

12

13

17-29-501. Nature of transferable interest.

14

15 A transferable interest is personal property.

16

17

17-29-502. Transfer of transferable interest.

18

19 (a) A transfer, in whole or in part, of a
20 transferable interest:

21

22

(i) Is permissible;

23

1 (ii) Except as otherwise provided in this
2 chapter, does not by itself cause a member's dissociation
3 or a dissolution and winding up of the limited liability
4 company's activities; and

5
6 (iii) Subject to W.S. 17-29-504, does not
7 entitle the transferee to:

8
9 (A) Participate in the management or
10 conduct of the company's activities; or

11
12 (B) Except as otherwise provided in
13 subsection (c) of this section, have access to records or
14 other information concerning the company's activities.

15
16 (b) A transferee has the right to receive, in
17 accordance with the transfer, distributions to which the
18 transferor would otherwise be entitled.

19
20 (c) In a dissolution and winding up of a limited
21 liability company, a transferee is entitled to an account
22 of the company's transactions only from the date of
23 dissolution.

1

2 (d) A transferable interest may be evidenced by a
3 certificate of the interest issued by the limited liability
4 company in a record, and, subject to this section, the
5 interest represented by the certificate may be transferred
6 by a transfer of the certificate.

7

8 (e) A limited liability company need not give effect
9 to a transferee's rights under this section until the
10 company has notice of the transfer.

11

12 (f) A transfer of a transferable interest in
13 violation of a restriction on transfer contained in the
14 operating agreement is ineffective as to a person having
15 notice of the restriction at the time of transfer.

16

17 (g) Except as otherwise provided in W.S. 17-29-
18 602(a)(iv)(B), when a member transfers a transferable
19 interest, the transferor retains the rights of a member
20 other than the interest in distributions transferred and
21 retains all duties and obligations of a member.

22

23 (h) When a member transfers a transferable interest

1 to a person that becomes a member with respect to the
2 transferred interest, the transferee is liable for the
3 member's obligations under W.S. 17-29-403 and 17-29-406(c)
4 known to the transferee when the transferee becomes a
5 member.

6

7 **17-29-503. Charging order.**

8

9 (a) On application by a judgment creditor of a member
10 or transferee, a court may enter a charging order against
11 the transferable interest of the judgment debtor for the
12 unsatisfied amount of the judgment. A charging order
13 requires the limited liability company to pay over to the
14 person to which the charging order was issued any
15 distribution that would otherwise be paid to the judgment
16 debtor.

17

18 (b) Reserved.

19

20 (c) Reserved.

21

22 (d) The member or transferee whose transferable
23 interest is subject to a charging order under subsection

1 (a) of this section may extinguish the charging order by
2 satisfying the judgment and filing a certified copy of the
3 satisfaction with the court that issued the charging order.
4

5 (e) A limited liability company or one (1) or more
6 members whose transferable interests are not subject to the
7 charging order may pay to the judgment creditor the full
8 amount due under the judgment and thereby succeed to the
9 rights of the judgment creditor, including the charging
10 order.
11

12 (f) This article does not deprive any member or
13 transferee of the benefit of any exemption laws applicable
14 to the member's or transferee's transferable interest.
15

16 (g) This section provides the exclusive remedy by
17 which a person seeking to enforce a judgment against a
18 judgment debtor, including any judgment debtor who may be
19 the sole member, dissociated member or transferee, may, in
20 the capacity of the judgment creditor, satisfy the judgment
21 from the judgment debtor's transferable interest. Other
22 remedies, including foreclosure on the judgment debtor's
23 limited liability interest and a court order for

1 directions, accounts and inquiries that the judgment debtor
2 might have made are not available to the judgment creditor
3 attempting to satisfy a judgment out of the judgment
4 debtor's interest in the limited liability company and may
5 not be ordered by the court.

6
7 ***** Staff note: Subsection 503(g) above contains some**
8 **Wyoming home cooking and also incorporates language from**
9 **Alaska and South Dakota statutes. *****

10
11 **17-29-504. Power of personal representative of**
12 **deceased member.**

13
14 If a member dies, the deceased member's personal
15 representative or other legal representative may exercise
16 the rights of a transferee provided in W.S. 17-29-502(c)
17 and, for the purposes of settling the estate, the rights of
18 a current member under W.S. 17-29-410.

19
20 ARTICLE 6

21 MEMBER'S DISSOCIATION

22
23 **17-29-601. Member's power to dissociate; wrongful**
24 **dissociation.**

25

1 (a) A person has the power to dissociate as a member
2 at any time, rightfully or wrongfully, by withdrawing as a
3 member by express will under W.S. 17-29-602(a)(i).

4
5 (b) A person's dissociation from a limited liability
6 company is wrongful only if the dissociation:

7
8 (i) Is in breach of an express provision of the
9 operating agreement; or

10
11 (ii) Occurs before the termination of the
12 company and:

13
14 (A) The person is expelled as a member by
15 judicial order under W.S. 17-29-602(a)(v); or

16
17 (B) The person is dissociated under W.S.
18 17-29-602(a)(vii)(A) by becoming a debtor in bankruptcy.

19
20 (c) A person that wrongfully dissociates as a member
21 is liable to the limited liability company and, subject to
22 W.S. 17-29-901, to the other members for damages caused by
23 the dissociation. The liability is in addition to any

1 other debt, obligation or other liability of the member to
2 the company or the other members.

3

4 **17-29-602. Events causing dissociation.**

5

6 (a) A person is dissociated as a member from a
7 limited liability company when:

8

9 (i) The company has notice of the person's
10 express will to withdraw as a member, but, if the person
11 specified a withdrawal date later than the date the company
12 had notice, on that later date;

13

14 (ii) An event stated in the operating agreement
15 as causing the person's dissociation occurs;

16

17 (iii) The person is expelled as a member
18 pursuant to the operating agreement;

19

20 (iv) The person is expelled as a member by the
21 unanimous consent of the other members if:

22

23 (A) It is unlawful to carry on the

1 company's activities with the person as a member;

2

3 (B) There has been a transfer of all of the
4 person's transferable interest in the company, other than:

5

6 (1) A transfer for security purposes;

7 or

8

9 (2) A charging order in effect under
10 W.S. 17-29-503.

11

12 (C) The person is an entity as defined in
13 W.S. 17-16-140(a)(xiii) and, within ninety (90) days after
14 the company notifies the person that it will be expelled as
15 a member because the person has filed articles of
16 dissolution or the equivalent, its charter has been
17 revoked, or its right to conduct business has been
18 suspended by the jurisdiction of its incorporation, the
19 articles of dissolution has not been revoked or its charter
20 or right to conduct business has not been reinstated; or

21

22 (D) The person is some other entity not
23 described in subparagraph (C) of this paragraph that has

1 been dissolved and whose business is being wound up.

