
SENATE BILL No. 180

DIGEST OF INTRODUCED BILL

Citations Affected: IC 7.1-1-3; IC 23-15-1-5; IC 23-16; IC 23-16.1; IC 23-18; IC 23-18.1; IC 28-11-5-10; IC 34-30-2.

Synopsis: Limited partnerships and liability companies. Enacts the Uniform Limited Partnership Act (2001) governing limited partnerships and limited liability limited partnerships. Enacts the Revised Uniform Limited Liability Company Act (2006) governing limited liability companies. Provides for biennial reports for both limited partnerships and limited liability companies instead of the annual reports required by both the model Uniform Limited Partnership Act and the model Revised Uniform Limited Liability Company Act. Specifies transitional provisions. Repeals the limited partnership statute in current law on July 1, 2012. Repeals the limited liability company statute in current law on July 1, 2012.

Effective: July 1, 2011; July 1, 2012.

Simpson

January 5, 2011, read first time and referred to Committee on Judiciary.

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First Regular Session 117th General Assembly (2011)

PRINTING CODE. Amendments: Whenever an existing statute (or a section of the Indiana Constitution) is being amended, the text of the existing provision will appear in this style type, additions will appear in **this style type**, and deletions will appear in ~~this style type~~.

Additions: Whenever a new statutory provision is being enacted (or a new constitutional provision adopted), the text of the new provision will appear in **this style type**. Also, the word **NEW** will appear in that style type in the introductory clause of each SECTION that adds a new provision to the Indiana Code or the Indiana Constitution.

Conflict reconciliation: Text in a statute in *this style type* or ~~this style type~~ reconciles conflicts between statutes enacted by the 2010 Regular Session of the General Assembly.

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SENATE BILL No. 180



A BILL FOR AN ACT to amend the Indiana Code concerning business and other associations.

Be it enacted by the General Assembly of the State of Indiana:

1 SECTION 1. IC 7.1-1-3-20.5 IS AMENDED TO READ AS
2 FOLLOWS [EFFECTIVE JULY 1, 2011]: Sec. 20.5. The term "limited
3 liability company" has the meaning set forth in:

- 4 (1) IC 23-18-1-11 (before its repeal);
- 5 (2) IC 23-18.1-1-9; or
- 6 (3) IC 23-18.1-1-10;

7 **as applicable.**

8 SECTION 2. IC 7.1-1-3-20.7 IS AMENDED TO READ AS
9 FOLLOWS [EFFECTIVE JULY 1, 2011]: Sec. 20.7. The term "limited
10 partnership" has the meaning set forth in:

- 11 (1) IC 23-16-1-9 (before its repeal);
- 12 (2) IC 23-16.1-1-9; or
- 13 (3) IC 23-16.1-1-13;

14 **as applicable.**

15 SECTION 3. IC 23-15-1-5 IS AMENDED TO READ AS
16 FOLLOWS [EFFECTIVE JULY 1, 2011]: Sec. 5. As used in this
17 chapter, "person" means an individual, association, or other legal



- 1 entity. The term does not include a:
- 2 (1) corporation (as defined in IC 23-1-20-5);
- 3 (2) foreign corporation (as defined in IC 23-1-20-11);
- 4 (3) foreign limited partnership (as defined in IC 23-16-1-6
- 5 **(before its repeal) or IC 23-16.1-1-9, as applicable);**
- 6 (4) limited partnership (as defined in IC 23-16-1-9 **(before its**
- 7 **repeal) or IC 23-16.1-1-13, as applicable);**
- 8 (5) limited liability company (as defined in IC 23-18-1-11 **(before**
- 9 **its repeal) or IC 23-18.1-1-10, as applicable);** or
- 10 (6) foreign limited liability company (as defined in IC 23-18-1-9
- 11 **(before its repeal) or IC 23-18.1-1-9, as applicable).**

12 SECTION 4. IC 23-16.1 IS ADDED TO THE INDIANA CODE AS
 13 A NEW ARTICLE TO READ AS FOLLOWS [EFFECTIVE JULY 1,
 14 2011]:

15 **ARTICLE 16.1. LIMITED PARTNERSHIPS**

16 **Chapter 1. Definitions**

17 **Sec. 1. The definitions in this chapter apply throughout this**
 18 **article.**

19 **Sec. 2. "Certificate of limited partnership" means a certificate**
 20 **required by IC 23-16.1-3-1. The term includes the certificate as**
 21 **amended or restated.**

22 **Sec. 3. "Contribution", except in the term "right of**
 23 **contribution", means any benefit provided by a person to a limited**
 24 **partnership in order to become a partner or in the person's**
 25 **capacity as a partner.**

26 **Sec. 4. "Debtor in bankruptcy" means a person that is the**
 27 **subject of:**

- 28 (1) an order for relief under Title 11 of the United States Code
- 29 or a comparable order under a successor statute of general
- 30 application; or
- 31 (2) a comparable order under federal, state, or foreign law
- 32 governing insolvency.

33 **Sec. 5. "Designated office" means:**

- 34 (1) with respect to a limited partnership, the office that the
- 35 limited partnership is required to designate and maintain
- 36 under IC 23-16.1-2-13; or
- 37 (2) with respect to a foreign limited partnership, its principal
- 38 office.

39 **Sec. 6. "Distribution" means a transfer of money or other**
 40 **property from a limited partnership to a partner in the partner's**
 41 **capacity as a partner or to a transferee on account of a**
 42 **transferable interest owned by the transferee.**

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1 **Sec. 7. "Foreign limited liability limited partnership"** means a
2 foreign limited partnership whose general partners have limited
3 liability for the obligations of the foreign limited partnership under
4 a provision similar to IC 23-16.1-5-4(c).

5 **Sec. 8. "Foreign limited partnership"** means a partnership
6 formed under the laws of a jurisdiction other than this state and
7 required by those laws to have one (1) or more general partners
8 and one (1) or more limited partners. The term includes a foreign
9 limited liability limited partnership.

10 **Sec. 9. "General partner"** means:
11 (1) with respect to a limited partnership, a person that:
12 (A) becomes a general partner under IC 23-16.1-5-1; or
13 (B) was a general partner in a limited partnership when
14 the limited partnership became subject to this article
15 under IC 23-16.1-13-4(a) or IC 23-16.1-13-4(b); and
16 (2) with respect to a foreign limited partnership, a person that
17 has rights, powers, and obligations similar to those of a
18 general partner in a limited partnership.

19 **Sec. 10. "Limited liability limited partnership"**, except in the
20 term "foreign limited liability limited partnership", means a
21 limited partnership whose certificate of limited partnership states
22 that the limited partnership is a limited liability limited
23 partnership.

24 **Sec. 11. "Limited partner"** means:
25 (1) with respect to a limited partnership, a person that:
26 (A) becomes a limited partner under IC 23-16.1-4-1; or
27 (B) was a limited partner in a limited partnership when the
28 limited partnership became subject to this article under
29 IC 23-16.1-13-4(a) or IC 23-16.1-13-4(b); and
30 (2) with respect to a foreign limited partnership, a person that
31 has rights, powers, and obligations similar to those of a
32 limited partner in a limited partnership.

33 **Sec. 12. "Limited partnership"**, except in the terms "foreign
34 limited partnership" and "foreign limited liability limited
35 partnership", means an entity, having one (1) or more general
36 partners and one (1) or more limited partners, which is formed
37 under this article by two (2) or more persons or becomes subject to
38 this article under IC 23-16.1-12, IC 23-16.1-13-4(a), or
39 IC 23-16.1-13-4(b). The term includes a limited liability limited
40 partnership.

41 **Sec. 13. "Partner"** means a limited partner, a general partner,
42 or a person who is both a limited partner and a general partner.

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1 **Sec. 14. "Partnership agreement"** means the partners'
 2 agreement, whether oral, implied, in a record, or in any
 3 combination, concerning the limited partnership. The term
 4 includes the agreement as amended.

5 **Sec. 15. "Person"** means an individual, corporation, business
 6 trust, estate, trust, partnership, limited liability company,
 7 association, joint venture, government or governmental
 8 subdivision, agency, or instrumentality, public corporation, or any
 9 other legal or commercial entity.

10 **Sec. 16. "Person dissociated as a general partner"** means a
 11 person dissociated as a general partner of a limited partnership.

12 **Sec. 17. "Principal office"** means the office where the principal
 13 executive office of a limited partnership or foreign limited
 14 partnership is located, whether or not the office is located in this
 15 state.

16 **Sec. 18. "Record"** means information that is inscribed on a
 17 tangible medium or that is stored in an electronic or other medium
 18 and may be retrieved in perceivable form.

19 **Sec. 19. "Required information"** means the information that a
 20 limited partnership is required to maintain under IC 23-16.1-2-10.

21 **Sec. 20. "Sign"** means:

22 (1) to execute or adopt a tangible symbol with the present
 23 intent to authenticate a record; or

24 (2) to attach or logically associate an electronic symbol, sound,
 25 or process to or with a record with the present intent to
 26 authenticate the record.

27 **Sec. 21. "State"** means a state of the United States, the District
 28 of Columbia, Puerto Rico, the United States Virgin Islands, or any
 29 territory or insular possession subject to the jurisdiction of the
 30 United States.

31 **Sec. 22. "Transfer"** includes an assignment, conveyance, deed,
 32 bill of sale, lease, mortgage, security interest, encumbrance, gift,
 33 and transfer by operation of law.

34 **Sec. 23. "Transferable interest"** means a partner's right to
 35 receive distributions.

36 **Sec. 24. "Transferee"** means a person to which all or part of a
 37 transferable interest has been transferred, whether or not the
 38 transferor is a partner.

39 **Chapter 2. General Provisions**

40 **Sec. 1.** This article may be cited as the Uniform Limited
 41 Partnership Act.

42 **Sec. 2. (a)** A person knows a fact if the person has actual

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- knowledge of it.
- (b) A person has notice of a fact if the person:
 - (1) knows of it;
 - (2) has received a notification of it;
 - (3) has reason to know it exists from all of the facts known to the person at the time in question; or
 - (4) has notice of it under subsection (c) or (d).
- (c) A certificate of limited partnership on file in the office of the secretary of state is notice that the partnership is a limited partnership and the persons designated in the certificate as general partners are general partners. Except as otherwise provided in subsection (d), the certificate is not notice of any other fact.
- (d) A person has notice of:
 - (1) another person's dissociation as a general partner, on the earlier date occurring:
 - (A) ninety (90) days after the effective date of an amendment to the certificate of limited partnership stating that the other person has dissociated; or
 - (B) ninety (90) days after the effective date of a statement of dissociation pertaining to the other person;
 - (2) a limited partnership's dissolution, ninety (90) days after the effective date of an amendment to the certificate of limited partnership stating that the limited partnership is dissolved;
 - (3) a limited partnership's termination, ninety (90) days after the effective date of a statement of termination;
 - (4) a limited partnership's conversion under IC 23-16.1-12, ninety (90) days after the effective date of the articles of conversion; or
 - (5) a merger under IC 23-16.1-12, ninety (90) days after the effective date of the articles of merger.
- (e) A person notifies or gives a notification to another person by taking steps reasonably required to inform the other person in ordinary course, whether or not the other person learns of it.
- (f) A person receives a notification when the notification:
 - (1) comes to the person's attention; or
 - (2) is delivered at the person's place of business or at any other place held out by the person as a place for receiving communications.
- (g) Except as otherwise provided in subsection (h), a person other than an individual knows, has notice, or receives a notification of a fact for purposes of a particular transaction when the individual conducting the transaction for the person knows, has

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1 notice, or receives a notification of the fact, or in any event when
 2 the fact would have been brought to the individual's attention if the
 3 person had exercised reasonable diligence. A person other than an
 4 individual exercises reasonable diligence if it maintains reasonable
 5 routines for communicating significant information to the
 6 individual conducting the transaction for the person and there is
 7 reasonable compliance with the routines. Reasonable diligence does
 8 not require an individual acting for the person to communicate
 9 information unless the communication is part of the individual's
 10 regular duties or the individual has reason to know of the
 11 transaction and that the transaction would be materially affected
 12 by the information.

13 (h) A general partner's knowledge, notice, or receipt of a
 14 notification of a fact relating to the limited partnership is effective
 15 immediately as knowledge of, notice to, or receipt of a notification
 16 by the limited partnership, except in the case of a fraud on the
 17 limited partnership committed by or with the consent of the
 18 general partner. A limited partner's knowledge, notice, or receipt
 19 of a notification of a fact relating to the limited partnership is not
 20 effective as knowledge of, notice to, or receipt of a notification by
 21 the limited partnership.

22 Sec. 3. (a) A limited partnership is an entity distinct from its
 23 partners. A limited partnership is the same entity regardless of
 24 whether its certificate states that the limited partnership is a
 25 limited liability limited partnership.

26 (b) A limited partnership may be organized under this article
 27 for any lawful purpose.

28 (c) A limited partnership has a perpetual duration.

29 Sec. 4. A limited partnership has the powers to do all things
 30 necessary or convenient to carry on its activities, including the
 31 power to sue, be sued, and defend in its own name and to maintain
 32 an action against a partner for harm caused to the limited
 33 partnership by a breach of the partnership agreement or violation
 34 of a duty to the partnership.

35 Sec. 5. The law of this state governs relations among the
 36 partners of a limited partnership and between the partners and the
 37 limited partnership and the liability of partners as partners for an
 38 obligation of the limited partnership.

39 Sec. 6. (a) Unless displaced by particular provisions of this
 40 article, the principles of law and equity supplement this article.

41 (b) If an obligation to pay interest arises under this article and
 42 the rate is not specified, the rate is that specified in IC 24-4.6-1-101.

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1 **Sec. 7. (a) The name of a limited partnership may contain the**
 2 **name of any partner.**

3 **(b) The name of a limited partnership that is not a limited**
 4 **liability limited partnership must contain the phrase "limited**
 5 **partnership" or the abbreviation "L.P." or "LP" and may not**
 6 **contain the phrase "limited liability limited partnership" or the**
 7 **abbreviation "LLLP" or "L.L.L.P."**

8 **(c) The name of a limited liability limited partnership must**
 9 **contain the phrase "limited liability limited partnership" or the**
 10 **abbreviation "LLLP" or "L.L.L.P." and must not contain the**
 11 **abbreviation "L.P." or "LP".**

12 **(d) Unless authorized by subsection (e), the name of a limited**
 13 **partnership must be distinguishable in the records of the secretary**
 14 **of state from:**

15 **(1) the name of each person, other than an individual,**
 16 **incorporated, organized, or authorized to transact business in**
 17 **this state;**

18 **(2) each name reserved under section 8 of this chapter; and**

19 **(3) each name reserved or registered under other state laws**
 20 **allowing the reservation or registration of business names,**
 21 **including assumed business names under IC 23-15-1.**

22 **(e) A limited partnership may apply to the secretary of state for**
 23 **authorization to use a name that does not comply with subsection**
 24 **(d). The secretary of state shall authorize use of the name applied**
 25 **for if, as to each conflicting name:**

26 **(1) the present user, registrant, or owner of the conflicting**
 27 **name:**

28 **(A) consents in a signed record to the use; and**

29 **(B) submits an undertaking in a form satisfactory to the**
 30 **secretary of state to change the conflicting name to a name**
 31 **that:**

32 **(i) complies with subsection (d); and**

33 **(ii) is distinguishable in the records of the secretary of**
 34 **state from the name applied for;**

35 **(2) the applicant delivers to the secretary of state a certified**
 36 **copy of the final judgment of a court of competent jurisdiction**
 37 **establishing the applicant's right to use in this state the name**
 38 **applied for; or**

39 **(3) the applicant delivers to the secretary of state proof**
 40 **satisfactory to the secretary of state that the present user,**
 41 **registrant, or owner of the conflicting name:**

42 **(A) has merged into the applicant;**

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1 **(B) has been converted into the applicant; or**
 2 **(C) has transferred substantially all of its assets, including**
 3 **the conflicting name, to the applicant.**
 4 **(f) Subject to IC 23-16.1-10-5, this section applies to any foreign**
 5 **limited partnership transacting business in this state, having a**
 6 **certificate of authority to transact business in this state, or**
 7 **applying for a certificate of authority.**
 8 **Sec. 8. (a) The exclusive right to the use of a name that complies**
 9 **with section 7 of this chapter may be reserved by:**
 10 **(1) a person intending to organize a limited partnership under**
 11 **this article and to adopt the name;**
 12 **(2) a limited partnership or a foreign limited partnership**
 13 **authorized to transact business in this state intending to adopt**
 14 **the name;**
 15 **(3) a foreign limited partnership intending to obtain a**
 16 **certificate of authority to transact business in this state and**
 17 **adopt the name;**
 18 **(4) a person intending to organize a foreign limited**
 19 **partnership and intending to have it obtain a certificate of**
 20 **authority to transact business in this state and adopt the**
 21 **name;**
 22 **(5) a foreign limited partnership formed under the name; or**
 23 **(6) a foreign limited partnership formed under a name that**
 24 **does not comply with section 7(b) or 7(c) of this chapter, but**
 25 **the name reserved under this subdivision may differ from the**
 26 **foreign limited partnership's name only to the extent**
 27 **necessary to comply with section 7(b) and 7(c) of this chapter.**
 28 **(b) A person may apply to reserve a name under subsection (a)**
 29 **by delivering to the secretary of state for filing an application that**
 30 **states the name to be reserved and the subdivision of subsection (a)**
 31 **that applies. If the secretary of state finds that the name is**
 32 **available for use by the applicant, the secretary of state shall file a**
 33 **statement of name reservation and thereby reserve the name for**
 34 **the exclusive use of the applicant for one hundred twenty (120)**
 35 **days.**
 36 **(c) An applicant that has reserved a name as provided under**
 37 **subsection (b) may reserve the same name for additional one**
 38 **hundred twenty (120) day periods. A person having a current**
 39 **reservation for a name may not apply for another one hundred**
 40 **twenty (120) day period for the same name until ninety (90) days**
 41 **have elapsed in the current reservation.**
 42 **(d) A person that has reserved a name under this section may**

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1 deliver to the secretary of state for filing a notice of transfer that
2 states the reserved name, the name, street address, and mailing
3 address of some other person to which the reservation is to be
4 transferred, and the subdivision of subsection (a) that applies to the
5 other person. Subject to IC 23-16.1-3-6(c), the transfer is effective
6 when the secretary of state files the notice of transfer.

7 Sec. 9. (a) Except as otherwise provided in subsection (b), the
8 partnership agreement governs relations among the partners and
9 between the partners and the partnership. To the extent the
10 partnership agreement does not otherwise provide, this article
11 governs relations among the partners and between the partners
12 and the partnership.

- 13 (b) A partnership agreement may not:
 - 14 (1) vary a limited partnership's power under section 4 of this
 - 15 chapter to sue, be sued, and defend in its own name;
 - 16 (2) vary the law applicable to a limited partnership under
 - 17 section 5 of this chapter;
 - 18 (3) vary the requirements of IC 23-16.1-3-4;
 - 19 (4) vary the information required under section 10 of this
 - 20 chapter or unreasonably restrict the right to information
 - 21 under IC 23-16.1-4-4 or IC 23-16.1-5-7, but the partnership
 - 22 agreement may impose reasonable restrictions on the
 - 23 availability and use of information obtained under those
 - 24 sections and may define appropriate remedies, including
 - 25 liquidated damages, for a breach of any reasonable restriction
 - 26 on use;
 - 27 (5) eliminate the duty of loyalty under IC 23-16.1-5-8, but the
 - 28 partnership agreement may:
 - 29 (A) identify specific types or categories of activities that do
 - 30 not violate the duty of loyalty, if not manifestly
 - 31 unreasonable; and
 - 32 (B) specify the number or percentage of partners that may
 - 33 authorize or ratify, after full disclosure to all partners of
 - 34 all material facts, a specific act or transaction that
 - 35 otherwise would violate the duty of loyalty;
 - 36 (6) unreasonably reduce the duty of care under
 - 37 IC 23-16.1-5-8(c);
 - 38 (7) eliminate the obligation of good faith and fair dealing
 - 39 under IC 23-16.1-4-5(b) and IC 23-16.1-5-8(d), but the
 - 40 partnership agreement may prescribe the standards by which
 - 41 the performance of the obligation is to be measured, if the
 - 42 standards are not manifestly unreasonable;

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- 1 **(8) vary the power of a person to dissociate as a general**
- 2 **partner under IC 23-16.1-7-4(a) except to require that the**
- 3 **notice under IC 23-16.1-7-3(1) be in a record;**
- 4 **(9) vary the power of a court to decree dissolution in the**
- 5 **circumstances specified in IC 23-16.1-9-2;**
- 6 **(10) vary the requirement to wind up the partnership's**
- 7 **business as specified in IC 23-16.1-9-3;**
- 8 **(11) unreasonably restrict the right to maintain an action**
- 9 **under IC 23-16.1-11;**
- 10 **(12) restrict the right of a partner under IC 23-16.1-12-10(a)**
- 11 **to approve a conversion or merger or the right of a general**
- 12 **partner under IC 23-16.1-12-10(b) to consent to an**
- 13 **amendment to the certificate of limited partnership that**
- 14 **deletes a statement that the limited partnership is a limited**
- 15 **liability limited partnership; or**
- 16 **(13) restrict rights under this article of a person other than a**
- 17 **partner or a transferee.**

18 **Sec. 10. A limited partnership shall maintain at its designated**
 19 **office:**

- 20 **(1) a current list showing the full name and last known street**
- 21 **address and mailing address of each partner, separately**
- 22 **identifying the general partners, in alphabetical order, and**
- 23 **the limited partners, in alphabetical order;**
- 24 **(2) a copy of the initial certificate of limited partnership and**
- 25 **all amendments to and restatements of the certificate,**
- 26 **together with signed copies of any powers of attorney under**
- 27 **which any certificate, amendment, or restatement has been**
- 28 **signed;**
- 29 **(3) a copy of any filed articles of conversion or merger;**
- 30 **(4) a copy of the limited partnership's federal, state, and local**
- 31 **income tax returns and reports, if any, for the three (3) most**
- 32 **recent years;**
- 33 **(5) a copy of any partnership agreement made in a record and**
- 34 **any amendment made in a record to any partnership**
- 35 **agreement;**
- 36 **(6) a copy of any financial statement of the limited**
- 37 **partnership for the three (3) most recent years;**
- 38 **(7) a copy of the three (3) most recent biennial reports**
- 39 **delivered by the limited partnership to the secretary of state**
- 40 **under IC 23-16.1-3-10;**
- 41 **(8) a copy of any record made by the limited partnership**
- 42 **during the past three (3) years of any consent given by or vote**

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1 taken of any partner with respect to any action authorized by
 2 this article or the partnership agreement; and
 3 (9) unless contained in a partnership agreement made in a
 4 record, a record stating:
 5 (A) the amount of cash, and a description and statement of
 6 the agreed value of the other benefits, contributed and
 7 agreed to be contributed by each partner;
 8 (B) the times at which, or events on the happening of
 9 which, any additional contributions agreed to be made by
 10 each partner are to be made;
 11 (C) for any person that is both a general partner and a
 12 limited partner, a specification of what transferable
 13 interest the person owns in each capacity; and
 14 (D) any events upon the happening of which the limited
 15 partnership is to be dissolved and its activities wound up.

16 Sec. 11. A partner may lend money to and transact other
 17 business with the limited partnership and has the same rights and
 18 obligations with respect to the loan or other transaction as a person
 19 that is not a partner.

20 Sec. 12. A person may be both a general partner and a limited
 21 partner. A person that is both a general and limited partner has
 22 the rights, powers, duties, and obligations provided by this article
 23 and the partnership agreement in each of those capacities. When
 24 the person acts as a general partner, the person is subject to the
 25 obligations, duties, and restrictions under this article and the
 26 partnership agreement for general partners. When the person acts
 27 as a limited partner, the person is subject to the obligations, duties,
 28 and restrictions under this article and the partnership agreement
 29 for limited partners.

30 Sec. 13. (a) A limited partnership shall designate and
 31 continuously maintain in this state:

- 32 (1) an office, which need not be a place of its activity in this
- 33 state; and
- 34 (2) an agent for service of process.

35 (b) A foreign limited partnership shall designate and
 36 continuously maintain in this state an agent for service of process.

37 (c) An agent for service of process of a limited partnership or
 38 foreign limited partnership must be an individual who is a resident
 39 of this state or other person authorized to do business in this state.

40 Sec. 14. (a) In order to change its designated office, agent for
 41 service of process, or the address of its agent for service of process,
 42 a limited partnership or a foreign limited partnership may deliver

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- 1 to the secretary of state for filing a statement of change containing:
- 2 (1) the name of the limited partnership or foreign limited
- 3 partnership;
- 4 (2) the street address and the mailing address of its current
- 5 designated office;
- 6 (3) if the current designated office is to be changed, the street
- 7 address and the mailing address of the new designated office;
- 8 (4) the name, street address, and mailing address of its
- 9 current agent for service of process; and
- 10 (5) if the current agent for service of process or an address of
- 11 the agent is to be changed, the new information.

12 (b) Subject to IC 23-16.1-3-6(c), a statement of change is
 13 effective when filed by the secretary of state.

14 Sec. 15. (a) In order to resign as an agent for service of process
 15 of a limited partnership or foreign limited partnership, the agent
 16 must deliver to the secretary of state for filing a statement of
 17 resignation containing the name of the limited partnership or
 18 foreign limited partnership.

19 (b) After receiving a statement of resignation, the secretary of
 20 state shall file it and mail a copy to the designated office of the
 21 limited partnership or foreign limited partnership and another
 22 copy to the principal office if the address of the office appears in
 23 the records of the secretary of state and is different from the
 24 address of the designated office.

25 (c) An agency for service of process is terminated on the
 26 thirty-first day after the secretary of state files the statement of
 27 resignation.

28 Sec. 16. (a) An agent for service of process appointed by a
 29 limited partnership or foreign limited partnership is an agent of
 30 the limited partnership or foreign limited partnership for service
 31 of any process, notice, or demand required or permitted by law to
 32 be served upon the limited partnership or foreign limited
 33 partnership.

34 (b) If a limited partnership or foreign limited partnership does
 35 not appoint or maintain an agent for service of process in this state
 36 or the agent for service of process cannot with reasonable diligence
 37 be found at the agent's address, the secretary of state is an agent of
 38 the limited partnership or foreign limited partnership upon whom
 39 process, notice, or demand may be served.

40 (c) Service of any process, notice, or demand on the secretary of
 41 state may be made by delivering to and leaving with the secretary
 42 of state duplicate copies of the process, notice, or demand. If a

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1 process, notice, or demand is served on the secretary of state, the
2 secretary of state shall forward one (1) of the copies by registered
3 or certified mail, return receipt requested, to the limited
4 partnership or foreign limited partnership at its designated office.

5 (d) Service is effected under subsection (c) at the earliest of:

- 6 (1) the date the limited partnership or foreign limited
- 7 partnership receives the process, notice, or demand;
- 8 (2) the date shown on the return receipt, if signed on behalf of
- 9 the limited partnership or foreign limited partnership; or
- 10 (3) five (5) days after the process, notice, or demand is
- 11 deposited in the mail, if mailed postpaid and correctly
- 12 addressed.

13 (e) The secretary of state shall keep a record of each process,
14 notice, and demand served under this section and record the time
15 of, and the action taken regarding, the service.

16 (f) This section does not affect the right to serve process, notice,
17 or demand in any other manner provided by law.

18 Sec. 17. Action requiring the consent of partners under this
19 article may be taken without a meeting, and a partner may appoint
20 a proxy to consent or otherwise act for the partner by signing an
21 appointment record, either personally or by the partner's attorney
22 in fact.

23 Chapter 3. Formation; Certificate of Limited Partnership and
24 Other Filings

25 Sec. 1. (a) In order for a limited partnership to be formed, a
26 certificate of limited partnership must be delivered to the secretary
27 of state for filing. The certificate must state:

- 28 (1) the name of the limited partnership, which must comply
- 29 with IC 23-16.1-2-7;
- 30 (2) the street address and the mailing address of the initial
- 31 designated office;
- 32 (3) the name, street address, and mailing address of the initial
- 33 agent for service of process;
- 34 (4) the name, street address, and mailing address of each
- 35 general partner;
- 36 (5) whether the limited partnership is a limited liability
- 37 limited partnership; and
- 38 (6) any additional information required by IC 23-16.1-12.

39 (b) A certificate of limited partnership may also contain any
40 other matters but may not vary or otherwise affect the provisions
41 specified in IC 23-16.1-2-9(b) in a manner inconsistent with that
42 section.

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1 (c) If there has been substantial compliance with subsection (a),
 2 subject to section 6(c) of this chapter, a limited partnership is
 3 formed when the secretary of state files the certificate of limited
 4 partnership.

5 (d) Subject to subsection (b), if any provision of a partnership
 6 agreement is inconsistent with the filed certificate of limited
 7 partnership or with a filed statement of dissociation, termination,
 8 or change or filed articles of conversion or merger:

9 (1) the partnership agreement prevails as to partners and
 10 transferees; and

11 (2) the filed certificate of limited partnership, statement of
 12 dissociation, termination, or change, or articles of conversion
 13 or merger prevail as to persons, other than partners and
 14 transferees, that reasonably rely on the filed record to their
 15 detriment.

16 Sec. 2. (a) In order to amend its certificate of limited
 17 partnership, a limited partnership must deliver to the secretary of
 18 state for filing an amendment or, as provided under IC 23-16.1-12,
 19 articles of merger stating:

20 (1) the name of the limited partnership;

21 (2) the date of filing of its initial certificate; and

22 (3) the changes the amendment makes to the certificate as
 23 most recently amended or restated.

24 (b) A limited partnership shall promptly deliver to the secretary
 25 of state for filing an amendment to a certificate of limited
 26 partnership to reflect:

27 (1) the admission of a new general partner;

28 (2) the dissociation of a person as a general partner; or

29 (3) the appointment of a person to wind up the limited
 30 partnership's activities under IC 23-16.1-9-3(c) or
 31 IC 23-16.1-9-3(d).

32 (c) If a general partner knows that any information in a filed
 33 certificate of limited partnership was false when the certificate was
 34 filed or has become false due to changed circumstances, the general
 35 partner shall promptly:

36 (1) cause the certificate to be amended; or

37 (2) if appropriate, deliver to the secretary of state for filing a
 38 statement of change as provided under IC 23-16.1-2-14 or a
 39 statement of correction as provided under section 7 of this
 40 chapter.

41 (d) A certificate of limited partnership may be amended at any
 42 time for any other proper purpose as determined by the limited

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partnership.

