

Committee Substitute for House Bill No. 1513

An act relating to limited liability companies; amending ss. 608.401, 608.402, 608.403, 608.404, 608.406, 608.407, 608.408, 608.4081, 608.4082, 608.409, 608.4101, 608.411, 608.415, 608.416, 608.4211, 608.422, 608.4225, 608.423, 608.4231, 608.4232, 608.425, 608.426, 608.4261, 608.427, 608.428, 608.432, 608.433, 608.434, 608.436, 608.4362, 608.4363, 608.437, 608.438, 608.4381, 608.4383, 608.4384, 608.441, 608.4421, 608.444, 608.447, 608.448, 608.4481, 608.449, 608.4492, 608.4511, 608.452, 608.455, 608.463, 608.471, 608.502, 608.503, 608.504, 608.505, 608.507, 608.508, 608.512, 608.5135, F.S.; revising provisions of chapter 608, F.S., relating to limited liability companies; clarifying and updating such provisions to reflect current operating procedures; providing for requirements, limitations, procedures, rights, liabilities, reports, fees, and penalties; creating s. 608.4115, F.S.; providing for correcting certain articles of organization; providing for effect; creating s. 608.4226, F.S.; providing for resolving conflicts of interest; creating s. 608.4235, F.S.; providing for agency of members and managers; creating s. 608.4236, F.S.; providing for delegation of rights and powers to manage; creating s. 608.4237, F.S.; providing for membership termination upon bankruptcy; creating s. 608.439, F.S.; providing for conversion of certain entities to a limited liability company; creating s. 608.601, F.S.; providing for member's derivative actions; creating ss. 608.701, 608.702, and 608.703, F.S.; providing for application of certain case law for certain purposes; providing for receiving certificates and certified copies into evidence; providing for interrogatories by the Department of State; repealing s. 608.4062, F.S., relating to foreign limited liability companies; repealing s. 608.412, F.S., relating to supplemental affidavit of capital contributions; repealing s. 608.424, F.S., relating to contracting debts; repealing s. 608.4494, F.S., relating to deposit with the Department of Banking and Finance; providing an effective date.

Be It Enacted by the Legislature of the State of Florida:

Section 1. Sections 608.401, 608.402, 608.403, 608.404, 608.408, 608.4081, 608.4082, 608.409, 608.4101, 608.411, 608.415, 608.416, 608.4211, 608.422, 608.4225, 608.423, 608.4231, 608.4232, 608.425, 608.426, 608.4261, 608.427, 608.428, 608.432, 608.433, 608.434, 608.441, 608.4421, 608.444, 608.447, 608.448, 608.4481, 608.449, 608.4492, 608.4511, 608.452, 608.455, 608.463, 608.502, 608.503, 608.504, 608.505, 608.507, 608.508, 608.512, 608.5135, Florida Statutes, and sections 608.406, 608.407, 608.438, 608.4381, 608.4383, 608.4384, and 608.471, Florida Statutes, 1998 Supplement, are amended, sections 608.436, 608.4362, 608.4363, and 608.437, Florida Statutes, are renumbered as sections 608.4227, 608.4228, 608.4229, and 608.4238, Florida Statutes, respectively, and amended, and sections 608.4115, 608.4226, 608.4235, 608.4236, 608.4237, 608.439, 608.601, 608.701, 608.702, and 608.703, Florida Statutes, are created, to read:

608.401 Short title.—Sections 608.401-608.703 ~~608.514~~ may be cited as the “Florida Limited Liability Company Act.”

608.402 Definitions.—As used in this chapter:

(1) “Articles of merger” means initial, amended, and restated articles of merger of a limited liability company delivered to the Department of State in accordance with s. 608.4382. In the case of a foreign limited liability company, the term includes all records serving a similar function required to be filed with the Department of State or other official having custody of company records in the state or country under whose law it is organized.

(2) “Articles of organization” means initial, amended, and restated articles of organization of a limited liability company, including initial, amended, or restated articles of merger, if any. In the case of a foreign limited liability company, the term includes all records serving a similar function required to be filed with the Department of State or other official having custody of company records in the state or country under whose law it is organized.

(3) “Authorized representative” means one or more persons acting to form a limited liability company by executing and filing the articles of organization of such limited liability company in accordance with this chapter and authorized by a member identified in the articles of organization or operating agreement of such limited liability company, which authorized representative may, but need not be, a member of the limited liability company that the authorized representative forms.

~~(4)(1) “Bankruptcy” means an event that causes a person to cease to be a member as provided in s. 608.4237. “Bankrupt” means a debtor under the federal bankruptcy law or insolvent under any state insolvency act.~~

~~(5)(2) “Business” means every trade, occupation, or profession and other lawful business, purpose, or activity, whether or not carried on for profit.~~

~~(6)(3) “Capital account” means the agreed value of the initial contributions as provided in s. 608.4211, increased by the agreed value of subsequent contributions amounts subsequently contributed to capital, if any, and reduced by distributions of capital, unless otherwise provided in the articles of organization or the operating agreement regulations, additional contributions or distributions of capital shall only be upon agreement of all the members. Unless otherwise provided in the articles of organization or the regulations, the capital account of a member shall be adjusted to reflect a default in the payment of any amount previously agreed to be contributed.~~

(7) “Contribution” means any cash, property, or services rendered or a promissory note or other obligation to contribute cash or property or to perform services, which a person contributes to the limited liability company as a member.

~~(8)(4) “Conveyance” means any assignment, transfer, sale, lease, mortgage, hypothecation, or encumbrance.~~

(9)(5) “Court” includes every court and judge having jurisdiction in the action.

(10) “Distribution” means a direct or indirect transfer of money or other property or incurrence of indebtedness by a limited liability company to or for the benefit of its members in respect of their economic interests.

(11)(6) “Entity” means, without limitation, includes any corporation or foreign corporation, as such terms are defined in s. 607.01401; unincorporated association or business; limited liability company; business trust, real estate investment trust, common law trust, or other, ~~partnership~~, trust, general partnership, limited liability partnership, limited partnership, limited liability limited partnership, joint venture, or two or more persons having a joint or common economic interest; any or state, local, federal, or foreign government, governmental subdivision, agency, or instrumentality; or any other domestic or foreign entity that is formed pursuant to the provisions of applicable law governments.

(12) “Foreign limited liability company” means a limited liability company formed under the laws of any state other than Florida or under the laws of any foreign country or other foreign jurisdiction.

(13)(7) “Individual” means a natural person and includes the estate of a natural person ~~an incompetent or deceased individual.~~

(14) “Insolvent” means the inability of a limited liability company to pay the company’s debts as they become due in the ordinary course of business or that the fair value of the company’s total assets would be less than the sum of its total liabilities plus the amount that would be needed, if the company were to be dissolved and terminated at the time of the distribution, to satisfy the preferential distribution rights of the company’s members accrued through such dissolution and termination.

(15) “Knowledge” means a person’s actual knowledge of a fact, and does not include constructive knowledge of a fact.

(16)(8) “Limited liability company” or “company” means a limited liability company organized and existing under this chapter.

(17) “Majority-in-interest of the members” means, unless otherwise provided in the articles of organization or operating agreement, members owning more than 50 percent of the then-current percentage or other interest in the profits of the limited liability company.

(18) “Manager” means a person who is appointed or elected to manage a manager-managed company and, unless otherwise provided in the articles of organization or operating agreement, a manager may be, but need not be, a member of the limited liability company.

(19) “Manager-managed company” means a limited liability company which is designated to be managed by managers in its articles of organization or operating agreement.

~~(20)(9)~~ “Managing member” means, ~~with respect to a limited liability company that has set forth in its articles of organization that it is to be managed by its members,~~ a member appointed or elected as a managing member of a member-managed company ~~the limited liability company pursuant to and in accordance with the articles of organization or regulations of the limited liability company.~~

~~(21)(10)~~ “Member” means any person who has been admitted to a limited liability company as a member as provided in s. 608.4232 and has an economic equity interest in a limited liability company represented by a capital account or, in the case of a foreign limited liability company, has been admitted to a limited liability company as a member in accordance with the laws of the state or foreign country or other foreign jurisdiction under which the foreign limited liability company is organized.

~~(22)~~ “Member-managed company” means a limited liability company other than a manager-managed company.

~~(23)~~ “Membership interest,” “member’s interest,” or “interest” means a member’s share of the profits and the losses of the limited liability company, the right to receive distributions of the limited liability company’s assets, voting rights, management rights, or any other rights under this chapter or the articles of organization or operating agreement.

~~(24)(13)~~ “Operating agreement” ~~“Regulations”~~ means written or oral provisions which are adopted for the management and regulation of the affairs of the limited liability company and which set forth the relationships of the members, managers, and limited liability company. The term includes amendments to the operating agreement, subject to s. 608.423.

~~(25)(14)~~ “Person” means an individual or an entity.

~~(26)~~ “Personal or other legal representative” means, as to a natural person, the executor, administrator, guardian, conservator, or other legal representative of the natural person and, as to a person other than a natural person, the legal representative or successor of such person.

~~(12)~~ “Real property” means land and any interest or estate in land.

~~(14)~~ “Relative capital account” means, for a member, a ratio the numerator of which is the capital account of that member and the denominator of which is the total of the capital accounts of all members.

608.403 Purpose.—A limited liability company may be organized under this chapter for any lawful purpose, but remains subject to except that special statutes and regulations of the laws of this state for regulating the regulation and controlling its control of specific types of business, which shall control when in conflict with this chapter herewith.

608.404 Powers.—Unless its articles of organization or operating agreement regulations provide otherwise, each limited liability company organized and existing under this chapter shall have the same powers as an individual to do all things necessary to carry out its business and affairs, including, without limitation, the power to:

(1) Sue and ~~or~~ be sued, and ~~or complain or~~ defend, in its name.

(2) Purchase, take, receive, lease, ~~subscribe for,~~ or otherwise acquire, own, hold, improve, ~~vote,~~ use, and ~~or~~ otherwise deal ~~in or~~ with real or personal property, or ~~an interest in real or personal property or~~ any legal or equitable interest in property, wherever located.

(3) Sell, convey, mortgage, grant ~~pledge,~~ create a security interest in, lease, exchange, and ~~lend,~~ or otherwise encumber or dispose of, all or any part of its property ~~or assets~~.

(4) Purchase, receive, subscribe for, or otherwise acquire, own, hold, vote, use, sell, mortgage, lend, grant a security interest in, or otherwise dispose of and deal in and with, shares or other interests in or obligations of any other entity.

(4) Make contracts or guarantees, or incur liabilities; borrow money; issue its notes, bonds, or other obligations, which may be convertible into or include the option to purchase other securities of the limited liability company; ~~secure any of its obligations by mortgage or pledge of all or any part of its property, franchises, and income;~~ or make contracts of guaranty and suretyship which are necessary or convenient to the conduct, promotion, or attainment of the business of a corporation the majority of the outstanding stock of which is owned, directly or indirectly, by the contracting limited liability company; a corporation which owns, directly or indirectly, a majority of the outstanding membership interests ~~stock~~ of the contracting limited liability company; or a corporation the majority of the outstanding stock of which is owned, directly or indirectly, by a corporation which owns, directly or indirectly, the majority of the outstanding membership interests ~~stock~~ of the contracting limited liability company, which contracts of guaranty and suretyship shall be deemed to be necessary or convenient to the conduct, promotion, or attainment of the business of the contracting limited liability company; or make other contracts of guaranty and suretyship which are necessary or convenient to the conduct, promotion, or attainment of the business of the contracting limited liability company.

(5) Lend money, invest or reinvest its funds, and ~~or~~ receive and hold real or personal property as security for repayment.

(6) Conduct its business, locate offices, and exercise the powers granted by this chapter within or without this state.

(7) ~~Select~~ Elect or appoint managers and appoint officers, directors, employees, and agents of the limited liability company, define their duties, fix their compensation, and lend them money and credit.

~~(8) Make and amend its regulations, not inconsistent with its articles of organization or with the laws of this state, for the administration and regulation of the affairs of the company.~~

(9) Make donations for ~~to~~ the public welfare or for charitable, scientific, or educational purposes.

~~(10) Indemnify a member or manager or any other person as provided in this chapter against expenses actually and reasonably incurred by him or her or it in connection with the defense of an action, suit, or proceeding, whether civil or criminal, in which he or she or it is made a party.~~

~~(11) Cease its activities and surrender its certificate of organization.~~

~~(12) Have and exercise all powers necessary or convenient to effect any or all of the purposes for which the company is organized.~~

~~(13) Transact any lawful business that will aid governmental policy.~~

~~(10)(14) Pay pensions and establish pension plans, pension trusts, profit-sharing plans, bonus plans, option plans, and benefit or other incentive plans for any or all of its current or former managers, members, officers, agents, and employees.~~

~~(11)(15) Be a promoter, incorporator, shareholder, partner, member, associate, or manager of any corporation, partnership, limited partnership, limited liability company, joint venture, trust, or other entity.~~

~~(12)(16) Make payments or donations or do any other act not inconsistent with law that furthers the business and affairs of the limited liability company.~~

608.406 Limited liability company name.—

(1) A limited liability company name:

(a) Must contain the words “limited liability company” or “limited company,” or the abbreviations their abbreviation “L.L.C.” or “L.C.,” or the designations “LLC” or “LC” as shall be the last words of the name of every limited liability company formed under the provisions of this chapter. The word “limited” may be abbreviated as “Ltd.” and the word “company” may be abbreviated as “Co.” Omission of the words “limited liability company” or “limited company,” the abbreviations “L.L.C.” or “L.C.,” or the designations “LLC” or “LC” in the use of the name of the limited liability company shall render any person who knowingly participates in the omission, or knowingly acquiesces in the omission, liable for any indebtedness, damage, or liability caused by the omission.

~~(b)(2) The limited liability name May not contain language stating or implying that the limited liability company is organized for a purpose other than that permitted in this chapter act and its articles of organization.~~

~~(c)(3) The limited liability name May not contain language stating or implying that the limited liability company is connected with a state or federal government agency or a corporation or other entity chartered under the laws of the United States.~~

(2)(4) The name of the limited liability company shall be filed with the Department of State for public notice only and shall not alone create any presumption of ownership beyond that which is created under the common law. The Department of State shall record the name without regard to any

~~other name recorded. The limited liability name must be distinguishable upon the records of the Division of Corporations of the Department of State from all other entities or filings, except fictitious name registrations pursuant to s. 865.09, organized or registered under the laws of this state that are on file with the division.~~

~~(5) Omission of the words "limited liability company" or "limited company," or their abbreviation "L.L.C." or "L.C.," in the use of the name of the limited liability company shall render any person who participates in the omission, or knowingly acquiesces in it, liable for any indebtedness, damage, or liability occasioned by the omission.~~

608.407 Articles of organization.—

~~(1) In order to form a limited liability company, articles of organization of a limited liability company shall be executed and filed with the Department of State by one or more members or authorized representatives of the company. The articles of organization shall set forth:~~

~~(a) The name of the limited liability company.~~

~~(b) The period of its duration, which may be perpetual.~~

~~(b)(c) The mailing address and the street address of the principal office of the limited liability company.~~

~~(c)(d) The name and street address of its initial registered agent for service of process in the state. The articles of organization shall include or be accompanied by the written statement required by s. 608.415, together with a statement in writing in such form and manner as shall be prescribed by the Department of State accepting the appointment as a registered agent simultaneously with his or her being designated. Such statement of acceptance shall state that the registered agent is familiar with, and accepts, the obligations of that position.~~

~~(e) The right, if given, of the members to admit additional members and the terms and conditions of the admissions.~~

~~(f) The right, if given, of the remaining members of the limited liability company to continue the business on the death, retirement, resignation, expulsion, bankruptcy, or dissolution of a member or the occurrence of any other event which terminates the continued membership of a member in the limited liability company.~~

~~(d)(g)1. If the limited liability company is to be managed by one a manager or more managers, a statement that the company is to be a manager-managed company managed by a manager or managers and the names and addresses of such managers who are to serve as managers until the first annual meeting of members or until their successors are elected and qualify.~~

~~2. If the management of a limited liability company is reserved to the members, a statement to that effect and the names and addresses of the managing members.~~

(e)(h) Any other matters that the members elect determine to include in the articles of organization therein.