2

3 (v) On application by the company, the person is
4 expelled as a member by judicial order because the person:

5

6 (A) Has engaged, or is engaging, in
7 wrongful conduct that has adversely and materially
8 affected, or will adversely and materially affect, the
9 company's activities;

10

11 (B) Has willfully or persistently
12 committed, or is willfully and persistently committing, a
13 material breach of the operating agreement or the person's
14 duties or obligations under W.S. 17-29-409; or

15

16 (C) Has engaged in, or is engaging, in
17 conduct relating to the company's activities which makes it
18 not reasonably practicable to carry on the activities with
19 the person as a member.

20

21 (vi) In the case of a person who is an
22 individual:

23

1 (A) The person dies; or

2

3 (B) In a member-managed limited liability
4 company:

5

6 (1) A guardian or general conservator
7 for the person is appointed; or

8

9 (2) There is a judicial order that the
10 person has otherwise become incapable of performing the
11 person's duties as a member under this chapter or the
12 operating agreement;

13

14 (vii) In a member-managed limited liability
15 company, the person:

16

17 (A) Becomes a debtor in bankruptcy;

18

19 (B) Executes an assignment for the benefit
20 of creditors; or

21

22 (C) Seeks, consents to or acquiesces in the
23 appointment of a trustee, receiver or liquidator of the

1 person or of all or substantially all of the person's
2 property;

3

4 (viii) In the case of a person that is a trust
5 or is acting as a member by virtue of being a trustee of a
6 trust, the trust's entire transferable interest in the
7 company is distributed;

8

9 (ix) In the case of a person that is an estate
10 or is acting as a member by virtue of being a personal
11 representative of an estate, the estate's entire
12 transferable interest in the company is distributed;

13

14 (x) In the case of a member that is not an
15 individual, partnership, limited liability company,
16 corporation, trust or estate, the termination of the
17 member;

18

19 (xi) The company participates in a merger under
20 article 10 of this chapter, if:

21

22 (A) The company is not the surviving
23 entity; or

1

2

(B) Otherwise as a result of the merger,

3

the person ceases to be a member;

4

5

(xii) The company participates in a conversion

6

under article 10 of this chapter;

7

8

(xiii) The company participates in a

9

continuance, transfer or domestication under article 10 of

10

this chapter, if, as a result of the continuance, transfer

11

or domestication, the person ceases to be a member; or

12

13

(xiv) The company terminates.

14

15

17-29-603. Effect of person's dissociation as member.

16

17

(a) When a person is dissociated as a member of a

18

limited liability company:

19

20

(i) The person's right to participate as a

21

member in the management and conduct of the company's

22

activities terminates;

23

1 (ii) If the company is member-managed, the
2 person's fiduciary duties as a member end with regard to
3 matters arising and events occurring after the person's
4 dissociation; and

5
6 (iii) Subject to W.S. 17-29-504 and article 10
7 of this chapter, any transferable interest owned by the
8 person immediately before dissociation in the person's
9 capacity as a member is owned by the person solely as a
10 transferee.

11
12 (b) A person's dissociation as a member of a limited
13 liability company does not of itself discharge the person
14 from any debt, obligation or other liability to the company
15 or the other members which the person incurred while a
16 member.

17
18 ***** Staff note: The working group discussed**
19 **incorporating W.S. 17-21-701 to set values and allow forced**
20 **buy outs but chose not to recommend it. The problem is**
21 **that under Internal Revenue Code section 2704, if a state**
22 **has a forced buyout provision, the value is set at the**
23 **statutory amount for tax purposes regardless of what the**
24 **operating agreement says. In addition, a forced buyout**
25 **without discounts could endanger the health of the**
26 **remaining company. *****

27

1

CHAPTER 7

2

DISSOLUTION AND WINDING UP

3

4

17-29-701. Events causing dissolution.

5

6

(a) A limited liability company is dissolved, and its activities must be wound up, upon the occurrence of any of the following:

8

9

10

(i) An event or circumstance that the operating agreement or articles of organization states causes dissolution;

11

12

13

14

(ii) The consent of all the members;

15

16

(iii) The passage of ninety (90) consecutive days during which the company has no members;

17

18

19

(iv) On application by a member, the entry of a court order dissolving the company on the grounds that:

20

21

22

(A) The conduct of all or substantially all of the company's activities is unlawful; or

23

1

2

(B) It is not reasonably practicable to carry on the company's activities in conformity with the articles of organization and the operating agreement; or

5

6

(v) On application by a member or dissociated member, the entry of a court order dissolving the company on the grounds that the managers or those members in control of the company:

10

11

(A) Have acted, are acting, or will act in a manner that is illegal or fraudulent; or

13

14

(B) Have acted or are acting in a manner that is oppressive and was, is, or will be directly harmful to the applicant.

17

18

(b) In a proceeding brought under subsection (a)(v) of this section, the court may order a remedy other than dissolution.

21

22

17-29-702. Winding up.

23

1 (a) A dissolved limited liability company shall wind
2 up its activities and the company continues after
3 dissolution only for the purpose of winding up.

4
5 (b) In winding up its activities, a limited liability
6 company:

7
8 (i) Shall discharge the company's debts,
9 obligations, or other liabilities, settle and close the
10 company's activities and marshal and distribute the assets
11 of the company; and

12
13 (ii) May:

14
15 (A) Deliver to the secretary of state for
16 filing articles of dissolution stating the name of the
17 company and that the company is dissolved;

18
19 (B) Preserve the company activities and
20 property as a going concern for a reasonable time;

21
22 (C) Prosecute and defend actions and
23 proceedings, whether civil, criminal or administrative;

1

2

(D) Transfer the company's property;

3

4

5

(E) Settle disputes by mediation or arbitration;

6

7

(F) Reserved; and

8

9

10

(G) Perform other acts necessary or appropriate to the winding up.

11

12

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23

(c) If a dissolved limited liability company has no members, the legal representative of the last person to have been a member may wind up the activities of the company. If the person does so, the person has the powers of a sole manager under 17-29-407(c) and is deemed to be a manager for the purposes of 17-29-304(a)(ii).

(d) If the legal representative under subsection (c) of this section declines or fails to wind up the company's activities, a person may be appointed to do so by the consent of transferees owning a majority of the rights to receive distributions as transferees at the time the

1 consent is to be effective. A person appointed under this
2 subsection:

3

4 (i) Has the powers of a sole manager under 17-
5 29-407(c) and is deemed to be a manager for the purposes of
6 17-29-304(a)(ii); and

7

8 (ii) Shall promptly deliver to the secretary of
9 state for filing an amendment to the company's articles of
10 organization to:

11

12 (A) State that the company has no members;

13

14 (B) State that the person has been
15 appointed pursuant to this subsection to wind up the
16 company; and

17

18 (C) Provide the street and mailing
19 addresses of the person.