(e) A restated certificate of limited partnership may be delivered to the secretary of state for filing in the same manner as an amendment.

(f) Subject to section 6(c) of this chapter, an amendment or restated certificate is effective when filed by the secretary of state.

Sec. 3. A dissolved limited partnership that has completed winding up may deliver to the secretary of state for filing a statement of termination that states:

- (1) the name of the limited partnership;
- (2) the date of filing of its initial certificate of limited partnership; and
- (3) any other information as determined by the general partners filing the statement or by a person appointed under IC 23-16.1-9-3(c) or IC 23-16.1-9-3(d).

Sec. 4. (a) Each record delivered to the secretary of state for filing under this article must be signed in the following manner:

- (1) An initial certificate of limited partnership must be signed by all general partners listed in the certificate.
- (2) An amendment adding or deleting a statement that the limited partnership is a limited liability limited partnership must be signed by all general partners listed in the certificate.
- (3) An amendment designating as general partner a person admitted under IC 23-16.1-9-1(3)(B) following the dissociation of a limited partnership's last general partner must be signed by that person.
- (4) An amendment required by IC 23-16.1-9-3(c) following the appointment of a person to wind up the dissolved limited partnership's activities must be signed by that person.
- (5) Any other amendment must be signed by:
 - (A) at least one (1) general partner listed in the certificate;
 - (B) each other person designated in the amendment as a new general partner; and
 - (C) each person that the amendment indicates has dissociated as a general partner, unless:
 - (i) the person is deceased or a guardian or general conservator has been appointed for the person and the amendment so states; or
 - (ii) the person has previously delivered to the secretary of state for filing a statement of dissociation.

(6) A restated certificate of limited partnership must be signed by at least one (1) general partner listed in the certificate, and,

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to the extent the restated certificate effects a change under any other subdivision of this subsection, the certificate must be signed in a manner that satisfies that subdivision.

(7) A statement of termination must be signed by all general partners listed in the certificate or, if the certificate of a dissolved limited partnership lists no general partners, by the person appointed under IC 23-16.1-9-3(c) or IC 23-16.1-9-3(d) to wind up the dissolved limited partnership's activities.

(8) Articles of conversion must be signed by each general partner listed in the certificate of limited partnership.

(9) Articles of merger must be signed as provided in IC 23-16.1-12-8(a).

(10) Any other record delivered on behalf of a limited partnership to the secretary of state for filing must be signed by at least one (1) general partner listed in the certificate.

(11) A statement by a person under IC 23-16.1-7-5(a)(4) stating that the person has dissociated as a general partner must be signed by that person.

(12) A statement of withdrawal by a person as provided under IC 23-16.1-4-6 must be signed by that person.

(13) A record delivered on behalf of a foreign limited partnership to the secretary of state for filing must be signed by at least one (1) general partner of the foreign limited partnership.

(14) Any other record delivered on behalf of any person to the secretary of state for filing must be signed by that person.

(b) Any person may sign by an attorney in fact any record to be filed under this article.

Sec. 5. (a) If a person required by this article to sign a record or deliver a record to the secretary of state for filing does not do so, any other person that is aggrieved may petition the circuit or superior court:

- (1) to order the person to sign the record;
- (2) to order the person to deliver the record to the secretary of state for filing; or
- (3) to order the secretary of state to file the record unsigned.

(b) If the person aggrieved under subsection (a) is not the limited partnership or foreign limited partnership to which the record pertains, the aggrieved person shall make the limited partnership or foreign limited partnership a party to the action. A person aggrieved under subsection (a) may seek the remedies provided in subsection (a) in the same action in combination or in

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1 the alternative.

2 (c) A record filed unsigned under this section is effective without
3 being signed.

4 Sec. 6. (a) A record authorized or required to be delivered to the
5 secretary of state for filing under this article must be captioned to
6 describe the record's purpose, be in a medium permitted by the
7 secretary of state, and be delivered to the secretary of state. Unless
8 the secretary of state determines that a record does not comply
9 with the filing requirements of this article, and if all filing fees have
10 been paid, the secretary of state shall file the record and:

11 (1) for a statement of dissociation, send:

12 (A) a copy of the filed statement and a receipt for the fees
13 to the person that the statement indicates has dissociated
14 as a general partner; and

15 (B) a copy of the filed statement and receipt to the limited
16 partnership;

17 (2) for a statement of withdrawal, send:

18 (A) a copy of the filed statement and a receipt for the fees
19 to the person on whose behalf the record was filed; and

20 (B) if the statement refers to an existing limited
21 partnership, a copy of the filed statement and receipt to the
22 limited partnership; and

23 (3) for all other records, send a copy of the filed record and a
24 receipt for the fees to the person on whose behalf the record
25 was filed.

26 (b) Upon request and payment of a fee, the secretary of state
27 shall send to the requester a certified copy of the requested record.

28 (c) Except as otherwise provided in IC 23-16.1-2-15 or section
29 7 of this chapter, a record delivered to the secretary of state for
30 filing under this article may specify an effective time and a delayed
31 effective date. Except as otherwise provided in this article, a record
32 filed by the secretary of state is effective:

33 (1) if the record does not specify an effective time and does not
34 specify a delayed effective date, on the date and at the time the
35 record is filed as evidenced by the secretary of state's
36 endorsement of the date and time on the record;

37 (2) if the record specifies an effective time but not a delayed
38 effective date, on the date the record is filed at the time
39 specified in the record;

40 (3) if the record specifies a delayed effective date but not an
41 effective time, at 12:01 a.m. on the earlier of:

42 (A) the specified date; or

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1 **(B) the ninetieth day after the record is filed; or**
2 **(4) if the record specifies an effective time and a delayed**
3 **effective date, at the specified time on the earlier of:**
4 **(A) the specified date; or**
5 **(B) the ninetieth day after the record is filed.**
6 **Sec. 7. (a) A limited partnership or foreign limited partnership**
7 **may deliver to the secretary of state for filing a statement of**
8 **correction to correct a record previously delivered by the limited**
9 **partnership or foreign limited partnership to the secretary of state**
10 **and filed by the secretary of state, if at the time of filing the record:**
11 **(1) contained false or erroneous information; or**
12 **(2) was defectively signed.**
13 **(b) A statement of correction may not state a delayed effective**
14 **date and must:**
15 **(1) describe the record to be corrected, including its filing**
16 **date, or attach a copy of the record as filed;**
17 **(2) specify the incorrect information and the reason it is**
18 **incorrect or the manner in which the signing was defective;**
19 **and**
20 **(3) correct the incorrect information or defective signature.**
21 **(c) When filed by the secretary of state, a statement of**
22 **correction is effective retroactively as of the effective date of the**
23 **record the statement corrects, but the statement is effective when**
24 **filed:**
25 **(1) for the purposes of IC 23-16.1-2-2(c) and**
26 **IC 23-16.1-2-2(d); and**
27 **(2) as to persons relying on the uncorrected record and**
28 **adversely affected by the correction.**
29 **Sec. 8. (a) If a record delivered to the secretary of state for filing**
30 **under this article and filed by the secretary of state contains false**
31 **information, a person that suffers loss by reliance on the**
32 **information may recover damages for the loss from:**
33 **(1) a person that signed the record, or caused another to sign**
34 **it on the person's behalf, and knew the information to be false**
35 **at the time the record was signed; and**
36 **(2) a general partner that has notice that the information was**
37 **false when the record was filed or has become false because of**
38 **changed circumstances, if the general partner has notice for**
39 **a reasonably sufficient time before the information is relied**
40 **upon to enable the general partner to:**
41 **(A) effect an amendment under section 2 of this chapter;**
42 **(B) file a petition under section 5 of this chapter; or**

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- (C) deliver to the secretary of state for filing:**
 - (i) a statement of change as provided under IC 23-16.1-2-14; or**
 - (ii) a statement of correction as provided under section 7 of this chapter.**

(b) Signing a record authorized or required to be filed under this article constitutes an affirmation under the penalties of perjury that the facts stated in the record are true.

Sec. 9. (a) The secretary of state, upon request and payment of the requisite fee, shall furnish a certificate of existence for a limited partnership if the records filed in the office of the secretary of state show that the secretary of state has filed a certificate of limited partnership and has not filed a statement of termination. A certificate of existence must state:

- (1) the limited partnership's name;**
- (2) that it was duly formed under the laws of this state and the date of formation;**
- (3) whether all fees, taxes, and penalties due to the secretary of state under this article or other law have been paid;**
- (4) whether the limited partnership's most recent biennial report required by section 10 of this chapter has been filed by the secretary of state;**
- (5) whether the secretary of state has administratively dissolved the limited partnership;**
- (6) whether the limited partnership's certificate of limited partnership has been amended to state that the limited partnership is dissolved;**
- (7) that a statement of termination has not been filed by the secretary of state; and**
- (8) other facts of record in the office of the secretary of state that may be requested by the applicant.**

(b) The secretary of state, upon request and payment of the requisite fee, shall furnish a certificate of authorization for a foreign limited partnership if the records filed in the office of the secretary of state show that the secretary of state has filed a certificate of authority, has not revoked the certificate of authority, and has not filed a notice of cancellation. A certificate of authorization must state:

- (1) the foreign limited partnership's name and any alternate name adopted under IC 23-16.1-10-5(a) for use in this state;**
- (2) that the foreign limited partnership is authorized to transact business in this state;**

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- 1 (3) whether all fees, taxes, and penalties due to the secretary
- 2 of state under this article or other law have been paid;
- 3 (4) whether the foreign limited partnership's most recent
- 4 biennial report required by section 10 of this chapter has been
- 5 filed by the secretary of state;
- 6 (5) that the secretary of state has not revoked its certificate of
- 7 authority and has not filed a notice of cancellation; and
- 8 (6) other facts of record in the office of the secretary of state
- 9 that may be requested by the applicant.

10 (c) Subject to any qualification stated in the certificate, a
 11 certificate of existence or authorization issued by the secretary of
 12 state may be relied upon as conclusive evidence that the limited
 13 partnership or foreign limited partnership is in existence or is
 14 authorized to transact business in this state.

15 Sec. 10. (a) Every two (2) years, a limited partnership or a
 16 foreign limited partnership authorized to transact business in this
 17 state shall deliver to the secretary of state for filing a biennial
 18 report that states:

- 19 (1) the name of the limited partnership or foreign limited
- 20 partnership;
- 21 (2) the street address and the mailing address of its designated
- 22 office;
- 23 (3) the name, street address, and mailing address of its agent
- 24 for service of process in this state;
- 25 (4) in the case of a limited partnership, the street address and
- 26 the mailing address of its principal office; and
- 27 (5) in the case of a foreign limited partnership, the state or
- 28 other jurisdiction under whose law the foreign limited
- 29 partnership is formed and any alternate name adopted under
- 30 IC 23-16.1-10-5(a).

31 (b) Information in a biennial report must be current as of the
 32 date the biennial report is delivered to the secretary of state for
 33 filing.

34 (c) The first biennial report must be delivered to the secretary
 35 of state in the second year following the calendar year in which a
 36 limited partnership was formed or a foreign limited partnership
 37 was authorized to transact business. The report is due during the
 38 same month as the month in which the limited partnership was
 39 organized or the foreign limited partnership was authorized to
 40 transact business. Subsequent biennial reports must be delivered
 41 to the secretary of state during the same month every two (2)
 42 calendar years thereafter. The secretary of state may accept

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1 biennial reports during the two (2) months before the month the
2 limited partnership's report is due.

3 (d) If a biennial report does not contain the information
4 required in subsection (a), the secretary of state shall promptly
5 notify the reporting limited partnership or foreign limited
6 partnership and return the report to it for correction. If the report
7 is corrected to contain the information required in subsection (a)
8 and delivered to the secretary of state within thirty (30) days after
9 the effective date of the notice, the report is timely delivered.

10 (e) If a filed biennial report contains an address of a designated
11 office or the name or address of an agent for service of process that
12 differs from the information shown in the records of the secretary
13 of state immediately before the filing, the differing information in
14 the biennial report is considered a statement of change under
15 IC 23-16.1-2-14.

16 **Chapter 4. Limited Partners**

17 **Sec. 1. A person becomes a limited partner:**

- 18 (1) as provided in the partnership agreement;
19 (2) as the result of a conversion or merger under
20 IC 23-16.1-12; or
21 (3) with the consent of all the partners.

22 **Sec. 2. A limited partner does not have the right or the power as
23 a limited partner to act for or bind the limited partnership.**

24 **Sec. 3. An obligation of a limited partnership, whether arising
25 in contract, tort, or otherwise, is not the obligation of a limited
26 partner. A limited partner is not personally liable, directly or
27 indirectly, by way of contribution or otherwise, for an obligation
28 of the limited partnership solely by reason of being a limited
29 partner, even if the limited partner participates in the management
30 and control of the limited partnership.**

31 **Sec. 4. (a) On ten (10) days demand, made in a record received
32 by the limited partnership, a limited partner may inspect and copy
33 required information during regular business hours in the limited
34 partnership's designated office. The limited partner need not have
35 any particular purpose for seeking the information.**

36 (b) During regular business hours and at a reasonable location
37 specified by the limited partnership, a limited partner may obtain
38 from the limited partnership and inspect and copy true and full
39 information regarding the state of the activities and financial
40 condition of the limited partnership and other information
41 regarding the activities of the limited partnership as is just and
42 reasonable if:

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- 1 (1) the limited partner seeks the information for a purpose
- 2 reasonably related to the partner's interest as a limited
- 3 partner;
- 4 (2) the limited partner makes a demand in a record received
- 5 by the limited partnership, describing with reasonable
- 6 particularity the information sought and the purpose for
- 7 seeking the information; and
- 8 (3) the information sought is directly connected to the limited
- 9 partner's purpose.
- 10 (c) Within ten (10) days after receiving a demand under
- 11 subsection (b), the limited partnership in a record shall inform the
- 12 limited partner that made the demand:
- 13 (1) what information the limited partnership will provide in
- 14 response to the demand;
- 15 (2) when and where the limited partnership will provide the
- 16 information; and
- 17 (3) if the limited partnership declines to provide any
- 18 demanded information, the limited partnership's reasons for
- 19 declining.
- 20 (d) Subject to subsection (f), a person dissociated as a limited
- 21 partner may inspect and copy required information during regular
- 22 business hours in the limited partnership's designated office if:
- 23 (1) the information pertains to the period during which the
- 24 person was a limited partner;
- 25 (2) the person seeks the information in good faith; and
- 26 (3) the person meets the requirements of subsection (b).
- 27 (e) The limited partnership shall respond to a demand made
- 28 under subsection (d) in the same manner as provided in subsection
- 29 (c).
- 30 (f) If a limited partner dies, IC 23-16.1-8-4 applies.
- 31 (g) The limited partnership may impose reasonable restrictions
- 32 on the use of information obtained under this section. In a dispute
- 33 concerning the reasonableness of a restriction under this
- 34 subsection, the limited partnership has the burden of proving
- 35 reasonableness.
- 36 (h) A limited partnership may charge a person that makes a
- 37 demand under this section reasonable costs of copying, limited to
- 38 the costs of labor and material.
- 39 (i) Whenever this article or a partnership agreement provides
- 40 for a limited partner to give or withhold consent to a matter,
- 41 before the consent is given or withheld, the limited partnership
- 42 shall, without demand, provide the limited partner with all

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1 information material to the limited partner's decision that the
 2 limited partnership knows.
 3 (j) A limited partner or person dissociated as a limited partner
 4 may exercise the rights under this section through an attorney or
 5 other agent. Any restriction imposed under subsection (g) or by the
 6 partnership agreement applies both to the attorney or other agent
 7 and to the limited partner or person dissociated as a limited
 8 partner.
 9 (k) The rights stated in this section do not extend to a person as
 10 transferee, but may be exercised by the legal representative of an
 11 individual under legal disability who is a limited partner or person
 12 dissociated as a limited partner.
 13 Sec. 5. (a) A limited partner does not have any fiduciary duty to
 14 the limited partnership or to any other partner solely by reason of
 15 being a limited partner.
 16 (b) A limited partner shall discharge the duties to the
 17 partnership and the other partners under this article or under the
 18 partnership agreement and exercise any rights consistently with
 19 the obligation of good faith and fair dealing.
 20 (c) A limited partner does not violate a duty or obligation under
 21 this article or under the partnership agreement merely because the
 22 limited partner's conduct furthers the limited partner's own
 23 interest.
 24 Sec. 6. (a) Except as otherwise provided in subsection (b), if a
 25 person makes an investment in a business enterprise and
 26 erroneously but in good faith believes that the person has become
 27 a limited partner in the enterprise, the person is not liable for the
 28 enterprise's obligations by reason of making the investment,
 29 receiving distributions from the enterprise, or exercising any rights
 30 of or appropriate to a limited partner, if, on ascertaining the
 31 mistake, the person:
 32 (1) causes an appropriate certificate of limited partnership,
 33 amendment, or statement of correction to be signed and
 34 delivered to the secretary of state for filing; or
 35 (2) withdraws from future participation as an owner in the
 36 enterprise by signing and delivering to the secretary of state
 37 for filing a statement of withdrawal under this section.
 38 (b) A person that makes an investment described in subsection
 39 (a) is liable to the same extent as a general partner to any third
 40 party that enters into a transaction with the enterprise, believing
 41 in good faith that the person is a general partner, before the
 42 secretary of state files a statement of withdrawal, certificate of

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1 limited partnership, amendment, or statement of correction to
2 show that the person is not a general partner.

3 (c) If a person makes a diligent effort in good faith to comply
4 with subsection (a)(1) and is unable to cause the appropriate
5 certificate of limited partnership, amendment, or statement of
6 correction to be signed and delivered to the secretary of state for
7 filing, the person has the right to withdraw from the enterprise as
8 provided under subsection (a)(2) even if the withdrawal would
9 otherwise breach an agreement with others that are or have agreed
10 to become co-owners of the enterprise.

11 Chapter 5. General Partners

12 Sec. 1. A person becomes a general partner:

- 13 (1) as provided in the partnership agreement;
14 (2) under IC 23-16.1-9-1(3)(B) following the dissociation of a
15 limited partnership's last general partner;
16 (3) as the result of a conversion or merger under
17 IC 23-16.1-12; or
18 (4) with the consent of all the partners.

19 Sec. 2. (a) Each general partner is an agent of the limited
20 partnership for purposes of its activities. An act of a general
21 partner, including the signing of a record in the partnership's
22 name, for apparently carrying on in the ordinary course the
23 limited partnership's activities or activities of the kind carried on
24 by the limited partnership binds the limited partnership, unless the
25 general partner did not have authority to act for the limited
26 partnership in the particular matter and the person with which the
27 general partner was dealing knew, had received a notification, or
28 had notice under IC 23-16.1-2-2(d) that the general partner lacked
29 authority.

30 (b) An act of a general partner that is not apparently for
31 carrying on in the ordinary course the limited partnership's
32 activities or activities of the kind carried on by the limited
33 partnership binds the limited partnership only if the act were
34 actually authorized by all the other partners.

35 Sec. 3. (a) A limited partnership is liable for loss or injury
36 caused to a person, or for a penalty incurred, as a result of a
37 wrongful act or omission, or other actionable conduct, of a general
38 partner acting in the ordinary course of activities of the limited
39 partnership or with authority of the limited partnership.

40 (b) If, in the course of the limited partnership's activities or
41 while acting with authority of the limited partnership, a general
42 partner receives or causes the limited partnership to receive money

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1 or property of a person not a partner, and the money or property
2 is misapplied by a general partner, the limited partnership is liable
3 for the loss.

4 **Sec. 4. (a) Except as otherwise provided in subsections (b) and**
5 **(c), all general partners are liable jointly and severally for all**
6 **obligations of the limited partnership unless otherwise agreed by**
7 **the claimant or provided by law.**

8 **(b) A person that becomes a general partner of an existing**
9 **limited partnership is not personally liable for an obligation of a**
10 **limited partnership incurred before the person became a general**
11 **partner.**

12 **(c) An obligation of a limited partnership incurred while the**
13 **limited partnership is a limited liability limited partnership,**
14 **whether arising in contract, tort, or otherwise, is solely the**
15 **obligation of the limited partnership. A general partner is not**
16 **personally liable, directly or indirectly, by way of contribution or**
17 **otherwise, for such an obligation solely by reason of being or acting**
18 **as a general partner. This subsection applies despite anything**
19 **inconsistent in the partnership agreement that existed immediately**
20 **before the consent required to become a limited liability limited**
21 **partnership under section 6(b)(2) of this chapter.**

22 **Sec. 5. (a) Subject to section 4 of this chapter, a general partner**
23 **may be joined in an action against the limited partnership or**
24 **named in a separate action.**

25 **(b) A judgment against a limited partnership is not by itself a**
26 **judgment against a general partner. A judgment against a limited**
27 **partnership may not be satisfied from a general partner's assets**
28 **unless there is also a judgment against the general partner.**

29 **(c) A judgment creditor of a general partner may not levy**
30 **execution against the assets of the general partner to satisfy a**
31 **judgment based on a claim against the limited partnership, unless**
32 **the partner is personally liable for the claim under section 4 of this**
33 **chapter and:**

34 **(1) a judgment based on the same claim has been obtained**
35 **against the limited partnership and a writ of execution on the**
36 **judgment has been returned unsatisfied in whole or in part;**

37 **(2) the limited partnership is a debtor in bankruptcy;**

38 **(3) the general partner has agreed that the creditor need not**
39 **exhaust limited partnership assets;**

40 **(4) a court grants permission to the judgment creditor to levy**
41 **execution against the assets of a general partner based on a**
42 **finding that limited partnership assets subject to execution**

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1 are clearly insufficient to satisfy the judgment, that
 2 exhaustion of limited partnership assets is excessively
 3 burdensome, or that the grant of permission is an appropriate
 4 exercise of the court's equitable powers; or

5 (5) liability is imposed on the general partner by law or
 6 contract independent of the existence of the limited
 7 partnership.

8 **Sec. 6. (a) Each general partner has equal rights in the**
 9 **management and conduct of the limited partnership's activities.**
 10 **Except as expressly provided in this article, any matter relating to**
 11 **the activities of the limited partnership may be exclusively decided**
 12 **by the general partner or, if there is more than one (1) general**
 13 **partner, by a majority of the general partners.**

14 **(b) The consent of each partner is necessary to:**

15 **(1) amend the partnership agreement;**

16 **(2) amend the certificate of limited partnership to add or,**
 17 **subject to IC 23-16.1-12-10, delete a statement that the limited**
 18 **partnership is a limited liability limited partnership; and**

19 **(3) sell, lease, exchange, or otherwise dispose of all, or**
 20 **substantially all, of the limited partnership's property, with or**
 21 **without the good will, other than in the usual and regular**
 22 **course of the limited partnership's activities.**

23 **(c) A limited partnership shall reimburse a general partner for**
 24 **payments made and indemnify a general partner for liabilities**
 25 **incurred by the general partner in the ordinary course of the**
 26 **activities of the partnership or for the preservation of its activities**
 27 **or property.**

28 **(d) A limited partnership shall reimburse a general partner for**
 29 **an advance to the limited partnership beyond the amount of capital**
 30 **the general partner agreed to contribute.**

31 **(e) A payment or advance made by a general partner that gives**
 32 **rise to an obligation of the limited partnership under subsection (c)**
 33 **or (d) constitutes a loan to the limited partnership that accrues**
 34 **interest from the date of the payment or advance.**

35 **(f) A general partner is not entitled to remuneration for services**
 36 **performed for the partnership.**

37 **Sec. 7. (a) A general partner, without having any particular**
 38 **purpose for seeking the information, may inspect and copy during**
 39 **regular business hours:**

40 **(1) in the limited partnership's designated office, required**
 41 **information; and**

42 **(2) at a reasonable location specified by the limited**

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- 1 partnership, any other records maintained by the limited
 2 partnership regarding the limited partnership's activities and
 3 financial condition.
- 4 (b) Each general partner and the limited partnership shall
 5 furnish to a general partner:
- 6 (1) without demand, any information concerning the limited
 7 partnership's activities and activities reasonably required for
 8 the proper exercise of the general partner's rights and duties
 9 under the partnership agreement or this article; and
 10 (2) on demand, any other information concerning the limited
 11 partnership's activities, except to the extent the demand or the
 12 information demanded is unreasonable or otherwise improper
 13 under the circumstances.
- 14 (c) Subject to subsection (e), on ten (10) days demand made in
 15 a record received by the limited partnership, a person dissociated
 16 as a general partner may have access to the information and
 17 records described in subsection (a) at the location specified in
 18 subsection (a) if:
- 19 (1) the information or record pertains to the period during
 20 which the person was a general partner;
- 21 (2) the person seeks the information or record in good faith;
 22 and
- 23 (3) the person satisfies the requirements imposed on a limited
 24 partner by IC 23-16.1-4-4(b).
- 25 (d) The limited partnership shall respond to a demand made
 26 under subsection (c) in the same manner as provided in
 27 IC 23-16.1-4-4(c).
- 28 (e) If a general partner dies, IC 23-16.1-8-4 applies.
- 29 (f) The limited partnership may impose reasonable restrictions
 30 on the use of information under this section. In any dispute
 31 concerning the reasonableness of a restriction under this
 32 subsection, the limited partnership has the burden of proving
 33 reasonableness.
- 34 (g) A limited partnership may charge a person dissociated as a
 35 general partner that makes a demand under this section reasonable
 36 costs of copying, limited to the costs of labor and material.
- 37 (h) A general partner or person dissociated as a general partner
 38 may exercise the rights under this section through an attorney or
 39 other agent. Any restriction imposed under subsection (f) or by the
 40 partnership agreement applies both to the attorney or other agent
 41 and to the general partner or person dissociated as a general
 42 partner.

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1 (i) The rights under this section do not extend to a person as
 2 transferee, but the rights under subsection (c) of a person
 3 dissociated as a general partner may be exercised by the legal
 4 representative of an individual who dissociated as a general
 5 partner under IC 23-16.1-7-3(7)(B) or IC 23-16.1-7-3(7)(C).

6 Sec. 8. (a) The only fiduciary duties that a general partner has
 7 to the limited partnership and the other partners are the duties of
 8 loyalty and care under subsections (b) and (c).

9 (b) A general partner's duty of loyalty to the limited partnership
 10 and the other partners is limited to the following:

11 (1) To account to the limited partnership and hold as trustee
 12 for it any property, profit, or benefit derived by the general
 13 partner in the conduct and winding up of the limited
 14 partnership's activities or derived from a use by the general
 15 partner of limited partnership property, including the
 16 appropriation of a limited partnership opportunity.

17 (2) To refrain from dealing with the limited partnership in the
 18 conduct or winding up of the limited partnership's activities
 19 as or on behalf of a party having an interest adverse to the
 20 limited partnership.

21 (3) To refrain from competing with the limited partnership in
 22 the conduct or winding up of the limited partnership's
 23 activities.

24 (c) A general partner's duty of care to the limited partnership
 25 and the other partners in the conduct and winding up of the limited
 26 partnership's activities is limited to refraining from engaging in
 27 grossly negligent or reckless conduct, intentional misconduct, or a
 28 knowing violation of law.

29 (d) A general partner shall discharge the duties to the
 30 partnership and the other partners under this article or under the
 31 partnership agreement and exercise any rights consistently with
 32 the obligation of good faith and fair dealing.

33 (e) A general partner does not violate a duty or obligation under
 34 this article or under the partnership agreement merely because the
 35 general partner's conduct furthers the general partner's own
 36 interest.

37 Chapter 6. Contributions and Distributions

38 Sec. 1. A contribution of a partner may consist of tangible or
 39 intangible property or other benefit to the limited partnership,
 40 including money, services performed, promissory notes, other
 41 agreements to contribute cash or property, and contracts for
 42 services to be performed.

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1 **Sec. 2. (a) A partner's obligation to contribute money or other**
 2 **property or other benefit to, or to perform services for, a limited**
 3 **partnership is not excused by the partner's death, disability, or**
 4 **other inability to perform personally.**

5 **(b) If a partner does not make a promised nonmonetary**
 6 **contribution, the partner is obligated at the option of the limited**
 7 **partnership to contribute money equal to that part of the value, as**
 8 **stated in the required information, of the stated contribution that**
 9 **has not been made.**

10 **(c) The obligation of a partner to make a contribution or return**
 11 **money or other property paid or distributed in violation of this**
 12 **article may be compromised only by consent of all partners. A**
 13 **creditor of a limited partnership that extends credit or otherwise**
 14 **acts in reliance on an obligation described in subsection (a),**
 15 **without notice of any compromise under this subsection, may**
 16 **enforce the original obligation.**

17 **Sec. 3. A distribution by a limited partnership must be shared**
 18 **among the partners on the basis of the value, as stated in the**
 19 **required records when the limited partnership decides to make the**
 20 **distribution, of the contributions the limited partnership has**
 21 **received from each partner.**

22 **Sec. 4. A partner does not have a right to any distribution before**
 23 **the dissolution and winding up of the limited partnership unless the**
 24 **limited partnership decides to make an interim distribution.**

25 **Sec. 5. A person does not have a right to receive a distribution**
 26 **on account of dissociation.**

27 **Sec. 6. A partner does not have a right to demand or receive any**
 28 **distribution from a limited partnership in any form other than**
 29 **cash. Subject to IC 23-16.1-9-12(b), a limited partnership may**
 30 **distribute an asset in kind to the extent each partner receives a**
 31 **percentage of the asset equal to the partner's share of distributions.**

32 **Sec. 7. When a partner or transferee becomes entitled to receive**
 33 **a distribution, the partner or transferee has the status of, and is**
 34 **entitled to all remedies available to, a creditor of the limited**
 35 **partnership with respect to the distribution. However, the limited**
 36 **partnership's obligation to make a distribution is subject to offset**
 37 **for any amount owed to the limited partnership by the partner or**
 38 **dissociated partner on whose account the distribution is made.**

39 **Sec. 8. (a) A limited partnership may not make a distribution in**
 40 **violation of the partnership agreement.**

41 **(b) A limited partnership may not make a distribution if after**
 42 **the distribution:**

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- 1 **(1) the limited partnership would not be able to pay its debts**
- 2 **as they become due in the ordinary course of the limited**
- 3 **partnership's activities; or**
- 4 **(2) the limited partnership's total assets would be less than the**
- 5 **sum of its total liabilities plus the amount that would be**
- 6 **needed, if the limited partnership were to be dissolved, wound**
- 7 **up, and terminated at the time of the distribution, to satisfy**
- 8 **the preferential rights upon dissolution, winding up, and**
- 9 **termination of partners whose preferential rights are superior**
- 10 **to those of persons receiving the distribution.**

11 **(c) A limited partnership may base a determination that a**
 12 **distribution is not prohibited under subsection (b) on financial**
 13 **statements prepared on the basis of accounting practices and**
 14 **principles that are reasonable in the circumstances or on a fair**
 15 **valuation or other method that is reasonable in the circumstances.**

16 **(d) Except as otherwise provided in subsection (g), the effect of**
 17 **a distribution under subsection (b) is measured:**

- 18 **(1) in the case of distribution by purchase, redemption, or**
- 19 **other acquisition of a transferable interest in the limited**
- 20 **partnership, as of the date money or other property is**
- 21 **transferred or debt incurred by the limited partnership; and**
- 22 **(2) in all other cases, as of the date:**
 - 23 **(A) the distribution is authorized, if the payment occurs**
 - 24 **within one hundred twenty (120) days after that date; or**
 - 25 **(B) the payment is made, if payment occurs more than one**
 - 26 **hundred twenty (120) days after the distribution is**
 - 27 **authorized.**

28 **(e) A limited partnership's indebtedness to a partner incurred**
 29 **by reason of a distribution made in accordance with this section is**
 30 **at parity with the limited partnership's indebtedness to its general,**
 31 **unsecured creditors.**

32 **(f) A limited partnership's indebtedness, including indebtedness**
 33 **issued in connection with or as part of a distribution, is not**
 34 **considered a liability for purposes of subsection (b) if the terms of**
 35 **the indebtedness provide that the payment of principal and interest**
 36 **is made only to the extent that a distribution could then be made to**
 37 **partners under this section.**

38 **(g) If indebtedness is issued as a distribution, each payment of**
 39 **principal or interest on the indebtedness is treated as a**
 40 **distribution, the effect of which is measured on the date the**
 41 **payment is made.**

42 **Sec. 9. (a) A general partner that consents to a distribution**

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1 made in violation of section 8 of this chapter is personally liable to
2 the limited partnership for the amount of the distribution that
3 exceeds the amount that could have been distributed without the
4 violation if it is established that in consenting to the distribution the
5 general partner failed to comply with IC 23-16.1-5-8.