~~(2) An affidavit declaring that the limited liability company has at least one member and setting forth the amount of the cash and a description and agreed value of property other than cash contributed by the members and the amount anticipated to be contributed by the members shall accompany the articles of organization of a limited liability company.~~

(2)(3) A limited liability company is formed at the time described in s. 608.409 if the person filing the articles of organization has substantially complied there has been substantial compliance with the requirements of this section.

(3)(4) The articles of organization shall ~~must~~ be executed by at least one member or the authorized representative of a member.

608.408 Execution of certificate or statement.—

(1) A certificate or statement required by this chapter to be filed with the Department of State must be executed in the following manner:

(a) If it is ~~the articles an original certificate of organization, an affidavit, a supplemental affidavit,~~ a certificate of conversion amendment, or a statement of change of registered agent or registered office, it must be signed by a member or by the authorized representative of a member, and by the new registered agent, if applicable; and

(b) If it is a certificate of dissolution or revocation of dissolution, it must be signed by all members having the same percentage of membership interests necessary to approve the dissolution or revocation of dissolution.

(2) Any person may sign a certificate through by an attorney in fact, but a power of attorney to sign a certificate or statement authorizing relating to the admission of a member must specifically describe the admission.

(3) The execution of a certificate ~~by a member~~ constitutes an affirmation by the person executing the certificate, under the penalties of perjury, that the facts stated therein are true.

(4) If the articles of organization contain or any other document authorized or required to be filed under this chapter contains a false statement, one who suffers loss by reliance on the statement may recover damages for the loss from a person who signed the record or caused another to sign it on the person's behalf and knew the statement to be false at the time the record was signed.

608.4081 Filing requirements.—

(1) To be filed by the Department of State, a document must satisfy the following requirements, as supplemented or modified by of this section and of any other section of this chapter: that adds to or varies these requirements to be entitled to filing by the Department of State.

~~(a)(2) This chapter act must require or permit filing the document by in the office of the Department of State.~~

~~(b)(3) The document must be executed as required by s. 608.407 contain the information required by this act. It may contain other information as well.~~

(c) The document must contain any information required by this chapter and may contain other information the company elects to include.

(d)(4) The document must be typewritten or printed and must be legible.

(e)(5) The document must be in the English language. A limited liability company name need not be in English if written in English letters or Arabic or Roman numerals, and the certificate of existence status required of a foreign limited liability company companies need not be in English if accompanied by a reasonably authenticated English translation.

(f)(6) If the Department of State has prescribed a mandatory form for the document, the document must be in or on the prescribed form.

(g)(7) The document must be delivered to the office of the Department of State for filing, may be accompanied by one exact or conformed copy, and must be accompanied by the correct filing fee and any other tax or penalty required by this chapter act or other law.

(2) The document may be accompanied by one exact or conformed copy.

(3) Any signature on any certificate authorized to be filed by the Department of State under any provision of this chapter may be a facsimile, a conformed signature, or an electronically transmitted signature.

608.4082 Filing duties of Department of State.—

(1) The Department of State files a document by stamping or otherwise endorsing the document as “filed,” together with the Secretary of State’s official title and the date and time of receipt. After filing a document, the Department of State shall deliver an acknowledgment or certified copy of the document to the domestic or foreign limited liability company or its representative.

(2) ~~If The Department of State refuses to file a document, it shall return any document the department refuses to file it~~ to the domestic or foreign limited liability company or its representative within 15 days after the document was received for filing, together with a brief, written explanation of the reason for refusal.

(3) If the applicant returns the document with corrections in accordance with the rules of the Department of State within 60 days after it was mailed to the applicant by the Department of State and if at the time of return the applicant so requests in writing, the filing date of the document shall be the filing date that would have been applied had the original document not been deficient, except as to persons who justifiably relied on the record before correction and were adversely affected thereby.

(4)(3) The Department of State's duty to file documents under this section is ministerial. The Filing or refusing to file a document does not:

- (a) Affect the validity or invalidity of the document in whole or part;
- (b) Relate to the correctness or incorrectness of information contained in the document;
- (c) Create a presumption that the document is valid or invalid or that information contained in the document is correct or incorrect.

(5)(4) If not otherwise provided by law and the provisions of this chapter act, the Department of State shall determine, by rule, the appropriate format for, number of copies of, manner of execution of, method of electronic transmission of, and amount of and method of payment of fees for, any document placed under its jurisdiction.

~~(5) If a document is determined by the Department of State to be incomplete and inappropriate for filing, the Department of State may return the document to the person or limited liability company filing it, together with a brief written explanation of the reason for the refusal to file. If the applicant returns the document with corrections in accordance with the rules of the department within 60 days after it was mailed to the applicant by the department and if at the time of return the applicant so requests in writing, the filing date of the document will be the filing date that would have been applied had the original document not been deficient, except as to persons who justifiably relied on the record before correction and were adversely affected thereby.~~

~~(6) Unless otherwise permitted by this act, a delayed effective date for a document may not be later than the 90th day after the date on which it is filed.~~

608.409 Effect of filing and issuance of time and date endorsement on the articles certificate of organization.—

(1) Unless a delayed effective date is specified, the limited liability company's existence begins at the date and time when the articles of organization are filed, as evidenced by the Department of State's date and time endorsement on the original document, or on a date specified in the articles of organization, if such date is within 5 business days prior to the date of filing.

(2) The articles of organization may specify a delayed effective time and date of commencement of the company's existence, and if so specified they do, the articles of organization shall become effective, and the company's existence shall commence, at the time and date specified. If a delayed effective date, but no time, is specified, the articles of organization shall become effective, and the company's existence shall commence, at the close of business on the delayed effective that date. Unless otherwise permitted by this chapter, a delayed effective date for a document may not be later than the 90th day after the date on which the document is filed.

(3) The Department of State's filing of the articles of organization is conclusive proof that all conditions precedent to organization have been satisfied except in a proceeding by the state to cancel or revoke the organization or to administratively dissolve the organization.

(4) A limited liability company shall not transact business or incur indebtedness, except that which is incidental to its organization or to obtaining subscriptions for or payment of contributions, until the articles of organization have been filed by the Department of State.

608.4101 Records to be kept; right to information.—

(1) Each limited liability company shall keep at its principal registered office the following records:

(a) A current list of the full names and last known business, residence, or mailing addresses of all members and managers.

(b) A copy of the articles of organization and all certificates of conversion amendments thereto, together with executed copies of any powers of attorney pursuant to which any articles of organization or certificates were certificate was executed.

(c) Copies of the limited liability company's federal, state, and local income tax returns and reports, if any, for the 3 most recent years.

(d) Copies of any then-effective operating agreement regulations and any financial statements of the limited liability company for the 3 most recent years.

(e) Unless contained in the articles of organization or the operating agreement regulations, a writing setting out:

1. The amount of cash and a description and statement of the agreed value of any ~~the~~ other property or services contributed by each member and which each member has agreed to contribute.

2. The times at which or events on the happening of which any additional contributions agreed to be made by each member are to be made.

3. Any events upon the happening of which the limited liability company is to be dissolved and its affairs wound up.

(2) A limited liability company shall provide members and their agents and attorneys access to its records at the company's principal office or other reasonable locations specified in the operating agreement. The company shall provide former members and their agents and attorneys access for proper purposes to records pertaining to the period during which they were members. The right of access provides the opportunity to inspect and copy records during ordinary business hours. The company may impose a reasonable charge, limited to the costs of labor and material, for copies of records furnished. Records kept under this section are subject to inspection and copying during ordinary business hours at the reasonable request, and at the expense, of any member.

(3) A limited liability company shall furnish to a member, and to the legal representative of a deceased member or member under legal disability:

(a) Without demand, information concerning the company's business or affairs reasonably required for the proper exercise of the member's rights and performance of the member's duties under the operating agreement or this chapter; and

(b) On demand, other information concerning the company's business or affairs, except to the extent the demand or the information demanded is unreasonable or otherwise improper under the circumstances.

(4) Each manager shall have the right to examine all of the information described in subsection (1) for a purpose reasonably related to his or her position as a manager. The manager of a limited liability company shall have the right to keep confidential from the members, for such period of time as the manager deems reasonable, any information which the manager reasonably believes to be in the nature of trade secrets or other information the disclosure of which the manager in good faith believes is not in the best interest of the limited liability company or could damage the limited liability company or its business or which the limited liability company is required by law or by agreement with a third party to keep confidential.

(5) A limited liability company may maintain its records in other than a written form if such form is capable of conversion into written form within a reasonable time.

(6) Any action to enforce any right arising under this section shall be brought in the appropriate circuit court.

608.411 Amendments to or restatements of articles of organization.—

(1) The articles of organization of a limited liability company are amended by filing the articles a certificate of amendment thereto with the Department of State. The articles certificate of amendment shall set forth:

- (a) The name of the limited liability company.
- (b) The date of filing of the articles of organization.
- (c) The amendment to the articles of organization.

~~(2) Within 30 days after the happening of any of the following events, an amendment to the articles of organization, indicating the occurrence of the event or events, shall be filed:~~

- ~~(a) There is a change in the name of the limited liability company.~~
- ~~(b) There is a false or erroneous statement in the articles of organization.~~
- ~~(c) There is a change in the time as stated in the articles of organization for the dissolution of the limited liability company.~~

~~(d) A time is fixed for the dissolution of the limited liability company, if no time is specified in the articles of organization.~~

~~(c) The members desire to make a change in any other statement in the articles of organization in order for it to accurately represent the agreement between them.~~

~~(2)(3) Unless otherwise provided in this chapter or in the articles certificate of amendment, the articles a certificate of amendment shall be effective when filed at the time of its filing with the Department of State.~~

~~(3)(4) A limited liability company may, whenever desired, integrate into a single instrument all of the provisions of its articles of organization which are then in effect and operative as a result of there having theretofore been filed with the department one or more certificates or other instruments pursuant to any of the provisions referred to in this section, and it may at the same time further amend its articles of organization by adopting restated articles of organization which meet all the requirements of s. 608.407.~~

~~(4)(5) If the restated articles of organization merely restate and integrate but do not further amend the then-effective initial articles of organization as theretofore amended or supplemented by any instrument that was executed and filed pursuant to any of the provisions of this section, the company it shall title the filing be specifically designated in its heading as the "Restated Articles of Organization," together with such other words as the limited liability company deems may deem appropriate, and shall be executed as provided in this chapter for articles of organization and filed as provided by this chapter with the department. If the restated articles restate and integrate and also further amend in any respect the then-effective articles of organization, the company as theretofore amended or supplemented, they shall title the filing be specifically designated in their heading as the "Amended and Restated Articles of Organization," together with such other words as the limited liability company deems may deem appropriate. In each case described in this subsection, the document and shall be executed as provided in this chapter for articles of organization and filed as provided by this chapter with the Department of State.~~

~~(5)(6) Restated articles of organization shall state, either in their heading or in an introductory paragraph, the limited liability company's present name, and, if it has been changed, the name under which it was originally filed; the date of filing of its original articles of organization with the Department of State; and any the future effective date or time if other than the date and time of, which shall be a date or time certain, of the restated articles if it is not to be effective upon the filing of the restated articles of organization. Restated articles of organization shall also state that they were duly executed and are being filed in accordance with this section. If the restated articles of organization only restate and integrate and do not further amend the limited liability company's articles of organization as theretofore amended or supplemented and there is no discrepancy between those provisions and the restated articles of organization, they shall state that fact as well.~~

~~(6)(7) Upon the filing of the restated articles of organization with the Department of State, or upon any the future effective date or time provided in of restated articles of organization as provided for therein, the initial~~

articles of organization ~~existing prior to such filing, as theretofore amended or supplemented,~~ shall be superseded and; ~~thenceforth,~~ the restated articles of organization, including any further amendment or changes made thereby, shall ~~become~~ be the company's articles of organization, ~~of the limited liability company,~~ but The original effective date of the company's formation shall remain unchanged.

(7)(8) Any amendment or change effected in connection with the restatement and integration of the articles of organization shall be subject to any other provisions of this chapter, not inconsistent with this section, which would apply if a separate articles certificate of amendment were filed to effect such amendment or change.

608.4115 Correcting the articles of organization filed of record—.

(1) A limited liability company or foreign limited liability company may correct the articles of organization filed of record with the Department of State within 30 business days after filing if the record contains a false or erroneous statement or was defectively signed.

(2) The articles of organization filed of record are corrected:

(a) By preparing articles of correction that:

1. Describe the articles of organization filed of record, including their filing date, or attach a copy of the articles of organization to the articles of correction.

2. Specify the incorrect statement and the reason the statement is incorrect or the manner in which the signing was defective.

3. Correct the incorrect statement or defective signing.

(b) By delivering the articles of correction to the Department of State for filing.

(3) The articles of correction are effective retroactively to the effective date of the articles of organization they correct except as to persons relying on the uncorrected articles of organization and adversely affected by the correction. As to those persons, the articles of correction are effective when filed.

608.415 Registered office and registered agent.—

(1) Each limited liability company shall have and continuously maintain in this state:

(a) A registered office, which may be the same as its place of business; and

(b) A registered agent, which agent may be either:

1. An individual who resides in this state whose business office is identical with such registered office.

2. A foreign or domestic entity corporation or limited liability company authorized to transact business in this state, having a business office identical with such registered office.

(2) A registered agent or a successor registered agent appointed pursuant to s. 608.416 on whom process may be served shall each file a statement in writing with the Department of State accepting the appointment as registered agent simultaneously with being designated. Such statement or acceptance shall state that the registered agent is familiar with, and accepts, the obligations of that position as provided for in this chapter.

(3) The Department of State shall maintain an accurate record of the registered agents and registered office for the service of process and shall furnish any information disclosed thereby promptly upon request and payment of the required fee.

(4) A limited liability company may not prosecute, maintain, or defend any action in any court until the limited liability company complies with the provisions of this section and pays to the Department of State a penalty of \$5 for each day it has failed to comply or \$500, whichever amount is less, and pays any other amount required under this chapter.

608.416 Change of registered office or registered agent.—

(1) A limited liability company may change its registered office or agent by upon filing with the Department of State a statement setting forth:

(a) The name of the limited liability company.

(b) The street address of its current registered office.

(c) If the street address of its registered office is to be changed, the new street address ~~to which the registered office is to be changed~~.

(d) If its current registered agent is to be changed, the name of the new registered agent and the new registered agent's written consent to the appointment, either on the statement or attached to it.

(e) That such change was authorized by affirmative vote of ~~a majority of~~ the members or as otherwise provided in the articles of organization or the operating agreement regulations of the limited liability company.

(2) Any registered agent may resign his or her agency appointment by signing and delivering for filing with the Department of State a statement of resignation and mailing a copy of such statement to the limited liability company at its principal office address shown in its most recently filed document. The agency is terminated and the registered office discontinued, if so provided, on the 31st day after the date on which the statement was filed with the Department of State. After receipt of the notice of the resignation of its registered agent, the limited liability company for which such registered agent was acting shall obtain and designate a new registered agent, to take the place of the resigning registered agent.

(3) A registered agent may change the address of the registered office of any limited liability company for which ~~such agent his or hers~~ is the registered agency by notifying the limited liability company in writing of the change, signing, either manually or in facsimile, and delivering to the Department of State for filing a statement that complies with the requirements of paragraphs (1)(a)-(d), and reciting that the limited liability company has been notified of the change.