20

21 (e) A court may order judicial supervision of
22 the winding up of a dissolved limited liability company,
23 including the appointment of a person to wind up the

1 company's activities:

2

3 (i) On application of a member, if the
4 applicant establishes good cause;

5

6 (ii) On the application of a transferee,
7 if:

8

9 (A) The company does not have any
10 members;

11

12 (B) The legal representative of the
13 last person to have been a member declines or fails to wind
14 up the company's activities; and

15

16 (C) Within a reasonable time following
17 the dissolution a person has not been appointed pursuant to
18 subsection (c) of this section; or

19

20 (iii) In connection with a proceeding under
21 W.S. 17-29-701(a)(iv) or (v).

22

23 **17-29-703. Known claims against dissolved limited**

1 **liability company.**

2

3 (a) Except as otherwise provided in subsection (d) of
4 this section, a dissolved limited liability company may
5 give notice of a known claim under subsection (b) of this
6 section, which has the effect as provided in subsection (c)
7 of this section.

8

9 (b) A dissolved limited liability company may in a
10 record notify its known claimants of the dissolution. The
11 notice shall:

12

13 (i) Specify the information required to be
14 included in a claim;

15

16 (ii) Provide a mailing address to which the
17 claim is to be sent;

18

19 (iii) State the deadline for receipt of the
20 claim, which may not be less than one hundred twenty (120)
21 days after the date the notice is received by the claimant;
22 and

23

1 (iv) State that the claim will be barred if not
2 received by the deadline.

3

4 (c) A claim against a dissolved limited liability
5 company is barred if the requirements of subsection (b) of
6 this section are met and:

7

8 (i) The claim is not received by the specified
9 deadline; or

10

11 (ii) If the claim is timely received but
12 rejected by the company:

13

14 (A) The company causes the claimant to
15 receive a notice in a record stating that the claim is
16 rejected and will be barred unless the claimant commences
17 an action against the company to enforce the claim within
18 ninety (90) days after the claimant receives the notice;
19 and

20

21 (B) The claimant does not commence the
22 required action within the ninety (90) days.

23

1 (d) This section does not apply to a claim based on
2 an event occurring after the effective date of dissolution
3 or a liability that on that date is contingent.

4
5 **17-29-704. Other claims against dissolved limited**
6 **liability company.**

7
8 (a) A dissolved limited liability company may publish
9 notice of its dissolution and request persons having claims
10 against the company to present them in accordance with the
11 notice.

12
13 (b) The notice authorized by subsection (a) of this
14 section shall:

15
16 (i) Be published at least once in a newspaper of
17 general circulation in the county in this state in which
18 the dissolved limited liability company's principal office
19 is located or, if it has none in this state, in the county
20 in which the company's designated office is or was last
21 located;

22
23 (ii) Describe the information required to be

1 contained in a claim and provide a mailing address to which
2 the claim is to be sent; and

3

4 (iii) State that a claim against the company is
5 barred unless an action to enforce the claim is commenced
6 within three (3) years after publication of the notice.

7

8 (c) If a dissolved limited liability company
9 publishes a notice in accordance with subsection (b) of
10 this section, unless the claimant commences an action to
11 enforce the claim against the company within three (3)
12 years after the publication date of the notice, the claim
13 of each of the following claimants is barred:

14

15 (i) A claimant that did not receive notice in a
16 record under W.S. 17-29-703;

17

18 (ii) A claimant whose claim was timely sent to
19 the company but not acted on; and

20

21 (iii) A claimant whose claim is contingent at,
22 or based on an event occurring after, the effective date of
23 dissolution.

1

2 (d) A claim not barred under this section or W.S. 17-
3 29-703(c) may be enforced:

4

5 (i) Against a dissolved limited liability
6 company, to the extent of its undistributed assets; and

7

8 (ii) If assets of the company have been
9 distributed after dissolution, against a member or
10 transferee to the extent of that person's proportionate
11 share of the claim or of the assets distributed to the
12 member or transferee after dissolution, whichever is less,
13 but a person's total liability for all claims under this
14 paragraph does not exceed the total amount of assets
15 distributed to the person after dissolution.

16

17 **17-29-705. Administrative forfeiture of authority**
18 **and articles of organization.**

19

20 (a) If any limited liability company's registered
21 agent has filed its resignation with the secretary of state
22 and the limited liability company has not replaced its
23 registered agent and registered office it shall be deemed

1 to be transacting business within this state without
2 authority and to have forfeited any franchises, rights or
3 privileges acquired under the laws thereof and the
4 forfeiture shall be made effective in the following manner.
5 The secretary of state shall mail by certified mail a
6 notice of its failure to comply with aforesaid provisions.
7 Unless compliance is made within sixty (60) days of the
8 delivery of notice, the limited liability company shall be
9 deemed defunct and to have forfeited its articles of
10 organization acquired under the laws of this state.
11 Provided, that any defunct limited liability company may at
12 any time within two (2) years after the forfeiture of its
13 articles of organization or certificate of authority, in
14 the manner herein provided, be revived and reinstated, by
15 filing the necessary statement under this act and paying a
16 reinstatement fee established by the secretary of state by
17 rule, together with a penalty of two hundred fifty dollars
18 (\$250.00). The reinstatement fee shall not exceed the costs
19 of providing the reinstatement service. The limited
20 liability company shall retain its registered name during
21 the two (2) year reinstatement period under this section.
22

1 (b) If any limited liability company has failed to
2 pay the fee required by W.S. 17-29-210 it shall be deemed
3 to be transacting business within this state without
4 authority and to have forfeited any franchises, rights or
5 privileges acquired under the laws thereof. The forfeiture
6 shall be made effective in the following manner. The
7 secretary of state shall provide notice to the limited
8 liability company at its last known mailing address by
9 first class mail. Unless compliance is made within sixty
10 (60) days of the date of notice the limited liability
11 company shall be deemed defunct and to have forfeited its
12 articles of organization or certificate of authority
13 acquired under the laws of this state. Provided, that any
14 defunct limited liability company may at any time within
15 two (2) years after the forfeiture of its articles of
16 organization or certificate of authority, be revived and
17 reinstated by paying double the amount of the delinquent
18 fees. When the reinstatement is effective, it relates back
19 to and takes effect as of the effective date deemed defunct
20 pursuant to this subsection and the limited liability
21 company resumes carrying on its business as if it had never
22 been deemed defunct.