6 (b) A partner or transferee that received a distribution knowing
7 that the distribution to that partner or transferee was made in
8 violation of section 8 of this chapter is personally liable to the
9 limited partnership but only to the extent that the distribution
10 received by the partner or transferee exceeded the amount that
11 could have been properly paid under section 8 of this chapter.

12 (c) A general partner against which an action is commenced
13 under subsection (a) may:

- 14 (1) implead in the action any other person that is liable under
- 15 subsection (a) and compel contribution from the person; and
- 16 (2) implead in the action any person that received a
- 17 distribution in violation of subsection (b) and compel
- 18 contribution from the person in the amount the person
- 19 received in violation of subsection (b).

20 (d) An action under this section is barred if it is not commenced
21 within two (2) years after the distribution.

22 Chapter 7. Dissociation

23 Sec. 1. (a) A person does not have a right to dissociate as a
24 limited partner before the termination of the limited partnership.

25 (b) A person is dissociated from a limited partnership as a
26 limited partner upon the occurrence of:

- 27 (1) the limited partnership's having notice of the person's
- 28 express will to withdraw as a limited partner or on a later
- 29 date specified by the person;
- 30 (2) an event agreed to in the partnership agreement as causing
- 31 the person's dissociation as a limited partner;
- 32 (3) the person's expulsion as a limited partner in accordance
- 33 with the terms of the partnership agreement;
- 34 (4) the person's expulsion as a limited partner by the
- 35 unanimous consent of the other partners if:
 - 36 (A) it is unlawful to carry on the limited partnership's
 - 37 activities with the person as a limited partner;
 - 38 (B) there has been a transfer of all of the person's
 - 39 transferable interest in the limited partnership, other than
 - 40 a transfer for security purposes, or a court order charging
 - 41 the person's interest, which has not been foreclosed;
 - 42 (C) the person is a corporation and, within ninety (90) days

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1 after the limited partnership notifies the person that it will
 2 be expelled as a limited partner because it has filed a
 3 certificate of dissolution or the equivalent, its charter has
 4 been revoked, or its right to conduct business has been
 5 suspended by the jurisdiction of its incorporation, there is
 6 no revocation of the certificate of dissolution or no
 7 reinstatement of its charter or its right to conduct
 8 business; or

9 (D) the person is a limited liability company or partnership
 10 that has been dissolved and whose business is being wound
 11 up;

12 (5) on application by the limited partnership, the person's
 13 expulsion as a limited partner by judicial order because:

14 (A) the person engaged in wrongful conduct that adversely
 15 and materially affected the limited partnership's activities;

16 (B) the person willfully or persistently committed a
 17 material breach of the partnership agreement or of the
 18 obligation of good faith and fair dealing under
 19 IC 23-16.1-4-5(b); or

20 (C) the person engaged in conduct relating to the limited
 21 partnership's activities that makes it not reasonably
 22 practicable to carry on the activities with the person as a
 23 limited partner;

24 (6) in the case of a person who is an individual, the person's
 25 death;

26 (7) in the case of a person that is a trust or is acting as a
 27 limited partner by virtue of being a trustee of a trust,
 28 distribution of the trust's entire transferable interest in the
 29 limited partnership, but not merely by reason of the
 30 substitution of a successor trustee;

31 (8) in the case of a person that is an estate or is acting as a
 32 limited partner by virtue of being a personal representative of
 33 an estate, distribution of the estate's entire transferable
 34 interest in the limited partnership, but not merely by reason
 35 of the substitution of a successor personal representative;

36 (9) termination of a limited partner that is not an individual,
 37 partnership, limited liability company, corporation, trust, or
 38 estate; or

39 (10) the limited partnership's participation in a conversion or
 40 merger under IC 23-16.1-12, if the limited partnership:

41 (A) is not the converted or surviving entity; or

42 (B) is the converted or surviving entity but, as a result of

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the conversion or merger, the person ceases to be a limited partner.

Sec. 2. (a) Upon a person's dissociation as a limited partner:

- (1) subject to IC 23-16.1-8-4, the person does not have further rights as a limited partner;
- (2) the person's obligation of good faith and fair dealing as a limited partner under IC 23-16.1-4-5(b) continues only as to matters arising and events occurring before the dissociation; and
- (3) subject to IC 23-16.1-8-4 and IC 23-16.1-12, any transferable interest owned by the person in the person's capacity as a limited partner immediately before dissociation is owned by the person as a mere transferee.

(b) A person's dissociation as a limited partner does not of itself discharge the person from any obligation to the limited partnership or the other partners that the person incurred while a limited partner.

Sec. 3. A person is dissociated from a limited partnership as a general partner upon the occurrence of:

- (1) the limited partnership's having notice of the person's express will to withdraw as a general partner or on a later date specified by the person;
- (2) an event agreed to in the partnership agreement as causing the person's dissociation as a general partner;
- (3) the person's expulsion as a general partner in accordance with the terms of the partnership agreement;
- (4) the person's expulsion as a general partner by the unanimous consent of the other partners if:
 - (A) it is unlawful to carry on the limited partnership's activities with the person as a general partner;
 - (B) there has been a transfer of all or substantially all of the person's transferable interest in the limited partnership, other than a transfer for security purposes, or a court order charging the person's interest, which has not been foreclosed;
 - (C) the person is a corporation and, within ninety (90) days after the limited partnership notifies the person that it will be expelled as a general partner because it has filed a certificate of dissolution or the equivalent, its charter has been revoked, or its right to conduct business has been suspended by the jurisdiction of its incorporation, there is no revocation of the certificate of dissolution or no

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- 1 reinstatement of its charter or its right to conduct
2 business; or
3 **(D) the person is a limited liability company or partnership**
4 **that has been dissolved and whose business is being wound**
5 **up;**
6 **(5) on application by the limited partnership, the person's**
7 **expulsion as a general partner by judicial determination**
8 **because:**
9 **(A) the person engaged in wrongful conduct that adversely**
10 **and materially affected the limited partnership activities;**
11 **(B) the person willfully or persistently committed a**
12 **material breach of the partnership agreement or of a duty**
13 **owed to the partnership or the other partners under**
14 **IC 23-16.1-5-8; or**
15 **(C) the person engaged in conduct relating to the limited**
16 **partnership's activities which makes it not reasonably**
17 **practicable to carry on the activities of the limited**
18 **partnership with the person as a general partner;**
19 **(6) the person's:**
20 **(A) becoming a debtor in bankruptcy;**
21 **(B) execution of an assignment for the benefit of creditors;**
22 **(C) seeking, consenting to, or acquiescing in the**
23 **appointment of a trustee, receiver, or liquidator of the**
24 **person or of all or substantially all of the person's**
25 **property; or**
26 **(D) failure, within ninety (90) days after the appointment,**
27 **to have vacated or stayed the appointment of a trustee,**
28 **receiver, or liquidator of the general partner or of all or**
29 **substantially all of the person's property obtained without**
30 **the person's consent or acquiescence, or failing within**
31 **ninety (90) days after the expiration of a stay to have the**
32 **appointment vacated;**
33 **(7) in the case of a person who is an individual:**
34 **(A) the person's death;**
35 **(B) the appointment of a guardian or general conservator**
36 **for the person; or**
37 **(C) a judicial determination that the person has otherwise**
38 **become incapable of performing the person's duties as a**
39 **general partner under the partnership agreement;**
40 **(8) in the case of a person that is a trust or is acting as a**
41 **general partner by virtue of being a trustee of a trust,**
42 **distribution of the trust's entire transferable interest in the**

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1 limited partnership, but not merely by reason of the
2 substitution of a successor trustee;

3 (9) in the case of a person that is an estate or is acting as a
4 general partner by virtue of being a personal representative
5 of an estate, distribution of the estate's entire transferable
6 interest in the limited partnership, but not merely by reason
7 of the substitution of a successor personal representative;

8 (10) termination of a general partner that is not an individual,
9 partnership, limited liability company, corporation, trust, or
10 estate; or

11 (11) the limited partnership's participation in a conversion or
12 merger under IC 23-16.1-12, if the limited partnership:

13 (A) is not the converted or surviving entity; or

14 (B) is the converted or surviving entity but, as a result of
15 the conversion or merger, the person ceases to be a general
16 partner.

17 **Sec. 4. (a) A person has the power to dissociate as a general**
18 **partner at any time, rightfully or wrongfully, by express will as**
19 **provided in section 3(1) of this chapter.**

20 **(b) A person's dissociation as a general partner is wrongful only**
21 **if:**

22 (1) it is in breach of an express provision of the partnership
23 agreement; or

24 (2) it occurs before the termination of the limited partnership,
25 and:

26 (A) the person withdraws as a general partner by express
27 will;

28 (B) the person is expelled as a general partner by judicial
29 determination under section 3(5) of this chapter;

30 (C) the person is dissociated as a general partner by
31 becoming a debtor in bankruptcy; or

32 (D) in the case of a person that is not an individual, a trust
33 other than a business trust, or an estate, the person is
34 expelled or otherwise dissociated as a general partner
35 because it willfully dissolved or terminated.

36 **(c) A person that wrongfully dissociates as a general partner is**
37 **liable to the limited partnership and, subject to IC 23-16.1-11-1, to**
38 **the other partners for damages caused by the dissociation. The**
39 **liability is in addition to any other obligation of the general partner**
40 **to the limited partnership or to the other partners.**

41 **Sec. 5. (a) Upon a person's dissociation as a general partner:**

42 (1) the person's right to participate as a general partner in the

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1 management and conduct of the partnership's activities
2 terminates;
3 (2) the person's duty of loyalty as a general partner under
4 IC 23-16.1-5-8(b)(3) terminates;
5 (3) the person's duty of loyalty as a general partner under
6 IC 23-16.1-5-8(b)(1) and IC 23-16.1-5-8(b)(2) and duty of care
7 under IC 23-16.1-5-8(c) continue only with regard to matters
8 arising and events occurring before the person's dissociation
9 as a general partner;
10 (4) the person may sign and deliver to the secretary of state
11 for filing a statement of dissociation pertaining to the person
12 and, at the request of the limited partnership, shall sign an
13 amendment to the certificate of limited partnership that states
14 that the person has dissociated; and
15 (5) subject to IC 23-16.1-8-4 and IC 23-16.1-12, any
16 transferable interest owned by the person immediately before
17 dissociation in the person's capacity as a general partner is
18 owned by the person as a mere transferee.

19 (b) A person's dissociation as a general partner does not of itself
20 discharge the person from any obligation to the limited partnership
21 or the other partners that the person incurred while a general
22 partner.

23 Sec. 6. (a) After a person is dissociated as a general partner and
24 before the limited partnership is dissolved, converted under
25 IC 23-16.1-12, or merged out of existence under IC 23-16.1-12, the
26 limited partnership is bound by an act of the person only if:
27 (1) the act would have bound the limited partnership under
28 IC 23-16.1-5-2 before the dissociation; and
29 (2) at the time the other party enters into the transaction:
30 (A) less than two (2) years have passed since the
31 dissociation; and
32 (B) the other party does not have notice of the dissociation
33 and reasonably believes that the person is a general
34 partner.

35 (b) If a limited partnership is bound under subsection (a), the
36 person dissociated as a general partner that caused the limited
37 partnership to be bound is liable:
38 (1) to the limited partnership for any damage caused to the
39 limited partnership arising from the obligation incurred
40 under subsection (a); and
41 (2) if a general partner or another person dissociated as a
42 general partner is liable for the obligation, to the general

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1 partner or other person for any damage caused to the general
2 partner or other person arising from the liability.

3 **Sec. 7. (a) A person's dissociation as a general partner does not**
4 **of itself discharge the person's liability as a general partner for an**
5 **obligation of the limited partnership incurred before dissociation.**
6 **Except as otherwise provided in subsections (b) and (c), the person**
7 **is not liable for a limited partnership's obligation incurred after**
8 **dissociation.**

9 (b) A person whose dissociation as a general partner resulted in
10 a dissolution and winding up of the limited partnership's activities
11 is liable to the same extent as a general partner under
12 IC 23-16.1-5-4 on an obligation incurred by the limited partnership
13 under IC 23-16.1-9-4.

14 (c) A person that has dissociated as a general partner but whose
15 dissociation did not result in a dissolution and winding up of the
16 limited partnership's activities is liable on a transaction entered
17 into by the limited partnership after the dissociation only if:

- 18 (1) a general partner would be liable on the transaction; and
19 (2) at the time the other party enters into the transaction:

20 (A) less than two (2) years have passed since the
21 dissociation; and

22 (B) the other party does not have notice of the dissociation
23 and reasonably believes that the person is a general
24 partner.

25 (d) By agreement with a creditor of a limited partnership and
26 the limited partnership, a person dissociated as a general partner
27 may be released from liability for an obligation of the limited
28 partnership.

29 (e) A person dissociated as a general partner is released from
30 liability for an obligation of the limited partnership if the limited
31 partnership's creditor, with notice of the person's dissociation as
32 a general partner but without the person's consent, agrees to a
33 material alteration in the nature or time of payment of the
34 obligation.

35 **Chapter 8. Transferable Interests and Rights of Transferees and**
36 **Creditors**

37 **Sec. 1. The only interest of a partner that is transferable is the**
38 **partner's transferable interest. A transferable interest is personal**
39 **property.**

40 **Sec. 2. (a) A transfer, in whole or in part, of a partner's**
41 **transferable interest:**

- 42 (1) is permissible;

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1 (2) does not by itself cause the partner's dissociation or a
2 dissolution and winding up of the limited partnership's
3 activities; and
4 (3) does not, as against the other partners or the limited
5 partnership, entitle the transferee to participate in the
6 management or conduct of the limited partnership's activities,
7 to require access to information concerning the limited
8 partnership's transactions except as otherwise provided in
9 subsection (c), or to inspect or copy the required information
10 or the limited partnership's other records.
11 (b) A transferee has a right to receive, in accordance with the
12 transfer:
13 (1) distributions to which the transferor would otherwise be
14 entitled; and
15 (2) upon the dissolution and winding up of the limited
16 partnership's activities, the net amount otherwise
17 distributable to the transferor.
18 (c) In a dissolution and winding up, a transferee is entitled to an
19 account of the limited partnership's transactions only from the
20 date of dissolution.
21 (d) Upon transfer, the transferor retains the rights of a partner
22 other than the interest in distributions transferred and retains all
23 duties and obligations of a partner.
24 (e) A limited partnership need not give effect to a transferee's
25 rights under this section until the limited partnership has notice of
26 the transfer.
27 (f) A transfer of a partner's transferable interest in the limited
28 partnership in violation of a restriction on transfer contained in the
29 partnership agreement is ineffective as to a person having notice
30 of the restriction at the time of transfer.
31 (g) A transferee that becomes a partner with respect to a
32 transferable interest is liable for the transferor's obligations under
33 IC 23-16.1-6-2 and IC 23-16.1-6-9. However, the transferee is not
34 obligated for liabilities unknown to the transferee at the time the
35 transferee became a partner.
36 Sec. 3. (a) On application to a court with jurisdiction by any
37 judgment creditor of a partner or transferee, the court may charge
38 the transferable interest of the judgment debtor with payment of
39 the unsatisfied amount of the judgment with interest. To the extent
40 so charged, the judgment creditor has only the rights of a
41 transferee. The court may appoint a receiver of the share of the
42 distributions due or to become due to the judgment debtor in

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respect of the partnership and make all other orders, directions, accounts, and inquiries the judgment debtor might have made or which the circumstances of the case may require to give effect to the charging order.

(b) A charging order constitutes a lien on the judgment debtor's transferable interest. The court may order a foreclosure upon the interest subject to the charging order at any time. The purchaser at the foreclosure sale has the rights of a transferee.

(c) At any time before foreclosure, an interest charged may be redeemed:

- (1) by the judgment debtor;
- (2) with property other than limited partnership property, by one (1) or more of the other partners; or
- (3) with limited partnership property, by the limited partnership with the consent of all partners whose interests are not so charged.

(d) This article does not deprive any partner or transferee of the benefit of any exemption laws applicable to the partner's or transferee's transferable interest.

(e) This section provides the exclusive remedy by which a judgment creditor of a partner or transferee may satisfy a judgment out of the judgment debtor's transferable interest.

Sec. 4. If a partner dies, the deceased partner's personal representative or other legal representative may exercise the rights of a transferee as provided in section 2 of this chapter and, for the purposes of settling the estate, may exercise the rights of a current limited partner under IC 23-16.1-4-4.

Chapter 9. Dissolution

Sec. 1. Except as otherwise provided in section 2 of this chapter, a limited partnership is dissolved, and its activities must be wound up, only upon the occurrence of:

- (1) the happening of an event specified in the partnership agreement;
- (2) the consent of all general partners and of limited partners owning a majority of the rights to receive distributions as limited partners at the time the consent is to be effective;
- (3) after the dissociation of a person as a general partner:
 - (A) if the limited partnership has at least one (1) remaining general partner, the consent to dissolve the limited partnership given within ninety (90) days after the dissociation by partners owning a majority of the rights to receive distributions as partners at the time the consent is

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to be effective; or
(B) if the limited partnership does not have a remaining general partner, the passage of ninety (90) days after the dissociation, unless before the end of the period:

(i) consent to continue the activities of the limited partnership and admit at least one (1) general partner is given by limited partners owning a majority of the rights to receive distributions as limited partners at the time the consent is to be effective; and

(ii) at least one (1) person is admitted as a general partner in accordance with the consent;

(4) the passage of ninety (90) days after the dissociation of the limited partnership's last limited partner, unless before the end of the period the limited partnership admits at least one (1) limited partner; or

(5) the signing and filing of a declaration of dissolution by the secretary of state under section 9(c) of this chapter.

Sec. 2. On application by a partner, the circuit or superior court may order dissolution of a limited partnership if it is not reasonably practicable to carry on the activities of the limited partnership in conformity with the partnership agreement.

Sec. 3. (a) A limited partnership continues after dissolution only for the purpose of winding up its activities.

(b) In winding up its activities, the limited partnership:

(1) may amend its certificate of limited partnership to state that the limited partnership is dissolved, preserve the limited partnership business or property as a going concern for a reasonable time, prosecute and defend actions and proceedings, whether civil, criminal, or administrative, transfer the limited partnership's property, settle disputes by mediation or arbitration, file a statement of termination as provided in IC 23-16.1-3-3, and perform other necessary acts; and

(2) shall discharge the limited partnership's liabilities, settle and close the limited partnership's activities, and marshal and distribute the assets of the partnership.

(c) If a dissolved limited partnership does not have a general partner, a person to wind up the dissolved limited partnership's activities may be appointed by the consent of limited partners owning a majority of the rights to receive distributions as limited partners at the time the consent is to be effective. A person appointed under this subsection:

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- 1 (1) has the powers of a general partner under section 4 of this
 2 chapter; and
 3 (2) shall promptly amend the certificate of limited partnership
 4 to state:
 5 (A) that the limited partnership does not have a general
 6 partner;
 7 (B) the name of the person that has been appointed to wind
 8 up the limited partnership; and
 9 (C) the street address and the mailing address of the
 10 person.
 11 (d) On the application of any partner, the circuit or superior
 12 court may order judicial supervision of the winding up, including
 13 the appointment of a person to wind up the dissolved limited
 14 partnership's activities, if:
 15 (1) a limited partnership does not have a general partner and
 16 within a reasonable time following the dissolution no person
 17 has been appointed as provided in subsection (c); or
 18 (2) the applicant establishes other good cause.
 19 Sec. 4. (a) A limited partnership is bound by a general partner's
 20 act after dissolution that:
 21 (1) is appropriate for winding up the limited partnership's
 22 activities; or
 23 (2) would have bound the limited partnership under
 24 IC 23-16.1-5-2 before dissolution, if, at the time the other
 25 party enters into the transaction, the other party does not
 26 have notice of the dissolution.
 27 (b) A person dissociated as a general partner binds a limited
 28 partnership through an act occurring after dissolution if:
 29 (1) at the time the other party enters into the transaction:
 30 (A) less than two (2) years have passed since the
 31 dissociation; and
 32 (B) the other party does not have notice of the dissociation
 33 and reasonably believes that the person is a general
 34 partner; and
 35 (2) the act:
 36 (A) is appropriate for winding up the limited partnership's
 37 activities; or
 38 (B) would have bound the limited partnership under
 39 IC 23-16.1-5-2 before dissolution and at the time the other
 40 party enters into the transaction the other party does not
 41 have notice of the dissolution.
 42 Sec. 5. (a) If a general partner having knowledge of the

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1 dissolution causes a limited partnership to incur an obligation
2 under section 4(a) of this chapter by an act that is not appropriate
3 for winding up the partnership's activities, the general partner is
4 liable:

- 5 (1) to the limited partnership for any damage caused to the
- 6 limited partnership arising from the obligation; and
- 7 (2) if another general partner or a person dissociated as a
- 8 general partner is liable for the obligation, to that other
- 9 general partner or person for any damage caused to that
- 10 other general partner or person arising from the liability.

11 (b) If a person dissociated as a general partner causes a limited
12 partnership to incur an obligation under section 4(b) of this
13 chapter, the person is liable:

- 14 (1) to the limited partnership for any damage caused to the
- 15 limited partnership arising from the obligation; and
- 16 (2) if a general partner or another person dissociated as a
- 17 general partner is liable for the obligation, to the general
- 18 partner or other person for any damage caused to the general
- 19 partner or other person arising from the liability.

20 Sec. 6. (a) A dissolved limited partnership may dispose of the
21 known claims against the dissolved limited partnership by
22 following the procedure described in subsection (b).

23 (b) A dissolved limited partnership may notify its known
24 claimants of the dissolution in a record. The notice must:

- 25 (1) specify the information required to be included in a claim;
- 26 (2) provide a mailing address to which the claim is to be sent;
- 27 (3) state the deadline for receipt of the claim, which may not
- 28 be less than one hundred twenty (120) days after the date the
- 29 notice is received by the claimant;
- 30 (4) state that the claim will be barred if not received by the
- 31 deadline; and
- 32 (5) unless the limited partnership has been throughout its
- 33 existence a limited liability limited partnership, state that the
- 34 barring of a claim against the limited partnership will also
- 35 bar any corresponding claim against any general partner or
- 36 person dissociated as a general partner that is based on
- 37 IC 23-16.1-5-4.

38 (c) A claim against a dissolved limited partnership is barred if
39 the requirements of subsection (b) are met and:

- 40 (1) the claim is not received by the specified deadline; or
- 41 (2) in the case of a claim that is timely received but rejected
- 42 by the dissolved limited partnership, the claimant does not

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1 **commence an action to enforce the claim against the limited**
 2 **partnership within ninety (90) days after the receipt of the**
 3 **notice of the rejection.**

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

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

10 **(b) The notice must:**

11 **(1) be published at least once in a newspaper of general**
 12 **circulation in the county in which the dissolved limited**
 13 **partnership's principal office is located or, if the limited**
 14 **partnership does not have a principal office in this state, in the**
 15 **county in which the limited partnership's designated office is**
 16 **or was last located;**

17 **(2) describe the information required to be contained in a**
 18 **claim and provide a mailing address to which the claim is to**
 19 **be sent;**

20 **(3) state that a claim against the limited partnership is barred**
 21 **unless an action to enforce the claim is commenced within five**
 22 **(5) years after publication of the notice; and**

23 **(4) unless the limited partnership has been throughout its**
 24 **existence a limited liability limited partnership, state that the**
 25 **barring of a claim against the limited partnership will also**
 26 **bar any corresponding claim against any general partner or**
 27 **person dissociated as a general partner that is based on**
 28 **IC 23-16.1-5-4.**

29 **(c) If a dissolved limited partnership publishes a notice in**
 30 **accordance with subsection (b), the claim of each of the following**
 31 **claimants is barred unless the claimant commences an action to**
 32 **enforce the claim against the dissolved limited partnership within**
 33 **five (5) years after the publication date of the notice:**

34 **(1) A claimant that did not receive notice in a record under**
 35 **section 6 of this chapter.**

36 **(2) A claimant whose claim was timely sent to the dissolved**
 37 **limited partnership but not acted on.**

38 **(3) A claimant whose claim is contingent or based on an event**
 39 **occurring after the effective date of dissolution.**

40 **(d) A claim not barred under this section may be enforced:**

41 **(1) against the dissolved limited partnership, to the extent of**
 42 **its undistributed assets;**

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- 1 (2) if the assets have been distributed in liquidation, against a
- 2 partner or transferee to the extent of that person's
- 3 proportionate share of the claim or the limited partnership's
- 4 assets distributed to the partner or transferee in liquidation,
- 5 whichever is less, but a person's total liability for all claims
- 6 under this subdivision does not exceed the total amount of
- 7 assets distributed to the person as part of the winding up of
- 8 the dissolved limited partnership; or
- 9 (3) against any person liable on the claim under
- 10 IC 23-16.1-5-4.

11 **Sec. 8.** If a claim against a dissolved limited partnership is
 12 barred under section 6 or 7 of this chapter, any corresponding
 13 claim under IC 23-16.1-5-4 is also barred.

14 **Sec. 9. (a)** The secretary of state may dissolve a limited
 15 partnership administratively if the limited partnership does not,
 16 within sixty (60) days after the due date:

- 17 (1) pay any fee, tax, or penalty due to the secretary of state
- 18 under this article or other law; or
- 19 (2) deliver its biennial report to the secretary of state.

20 **(b)** If the secretary of state determines that a ground exists for
 21 administratively dissolving a limited partnership, the secretary of
 22 state shall file a record of the determination and serve the limited
 23 partnership with a copy of the filed record.

24 **(c)** If within sixty (60) days after service of the copy the limited
 25 partnership does not correct each ground for dissolution or
 26 demonstrate to the reasonable satisfaction of the secretary of state
 27 that each ground determined by the secretary of state does not
 28 exist, the secretary of state shall administratively dissolve the
 29 limited partnership by preparing, signing, and filing a declaration
 30 of dissolution that states the grounds for dissolution. The secretary
 31 of state shall serve the limited partnership with a copy of the filed
 32 declaration.

33 **(d)** A limited partnership administratively dissolved continues
 34 its existence but may carry on only activities necessary to wind up
 35 its activities and liquidate its assets under sections 3 and 12 of this
 36 chapter and to notify claimants under sections 6 and 7 of this
 37 chapter.

38 **(e)** The administrative dissolution of a limited partnership does
 39 not terminate the authority of its agent for service of process.

40 **Sec. 10. (a)** A limited partnership that has been administratively
 41 dissolved may apply to the secretary of state for reinstatement
 42 within two (2) years after the effective date of dissolution. The

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1 application must be delivered to the secretary of state for filing and
2 state:

3 (1) the name of the limited partnership and the effective date
4 of its administrative dissolution;

5 (2) that the grounds for dissolution either did not exist or have
6 been eliminated; and

7 (3) that the limited partnership's name satisfies the
8 requirements of IC 23-16.1-2-7.

9 (b) If the secretary of state determines that an application
10 contains the information required by subsection (a) and that the
11 information is correct, the secretary of state shall prepare a
12 declaration of reinstatement that states this determination, sign,
13 and file the original of the declaration of reinstatement, and serve
14 the limited partnership with a copy.

15 (c) When reinstatement becomes effective, it relates back to and
16 takes effect as of the effective date of the administrative
17 dissolution, and the limited partnership may resume its activities
18 as if the administrative dissolution had never occurred.

19 Sec. 11. (a) If the secretary of state denies a limited
20 partnership's application for reinstatement following
21 administrative dissolution, the secretary of state shall prepare,
22 sign, and file a notice that explains the reason or reasons for denial
23 and serve the limited partnership with a copy of the notice.

24 (b) Within thirty (30) days after service of the notice of denial,
25 the limited partnership may appeal from the denial of
26 reinstatement by petitioning the circuit or superior court to set
27 aside the dissolution. The petition must be served on the secretary
28 of state and contain a copy of the secretary of state's declaration of
29 dissolution, the limited partnership's application for reinstatement,
30 and the secretary of state's notice of denial.

31 (c) The court may summarily order the secretary of state to
32 reinstate the dissolved limited partnership or may take other action
33 the court considers appropriate.

34 Sec. 12. (a) In winding up a limited partnership's activities, the
35 assets of the limited partnership, including the contributions
36 required by this section, must be applied to satisfy the limited
37 partnership's obligations to creditors, including, to the extent
38 permitted by law, partners that are creditors.

39 (b) Any surplus remaining after the limited partnership
40 complies with subsection (a) must be paid in cash as a distribution.