608.4211 Contributions to capital and liability for contribution.—

(1) The contribution of a member may be in cash, property, or services rendered, or a promissory note or other obligation to contribute cash or property or to perform services.

(2) A promise by a member to contribute to the limited liability company is not enforceable unless it is set out in writing signed by the member.

(3) ~~Unless otherwise~~ Except as provided in the articles of organization or operating agreement regulations, a member is obligated to the limited liability company to perform any enforceable promise to contribute cash or property or to perform services, even if ~~the member he or she~~ is unable to perform because of ~~the member's his or her~~ death or disability or any other reason. If a member does not make the required contribution of property or services, ~~the member he or she~~ is obligated, at the option of the limited liability company, to contribute cash equal to that portion of the agreed value, as stated in the records of the limited liability company required to be kept pursuant to this chapter, of the stated contribution that has not been made. The foregoing option shall be in addition to, and not in lieu of, any other rights, including the right to specific performance, that the limited liability company may have against such member under the articles of organization or operating agreement or applicable law.

(4) ~~Unless otherwise provided in the articles of organization or the operating agreement regulations~~, the obligation of a member to make a contribution or return money or other property paid or distributed in violation of this chapter may be compromised only by consent of all the members. Notwithstanding the compromise, the creditor of a limited liability company, who extends credit or otherwise acts in reasonable reliance upon that obligation after the member has signed a writing that indicates the obligation and before the amendment or cancellation of the writing to indicate the compromise, may enforce the original obligation to the extent the creditor relied on the obligation when extending credit.

(5) ~~The articles of organization or operating agreement regulations~~ of a limited liability company may provide that the interest of any member who fails to make any contribution that ~~the member he or she~~ is obligated to make shall be subject to specified penalties for, or specified consequences of, such failure. Such penalties or consequences may take the form of reducing the defaulting member's proportionate membership interest in the limited liability company, subordinating ~~the defaulting member's his or her~~ interest in the limited liability company to that of the nondefaulting members, a forced sale of the defaulting member's membership ~~limited liability company~~

interest, the forfeiture of the defaulting member's membership limited liability company interest, the lending by other members of the amount necessary to meet ~~the defaulting member's his or her~~ commitment, a fixing of the value of the defaulting member's membership limited liability company interest by appraisal or by formula and redemption or sale of the defaulting member's membership limited liability company interest at such value, or other penalties or consequences.

608.422 Management of limited liability company.—

(1) ~~The management of the limited liability company, Unless otherwise provided in its the articles of organization or the operating agreement, the company shall be a member-managed company. regulations, shall be vested in its members in proportion to their contributions to the capital of the limited liability company, as adjusted from time to time to properly reflect any additional contributions or withdrawals by the members; however,~~

(2) In a member-managed company:

(a) Unless otherwise provided in the articles of organization or operating agreement, management shall be vested in its members in proportion to the then-current percentage or other interest of members in the profits of the limited liability company owned by all of the members.

(b) Except as otherwise provided in subsection (3) or in this chapter, the decision of a majority-in-interest of the members shall be controlling.

(3) ~~If the articles of organization or the operating agreement provide for the management of the limited liability company by a manager or managers, the management of the limited liability company shall may be vested in a manager or managers and the company shall be a manager-managed company. who shall be elected annually by the members in the manner prescribed by and provided in the articles of organization or the regulations of the limited liability company. The manager or managers shall also hold the offices and have the responsibilities accorded to them by the members and set out in the articles of organization or the regulations of the limited liability company.~~

(4) In a manager-managed company:

(a) Each manager has equal rights in the management and conduct of the company's business.

(b) Except as otherwise provided in subsection (3) or in this chapter, any matter relating to the business of the company may be exclusively decided by the manager or, if there is more than one manager, by a majority of the managers.

(c) A manager:

1. Must be designated, appointed, elected, removed, or replaced by a vote, approval, or consent of a majority-in-interest of the members; and

2. Holds office until a successor has been elected and qualified, unless the manager sooner resigns or is removed.

(5) Action requiring the consent of members or managers under this chapter may be taken without a meeting, subject to the limitations of s. 608.4231.

(6) A member or manager may appoint a proxy to vote or otherwise act for the member or manager by signing an appointment instrument, either personally or by the member's or manager's attorney-in-fact.

(7) The manager or managers may also hold the offices and have such other responsibilities accorded to them by the members and set out in the articles of organization or the operating agreement of the limited liability company.

608.4225 General standards for managers and managing members.—

(1) Subject to ss. 608.423 and 608.4226, each manager and managing member shall owe a duty of loyalty and a duty of care to the limited liability company and the other members of the limited liability company. A manager or managing member shall discharge his or her duties as a manager or managing member, including his or her duties as a member of a committee:

(a) The duty of loyalty includes, without limitation:

1. Accounting to the limited liability company and holding as trustee for the limited liability company any property, profit, or benefit derived by such manager or managing member in the conduct or winding up of the limited liability company business or derived from a use by such manager or managing member of limited liability company property, including the appropriation of a limited liability company opportunity.

2. Refraining from dealing with the limited liability company in the conduct or winding up of the limited liability company business as or on behalf of a party having an interest adverse to the limited liability company.

3. Refraining from competing with the limited liability company in the conduct of the limited liability company business before the dissolution of the limited liability company. In good faith.

(b) The duty of care is limited to refraining from engaging in grossly negligent or reckless conduct, intentional misconduct, or a knowing violation of law. With the care an ordinarily prudent person in a like position would exercise under similar circumstances.

(c) Each manager and managing member shall discharge the duties to the limited liability company and other members under this chapter or under the articles of organization or operating agreement and exercise any rights consistent with the obligation of good faith and fair dealing. In a manner he or she reasonably believes to be in the best interests of the limited liability company.

(d) A manager or managing member does not violate a duty or obligation under this chapter or under the articles of organization or operating agreement merely because the manager's or managing member's conduct furthers such manager's or managing member's own interest.

(e) A manager or managing member may lend money to and transact other business with the company. As to each loan or transaction, the rights and obligations of the manager or managing member are the same as those of a person who is not a member, subject to other applicable law.

(f) This section applies to a person winding up the limited liability company business as the personal or other legal representative of the last surviving member as if such person were a manager or managing member.

(2) In discharging a manager's or managing member's ~~his or her~~ duties, a manager or managing member is entitled to rely on information, opinions, reports, or statements, including financial statements and other financial data, if prepared or presented by:

(a) One or more members or employees of the limited liability company whom the manager or managing member reasonably believes to be reliable and competent in the matters presented;

(b) Legal counsel, public accountants, or other persons as to matters the manager or managing member reasonably believes are within the persons' professional or expert competence; or

(c) A committee of managers, members, or managing members of which ~~the affected manager or managing member he or she~~ is not a participant ~~member~~ if the manager or managing member reasonably believes the committee merits confidence.

(3) In discharging a manager's or managing member's ~~his or her~~ duties, a manager or managing member may consider such factors as the manager or managing member he or she deems relevant, including the long-term prospects and interests of the limited liability company and its members, and the social, economic, legal, or other effects of any action on the employees, suppliers, customers of the limited liability company, the communities and society in which the limited liability company operates, and the economy of the state and the nation.

(4) A member, manager, or managing member is not acting in good faith if the member, manager, or managing member he or she has knowledge concerning the matter in question that makes reliance otherwise permitted by subsection (2) unwarranted.

(5) A manager or managing member is not liable for any action taken as a manager or managing member, or any failure to take any action, if the manager or managing member he or she performed the duties of the manager's or managing member's his or her position in compliance with this section.

608.4226 Conflicts of interest.—

(1) No contract or other transaction between a limited liability company and one or more of its members, managers, or managing members or any other limited liability company, corporation, firm, association, or entity in which one or more of its members, managers, or managing members are managers, managing members, directors, or officers or are financially interested shall be either void or voidable because of such relationship or interest, because such members, managers, or managing members are present at the meeting of the managers or managing members or a committee thereof which authorizes, approves, or ratifies such contract or transaction, or because their votes are counted for such purpose, if:

(a) The fact of such relationship or interest is disclosed or known to the managers or managing members or committee which authorizes, approves, or ratifies the contract or transaction by a vote or consent sufficient for the purpose without counting the votes or consents of such interested members, managers, or managing members;

(b) The fact of such relationship or interest is disclosed or known to the members entitled to vote and they authorize, approve, or ratify such contract or transaction by vote or written consent; or

(c) The contract or transaction is fair and reasonable as to the limited liability company at the time it is authorized by the managers, managing members, a committee, or the members.

(2) For purposes of paragraph (1)(a) only, a conflict of interest transaction is authorized, approved, or ratified if it receives the affirmative vote of a majority of the managers or managing members, or of the committee, who have no relationship or interest in the transaction described in subsection (1), but a transaction may not be authorized, approved, or ratified under this section by a single manager of a manager-managed company or a single managing member of a member-managed company, unless the company is a single member limited liability company. If a majority of the managers or managing members who have no such relationship or interest in the transaction vote to authorize, approve, or ratify the transaction, a quorum is present for the purpose of taking action under this section. The presence of, or a vote cast by, a manager or managing member with such relationship or interest in the transaction does not affect the validity of any action taken under paragraph (1)(a) if the transaction is otherwise authorized, approved, or ratified as provided in that subsection, but such presence or vote of those managers or managing members may be counted for purposes of determining whether the transaction is approved under other sections of this chapter.

(3) For purposes of paragraph (1)(b), a conflict of interest transaction is authorized, approved, or ratified if it receives the vote of a majority-in-interest of the members entitled to be counted under this subsection. Membership interests owned by or voted under the control of a manager or managing member who has a relationship or interest in the transaction described in subsection (1) may not be counted in a vote of members to determine whether to authorize, approve, or ratify a conflict of interest transaction under paragraph (1)(b). The vote of those membership interests, however, is counted in determining whether the transaction is approved

under other sections of this act. A majority-in-interest of the members, whether or not present, that are entitled to be counted in a vote on the transaction under this subsection constitutes a quorum for the purpose of taking action under this section.

(Substantial rewording of section. See s. 608.436, F.S., for present text.)

608.4227 Liability of members and managers.—

(1) Except as provided in this chapter, neither the members of a limited liability company nor the managers of a limited liability company managed by a manager or managing member are liable, solely by reason of being a member or serving as a manager or managing member, under a judgment, decree, or order of a court, or in any other manner, for a debt, obligation, or liability of the limited liability company;

(2) Any such member or manager or other person acting under the articles of organization or operating agreement of a limited liability company shall not be liable to the limited liability company or to any such other member or manager for the member's or manager's or other person's good faith reliance on the provisions of the limited liability company's articles of organization or operating agreement; and

(3) The member's or manager's or other person's duties and liabilities may be expanded or restricted by provisions in a limited liability company's articles of organization or operating agreement.

(Substantial rewording of section. See s. 608.4362, F.S., for present text.)

608.4228 Liability of managers and managing members.—

(1) A manager or a managing member shall not be personally liable for monetary damages to the limited liability company or any other person for any statement, vote, decision, or failure to act regarding management or policy decisions by a manager or a managing member, unless:

(a) The manager or managing member breached or failed to perform the duties as a manager or managing member; and

(b) The manager's or managing member's breach of, or failure to perform, those duties constitutes any of the following:

1. A violation of the criminal law, unless the manager or managing member had a reasonable cause to believe his or her conduct was lawful or had no reasonable cause to believe such conduct was unlawful. A judgment or other final adjudication against a manager or managing member in any criminal proceeding for a violation of the criminal law estops that manager or managing member from contesting the fact that such breach, or failure to perform, constitutes a violation of the criminal law, but does not estop the manager or managing member from establishing that he or she had reasonable cause to believe that his or her conduct was lawful or had no reasonable cause to believe that such conduct was unlawful.

2. A transaction from which the manager or managing member derived an improper personal benefit, either directly or indirectly.

3. A distribution in violation of s. 608.426.

4. In a proceeding by or in the right of the limited liability company to procure a judgment in its favor or by or in the right of a member, conscious disregard of the best interest of the limited liability company, or willful misconduct.

5. In a proceeding by or in the right of someone other than the limited liability company or a member, recklessness or an act or omission which was committed in bad faith or with malicious purpose or in a manner exhibiting wanton and willful disregard of human rights, safety, or property.

(2) For the purposes of this section, the term “recklessness” means acting, or failing to act, in conscious disregard of a risk known, or so obvious that it should have been known, to the manager or managing member, and known to the manager or managing member, or so obvious that it should have been known, to be so great as to make it highly probable that harm would follow from such action or failure to act.

(3) A manager or managing member is deemed not to have derived an improper personal benefit from any transaction if the transaction and the nature of any personal benefit derived by the manager or managing member are not prohibited by state or federal law or the articles of organization or operating agreement and, without further limitation, the transaction and the nature of any personal benefit derived by a manager or managing member are disclosed or known to the members, and the transaction was authorized, approved, or ratified by the vote of a majority-in-interest of the members other than the managing member, or the transaction was fair and reasonable to the limited liability company at the time it was authorized by the manager or managing member, notwithstanding that a manager or managing member received a personal benefit.

(4) The circumstances set forth in subsection (3) are not exclusive and do not preclude the existence of other circumstances under which a manager will be deemed not to have derived an improper benefit.

(Substantial rewording of section. See s. 608.4363, F.S., for present text.)

608.4229 Indemnification of managers, managing members, officers, employees, and agents.—

(1) Subject to such standards and restrictions, if any, as are set forth in its articles of organization or operating agreement, a limited liability company may, and shall have the power to, but shall not be required to, indemnify and hold harmless any member or manager or other person from and against any and all claims and demands whatsoever.

(2) Notwithstanding subsection (1), indemnification or advancement of expenses shall not be made to or on behalf of any manager, managing

member, officer, employee, or agent if a judgment or other final adjudication establishes that the actions, or omissions to act, of such manager, managing member, officer, employee, or agent were material to the cause of action so adjudicated and constitute any of the following:

(a) A violation of criminal law, unless the manager, managing member, officer, employee, or agent had no reasonable cause to believe such conduct was unlawful.

(b) A transaction from which the manager, managing member, officer, employee, or agent derived an improper personal benefit.

(c) In the case of a manager or managing member, a circumstance under which the liability provisions of s. 608.426 are applicable.

(d) Willful misconduct or a conscious disregard for the best interests of the limited liability company in a proceeding by or in the right of the limited liability company to procure a judgment in its favor or in a proceeding by or in the right of a member.

608.423 Limited liability company operating agreement; nonwaivable provisions regulations.—

(1) Except as otherwise provided in subsection (2), all members of a limited liability company may enter into an operating agreement, which need not be in writing, to regulate the affairs of the company and the conduct of its business, establish duties in addition to those set forth in this chapter, and to govern relations among the members, managers, and company. Any inconsistency between written and oral operating agreements shall be resolved in favor of the written agreement. To the extent the operating agreement does not otherwise provide, this chapter governs relations among the members, managers, and company.

(2) The operating agreement may not:

(a) Unreasonably restrict a right to information or access to records under s. 608.4101;

(b) Eliminate the duty of loyalty under s. 608.4225, but the agreement may:

1. Identify specific types or categories of activities that do not violate the duty of loyalty, if not manifestly unreasonable; and

2. Specify the number or percentage of members or disinterested managers that may authorize or ratify, after full disclosure of all material facts, a specific act or transaction that otherwise would violate the duty of loyalty;

(c) Unreasonably reduce the duty of care under s. 608.4225;

(d) Eliminate the obligation of good faith and fair dealing under s. 608.4225, but the operating agreement may determine the standards by which the performance of the obligation is to be measured, if the standards are not manifestly unreasonable;

- (e) Vary the right to expel a member in an event specified in this chapter;
- (f) Vary the requirement to wind up the limited liability company's business in a case specified in this chapter; or
- (g) Restrict rights of a person, other than a manager, member, or transferee of a member's distributional interest, under this chapter.