23

1 (c) A limited liability company shall be deemed to be
2 transacting business within this state without authority,
3 to have forfeited any franchises, rights or privileges
4 acquired under the laws thereof and shall be deemed defunct
5 and to have forfeited its articles of organization or
6 certificate of authority acquired under the laws of this
7 state, and the forfeiture shall be made effective in the
8 manner provided in subsection (a) of this section, if:

9
10 (i) A member of the limited liability company
11 signed a document he knew was false in any material respect
12 with intent that the document be delivered to the secretary
13 of state for filing;

14
15 (ii) The limited liability company has failed to
16 respond to a valid and enforceable subpoena; or

17
18 (iii) It is in the public interest and the
19 limited liability company or any of its members:

20
21 (A) Failed to provide records to the
22 registered agent as required in this chapter;

23

1 (B) Has provided fraudulent information or
2 has failed to correct false information upon request of the
3 secretary of state on any filing with the secretary of
4 state under this chapter; or

5

6 (C) Cannot be served by either the
7 registered agent or by mail by the secretary of state
8 acting as the agent for process.

9

10 (d) The secretary of state may classify a limited
11 liability company as delinquent awaiting forfeiture of its
12 articles of organization or certificate of authority at the
13 time the secretary of state mails the notice required under
14 subsections (a) through (c) of this section to the limited
15 liability company.

16

17 (e) In addition to the other provisions of this
18 section, if any low profit limited liability company has
19 ceased to meet the definition of a low profit limited
20 liability company as provided in W.S. 17-29-102(a)(ix) and
21 has failed for thirty (30) days after ceasing to meet the
22 definition to file an amendment to its articles of
23 organization with the secretary of state amending its name

1 to conform with the requirements of W.S. 17-29-108, it
2 shall be deemed to be transacting business in this state
3 without authority and to have forfeited any franchises,
4 rights or privileges acquired under the laws thereof and
5 the forfeiture shall be made effective in the same manner
6 as provided in subsection (a) of this section. The
7 reinstatement provisions and fees provided in subsection
8 (a) of this section shall apply.

9

10 ***** Staff note: The working group recommended**
11 **retaining current Wyoming law (former W.S. 17-15-112) for**
12 **sections 705 through 707. *****
13

14 **17-29-706. Reserved.**

15

16 **17-29-707. Reserved.**

17

18 **17-29-708. Distribution of assets in winding up**
19 **limited liability company's activities.**

20

21 (a) In winding up its activities, a limited liability
22 company shall apply its assets to discharge its obligations
23 to creditors, including members that are creditors.

24

25 (b) After a limited liability company complies with

1 subsection (a) of this section, any surplus shall be
2 distributed in the following order, subject to any charging
3 order in effect under W.S. 17-29-503:

4

5 (i) To each person owning a transferable
6 interest that reflects contributions made by a member and
7 not previously returned, an amount equal to the value of
8 the unreturned contributions; and

9

10 (ii) In equal shares among members and
11 dissociated members, except to the extent necessary to
12 comply with any transfer effective under W.S. 17-29-502.

13

14 (c) If a limited liability company does not have
15 sufficient surplus to comply with subsection (b)(i) of this
16 section, any surplus shall be distributed among the owners
17 of transferable interests in proportion to the value of
18 their respective unreturned contributions.

19

20 (d) All distributions made under subsections (b) and
21 (c) of this section shall be paid in money.

22

23

CHAPTER 8

1

RESERVED

2

3

***** Staff note: Foreign limited liability companies are already dealt with adequately in W.S. 17-16-1533 and the working group recommends not adopting the Uniform Act provisions pertaining to them. *****

6

7

8

CHAPTER 9

9

ACTIONS BY MEMBERS

10

11

17-29-901. Direct action by member.

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25

(a) Subject to subsection (b) of this section, a member may maintain a direct action against another member, a manager or the limited liability company to enforce the member's rights and otherwise protect the member's interests, including rights and interests under the operating agreement or this chapter or arising independently of the membership relationship.

(b) A member maintaining a direct action under this section shall plead and prove an actual or threatened injury that is not solely the result of an injury suffered or threatened to be suffered by the limited liability company.

1

2 **17-29-902. Derivative action.**

3

4 (a) A member may maintain a derivative action to
5 enforce a right of a limited liability company if:

6

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

14

15 (ii) A demand under paragraph (i) of this
16 subsection would be futile.

17

18 **17-29-903. Proper plaintiff.**

19

20 (a) Except as otherwise provided in subsection (b) of
21 this section, a derivative action under W.S. 17-29-902 may
22 be maintained only by a person that is a member at the time
23 the action is commenced and remains a member while the

1 action continues.

2

3 (b) If the sole plaintiff in a derivative action dies
4 while the action is pending, the court may permit another
5 member of the limited liability company to be substituted
6 as plaintiff.

7

8 **17-29-904. Pleading.**

9

10 (a) In a derivative action under W.S. 17-29-902, the
11 complaint shall state with particularity:

12

13 (i) The date and content of plaintiff's demand
14 and the response to the demand by the managers or other
15 members; or

16

17 (ii) If a demand has not been made, the reasons
18 a demand under W.S. 17-29-902(a)(i) would be futile.

19

20 **17-29-905. Special litigation committee.**

21

22 (a) If a limited liability company is named as or
23 made a party in a derivative proceeding, the company may

1 appoint a special litigation committee to investigate the
2 claims asserted in the proceeding and determine whether
3 pursuing the action is in the best interests of the
4 company. If the company appoints a special litigation
5 committee, on motion by the committee made in the name of
6 the company, except for good cause shown, the court shall
7 stay discovery for the time reasonably necessary to permit
8 the committee to make its investigation. This subsection
9 does not prevent the court from enforcing a person's right
10 to information under W.S. 17-29-410 or, for good cause
11 shown, granting extraordinary relief in the form of a
12 temporary restraining order or preliminary injunction.

13

14 (b) A special litigation committee may be composed of
15 one (1) or more disinterested and independent individuals,
16 who may be members.

17

18 (c) A special litigation committee may be appointed:

19

20 (i) In a member-managed limited liability
21 company:

22

23 (A) By the consent of a majority of the

1 members not named as defendants or plaintiffs in the
2 proceeding; and

3

4 (B) If all members are named as defendants
5 or plaintiffs in the proceeding, by a majority of the
6 members named as defendants; or

7

8 (ii) In a manager-managed limited liability
9 company:

10

11 (A) By a majority of the managers not named
12 as defendants or plaintiffs in the proceeding; and

13

14 (B) If all managers are named as defendants
15 or plaintiffs in the proceeding, by a majority of the
16 managers named as defendants.

17

18 (d) After appropriate investigation, a special
19 litigation committee may determine that it is in the best
20 interests of the limited liability company that the
21 proceeding:

22

23 (i) Continue under the control of the

1 plaintiff;

2

3 (ii) Continue under the control of the
4 committee;

5

6 (iii) Be settled on terms approved by the
7 committee; or

8

9 (iv) Be dismissed.