41 (c) If a limited partnership's assets are insufficient to satisfy all
42 of its obligations under subsection (a), with respect to each

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1 unsatisfied obligation incurred when the limited partnership was
 2 not a limited liability limited partnership, the following rules
 3 apply:

4 (1) Each person that was a general partner when the
 5 obligation was incurred and that has not been released from
 6 the obligation under IC 23-16.1-7-7 shall contribute to the
 7 limited partnership for the purpose of enabling the limited
 8 partnership to satisfy the obligation. The contribution due
 9 from each of those persons is in proportion to the right to
 10 receive distributions in the capacity of general partner in
 11 effect for each of those persons when the obligation was
 12 incurred.

13 (2) If a person does not contribute the full amount required
 14 under subdivision (1) with respect to an unsatisfied obligation
 15 of the limited partnership, the other persons required to
 16 contribute by subdivision (1) on account of the obligation shall
 17 contribute the additional amount necessary to discharge the
 18 obligation. The additional contribution due from each of those
 19 other persons is in proportion to the right to receive
 20 distributions in the capacity of general partner in effect for
 21 each of those other persons when the obligation was incurred.

22 (3) If a person does not make the additional contribution
 23 required by subdivision (2), further additional contributions
 24 are determined and due in the same manner as provided in
 25 that subdivision.

26 (d) A person that makes an additional contribution under
 27 subsection (c)(2) or (c)(3) may recover from any person whose
 28 failure to contribute under subsection (c)(1) or (c)(2) necessitated
 29 the additional contribution. A person may not recover under this
 30 subsection more than the amount additionally contributed. A
 31 person's liability under this subsection may not exceed the amount
 32 the person failed to contribute.

33 (e) The estate of a deceased individual is liable for the person's
 34 obligations under this section.

35 (f) An assignee for the benefit of creditors of a limited
 36 partnership or a partner, or a person appointed by a court to
 37 represent creditors of a limited partnership or a partner, may
 38 enforce a person's obligation to contribute under subsection (c).

39 Chapter 10. Foreign Limited Partnerships

40 Sec. 1. (a) The laws of the state or other jurisdiction under
 41 which a foreign limited partnership is organized govern:

42 (1) relations among the partners of the foreign limited

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1 partnership;

2 (2) relations between the partners and the foreign limited
3 partnership; and

4 (3) the liability of partners as partners for an obligation of the
5 foreign limited partnership.

6 (b) A foreign limited partnership may not be denied a certificate
7 of authority by reason of any difference between the laws of the
8 jurisdiction under which the foreign limited partnership is
9 organized and the laws of this state.

10 (c) A certificate of authority does not authorize a foreign limited
11 partnership to engage in any business or exercise any power that
12 a limited partnership may not engage in or exercise in this state.

13 Sec. 2. (a) A foreign limited partnership may apply for a
14 certificate of authority to transact business in this state by
15 delivering an application to the secretary of state for filing. The
16 application must state:

17 (1) the name of the foreign limited partnership and, if the
18 name does not comply with IC 23-16.1-2-7, an alternate name
19 adopted as provided under section 5(a) of this chapter;

20 (2) the name of the state or other jurisdiction under whose law
21 the foreign limited partnership is organized;

22 (3) the street address and the mailing address of the foreign
23 limited partnership's principal office and, if the laws of the
24 jurisdiction under which the foreign limited partnership is
25 organized require the foreign limited partnership to maintain
26 an office in that jurisdiction, the street address and the
27 mailing address of the required office;

28 (4) the name, street address, and mailing address of the
29 foreign limited partnership's initial agent for service of
30 process in this state;

31 (5) the name, street address, and mailing address of each of
32 the foreign limited partnership's general partners; and

33 (6) whether the foreign limited partnership is a foreign limited
34 liability limited partnership.

35 (b) A foreign limited partnership shall deliver with the
36 completed application a certificate of existence or a record of
37 similar import signed by the secretary of state or other official
38 having custody of the foreign limited partnership's publicly filed
39 records in the state or other jurisdiction under whose law the
40 foreign limited partnership is organized.

41 Sec. 3. (a) Activities of a foreign limited partnership that do not
42 constitute transacting business in this state within the meaning of

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- 1 **this article include:**
- 2 **(1) maintaining, defending, and settling an action or**
- 3 **proceeding;**
- 4 **(2) holding meetings of its partners or carrying on any other**
- 5 **activity concerning its internal affairs;**
- 6 **(3) maintaining accounts in financial institutions;**
- 7 **(4) maintaining offices or agencies for the transfer, exchange,**
- 8 **and registration of the foreign limited partnership's own**
- 9 **securities or maintaining trustees or depositories with respect**
- 10 **to those securities;**
- 11 **(5) selling through independent contractors;**
- 12 **(6) soliciting or obtaining orders, whether by mail or**
- 13 **electronic means or through employees or agents or**
- 14 **otherwise, if the orders require acceptance outside this state**
- 15 **before they become contracts;**
- 16 **(7) creating or acquiring indebtedness, mortgages, or security**
- 17 **interests in real or personal property;**
- 18 **(8) securing or collecting debts or enforcing mortgages or**
- 19 **other security interests in property securing the debts, and**
- 20 **holding, protecting, and maintaining property so acquired;**
- 21 **(9) conducting an isolated transaction that is completed within**
- 22 **thirty (30) days and is not a transaction in the course of**
- 23 **similar transactions of a like manner; and**
- 24 **(10) transacting business in interstate commerce.**
- 25 **(b) For purposes of this article, the ownership in this state of**
- 26 **income producing real property or tangible personal property,**
- 27 **other than property excluded under subsection (a), constitutes**
- 28 **transacting business in this state.**
- 29 **(c) This section does not apply in determining the contacts or**
- 30 **activities that may subject a foreign limited partnership to service**
- 31 **of process, taxation, or regulation under any other law of this state.**
- 32 **Sec. 4. Unless the secretary of state determines that an**
- 33 **application for a certificate of authority does not comply with the**
- 34 **filing requirements of this article, the secretary of state, upon**
- 35 **payment of all filing fees, shall file the application, prepare, sign**
- 36 **and file a certificate of authority to transact business in this state,**
- 37 **and send a copy of the filed certificate, together with a receipt for**
- 38 **the fees, to the foreign limited partnership or its representative.**
- 39 **Sec. 5. (a) A foreign limited partnership whose name does not**
- 40 **comply with IC 23-16.1-2-7 may not obtain a certificate of**
- 41 **authority until the foreign limited partnership adopts, for the**
- 42 **purpose of transacting business in this state, an alternate name that**

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1 complies with IC 23-16.1-2-7. A foreign limited partnership that
 2 adopts an alternate name under this subsection and then obtains a
 3 certificate of authority with the name need not comply with
 4 IC 23-15-1. After obtaining a certificate of authority with an
 5 alternate name, a foreign limited partnership shall transact
 6 business in this state under the alternate name unless the foreign
 7 limited partnership is authorized under IC 23-15-1 to transact
 8 business in this state under another name.

9 (b) If a foreign limited partnership authorized to transact
 10 business in this state changes its name to a foreign limited
 11 partnership that does not comply with IC 23-16.1-2-7, the foreign
 12 limited partnership may not thereafter transact business in this
 13 state until the foreign limited partnership complies with subsection
 14 (a) and obtains an amended certificate of authority.

15 Sec. 6. (a) A certificate of authority of a foreign limited
 16 partnership to transact business in this state may be revoked by the
 17 secretary of state in the manner provided in subsections (b) and (c)
 18 if the foreign limited partnership does not:

- 19 (1) pay, within sixty (60) days after the due date, any fee, tax,
 20 or penalty due to the secretary of state under this article or
 21 other law;
- 22 (2) deliver, within sixty (60) days after the due date, its
 23 biennial report required under IC 23-16.1-3-10;
- 24 (3) appoint and maintain an agent for service of process as
 25 required by IC 23-16.1-2-13(b); or
- 26 (4) deliver for filing a statement of a change under
 27 IC 23-16.1-2-14 within thirty (30) days after a change has
 28 occurred in the name or address of the agent.

29 (b) In order to revoke a certificate of authority, the secretary of
 30 state must prepare, sign, and file a notice of revocation and send a
 31 copy to the foreign limited partnership's agent for service of
 32 process in this state, or if the foreign limited partnership does not
 33 appoint and maintain a proper agent in this state, to the foreign
 34 limited partnership's designated office. The notice must state:

- 35 (1) the revocation's effective date, which must be at least sixty
 36 (60) days after the date the secretary of state sends the copy;
 37 and
- 38 (2) the foreign limited partnership's failures to comply with
 39 subsection (a), which are the reason for the revocation.

40 (c) The authority of the foreign limited partnership to transact
 41 business in this state ceases on the effective date of the notice of
 42 revocation unless before that date the foreign limited partnership

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1 cures each failure to comply with subsection (a) stated in the
2 notice. If the foreign limited partnership cures the failures, the
3 secretary of state shall so indicate on the filed notice.

4 Sec. 7. (a) In order to cancel a foreign limited partnership's
5 certificate of authority to transact business in this state, the foreign
6 limited partnership must deliver to the secretary of state for filing
7 a notice of cancellation. The certificate is canceled when the notice
8 becomes effective under IC 23-16.1-3-6.

9 (b) A foreign limited partnership transacting business in this
10 state may not maintain an action or proceeding in this state unless
11 the foreign limited partnership has a certificate of authority to
12 transact business in this state.

13 (c) The failure of a foreign limited partnership to have a
14 certificate of authority to transact business in this state does not
15 impair the validity of a contract or act of the foreign limited
16 partnership or prevent the foreign limited partnership from
17 defending an action or proceeding in this state.

18 (d) A partner of a foreign limited partnership is not liable for
19 the obligations of the foreign limited partnership solely by reason
20 of the foreign limited partnership's having transacted business in
21 this state without a certificate of authority.

22 (e) If a foreign limited partnership transacts business in this
23 state without a certificate of authority or cancels its certificate of
24 authority, the foreign limited partnership appoints the secretary of
25 state as its agent for service of process for rights of action arising
26 out of the transaction of business in this state.

27 Sec. 8. The attorney general may maintain an action to restrain
28 a foreign limited partnership from transacting business in this state
29 in violation of this article.

30 Chapter 11. Actions by Partners

31 Sec. 1. (a) Subject to subsection (b), a partner may maintain a
32 direct action against the limited partnership or another partner for
33 legal or equitable relief, with or without an accounting as to the
34 partnership's activities, to enforce the rights and otherwise protect
35 the interests of the partner, including rights and interests under the
36 partnership agreement or this article or arising independently of
37 the partnership relationship.

38 (b) A partner commencing a direct action under this section is
39 required to plead and prove an actual or threatened injury that is
40 not solely the result of an injury suffered or threatened to be
41 suffered by the limited partnership.

42 (c) The accrual of, and any time limitation on, a right of action

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1 for a remedy under this section is governed by other law. A right
2 to an accounting upon a dissolution and winding up does not revive
3 a claim barred by law.

4 **Sec. 2. A partner may maintain a derivative action to enforce a**
5 **right of a limited partnership if:**

6 (1) the partner first makes a demand on the general partners,
7 requesting that the general partners cause the limited
8 partnership to bring an action to enforce the right, and the
9 general partners do not bring the action within a reasonable
10 time; or

11 (2) a demand would be futile.

12 **Sec. 3. A derivative action may be maintained only by a person**
13 **that is a partner at the time the action is commenced and:**

14 (1) was a partner when the conduct giving rise to the action
15 occurred; or

16 (2) whose status as a partner devolved upon the person by
17 operation of law or according to the terms of the partnership
18 agreement from a person that was a partner at the time of the
19 conduct.

20 **Sec. 4. In a derivative action, the complaint must state with**
21 **particularity:**

22 (1) the date and content of the plaintiff's demand and the
23 general partners' response to the demand; or

24 (2) why demand should be excused as futile.

25 **Sec. 5. (a) Except as otherwise provided in subsection (b):**

26 (1) any proceeds or other benefits of a derivative action,
27 whether by judgment, compromise, or settlement, belong to
28 the limited partnership and not to the derivative plaintiff; and

29 (2) if the derivative plaintiff receives any proceeds, the
30 derivative plaintiff shall immediately remit them to the
31 limited partnership.

32 (b) If a derivative action is successful in whole or in part, the
33 court may award the plaintiff reasonable expenses, including
34 reasonable attorney's fees, from the recovery of the limited
35 partnership.

36 **Chapter 12. Conversion and Merger**

37 **Sec. 1. The following definitions apply throughout this chapter:**

38 (1) "Constituent limited partnership" means a constituent
39 organization that is a limited partnership.

40 (2) "Constituent organization" means an organization that is
41 party to a merger.

42 (3) "Converted organization" means the organization into

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which a converting organization converts as provided under sections 2 through 5 of this chapter.

(4) "Converting limited partnership" means a converting organization that is a limited partnership.

(5) "Converting organization" means an organization that converts into another organization as provided under section 2 of this chapter.

(6) "General partner" means a general partner of a limited partnership.

(7) "Governing statute" of an organization means the statute that governs the organization's internal affairs.

- (8) "Organization" means the following:
 - (A) A general partnership, including a limited liability partnership.
 - (B) A limited partnership, including a limited liability limited partnership.
 - (C) A limited liability company.
 - (D) A business trust.
 - (E) A corporation.
 - (F) Any other person having a governing statute.

The term includes domestic and foreign organizations whether or not organized for profit.

- (9) "Organizational documents" means the following:
 - (A) For a domestic or foreign general partnership, the partnership agreement.
 - (B) For a limited partnership or foreign limited partnership, the certificate of limited partnership and the partnership agreement.
 - (C) For a domestic or foreign limited liability company, the articles of organization and the operating agreement, or comparable records as provided in its governing statute.
 - (D) For a business trust, the agreement of trust and the declaration of trust.
 - (E) For a domestic or foreign corporation for profit, the articles of incorporation, bylaws, and other agreements among its shareholders that are authorized by its governing statute, or comparable records as provided in its governing statute.
 - (F) For any other organization, the basic records that create the organization and determine its internal governance and the relations among the persons that own it, have an interest in it, or are members of it.

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(10) "Personal liability" means personal liability for a debt, liability, or other obligation of an organization that is imposed on a person that co-owns, has an interest in, or is a member of the organization:

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

(B) by the organization's organizational documents under a provision of the organization's governing statute authorizing those documents to make one (1) or more specified persons liable for all or specified debts, liabilities, and other obligations of the organization solely by reason of the person or persons co-owning, having an interest in, or being a member of the organization.

(11) "Surviving organization" means an organization into which one (1) or more other organizations are merged. A surviving organization may preexist the merger or be created by the merger.

Sec. 2. (a) An organization other than a limited partnership may convert to a limited partnership, and a limited partnership may convert to another organization in accordance with this section, sections 3 through 5 of this chapter, and a plan of conversion, if:

- (1) the other organization's governing statute authorizes the conversion;**
- (2) the conversion is not prohibited by the law of the jurisdiction that enacted the governing statute; and**
- (3) the other organization complies with its governing statute in effecting the conversion.**

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

- (1) the name and form of the organization before conversion;**
- (2) the name and form of the organization after conversion;**
- (3) the terms and conditions of the conversion, including the manner and basis for converting interests in the converting organization into any combination of money, interests in the converted organization, and other consideration; and**
- (4) the organizational documents of the converted organization.**

Sec. 3. (a) Subject to section 10 of this chapter, a plan of conversion must be consented to by all the partners of a converting limited partnership.

(b) Subject to section 10 of this chapter and any contractual rights, after a conversion is approved, and at any time before a

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1 filing is made under section 4 of this chapter, a converting limited
 2 partnership may amend the plan or abandon the planned
 3 conversion:

- 4 (1) as provided in the plan; and
 5 (2) except as prohibited by the plan, by the same consent as
 6 was required to approve the plan.

7 **Sec. 4. (a) After a plan of conversion is approved:**

8 (1) a converting limited partnership shall deliver to the
 9 secretary of state for filing articles of conversion that must
 10 include:

11 (A) a statement that the limited partnership has been
 12 converted into another organization;

13 (B) the name and form of the organization and the
 14 jurisdiction of its governing statute;

15 (C) the date the conversion is effective under the governing
 16 statute of the converted organization;

17 (D) a statement that the conversion was approved as
 18 required by this article;

19 (E) a statement that the conversion was approved as
 20 required by the governing statute of the converted
 21 organization; and

22 (F) if the converted organization is a foreign organization
 23 not authorized to transact business in this state, the street
 24 address and the mailing address of an office that the
 25 secretary of state may use for purposes of section 5(c) of
 26 this chapter; and

27 (2) if the converting organization is not a converting limited
 28 partnership, the converting organization shall deliver to the
 29 secretary of state for filing a certificate of limited partnership
 30 that must include, in addition to the information required by
 31 IC 23-16.1-3-1:

32 (A) a statement that the limited partnership was converted
 33 from another organization;

34 (B) the name and form of the organization and the
 35 jurisdiction of its governing statute; and

36 (C) a statement that the conversion was approved in a
 37 manner that complied with the organization's governing
 38 statute.

39 (b) A conversion becomes effective:

40 (1) if the converted organization is a limited partnership,
 41 when the certificate of limited partnership takes effect; and

42 (2) if the converted organization is not a limited partnership,

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1 as provided by the governing statute of the converted
2 organization.

3 **Sec. 5. (a)** An organization that has been converted under this
4 article is for all purposes the same entity that existed before the
5 conversion.

6 **(b)** When a conversion takes effect:

7 (1) all property owned by the converting organization remains
8 vested in the converted organization;

9 (2) all debts, liabilities, and other obligations of the converting
10 organization continue as obligations of the converted
11 organization;

12 (3) an action or proceeding pending by or against the
13 converting organization may be continued as if the conversion
14 had not occurred;

15 (4) except as prohibited by other law, all of the rights,
16 privileges, immunities, powers, and purposes of the
17 converting organization remain vested in the converted
18 organization;

19 (5) except as otherwise provided in the plan of conversion, the
20 terms and conditions of the plan of conversion take effect; and

21 (6) except as otherwise agreed, the conversion does not
22 dissolve a converting limited partnership for the purposes of
23 IC 23-16.1-9.

24 **(c)** A converted organization that is a foreign organization
25 consents to the jurisdiction of the courts of this state to enforce any
26 obligation owed by the converting limited partnership if before the
27 conversion the converting limited partnership was subject to suit
28 in this state on the obligation. A converted organization that is a
29 foreign organization and not authorized to transact business in this
30 state appoints the secretary of state as its agent for service of
31 process for purposes of enforcing an obligation under this
32 subsection. Service on the secretary of state under this subsection
33 is made in the same manner and with the same consequences as in
34 IC 23-16.1-2-16(c) and IC 23-16.1-2-16(d).

35 **Sec. 6. (a)** A limited partnership may merge with one (1) or
36 more other constituent organizations in accordance with this
37 section, sections 7 through 9 of this chapter, and a plan of merger,
38 if:

39 (1) the governing statute of each of the other organizations
40 authorizes the merger;

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

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1 (3) each of the other organizations complies with its governing
2 statute in effecting the merger.
3 (b) A plan of merger must be in a record and must include:
4 (1) the name and form of each constituent organization;
5 (2) the name and form of the surviving organization and, if
6 the surviving organization is to be created by the merger, a
7 statement to that effect;
8 (3) the terms and conditions of the merger, including the
9 manner and basis for converting the interests in each
10 constituent organization into any combination of money,
11 interests in the surviving organization, and other
12 consideration;
13 (4) if the surviving organization is to be created by the
14 merger, the surviving organization's organizational
15 documents; and
16 (5) if the surviving organization is not to be created by the
17 merger, any amendments to be made by the merger to the
18 surviving organization's organizational documents.
19 Sec. 7. (a) Subject to section 10 of this chapter, a plan of merger
20 must be consented to by all the partners of a constituent limited
21 partnership.
22 (b) Subject to section 10 of this chapter and any contractual
23 rights, after a merger is approved, and at any time before a filing
24 is made under section 8 of this chapter, a constituent limited
25 partnership may amend the plan or abandon the planned merger:
26 (1) as provided in the plan; and
27 (2) except as prohibited by the plan, with the same consent as
28 was required to approve the plan.
29 Sec. 8. (a) After each constituent organization has approved a
30 merger, articles of merger must be signed on behalf of:
31 (1) each preexisting constituent limited partnership, by each
32 general partner listed in the certificate of limited partnership;
33 and
34 (2) each other preexisting constituent organization, by an
35 authorized representative.
36 (b) The articles of merger must include:
37 (1) the name and form of each constituent organization and
38 the jurisdiction of its governing statute;
39 (2) the name and form of the surviving organization, the
40 jurisdiction of its governing statute, and, if the surviving
41 organization is created by the merger, a statement to that
42 effect;

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- (3) the date the merger is effective under the governing statute of the surviving organization;
 - (4) if the surviving organization is to be created by the merger:
 - (A) if the surviving organization will be a limited partnership, the limited partnership's certificate of limited partnership; or
 - (B) if the surviving organization will be an organization other than a limited partnership, the organizational document that creates the organization;
 - (5) if the surviving organization preexists the merger, any amendments provided for in the plan of merger for the organizational document that created the organization;
 - (6) a statement as to each constituent organization that the merger was approved as required by the organization's governing statute;
 - (7) if the surviving organization is a foreign organization not authorized to transact business in this state, the street address and the mailing address of an office that the secretary of state may use for purposes of section 9(b) of this chapter; and
 - (8) any additional information required by the governing statute of any constituent organization.
- (c) Each constituent limited partnership shall deliver the articles of merger for filing in the office of the secretary of state.
- (d) A merger becomes effective under this article:
- (1) if the surviving organization is a limited partnership, upon the later of:
 - (A) compliance with subsection (c); or
 - (B) subject to IC 23-16.1-3-6(c), as specified in the articles of merger; or
 - (2) if the surviving organization is not a limited partnership, as provided by the governing statute of the surviving organization.
- Sec. 9. (a) When a merger becomes effective:**
- (1) the surviving organization continues or comes into existence;
 - (2) each constituent organization that merges into the surviving organization ceases to exist as a separate entity;
 - (3) all property owned by each constituent organization that ceases to exist vests in the surviving organization;
 - (4) all debts, liabilities, and other obligations of each constituent organization that ceases to exist continue as

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- 1 obligations of the surviving organization;
- 2 (5) an action or proceeding pending by or against any
- 3 constituent organization that ceases to exist may be continued
- 4 as if the merger had not occurred;
- 5 (6) except as prohibited by other law, all of the rights,
- 6 privileges, immunities, powers, and purposes of each
- 7 constituent organization that ceases to exist vest in the
- 8 surviving organization;
- 9 (7) except as otherwise provided in the plan of merger, the
- 10 terms and conditions of the plan of merger take effect;
- 11 (8) except as otherwise agreed, if a constituent limited
- 12 partnership ceases to exist, the merger does not dissolve the
- 13 limited partnership for the purposes of IC 23-16.1-9;
- 14 (9) if the surviving organization is created by the merger:
- 15 (A) if it is a limited partnership, the certificate of limited
- 16 partnership becomes effective; or
- 17 (B) if it is an organization other than a limited partnership,
- 18 the organizational document that creates the organization
- 19 becomes effective; and
- 20 (10) if the surviving organization preexists the merger, any
- 21 amendments provided for in the articles of merger for the
- 22 organizational document that created the organization
- 23 become effective.
- 24 (b) A surviving organization that is a foreign organization
- 25 consents to the jurisdiction of the courts of this state to enforce any
- 26 obligation owed by a constituent organization, if before the merger
- 27 the constituent organization was subject to suit in this state on the
- 28 obligation. A surviving organization that is a foreign organization
- 29 and is not authorized to transact business in this state appoints the
- 30 secretary of state as its agent for service of process for purposes of
- 31 enforcing an obligation under this subsection. Service on the
- 32 secretary of state under this subsection is made in the same manner
- 33 and with the same consequences as in IC 23-16.1-2-16(c) and
- 34 IC 23-16.1-2-16(d).
- 35 Sec. 10. (a) If a partner of a converting or constituent limited
- 36 partnership will have personal liability with respect to a converted
- 37 or surviving organization, approval and amendment of a plan of
- 38 conversion or merger are ineffective without the consent of the
- 39 partner, unless:
- 40 (1) the limited partnership's partnership agreement provides
- 41 for the approval of the conversion or merger with the consent
- 42 of fewer than all the partners; and

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1 (2) the partner has consented to the provision of the
2 partnership agreement.

3 (b) An amendment to a certificate of limited partnership that
4 deletes a statement that the limited partnership is a limited liability
5 limited partnership is ineffective without the consent of each
6 general partner unless:

7 (1) the limited partnership's partnership agreement provides
8 for the amendment with the consent of less than all the
9 general partners; and

10 (2) each general partner that does not consent to the
11 amendment has consented to the provision of the partnership
12 agreement.

13 (c) A partner does not give the consent required by subsection
14 (a) or (b) merely by consenting to a provision of the partnership
15 agreement that permits the partnership agreement to be amended
16 with the consent of fewer than all the partners.

17 Sec. 11. (a) A conversion or merger under this article does not
18 discharge any liability under IC 23-16.1-5-4 and IC 23-16.1-7-7 of
19 a person that was a general partner in or dissociated as a general
20 partner from a converting or constituent limited partnership, but:

21 (1) the provisions of this article pertaining to the collection or
22 discharge of the liability continue to apply to the liability;

23 (2) for purposes of applying those provisions, the converted or
24 surviving organization is considered to be the converting or
25 constituent limited partnership; and

26 (3) if a person is required to pay any amount under this
27 subsection:

28 (A) the person has a right of contribution from each other
29 person that was liable as a general partner under
30 IC 23-16.1-5-4 when the obligation was incurred and has
31 not been released from the obligation under
32 IC 23-16.1-7-7; and

33 (B) the contribution due from each of those persons is in
34 proportion to the right to receive distributions in the
35 capacity of general partner in effect for each of those
36 persons when the obligation was incurred.

37 (b) In addition to any other liability provided by law:

38 (1) a person that immediately before a conversion or merger
39 became effective was a general partner in a converting or
40 constituent limited partnership that was not a limited liability
41 limited partnership is personally liable for each obligation of
42 the converted or surviving organization arising from a

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transaction with a third party after the conversion or merger becomes effective, if, at the time the third party enters into the transaction, the third party:

- (A) does not have notice of the conversion or merger; and
- (B) reasonably believes that:

- (i) the converted or surviving business is the converting or constituent limited partnership;
- (ii) the converting or constituent limited partnership is not a limited liability limited partnership; and
- (iii) the person is a general partner in the converting or constituent limited partnership; and

(2) a person that was dissociated as a general partner from a converting or constituent limited partnership before the conversion or merger became effective is personally liable for each obligation of the converted or surviving organization arising from a transaction with a third party after the conversion or merger becomes effective, if:

- (A) immediately before the conversion or merger became effective the converting or surviving limited partnership was a not a limited liability limited partnership; and
- (B) at the time the third party enters into the transaction less than two (2) years have passed since the person dissociated as a general partner and the third party:

- (i) does not have notice of the dissociation;
- (ii) does not have notice of the conversion or merger; and
- (iii) reasonably believes that the converted or surviving organization is the converting or constituent limited partnership, the converting or constituent limited partnership is not a limited liability limited partnership, and the person is a general partner in the converting or constituent limited partnership.

Sec. 12. (a) An act of a person that immediately before a conversion or merger became effective was a general partner in a converting or constituent limited partnership binds the converted or surviving organization after the conversion or merger becomes effective, if:

- (1) before the conversion or merger became effective, the act would have bound the converting or constituent limited partnership under IC 23-16.1-5-2; and
- (2) at the time the third party enters into the transaction, the third party:
 - (A) does not have notice of the conversion or merger; and

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(B) reasonably believes that:

- (i) the converted or surviving business is the converting or constituent limited partnership; and**
- (ii) the person is a general partner in the converting or constituent limited partnership.**

(b) An act of a person that before a conversion or merger became effective was dissociated as a general partner from a converting or constituent limited partnership binds the converted or surviving organization after the conversion or merger becomes effective, if:

- (1) before the conversion or merger became effective, the act would have bound the converting or constituent limited partnership under IC 23-16.1-5-2 if the person had been a general partner; and**
- (2) at the time the third party enters into the transaction, less than two (2) years have passed since the person dissociated as a general partner and the third party:**

- (A) does not have notice of the dissociation;**
- (B) does not have notice of the conversion or merger; and**
- (C) reasonably believes that:**
 - (i) the converted or surviving organization is the converting or constituent limited partnership; and**
 - (ii) the person is a general partner in the converting or constituent limited partnership.**

(c) If a person having knowledge of the conversion or merger causes a converted or surviving organization to incur an obligation under subsection (a) or (b), the person is liable:

- (1) to the converted or surviving organization for any damage caused to the organization arising from the obligation; and**
- (2) if another person is liable for the obligation, to that other person for any damage caused to that other person arising from the liability.**

Sec. 13. This article does not preclude an entity from being converted or merged under other law.

Chapter 13. Miscellaneous Provisions

Sec. 1. In applying and construing this article, consideration must be given to the need to promote uniformity of the law with respect to this article's subject matter among states that enact the Uniform Limited Partnership Act.

Sec. 2. If any provision of this article or its application to any person or circumstance is held invalid, the invalidity does not affect other provisions or applications of this article that can be given

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1 effect without the invalid provision or application, and to this end
2 the provisions of this article are severable.

3 Sec. 3. This article modifies, limits, or supersedes the federal
4 Electronic Signatures in Global and National Commerce Act, 15
5 U.S.C. 7001 et seq. This article does not modify, limit, or supersede
6 Section 101(c) of that act or authorize electronic delivery of any of
7 the notices described in Section 103(b) of that act.

8 Sec. 4. (a) Before July 1, 2012, this article governs only:
9 (1) a limited partnership formed after June 30, 2011; and
10 (2) except as otherwise provided in subsections (c) and (d), a
11 limited partnership formed before July 1, 2011, that elects, in
12 the manner provided in its partnership agreement or by law
13 for amending the partnership agreement, to be subject to this
14 article.

15 (b) Except as otherwise provided in subsection (c), after June 30,
16 2012, this article governs all limited partnerships.

17 (c) With respect to a limited partnership formed before July 1,
18 2011, the following rules apply, except as the partners otherwise
19 elect in the manner provided in the limited partnership's
20 partnership agreement or by law for the amendment of the limited
21 partnership's partnership agreement:

22 (1) IC 23-16.1-2-3(c) does not apply and the limited
23 partnership has whatever duration it had under IC 23-16
24 (before its repeal).