~~(3)(4) The power to adopt, alter, amend, or repeal the operating agreement regulations of a limited liability company shall be vested in the members of the company unless vested in the manager or managers of the company by the articles of organization or operating agreement, provided that any amendment to a written operating agreement shall be in writing. The operating agreement Regulations adopted by the members or by the manager or managers may be repealed or altered; a new operating agreement regulations may be adopted by the members; and the members may prescribe in any operating agreement regulations made by them that such operating agreement regulations may not be altered, amended, or repealed by the manager or managers. The regulations may contain any provisions for the regulation and management of the affairs of the limited liability company not inconsistent with law or the articles of organization.~~

~~(4)(2) Unless the articles of organization or the operating agreement provides regulations provide otherwise, if the management of the limited liability company is vested in a manager or managers, the managers may adopt an operating agreement regulations to be effective only in an emergency as defined in subsection (7) (5). The emergency operating agreement regulations, which is are subject to amendment or repeal by the members, may make all provisions necessary for managing the limited liability company during an emergency, including procedures for calling a meeting of the managers and designation of additional or substitute managers.~~

~~(5)(3) All provisions of the regular operating agreement regulations consistent with the emergency regulations remain effective during the emergency. The emergency operating agreement is regulations are not effective after the emergency ends.~~

~~(6)(4) Actions taken by the limited liability company in good faith in accordance with the emergency operating agreement regulations have the effect of binding the company and may not be used to impose liability on a manager, employee, or agent of the company.~~

~~(7)(5) An emergency exists for purposes of this section if the limited liability company's managers cannot readily be assembled because of some catastrophic event.~~

(Substantial rewording of section. See s. 608.4231, F.S., for present text.)

608.4231 Voting by members and managers.—

(1) The articles of organization or operating agreement may provide for classes or groups of members having such relative rights, powers, and duties

as the articles of organization or operating agreement may provide, and may make provision for the future creation in the manner provided in the articles of organization or operating agreement of additional classes or groups of members having such relative rights, powers, and duties as may from time to time be established, including rights, powers, and duties senior to existing classes and groups of members. The articles of organization or operating agreement may provide for the taking of an action, including the amendment of the articles of organization or operating agreement, without the vote or approval of any member or class or group of members, including an action to create under the provisions of the articles of organization or operating agreement a class or group of limited liability company interests that was not previously outstanding. The articles of organization or operating agreement may provide that any member or class or group of members shall have no voting rights.

(2) The articles of organization or operating agreement may grant to all or certain identified members or a specified class or group of the members the right to vote separately or with all or any class or group of the members or manager on any matter. Voting by members may be on a per capita, number, financial interest, class, group, or any other basis.

(3) If no voting provision is contained in the articles of organization or operating agreement:

(a) The members of a limited liability company shall vote in proportion to their then-current percentage or other interest in the profits of the limited liability company or, in the case of a member who has assigned the member's entire economic interest in the limited liability company to a person who has not been admitted as a member, in proportion to the then-current percentage or other interest in the profits of the limited liability company that the assigning member would have, had the assignment not been made.

(b) In all matters in which a vote is required, a vote of a majority-in-interest of the members shall be sufficient unless provided otherwise in the company's articles of organization or operating agreement or this chapter.

(4) Notwithstanding any provision to the contrary in the articles of organization or operating agreement, in no event shall the articles of organization be amended by a vote of less than a majority-in-interest of the members.

(5) Notwithstanding any provision to the contrary in the articles of organization or operating agreement, members shall have the right to vote on a dissolution of the limited liability company as provided in s. 608.441 and on a merger of the limited liability company as provided in s. 608.4381.

(6) Except as otherwise provided in the articles of organization or the operating agreement, if the members have appointed more than one manager to manage the business of the limited liability company, decisions of the managers shall be made by majority vote of the managers if at a meeting, or by unanimous written consent.

(7) The articles of organization or operating agreement which grants a right to vote may set forth provisions relating to notice of the time, place,

or purpose of any meeting at which any matter is to be voted on by any members, waiver of any such notice, action by consent without a meeting, the establishment of a record date, quorum requirements, voting in person or by proxy, or any other matter with respect to the exercise of any such right to vote.

(8) Unless otherwise provided in the articles of organization or operating agreement, on any matter that is to be voted on by members, the members may take such action without a meeting, without prior notice, and without a vote if a consent or consents in writing, setting forth the action so taken, are signed by the members having not less than the minimum number of votes that would be necessary to authorize or take such action at a meeting, but in no event by a vote of less than a majority-in-interest of the members that would be necessary to authorize or take such action at a meeting. Unless otherwise provided in the articles of organization or operating agreement, on any matter that is to be voted on by members or managers, the members or managers may vote in person or by proxy. Within 10 days after obtaining such authorization by written consent, notice must be given to those members who have not consented in writing or who are not entitled to vote on the action.

608.4232 Admission of additional members.—Except as otherwise provided in the articles of organization or the operating agreement regulations, no person may be admitted as a member unless a majority-in-interest of the members consent ~~each member consents~~ in writing to the admission of the additional member.

608.4235 Agency of members and managers.—

(1) Subject to subsections (2) and (3):

(a) In a member-managed company, each member is an agent of the limited liability company for the purpose of its business, and an act of a member, including the signing of an instrument in the company's name, for apparently carrying on in the ordinary course the company's business or business of the kind carried on by the company binds the company, unless the member had no authority to act for the company in the particular matter and the person with whom the member was dealing knew or had notice that the member lacked authority.

(b) An act of a member which is not apparently for carrying on in the ordinary course the company's business or business of the kind carried on by the company binds the company only if the act was authorized by appropriate vote of the other members.

(2) Subject to subsection (3), in a manager-managed company:

(a) A member is not an agent of the company for the purpose of its business solely by reason of being a member. Each manager is an agent of the company for the purpose of its business, and an act of a manager, including the signing of an instrument in the company's name, for apparently carrying on in the ordinary course the company's business or business

of the kind carried on by the company binds the company, unless the manager had no authority to act for the company in the particular matter and the person with whom the manager was dealing knew or had notice that the manager lacked authority.

(b) An act of a manager which is not apparently for carrying on in the ordinary course the company's business or business of the kind carried on by the company binds the company only if the act was authorized under s. 608.422.

(3) Unless the articles of organization or operating agreement limit the authority of a member, any member of a member-managed company or manager of a manager-managed company may sign and deliver any instrument transferring or affecting the company's interest in real property. The instrument is conclusive in favor of a person who gives value without knowledge of the lack of the authority of the person signing and delivering the instrument.

608.4236 Delegation of rights and powers to manage.—Unless otherwise provided in the limited liability company's articles of organization or operating agreement, a member or manager of a limited liability company has the power and authority to delegate to one or more other persons the member's or manager's, as the case may be, rights and powers to manage and control the business and affairs of the limited liability company, including the power and authority to delegate to agents, boards of managers, managing members or directors, officers and assistant officers, and employees of a member or manager of the limited liability company, and the power and authority to delegate by a management agreement or another agreement with, or otherwise, to other persons. Unless otherwise provided in the limited liability company's articles of organization or operating agreement, such delegation by a member or manager of a limited liability company shall not cause the member or manager to cease to be a member or manager, as the case may be, of the limited liability company.

608.4237 Membership termination upon events of bankruptcy.—A person ceases to be a member of a limited liability company upon the occurrence of any of the following:

(1) Unless otherwise provided in the articles of organization or operating agreement, or with the written consent of all members, a member:

(a) Makes an assignment for the benefit of creditors;

(b) Files a voluntary petition in bankruptcy;

(c) Is adjudged a bankrupt or insolvent, or has entered against the member an order for relief, in any bankruptcy or insolvency proceeding;

(d) Files a petition or answer seeking for himself any reorganization, arrangement, composition, readjustment, liquidation, dissolution, or similar relief under any statute, law, or regulation;

(e) Files an answer or other pleading admitting or failing to contest the material allegations of a petition filed against the member in any proceeding of this nature; or

(f) Seeks, consents to, or acquiesces in the appointment of a trustee, receiver, or liquidator of the member or of all or any substantial part of the member's properties; or

(2) Unless otherwise provided in the articles of organization or operating agreement, or with the written consent of all members, 120 days after the commencement of any proceeding against the member seeking reorganization, arrangement, composition, readjustment, liquidation, dissolution, or similar relief under any statute, law, or regulation, if the proceeding has not been dismissed, or if within 90 days after the appointment without the member's consent or acquiescence of a trustee, receiver, or liquidator of the member or of all or any substantial part of the member's properties, the appointment is not vacated or stayed, or within 90 days after the expiration of any such stay, the appointment is not vacated.

(Substantial rewording of section. see
s. 608.437, F.S., for present text.)

608.4238 Unauthorized assumption of powers.—All persons purporting to act as or on behalf of a limited liability company, having actual knowledge that there was no organization of a company under this chapter, are jointly and severally liable for all liabilities created while so acting except for any liability to any person who also had actual knowledge that there was no organization of a limited liability company.

608.425 Limited liability company property.—

(1) All property originally contributed to the limited liability company or subsequently acquired by a limited liability company by purchase or otherwise is limited liability company property.

(2) Unless otherwise provided in the articles of organization or the operating agreement regulations, property acquired with limited liability company funds is limited liability company property.

(3) Instruments and documents providing for the acquisition, mortgage, or disposition of property of the limited liability company shall be valid and binding upon the company, if they are executed in accordance with this chapter by the persons authorized in the articles of organization or the regulations to execute such documents on behalf of the limited liability company, or, if the articles of organization or the regulations do not provide for the execution of such documents, one or more managers of a limited liability company having a manager or managers, or one or more members of a limited liability company in which management has been retained in the members.

608.426 Distributions ~~Distribution of property; impairment of capital.~~—

(1) The limited liability company may make distributions, from time to time, distribute its property to its members in accordance with the provisions contained in the operating agreement regulations, except that no distribution may be made if after the distribution the limited liability company would not be insolvent ~~able to pay its debts as they become due in the usual~~

~~course of business, or the limited liability company's total assets would be less than the sum of its total liabilities (except liabilities to members on account of their contributions, unless otherwise provided in the articles of organization). If the operating agreement does regulations do not provide for the payment of distributions to members, the distributions shall be made on the basis of the agreed value, as stated in the records of the limited liability company, of the contributions made by each member to the extent they have been received by the limited liability company and have not been returned, when made, must be allocated on the basis of each member's relative capital account.~~

(2) The managers or managing members of a limited liability company may base a determination that a distribution is not prohibited under subsection (1) either on financial statements prepared on the basis of accounting practices and principles that are reasonable in the circumstances or on a fair valuation or other method that is reasonable in the circumstances. In the case of any distribution based upon such financial statement or such a valuation, each such distribution shall be identified as a distribution based upon such financial statements or a fair ~~current~~ valuation of assets, and the amount distributed shall be disclosed to the receiving members concurrent with their receipt of the distribution.

(3) A manager or managing member who votes for or assents to a distribution made in violation of this section, the articles of incorporation, or the operating agreement regulations, is personally liable to the limited liability company for the amount of the distribution that exceeds what could have been distributed without such violation if it is established that the manager or managing member he or she ~~he or she~~ did not perform the manager's or managing member's ~~his or her~~ duties in compliance with s. 608.4225. In any proceeding commenced under this section, a manager or managing member has all of the defenses ordinarily available to a manager or managing member.

(4) A manager or managing member held liable under subsection (3) for an unlawful distribution is entitled to contribution:

(a) From every other manager or managing member who is also ~~could be~~ liable under subsection (3) for the unlawful distribution; and

(b) From each member to the extent of ~~for~~ the amount the member accepted knowing the distribution was made in violation of this section, the articles of incorporation, or the operating agreement regulations.

(5) A proceeding under this section is barred unless it is commenced within 2 years after the date on which the distribution was made. In the case of a distribution in the form of indebtedness, each payment of principal or interest is treated as a distribution.

608.4261 Sharing of profits and losses.—The profits and losses of the limited liability company shall be allocated among the members in the manner provided in the articles of organization or the operating agreement regulations. If the articles of organization do not or the operating agreement does regulations do not provide for the allocation of profits and losses among members, profits and losses shall be allocated on the basis of the agreed

value, as stated in the records of the limited liability company, of the contributions made by each member to the extent such contributions have been received by the limited liability company and have not been returned each member's relative capital account.

608.427 Withdrawal of member and distribution upon withdrawal or reduction of members' contributions to capital.—

(1) A member may withdraw from a limited liability company only at the time or upon the occurrence of an event specified in the articles of organization or operating agreement and in accordance with the articles of organization or operating agreement. Notwithstanding anything to the contrary under applicable law, unless the articles of organization or operating agreement provides otherwise, a member may not resign from a limited liability company prior to the dissolution and winding up of the limited liability company. Notwithstanding anything to the contrary under applicable law, the articles of organization or operating agreement may provide that a limited liability company interest may not be assigned prior to the dissolution and winding up of the limited liability company. A member may withdraw from a limited liability company at the time or upon the happening of an event specified in the articles of organization or the regulations. If the articles of organization and regulations do not specify the time or the events upon the happening of which a member may withdraw or a definite time for the dissolution and the winding up of the limited liability company, a member may withdraw upon not less than 6 months' prior written notice to each nonwithdrawing member at his or her address as set forth in the records that are required to be kept under s. 608.4101.

(2) Except as provided in subsection (3), Upon withdrawal, a withdrawing member is entitled to receive any distribution to which the withdrawing member he or she is entitled under the articles of organization or operating agreement regulations, and, if not otherwise provided in the articles of organization and operating agreement regulations, the withdrawing member he or she is entitled to receive, within a reasonable time after withdrawal, the fair value of the withdrawing member's interest in the limited liability company as of the date of resignation based upon the withdrawing member's right to share in distributions from the limited liability company balance of his or her capital account.

(3) A member may not receive a distribution from a limited liability company to the extent that, after giving effect to the distribution, all liabilities of the limited liability company, other than liabilities to members on account of their ownership interests in the limited liability company, exceed the value of the limited liability company's assets.

(3)(4) In the absence of a statement in the articles of organization or the operating agreement regulations to the contrary or the consent of all members of the limited liability company, a member, irrespective of the nature of the member's his or her or its contribution, has only the right to demand and receive cash in return for the member's his or her or its contribution to capital.