10

11 (e) After making a determination under subsection (d)
12 of this section, a special litigation committee shall file
13 with the court a statement of its determination and its
14 report supporting its determination, giving notice to the
15 plaintiff. The court shall determine whether the members
16 of the committee were disinterested and independent and
17 whether the committee conducted its investigation and made
18 its recommendation in good faith, independently and with
19 reasonable care, with the committee having the burden of
20 proof. If the court finds that the members of the
21 committee were disinterested and independent and that the
22 committee acted in good faith, independently and with
23 reasonable care, the court shall enforce the determination

1 of the committee. Otherwise, the court shall dissolve the
2 stay of discovery entered under subsection (a) of this
3 section and allow the action to proceed under the direction
4 of the plaintiff.

5

6 **17-29-906. Proceeds and expenses.**

7

8 (a) Except as otherwise provided in subsection (b) of
9 this section:

10

11 (i) Any proceeds or other benefits of a
12 derivative action under W.S. 17-29-902, whether by
13 judgment, compromise or settlement, belong to the limited
14 liability company and not to the plaintiff; and

15

16 (ii) If the plaintiff receives any proceeds, the
17 plaintiff shall remit them immediately to the company.

18

19 (b) If a derivative action under W.S. 17-29-902 is
20 successful in whole or in part, the court may award the
21 plaintiff reasonable expenses, including reasonable
22 attorney's fees and costs, from the recovery of the limited
23 liability company.

1

2

CHAPTER 10

3

MERGER, CONVERSION, CONTINUANCE, TRANSFER AND DOMESTICATION

4

5

17-29-1001. Definitions.

6

7

(a) As used in this chapter:

8

9

(i) "Constituent limited liability company"

10 means a constituent organization that is a limited

11 liability company;

12

13

(ii) "Constituent organization" means an

14 organization that is party to a merger;

15

16

(iii) "Converted organization" means the

17 organization into which a converting organization converts

18 pursuant to W.S. 17-29-1006;

19

20

(iv) "Converting limited liability company"

21 means a converting organization that is a limited liability

22 company;

23

1 (v) "Converting organization" means an
2 organization that converts into another organization
3 pursuant to W.S. 17-29-1006;

4

5 (vi) "Governing statute" means the statute that
6 governs an organization's internal affairs;

7

8 (vii) "Organization" means a general
9 partnership, including a limited liability partnership,
10 limited partnership, including a limited liability limited
11 partnership, limited liability company, business trust,
12 statutory trust, corporation or any other person having a
13 governing statute. The term includes a domestic or foreign
14 organization regardless of whether organized for profit;

15

16 (viii) "Organizational documents" means:

17

18 (A) For a domestic or foreign general
19 partnership, its partnership agreement;

20

21 (B) For a limited partnership or foreign
22 limited partnership, its certificate of limited partnership
23 and partnership agreement;

1

2 (C) For a domestic or foreign limited
3 liability company, its certificate or articles of
4 organization and operating agreement, or comparable records
5 as provided in its governing statute;

6

7 (D) For a business or statutory trust, its
8 agreement of trust, declaration of trust or certificate of
9 trust;

10

11 (E) For a domestic or foreign corporation
12 for profit, its articles of incorporation, bylaws and other
13 agreements among its shareholders which are authorized by
14 its governing statute or comparable records as provided in
15 its governing statute; and

16

17 (F) For any other organization, the basic
18 records that create the organization and determine its
19 internal governance and the relations among the persons
20 that own it, have an interest in it or are members of it.

21

22 (ix) "Personal liability" means liability for a
23 debt, obligation or other liability of an organization

1 which is imposed on a person that co-owns, has an interest
2 in or is a member of the organization:

3

4 (A) By the governing statute solely by
5 reason of the person co-owning, having an interest in or
6 being a member of the organization; or

7

8 (B) By the organization's organizational
9 documents under a provision of the governing statute
10 authorizing those documents to make one or more specified
11 persons liable for all or specified debts, obligations or
12 other liabilities of the organization solely by reason of
13 the person or persons co-owning, having an interest in or
14 being a member of the organization.

15

16 (x) "Surviving organization" means an
17 organization into which one or more other organizations are
18 merged whether the organization preexisted the merger or
19 was created by the merger.

20

21 **17-29-1002. Merger.**

22

23 (a) A limited liability company may merge with one

1 (1) or more other constituent organizations pursuant to
2 this section, W.S. 17-29-1003 through 17-29-1005 and a plan
3 of merger, if:

4
5 (i) The governing statute of each of the other
6 organizations authorizes the merger;

7
8 (ii) The merger is not prohibited by the law of
9 a jurisdiction that enacted any of the governing statutes;

10
11 (iii) Each of the other organizations complies
12 with its governing statute in effecting the merger; and

13
14 (iv) No member of a domestic limited liability
15 company that is a party to the merger will, as a result of
16 the merger, become personally liable for the liabilities or
17 obligations of any other person or entity unless that
18 member approves the plan of merger and otherwise consents
19 to becoming personally liable.

20
21 (b) A plan of merger shall be in a record and shall
22 include:

23

1 (i) The name and form of each constituent
2 organization;

3

4 (ii) The name and form of the surviving
5 organization and, if the surviving organization is to be
6 created by the merger, a statement to that effect;

7

8 (iii) The terms and conditions of the merger,
9 including the manner and basis for converting the interests
10 in each constituent organization into any combination of
11 money, interests in the surviving organization or other
12 consideration;

13

14 (iv) If the surviving organization is to be
15 created by the merger, the surviving organization's
16 organizational documents that are proposed to be in a
17 record; and

18

19 (v) If the surviving organization is not to be
20 created by the merger, any amendments to be made by the
21 merger to the surviving organization's organizational
22 documents that are, or are proposed to be, in a record.

23

1 **17-29-1003. Action on plan of merger by constituent**
2 **limited liability company.**

3

4 (a) Subject to W.S. 17-29-1014, a plan of merger
5 shall be consented to by all the members of a constituent
6 limited liability company.

7

8 (b) Subject to W.S. 17-29-1014 and any contractual
9 rights, after a merger is approved, and at any time before
10 articles of merger are delivered to the secretary of state
11 for filing under W.S. 17-29-1004, a constituent limited
12 liability company may amend the plan or abandon the merger:

13

14 (i) As provided in the plan; or

15

16 (ii) Except as otherwise prohibited in the plan,
17 with the same consent as was required to approve the plan.

18

19 **17-29-1004. Filings required for merger; effective**
20 **date.**

21

22 (a) After each constituent organization has approved
23 a merger, articles of merger shall be signed on behalf of:

1

2 (i) Each domestic constituent limited liability

3 company, as provided in W.S. 17-29-203(a); and

4

5 (ii) Each other constituent organization, as

6 provided in its governing statute.