25 (2) The limited partnership is not required to amend its
26 certificate of limited partnership to comply with
27 IC 23-16.1-3-1(a)(4).

28 (3) IC 23-16.1-7-1 and IC 23-16.1-7-2 do not apply and a
29 limited partner has the same right and power to dissociate
30 from the limited partnership, with the same consequences, as
31 existed immediately before July 1, 2011.

32 (4) IC 23-16.1-7-3(4) does not apply.

33 (5) IC 23-16.1-7-3(5) does not apply and a court has the same
34 power to expel a general partner as the court had immediately
35 before July 1, 2011.

36 (6) IC 23-16.1-9-1(3) does not apply and the connection
37 between a person's dissociation as a general partner and the
38 dissolution of the limited partnership is the same as existed
39 immediately before July 1, 2011.

40 (d) With respect to a limited partnership that elects under
41 subsection (a)(2) to be subject to this article, after the election takes
42 effect, the provisions of this article relating to the liability of the

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1 limited partnership's general partners to third parties apply:

2 (1) before July 1, 2012, to:

3 (A) a third party that had not done business with the
4 limited partnership in the year before the election took
5 effect; and

6 (B) a third party that had done business with the limited
7 partnership in the year before the election took effect only
8 if the third party knows or has received a notification of
9 the election; and

10 (2) after June 30, 2012, to all third parties, but those
11 provisions remain inapplicable to any obligation incurred
12 while those provisions were inapplicable under subdivision
13 (1)(B).

14 **Sec. 5.** This article does not affect an action commenced,
15 proceeding brought, or right accrued before July 1, 2011.

16 **Sec. 6. (a)** The secretary of state shall collect the following fees
17 when the records specified in this section are delivered by a
18 domestic or foreign limited partnership to the secretary of state for
19 filing:

20 Record	21 Electronic 22 Filing Fee	23 Filing Fee (Other than 24 electronic 25 filing)
26 (1) Application for 27 reservation of name	\$10	\$20
28 (2) Application for use 29 of indistinguishable name	\$10	\$20
30 (3) Application for 31 renewal of reservation	\$10	\$20
32 (4) Notice of transfer of reserved 33 name	\$10	\$20
34 (5) Certificate of change 35 of registered agent's 36 business address	No fee	No fee
37 (6) Certificate of resignation 38 of agent	No fee	No fee
39 (7) Certificate of limited 40 partnership	\$75	\$90
41 (8) Certificate of amendment	\$20	\$30
42 (9) Certificate of cancellation	\$75	\$90
(10) Restated certificate of limited partnership or		

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1	authority	\$20	\$30
2	(11) Restated certificate of		
3	limited partnership or		
4	authority with amendments	\$20	\$30
5	(12) Application for certificate of		
6	authority	\$75	\$90
7	(13) Certificate of change of		
8	application	\$20	\$30
9	(14) Notice of cancellation of		
10	certificate of authority	\$20	\$30
11	(15) Certificate of change		
12	of registered agent	No fee	No fee
13	(16) Application for certificate		
14	of existence or authority	\$15	\$15
15	(17) Biennial report	\$20	\$30
16	(18) Any other record required or		
17	permitted to be filed under this		
18	article, including an application		
19	for any other certificates or		
20	certification certificate (except		
21	for any such other certificates		
22	that the secretary of state may		
23	determine to issue without		
24	additional fee in connection with		
25	particular filings)	\$20	\$30

26 The secretary of state shall prescribe the electronic means of filing
 27 records to which the electronic filing fees set forth in this section
 28 apply.

29 (b) The secretary of state shall collect a fee of ten dollars (\$10)
 30 each time process is served on the secretary of state under this
 31 article. If the party to a proceeding causing service of process
 32 prevails in the proceeding, that party is entitled to recover this fee
 33 as costs from the nonprevailing party.

34 (c) The secretary of state shall collect the following fees for
 35 copying and certifying the copy of any filed record relating to a
 36 domestic or foreign limited partnership:

- 37 (1) Per page for copying \$ 1
 38 (2) For a certification stamp \$15

39 Sec. 7. (a) A record must satisfy the requirements of this article
 40 to be entitled to filing by the secretary of state.

41 (b) The record must contain the information required by this
 42 article. It may contain other information as well.

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- 1 (c) A record must be typewritten or printed.
- 2 (d) The record must be legible and otherwise suitable for filing.
- 3 (e) The record must be in the English language. A limited
- 4 partnership name need not be in English if written in English
- 5 letters or Arabic or Roman numerals.
- 6 (f) Every person executing the record shall sign it and state
- 7 beneath or opposite the signature the person's name and the
- 8 capacity in which the person signs. A signature on a record
- 9 authorized to be filed under this article may be a facsimile. A
- 10 signature on a record under this subsection that is transmitted and
- 11 filed electronically is sufficient if the person transmitting and filing
- 12 the record:
 - 13 (1) has the intent to file the record as evidenced by a symbol
 - 14 executed or adopted by a party with present intention to
 - 15 authenticate the filing; and
 - 16 (2) enters the filing party's name on the electronic form in a
 - 17 signature box or other place indicated by the secretary of
 - 18 state.
- 19 (g) The record must be delivered to the office of the secretary of
- 20 state as required by section 8 of this chapter, and the correct filing
- 21 fee must be paid in the manner and form required by the secretary
- 22 of state.
- 23 (h) The secretary of state may accept payment of the correct
- 24 filing fee by credit card, debit card, charge card, or similar
- 25 method. However, if the filing fee is paid by credit card, debit card,
- 26 charge card, or similar method, the liability is not finally
- 27 discharged until the secretary of state receives payment or credit
- 28 from the institution responsible for making the payment or credit.
- 29 The secretary of state may contract with a bank or credit card
- 30 vendor for acceptance of bank or credit cards. However, if there is
- 31 a vendor transaction charge or discount fee, whether billed to the
- 32 secretary of state or charged directly to the secretary of state's
- 33 account, the secretary of state or the credit card vendor may
- 34 collect from the person using the bank or credit card a fee that may
- 35 not exceed the highest transaction charge or discount fee charged
- 36 to the secretary of state by the bank or credit card vendor during
- 37 the most recent collection period. This fee may be collected
- 38 regardless of any agreement between the bank and a credit card
- 39 vendor or regardless of any internal policy of the credit card
- 40 vendor that may prohibit this type of fee. The fee is an additional
- 41 charge permitted under IC 24-4.5-3-202.
- 42 Sec. 8. (a) For purposes of this article, a record is delivered for

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1 filing if the record is transferred to the secretary of state by hand,
2 mail, telecopy, facsimile, or other form of electronic transmission
3 meeting the requirements established by the secretary of state.

4 (b) If a record is delivered for filing by hand or mail, the record
5 must be accompanied by:

6 (1) two (2) exact or conformed copies of a record filed under
7 IC 23-16.1-2-7(e) or IC 23-16.1-2-15; or

8 (2) one (1) exact or conformed copy of any other record filed
9 under this article.

10 (c) The office of the secretary of state shall create any copies of
11 a record delivered by telecopy, facsimile, or other form of
12 electronic transmission that are required for distribution under
13 this article.

14 SECTION 5. IC 23-18.1 IS ADDED TO THE INDIANA CODE AS
15 A NEW ARTICLE TO READ AS FOLLOWS [EFFECTIVE JULY 1,
16 2011]:

17 **ARTICLE 18.1. LIMITED LIABILITY COMPANIES**

18 **Chapter 1. Definitions**

19 **Sec. 1. The definitions in this chapter apply throughout this**
20 **article.**

21 **Sec. 2. "Certificate of organization" means the certificate**
22 **required by IC 23-18.1-3-1. The term includes the certificate as**
23 **amended or restated.**

24 **Sec. 3. "Contribution" means any benefit provided by a person**
25 **to a limited liability company:**

26 (1) in order to become a member upon formation of the
27 company and in accordance with an agreement between or
28 among the persons that have agreed to become the initial
29 members of the company;

30 (2) in order to become a member after formation of the
31 company and in accordance with an agreement between the
32 person and the company; or

33 (3) in the person's capacity as a member and in accordance
34 with the operating agreement or an agreement between the
35 member and the company.

36 **Sec. 4. "Debtor in bankruptcy" means a person that is the**
37 **subject of:**

38 (1) an order for relief under Title 11 of the United States Code
39 or a successor statute of general application; or

40 (2) a comparable order under federal, state, or foreign law
41 governing insolvency.

42 **Sec. 5. "Designated office" means:**

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1 (1) the office that a limited liability company is required to
2 designate and maintain under IC 23-18.1-2-12; or
3 (2) the principal office of a foreign limited liability company.
4 Sec. 6. "Distribution", except as otherwise provided in
5 IC 23-18.1-5-5(g), means a transfer of money or other property
6 from a limited liability company to another person on account of
7 a transferable interest.
8 Sec. 7. "Effective", with respect to a record required or
9 permitted to be delivered to the secretary of state for filing under
10 this article, means effective under IC 23-18.1-3-5(c).
11 Sec. 8. "Foreign limited liability company" means an
12 unincorporated entity formed under the law of a jurisdiction other
13 than this state and denominated by that law as a limited liability
14 company.
15 Sec. 9. "Limited liability company", except in the term "foreign
16 limited liability company", means an entity formed under this
17 article.
18 Sec. 10. "Manager" means a person that under the operating
19 agreement of a manager managed limited liability company is
20 responsible, alone or in concert with others, for performing the
21 management functions stated in IC 23-18.1-5-7(c).
22 Sec. 11. "Manager managed limited liability company" means
23 a limited liability company whose operating agreement conforms
24 with IC 23-18.1-5-7(a)(1) or IC 23-18.1-5-7(a)(2).
25 Sec. 12. "Member" means a person that has become a member
26 of a limited liability company under IC 23-18.1-5-1 and has not
27 dissociated under IC 23-18.1-7-2.
28 Sec. 13. "Member managed limited liability company" means
29 a limited liability company that is not a manager managed limited
30 liability company.
31 Sec. 14. "Operating agreement" means the agreement, whether
32 or not referred to as an operating agreement and whether oral, in
33 a record, implied, or some combination thereof, of all the members
34 of a limited liability company, including a sole member, concerning
35 the matters described in IC 23-18.1-2-9(a). The term includes the
36 agreement as amended or restated.
37 Sec. 15. "Organizer" means a person that acts under
38 IC 23-18.1-3-1 to form a limited liability company.
39 Sec. 16. "Person" means an individual, corporation, business
40 trust, estate, trust, partnership, limited liability company,
41 association, joint venture, public corporation, government or
42 governmental subdivision, agency, or instrumentality, or any other

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legal or commercial entity.

Sec. 17. "Principal office" means the principal executive office of a limited liability company or foreign limited liability company, whether or not the office is located in this state.

Sec. 18. "Record" means information that is inscribed on a tangible medium or that is stored in an electronic or other medium and may be retrieved in perceivable form.

Sec. 19. "Sign" means, with the present intent to authenticate or adopt a record:

- (1) to execute or adopt a tangible symbol; or
- (2) to attach to or logically associate with the record an electronic symbol, sound, or process.

Sec. 20. "State" means a state of the United States, the District of Columbia, Puerto Rico, the United States Virgin Islands, or any territory or insular possession subject to the jurisdiction of the United States.

Sec. 21. "Transfer" includes an assignment, conveyance, deed, bill of sale, lease, mortgage, security interest, encumbrance, gift, and transfer by operation of law.

Sec. 22. "Transferable interest" means the right, as originally associated with a person's capacity as a member, to receive distributions from a limited liability company in accordance with the operating agreement, whether or not the person remains a member or continues to own any part of the right.

Sec. 23. "Transferee" means a person to which all or part of a transferable interest has been transferred, whether or not the transferor is a member.

Chapter 2. General Provisions

Sec. 1. This article may be cited as the Revised Uniform Limited Liability Company Act.

Sec. 2. (a) A person knows a fact when the person:

- (1) has actual knowledge of it; or
- (2) is deemed to know it under subsection (d)(1) or law other than this article.

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

- (1) has reason to know the fact from all of the facts known to the person at the time in question; or
- (2) is considered to have notice of the fact under subsection (d)(2).

(c) A person notifies another of a fact by taking steps reasonably required to inform the other person in ordinary course, whether or not the other person knows the fact.

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- 1 **(d) A person that is not a member is considered:**
- 2 **(1) to know of a limitation on authority to transfer real**
- 3 **property as provided in IC 23-18.1-4-2(g); and**
- 4 **(2) to have notice of a limited liability company's:**
- 5 **(A) dissolution, ninety (90) days after a statement of**
- 6 **dissolution under IC 23-18.1-8-2(b)(2)(A) becomes**
- 7 **effective;**
- 8 **(B) termination, ninety (90) days after a statement of**
- 9 **termination under IC 23-18.1-8-2(b)(2)(F) becomes**
- 10 **effective; and**
- 11 **(C) merger, conversion, or domestication, ninety (90) days**
- 12 **after articles of merger, conversion, or domestication**
- 13 **under IC 23-18.1-11 become effective.**
- 14 **Sec. 3. (a) A limited liability company is an entity distinct from**
- 15 **its members.**
- 16 **(b) A limited liability company may have any lawful purpose,**
- 17 **regardless of whether for profit.**
- 18 **(c) A limited liability company has perpetual duration.**
- 19 **Sec. 4. A limited liability company has the capacity to sue and**
- 20 **be sued in its own name and the power to do all things necessary or**
- 21 **convenient to carry on its activities.**
- 22 **Sec. 5. The law of this state governs:**
- 23 **(1) the internal affairs of a limited liability company; and**
- 24 **(2) the liability of a member as member and a manager as**
- 25 **manager for the debts, obligations, or other liabilities of a**
- 26 **limited liability company.**
- 27 **Sec. 6. Unless displaced by particular provisions of this article,**
- 28 **the principles of law and equity supplement this article.**
- 29 **Sec. 7. (a) The name of a limited liability company must contain**
- 30 **the words "limited liability company" or "limited company" or the**
- 31 **abbreviation "L.L.C.", "LLC", "L.C.", or "LC". "Limited" may**
- 32 **be abbreviated as "Ltd.", and "company" may be abbreviated as**
- 33 **"Co."**
- 34 **(b) Unless authorized by subsection (c), the name of a limited**
- 35 **liability company must be distinguishable in the records of the**
- 36 **secretary of state from:**
- 37 **(1) the name of each person that is not an individual and that**
- 38 **is incorporated, organized, or authorized to transact business**
- 39 **in this state;**
- 40 **(2) the limited liability company name stated in each**
- 41 **certificate of organization that contains the statement as**
- 42 **provided in IC 23-18.1-3-1(b)(4) and that has not lapsed; and**

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1 (3) each name reserved under section 8 of this chapter or
2 other state laws allowing the reservation or registration of
3 business names, including assumed business names under
4 IC 23-15-1.

5 (c) A limited liability company may apply to the secretary of
6 state for authorization to use a name that does not comply with
7 subsection (b). The secretary of state shall authorize use of the
8 name applied for if, as to each noncomplying name:

9 (1) the present user, registrant, or owner of the noncomplying
10 name consents in a signed record to the use and submits an
11 undertaking in a form satisfactory to the secretary of state to
12 change the noncomplying name to a name that complies with
13 subsection (b) and is distinguishable in the records of the
14 secretary of state from the name applied for; or

15 (2) the applicant delivers to the secretary of state a certified
16 copy of the final judgment of a court establishing the
17 applicant's right to use in this state the name applied for.

18 (d) Subject to IC 23-18.1-9-5, this section applies to a foreign
19 limited liability company transacting business in this state that has
20 a certificate of authority to transact business in this state or that
21 has applied for a certificate of authority.

22 Sec. 8. (a) A person may reserve the exclusive use of the name
23 of a limited liability company, including a fictitious or assumed
24 name for a foreign limited liability company whose name is not
25 available, by delivering an application to the secretary of state for
26 filing. The application must state the name and address of the
27 applicant and the name proposed to be reserved. If the secretary
28 of state finds that the name applied for is available, the name must
29 be reserved for the applicant's exclusive use for a one hundred
30 twenty (120) day period.

31 (b) The owner of a name reserved for a limited liability
32 company may transfer the reservation to another person by
33 delivering to the secretary of state for filing a signed notice of the
34 transfer that states the name and address of the transferee.

35 Sec. 9. (a) Except as otherwise provided in subsections (b) and
36 (c), the operating agreement governs:

37 (1) relations among the members as members and between the
38 members and the limited liability company;

39 (2) the rights and duties under this article of a person in the
40 capacity of manager;

41 (3) the activities of the company and the conduct of those
42 activities; and

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- (4) the means and conditions for amending the operating agreement.**
- (b) To the extent the operating agreement does not otherwise provide for a matter described in subsection (a), this article governs the matter.**
- (c) An operating agreement may not:**
 - (1) vary a limited liability company's capacity under section 4 of this chapter to sue and be sued in its own name;**
 - (2) vary the law applicable under section 5 of this chapter;**
 - (3) vary the power of the court under IC 23-18.1-3-4;**
 - (4) subject to subsections (d) through (g), eliminate the duty of loyalty, the duty of care, or any other fiduciary duty;**
 - (5) subject to subsections (d) through (g), eliminate the contractual obligation of good faith and fair dealing under IC 23-18.1-5-9(d);**
 - (6) unreasonably restrict the duties and rights stated in IC 23-18.1-5-10;**
 - (7) vary the power of a court to decree dissolution in the circumstances specified in IC 23-18.1-8-1(a)(4) and IC 23-18.1-8-1(a)(5);**
 - (8) vary the requirement to wind up a limited liability company's business as specified in IC 23-18.1-8-2(a) and IC 23-18.1-8-2(b)(1);**
 - (9) unreasonably restrict the right of a member to maintain an action under IC 23-18.1-10;**
 - (10) restrict the right to approve a merger, conversion, or domestication under IC 23-18.1-11-14 to a member that will have personal liability with respect to a surviving, converted, or domesticated organization; or**
 - (11) except as otherwise provided in section 11(b) of this chapter, restrict the rights under this article of a person other than a member or manager.**
- (d) If not manifestly unreasonable, the operating agreement may:**
 - (1) restrict or eliminate the duty:**
 - (A) as required in IC 23-18.1-5-9(b)(1) and IC 23-18.1-5-9(g), to account to the limited liability company and to hold as trustee for it any property, profit, or benefit derived by the member in the conduct or winding up of the company's business, from a use by the member of the company's property, or from the appropriation of a limited liability company opportunity;**

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- 1 (B) as required in IC 23-18.1-5-9(b)(2) and
 2 IC 23-18.1-5-9(g), to refrain from dealing with the
 3 company in the conduct or winding up of the company's
 4 business as or on behalf of a party having an interest
 5 adverse to the company; and
 6 (C) as required by IC 23-18.1-5-9(b)(3) and
 7 IC 23-18.1-5-9(g), to refrain from competing with the
 8 company in the conduct of the company's business before
 9 the dissolution of the company;
- 10 (2) identify specific types or categories of activities that do not
 11 violate the duty of loyalty;
- 12 (3) alter the duty of care, except to authorize intentional
 13 misconduct or knowing violation of law;
- 14 (4) alter any other fiduciary duty, including eliminating
 15 particular aspects of that duty; and
- 16 (5) prescribe the standards by which to measure the
 17 performance of the contractual obligation of good faith and
 18 fair dealing under IC 23-18.1-5-9(d).
- 19 (e) The operating agreement may specify the method by which
 20 a specific act or transaction that would otherwise violate the duty
 21 of loyalty may be authorized or ratified by one (1) or more
 22 disinterested and independent persons after full disclosure of all
 23 material facts.
- 24 (f) To the extent the operating agreement of a member managed
 25 limited liability company expressly relieves a member of a
 26 responsibility that the member would otherwise have under this
 27 article and imposes the responsibility on one (1) or more other
 28 members, the operating agreement may, to the benefit of the
 29 member that the operating agreement relieves of the responsibility,
 30 also eliminate or limit any fiduciary duty that would have
 31 pertained to the responsibility.
- 32 (g) The operating agreement may alter or eliminate the
 33 indemnification for a member or manager provided by
 34 IC 23-18.1-5-8(a) and may eliminate or limit a member or
 35 manager's liability to the limited liability company and members
 36 for money damages, except for:
- 37 (1) breach of the duty of loyalty;
- 38 (2) a financial benefit received by the member or manager to
 39 which the member or manager is not entitled;
- 40 (3) a breach of a duty under IC 23-18.1-5-6;
- 41 (4) intentional infliction of harm on the company or a
 42 member; or

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(5) an intentional violation of criminal law.
(h) The court shall decide any claim under subsection (d) that a term of an operating agreement is manifestly unreasonable. The court:

(1) shall make its determination as of the time the challenged term became part of the operating agreement and by considering only circumstances existing at that time; and

(2) may invalidate the term only if, in light of the purposes and activities of the limited liability company, it is readily apparent that:

(A) the objective of the term is unreasonable; or

(B) the term is an unreasonable means to achieve the term's objective.

Sec. 10. (a) A limited liability company is bound by and may enforce the operating agreement, whether or not the company has itself manifested assent to the operating agreement.

(b) A person that becomes a member of a limited liability company is considered to assent to the operating agreement.

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

Sec. 11. (a) An operating agreement may specify that amendment of the operating agreement requires the approval of a person that is not a party to the operating agreement or the satisfaction of a condition. An amendment is ineffective if its adoption does not include the required approval or satisfy the specified condition.

(b) The obligations of a limited liability company and its members to a person in the person's capacity as a transferee or dissociated member are governed by the operating agreement. Subject only to any court order issued under IC 23-18.1-6-3(b)(2) to effectuate a charging order, an amendment to the operating agreement made after a person becomes a transferee or dissociated member is effective with regard to any debt, obligation, or other liability of the limited liability company or its members to the person in the person's capacity as a transferee or dissociated member.

(c) If a record that has been delivered by a limited liability

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1 company to the secretary of state for filing and has become
2 effective under this article contains a provision that would be
3 ineffective under section 9(c) of this chapter if contained in the
4 operating agreement, the provision is likewise ineffective in the
5 record.

6 (d) Subject to subsection (c), if a record that has been delivered
7 by a limited liability company to the secretary of state for filing
8 and has become effective under this article conflicts with a
9 provision of the operating agreement:

- 10 (1) the operating agreement prevails as to members,
- 11 dissociated members, transferees, and managers; and
- 12 (2) the record prevails as to other persons to the extent other
- 13 persons reasonably rely on the record.

14 Sec. 12. (a) A limited liability company shall designate and
15 continuously maintain in this state:

- 16 (1) an office, which need not be a place of its activity in this
- 17 state; and
- 18 (2) an agent for service of process.

19 (b) A foreign limited liability company that has a certificate of
20 authority under IC 23-18.1-9-2 shall designate and continuously
21 maintain in this state an agent for service of process.

22 (c) An agent for service of process of a limited liability company
23 or foreign limited liability company must be an individual who is
24 a resident of this state or other person with authority to transact
25 business in this state.

26 Sec. 13. (a) A limited liability company or foreign limited
27 liability company may change its designated office, its agent for
28 service of process, or the address of its agent for service of process
29 by delivering to the secretary of state for filing a statement of
30 change containing:

- 31 (1) the name of the company;
- 32 (2) the street address and the mailing address of its current
- 33 designated office;
- 34 (3) if the current designated office is to be changed, the street
- 35 address and the mailing address of the new designated office;
- 36 (4) the name, street address, and mailing address of its
- 37 current agent for service of process; and
- 38 (5) if the current agent for service of process or an address of
- 39 the agent is to be changed, the new information.

40 (b) Subject to IC 23-18.1-3-5(c), a statement of change is
41 effective when filed by the secretary of state.

42 Sec. 14. (a) To resign as an agent for service of process of a

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1 limited liability company or foreign limited liability company, the
 2 agent must deliver to the secretary of state for filing a statement of
 3 resignation containing the company name and stating that the
 4 agent is resigning.

5 (b) The secretary of state shall file a statement of resignation
 6 delivered under subsection (a) and mail or otherwise provide or
 7 deliver a copy to the designated office of the limited liability
 8 company or foreign limited liability company and another copy to
 9 the principal office of the company if the mailing address of the
 10 principal office appears in the records of the secretary of state and
 11 is different from the mailing address of the designated office.

12 (c) An agency for service of process terminates on the earlier of:

13 (1) the thirty-first day after the secretary of state files the
 14 statement of resignation; or

15 (2) when a record designating a new agent for service of
 16 process is delivered to the secretary of state for filing on
 17 behalf of the limited liability company and becomes effective.

18 Sec. 15. (a) An agent for service of process appointed by a
 19 limited liability company or foreign limited liability company is an
 20 agent of the company for service of any process, notice, or demand
 21 required or permitted by law to be served on the company.

22 (b) If a limited liability company or foreign limited liability
 23 company does not appoint or maintain an agent for service of
 24 process in this state or the agent for service of process cannot with
 25 reasonable diligence be found at the agent's street address, the
 26 secretary of state is an agent of the company upon whom process,
 27 notice, or demand may be served.

28 (c) Service of any process, notice, or demand on the secretary of
 29 state as agent for a limited liability company or foreign limited
 30 liability company may be made by delivering to the secretary of
 31 state duplicate copies of the process, notice, or demand. If a
 32 process, notice, or demand is served on the secretary of state, the
 33 secretary of state shall forward one (1) of the copies by registered
 34 or certified mail, return receipt requested, to the company at its
 35 designated office.

36 (d) Service is effected under subsection (c) at the earliest of:

37 (1) the date the limited liability company or foreign limited
 38 liability company receives the process, notice, or demand;

39 (2) the date shown on the return receipt, if signed on behalf of
 40 the company; or

41 (3) five (5) days after the process, notice, or demand is
 42 deposited with the United States Postal Service, if correctly

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addressed and with sufficient postage.

(e) The secretary of state shall keep a record of each process, notice, and demand served under this section and record the time of, and the action taken regarding, the service.

(f) This section does not affect the right to serve process, notice, or demand in any other manner provided by law.

Chapter 3. Formation; Certificate of Organization and Other Filings

Sec. 1. (a) One (1) or more persons may act as organizers to form a limited liability company by signing and delivering to the secretary of state for filing a certificate of organization.

(b) A certificate of organization must state:

- (1) the name of the limited liability company, which must comply with IC 23-18.1-2-7;**
- (2) the street address and the mailing address of the initial designated office;**
- (3) the name, street address, and mailing address of the initial agent for service of process of the company; and**
- (4) if the company will have no members when the secretary of state files the certificate, a statement to that effect.**

(c) Subject to IC 23-18.1-2-11(c), a certificate of organization may also contain statements as to matters other than those required by subsection (b). However, a statement in a certificate of organization is not effective as a statement of authority.

(d) Unless the filed certificate of organization contains the statement as provided in subsection (b)(3), the following rules apply:

- (1) A limited liability company is formed when the secretary of state has filed the certificate of organization and the company has at least one (1) member, unless the certificate states a delayed effective date under section 5(c) of this chapter.**
- (2) If the certificate states a delayed effective date, a limited liability company is not formed if, before the certificate takes effect, a statement of cancellation is signed and delivered to the secretary of state for filing and the secretary of state files the certificate.**
- (3) Subject to any delayed effective date and except in a proceeding by this state to dissolve a limited liability company, the filing of the certificate of organization by the secretary of state is conclusive proof that the organizer satisfied all conditions to the formation of a limited liability**

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company.

(e) If a filed certificate of organization contains a statement as provided in subsection (b)(4), the following rules apply:

(1) The certificate lapses and is void unless, within ninety (90) days from the date the secretary of state files the certificate, an organizer signs and delivers to the secretary of state for filing a notice stating:

(A) that the limited liability company has at least one (1) member; and

(B) the date on which a person or persons became the company's initial member or members.

(2) If an organizer complies with subdivision (1), a limited liability company is deemed formed as of the date of initial membership stated in the notice delivered under subdivision (1).

(3) Except in a proceeding by this state to dissolve a limited liability company, the filing of the notice described in subdivision (1) by the secretary of state is conclusive proof that the organizer satisfied all conditions to the formation of a limited liability company.

Sec. 2. (a) A certificate of organization may be amended or restated at any time.

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

(1) the name of the company;

(2) the date of filing of its certificate of organization; and

(3) the changes the amendment makes to the certificate as most recently amended or restated.

(c) To restate its certificate of organization, a limited liability company must deliver to the secretary of state for filing a restatement, designated as such in its heading, stating:

(1) in the heading or an introductory paragraph, the company's present name and the date of the filing of the company's initial certificate of organization;

(2) if the company's name has been changed at any time since the company's formation, each of the company's former names; and

(3) the changes the restatement makes to the certificate as most recently amended or restated.

(d) Subject to IC 23-18.1-2-11(c) and section 5(c) of this chapter, an amendment to or restatement of a certificate of organization is

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effective when filed by the secretary of state.

(e) If a member of a member managed limited liability company, or a manager of a manager managed limited liability company, knows that any information in a filed certificate of organization was inaccurate when the certificate was filed or has become inaccurate owing to changed circumstances, the member or manager shall promptly:

- (1) cause the certificate to be amended; or
- (2) if appropriate, deliver to the secretary of state for filing:
 - (A) a statement of change under IC 23-18.1-2-13; or
 - (B) a statement of correction under section 6 of this chapter.

Sec. 3. (a) A record delivered to the secretary of state for filing under this article must be signed as follows:

- (1) Except as otherwise provided in subdivisions (2) through (4), a record signed on behalf of a limited liability company must be signed by a person authorized by the company.
- (2) A limited liability company's initial certificate of organization must be signed by at least one (1) person acting as an organizer.
- (3) A notice under section 1(e)(1) of this chapter must be signed by an organizer.
- (4) A record filed on behalf of a dissolved limited liability company that has no members must be signed by:
 - (A) the person winding up the company's activities under IC 23-18.1-8-2(c); or
 - (B) a person appointed under IC 23-18.1-8-2(d) to wind up those activities.
- (5) A statement of cancellation under section 1(d)(2) of this chapter must be signed by each organizer that signed the initial certificate of organization, but a personal representative of a deceased or incompetent organizer may sign in the place of the decedent or incompetent.
- (6) A statement of denial by a person under IC 23-18.1-4-3 must be signed by that person.
- (7) Any other record must be signed by the person on whose behalf the record is delivered to the secretary of state.

(b) Any record filed under this article may be signed by an agent.