608.428 Liability upon wrongful distribution ~~return of contribution.~~—

~~(1)(a) If a member receives the return of any part of his or her contribution without violation of the articles of organization, the regulations, or this chapter, he or she is liable to the limited liability company for a period of 1 year thereafter for the amount of the returned contribution, but only to the extent necessary to discharge the limited liability company's liabilities to creditors who extended credit to the limited liability company during the period the contribution was held by the limited liability company.~~

~~(1)(b) If a member receives a distribution the return of any part of his or her contribution in violation of the articles of organization, the operating agreement regulations, or this chapter, the member he or she is liable to the limited liability company for a period of 3 6 years thereafter for the amount of the distribution ~~contribution~~ wrongfully ~~made~~ returned.~~

~~(2) A member may not receive a distribution from a liability company to the extent that, after giving effect to the distribution, all liabilities of the limited liability company, other than liabilities to members on account of their membership interests in the limited liability company, exceed the value of the limited liability company's assets. A member receives a return of his or her contribution to the extent that a distribution to the member reduces his or her share of the fair value of the net assets of the limited liability company below the value, as set forth in the records that the limited liability company is required to keep pursuant to s. 608.4101, of the member's contribution which has not been distributed to him or her.~~

~~(Substantial rewording of section. See s. 608.432, F.S., for present text.)~~

608.432 Assignment of member's interest.—

~~(1) A limited liability company interest is assignable in whole or in part except as provided in the articles of organization or operating agreement. The assignee of a member's interest shall have no right to participate in the management of the business and affairs of a limited liability company except as provided in the articles of organization or operating agreement and upon:~~

~~(a) The approval of all of the members of the limited liability company other than the member assigning the limited liability company interest; or~~

~~(b) Compliance with any procedure provided for in the limited liability company agreement.~~

~~(2) Unless otherwise provided in the articles of organization or operating agreement:~~

~~(a) An assignment of a membership interest does not entitle the assignee to become or to exercise any rights or powers of a member;~~

~~(b) An assignment of a membership interest entitles the assignee to share in such profits and losses, to receive such distribution or distributions, and to receive such allocation of income, gain, loss, deduction, or credit or similar item to which the assignor was entitled, to the extent assigned; and~~

(c) A member ceases to be a member and to have the power to exercise any rights or powers of a member upon assignment of all of the membership interest of such member. Unless otherwise provided in the articles of organization or operating agreement, the pledge of, or granting of a security interest, lien, or other encumbrance in or against, any or all of the membership interest of a member shall not cause the member to cease to be a member or to have the power to exercise any rights or powers of a member.

(3) The articles of organization or operating agreement may provide that a member's interest in a limited liability company may be evidenced by a certificate of membership interest issued by the limited liability company.

(4) Unless otherwise provided in the articles of organization or operating agreement and except to the extent assumed by agreement, until an assignee of a membership interest becomes a member, the assignee shall have no liability as a member solely as a result of the assignment.

(5) Unless otherwise provided in the articles of organization or operating agreement, a limited liability company may acquire, by purchase, redemption, or otherwise, any membership interest or other interest of a member or manager in the limited liability company. Unless otherwise provided in the articles of organization or operating agreement, any such interest so acquired by the limited liability company shall be deemed canceled.

608.433 Right of assignee to become member.—

(1) Unless otherwise provided in the articles of organization or operating agreement, an assignee of a limited liability company interest may become a member only if all other members other than the member assigning the interest consent.

(2) An assignee who has become a member has, to the extent assigned, the rights and powers, and is subject to the restrictions and liabilities, of the assigning a member under the articles of organization, the operating agreement regulations, and this chapter. An assignee who becomes a member also is liable for the obligations of the assignee's his or her assignor to make and return contributions as provided in s. ss. 608.4211 and wrongful distributions as provided in s. 608.428. However, the assignee is not obligated for liabilities which are unknown to the assignee at the time the assignee he or she became a member and which could not be ascertained from the articles of organization or the operating agreement regulations.

(3) If an assignee of a limited liability company interest becomes a member, the assignor is not released from his or her liability to the limited liability company under ss. 608.4211, 608.426, and 608.4228 608.4362.

(4) On application to a court of competent jurisdiction by any judgment creditor of a member, the court may charge the limited liability company membership interest of the member with payment of the unsatisfied amount of the judgment with interest. To the extent so charged, the judgment creditor has only the rights of an assignee of such the limited liability company interest. This chapter does not deprive any member of the benefit of any

exemption laws applicable to the member's ~~his or her limited liability company~~ interest.

608.434 Power of estate of deceased or incompetent member; dissolved or terminated member.—

(1) If a member who is an individual dies or if a court of competent jurisdiction adjudges a member who is an individual to be incompetent to manage the member's ~~his or her~~ person or property, the member's executor, administrator, guardian, conservator, or other legal representative may exercise all the member's rights for the purpose of settling the member's ~~his or her~~ estate or administering the member's ~~his or her~~ property, including any power the member had to give an assignee the right to become a member.

(2) If a member is a corporation, limited liability company, trust, or other entity and is dissolved or terminated, the powers of that member may be exercised by its legal representative or successor.

608.438 Merger of limited liability company.—

(1) As used in this section and ss. 608.4381-608.4384, the term "other business entity" includes a corporation, a business trust or association, a real estate investment trust, a common law trust, an unincorporated business, a general partnership, a limited partnership, a limited liability company other than a limited liability company organized under the laws of this chapter, or any other entity that is formed pursuant to the requirements of applicable law.

(2) Unless otherwise provided in the articles of organization or the operating agreement ~~regulations~~ of a limited liability company, pursuant to a plan of merger, a limited liability company may merge with or into one or more limited liability companies or other business entities formed, organized, or incorporated under the laws of this state or any other state, the United States, foreign country, or other foreign jurisdiction, if:

(a) Each limited liability company that is a party to the merger complies with the applicable provisions of this chapter and complies with the terms of its articles of organization and operating agreement ~~regulations~~.

(b) Each domestic partnership that is a party to the merger complies with the applicable provisions of chapter 620.

(c) Each domestic corporation that is a party to the merger complies with the applicable provisions of chapter 607.

(d) The merger is permitted by the laws of the state, country, or jurisdiction under which each other business entity that is a party to the merger is formed, organized, or incorporated, and each such other business entity complies with such laws in effecting the merger.

(3) The plan of merger shall set forth:

(a) The name of each limited liability company and the name and jurisdiction of formation, organization, or incorporation of each other business entity planning to merge, and the name of the surviving or resulting limited liability company or other business entity into which each other limited liability company or other business entity plans to merge, which is, in this section and in ss. 608.4381-608.4384, designated as the surviving entity.

(b) The terms and conditions of the merger.

(c) The manner and basis of converting the interests of the members of each limited liability company that is a party to the merger and the interests, partnership interests, shares, obligations, or other securities of each other business entity that is a party to the merger into interests, partnership interests, shares, obligations, or other securities of the surviving entity or any other limited liability company or other business entity or, in whole or in part, into cash or other property, and the manner and basis of converting rights to acquire interests of each limited liability company that is a party to the merger and rights to acquire interests, partnership interests, shares, obligations, or other securities of each other business entity that is a party to the merger into rights to acquire interests, partnership interests, shares, obligations, or other securities of the surviving entity or any other limited liability company or other business entity or, in whole or in part, into cash or other property.

(d) If a partnership is to be the surviving entity, the names and business addresses of the general partners of the surviving entity.

(e) If a limited liability company is to be the surviving entity, and management thereof is vested in one or more managers, the names and business addresses of such managers.

(f) All statements required to be set forth in the plan of merger by the laws under which each other business entity that is a party to the merger is formed, organized, or incorporated.

(4) The plan of merger may set forth:

(a) If a limited liability company is to be the surviving entity, any amendments to, or a restatement of, the articles of organization or the operating agreement regulations of the surviving entity, and such amendments or restatement shall be effective at the effective date of the merger.

(b) The effective date of the merger, which may be on or after the date of filing the certificate of merger.

(c) A provision authorizing one or more of the limited liability companies that are parties to the merger to abandon the proposed merger pursuant to s. 608.4381(7).

(d) A statement of, or a statement of the method of determining, the "fair value," as defined in s. 608.4384(1)(b), of an interest in any limited liability company that is a party to the merger.

(e) Other provisions relating to the merger.

608.4381 Action on plan of merger.—

(1) Unless the articles of organization or the operating agreement regulations of a limited liability company require a greater than majority vote, the plan of merger shall be approved in writing by a majority of the managers who are members of a limited liability company that is a party to the merger in which management is not reserved to its members. If no manager is a member, the plan of merger shall be approved by vote of the members as set forth in this section. Unless the articles of organization or the operating agreement regulations of a limited liability company require a greater than majority vote or provide for another method of determining the voting rights of each of its members, and whether or not management is reserved to its members, the plan of merger shall be approved in writing by a majority-in-interest majority of the members of a limited liability company that is a party to the merger, and, if applicable, the vote of each member shall be weighted in accordance with s. 608.4231(1)(b); provided, unless the articles of organization or the operating agreement regulations of the limited liability company require a greater than majority vote or provide for another method of determining the voting rights of each of its members, if there is more than one class or group of members, the merger shall be approved by a majority-in-interest majority of the members of each such class or group, and, if applicable, the vote of each member shall be weighted in accordance with s. 608.4231(1)(b).

(2) In addition to the approval required by subsection (1), if the surviving entity is a partnership, no member of a limited liability company that is a party to the merger shall, as a result of the merger, become a general partner of the surviving entity unless such member specifically consents in writing to becoming a general partner of the surviving entity and unless such written consent is obtained from each such member who, as a result of the merger, would become a general partner of the surviving entity, such merger shall not become effective under s. 608.4383. Any member providing such consent in writing shall be deemed to have voted in favor of the plan of merger for purposes of s. 608.4384.

(3) All members of each limited liability company that is a party to the merger shall be given written notice of any meeting or other action with respect to the approval of a plan of merger as provided in subsection (4), not fewer than 30 or more than 60 days before the date of the meeting at which the plan of merger shall be submitted for approval by the members of such limited liability company; provided, if the plan of merger is submitted to the members of the limited liability company for their written approval or other action without a meeting, such notification shall be given to each member not fewer than 30 or more than 60 days before the effective date of the merger. Pursuant to s. 608.455, the notification required by this subsection may be waived in writing by the person or persons entitled to such notification.

(4) The notification required by subsection (3) shall be in writing and shall include:

(a) The date, time, and place of the meeting, if any, at which the plan of merger is to be submitted for approval by the members of the limited liability company, or, if the plan of merger is to be submitted for written approval or by other action without a meeting, a statement to that effect.

(b) A copy or summary of the plan of merger.

(c) A clear and concise statement that, if the plan of merger is effected, members dissenting therefrom may be entitled, if they comply with the provisions of s. 608.4384 regarding the rights of dissenting members, to be paid the fair value of their interests, which shall be accompanied by a copy of s. 608.4384.

(d) A statement of, or a statement of the method of determining, the "fair value," as defined in s. 608.4384(1)(b), of an interest in the limited liability company, in the case of a limited liability company in which management is not reserved to its members, as determined by the managers of such limited liability company, which statement may consist of a reference to the applicable provisions of such limited liability company's articles of organization or operating agreement regulations that determine the fair value of an interest in the limited liability company for such purposes, and which shall constitute an offer by the limited liability company to purchase at such fair value any interests of a "dissenter," as defined in s. 608.4384(1)(a), unless and until such dissenter's right to receive the fair value of the dissenter's his interests in the limited liability company is terminated pursuant to s. 608.4384(8).

(e) The date on which such notification was mailed or delivered to the members.

(f) Any other information concerning the plan of merger.

(5) The notification required by subsection (3) shall be deemed to be given at the earliest date of:

(a) The date such notification is received;

(b) Five days after the date such notification is deposited in the United States mail addressed to the member at the member's his address as it appears in the books and records of the limited liability company, with postage thereon prepaid;

(c) The date shown on the return receipt, if sent by registered or certified mail, return receipt requested, and the receipt is signed by or on behalf of the addressee; or

(d) The date such notification is given in accordance with the provisions of the articles of organization or the operating agreement regulations of the limited liability company.

(6) A plan of merger may provide for the manner, if any, in which the plan of merger may be amended at any time before the effective date of the merger, except after the approval of the plan of merger by the members of

a limited liability company that is a party to the merger, the plan of merger may not be amended to:

(a) Change the amount or kind of interests, partnership interests, shares, obligations, other securities, cash, rights, or any other property to be received by the members of such limited liability company in exchange for or on conversion of their interests;

(b) If the surviving entity is a limited liability company, change any term of the articles of organization or the operating agreement regulations of the surviving entity, except for changes that otherwise could be adopted without the approval of the members of the surviving entity;

(c) If the surviving entity is not a limited liability company, change any term of the articles of incorporation or comparable governing document of the surviving entity, except for changes that otherwise could be adopted by the board of directors or comparable representatives of the surviving entity; or

(d) Change any of the terms and conditions of the plan of merger if any such change, alone or in the aggregate, would materially and adversely affect the members, or any class or group of members, of such limited liability company.

If an amendment to a plan of merger is made in accordance the plan and articles of merger have been filed with the Department of State, amended articles of merger executed by each limited liability company and other business entity that is a party to the merger shall be filed with the Department of State prior to the effective date of the merger.

(7) Unless the limited liability company's articles of organization or operating agreement regulations or the plan of merger provide otherwise, notwithstanding the prior approval of the plan of merger by any limited liability company that is a party to the merger in which management is not reserved to its members, and at any time prior to the filing of articles of merger with the Department of State, the planned merger may be abandoned, subject to any contractual rights, by any such limited liability company by the affirmative vote of a majority of its managers without further action by its members, in accordance with the procedure set forth in the plan of merger or, if none is set forth, in the manner determined by the managers of such limited liability company.

608.4383 Effect of merger.—When a merger becomes effective:

(1) Every limited liability company and other business entity that is a party to the merger merges into the surviving entity and the separate existence of every limited liability company and other business entity that is a party to the merger, except the surviving entity, ceases.

(2) The title to all property other than real property or any interest therein, owned by each domestic corporation and other business entity that is a party to the merger is vested in the surviving entity without reversion

or impairment. Title to real property or any interest therein shall be conveyed by the recordation of a deed with payment of applicable taxes thereon.

(3) The surviving entity shall thereafter be responsible and liable for all the liabilities and obligations of each limited liability company and other business entity that is a party to the merger, including liabilities arising out of the rights of dissenters with respect to such merger under applicable law.

(4) Any claim existing or action or proceeding pending by or against any limited liability company or other business entity that is a party to the merger may be continued as if the merger did not occur or the surviving entity may be substituted in the proceeding for the limited liability company or other business entity which ceased existence.

(5) Neither the rights of creditors nor any liens upon the property of any limited liability company or other business entity shall be impaired by such merger.

(6) If a limited liability company is the surviving entity, the articles of organization and the operating agreement regulations of such limited liability company in effect immediately prior to the time the merger becomes effective shall be the articles of organization and the operating agreement regulations of the surviving entity, except as amended or restated to the extent provided in the plan of merger.

(7) The interests, partnership interests, shares, obligations, or other securities, and the rights to acquire interests, partnership interests, shares, obligations, or other securities, of each limited liability company and other business entity that is a party to the merger shall be converted into interests, partnership interests, shares, obligations, or other securities, or rights to such securities, of the surviving entity or any other limited liability company or other business entity or, in whole or in part, into cash or other property as provided in the plan of merger, and the former holders of interests, partnership interests, shares, obligations, or other securities, or rights to such securities, shall be entitled only to the rights provided in the plan of merger and to their rights as dissenters, if any, under s. 608.4384, ss. 607.1301-607.1320, s. 620.205, or other applicable law.

608.4384 Rights of dissenting members.—

(1) For purposes of this section, the term:

(a) “Dissenter” means a member of a limited liability company who is a recordholder of the interests to which ~~the dissenter~~ he seeks relief as of the date fixed for the determination of members entitled to notice of a plan of merger, who does not vote such interests in favor of the plan of merger, and who exercises the right to dissent from the plan of merger when and in the manner required by this section.

(b) “Fair value,” with respect to a dissenter’s interests, means the value of the interests in the limited liability company that is a party to a plan of merger as of the close of business of the day prior to the effective date of the merger to which the dissenter objects, excluding any appreciation or depreci-

ation in anticipation of the merger, unless such exclusion would be inequitable.

(2) Each member of a limited liability company that is a party to a merger shall have the right to be paid the fair value of such member's ~~his~~ interests as a dissenter only as provided in this section.