7

8 (b) Articles of merger under this section shall

9 include:

10

11 (i) The name and form of each constituent

12 organization and the jurisdiction of its governing statute;

13

14 (ii) The name and form of the surviving

15 organization, the jurisdiction of its governing statute

16 and, if the surviving organization is created by the

17 merger, a statement to that effect;

18

19 (iii) The date the merger is effective under the

20 governing statute of the surviving organization;

21

22 (iv) If the surviving organization is to be

23 created by the merger:

1

2

(A) If it will be a limited liability company, the company's articles of organization; or

4

5

(B) If it will be an organization other than a limited liability company, the organizational document that creates the organization that is in a public record;

9

10

(v) If the surviving organization preexists the merger, any amendments provided for in the plan of merger for the organizational document that created the organization that are in a public record;

14

15

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

18

19

(vii) If the surviving organization is a foreign organization not authorized to transact business in this state, the street and mailing addresses of an office that the secretary of state may use for the purposes of W.S. 17-29-1005(b); and

23

1

2

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

4

5

(c) Each constituent limited liability company shall deliver the articles of merger for filing in the office of the secretary of state.

8

9

(d) A merger becomes effective under this chapter:

10

11

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

13

14

(A) Compliance with subsection (c) of this section; or

16

17

(B) Subject to W.S. 17-29-205(c), as specified in the articles of merger; or

19

20

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

23

1 (e) If the secretary of state finds that the articles
2 of merger comply with the requirements of law, that all
3 required fees have been paid and a certificate has been
4 requested, he shall issue a certificate of merger.

5

6 **17-29-1005. Effect of merger.**

7

8 (a) When a merger becomes effective:

9

10 (i) The surviving organization continues or
11 comes into existence;

12

13 (ii) Each constituent organization that merges
14 into the surviving organization ceases to exist as a
15 separate entity;

16

17 (iii) All property owned by each constituent
18 organization that ceases to exist vests in the surviving
19 organization;

20

21 (iv) All debts, obligations or other liabilities
22 of each constituent organization that ceases to exist
23 continue as debts, obligations or other liabilities of the

1 surviving organization;

2

3 (v) An action or proceeding pending by or
4 against any constituent organization that ceases to exist
5 may be continued as if the merger had not occurred;

6

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

11

12 (vii) Except as otherwise provided in the plan
13 of merger, the terms and conditions of the plan of merger
14 take effect; and

15

16 (viii) Except as otherwise agreed, if a
17 constituent limited liability company ceases to exist, the
18 merger does not dissolve the limited liability company for
19 the purposes of article 7 of this chapter;

20

21 (ix) If the surviving organization is created by
22 the merger:

23

1 (A) If it is a limited liability company,
2 the articles of organization becomes effective; or

3

4 (B) If it is an organization other than a
5 limited liability company, the organizational document that
6 creates the organization becomes effective; and

7

8 (x) If the surviving organization preexisted the
9 merger, any amendments provided for in the articles of
10 merger for the organizational document that created the
11 organization become effective.

12

13 (b) A surviving organization that is a foreign
14 organization consents to the jurisdiction of the courts of
15 this state to enforce any debt, obligation or other
16 liability owed by a constituent organization. A surviving
17 organization that is a foreign organization and not
18 authorized to transact business in this state appoints the
19 secretary of state as its agent for service of process for
20 the purposes of enforcing a debt, obligation or other
21 liability under this subsection.

22

23 **17-29-1006. Conversion.**

1

2 An organization other than a limited liability company may
3 be converted to a limited liability company pursuant to
4 chapter 26 of this title and the organization's governing
5 statutes.

6

7 **17-29-1007. Reserved.**

8

9 **17-29-1008. Reserved.**

10

11 **17-29-1009. Effect of conversion.**

12

13 (a) The effect of an organization other than a
14 limited liability company converting to a limited liability
15 company shall be as provided in chapter 26 of this title
16 and the organization's governing statutes.

17

18 (b) A converted organization that is a foreign
19 organization consents to the jurisdiction of the courts of
20 this state to enforce any debt, obligation or other
21 liability for which the converting limited liability
22 company is liable. A converted organization that is a
23 foreign organization and not authorized to transact

1 business in this state appoints the secretary of state as
2 its agent for service of process for purposes of enforcing
3 a debt, obligation or other liability under this
4 subsection.

5

6 **17-29-1010. Continuance.**

7

8 (a) Subject to subsection (b) of this section, any
9 organization organized for any purpose except acting as an
10 insurer as defined in W.S. 26-1-102(a)(xvi), or acting as a
11 financial institution as described by W.S. 13-1-101(a)(ix)
12 under the laws of any foreign jurisdiction may, if the
13 foreign jurisdiction will acknowledge that the
14 organization's domicile has terminated in the foreign
15 jurisdiction, apply to the secretary of state for
16 registration under this act. The secretary of state may
17 issue a certificate of registration upon receipt of an
18 application supported by articles of continuance as
19 provided by this act together with the statements,
20 information and documents set out in subsection (c) of this
21 section. The certificate of registration may then be
22 issued continuing the organization in Wyoming as if it had
23 been organized as a limited liability company in this

1 state. The certificate of registration may be subject to
2 any limitations and conditions as may appear proper to the
3 secretary of state.

4

5 (b) The secretary of state shall cause notice of
6 issuance of a certificate of registration to be given
7 forthwith to the proper officer of the foreign jurisdiction
8 in which the organization was previously organized.

9

10 (c) The articles of continuance filed by a foreign
11 organization with the secretary of state shall contain:

12

13 (i) A certified copy of its original articles of
14 organization and all amendments thereto or its equivalent
15 basic charter;

16

17 (ii) The names of the organization and the
18 foreign jurisdiction in which it has previously been
19 lawfully organized;

20

21 (iii) The date of organization;

22

23 (iv) The address of its principal mailing

1 address;

2

3 (v) The name and address of the proposed
4 registered agent in this state;

5

6 (vi) Reserved;

7

8 (vii) The names and respective business
9 addresses of its members or, if the organization has a
10 manager or managers, the names and respective business
11 addresses of the manager or managers;

12

13 (viii) A statement that the organization will
14 abide by the constitution and laws of this state;

15

16 (ix) Any additional information necessary or
17 appropriate to enable the secretary of state to determine
18 whether the organization is entitled to a certificate of
19 registration evidencing its authority to transact business
20 in the state and to determine and assess any fees and taxes
21 under the laws of this state;

22

23 (xi) Any additional information permitted in

1 articles of organization under W.S. W.S. 17-29-201.

2

3 (d) The application shall be executed by the manager
4 or managers if any or by any member who is authorized to
5 execute the application on behalf of the organization and
6 shall be verified by the officer signing the application.