Sec. 4. (a) If a person required by this article to sign a record or deliver a record to the secretary of state for filing under this article does not do so, any other person that is aggrieved may petition the

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circuit or superior court to order:

- (1) the person to sign the record;**
- (2) the person to deliver the record to the secretary of state for filing; or**
- (3) the secretary of state to file the record unsigned.**

(b) If a petitioner under subsection (a) is not the limited liability company or foreign limited liability company to which the record pertains, the petitioner shall make the company a party to the action.

Sec. 5. (a) A record authorized or required to be delivered to the secretary of state for filing under this article must be captioned to describe the record's purpose, be in a medium permitted by the secretary of state, and be delivered to the secretary of state. If the filing fees have been paid, unless the secretary of state determines that a record does not comply with the filing requirements of this article, the secretary of state shall file the record and:

- (1) for a statement of denial under IC 23-18.1-4-3, send a copy of the filed statement and a receipt for the fees to the person on whose behalf the statement was delivered for filing and to the limited liability company; and**
- (2) for all other records, send a copy of the filed record and a receipt for the fees to the person on whose behalf the record was filed.**

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

(c) Except as otherwise provided in IC 23-18.1-2-13 and section 6 of this chapter and except for a certificate of organization that contains a statement as provided in section 1(b)(4) of this chapter, a record delivered to the secretary of state for filing under this article may specify an effective time and a delayed effective date. Subject to IC 23-18.1-2-13 and sections 1(d)(1) and 6 of this chapter, a record filed by the secretary of state is effective:

- (1) if the record does not specify either an effective time or a delayed effective date, on the date and at the time the record is filed as evidenced by the secretary of state's endorsement of the date and time on the record;**
- (2) if the record specifies an effective time but not a delayed effective date, on the date the record is filed at the time specified in the record;**
- (3) if the record specifies a delayed effective date but not an effective time, at 12:01 a.m. on the earlier of:**

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- 1 (A) the specified date; or
- 2 (B) the ninetieth day after the record is filed; or
- 3 (4) if the record specifies an effective time and a delayed
- 4 effective date, at the specified time on the earlier of:
- 5 (A) the specified date; or
- 6 (B) the ninetieth day after the record is filed.

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

13 (b) A statement of correction under subsection (a) may not state
 14 a delayed effective date and must:

- 15 (1) describe the record to be corrected, including its filing
- 16 date, or attach a copy of the record as filed;
- 17 (2) specify the inaccurate information and the reason it is
- 18 inaccurate or the manner in which the signing was defective;
- 19 and
- 20 (3) correct the defective signature or inaccurate information.

21 (c) When filed by the secretary of state, a statement of
 22 correction under subsection (a) is effective retroactively as of the
 23 effective date of the record the statement corrects, but the
 24 statement is effective when filed:

- 25 (1) for purposes of IC 23-18.1-2-2(d); and
- 26 (2) as to persons that previously relied on the uncorrected
- 27 record and would be adversely affected by the retroactive
- 28 effect.

29 **Sec. 7. (a) If a record delivered to the secretary of state for filing**
 30 **under this article and filed by the secretary of state contains**
 31 **inaccurate information, a person that suffers a loss by reliance on**
 32 **the information may recover damages for the loss from:**

- 33 (1) a person that:
- 34 (A) signed the record, or caused another to sign it on the
- 35 person's behalf; and
- 36 (B) knew the information to be inaccurate at the time the
- 37 record was signed; and
- 38 (2) subject to subsection (b), a member of a member managed
- 39 limited liability company or the manager of a manager
- 40 managed limited liability company, if:
- 41 (A) the record was delivered for filing on behalf of the
- 42 company; and

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

- (i) effected an amendment under section 2 of this chapter;**
- (ii) filed a petition under section 4 of this chapter; or**
- (iii) delivered to the secretary of state for filing a statement of change under IC 23-18.1-2-13 or a statement of correction under section 6 of this chapter.**

(b) To the extent that the operating agreement of a member managed limited liability company expressly relieves a member of responsibility for maintaining the accuracy of information contained in records delivered on behalf of the company to the secretary of state for filing under this article and imposes that responsibility on one (1) or more other members, the liability stated in subsection (a)(2) applies to those other members and not to the member that the operating agreement relieves of the responsibility.

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

Sec. 8. (a) The secretary of state, upon request and payment of the requisite fee, shall furnish to any person a certificate of existence for a limited liability company if the records filed in the office of the secretary of state show that the company has been formed under section 1 of this chapter and the secretary of state has not filed a statement of termination pertaining to the company.

A certificate of existence must state:

- (1) the company's name;**
- (2) that the company was duly formed under the laws of this state and the date of formation;**
- (3) whether all fees, taxes, and penalties due under this article or other law to the secretary of state have been paid;**
- (4) whether the company's most recent biennial report required by section 9 of this chapter has been filed by the secretary of state;**
- (5) whether the secretary of state has administratively dissolved the company;**
- (6) whether the company has delivered to the secretary of state for filing a statement of dissolution;**
- (7) that a statement of termination has not been filed by the**

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1 secretary of state; and
2 (8) other facts of record in the office of the secretary of state
3 that are specified by the person requesting the certificate.
4 (b) The secretary of state, upon request and payment of the
5 requisite fee, shall furnish to any person a certificate of
6 authorization for a foreign limited liability company if the records
7 filed in the office of the secretary of state show that the secretary
8 of state has filed a certificate of authority, has not revoked the
9 certificate of authority, and has not filed a notice of cancellation.
10 A certificate of authorization must state:
11 (1) the company's name and any alternate name adopted
12 under IC 23-18.1-9-5(a) for use in this state;
13 (2) that the company is authorized to transact business in this
14 state;
15 (3) whether all fees, taxes, and penalties due under this article
16 or other law to the secretary of state have been paid;
17 (4) whether the company's most recent biennial report
18 required by section 9 of this chapter has been filed by the
19 secretary of state;
20 (5) that the secretary of state has not revoked the company's
21 certificate of authority and has not filed a notice of
22 cancellation; and
23 (6) other facts of record in the office of the secretary of state
24 that are specified by the person requesting the certificate.
25 (c) Subject to any qualification stated in the certificate, a
26 certificate of existence or certificate of authorization issued by the
27 secretary of state is conclusive evidence that the limited liability
28 company is in existence or the foreign limited liability company is
29 authorized to transact business in this state.
30 Sec. 9. (a) Every two (2) years, a limited liability company or a
31 foreign limited liability company authorized to transact business
32 in this state shall deliver to the secretary of state for filing a report
33 that states:
34 (1) the name of the company;
35 (2) the street address and the mailing address of the
36 company's designated office;
37 (3) the name, street address, and mailing address of the
38 company's agent for service of process in this state;
39 (4) the street address and the mailing address of the
40 company's principal office; and
41 (5) in the case of a foreign limited liability company, the state
42 or other jurisdiction under whose law the company is formed

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1 and any alternate name adopted under IC 23-18.1-9-5(a).
2 (b) Information in a biennial report under this section must be
3 current as of the date the report is delivered to the secretary of
4 state for filing.
5 (c) The first biennial report under this section must be delivered
6 to the secretary of state in the second year following the calendar
7 year in which a limited liability company was formed or a foreign
8 limited liability company was authorized to transact business. The
9 report is due during the same month as the month in which the
10 limited liability company was organized or authorized to transact
11 business. Subsequent biennial reports must be delivered to the
12 secretary of state during the same month every two (2) calendar
13 years thereafter. The secretary of state may accept biennial reports
14 during the two (2) months before the month the limited liability
15 company's report is due.
16 (d) If a biennial report under this section does not contain the
17 information required in subsection (a), the secretary of state shall
18 promptly notify the reporting limited liability company or foreign
19 limited liability company and return the report to the limited
20 liability company or foreign limited liability company for
21 correction. If the report is corrected to contain the information
22 required in subsection (a) and delivered to the secretary of state
23 within thirty (30) days after the effective date of the notice, the
24 report is timely delivered.
25 (e) If a biennial report submitted under this section contains an
26 address of a designated office or the name or address of an agent
27 for service of process that differs from the information shown in
28 the records of the secretary of state immediately before the
29 biennial report becomes effective, the differing information in the
30 biennial report is considered a statement of change under
31 IC 23-18.1-2-13.
32 **Chapter 4. Relations of Members and Managers to Persons**
33 **Dealing With Limited Liability Company**
34 **Sec. 1. (a) A member is not an agent of a limited liability**
35 **company solely by reason of being a member.**
36 **(b) A person's status as a member does not prevent or restrict**
37 **law other than this article from imposing liability on a limited**
38 **liability company because of the person's conduct.**
39 **Sec. 2. (a) A limited liability company may deliver to the**
40 **secretary of state for filing a statement of authority. The statement:**
41 **(1) must include the name of the company, the street address**
42 **of its designated office, and the mailing address of its**

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- 1 designated office;
- 2 (2) with respect to any position that exists in or with respect
- 3 to the company, may state the authority, or limitations on the
- 4 authority, of all persons holding a position to:
- 5 (A) execute an instrument transferring real property held
- 6 in the name of the company; or
- 7 (B) enter into other transactions on behalf of, or otherwise
- 8 act for or bind, the company; and
- 9 (3) may state the authority, or limitations on the authority, of
- 10 a specific person to:
- 11 (A) execute an instrument transferring real property held
- 12 in the name of the company; or
- 13 (B) enter into other transactions on behalf of, or otherwise
- 14 act for or bind, the company.
- 15 (b) To amend or cancel a statement of authority filed by the
- 16 secretary of state under IC 23-18.1-3-5(a), a limited liability
- 17 company must deliver to the secretary of state for filing an
- 18 amendment or cancellation stating:
- 19 (1) the name of the company;
- 20 (2) the street address and the mailing address of the
- 21 company's designated office;
- 22 (3) the caption of the statement being amended or canceled
- 23 and the date the statement being affected became effective;
- 24 and
- 25 (4) the contents of the amendment or a declaration that the
- 26 statement being affected is canceled.
- 27 (c) A statement of authority affects only the power of a person
- 28 to bind a limited liability company to persons that are not
- 29 members.
- 30 (d) Subject to subsection (c) and IC 23-18.1-2-2(d) and except as
- 31 otherwise provided in subsections (f), (g), and (h), a limitation on
- 32 the authority of a person or a position contained in an effective
- 33 statement of authority is not by itself evidence of knowledge or
- 34 notice of the limitation by any person.
- 35 (e) Subject to subsection (c), a grant of authority not pertaining
- 36 to transfers of real property and contained in an effective
- 37 statement of authority is conclusive in favor of a person that gives
- 38 value in reliance on the grant, except to the extent that when the
- 39 person gives value:
- 40 (1) the person has knowledge to the contrary;
- 41 (2) the statement has been canceled or restrictively amended
- 42 under subsection (b); or

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(3) a limitation on the grant is contained in another statement of authority that became effective after the statement containing the grant became effective.

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

(1) the statement has been canceled or restrictively amended under subsection (b) and a certified copy of the cancellation or restrictive amendment has been recorded in the office for recording transfers of the real property; or

(2) a limitation on the grant is contained in another statement of authority that became effective after the statement containing the grant became effective and a certified copy of the later effective statement is recorded in the office for recording transfers of the real property.

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

(h) Subject to subsection (i), an effective statement of dissolution or termination is a cancellation of any filed statement of authority for purposes of subsection (f) and is a limitation on authority for purposes of subsection (g).

(i) After a statement of dissolution becomes effective, a limited liability company may deliver to the secretary of state for filing and, if appropriate, may record a statement of authority that is designated as a postdissolution statement of authority. The statement operates as provided in subsections (f) and (g).

(j) Unless earlier canceled, an effective statement of authority is canceled by operation of law five (5) years after the date on which the statement, or its most recent amendment, becomes effective. This cancellation operates without need for any recording under subsection (f) or (g).

(k) An effective statement of denial operates as a restrictive amendment under this section and may be recorded by certified copy for purposes of subsection (f)(1).

Sec. 3. A person named in a filed statement of authority

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1 granting that person authority may deliver to the secretary of state
2 for filing a statement of denial that:

- 3 (1) provides the name of the limited liability company and the
- 4 caption of the statement of authority to which the statement
- 5 of denial pertains; and
- 6 (2) denies the grant of authority.

7 Sec. 4. (a) The debts, obligations, or other liabilities of a limited
8 liability company, whether arising in contract, tort, or otherwise:

- 9 (1) are solely the debts, obligations, or other liabilities of the
- 10 company; and
- 11 (2) do not become the debts, obligations, or other liabilities of
- 12 a member or manager solely by reason of the member acting
- 13 as a member or manager acting as a manager.

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

19 Chapter 5. Relations of Members to Each Other and to Limited
20 Liability Company

21 Sec. 1. (a) If a limited liability company is to have only one (1)
22 member upon formation, the person becomes a member as agreed
23 by that person and the organizer of the company. That person and
24 the organizer may be, but need not be, different persons. If
25 different, the organizer acts on behalf of the initial member.

26 (b) If a limited liability company is to have more than one (1)
27 member upon formation, those persons become members as agreed
28 by the persons before the formation of the company. The organizer
29 acts on behalf of the persons in forming the company and may be,
30 but need not be, one (1) of the persons.

31 (c) If a filed certificate of organization contains the statement
32 required by IC 23-18.1-3-1(b)(4), a person becomes an initial
33 member of the limited liability company with the consent of a
34 majority of the organizers. The organizers may consent to more
35 than one (1) person simultaneously becoming the company's initial
36 members.

37 (d) After formation of a limited liability company, a person
38 becomes a member:

- 39 (1) as provided in the operating agreement;
- 40 (2) as the result of a transaction effective under IC 23-18.1-11;
- 41 (3) with the consent of all the members; or
- 42 (4) if, within ninety (90) consecutive days after the company

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ceases to have any members:

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

(B) the designated person consents to become a member.

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

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

Sec. 3. (a) A person's obligation to make a contribution to a limited liability company is not excused by the person's death, disability, or other inability to perform personally. If a person does not make a required contribution, the person or the person's estate is obligated to contribute money equal to the value of the part of the contribution that has not been made, at the option of the company.

(b) A creditor of a limited liability company that extends credit or otherwise acts in reliance on an obligation described in subsection (a) may enforce the obligation.

Sec. 4. (a) Any distributions made by a limited liability company before its dissolution and winding up must be in equal shares among members and dissociated members, except to the extent necessary to comply with any transfer effective under IC 23-18.1-6-2 and any charging order in effect under IC 23-18.1-6-3.

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

(c) A person does not have a right to demand or receive a distribution from a limited liability company in any form other than money. Except as otherwise provided in IC 23-18.1-8-8(c), a limited liability company may distribute an asset in kind if each part of the asset is fungible with each other part and each person receives a percentage of the asset equal in value to the person's share of distributions.

(d) If a member or transferee becomes entitled to receive a distribution, the member or transferee has the status of, and is

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1 entitled to all remedies available to, a creditor of the limited
2 liability company with respect to the distribution.

3 Sec. 5. (a) A limited liability company may not make a
4 distribution if after the distribution:

5 (1) the company would not be able to pay its debts as the debts
6 become due in the ordinary course of the company's activities;
7 or

8 (2) the company's total assets would be less than the sum of its
9 total liabilities plus the amount that would be needed, if the
10 company were to be dissolved, wound up, and terminated at
11 the time of the distribution, to satisfy the preferential rights
12 upon dissolution, winding up, and termination of members
13 whose preferential rights are superior to those of persons
14 receiving the distribution.

15 (b) A limited liability company may base a determination that
16 a distribution is not prohibited under subsection (a) on financial
17 statements prepared on the basis of accounting practices and
18 principles that are reasonable in the circumstances or on a fair
19 valuation or other method that is reasonable under the
20 circumstances.

21 (c) Except as otherwise provided in subsection (f), the effect of
22 a distribution under subsection (a) is measured:

23 (1) in the case of a distribution by purchase, redemption, or
24 other acquisition of a transferable interest in the company, as
25 of the date money or other property is transferred or debt is
26 incurred by the company; and

27 (2) in all other cases, as of the date:
28 (A) the distribution is authorized, if the payment occurs
29 within one hundred twenty (120) days after that date; or
30 (B) the payment is made, if the payment occurs more than
31 one hundred twenty (120) days after the distribution is
32 authorized.

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

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

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1 (f) If indebtedness is issued as a distribution, each payment of
2 principal or interest on the indebtedness is treated as a
3 distribution, the effect of which is measured on the date the
4 payment is made.

5 (g) In subsection (a), the term "distribution" does not include
6 amounts constituting reasonable compensation for present or past
7 services or reasonable payments made in the ordinary course of
8 business under a bona fide retirement plan or other benefits
9 program.

10 Sec. 6. (a) Except as otherwise provided in subsection (b), if a
11 member of a member managed limited liability company or
12 manager of a manager managed limited liability company consents
13 to a distribution made in violation of section 5 of this chapter and
14 in consenting to the distribution fails to comply with section 9 of
15 this chapter, the member or manager is personally liable to the
16 company for the amount of the distribution that exceeds the
17 amount that could have been distributed without the violation of
18 section 5 of this chapter.

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

26 (c) A person that receives a distribution knowing that the
27 distribution to that person was made in violation of section 5 of this
28 chapter is personally liable to the limited liability company but
29 only to the extent that the distribution received by the person
30 exceeded the amount that could have been properly paid under
31 section 5 of this chapter.

32 (d) A person against which an action is commenced because the
33 person is liable under subsection (a) may:

34 (1) implead any other person that is subject to liability under
35 subsection (a) and seek to compel contribution from the
36 person; and

37 (2) implead any person that received a distribution in
38 violation of subsection (c) and seek to compel contribution
39 from the person in the amount the person received in violation
40 of subsection (c).

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

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1 **Sec. 7. (a) A limited liability company is a member managed**
2 **limited liability company unless the operating agreement:**

3 **(1) expressly provides that:**

- 4 **(A) the company is or will be "manager managed";**
- 5 **(B) the company is or will be "managed by managers"; or**
- 6 **(C) management of the company is or will be "vested in**
7 **managers"; or**

8 **(2) includes words of similar import.**

9 **(b) In a member managed limited liability company, the**
10 **following rules apply:**

11 **(1) The management and conduct of the company are vested**
12 **in the members.**

13 **(2) Each member has equal rights in the management and**
14 **conduct of the company's activities.**

15 **(3) A difference arising among members as to a matter in the**
16 **ordinary course of the activities of the company may be**
17 **decided by a majority of the members.**

18 **(4) An act outside the ordinary course of the activities of the**
19 **company may be undertaken only with the consent of all**
20 **members.**

21 **(5) The operating agreement may be amended only with the**
22 **consent of all members.**

23 **(c) In a manager managed limited liability company, the**
24 **following rules apply:**

25 **(1) Except as otherwise expressly provided in this article, any**
26 **matter relating to the activities of the company is decided**
27 **exclusively by the managers.**

28 **(2) Each manager has equal rights in the management and**
29 **conduct of the activities of the company.**

30 **(3) A difference arising among managers as to a matter in the**
31 **ordinary course of the activities of the company may be**
32 **decided by a majority of the managers.**

33 **(4) The consent of all members is required to:**

34 **(A) sell, lease, exchange, or otherwise dispose of all, or**
35 **substantially all, of the company's property, with or**
36 **without the good will, outside the ordinary course of the**
37 **company's activities;**

38 **(B) approve a merger, conversion, or domestication under**
39 **IC 23-18.1-11;**

40 **(C) undertake any other act outside the ordinary course of**
41 **the company's activities; and**

42 **(D) amend the operating agreement.**

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

8 (6) A person need not be a member to be a manager, but the
9 dissociation of a member that is also a manager removes the
10 person as a manager. If a person that is both a manager and
11 a member ceases to be a manager, that cessation does not by
12 itself dissociate the person as a member.

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

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

22 (e) The dissolution of a limited liability company does not affect
23 the applicability of this section. However, a person that wrongfully
24 causes dissolution of the company loses the right to participate in
25 management as a member and a manager.

26 (f) This article does not entitle a member to remuneration for
27 services performed for a member managed limited liability
28 company, except for reasonable compensation for services
29 rendered in winding up the activities of the company.

30 Sec. 8. (a) A limited liability company shall reimburse for any
31 payment made and indemnify for any debt, obligation, or other
32 liability incurred by a member of a member managed company or
33 the manager of a manager managed company in the course of the
34 member's or manager's activities on behalf of the company, if, in
35 making the payment or incurring the debt, obligation, or other
36 liability, the member or manager complied with the duties stated
37 in section 5 or 9 of this chapter.

38 (b) A limited liability company may purchase and maintain
39 insurance on behalf of a member or manager of the company
40 against liability asserted against or incurred by the member or
41 manager in that capacity or arising from that status even if, under
42 IC 23-18.1-2-9(g), the operating agreement could not eliminate or

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1 limit the person's liability to the company for the conduct giving
2 rise to the liability.

3 **Sec. 9. (a) A member of a member managed limited liability**
4 **company owes to the company and, subject to IC 23-18.1-10-1(b),**
5 **the other members the fiduciary duties of loyalty and care stated**
6 **in subsections (b) and (c).**

7 **(b) The duty of loyalty of a member in a member managed**
8 **limited liability company includes the duties:**

9 **(1) to account to the company and to hold as trustee for it any**
10 **property, profit, or benefit derived by the member:**

11 **(A) in the conduct or winding up of the company's**
12 **activities;**

13 **(B) from a use by the member of the company's property;**
14 **or**

15 **(C) from the appropriation of a limited liability company**
16 **opportunity;**

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

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

23 **(c) Subject to the business judgment rule, the duty of care of a**
24 **member of a member managed limited liability company in the**
25 **conduct and winding up of the company's activities is to act with**
26 **the care that a person in a like position would reasonably exercise**
27 **under similar circumstances and in a manner the member**
28 **reasonably believes to be in the best interests of the company. In**
29 **discharging this duty, a member may rely in good faith upon**
30 **opinions, reports, statements, or other information provided by**
31 **another person that the member reasonably believes is a competent**
32 **and reliable source for the information.**

33 **(d) A member in a member managed limited liability company**
34 **or a manager managed limited liability company shall discharge**
35 **the duties under this article or under the operating agreement and**
36 **exercise any rights consistently with the contractual obligation of**
37 **good faith and fair dealing.**

38 **(e) It is a defense to a claim under subsection (b)(2) and any**
39 **comparable claim in equity or at common law that the transaction**
40 **was fair to the limited liability company.**

41 **(f) All of the members of a member managed limited liability**
42 **company or a manager managed limited liability company may**

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1 authorize or ratify, after full disclosure of all material facts, a
2 specific act or transaction that otherwise would violate the duty of
3 loyalty.

4 (g) In a manager managed limited liability company, the
5 following rules apply:

6 (1) Subsections (a), (b), (c), and (e) apply to the manager or
7 managers and not the members.

8 (2) The duty stated under subsection (b)(3) continues until
9 winding up is completed.

10 (3) Subsection (d) applies to the members and managers.

11 (4) Subsection (f) applies only to the members.

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

15 Sec. 10. (a) In a member managed limited liability company, the
16 following rules apply:

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

24 (2) The company shall furnish to each member:

25 (A) without demand, any information concerning the
26 company's activities, financial condition, and other
27 circumstances that the company knows and is material to
28 the proper exercise of the member's rights and duties
29 under the operating agreement or this article, except to the
30 extent the company can establish that the company
31 reasonably believes the member already knows the
32 information; and

33 (B) on demand, any other information concerning the
34 company's activities, financial condition, and other
35 circumstances, except to the extent the demand or
36 information demanded is unreasonable or otherwise
37 improper under the circumstances.

38 (3) The duty to furnish information under subdivision (2) also
39 applies to each member to the extent the member knows any
40 of the information described in subdivision (2).

41 (b) In a manager managed limited liability company, the
42 following rules apply:

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(1) The informational rights stated in subsection (a) and the duty stated in subsection (a)(3) apply to the managers and not the members.

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

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

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

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

(3) Within ten (10) days after receiving a demand under subdivision (2)(B), the company shall in a record inform the member that made the demand:

(A) of the information that the company will provide in response to the demand and when and where the company will provide the information; and

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

(4) Whenever this article or an operating agreement provides for a member to give or withhold consent to a matter, before the consent is given or withheld, the company shall, without demand, provide the member with all information that is known to the company and is material to the member's decision.

(c) On ten (10) days demand made in a record received by a limited liability company, a dissociated member may have access to information to which the person was entitled while a member if the information pertains to the period during which the person was a member, the person seeks the information in good faith, and the person satisfies the requirements imposed on a member by subsection (b)(2). The company shall respond to a demand made under this subsection in the manner provided in subsection (b)(3).

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

(e) A member or dissociated member may exercise rights under

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1 this section through an agent or, in the case of an individual under
 2 legal disability, a legal representative. Any restriction or condition
 3 imposed by the operating agreement or under subsection (g)
 4 applies both to the agent or legal representative and the member
 5 or dissociated member.

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

8 (g) In addition to any restriction or condition stated in its
 9 operating agreement, a limited liability company, as a matter
 10 within the ordinary course of its activities, may impose reasonable
 11 restrictions and conditions on access to and use of information to
 12 be furnished under this section, including designating information
 13 confidential and imposing nondisclosure and safeguarding
 14 obligations on the recipient. In a dispute concerning the
 15 reasonableness of a restriction under this subsection, the company
 16 has the burden of proving reasonableness.

17 Chapter 6. Transferable Interests and Rights of Transferees and
 18 Creditors

19 Sec. 1. A transferable interest is personal property.

20 Sec. 2. (a) A transfer, in whole or in part, of a transferable
 21 interest:

22 (1) is permissible;

23 (2) does not by itself cause a member's dissociation or a
 24 dissolution and winding up of the limited liability company's
 25 activities; and

26 (3) subject to section 4 of this chapter, does not entitle the
 27 transferee to:

28 (A) participate in the management or conduct of the
 29 company's activities; or

30 (B) except as otherwise provided in subsection (c), have
 31 access to records or other information concerning the
 32 company's activities.

33 (b) A transferee has the right to receive, in accordance with the
 34 transfer, distributions to which the transferor would otherwise be
 35 entitled.

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

39 (d) A transferable interest may be evidenced by a certificate of
 40 the interest issued by the limited liability company in a record, and,
 41 subject to this section, the interest represented by the certificate
 42 may be transferred by a transfer of the certificate.

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

4 (f) A transfer of a transferable interest in violation of a
5 restriction on transfer contained in the operating agreement is
6 ineffective as to a person having notice of the restriction at the time
7 of transfer.

8 (g) Except as otherwise provided in IC 23-18.1-7-2(4)(B), when
9 a member transfers a transferable interest, the transferor retains
10 the rights of a member other than the interest in distributions
11 transferred and retains all duties and obligations of a member.

12 (h) When a member transfers a transferable interest to a person
13 that becomes a member with respect to the transferred interest, the
14 transferee is liable for the member's obligations under
15 IC 23-18.1-5-3 and IC 23-18.1-5-6(c) known to the transferee when
16 the transferee becomes a member.

17 **Sec. 3. (a) On application by a judgment creditor of a member**
18 **or transferee, a court may enter a charging order against the**
19 **transferable interest of the judgment debtor for the unsatisfied**
20 **amount of the judgment. A charging order constitutes a lien on a**
21 **judgment debtor's transferable interest and requires the limited**
22 **liability company to pay over to the person to which the charging**
23 **order was issued any distribution that would otherwise be paid to**
24 **the judgment debtor.**

25 (b) To the extent necessary to effectuate the collection of
26 distributions under a charging order in effect under subsection (a),
27 the court may:

28 (1) appoint a receiver of the distributions subject to the
29 charging order, with the power to make all inquiries the
30 judgment debtor might have made; and

31 (2) make all other orders necessary to give effect to the
32 charging order.

33 (c) Upon a showing that distributions under a charging order
34 will not pay the judgment debt within a reasonable time, the court
35 may foreclose the lien and order the sale of the transferable
36 interest. The purchaser at the foreclosure sale obtains only the
37 transferable interest, does not thereby become a member, and is
38 subject to section 2 of this chapter.

39 (d) At any time before foreclosure under subsection (c), the
40 member or transferee whose transferable interest is subject to a
41 charging order under subsection (a) may extinguish the charging
42 order by satisfying the judgment and filing a certified copy of the

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1 satisfaction with the court that issued the charging order.

2 (e) At any time before foreclosure under subsection (c), a limited
3 liability company or one (1) or more members whose transferable
4 interests are not subject to the charging order may pay to the
5 judgment creditor the full amount due under the judgment and
6 thereby succeed to the rights of the judgment creditor, including
7 the charging order.

8 (f) This article does not deprive any member or transferee of the
9 benefit of any exemption laws applicable to the member's or
10 transferee's transferable interest.

11 (g) This section provides the exclusive remedy by which a
12 person seeking to enforce a judgment against a member or
13 transferee may, in the capacity of judgment creditor, satisfy the
14 judgment from the judgment debtor's transferable interest.

15 Sec. 4. If a member dies, the deceased member's personal
16 representative or other legal representative may exercise the rights
17 of a transferee provided in section 2(c) of this chapter and, for the
18 purposes of settling the estate, the rights of a current member
19 under IC 23-18.1-5-10.

20 Chapter 7. Member's Dissociation

21 Sec. 1. (a) A person has the power to dissociate as a member at
22 any time, rightfully or wrongfully, by withdrawing as a member by
23 express will under section 2(1) of this chapter.

24 (b) A person's dissociation from a limited liability company is
25 wrongful only if the dissociation:

26 (1) is in breach of an express provision of the operating
27 agreement; or

28 (2) occurs before the termination of the company and:

29 (A) the person withdraws as a member by express will;

30 (B) the person is expelled as a member by judicial order
31 under section 2(5) of this chapter;

32 (C) the person is dissociated under section 2(7)(A) of this
33 chapter by becoming a debtor in bankruptcy; or

34 (D) in the case of a person that is not a trust other than a
35 business trust, an estate, or an individual, the person is
36 expelled or otherwise dissociated as a member because it
37 willfully dissolved or terminated.

38 (c) A person that wrongfully dissociates as a member is liable to
39 the limited liability company and, subject to IC 23-18.1-10-1, to the
40 other members for damages caused by the dissociation. The
41 liability is in addition to any other debt, obligation, or other
42 liability of the member to the company or the other members.