(3) Not later than 20 days after the date on which the notification required by s. 608.4381(3) is given to the members, or if such notification is waived in writing by the dissenter, not later than 20 days after the date of such written waiver, the dissenter shall deliver to the limited liability company a written demand for payment to the dissenter ~~him~~ of the fair value of the interests as to which the dissenter ~~he~~ seeks relief that states the dissenter's ~~his~~ address, the number and class, if any, of those interests, and, at the election of the dissenter, the amount claimed by the dissenter ~~him~~ as the fair value of the interests. The statement of fair market value by the dissenter, if any, shall constitute an offer by the dissenter to sell the interests to the limited liability company at such amount. A dissenter may dissent as to less than all the interests registered in the dissenter's ~~his~~ name. In such event, the dissenter's rights shall be determined as if the interests as to which the dissenter ~~he~~ has dissented and the dissenter's ~~his~~ remaining interests were registered in the names of different members. If the interests as to which a dissenter seeks relief are represented by certificates, the dissenter shall deposit such certificates with the limited liability company simultaneously with the delivery of the written demand for payment. Upon receiving a demand for payment from a dissenter who is a recordholder of uncertificated interests, the limited liability company shall make an appropriate notation of the demand for payment in its records. The limited liability company may restrict the transfer of uncertificated interests from the date the dissenter's written demand for payment is delivered. A written demand for payment served on the limited liability company in which the dissenter is a member shall constitute service on the surviving entity.

(4) The written demand for payment required by subsection (3) shall be deemed to be delivered to the limited liability company at the earliest of:

(a) The date such written demand is received;

(b) Five days after the date such written demand is deposited in the United States mail addressed to the principal business office of the limited liability company, with postage thereon prepaid;

(c) The date shown on the return receipt, if such written demand is sent by registered or certified mail, return receipt requested, and the receipt is signed by or on behalf of the addressee; or

(d) The date such written demand is given in accordance with the provisions of the limited liability company's articles of organization or operating agreement regulations.

(5) Unless the articles of organization or operating agreement regulations of the limited liability company in which the dissenter is a member provides ~~provide~~ a basis or method for determining and paying the fair value

of the interests as to which the dissenter seeks relief, or unless the limited liability company or the surviving entity and the dissenter have agreed in writing as to the fair value of the interests as to which the dissenter seeks relief, the dissenter, the limited liability company, or the surviving entity, within 90 days after the dissenter delivers the written demand for payment to the limited liability company, may file an action in any court of competent jurisdiction in the county in this state where the registered office of the limited liability company is located or was located when the plan of merger was approved by its members, or in the county in this state in which the principal office of the limited liability company that issued the interests is located or was located when the plan of merger was approved by its members ~~partners~~, requesting that the fair value of the dissenter's interests be determined. The court shall also determine whether each dissenter that is a party to such proceeding, as to whom the limited liability company or the surviving entity requests the court to make such determination, is entitled to receive payment of the fair value for the dissenter's ~~his~~ interests. Other dissenters, within the 90-day period after a dissenter delivers a written demand to the limited liability company, may join such proceeding as plaintiffs or may be joined in any such proceeding as defendants, and any two or more such proceedings may be consolidated. If the limited liability company or surviving entity commences such a proceeding, all dissenters, whether or not residents of this state, other than dissenters who have agreed in writing with the limited liability company or the surviving entity as to the fair value of the interests as to which such dissenters seek relief, shall be made parties to such action as an action against their interests. The limited liability company or the surviving entity shall serve a copy of the initial pleading in such proceeding upon each dissenter who is a party to such proceeding and who is a resident of this state in the manner provided by law for the service of a summons and complaint and upon each such dissenter who is not a resident of this state either by registered or certified mail and publication or in such matter as is permitted by law. The jurisdiction of the court in such a proceeding shall be plenary and exclusive. All dissenters who are proper parties to the proceeding are entitled to judgment against the limited liability company or the surviving entity for the amount of the fair value of their interests as to which payment is sought hereunder. The court may, if it so elects, appoint one or more persons as appraisers to receive evidence and recommend a decision on the question of fair value. The appraisers shall have such power and authority as is specified in the order of their appointment or an amendment thereof. The limited liability company shall pay each dissenter the amount found to be due the dissenter ~~him~~ within 10 days after final determination of the proceedings. Upon payment of the judgment, the dissenter shall cease to have any interest in the interests as to which payment is sought hereunder.

(6) The judgment may, at the discretion of the court, include a fair rate of interest, to be determined by the court.

(7) The costs and expenses of any such proceeding shall be determined by the court and shall be assessed against the limited liability company or the surviving entity, but all or any part of such costs and expenses may be apportioned and assessed as the court deems equitable against any or all of

the dissenters who are parties to the proceeding, to whom the limited liability company or the surviving entity has made an offer to pay for the interests, if the court finds that the action of such dissenters in failing to accept such offer was arbitrary, vexatious, or not in good faith. Such expenses shall include reasonable compensation for, and reasonable expenses of, the appraisers, but shall exclude the fees and expenses of counsel for, and experts employed by, any party. If the fair value of the interests, as determined, materially exceeds the amount which the limited liability company or the surviving entity offered to pay therefor, the court in its discretion may award to any dissenter who is a party to the proceeding such amount as the court determines to be reasonable compensation to any attorney or expert employed by the dissenter in the proceeding.

(8) The right of a dissenter to receive fair value for and the obligation to sell such interests as to which the dissenter ~~he~~ seeks relief, and the right of the limited liability company or the surviving entity to purchase such interests and the obligation to pay the fair value of such interests, shall terminate if:

(a) The dissenter has not complied with this section, unless the limited liability company or the surviving entity waives, in writing, such noncompliance;

(b) The limited liability company abandons the merger or is finally enjoined or prevented from carrying it out, or the members rescind their adoption or approval of the merger;

(c) The dissenter withdraws the dissenter's ~~his~~ demand, with the consent of the limited liability company or the surviving entity; or

(d)1. The articles of organization or the operating agreement ~~regulations~~ of the limited liability company in which the dissenter was a member does not provide a basis or method for determining and paying the dissenter the fair value of the dissenter's ~~his~~ interests.

2. The limited liability company or the surviving entity and the dissenter have not agreed upon the fair value of the dissenter's interests.

3. Neither the dissenter, the limited liability company, nor the surviving entity has filed or is joined in a complaint under subsection (5) within the 90-day period provided in subsection (5).

(9) Unless otherwise provided in the articles of organization or the operating agreement ~~regulations~~ of the limited liability company in which the dissenter was a member, after the date the dissenter delivers the written demand for payment in accordance with subsection (3) until either the termination of the rights and obligations arising under subsection (3) or the purchase of the dissenter's interests by the limited liability company or the surviving entity, the dissenter shall be entitled only to payment as provided in this section and shall not be entitled to any other rights accruing from such interests, including voting or distribution rights. If the right to receive fair value is terminated other than by the purchase of the dissenter's interests by the limited liability company or the surviving entity, all rights of the

dissenter as a member of the limited liability company shall be reinstated effective as of the date the dissenter delivered the written demand for payment, including the right to receive any intervening payment or other distribution with respect to the dissenter's interests in the limited liability company, or, if any such rights have expired or any such distribution other than a cash payment has been completed, in lieu thereof at the election of the surviving entity, the fair value thereof in cash as determined by the surviving entity as of the time of such expiration or completion, but without prejudice otherwise to any action or proceeding of the limited liability company that may have been taken by the limited liability company on or after the date the dissenter delivered the written demand for payment.

(10) A member who is entitled under this section to demand payment for the member's ~~his~~ interests shall not have any right at law or in equity to challenge the validity of any merger that creates the member's ~~his~~ entitlement to demand payment hereunder, or to have the merger set aside or rescinded, except with respect to compliance with the provisions of the limited liability company's articles of organization or operating agreement regulations or if the merger is unlawful or fraudulent with respect to such member.

(11) Unless otherwise provided in the articles of organization or the operating agreement regulations of the limited liability company in which the dissenter was a member, this section does not apply with respect to a plan of merger if, as of the date fixed for the determination of members entitled to notice of a plan of merger:

(a) The membership interests of the limited liability company were held of record by not fewer than 500 members; or

(b) The membership interests were registered on a national securities exchange or quoted on the National Association of Securities Dealers Automated Quotation System.

608.439 Conversion of certain entities to a limited liability company.—

(1) As used in this section, the term "other entity" means a business trust or association, a real estate investment trust, a common-law trust, or any other unincorporated business, including a partnership, whether general (including a registered limited liability partnership) or limited (including a registered limited liability limited partnership) or a foreign limited liability company.

(2) Any other entity may convert to a domestic limited liability company by complying with subsection (8) and filing in the Department of State in accordance with s. 608.4081:

(a) A certificate of conversion to a limited liability company that has been executed by one or more authorized persons in accordance with s. 608.408; and

(b) Articles of organization that comply with s. 608.407 and have been executed by one or more authorized persons in accordance with s. 608.408.

(3) The certificate of conversion to a limited liability company shall state:

(a) The date on which and jurisdiction in which the other entity was first created, formed, or otherwise came into being and, if it has changed, its jurisdiction immediately prior to its conversion to a domestic limited liability company;

(b) The name of the other entity immediately prior to the filing of the certificate of conversion to a limited liability company;

(c) The name of the limited liability company as set forth in its articles of organization filed in accordance with subsection (2); and

(d) The future effective date or time (which shall be a date or time certain) of the conversion to a limited liability company if it is not to be effective upon the filing of the certificate of conversion to a limited liability company and the articles of organization.

(4) Upon the filing in the Department of State of the certificate of conversion to a limited liability company and the articles of organization or upon the future effective date or time of the certificate of conversion to a limited liability company and the articles of organization, the other entity shall be converted into a domestic limited liability company and the limited liability company shall thereafter be subject to all of the provisions of this chapter, except that notwithstanding s. 608.409, the existence of the limited liability company shall be deemed to have commenced on the date the other entity commenced its existence in the jurisdiction in which the other entity was first created, formed, incorporated, or otherwise came into being.

(5) The conversion of any other entity into a domestic limited liability company shall not affect any obligations or liabilities of the other entity incurred prior to its conversion to a domestic limited liability company or the personal liability of any person incurred prior to such conversion.

(6) When any conversion becomes effective under this section, for all purposes of the laws of this state, all of the rights, privileges, and powers of the other entity that has converted, and all property, real, personal, and mixed, and all debts due to such other entity, as well as all other things and causes of action belonging to such other entity, shall be vested in the domestic limited liability company and shall thereafter be the property of the domestic limited liability company as they were of the other entity that has converted, and the title to any real property vested by deed or otherwise in such other entity shall not revert or be in any way impaired by reason of this chapter, but all rights of creditors and all liens upon any property of such other entity shall be preserved unimpaired, and all debts, liabilities, and duties of the other entity that has converted shall thenceforth attach to the domestic limited liability company and may be enforced against it to the same extent as if said debts, liabilities, and duties had been incurred or contracted by it.

(7) Unless otherwise agreed, or as required under applicable non-Florida law, the converting entity shall not be required to wind up its affairs or pay

its liabilities and distribute its assets, and the conversion shall not constitute a dissolution of such entity and shall constitute a continuation of the existence of the converting entity in the form of a domestic limited liability company.

(8) Prior to filing a certificate of conversion to limited liability company with the Department of State, the conversion shall be approved in the manner provided for by the document, instrument, agreement, or other writing, as the case may be, governing the internal affairs of the other entity and the conduct of its business or by applicable law, as appropriate, and the articles of organization or operating agreement shall be approved by the same authorization required to approve the conversion.

(9) The provisions of this section shall not be construed to limit the accomplishment of a change in the law governing, or the domicile of, any other entity to this state by any other means provided for in the articles of organization or operating agreement or other agreement or as otherwise permitted by law, including by the amendment of the articles of organization or operating agreement or other agreement.

608.441 Dissolution.—

(1) A limited liability company organized under this chapter shall be dissolved, and the company's affairs shall be concluded, upon the first to occur occurrence of any of the following events:

(a) At the time specified in the articles of organization or operating agreement, but if no such time is set forth in the articles of organization or operating agreement, then the limited liability company shall have a perpetual existence; When the period fixed for the duration of the limited liability company expires.

(b) Upon the occurrence of events specified in the articles of organization or operating agreement; By the unanimous written agreement of all members.

(c) Unless otherwise provided in the articles of organization or operating agreement, upon the written consent of all of the members of the limited liability company; Upon the death, bankruptcy, or dissolution of a member or upon the occurrence of any other event which terminates the continued membership of a member in the limited liability company, unless the business of the limited liability company is continued by the consent of all the remaining members or under a right to continue stated in the articles of organization of the limited liability company.

(d) At any time there are no members; however, unless otherwise provided in the articles of organization or operating agreement, the limited liability company is not dissolved and is not required to be wound up if, within 90 days, or such other period as provided in the articles of organization or operating agreement, after the occurrence of the event that terminated the continued membership of the last remaining member, the personal or other legal representative of the last remaining member agrees in

writing to continue the limited liability company and agrees to the admission of the personal representative of such member or its nominee or designee to the limited liability company as a member, effective as of the occurrence of the event that terminated the continued membership of the last remaining member; or ~~When a limited liability company has fewer than two members.~~

(e) The entry of an order of dissolution by a circuit court pursuant to subsection (3).

(2) So long as the limited liability company continues to have at least one remaining member, and except as otherwise provided in the articles of organization or operating agreement, the death, retirement, resignation, expulsion, bankruptcy, or dissolution of any member or the occurrence of any other event that terminates the continued membership of any member shall not cause the limited liability company to be dissolved, and upon the occurrence of any such event, the limited liability company shall be continued without dissolution.

(3)(2) Unless otherwise provided in the articles of organization or operating agreement, on application by or for a member, the circuit court may order dissolution of a limited liability company if it is established by a preponderance of the evidence that it is not reasonably practicable to carry on the business of the limited liability company in conformity with the articles of organization or the operating agreement regulations.

(4)(3) Following the occurrence of any of the events specified in this section which cause the dissolution of the limited liability company, the limited liability company shall deliver articles of dissolution to the Department of State for filing.

608.4421 Claims against dissolved limited liability company.—

(1) A dissolved limited liability company may dispose of the known claims against it by following the procedures described in subsections (2), (3), and (4).

(2) The dissolved limited liability company shall deliver to each of its known claimants written notice of the dissolution at any time after its effective date. The written notice shall:

(a) Provide a reasonable description of the claim that the claimant may be entitled to assert.

(b) State whether the claim is admitted or not admitted, in whole or in part, and, if admitted:

1. The amount that is admitted, which may be as of a given date.
2. Any interest obligation if fixed by an instrument of indebtedness.

(c) Provide a mailing address where a claim may be sent.

(d) State the deadline, which may not be fewer than 120 days after the effective date of the written notice, by which confirmation of the claim must be delivered to the dissolved limited liability company.

(e) State that the limited liability company may make distributions thereafter to other claimants and its members or former members without further notice.

(3) A dissolved limited liability company may reject, in whole or in part, any claim made by a claimant pursuant to this subsection by mailing written notice of such rejection to the claimant within 90 days after receipt of such claim and, in all events, at least 150 days before expiration of 3 years following the effective date of dissolution. A notice sent by the limited liability company pursuant to this subsection shall be accompanied by a copy of this section.

(4) A dissolved limited liability company electing to follow the procedures described in subsections (2) and (3) shall also give notice of the dissolution of the limited liability company to persons with claims contingent upon the occurrence or nonoccurrence of future events or otherwise conditional or unmatured, and request that such persons present such claims in accordance with the terms of such notice. Such notice shall be in substantially the form, and sent in the same manner, as described in subsection (2).

(5) A dissolved limited liability company shall offer any claimant whose claim is contingent, conditional, or unmatured such security as the limited liability company determines is sufficient to provide compensation to the claimant if the claim matures. The dissolved limited liability company shall deliver such offer to the claimant within 90 days after receipt of such claim and, in all events, at least 150 days before expiration of 3 years following the effective date of dissolution. If the claimant offered such security does not deliver in writing to the dissolved limited liability company a notice rejecting the offer within 120 days after receipt of such offer for security, the claimant is deemed to have accepted such security as the sole source from which to satisfy the claimant's ~~his or her~~ claim against the limited liability company.