7

8 (e) The provisions of the articles of continuance
9 may, without expressly so stating, vary from the provisions
10 of the organization's articles of organization or
11 equivalent basic charter or other authorization, if the
12 variation is one which a company organized under the
13 Revised Uniform Limited Liability Company Act could effect
14 by way of amendment to its articles of organization. Upon
15 issuance of a certificate of continuance by the secretary
16 of state, the articles of continuance shall be deemed to be
17 the articles of organization of the continued organization.
18 The organization may elect to incorporate by reference in
19 the articles of continuance its basic charter or other
20 authorization which has been adopted by it in the foreign
21 jurisdiction, in order to permit the same to continue to
22 act as the articles of organization, provided, however,
23 that the basic charter or other authorization shall be

1 deemed amended to the extent necessary to make the same
2 conform to the laws of Wyoming and to the provisions of the
3 articles of continuance.

4
5 (f) Except for the purpose of W.S. 16-6-101 through
6 16-6-118, the existence of any organization heretofore or
7 hereafter issued a certificate of continuation under this
8 act shall be deemed to have commenced on the date the
9 organization commenced its existence in the jurisdiction in
10 which it was first formed, organized or otherwise came into
11 being. The laws of Wyoming shall apply to an organization
12 continuing under this act to the same extent as if it had
13 been organized under the laws of Wyoming from and after the
14 issuance of a certificate of continuation under this act by
15 the secretary of state. When a foreign organization is
16 continued under this act, the continuance shall not affect
17 the ownership of its property, or its liability for any
18 existing obligations, causes of action, claims, pending or
19 threatened prosecution or civil or administration actions,
20 convictions, rulings, orders or judgments.

21
22 (g) Continuance under this act does not deprive a
23 member of any right or privilege that he claims under, or

1 relieve any member of any liability in respect of, his
2 membership.

3

4 **17-29-1011. Transfer of a Wyoming limited liability**
5 **company to another jurisdiction.**

6

7 (a) A limited liability company created,
8 domesticated or continued under this chapter may, if
9 authorized by resolution duly adopted as set forth in
10 subsection (f) of this section, and by the laws of any
11 other jurisdiction, within or without the United States,
12 apply to the proper officer of the other jurisdiction for a
13 certificate of registration, and to the secretary of state
14 of this state for a certificate of transfer. The
15 application for certificate of transfer shall set forth the
16 following:

17

18 (i) The name of the limited liability company
19 immediately prior to the transfer, and if that name is
20 unavailable for use in the foreign jurisdiction or the
21 limited liability company desires to change its name in
22 connection with the transfer, the name by which the limited
23 liability company will be known in the foreign

1 jurisdiction;

2

3 (ii) A statement of the jurisdiction to which
4 the limited liability company is to be transferred;

5

6 (iii) A statement that the limited liability
7 company shall surrender its articles of organization under
8 this chapter upon the effectiveness of the transfer;

9

10 (iv) A statement that the transfer was duly
11 approved by the members in the manner required under
12 subsection (f) of this section; and

13

14 (v) Any other terms and conditions of the
15 transfer, including any desired amendments to the articles
16 of organization of the limited liability company following
17 its transfer.

18

19 (b) The secretary of state shall require that the
20 limited liability company maintain within the state an
21 agent for service of process for at least one (1) year
22 after the transfer is effected and shall impose any
23 conditions he considers appropriate for the protection of

1 creditors, including the provision of notice to the public
2 of the application described in subsection (a) of this
3 section, the provision of a bond or a deposit of funds in
4 an appropriate depository located in Wyoming and subject to
5 the jurisdiction of the courts of Wyoming, and if such
6 conditions are not met, the secretary of state may refuse
7 to issue a certificate of transfer.

8
9 (c) The secretary of state, upon compliance by the
10 applicant and the secretary with subsections (a) and (b) of
11 this section and receipt of payment of the special toll
12 charge prescribed by subsection (e) of this section shall
13 immediately transmit a notice of issuance of a certificate
14 of transfer to the proper officer of the jurisdiction to
15 which the limited liability company is transferred.

16
17 (d) Upon issuance of a certificate of transfer, the
18 limited liability company shall be continued as if it had
19 been organized under the laws of the other jurisdiction and
20 becomes a limited liability company under the laws of the
21 other jurisdiction upon issuance by such jurisdiction of a
22 certificate of registration.

23

1 (e) Every limited liability company organized,
2 domesticated or continued under the laws of this state in
3 order to receive a certificate of transfer pursuant to
4 subsection (c) of this section shall pay to the secretary
5 of state, in addition to all other statutory taxes and
6 fees, a special toll charge of fifty dollars (\$50.00):

7

8 (f) A resolution to transfer the limited liability
9 company to another jurisdiction shall be adopted by the
10 members.

11

12 (g) The limited liability company may represent to
13 the proper officer of the jurisdiction to which the limited
14 liability company is transferred that the laws of the state
15 of Wyoming permit such transfer, and may describe the
16 permission extended by this section as authorizing the
17 domestication, continuance or other transfer of domicile as
18 may be required by the laws of the foreign jurisdiction in
19 order for the limited liability company to be accepted in
20 that jurisdiction, provided that the limited liability
21 company may not misrepresent the requirements or effects of
22 the provisions of this section.

23

1 **17-29-1012. Domestication of foreign limited**
2 **liability companies.**

3

4 Any limited liability company created under the laws of any
5 of the several states of the United States for any purpose
6 except acting as an insurer as defined in W.S. 26-1-
7 102(a)(xvi), or acting as a financial institution as
8 described by W.S. 13-1-101(a)(ix) may become a domestic
9 limited liability company of this state by delivering or
10 causing to be delivered to the secretary of state articles
11 of domestication. Upon filing the articles of
12 domestication, the secretary of state shall issue to the
13 foreign limited liability company a certificate of
14 domestication which shall continue the company as if it had
15 been created under this chapter. The articles of
16 domestication, upon being filed by the secretary of state,
17 constitute the articles of the domesticated foreign limited
18 liability company and it shall thereafter have all the
19 powers and privileges and be subjected to all the duties
20 and limitations granted and imposed upon domestic limited
21 liability companies under the provisions of the Revised
22 Uniform Limited Liability Company Act.

23

1 **17-29-1013. Application for certificate of**
2 **domestication; articles of domestication.**

3
4 (a) A foreign limited liability company, in order to
5 procure a certificate of domestication shall file articles
6 of domestication with the secretary of state, which
7 articles shall include and set forth:

8
9 (i) A certified copy of its original articles of
10 organization and all amendments thereto or its equivalent
11 basic charter or other authorization, and a certificate of
12 good standing not more than thirty (30) days old;

13
14 (ii) The name of the company and the jurisdiction
15 under the laws of which it is created;

16
17 (iii) The date of organization and the period of
18 duration of the company;

19
20 (iv) The address of the principal office of the
21 company and the jurisdiction under the laws of which it is
22 created;

23

1 (v) The address of the proposed registered office of
2 the company in this state, and the name of its proposed
3 registered agent in this state at that address;

4
5 (vi) The purpose or purposes of the company which it
6 proposes to pursue in the transaction of business in this
7 state;

8
9 (vii) The names and addresses of the members and
10 managers of the company;

11
12 (viii) A statement that the company accepts the
13 constitution of this state in compliance with the
14 requirement of article 10, section 5 of the Wyoming
15 constitution;

16
17 (ix) Any additional information as may be necessary
18 or appropriate to enable the secretary of state to
19 determine whether the company is entitled to a certificate
20 of domestication evidencing its authority to transact
21 business in this state, and to determine and assess the
22 fees and license taxes under the laws of this state.