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1 **Sec. 2. A person is dissociated as a member from a limited**
 2 **liability company when:**

3 **(1) the company has notice of the person's express will to**
 4 **withdraw as a member, but, if the person specified a**
 5 **withdrawal date later than the date the company had notice,**
 6 **on that later date;**

7 **(2) an event stated in the operating agreement as causing the**
 8 **person's dissociation occurs;**

9 **(3) the person is expelled as a member under the operating**
 10 **agreement;**

11 **(4) the person is expelled as a member by the unanimous**
 12 **consent of the other members if:**

13 **(A) it is unlawful to carry on the company's activities with**
 14 **the person as a member;**

15 **(B) there has been a transfer of all of the person's**
 16 **transferable interest in the company, other than:**

17 **(i) a transfer for security purposes; or**

18 **(ii) a charging order in effect under IC 23-18.1-6-3 that**
 19 **has not been foreclosed;**

20 **(C) the person is a corporation and, within ninety (90) days**
 21 **after the company notifies the person that the person will**
 22 **be expelled as a member because the person has filed a**
 23 **certificate of dissolution or the equivalent, its charter has**
 24 **been revoked, or its right to conduct business has been**
 25 **suspended by the jurisdiction of its incorporation, the**
 26 **certificate of dissolution has not been revoked or its**
 27 **charter or right to conduct business has not been**
 28 **reinstated; or**

29 **(D) the person is a limited liability company or partnership**
 30 **that has been dissolved and whose business is being wound**
 31 **up;**

32 **(5) on application by the company, the person is expelled as a**
 33 **member by judicial order because the person:**

34 **(A) has engaged, or is engaging, in wrongful conduct that**
 35 **has adversely and materially affected, or will adversely**
 36 **and materially affect, the company's activities;**

37 **(B) has willfully or persistently committed, or is willfully**
 38 **and persistently committing, a material breach of the**
 39 **operating agreement or the person's duties or obligations**
 40 **under IC 23-18.1-5-9; or**

41 **(C) has engaged in, or is engaging in, conduct relating to**
 42 **the company's activities that makes it not reasonably**

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- 1 practicable to carry on the activities with the person as a
2 member;
- 3 **(6) in the case of a person who is an individual:**
- 4 **(A) the person dies; or**
- 5 **(B) in a member managed limited liability company:**
- 6 **(i) a guardian or general conservator for the person is**
7 **appointed; or**
- 8 **(ii) there is a judicial order that the person has otherwise**
9 **become incapable of performing the person's duties as a**
10 **member under this article or the operating agreement;**
- 11 **(7) in a member managed limited liability company, the**
12 **person:**
- 13 **(A) becomes a debtor in bankruptcy;**
- 14 **(B) executes an assignment for the benefit of creditors; or**
- 15 **(C) seeks, consents to, or acquiesces in the appointment of**
16 **a trustee, receiver, or liquidator of the person or of all or**
17 **substantially all of the person's property;**
- 18 **(8) in the case of a person that is a trust or is acting as a**
19 **member by virtue of being a trustee of a trust, the trust's**
20 **entire transferable interest in the company is distributed;**
- 21 **(9) in the case of a person that is an estate or is acting as a**
22 **member by virtue of being a personal representative of an**
23 **estate, the estate's entire transferable interest in the company**
24 **is distributed;**
- 25 **(10) in the case of a member that is not an individual,**
26 **partnership, limited liability company, corporation, trust, or**
27 **estate, the member is terminated;**
- 28 **(11) the company participates in a merger under**
29 **IC 23-18.1-11, if:**
- 30 **(A) the company is not the surviving entity; or**
- 31 **(B) otherwise as a result of the merger, the person ceases**
32 **to be a member;**
- 33 **(12) the company participates in a conversion under**
34 **IC 23-18.1-11;**
- 35 **(13) the company participates in a domestication under**
36 **IC 23-18.1-11, if, as a result of the domestication, the person**
37 **ceases to be a member; or**
- 38 **(14) the company terminates.**
- 39 **Sec. 3. (a) When a person is dissociated as a member of a limited**
40 **liability company:**
- 41 **(1) the person's right to participate as a member in the**
42 **management and conduct of the company's activities**

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- 1 terminates;
- 2 (2) if the company is member managed, the person's fiduciary
- 3 duties as a member end with regard to matters arising and
- 4 events occurring after the person's dissociation; and
- 5 (3) subject to IC 23-18.1-6-4 and IC 23-18.1-11, any
- 6 transferable interest owned by the person immediately before
- 7 dissociation in the person's capacity as a member is owned by
- 8 the person solely as a transferee.

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

13 **Chapter 8. Dissolution and Winding Up**

14 **Sec. 1. (a) A limited liability company is dissolved, and its**
 15 **activities must be wound up, upon the occurrence of any of the**
 16 **following:**

- 17 (1) An event or circumstance that the operating agreement
- 18 states causes dissolution.
- 19 (2) The consent of all the members.
- 20 (3) The passage of ninety (90) consecutive days during which
- 21 the company has no members.
- 22 (4) On application by a member, the entry by the circuit or
- 23 superior court of an order dissolving the company on the
- 24 grounds that:
- 25 (A) the conduct of all or substantially all of the company's
- 26 activities is unlawful; or
- 27 (B) it is not reasonably practicable to carry on the
- 28 company's activities in conformity with the certificate of
- 29 organization and the operating agreement.

30 (5) On application by a member, the entry by the circuit or
 31 superior court of an order dissolving the company on the
 32 grounds that the managers or those members in control of the
 33 company:

- 34 (A) have acted, are acting, or will act in a manner that is
- 35 illegal or fraudulent; or
- 36 (B) have acted or are acting in a manner that is oppressive
- 37 and was, is, or will be directly harmful to the applicant.

38 (b) In a proceeding brought under subsection (a)(5), the court
 39 may order a remedy other than dissolution.

40 **Sec. 2. (a) A dissolved limited liability company shall wind up its**
 41 **activities, and the company continues after dissolution only for the**
 42 **purpose of winding up.**

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- 1 **(b) In winding up its activities, a limited liability company:**
- 2 **(1) shall discharge the company's debts, obligations, or other**
- 3 **liabilities, settle and close the company's activities, and**
- 4 **marshal and distribute the assets of the company; and**
- 5 **(2) may:**
 - 6 **(A) deliver to the secretary of state for filing a statement of**
 - 7 **dissolution stating the name of the company and that the**
 - 8 **company is dissolved;**
 - 9 **(B) preserve the company activities and property as a**
 - 10 **going concern for a reasonable time;**
 - 11 **(C) prosecute and defend actions and proceedings, whether**
 - 12 **civil, criminal, or administrative;**
 - 13 **(D) transfer the company's property;**
 - 14 **(E) settle disputes by mediation or arbitration;**
 - 15 **(F) deliver to the secretary of state for filing a statement of**
 - 16 **termination stating the name of the company and that the**
 - 17 **company is terminated; and**
 - 18 **(G) perform other acts necessary or appropriate to the**
 - 19 **winding up.**
- 20 **(c) If a dissolved limited liability company has no members, the**
- 21 **legal representative of the last person to have been a member may**
- 22 **wind up the activities of the company. If the person does so, the**
- 23 **person has the powers of a sole manager under IC 23-18.1-5-7(c)**
- 24 **and is considered to be a manager for purposes of**
- 25 **IC 23-18.1-4-4(a)(2).**
- 26 **(d) If the legal representative under subsection (c) declines or**
- 27 **fails to wind up the company's activities, a person may be**
- 28 **appointed to do so by the consent of transferees owning a majority**
- 29 **of the rights to receive distributions as transferees at the time the**
- 30 **consent is to be effective. A person appointed under this**
- 31 **subsection:**
 - 32 **(1) has the powers of a sole manager under IC 23-18.1-5-7(c)**
 - 33 **and is considered to be a manager for purposes of**
 - 34 **IC 23-18.1-4-4(a)(2); and**
 - 35 **(2) shall promptly deliver to the secretary of state for filing an**
 - 36 **amendment to the company's certificate of organization:**
 - 37 **(A) stating that the company has no members;**
 - 38 **(B) stating that the person has been appointed under this**
 - 39 **subsection to wind up the company; and**
 - 40 **(C) providing the street address and the mailing address of**
 - 41 **the person.**
- 42 **(e) The circuit or superior court may order judicial supervision**

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1 of the winding up of a dissolved limited liability company,
 2 including the appointment of a person to wind up the company's
 3 activities:

4 (1) on application of a member, if the applicant establishes
 5 good cause;

6 (2) on the application of a transferee, if:

7 (A) the company does not have any members;

8 (B) the legal representative of the last person to have been
 9 a member declines or fails to wind up the company's
 10 activities; and

11 (C) within a reasonable time following the dissolution a
 12 person has not been appointed under subsection (d); or

13 (3) in connection with a proceeding under section 1(a)(4) or
 14 1(a)(5) of this chapter.

15 **Sec. 3. (a) Except as otherwise provided in subsection (d), a**
 16 **dissolved limited liability company may give notice of a known**
 17 **claim under subsection (b), which has the effect as provided in**
 18 **subsection (c).**

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

21 **(1) specify the information required to be included in a claim;**

22 **(2) provide a mailing address to which the claim is to be sent;**

23 **(3) state the deadline for receipt of the claim, which may not**
 24 **be less than one hundred twenty (120) days after the date the**
 25 **notice is received by the claimant; and**

26 **(4) state that the claim will be barred if not received by the**
 27 **deadline.**

28 **(c) A claim against a dissolved limited liability company is**
 29 **barred if the requirements of subsection (b) are met and:**

30 **(1) the claim is not received by the specified deadline; or**

31 **(2) if the claim is timely received but rejected by the company:**

32 **(A) the company causes the claimant to receive a notice in**
 33 **a record stating that the claim is rejected and will be**
 34 **barred unless the claimant commences an action against**
 35 **the company to enforce the claim within ninety (90) days**
 36 **after the claimant receives the notice; and**

37 **(B) the claimant does not commence the required action**
 38 **within the ninety (90) days.**

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

42 **Sec. 4. (a) A dissolved limited liability company may publish**

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1 notice of its dissolution and request persons having claims against
2 the company to present them in accordance with the notice.

3 (b) The notice authorized by subsection (a) must:

4 (1) be published at least once in a newspaper of general
5 circulation in the county in this state in which the dissolved
6 limited liability company's principal office is located or, if it
7 has none in this state, in the county in which the company's
8 designated office is or was last located;

9 (2) describe the information required to be contained in a
10 claim and provide a mailing address to which the claim is to
11 be sent; and

12 (3) state that a claim against the company is barred unless an
13 action to enforce the claim is commenced within five (5) years
14 after publication of the notice.

15 (c) If a dissolved limited liability company publishes a notice in
16 accordance with subsection (b), unless the claimant commences an
17 action to enforce the claim against the company within five (5)
18 years after the publication date of the notice, the claim of each of
19 the following claimants is barred:

20 (1) A claimant that did not receive notice in a record under
21 section 3 of this chapter.

22 (2) A claimant whose claim was timely sent to the company
23 but not acted on.

24 (3) A claimant whose claim is contingent at, or based on an
25 event occurring after, the effective date of dissolution.

26 (d) A claim not barred under this section may be enforced:

27 (1) against a dissolved limited liability company to the extent
28 of its undistributed assets; and

29 (2) if assets of the company have been distributed after
30 dissolution, against a member or transferee to the extent of
31 that person's proportionate share of the claim or of the assets
32 distributed to the member or transferee after dissolution,
33 whichever is less. However, a person's total liability for all
34 claims under this subdivision does not exceed the total amount
35 of assets distributed to the person after dissolution.

36 Sec. 5. (a) The secretary of state may dissolve a limited liability
37 company administratively if the company does not:

38 (1) pay, within sixty (60) days after the due date, any fee, tax,
39 or penalty due to the secretary of state under this article or
40 law other than this article; or

41 (2) deliver, within sixty (60) days after the due date, its
42 biennial report to the secretary of state.

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1 (b) If the secretary of state determines that a ground exists for
2 administratively dissolving a limited liability company, the
3 secretary of state shall file a record of the determination and serve
4 the company with a copy of the filed record.

5 (c) If within sixty (60) days after service of the copy under
6 subsection (b) a limited liability company does not correct each
7 ground for dissolution or demonstrate to the reasonable
8 satisfaction of the secretary of state that each ground determined
9 by the secretary of state does not exist, the secretary of state shall
10 dissolve the company administratively by preparing, signing, and
11 filing a declaration of dissolution that states the grounds for
12 dissolution. The secretary of state shall serve the company with a
13 copy of the filed declaration.

14 (d) A limited liability company that has been administratively
15 dissolved continues in existence but, subject to section 6 of this
16 chapter, may carry on only activities necessary to wind up its
17 activities and liquidate its assets under sections 2 and 8 of this
18 chapter and to notify claimants under sections 3 and 4 of this
19 chapter.

20 (e) The administrative dissolution of a limited liability company
21 does not terminate the authority of its agent for service of process.

22 Sec. 6. (a) A limited liability company that has been
23 administratively dissolved may apply to the secretary of state for
24 reinstatement within two (2) years after the effective date of
25 dissolution. The application must be delivered to the secretary of
26 state for filing and state:

- 27 (1) the name of the company and the effective date of its
28 dissolution;
29 (2) that the grounds for dissolution did not exist or have been
30 eliminated; and
31 (3) that the company's name satisfies the requirements of
32 IC 23-18.1-2-7.

33 (b) If the secretary of state determines that an application under
34 subsection (a) contains the required information and that the
35 information is correct, the secretary of state shall prepare a
36 declaration of reinstatement that states this determination, sign
37 and file the original of the declaration of reinstatement, and serve
38 the limited liability company with a copy.

39 (c) When a reinstatement becomes effective, it relates back to
40 and takes effect as of the effective date of the administrative
41 dissolution and the limited liability company may resume its
42 activities as if the dissolution had not occurred.

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1 **Sec. 7. (a) If the secretary of state rejects a limited liability**
 2 **company's application for reinstatement following administrative**
 3 **dissolution, the secretary of state shall prepare, sign, and file a**
 4 **notice that explains the reason for rejection and serve the company**
 5 **with a copy of the notice.**

6 **(b) Within thirty (30) days after service of a notice of rejection**
 7 **of reinstatement under subsection (a), a limited liability company**
 8 **may appeal from the rejection by petitioning the circuit or superior**
 9 **court to set aside the dissolution. The petition must be served on**
 10 **the secretary of state and contain a copy of the secretary of state's**
 11 **declaration of dissolution, the company's application for**
 12 **reinstatement, and the secretary of state's notice of rejection.**

13 **(c) The court may order the secretary of state to reinstate a**
 14 **dissolved limited liability company or take other action the court**
 15 **considers appropriate.**

16 **Sec. 8. (a) In winding up its activities, a limited liability**
 17 **company must apply its assets to discharge its obligations to**
 18 **creditors, including members that are creditors.**

19 **(b) After a limited liability company complies with subsection**
 20 **(a), any surplus must be distributed in the following order, subject**
 21 **to any charging order in effect under IC 23-18.1-6-3:**

22 **(1) to each person owning a transferable interest that reflects**
 23 **contributions made by a member and not previously returned,**
 24 **an amount equal to the value of the unreturned contributions;**
 25 **and**

26 **(2) in equal shares among members and dissociated members,**
 27 **except to the extent necessary to comply with any transfer**
 28 **effective under IC 23-18.1-6-2.**

29 **(c) If a limited liability company does not have sufficient surplus**
 30 **to comply with subsection (b)(1), any surplus must be distributed**
 31 **among the owners of transferable interests in proportion to the**
 32 **value of their respective unreturned contributions.**

33 **(d) All distributions made under subsections (b) and (c) must be**
 34 **paid in money.**

35 **Chapter 9. Foreign Limited Liability Companies**

36 **Sec. 1. (a) The law of the state or other jurisdiction under which**
 37 **a foreign limited liability company is formed governs:**

38 **(1) the internal affairs of the company; and**

39 **(2) the liability of a member as member and a manager as**
 40 **manager for the debts, obligations, or other liabilities of the**
 41 **company.**

42 **(b) A foreign limited liability company may not be denied a**

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1 certificate of authority by reason of any difference between the law
2 of the jurisdiction under which the company is formed and the law
3 of this state.

4 (c) A certificate of authority does not authorize a foreign limited
5 liability company to engage in any business or exercise any power
6 that a limited liability company may not engage in or exercise in
7 this state.

8 Sec. 2. (a) A foreign limited liability company may apply for a
9 certificate of authority to transact business in this state by
10 delivering an application to the secretary of state for filing. The
11 application must state:

12 (1) the name of the company and, if the name does not comply
13 with IC 23-18.1-2-7, an alternate name adopted as provided
14 under section 5(a) of this chapter;

15 (2) the name of the state or other jurisdiction under whose law
16 the company is formed;

17 (3) the street address and the mailing address of the
18 company's principal office and, if the law of the jurisdiction
19 under which the company is formed requires the company to
20 maintain an office in that jurisdiction, the street address and
21 the mailing address of the required office; and

22 (4) the name, street address, and mailing address of the
23 company's initial agent for service of process in this state.

24 (b) A foreign limited liability company shall deliver with a
25 completed application under subsection (a) a certificate of
26 existence or a record of similar import signed by the secretary of
27 state or other official having custody of the company's publicly
28 filed records in the state or other jurisdiction under whose law the
29 company is formed.

30 Sec. 3. (a) Activities of a foreign limited liability company that
31 do not constitute transacting business in this state within the
32 meaning of this article include:

33 (1) maintaining, defending, or settling an action or
34 proceeding;

35 (2) carrying on any activity concerning its internal affairs,
36 including holding meetings of its members or managers;

37 (3) maintaining accounts in financial institutions;

38 (4) maintaining offices or agencies for the transfer, exchange,
39 and registration of the company's own securities or
40 maintaining trustees or depositories with respect to those
41 securities;

42 (5) selling through independent contractors;

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- 1 **(6) soliciting or obtaining orders, whether by mail or**
- 2 **electronic means or through employees or agents or**
- 3 **otherwise, if the orders require acceptance outside this state**
- 4 **before they become contracts;**
- 5 **(7) creating or acquiring indebtedness, mortgages, or security**
- 6 **interests in real or personal property;**
- 7 **(8) securing or collecting debts or enforcing mortgages or**
- 8 **other security interests in property securing the debts and**
- 9 **holding, protecting, or maintaining property so acquired;**
- 10 **(9) conducting an isolated transaction that is completed within**
- 11 **thirty (30) days and is not in the course of similar**
- 12 **transactions; and**
- 13 **(10) transacting business in interstate commerce.**

14 **(b) For purposes of this article, the ownership in this state of**
 15 **income producing real property or tangible personal property,**
 16 **other than property excluded under subsection (a), constitutes**
 17 **transacting business in this state.**

18 **(c) This section does not apply in determining the contacts or**
 19 **activities that may subject a foreign limited liability company to**
 20 **service of process, taxation, or regulation under law of this state**
 21 **other than this article.**

22 **Sec. 4. Unless the secretary of state determines that an**
 23 **application for a certificate of authority does not comply with the**
 24 **filing requirements of this article, the secretary of state, upon**
 25 **payment of all filing fees, shall file the application of a foreign**
 26 **limited liability company, prepare, sign, and file a certificate of**
 27 **authority to transact business in this state, and send a copy of the**
 28 **filed certificate, together with a receipt for the fees, to the company**
 29 **or its representative.**

30 **Sec. 5. (a) A foreign limited liability company whose name does**
 31 **not comply with IC 23-18.1-2-7 may not obtain a certificate of**
 32 **authority until the foreign limited liability company adopts, for the**
 33 **purpose of transacting business in this state, an alternate name that**
 34 **complies with IC 23-18.1-2-7. A foreign limited liability company**
 35 **that adopts an alternate name under this subsection and obtains a**
 36 **certificate of authority with the alternate name need not comply**
 37 **with IC 23-15-1. After obtaining a certificate of authority with an**
 38 **alternate name, a foreign limited liability company shall transact**
 39 **business in this state under the alternate name unless the company**
 40 **is authorized under IC 23-15-1 to transact business in this state**
 41 **under another name.**

42 **(b) If a foreign limited liability company authorized to transact**

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1 business in this state changes its name to a name that does not
 2 comply with IC 23-18.1-2-7, the foreign limited liability company
 3 may not thereafter transact business in this state until the foreign
 4 limited liability company complies with subsection (a) and obtains
 5 an amended certificate of authority.

6 Sec. 6. (a) A certificate of authority of a foreign limited liability
 7 company to transact business in this state may be revoked by the
 8 secretary of state in the manner provided in subsections (b) and (c)
 9 if the company does not:

10 (1) pay, within sixty (60) days after the due date, any fee, tax,
 11 or penalty due to the secretary of state under this article or
 12 law other than this article;

13 (2) deliver, within sixty (60) days after the due date, its
 14 biennial report required under IC 23-18.1-3-9;

15 (3) appoint and maintain an agent for service of process as
 16 required by IC 23-18.1-2-12(b); or

17 (4) deliver for filing a statement of a change under
 18 IC 23-18.1-2-13 within thirty (30) days after a change has
 19 occurred in the name or address of the agent.

20 (b) To revoke a certificate of authority of a foreign limited
 21 liability company, the secretary of state must prepare, sign, and file
 22 a notice of revocation and send a copy to the company's agent for
 23 service of process in this state, or if the company does not appoint
 24 and maintain a proper agent in this state, to the company's
 25 designated office. The notice must state:

26 (1) the revocation's effective date, which must be at least sixty
 27 (60) days after the date the secretary of state sends the copy;
 28 and

29 (2) the grounds for revocation under subsection (a).

30 (c) The authority of a foreign limited liability company to
 31 transact business in this state ceases on the effective date of the
 32 notice of revocation unless before that date the company cures each
 33 ground for revocation stated in the notice filed under subsection
 34 (b). If the company cures each ground, the secretary of state shall
 35 file a record so stating.

36 Sec. 7. To cancel its certificate of authority to transact business
 37 in this state, a foreign limited liability company must deliver to the
 38 secretary of state for filing a notice of cancellation stating the name
 39 of the company and that the company desires to cancel its
 40 certificate of authority. The certificate is canceled when the notice
 41 becomes effective.

42 Sec. 8. (a) A foreign limited liability company transacting

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1 business in this state may not maintain an action or proceeding in
 2 this state unless the foreign limited liability company has a
 3 certificate of authority to transact business in this state.

4 (b) The failure of a foreign limited liability company to have a
 5 certificate of authority to transact business in this state does not
 6 impair the validity of a contract or act of the company or prevent
 7 the company from defending an action or proceeding in this state.

8 (c) A member or manager of a foreign limited liability company
 9 is not liable for the debts, obligations, or other liabilities of the
 10 company solely because the company transacted business in this
 11 state without a certificate of authority.

12 (d) If a foreign limited liability company transacts business in
 13 this state without a certificate of authority or cancels its certificate
 14 of authority, it appoints the secretary of state as its agent for
 15 service of process for rights of action arising out of the transaction
 16 of business in this state.

17 Sec. 9. The attorney general may maintain an action to enjoin
 18 a foreign limited liability company from transacting business in
 19 this state in violation of this article.

20 Chapter 10. Actions by Members

21 Sec. 1. (a) Subject to subsection (b), a member may maintain a
 22 direct action against another member, a manager, or the limited
 23 liability company to enforce the member's rights and otherwise
 24 protect the member's interests, including rights and interests under
 25 the operating agreement or this article or arising independently of
 26 the membership relationship.

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

31 Sec. 2. A member may maintain a derivative action to enforce
 32 a right of a limited liability company if:

- 33 (1) the member first makes a demand on the other members
 34 in a member managed limited liability company, or the
 35 managers of a manager managed limited liability company,
 36 requesting that they cause the company to bring an action to
 37 enforce the right, and the managers or other members do not
 38 bring the action within a reasonable time; or
 39 (2) a demand under subdivision (1) would be futile.

40 Sec. 3. (a) Except as otherwise provided in subsection (b), a
 41 derivative action under section 2 of this chapter may be maintained
 42 only by a person that is a member at the time the action is

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1 commenced and remains a member while the action continues.

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

5 Sec. 4. In a derivative action under section 2 of this chapter, the
6 complaint must state with particularity:

7 (1) the date and content of the plaintiff's demand and the
8 response to the demand by the managers or other members;
9 or

10 (2) if a demand has not been made, the reasons a demand
11 under section 2(1) of this chapter would be futile.

12 Sec. 5. (a) If a limited liability company is named as or made a
13 party in a derivative proceeding, the company may appoint a
14 special litigation committee to investigate the claims asserted in the
15 proceeding and determine whether pursuing the action is in the
16 best interests of the company. If the company appoints a special
17 litigation committee, on motion by the committee made in the name
18 of the company, except for good cause shown, the court shall stay
19 discovery for the time reasonably necessary to permit the
20 committee to make its investigation. This subsection does not
21 prevent the court from enforcing a person's right to information
22 under IC 23-18.1-5-10 or, for good cause shown, granting
23 extraordinary relief in the form of a temporary restraining order
24 or preliminary injunction.

25 (b) A special litigation committee may be composed of one (1) or
26 more disinterested and independent individuals, who may be
27 members.

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

29 (1) in a member managed limited liability company:

30 (A) by the consent of a majority of the members not named
31 as defendants or plaintiffs in the proceeding; and

32 (B) if all members are named as defendants or plaintiffs in
33 the proceeding, by a majority of the members named as
34 defendants; or

35 (2) in a manager managed limited liability company:

36 (A) by a majority of the managers not named as
37 defendants or plaintiffs in the proceeding; and

38 (B) if all managers are named as defendants or plaintiffs in
39 the proceeding, by a majority of the managers named as
40 defendants.

41 (d) After appropriate investigation, a special litigation
42 committee may determine that it is in the best interests of the

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limited liability company that the proceeding:
(1) continue under the control of the plaintiff;
(2) continue under the control of the committee;
(3) be settled on terms approved by the committee; or
(4) be dismissed.

(e) After making a determination under subsection (d), a special litigation committee shall file with the court a statement of its determination and its report supporting its determination, giving notice to the plaintiff. The court shall determine whether the members of the committee were disinterested and independent and whether the committee conducted its investigation and made its recommendation in good faith, independently, and with reasonable care, with the committee having the burden of proof. If the court finds that the members of the committee were disinterested and independent and that the committee acted in good faith, independently, and with reasonable care, the court shall enforce the determination of the committee. Otherwise, the court shall dissolve the stay of discovery entered under subsection (a) and allow the action to proceed under the direction of the plaintiff.

Sec. 6. (a) Except as otherwise provided in subsection (b):

- (1) any proceeds or other benefits of a derivative action under section 2 of this chapter, whether by judgment, compromise, or settlement, belong to the limited liability company and not to the plaintiff; and**
- (2) if the plaintiff receives any proceeds, the plaintiff shall remit them immediately to the company.**

(b) If a derivative action under section 2 of this chapter is successful in whole or in part, the court may award the plaintiff reasonable expenses, including reasonable attorney's fees and costs, from the recovery of the limited liability company.

Chapter 11. Merger, Conversion, and Domestication

Sec. 1. The following definitions apply throughout this chapter:

- (1) "Constituent limited liability company" means a constituent organization that is a limited liability company.**
- (2) "Constituent organization" means an organization that is party to a merger.**
- (3) "Converted organization" means the organization into which a converting organization converts as provided under sections 6 through 9 of this chapter.**
- (4) "Converting limited liability company" means a converting organization that is a limited liability company.**
- (5) "Converting organization" means an organization that**

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- 1 converts into another organization as provided under section
 2 6 of this chapter.
- 3 (6) "Domesticated company" means the company that exists
 4 after a domesticating foreign limited liability company or
 5 limited liability company effects a domestication as provided
 6 under sections 10 through 13 of this chapter.
- 7 (7) "Domesticating company" means the company that effects
 8 a domestication as provided under sections 10 through 13 of
 9 this chapter.
- 10 (8) "Governing statute" means the statute that governs an
 11 organization's internal affairs.
- 12 (9) "Organization" means the following:
- 13 (A) A general partnership, including a limited liability
 14 partnership.
- 15 (B) A limited partnership, including a limited liability
 16 limited partnership.
- 17 (C) A limited liability company.
- 18 (D) A business trust.
- 19 (E) A corporation.
- 20 (F) Any other person having a governing statute.
- 21 The term includes a domestic or foreign organization
 22 regardless of whether organized for profit.
- 23 (10) "Organizational documents" means the following:
- 24 (A) For a domestic or foreign general partnership, its
 25 partnership agreement.
- 26 (B) For a limited partnership or foreign limited
 27 partnership, its certificate of limited partnership and
 28 partnership agreement.
- 29 (C) For a domestic or foreign limited liability company, its
 30 certificate or articles of organization and operating
 31 agreement, or comparable records as provided in its
 32 governing statute.
- 33 (D) For a business trust, its agreement of trust and
 34 declaration of trust.
- 35 (E) For a domestic or foreign corporation for profit, its
 36 articles of incorporation, bylaws, and other agreements
 37 among its shareholders that are authorized by its
 38 governing statute, or comparable records as provided in its
 39 governing statute.
- 40 (F) For any other organization, the basic records that
 41 create the organization and determine its internal
 42 governance and the relations among the persons that own

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- 1 it, have an interest in it, or are members of it.
- 2 (11) "Personal liability" means liability for a debt, obligation,
- 3 or other liability of an organization that is imposed on a
- 4 person that co-owns, has an interest in, or is a member of the
- 5 organization:
- 6 (A) by the governing statute solely by reason of the person
- 7 co-owning, having an interest in, or being a member of the
- 8 organization; or
- 9 (B) by the organization's organizational documents under
- 10 a provision of the governing statute authorizing those
- 11 documents to make one (1) or more specified persons liable
- 12 for all or specified debts, obligations, or other liabilities of
- 13 the organization solely by reason of the person or persons
- 14 co-owning, having an interest in, or being a member of the
- 15 organization.
- 16 (12) "Surviving organization" means an organization into
- 17 which one (1) or more other organizations are merged
- 18 whether the organization preexisted the merger or was
- 19 created by the merger.
- 20 Sec. 2. (a) A limited liability company may merge with one (1)
- 21 or more other constituent organizations under this section, sections
- 22 3 through 5 of this chapter, and a plan of merger, if:
- 23 (1) the governing statute of each of the other organizations
- 24 authorizes the merger;
- 25 (2) the merger is not prohibited by the law of a jurisdiction
- 26 that enacted any of the governing statutes; and
- 27 (3) each of the other organizations complies with its governing
- 28 statute in effecting the merger.
- 29 (b) A plan of merger must be in a record and must include:
- 30 (1) the name and form of each constituent organization;
- 31 (2) the name and form of the surviving organization and, if
- 32 the surviving organization is to be created by the merger, a
- 33 statement to that effect;
- 34 (3) the terms and conditions of the merger, including the
- 35 manner and basis for converting the interests in each
- 36 constituent organization into any combination of money,
- 37 interests in the surviving organization, and other
- 38 consideration;
- 39 (4) if the surviving organization is to be created by the
- 40 merger, the surviving organization's organizational
- 41 documents that are proposed to be in a record; and
- 42 (5) if the surviving organization is not to be created by the

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1 merger, any amendments to be made by the merger to the
 2 surviving organization's organizational documents that are,
 3 or are proposed to be, in a record.