(6) A dissolved limited liability company which has given notice in accordance with subsections (2) and (4) shall petition the circuit court in the county where the limited liability company's principal office is located or was located at the effective date of dissolution to determine the amount and form of security that will be sufficient to provide compensation to any claimant who has rejected the offer for security made pursuant to subsection (5).

(7) A dissolved limited liability company which has given notice in accordance with subsection (2) shall petition the circuit court in the county where the limited liability company's principal office is located or was located at the effective date of dissolution to determine the amount and form of security which will be sufficient to provide compensation to claimants whose claims are known to the limited liability company but whose identities are unknown. The court shall appoint a guardian ad litem to represent all claimants whose identities are unknown in any proceeding brought under this subsection. The reasonable fees and expenses of such guardian,

including all reasonable expert witness fees, shall be paid by the petitioner in such proceeding.

(8) The giving of any notice or making of any offer pursuant to the provisions of this section shall not revive any claim then barred or constitute acknowledgment by the dissolved limited liability company that any person to whom such notice is sent is a proper claimant and shall not operate as a waiver of any defense or counterclaim in respect of any claim asserted by any person to whom such notice is sent.

(9) A dissolved limited liability company which has followed the procedures described in subsections (2)-(7):

(a) Shall pay the claims admitted or made and not rejected in accordance with subsection (3).

(b) Shall post the security offered and not rejected pursuant to subsection (5).

(c) Shall post any security ordered by the circuit court in any proceeding under subsections (6) and (7).

(d) Shall pay or make provision for all other obligations of the limited liability company.

Such claims or obligations shall be paid in full, and any such provision for payments shall be made in full if there are sufficient funds. If there are insufficient funds, such claims and obligations shall be paid or provided for according to their priority and, among claims of equal priority, ratably to the extent of funds legally available therefor. Any remaining funds shall be distributed pursuant to s. 608.444; however, such distribution may not be made before the expiration of 150 days from the date of the last notice of rejections given pursuant to subsection (3).

(10) A dissolved limited liability company which has not followed the procedures described in subsections (2) and (3) shall pay or make reasonable provision to pay all claims and obligations, including all contingent, conditional, or unmatured claims known to the limited liability company and all claims which are known to the dissolved limited liability company but for which the identity of the claimant is unknown. Such claims shall be paid in full, and any such provision for payment made shall be made in full if there are sufficient funds. If there are insufficient funds, such claims and obligations shall be paid or provided for according to their priority and, among claims of equal priority, ratably to the extent of funds legally available therefor. Any remaining funds shall be distributed pursuant to s. 608.444.

(11) A member of a dissolved limited liability company, the assets of which were distributed pursuant to subsection (9) or subsection (10) is not liable for any claim against the limited liability company in an amount in excess of such member's pro rata share of the claim or the amount distributed to the member, whichever is less.

(12) A member of a dissolved limited liability company, the assets of which were distributed pursuant to subsection (9) is not liable for any claim against the limited liability company on which a proceeding is not begun prior to the expiration of 3 years following the effective date of dissolution.

(13) The aggregate liability of any member of a dissolved limited liability company for claims against the dissolved limited liability company may not exceed the amount distributed to the member in dissolution.

608.444 Distribution of assets upon dissolution.—In settling accounts after dissolution of a limited liability company, the assets of the limited liability company must be distributed in the following order:

(1) To creditors, including members who are creditors, to the extent permitted by law in satisfaction of liabilities of the limited liability company, whether by payment or establishment of reserves, other than liabilities for distributions to members under s. 608.426 or s. 608.427.

(2) Except as provided in the operating agreement regulations, to members and former members in satisfaction of liabilities for distributions under s. 608.426 or s. 608.427.

(3) Except as provided in the articles of organization or the operating agreement regulations, to members pro rata in proportion to their then-current percentage, or other interests in the profits, of the company respective capital accounts.

608.447 Cancellation of articles certificate of organization.—The articles certificate of organization of a limited liability company shall be canceled by the Department of State upon issuance of the certificate of dissolution.

608.448 Grounds for administrative dissolution.—

(1) The Department of State may commence a proceeding under s. 608.4481 to administratively dissolve a limited liability company if:

(a) The limited liability company has failed to file its annual report or pay the annual report filing fee within the time required by this chapter.

(b) The limited liability company is without a registered agent or registered office in this state for 30 days or more.

(c) The limited liability company does not notify the Department of State within 30 days that its registered agent or registered office has been changed, that its registered agent has resigned, or that its registered office has been discontinued.

(d) The limited liability company has failed to answer truthfully and fully, within 30 days after mailing or within such additional time as fixed by the Department of State the time prescribed by this chapter, interrogatories propounded by the Department of State.

(e) The limited liability company's period of duration has expired.

(2) The enumeration in subsection (1) of grounds for administrative dissolution shall not exclude actions or special proceedings by the Department of Legal Affairs or any state officials for the annulment or dissolution of a limited liability company for other causes as provided in any other law of this state.

608.4481 Procedure for and effect of administrative dissolution.—

(1) If the Department of State determines that one or more grounds exist under s. 608.448 for dissolving a limited liability company, it shall serve the limited liability company with written notice of its determination, stating the grounds therefor.

(2) If the limited liability company does not correct each ground for dissolution or demonstrate to the reasonable satisfaction of the Department of State that each ground determined by the Department of State does not exist within 60 days after issuance of the notice, the Department of State shall administratively dissolve the limited liability company by issuing a certificate of dissolution that recites the ground or grounds for dissolution and its effective date.

(3) A limited liability company administratively dissolved continues its existence but may not carry on any business except that necessary to wind up and liquidate its business and affairs under s. 608.4431 and notify claimants under s. 608.4421.

(4) A manager or member of a limited liability company dissolved pursuant to this section, purporting to act on behalf of the limited liability company, is personally liable for the debts, obligations, and liabilities of the limited liability company arising from such action and incurred subsequent to the limited liability company's administrative dissolution only if the manager or member ~~he or she~~ has actual notice of the administrative dissolution at the time such action is taken; but such liability shall be terminated upon the ratification of such action by the limited liability company's members subsequent to the reinstatement of the limited liability company under s. 608.4482.

(5) The administrative dissolution of a limited liability company does not terminate the authority of its registered agent.

608.449 Grounds for judicial dissolution.—A circuit court may dissolve a limited liability company:

(1)(a) In a proceeding by the Department of Legal Affairs if it is established that:

1. The limited liability company obtained its articles of organization through fraud; or

2. The limited liability company has continued to exceed or abuse the authority conferred upon it by law.

(b) The enumeration in paragraph (a) of grounds for involuntary dissolution does not exclude actions or special proceedings by the Department of

Legal Affairs or any state official for the annulment or dissolution of a limited liability company for other causes as provided in any other law of this state.

(2) In a proceeding by a manager or member if it is established that:

(a) The managers or members are deadlocked in the management of the limited liability company affairs, the members are unable to break the deadlock, and irreparable injury to the limited liability company is threatened or being suffered; or

(b) The limited liability company's assets are being misappropriated ~~mis-~~appointed or wasted.

(3) In a proceeding by a creditor if it is established that:

(a) The creditor's claim has been reduced to judgment, the execution on that judgment returned unsatisfied, and the limited liability company is insolvent; or

(b) The limited liability company has admitted in writing that the creditor's claim is due and owing and the limited liability company is insolvent.

(4) In a proceeding by the limited liability company to have its voluntary dissolution continued under court supervision.

608.4492 Receivership or custodianship.—

(1) A court in a judicial proceeding brought to dissolve a limited liability company may appoint one or more receivers to wind up and liquidate, or one or more custodians to manage, the business and affairs of the limited liability company. The court shall hold a hearing, after notifying all parties to the proceeding and any interested persons designated by the court, before appointing a receiver or custodian. The court appointing a receiver or custodian has exclusive jurisdiction over the limited liability company and all of its property wherever located.

(2) The court may appoint a person authorized to act as a receiver or custodian. The court may require the receiver or custodian to post bond, with or without sureties, in an amount the court directs.

(3) The court shall describe the powers and duties of the receiver or custodian in its appointing order, which may be amended from time to time. Among other powers:

(a) The receiver:

1. May dispose of all or any part of the assets of the limited liability company wherever located, at a public or private sale, if authorized by the court.

2. May sue and defend in the receiver's ~~his or her~~ own name as receiver of the limited liability company in all courts of this state.

(b) The custodian may exercise all of the powers of the limited liability company, through or in place of its managers or members, to the extent necessary to manage the affairs of the limited liability company in the best interests of its members and creditors.

(4) The court during a receivership may redesignate the receiver a custodian, and during a custodianship may redesignate the custodian a receiver, if doing so is in the best interests of the limited liability company and its members and creditors.

(5) The court from time to time during the receivership or custodianship may order compensation paid and expense disbursements or reimbursements made to the receiver or custodian and ~~the receiver's or custodian's~~ his or her counsel from the assets of the limited liability company or proceeds from the sale of assets.

(6) The court has jurisdiction to appoint an ancillary receiver for the assets and business of a limited liability company. The ancillary receiver shall serve ancillary to a receiver located in any other state, whenever the court deems that circumstances exist requiring the appointment of such a receiver. The court may appoint such an ancillary receiver for a foreign limited liability company even though no receiver has been appointed elsewhere. Such receivership shall be converted into an ancillary receivership when an order entered by a court of competent jurisdiction in the other state provides for a receivership of the limited liability company.

608.4511 Annual report for Department of State.—

(1) Each domestic limited liability company and each foreign limited liability company authorized to transact business in this state shall deliver to the Department of State for filing a sworn annual report on such forms as the Department of State prescribes that sets forth:

(a) The name of the limited liability company and the state or country under the law of which it is organized.

(b) The date of organization or, if a foreign limited liability company, the date on which it was admitted to do business in this state.

(c) The street address and the mailing address of its principal office.

(d) The limited liability company's federal employer identification number or, if none, whether one has been applied for.

(e) The names and business, residence, or mailing street address of its managing members or ~~and~~ managers.

(f) The street address of its registered office and the name of its registered agent at that office in this state.

(g) Such additional information as may be necessary or appropriate to enable the Department of State to carry out the provisions of this chapter.

(2) Proof to the satisfaction of the Department of State that on or before May 1 such report was deposited in the United States mail in a sealed envelope, properly addressed with postage prepaid, shall be deemed timely compliance with this requirement.

(3) If an annual report does not contain the information required by this section, the Department of State shall promptly notify the reporting domestic or foreign limited liability company in writing and return the report to it for correction. If the report is corrected to contain the information required by this section and delivered to the Department of State within 30 days after the effective date of notice, it is deemed to be timely filed.

(4) Each report shall be executed by the limited liability company by a managing member or manager or, if the limited liability company is in the hands of a receiver or trustee, shall be executed on behalf of the limited liability company by such receiver or trustee, and the signing thereof shall have the same legal effect as if made under oath, without the necessity of appending such oath thereto.

(5) The first annual report shall be delivered to the Department of State between January 1 and May 1 of the year following the calendar year in which a domestic limited liability company was organized or a foreign limited liability company was authorized to transact business. Subsequent annual reports shall be delivered to the Department of State between January 1 and May 1 of the subsequent calendar years.

(6) Information in the annual report shall be current as of the date the annual report is executed on behalf of the limited liability company.

(7) Any limited liability company failing to file an annual report which complies with the requirements of this section shall not be permitted to prosecute, maintain, or defend any action in any court of this state until such report is filed and all fees, penalties, and taxes due under this chapter are paid and shall be subject to dissolution or cancellation of its certificate of authority to do business as provided in this chapter.

608.452 Fees of the Department of State.—The fees of the Department of State under this chapter are as follows:

(1) For furnishing a certified copy, \$30 ~~\$52.50~~.

(2) For filing original articles of organization, ~~or articles of revocation of dissolution, or a foreign limited liability company's application for a certificate of authority to transact business,~~ \$100 ~~\$250~~.

(3) For filing articles of merger of limited liability companies or other business entities, \$25 per constituent party to the merger, unless a specific fee is required for a party in other applicable law a supplemental affidavit declaring the amount of capital contributions of the members when there is an increase in capital contribution beyond the anticipated amount, ~~\$250~~.

(4) For filing an annual report, \$50 ~~\$100~~.

(5) For filing an application for reinstatement after an administrative or judicial dissolution or a revocation of authority to transact business, \$100 ~~\$500~~.

(6) For filing a certificate designating a registered agent or changing a registered agent, \$25 ~~\$35~~.

(7) For filing a registered agent's statement of resignation from an active limited liability company, \$85 ~~\$87.50~~.

(8) For filing a registered agent's statement of resignation from a dissolved limited liability company, \$25 ~~\$35~~.

(9) For filing any other limited liability company document, \$25 ~~\$52.50~~.

(10) For furnishing a certificate of status, \$5 ~~A supplemental corporate fee imposed pursuant to s. 607.193.~~

608.455 Waiver of notice.—When, under the provisions of this chapter or under the provisions of the articles of organization or operating agreement regulations of a limited liability company, notice is required to be given to a member of a limited liability company or to a manager of a limited liability company having a manager or managers, a waiver in writing signed by the person or persons entitled to the notice, whether made before or after the time for notice to be given, is equivalent to the giving of notice.

608.463 Service of process.—

(1) Process against a limited liability company may be served:

(a) In accordance with chapter 48 or chapter 49, as if the company were a partnership.

(b) Upon the registered agent at the agent's street ~~his or her business~~ address.

(2) Any notice to or demand on a company organized pursuant to this chapter may be made:

(a) By delivery to a manager of the company, if the management of the limited liability company is vested in a manager, or by delivery to a ~~any~~ member, if the management of the limited liability company is vested in the members.

(b) By mailing a writing, which notice or demand in writing is mailed to the registered office of the company in this state or to another address in this state which is the principal office of the company.

(3) Nothing contained in this section shall limit or affect the right to serve, in any other manner now or hereafter permitted by law, any process, notice, or demand required or permitted by law to be served upon a limited liability company.

608.471 Tax exemption on income of certain limited liability companies.—

(1) A limited liability company classified as a partnership for federal income tax purposes, or a single member limited liability company which is disregarded as an entity separate from its owner for federal income tax purposes, and organized pursuant to this chapter or qualified to do business in this state as a foreign limited liability company is not an “artificial entity” within the purview of s. 220.02 and is not subject to the tax imposed under chapter 220. If a single member limited liability company is disregarded as an entity separate from its owner for federal income tax purposes, its activities are, for purposes of taxation under chapter 220, treated in the same manner as a sole proprietorship, branch, or division of the owner.

~~(2) The income of a limited liability company that is classified as a partnership for federal income tax purposes and that is organized pursuant to this chapter or is qualified to do business in this state as a foreign limited liability company shall not be subject to the Florida Income Tax Code and the tax levied pursuant to chapter 220.~~

~~(2)~~(3) For purposes of taxation under chapter 220, a limited liability company formed in this state or authorized to transact business in this state as a foreign limited liability company shall be classified as a partnership, or a limited liability company which has only one member shall be disregarded as an entity separate from its owner for federal income tax purposes, unless classified otherwise for federal income tax purposes, in which case the limited liability company shall be classified identically to its classification for federal income tax purposes. For purposes of taxation under chapter 220, a member or an assignee of a member of a limited liability company formed in this state or qualified to do business in this state as a foreign limited liability company shall be treated as a resident or nonresident partner unless classified otherwise for federal income tax purposes, in which case the member or assignee of a member shall have the same status as such member or assignee of a member has for federal income tax purposes.