23

1 **17-29-1014. Restrictions on approval of mergers,**
2 **conversions, continuances, transfers and domestications.**

3
4 (a) If a member of a constituent, converting,
5 continuing, transferring or domesticating limited liability
6 company will have personal liability with respect to a
7 surviving, converted, continued, transferred or
8 domesticated organization, approval or amendment of a plan
9 of merger, conversion, continuance, transfer or
10 domestication are ineffective without the consent of the
11 member, unless:

12
13 (i) The company's operating agreement provides
14 for approval of a merger, conversion, continuance, transfer
15 or domestication with the consent of fewer than all the
16 members; and

17
18 (ii) The member has consented to the provision
19 of the operating agreement.

20
21 (b) A member does not give the consent required by
22 subsection (a) of this section merely by consenting to a
23 provision of the operating agreement that permits the

1 operating agreement to be amended with the consent of fewer
2 than all the members.

3

4 **17-29-1015. Article not exclusive.**

5

6 This article does not preclude an entity from being merged,
7 converted, continued, transferred or domesticated under law
8 other than this chapter.

9

10

ARTICLE 11

11

MISCELLANEOUS PROVISIONS

12

13 **17-29-1101. Uniformity of application and**
14 **construction.**

15

16 In applying and construing this uniform act, consideration
17 shall be given to the need to promote uniformity of the law
18 with respect to its subject matter among states that enact
19 it.

20

21 **17-29-1102. Secretary of state powers.**

22

23 The secretary of state has the power reasonably necessary

1 to perform the duties required of him by this chapter. The
2 secretary of state shall promulgate reasonable rules and
3 regulations necessary to carry out the purposes of this
4 chapter.

5

6 **17-29-1103. Application to existing domestic limited**
7 **liability companies.**

8

9 (a) Except as provided in subsection (b) of this
10 section, this chapter applies to domestic limited liability
11 companies in existence on its effective date that were
12 organized under any general statute of this state providing
13 for organization of limited liability companies if power to
14 amend or repeal the statute under which the limited
15 liability company was organized was reserved.

16

17 (b) For limited liability companies organized in
18 Wyoming prior to the effective date of this chapter, the
19 management provisions contained in former W.S. 17-15-116,
20 division of profits provisions contained in former W.S. 17-
21 17-15-119 and the stated term provisions contained in
22 former W.S. 17-15-107(a)(ii) are continued for a period of
23 four (4) years from the effective date of this chapter

1 unless the limited liability company amends its articles of
2 organization to provide otherwise.

3

4 **17-29-1104. Applications to qualified foreign limited**
5 **liability companies.**

6

7 A foreign limited liability company authorized to transact
8 business in this state on the effective date of this
9 chapter is subject to this chapter but is not required to
10 obtain a new certificate of authority to transact business
11 under this chapter.

12

13 **17-29-1105. Saving provisions.**

14

15 (a) Except as provided in subsection (b) of this
16 section, the repeal of a statute by this act does not
17 affect:

18

19 (i) The operation of the statute or any action
20 taken under it before its repeal;

21

22 (ii) Any ratification, right, remedy, privilege,
23 obligation or liability acquired, accrued or incurred under

1 the statute before its repeal;

2

3 (iii) Any violation of the statute, or any
4 penalty, forfeiture or punishment incurred because of the
5 violation, before its repeal; or

6

7 (iv) Any proceeding or dissolution commenced
8 under the statute before its repeal, and the proceeding or
9 dissolution may be completed in accordance with the statute
10 as if it had not been repealed.

11

12 (b) If a penalty or punishment imposed for violation
13 of a statute repealed by this act is reduced by this act,
14 the penalty or punishment if not already imposed shall be
15 imposed in accordance with this act.

16

17 **Section 2.** W.S. 17-16-1115(d), 17-16-1533, 17-25-102,
18 17-25-103(b), 17-25-105 and 17-25-109 are amended to read:

19

20 **17-16-1115. Conversion of corporation to limited**
21 **liability company.**

22

23 (d) After the conversion is approved by the

1 shareholders, the limited liability company shall file
2 articles of organization which satisfy the requirements of
3 ~~W.S. 17-15-107~~ W.S. 17-29-201 and include:

4
5 **17-16-1533. Applicability of chapter 29 to foreign**
6 **limited liability companies.**

7
8 To the extent not inconsistent with the Wyoming Limited
9 Liability Company Act, ~~W.S. 17-15-101 through 17-15-144~~
10 W.S. 17-29-101 through 17-29-1102, a limited liability
11 company organized in another jurisdiction may do business
12 in Wyoming by complying with W.S. 17-16-1501 through 17-16-
13 1507, 17-16-1520, 17-16-1530 through 17-16-1532 and 17-28-
14 101 through 17-28-111. The certificate of organization of
15 a limited liability company organized in another
16 jurisdiction may be revoked as provided in W.S. 17-16-1530
17 through 17-16-1532.

18
19 **17-25-102. Application of Wyoming Limited Liability**
20 **Company Act.**

21
22 (a) The Wyoming Limited Liability Company Act applies
23 to close limited liability companies to the extent not

1 inconsistent with the provisions of this chapter and the
2 powers provided the secretary of state by ~~W.S. 17-15-137~~
3 W.S. 17-29-1102 shall apply to this supplement.

4
5 **17-25-103. Definition and election of close limited**
6 **liability company status.**

7
8 (b) A limited liability company formed under ~~W.S. 17-~~
9 ~~15-101 through 17-15-144~~ W.S. 17-29-101 through 17-29-1102
10 may convert to a close limited liability company by
11 amending its articles of organization to include the
12 statement required by subsection (a) of this section.

13
14 **17-25-105. Articles of organization.**

15
16 The articles of organization of a close limited liability
17 company shall include a statement that the company is a
18 close limited liability company and shall set forth the
19 matters required by ~~W.S. 17-15-107(a) except paragraphs~~
20 ~~(viii) and (x)~~ W.S. 17-29-201.

21
22 **Section 3.** W.S. 17-15-101 through 17-15-147 and 17-
23 25-109 are repealed.

1

2

Section 4. This act is effective July 1, 2010.

3

4

(END)