4 **Sec. 3. (a)** Subject to section 14 of this chapter, a plan of merger
 5 must be consented to by all the members of a constituent limited
 6 liability company.

7 **(b)** Subject to section 14 of this chapter and any contractual
 8 rights, after a merger is approved, and at any time before articles
 9 of merger are delivered to the secretary of state for filing under
 10 section 4 of this chapter, a constituent limited liability company
 11 may amend the plan or abandon the merger:

- 12 (1) as provided in the plan; or
 13 (2) except as otherwise prohibited in the plan, with the same
 14 consent as was required to approve the plan.

15 **Sec. 4. (a)** After each constituent organization has approved a
 16 merger, articles of merger must be signed on behalf of:

- 17 (1) each constituent limited liability company, as provided in
 18 IC 23-18.1-3-3(a); and
 19 (2) each other constituent organization, as provided in its
 20 governing statute.

21 **(b)** Articles of merger under this section must include:

- 22 (1) the name and form of each constituent organization and
 23 the jurisdiction of its governing statute;
 24 (2) the name and form of the surviving organization, the
 25 jurisdiction of its governing statute, and, if the surviving
 26 organization is created by the merger, a statement to that
 27 effect;
 28 (3) the date the merger is effective under the governing statute
 29 of the surviving organization;
 30 (4) if the surviving organization is to be created by the
 31 merger:

32 (A) if the surviving organization will be a limited liability
 33 company, the company's certificate of organization; or

34 (B) if the surviving organization will be an organization
 35 other than a limited liability company, the organizational
 36 document that creates the organization that is in a public
 37 record;

38 (5) if the surviving organization preexists the merger, any
 39 amendments provided for in the plan of merger for the
 40 organizational document that created the organization that
 41 are in a public record;

42 (6) a statement as to each constituent organization that the

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- 1 merger was approved as required by the organization's
- 2 governing statute;
- 3 (7) if the surviving organization is a foreign organization not
- 4 authorized to transact business in this state, the street address
- 5 and the mailing address of an office that the secretary of state
- 6 may use for purposes of section 5(b) of this chapter; and
- 7 (8) any additional information required by the governing
- 8 statute of any constituent organization.
- 9 (c) Each constituent limited liability company shall deliver the
- 10 articles of merger for filing in the office of the secretary of state.
- 11 (d) A merger becomes effective under this article:
- 12 (1) if the surviving organization is a limited liability company,
- 13 upon the later of:
- 14 (A) compliance with subsection (c); or
- 15 (B) subject to IC 23-18.1-3-5(c), as specified in the articles
- 16 of merger; or
- 17 (2) if the surviving organization is not a limited liability
- 18 company, as provided by the governing statute of the
- 19 surviving organization.
- 20 Sec. 5. (a) When a merger becomes effective:
- 21 (1) the surviving organization continues or comes into
- 22 existence;
- 23 (2) each constituent organization that merges into the
- 24 surviving organization ceases to exist as a separate entity;
- 25 (3) all property owned by each constituent organization that
- 26 ceases to exist vests in the surviving organization;
- 27 (4) all debts, obligations, or other liabilities of each constituent
- 28 organization that ceases to exist continue as debts, obligations,
- 29 or other liabilities of the surviving organization;
- 30 (5) an action or proceeding pending by or against any
- 31 constituent organization that ceases to exist may be continued
- 32 as if the merger had not occurred;
- 33 (6) except as prohibited by other law, all of the rights,
- 34 privileges, immunities, powers, and purposes of each
- 35 constituent organization that ceases to exist vest in the
- 36 surviving organization;
- 37 (7) except as otherwise provided in the plan of merger, the
- 38 terms and conditions of the plan of merger take effect;
- 39 (8) except as otherwise agreed, if a constituent limited liability
- 40 company ceases to exist, the merger does not dissolve the
- 41 limited liability company for purposes of IC 23-18.1-8;
- 42 (9) if the surviving organization is created by the merger:

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- 1 (A) if the surviving organization is a limited liability
 2 company, the certificate of organization becomes effective;
 3 or
 4 (B) if the surviving organization is an organization other
 5 than a limited liability company, the organizational
 6 document that creates the organization becomes effective;
 7 and
 8 (10) if the surviving organization preexisted the merger, any
 9 amendments provided for in the articles of merger for the
 10 organizational document that created the organization
 11 become effective.
- 12 (b) A surviving organization that is a foreign organization
 13 consents to the jurisdiction of the courts of this state to enforce any
 14 debt, obligation, or other liability owed by a constituent
 15 organization, if before the merger the constituent organization was
 16 subject to suit in this state on the debt, obligation, or other liability.
 17 A surviving organization that is a foreign organization and not
 18 authorized to transact business in this state appoints the secretary
 19 of state as its agent for service of process for purposes of enforcing
 20 a debt, obligation, or other liability under this subsection. Service
 21 on the secretary of state under this subsection must be made in the
 22 same manner and has the same consequences as in
 23 IC 23-18.1-2-15(c) and IC 23-18.1-2-15(d).
- 24 Sec. 6. (a) An organization other than a limited liability
 25 company or a foreign limited liability company may convert to a
 26 limited liability company, and a limited liability company may
 27 convert to an organization other than a foreign limited liability
 28 company under this section, sections 7 through 9 of this chapter,
 29 and a plan of conversion, if:
- 30 (1) the other organization's governing statute authorizes the
 31 conversion;
 32 (2) the conversion is not prohibited by the law of the
 33 jurisdiction that enacted the other organization's governing
 34 statute; and
 35 (3) the other organization complies with its governing statute
 36 in effecting the conversion.
- 37 (b) A plan of conversion must be in a record and must include:
 38 (1) the name and form of the organization before conversion;
 39 (2) the name and form of the organization after conversion;
 40 (3) the terms and conditions of the conversion, including the
 41 manner and basis for converting interests in the converting
 42 organization into any combination of money, interests in the

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1 converted organization, and other consideration; and
 2 (4) the organizational documents of the converted
 3 organization that are, or are proposed to be, in a record.
 4 Sec. 7. (a) Subject to section 14 of this chapter, a plan of
 5 conversion must be consented to by all the members of a
 6 converting limited liability company.
 7 (b) Subject to section 14 of this chapter and any contractual
 8 rights, after a conversion is approved, and at any time before
 9 articles of conversion are delivered to the secretary of state for
 10 filing under section 8 of this chapter, a converting limited liability
 11 company may amend the plan or abandon the conversion:
 12 (1) as provided in the plan; or
 13 (2) except as otherwise prohibited in the plan, by the same
 14 consent as was required to approve the plan.
 15 Sec. 8. (a) After a plan of conversion is approved:
 16 (1) a converting limited liability company shall deliver to the
 17 secretary of state for filing articles of conversion, which must
 18 be signed as provided in IC 23-18.1-3-3(a) and must include:
 19 (A) a statement that the limited liability company has been
 20 converted into another organization;
 21 (B) the name and form of the organization and the
 22 jurisdiction of its governing statute;
 23 (C) the date the conversion is effective under the governing
 24 statute of the converted organization;
 25 (D) a statement that the conversion was approved as
 26 required by this article;
 27 (E) a statement that the conversion was approved as
 28 required by the governing statute of the converted
 29 organization; and
 30 (F) if the converted organization is a foreign organization
 31 not authorized to transact business in this state, the street
 32 address and the mailing address of an office that the
 33 secretary of state may use for the purposes of section 9(c)
 34 of this chapter; and
 35 (2) if the converting organization is not a converting limited
 36 liability company, the converting organization shall deliver to
 37 the secretary of state for filing a certificate of organization,
 38 which must include, in addition to the information required
 39 by IC 23-18.1-3-1(b):
 40 (A) a statement that the converted organization was
 41 converted from another organization;
 42 (B) the name and form of that converting organization and

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1 the jurisdiction of its governing statute; and
2 (C) a statement that the conversion was approved in a
3 manner that complied with the converting organization's
4 governing statute.

5 (b) A conversion becomes effective:
6 (1) if the converted organization is a limited liability company,
7 when the certificate of organization takes effect; and
8 (2) if the converted organization is not a limited liability
9 company, as provided by the governing statute of the
10 converted organization.

11 Sec. 9. (a) An organization that has been converted as provided
12 by this article is for all purposes the same entity that existed before
13 the conversion.

14 (b) When a conversion takes effect:
15 (1) all property owned by the converting organization remains
16 vested in the converted organization;
17 (2) all debts, obligations, or other liabilities of the converting
18 organization continue as debts, obligations, or other liabilities
19 of the converted organization;
20 (3) an action or proceeding pending by or against the
21 converting organization may be continued as if the conversion
22 had not occurred;
23 (4) except as prohibited by law other than this article, all of
24 the rights, privileges, immunities, powers, and purposes of the
25 converting organization remain vested in the converted
26 organization;
27 (5) except as otherwise provided in the plan of conversion, the
28 terms and conditions of the plan of conversion take effect; and
29 (6) except as otherwise agreed, the conversion does not
30 dissolve a converting limited liability company for the
31 purposes of IC 23-18.1-8.

32 (c) A converted organization that is a foreign organization
33 consents to the jurisdiction of the courts of this state to enforce any
34 debt, obligation, or other liability for which the converting limited
35 liability company is liable if, before the conversion, the converting
36 limited liability company was subject to suit in this state on the
37 debt, obligation, or other liability. A converted organization that
38 is a foreign organization and not authorized to transact business in
39 this state appoints the secretary of state as its agent for service of
40 process for purposes of enforcing a debt, obligation, or other
41 liability under this subsection. Service on the secretary of state
42 under this subsection must be made in the same manner and has

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1 the same consequences as in IC 23-18.1-2-15(c) and
2 IC 23-18.1-2-15(d).

3 **Sec. 10. (a)** A foreign limited liability company may become a
4 limited liability company under this section, sections 11 through 13
5 of this chapter, and a plan of domestication, if:

6 (1) the foreign limited liability company's governing statute
7 authorizes the domestication;

8 (2) the domestication is not prohibited by the law of the
9 jurisdiction that enacted the governing statute; and

10 (3) the foreign limited liability company complies with its
11 governing statute in effecting the domestication.

12 **(b)** A limited liability company may become a foreign limited
13 liability company under this section, sections 11 through 13 of this
14 chapter, and a plan of domestication, if:

15 (1) the foreign limited liability company's governing statute
16 authorizes the domestication;

17 (2) the domestication is not prohibited by the law of the
18 jurisdiction that enacted the governing statute; and

19 (3) the foreign limited liability company complies with its
20 governing statute in effecting the domestication.

21 **(c)** A plan of domestication must be in a record and must
22 include:

23 (1) the name of the domesticating company before
24 domestication and the jurisdiction of its governing statute;

25 (2) the name of the domesticated company after domestication
26 and the jurisdiction of its governing statute;

27 (3) the terms and conditions of the domestication, including
28 the manner and basis for converting interests in the
29 domesticating company into any combination of money,
30 interests in the domesticated company, and other
31 consideration; and

32 (4) the organizational documents of the domesticated
33 company that are, or are proposed to be, in a record.

34 **Sec. 11. (a)** A plan of domestication must be consented to:

35 (1) by all the members, subject to section 14 of this chapter, if
36 the domesticating company is a limited liability company; and

37 (2) as provided in the domesticating company's governing
38 statute, if the company is a foreign limited liability company.

39 **(b)** Subject to any contractual rights, after a domestication is
40 approved, and at any time before articles of domestication are
41 delivered to the secretary of state for filing under section 12 of this
42 chapter, a domesticating limited liability company may amend the

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plan or abandon the domestication:

- (1) as provided in the plan; or**
- (2) except as otherwise prohibited in the plan, by the same consent as was required to approve the plan.**

Sec. 12. (a) After a plan of domestication is approved, a domesticating company shall deliver to the secretary of state for filing articles of domestication that must include:

- (1) a statement, as the case may be, that the company has been domesticated from or into another jurisdiction;**
- (2) the name of the domesticating company and the jurisdiction of its governing statute;**
- (3) the name of the domesticated company and the jurisdiction of its governing statute;**
- (4) the date the domestication is effective under the governing statute of the domesticated company;**
- (5) if the domesticating company was a limited liability company, a statement that the domestication was approved as required by this article;**
- (6) if the domesticating company was a foreign limited liability company, a statement that the domestication was approved as required by the governing statute of the other jurisdiction; and**
- (7) if the domesticated company was a foreign limited liability company not authorized to transact business in this state, the street address and the mailing address of an office that the secretary of state may use for purposes of section 13(b) of this chapter.**

(b) A domestication becomes effective:

- (1) when the certificate of organization takes effect, if the domesticated company is a limited liability company; and**
- (2) according to the governing statute of the domesticated company, if the domesticated organization is a foreign limited liability company.**

Sec. 13. (a) When a domestication takes effect:

- (1) the domesticated company is for all purposes the company that existed before the domestication;**
- (2) all property owned by the domesticating company remains vested in the domesticated company;**
- (3) all debts, obligations, or other liabilities of the domesticating company continue as debts, obligations, or other liabilities of the domesticated company;**
- (4) an action or proceeding pending by or against a**

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1 domesticating company may be continued as if the
2 domestication had not occurred;

3 (5) except as prohibited by other law, all of the rights,
4 privileges, immunities, powers, and purposes of the
5 domesticating company remain vested in the domesticated
6 company;

7 (6) except as otherwise provided in the plan of domestication,
8 the terms and conditions of the plan of domestication take
9 effect; and

10 (7) except as otherwise agreed, the domestication does not
11 dissolve a domesticating limited liability company for the
12 purposes of IC 23-18.1-8.

13 (b) A domesticated company that is a foreign limited liability
14 company consents to the jurisdiction of the courts of this state to
15 enforce any debt, obligation, or other liability owed by the
16 domesticating company, if, before the domestication, the
17 domesticating company was subject to suit in this state on the debt,
18 obligation, or other liability. A domesticated company that is a
19 foreign limited liability company and not authorized to transact
20 business in this state appoints the secretary of state as its agent for
21 service of process for purposes of enforcing a debt, obligation, or
22 other liability under this subsection. Service on the secretary of
23 state under this subsection must be made in the same manner and
24 has the same consequences as in IC 23-18.1-2-15(c) and
25 IC 23-18.1-2-15(d).

26 (c) If a limited liability company has adopted and approved a
27 plan of domestication under section 10 of this chapter providing
28 for the company to be domesticated in a foreign jurisdiction, a
29 statement surrendering the company's certificate of organization
30 must be delivered to the secretary of state for filing setting forth:

31 (1) the name of the company;

32 (2) a statement that the certificate of organization is being
33 surrendered in connection with the domestication of the
34 company in a foreign jurisdiction;

35 (3) a statement the domestication was approved as required
36 by this article; and

37 (4) the jurisdiction of formation of the domesticated foreign
38 limited liability company.

39 Sec. 14. (a) If a member of a constituent, converting, or
40 domesticating limited liability company will have personal liability
41 with respect to a surviving, converted, or domesticated
42 organization, approval or amendment of a plan of merger,

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1 conversion, or domestication is ineffective without the consent of
2 the member, unless:

- 3 (1) the company's operating agreement provides for approval
- 4 of a merger, conversion, or domestication with the consent of
- 5 fewer than all the members; and
- 6 (2) the member has consented to the provision of the
- 7 operating agreement.

8 (b) A member does not give the consent required by subsection
9 (a) merely by consenting to a provision of the operating agreement
10 that permits the operating agreement to be amended with the
11 consent of fewer than all the members.

12 Sec. 15. This article does not preclude an entity from being
13 merged, converted, or domesticated under law other than this
14 article.

15 Chapter 12. Filing Requirements, Fees, and Other
16 Administrative Provisions

17 Sec. 1. (a) A record required or permitted under this article may
18 be filed with the secretary of state if the record meets the
19 requirements under this article, including the following
20 requirements:

- 21 (1) The record must contain the information required by this
- 22 article. However, it may also contain additional information.
- 23 (2) The record must be typewritten or printed.
- 24 (3) The record must be legible.
- 25 (4) The record must be in the English language. A limited
- 26 liability company's name need not be in English if written in
- 27 English letters or Arabic or Roman numerals, and the
- 28 certificate of existence required of foreign limited liability
- 29 companies need not be in English if accompanied by a
- 30 reasonably authenticated English translation.
- 31 (5) The record must be executed:
- 32 (A) by a member or an agent designated by the limited
- 33 liability company if the articles of organization do not
- 34 provide for a manager or managers;
- 35 (B) by a manager or an agent designated by the limited
- 36 liability company if the articles of organization provide for
- 37 a manager or managers; or
- 38 (C) if the limited liability company is in the hands of a
- 39 receiver, trustee, or other court appointed fiduciary, by
- 40 that fiduciary.
- 41 (6) The person executing the record must sign the record and
- 42 state beneath or opposite the signature the person's name and

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1 the capacity in which the person signs. A signature on a
 2 record authorized to be filed under this article may be a
 3 facsimile. A signature on a record under this subdivision that
 4 is transmitted and filed electronically is sufficient if the
 5 person transmitting and filing the record:

6 (A) has the intent to file the record as evidenced by a
 7 symbol executed or adopted by a party with present
 8 intention to authenticate the filing; and

9 (B) enters the filing party's name on the electronic form in
 10 a signature box or other place indicated by the secretary of
 11 state.

12 (7) If the secretary of state has prescribed a mandatory form
 13 for the record under section 2 of this chapter, the record must
 14 be in or on the prescribed form.

15 (8) The record must be delivered to the secretary of state for
 16 filing and must be accompanied by the correct filing fee. The
 17 filing fee must be paid in the manner and form required by
 18 the secretary of state.

19 (b) The secretary of state may accept payment of the correct
 20 filing fee by credit card, debit card, charge card, or similar
 21 method. However, if the filing fee is paid by credit card, debit card,
 22 charge card, or similar method, the liability is not finally
 23 discharged until the secretary of state receives payment or credit
 24 from the institution responsible for making the payment or credit.
 25 The secretary of state may contract with a bank or credit card
 26 vendor for acceptance of bank or credit cards. However, if there is
 27 a vendor transaction charge or discount fee, whether billed to the
 28 secretary of state or charged directly to the secretary of state's
 29 account, the secretary of state or the credit card vendor may
 30 collect from the person using the bank or credit card a fee that may
 31 not exceed the highest transaction charge or discount fee charged
 32 to the secretary of state by the bank or credit card vendor during
 33 the most recent collection period. This fee may be collected
 34 regardless of any agreement between the bank and a credit card
 35 vendor or regardless of any internal policy of the credit card
 36 vendor that may prohibit this type of fee. The fee is a permitted
 37 additional charge under IC 24-4.5-3-202.

38 Sec. 2. (a) For purposes of this article, a record is delivered for
 39 filing if the record is transferred to the secretary of state by hand,
 40 mail, telecopy, facsimile, or other form of electronic transmission
 41 meeting the requirements established by the secretary of state.

42 (b) If a record is delivered for filing by hand or mail, the record

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- 1 must be accompanied by:
 2 (1) two (2) exact or conformed copies of a record filed under
 3 IC 23-18.1-2-14; or
 4 (2) one (1) exact or conformed copy of any other record filed
 5 under this article.

6 (c) The office of the secretary of state shall create any copies of
 7 a record delivered by telecopy, facsimile, or other form of
 8 electronic transmission that are required for distribution under
 9 this article.

10 Sec. 3. (a) The secretary of state may prescribe and furnish on
 11 request forms for the following:

- 12 (1) Biennial report forms for domestic and foreign limited
 13 liability companies.
 14 (2) A foreign limited liability company's application for a
 15 certificate of authority to transact business in Indiana.
 16 (3) A foreign limited liability company's application for a
 17 certificate of withdrawal.

18 If the secretary of state requires and the form so states, use of these
 19 forms is mandatory.

20 (b) The secretary of state may prescribe and furnish on request
 21 forms for other records required or permitted to be filed by this
 22 article, but their use is not mandatory.

23 Sec. 4. (a) The secretary of state shall collect the following fees
 24 when the records specified in this section are delivered for filing:

25 Record	26 Electronic 27 Filing Fee	28 Filing Fee (Other than 29 electronic 30 filing)
31 (1) Certificate of organization	\$75	\$90
32 (2) Application for use of 33 indistinguishable name	\$10	\$20
34 (3) Application for reservation 35 of name	\$10	\$20
36 (4) Application for renewal of 37 reservation	\$10	\$20
38 (5) Notice of transfer or cancellation 39 of reservation	\$10	\$20
40 (6) Application of registered 41 name	\$20	\$30
42 (7) Application for renewal of registered name	\$20	\$30
(8) Statement of agent's change		

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1	of business address	No Fee	No Fee
2	(9) Statement of resignation		
3	of agent	No Fee	No Fee
4	(10) Statement of change of		
5	agent	No Fee	No Fee
6	(11) Amendment of certificate		
7	of organization	\$20	\$30
8	(12) Restatement of certificate of		
9	organization	\$20	\$30
10	(13) Statement of dissolution	\$20	\$30
11	(14) Application for certificate of		
12	authority	\$75	\$90
13	(15) Application for amended		
14	certificate of authority	\$20	\$30
15	(16) Application for certificate of		
16	withdrawal	\$20	\$30
17	(17) Application for reinstatement		
18	following administrative		
19	dissolution	\$20	\$30
20	(18) Statement of correction	\$20	\$30
21	(19) Application for certificate of		
22	existence or authorization	\$15	\$15
23	(20) Biennial report	\$20	\$30
24	(21) Articles of merger		
25	involving a limited liability		
26	company	\$75	\$90
27	(22) Any other record		
28	required or permitted to be		
29	filed under this article	\$20	\$30
30	(23) Registration of intent		
31	to sell sexually explicit materials,		
32	products, or services		\$250
33	The secretary of state shall prescribe the electronic means of filing		
34	records to which the electronic filing fees set forth in this section		
35	apply.		
36	(b) The fee set forth in subsection (a)(20) for filing a biennial		
37	report is:		
38	(1) for an electronic filing, ten dollars (\$10) per year; or		
39	(2) for a filing other than an electronic filing, fifteen dollars		
40	(\$15) per year;		
41	to be paid biennially.		
42	(c) The secretary of state shall collect a fee of ten dollars (\$10)		

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1 each time process is served on the secretary of state under this
 2 article. If the party to a proceeding causing service of process
 3 prevails in the proceeding, that party is entitled to recover this fee
 4 as costs from the nonprevailing party.

5 (d) The secretary of state shall collect the following fees for
 6 copying and certifying the copy of any filed records relating to a
 7 domestic or foreign limited liability company:

8 (1) One dollar (\$1) per page for copying.

9 (2) Fifteen dollars (\$15) for certification stamp.

10 Sec. 5. (a) If a record delivered to the office of the secretary of
 11 state for filing satisfies the requirements of section 1 of this
 12 chapter, the secretary of state must file the record.

13 (b) The secretary of state files a record by stamping or
 14 otherwise endorsing "Filed" together with the secretary of state's
 15 name and official title and the date and time of receipt on both the
 16 original and the record copy and on the receipt for the filing fee.
 17 After filing a record, except as provided under IC 23-18.1-2-14, the
 18 secretary of state shall deliver the record copy, with the filing fee
 19 receipt attached, or acknowledgment of receipt if no fee is
 20 required, to the domestic or foreign limited liability company or its
 21 representative.

22 (c) If the secretary of state refuses to file a record, the secretary
 23 of state shall return the record to the domestic or foreign limited
 24 liability company or its representative not more than ten (10) days
 25 after the record was delivered, together with a brief, written
 26 explanation of the reason for the refusal.

27 (d) The secretary of state's duty to file records under this section
 28 is ministerial. The secretary of state's filing or refusing to file a
 29 record does not:

30 (1) affect the validity or invalidity of the record in whole or in
 31 part;

32 (2) relate to the correctness or incorrectness of the
 33 information contained in the record; or

34 (3) create a presumption that the record is valid or invalid or
 35 that information contained in the record is correct or
 36 incorrect.

37 Sec. 6. (a) If the secretary of state refuses to file a record
 38 delivered to the secretary of state for filing, the domestic or foreign
 39 limited liability company may appeal the refusal to the circuit or
 40 superior court. The appeal is commenced by petitioning the court
 41 to compel the filing of the record and by attaching to the petition
 42 the record and the secretary of state's explanation of the refusal to

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1 file.

2 (b) The court may order the secretary of state to file the record
3 or take other action the court considers appropriate.

4 (c) The court's final decision may be appealed as in other civil
5 proceedings.

6 Sec. 7. A certification stamp affixed on or a certification
7 certificate attached to a copy of a record under this chapter,
8 bearing the secretary of state's signature, which may be in
9 facsimile, and the seal of this state is conclusive evidence that the
10 original record is on file with the secretary of state.

11 Sec. 8. A person commits a Class A misdemeanor if the person
12 signs a record that the person knows is false in a material respect
13 with the intent that the record be delivered to the secretary of state
14 for filing.

15 Chapter 13. Miscellaneous Provisions

16 Sec. 1. In applying and construing this uniform act,
17 consideration must be given to the need to promote uniformity of
18 the law with respect to its subject matter among states that enact
19 the Revised Uniform Limited Liability Company Act.

20 Sec. 2. This article modifies, limits, and supersedes the federal
21 Electronic Signatures in Global and National Commerce Act, 15
22 U.S.C. 7001 et seq., but does not modify, limit, or supersede Section
23 101(c) of that act, 15 U.S.C. 7001(c), or authorize electronic
24 delivery of any of the notices described in Section 103(b) of that
25 act, 15 U.S.C. 7003(b).

26 Sec. 3. This article does not affect an action commenced,
27 proceeding brought, or right accrued before July 1, 2011.

28 Sec. 4. (a) Before July 1, 2012, this article governs only:

29 (1) a limited liability company formed after June 30, 2011;
30 and

31 (2) except as otherwise provided in subsection (c), a limited
32 liability company formed before July 1, 2011, that elects, in
33 the manner provided in its operating agreement or by law for
34 amending the operating agreement, to be subject to this
35 article.

36 (b) Except as otherwise provided in subsection (c), after June 30,
37 2012, this article governs all limited liability companies.

38 (c) Under this article, the following apply to a limited liability
39 company formed before July 1, 2011:

40 (1) The company's articles of organization are considered to
41 be the company's certificate of organization.

42 (2) Subject to IC 23-18.1-2-11(d), for the purpose of

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1 **construing IC 23-18.1-1-12, language in the company's**
 2 **articles of organization designating the company's**
 3 **management structure operates as if that language were in**
 4 **the operating agreement.**

5 SECTION 6. IC 28-11-5-10, AS ADDED BY P.L.90-2008,
 6 SECTION 76, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 7 JULY 1, 2011]: Sec. 10. (a) Subject to subsection (g), a financial
 8 institution subject to this chapter may:

- 9 (1) be organized as a limited liability company;
 10 (2) convert to a limited liability company; or
 11 (3) merge with or into a limited liability company;

12 under the laws of Indiana or the United States, including any rules or
 13 regulations adopted or promulgated under the laws of Indiana or the
 14 United States.

15 (b) A bank organized as a limited liability company is subject to:

- 16 (1) **IC 23-18.1 or IC 23-18 (before its repeal), as applicable;**
 17 and
 18 (2) this title.

19 If a provision of **IC 23-18.1 or IC 23-18 (before its repeal), as**
 20 **applicable**, conflicts with a provision of this title or with any rule of the
 21 department, the provision of this title or the rule the department
 22 controls.

23 (c) Any filing required to be made under **IC 23-18.1 or IC 23-18**
 24 **(before its repeal), as applicable**, shall be made in the same manner
 25 as for a bank that is organizing or is organized in stock form.

26 (d) The department may prescribe any requirements for:

- 27 (1) the articles of organization; and
 28 (2) the operating agreement;

29 of a financial institution that is organized and operates as a limited
 30 liability company.

31 (e) The department has the exclusive authority under this title to
 32 regulate a financial institution organized as a limited liability company.
 33 A financial institution that is a limited liability company is subject to
 34 the department's authority in the same manner as a bank that is
 35 organized in stock form.

36 (f) A financial institution that is a limited liability company is
 37 subject to the provisions of this title that apply to banks, except for the
 38 provisions concerning corporate governance (IC 28-13), in the same
 39 manner as a financial institution that is organized in stock form, subject
 40 to the following:

- 41 (1) In the case of a manager managed limited liability company,
 42 "director" means a manager of the limited liability company.

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1 (2) In the case of a member managed limited liability company,
2 "director" means a member of the limited liability company.
3 (g) A financial institution may not:
4 (1) organize as;
5 (2) convert to; or
6 (3) merge with or into;
7 a limited liability company without the prior approval of the
8 department under this title.
9 SECTION 7. IC 34-30-2-92 IS AMENDED TO READ AS
10 FOLLOWS [EFFECTIVE JULY 1, 2011]: Sec. 92. IC 23-16-3-3 and
11 IC 23-16-3-8 **(before their repeal)** (Concerning persons filing or
12 failing to file amended certificates of limited partnership reporting the
13 occurrence of certain events).
14 SECTION 8. IC 34-30-2-93 IS AMENDED TO READ AS
15 FOLLOWS [EFFECTIVE JULY 1, 2011]: Sec. 93. IC 23-16-4-3
16 **(before its repeal) or IC 23-16.1-4-3, as applicable** (Concerning
17 limited partners for certain obligations of a limited partnership).
18 SECTION 9. IC 34-30-2-94 IS AMENDED TO READ AS
19 FOLLOWS [EFFECTIVE JULY 1, 2011]: Sec. 94. IC 23-16-8-4
20 **(before its repeal)** (Concerning assignees of a limited partnership
21 interest for certain obligations of a limited partnership) **or**
22 **IC 23-16.1-8-2 (Concerning transferees of a limited partnership**
23 **interest for certain obligations of a limited partnership), as**
24 **applicable.**
25 SECTION 10. IC 34-30-2-95 IS AMENDED TO READ AS
26 FOLLOWS [EFFECTIVE JULY 1, 2011]: Sec. 95. IC 23-16-12-2(h)(2)
27 **(before its repeal)** (Concerning limited partner for failure to file
28 certificate of limited partnership).
29 SECTION 11. THE FOLLOWING ARE REPEALED [EFFECTIVE
30 JULY 1, 2012]: IC 23-16; IC 23-18.

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