608.502 Consequences of transacting business without authority.—

(1) A foreign limited liability company transacting business in this state without a certificate of authority may not maintain a proceeding in any court in this state until it obtains a certificate of authority.

(2) The successor to a foreign limited liability company that transacted business in this state without a certificate of authority and the assignee of a cause of action arising out of that business may not maintain a proceeding based on that cause of action in any court in this state until the foreign limited liability company or its successor obtains a certificate of authority.

(3) A court may stay a proceeding commenced by a foreign limited liability company or its successor or assignee until it determines whether the foreign limited liability company or its successor requires a certificate of authority. If it so determines, the court may further stay the proceeding until the foreign limited liability company or its successor obtains the certificate.

(4) A foreign limited liability company which transacts business in this state without authority to do so shall be liable to this state for the years or

parts thereof during which it transacted business in this state without authority in an amount equal to all fees, penalties, and taxes which would have been imposed by this chapter upon such limited liability company had it duly applied for and received authority to transact business in this state as required by this chapter. In addition to the payments thus prescribed, such limited liability company shall be liable for a civil penalty of not less than \$500 or more than \$1,000 for each year or part thereof during which it transacts business in this state without a certificate of authority. The Department of State may collect all penalties due under this subsection.

(5) Notwithstanding subsections (1) and (2), the failure of a foreign limited liability company to obtain a certificate of authority does not impair the validity of any of its contracts, deeds, mortgages, security interests, or acts or prevent it from defending any proceeding in this state.

(6) A member or a manager of a foreign limited liability company is not liable for the obligations of the foreign limited liability company solely by reason of the limited liability company's having transacted business in this state without a certificate of authority.

(7) If a foreign limited liability company transacts business in this state without a certificate of authority, the foreign limited liability company appoints the Secretary of State as its agent for substitute service of process pursuant to s. 48.181 for claims arising out of the transaction of business in this state.

608.503 Application for certificate of authority.—

(1) A foreign limited liability company may apply for a certificate of authority to transact business in this state by delivering an application to the Department of State for filing. Such application shall be made on forms prescribed and furnished by the Department of State and shall set forth:

(a) The name of the foreign limited liability company, which shall satisfy the requirements of s. 608.506.

(b) The jurisdiction under the law of which it is organized.

(c) Its date of organization and period of duration.

(d) The street address of its principal office.

(e) The street address of its registered office in this state and the name of its registered agent at that office.

(f) Whether or not the limited liability company is manager-managed and, if so, the names and usual business addresses of its managing members or managers.

(g) The nature of the business or purposes to be conducted or promoted in this state.

(h)(g) Such additional information as may be necessary or appropriate in order to enable the Department of State to determine whether such limited

liability company is entitled to file an application for authority to transact business in this state and to determine and assess the fees, penalties, and taxes payable as prescribed in this chapter.

(2) The foreign limited liability company shall deliver with the completed application ~~an affidavit as provided in s. 608.407(2), as well as a certificate of existence, or a document of similar import, duly authenticated by the official having custody of records in the jurisdiction under the law of which it is organized, not more than 90 days prior to delivery of the application to the Department of State, by the Secretary of State or other official having custody of records in the jurisdiction under the law of which it is incorporated.~~ A translation of the certificate, under oath of the translator, shall be attached to a certificate which is in a language other than the English language.

(3) A foreign limited liability company shall not be denied authority to transact business in this state by reason of the fact that the laws of the jurisdiction under which such limited liability company is organized governing its organization and internal affairs differ from the laws of this state.

608.504 Amended certificate of authority.—

(1) A foreign limited liability company authorized to transact business in this state shall make application to the Department of State to obtain an amended certificate of authority if any statement in the company's application was false or becomes false due to change in circumstances or if the foreign limited liability company it changes:

- (a) Its limited liability company name.
- (b) The period of its duration.
- (c) The jurisdiction of its organization.

(2) Such application shall be made within 30 days after the occurrence of any change set forth in subsection (1), shall be made on forms prescribed by the Department of State, shall be executed and filed in the same manner as an original application for authority, and shall set forth:

(a) The name of the foreign limited liability company as it appears on the records of the Department of State.

(b) The jurisdiction of its organization.

(c) The date it was authorized to do business in this state.

(d) If the name of the foreign limited liability company has been changed, the name relinquished, the new name, a statement that the change of name has been effected under the laws of the jurisdiction of its organization, and the date the change was effected.

(e) If the amendment changes its period of duration, a statement of such change.

(f) If the amendment changes the jurisdiction of its organization, a statement of such change.

(3) The requirements of s. 608.503 for obtaining an original certificate of authority apply to obtaining an amended certificate under this section.

608.505 Effect of certificate of authority.—

(1) A certificate of authority authorizes the foreign limited liability company to which it is issued to transact business in this state subject, however, to the right of the Department of State to suspend or revoke the certificate as provided in this chapter.

(2) A foreign limited liability company with a valid certificate of authority has the same but no greater rights and privileges than a domestic limited liability company. ~~Unless has the same but no greater privileges as, and, except as otherwise provided by this chapter, a foreign limited liability company~~ is subject to the same duties, restrictions, penalties, and liabilities now or later imposed on, a domestic limited liability company of like character.

(3) This chapter does not authorize this state to regulate the organization or internal affairs of a foreign limited liability company authorized to transact business in this state. The laws of the state or other jurisdiction under which a foreign limited liability company is organized govern the foreign limited liability company's organization, internal affairs, and the liability of its managers, members, and their transferees.

608.507 Registered office and registered agent of foreign limited liability company.—Each foreign limited liability company ~~authorized to transact business~~ in this state must continuously maintain in this state:

(1) A registered office that may be the same as any of its places of business.

(2) A registered agent, who may be:

(a) An individual who resides in this state and whose business office is identical with the registered office;

(b) A domestic corporation or domestic limited liability company the business office of which is identical with the registered office; or

(c) A foreign corporation or foreign limited liability company authorized to transact business in this state the business office of which is identical with the registered office.

608.508 Change of registered office and registered agent of foreign limited liability company.—

(1) A foreign limited liability company authorized to transact business in this state may change its registered office or registered agent by delivering to the Department of State for filing a statement of change which satisfies the requirements of s. 608.408 and sets forth:

- (a) Its name.
- (b) The street address of its current registered office.
- (c) If the current registered office is to be changed, the street address of its new registered office.
- (d) The name of its current registered agent.
- (e) If the current registered agent is to be changed, the name of its new registered agent and the new agent's written consent, either on the statement or attached to it, to the appointment.
- (f) That, after the change or changes are made, the street address of its registered office and the business office of its registered agent will be identical.

(2) If a registered agent changes the street address of such agent's ~~his or her~~ business office, the registered agent ~~he or she~~ may change the street address of the registered office of any foreign limited liability company for which the agent ~~he or she~~ is the registered agent by notifying the limited liability company in writing of the change and signing, either manually or in facsimile, and delivering to the Department of State for filing a statement of change that complies with the requirements of paragraphs (1)(a)-(f) and recites that the limited liability company has been notified of the change.

608.512 Grounds for revocation of authority to transact business.—The Department of State may commence a proceeding under s. 608.513 to revoke the certificate of authority of a foreign limited liability company authorized to transact business in this state if:

- (1) The foreign limited liability company has failed to file its annual report with the Department of State within the time required by this chapter.
- (2) The foreign limited liability company does not pay, within the time required by this chapter, any fees, taxes, or penalties imposed by this chapter or other law.
- (3) The foreign limited liability company is without a registered agent or registered office in this state for 30 days or more.
- (4) The foreign limited liability company does not notify the Department of State under s. 608.508 or s. 608.509 that its registered agent has resigned or that its registered office has been discontinued within 30 days after the resignation or discontinuance.
- (5) The foreign limited liability company's period of duration has expired.
- (6) A member, manager, or agent of the foreign limited liability company signed a document the member, manager, or agent ~~he or she~~ knew was false in any material respect with intent that the document be delivered to the Department of State for filing.

(7) The Department of State receives a duly authenticated certificate from the ~~Secretary of State or other official~~ having custody of records in the jurisdiction under the law of which the foreign limited liability company is incorporated stating that it has been dissolved or disappeared as a result of a merger.

(8) The foreign limited liability company has failed to answer truthfully and fully, within the time prescribed in s. 608.448 by this chapter, interrogatories propounded by the Department of State.

(9) The foreign limited liability company failed to amend its certificate of authority as required by s. 608.504.

608.5135 Revocation; application for reinstatement.—

(1)(a) ~~If A foreign limited liability company the certificate of authority of a limited liability company which has been revoked, the foreign limited liability company pursuant to s. 608.513 may apply to the Department of State for reinstatement at any time after the effective date of revocation of authority. The application must:~~

1. Recite the name of the foreign limited liability company and the effective date of its revocation of authority;

2. State that the ground or grounds for revocation of authority either did not exist or have been eliminated and that no further grounds currently exist for revocation of authority;

3. State that the foreign limited liability company's name satisfies the requirements of s. 608.506; and

4. State that all taxes, fees, and penalties owed by the limited liability company and computed at the rate provided by law at the time the foreign limited liability company applies for reinstatement have been paid; or

(b) As an alternative, the foreign limited liability company may submit a current annual report, signed by the registered agent and a manager or managing member, which substantially complies with the requirements of paragraph (a).

(2) If the Department of State determines that the application contains the information required by subsection (1) and that the information is correct, it shall cancel the certificate of revocation of authority.

(3) When the reinstatement is effective, it relates back to and takes effect as of the effective date of the revocation of authority, and the foreign limited liability company resumes carrying on its business as if the revocation of authority had never occurred.

(4) The name of the foreign limited liability company the certificate of authority of which has been revoked is not available for assumption or use by another limited liability company until 1 year after the effective date of revocation of authority unless the limited liability company provides the Department of State with an affidavit executed as required by s. 608.408

permitting the immediate assumption or use of its name by another limited liability company.

(5) If the name of the foreign limited liability company has been lawfully assumed in this state by another limited liability company, the Department of State shall require the foreign limited liability company to comply with s. 608.506 before accepting its application for reinstatement.

608.601 Member's derivative actions.—

(1) A person may not commence a proceeding in the right of a domestic or foreign limited liability company unless the person was a member of the limited liability company when the transaction complained of occurred or unless the person became a member through transfer by operation of law from one who was a member at that time.

(2) A complaint in a proceeding brought in the right of a limited liability company must be verified and allege with particularity the demand made to obtain action by the managing members of a member-managed company or the managers of a manager-managed company and that the demand was refused or ignored. If the limited liability company commences an investigation of the charges made in the demand or complaint, the court may stay any proceeding until the investigation is completed.

(3) The court may dismiss a derivative proceeding if, on motion by the limited liability company, the court finds that one of the groups specified in paragraphs (a)-(c) has made a determination in good faith after conducting a reasonable investigation upon which its conclusions are based that the maintenance of the derivative suit is not in the best interests of the limited liability company. The limited liability company shall have the burden of proving the independence and good faith of the group making the determination and the reasonableness of the investigation. The determination shall be made by:

(a) A majority vote of independent managing members of a member-managed company or of independent managers of a manager-managed company present at a meeting of the managing members of a member-managed company or of managers of a manager-managed company, if the independent managing members or managers, as applicable, constitute a quorum;

(b) A majority vote of a committee consisting of two or more independent managing members of a member-managed company or of independent managers of a manager-managed company appointed by a majority vote of independent managing members or managers, as applicable, present at a meeting of the managing members of a member-managed company or of managers of a manager-managed company, whether or not such independent managing members or managers, as applicable, constitute a quorum; or

(c) A panel of one or more independent persons appointed by the court upon motion by the limited liability company.

(4) A proceeding commenced under this section may not be discontinued or settled without the court's approval. If the court determines that a proposed discontinuance or settlement will substantially affect the interest of

the limited liability company's members or a class, series, or voting group of members, the court shall direct that notice be given to the members affected. The court may determine which party or parties to the proceeding shall bear the expense of giving the notice.

(5) On termination of the proceeding, the court may require the plaintiff to pay any defendant's reasonable expenses, including reasonable attorney's fees, incurred in defending the proceeding if it finds that the proceeding was commenced without reasonable cause.

(6) The court may award reasonable expenses for maintaining the proceeding, including reasonable attorney's fees, to a successful plaintiff or to the person commencing the proceeding who receives any relief, whether by judgment, compromise, or settlement, and require that the person account for the remainder of any proceeds to the limited liability company; however, this subsection does not apply to any relief rendered for the benefit of injured members only and limited to a recovery of the loss or damage of the injured members.

(7) For purposes of this section, "member" includes a beneficial owner whose limited liability company interests are held in a voting trust or held by a nominee on the member's behalf.

608.701 Application of corporation case law to set aside limited liability.—In any case in which a party seeks to hold the members of a limited liability company personally responsible for the liabilities or alleged improper actions of the limited liability company, the court shall apply the case law which interprets the conditions and circumstances under which the corporate veil of a corporation may be pierced under the law of this state.

608.702 Certificates and certified copies to be received in evidence.—All certificates issued by the Department of State in accordance with this chapter, and all copies of records filed in the Department of State in accordance with this chapter when certified by the Department of State, shall be taken and received in all courts, public offices, and official bodies as prima facie evidence of the facts therein stated. A certificate under the seal of the Department of State, as to the existence or nonexistence of the facts relating to a limited liability company or foreign limited liability company, shall be taken and received in all courts, public offices, and official bodies as prima facie evidence of the existence or nonexistence of the facts therein stated.

608.703 Interrogatories by Department of State.—

(1) The Department of State may direct to any limited liability company or foreign limited liability company subject to this chapter, and to any member or manager of any limited liability company or foreign limited liability company subject to this chapter, any interrogatories reasonably necessary and proper to enable the Department of State to ascertain whether the limited liability company or foreign limited liability company has complied with all of the provisions of this chapter applicable to the limited liability company or foreign limited liability company. The interrogatories shall be answered within 30 days after the date of mailing, or within such additional time as fixed by the Department of State. The answers to

the interrogatories shall be full and complete and shall be made in writing and under oath. If the interrogatories are directed to an individual, they shall be answered by the individual, and if directed to a limited liability company or foreign limited liability company, they shall be answered by a manager of a manager-managed company, a member of a member-managed company, or a fiduciary if the company is in the hands of a receiver, trustee, or other court-appointed fiduciary.

(2) The Department of State need not file any record in a court of competent jurisdiction to which the interrogatories relate until the interrogatories are answered as provided in this chapter, and not then if the answers thereto disclose that the record is not in conformity with the requirements of this chapter or if the Department of State has determined that the parties to such document have not paid all fees, taxes, and penalties due and owing this state. The Department of State shall certify to the Department of Legal Affairs, for such action as the Department of Legal Affairs may deem appropriate, all interrogatories and answers which disclose a violation of this chapter.

(3) The Department of State may, based upon its findings hereunder or as provided in s. 213.053(14), bring an action in circuit court to collect any penalties, fees, or taxes determined to be due and owing the state and to compel any filing, qualification, or registration required by law. In connection with such proceeding, the department may, without prior approval by the court, file a lis pendens against any property owned by the corporation and may further certify any findings to the Department of Legal Affairs for the initiation of any action permitted pursuant to this chapter which the Department of Legal Affairs may deem appropriate.

(4) The Department of State shall have the power and authority reasonably necessary to enable it to administer this chapter efficiently, to perform the duties herein imposed upon it, and to adopt reasonable rules necessary to carry out its duties and functions under this chapter.

Section 2. Sections 608.4062, 608.412, 608.424, and 608.4494, Florida Statutes, are repealed.

Section 3. This act shall take effect October 1, 1999.

Approved by the Governor June 8, 1999.

Filed in Office Secretary of State June 8, 1999.