HOUSE BILL No. 1549

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.

Foley

January 20, 2011, read first time and referred to Committee on Judiciary.

C o p y

Introduced

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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HOUSE BILL No. 1549

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:

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

(1) IC 23-18-1-11 **(before its repeal);**

(2) IC 23-18.1-1-9; or

(3) IC 23-18.1-1-10;

as applicable.

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

(1) IC 23-16-1-9 **(before its repeal);**

(2) IC 23-16.1-1-9; or

(3) IC 23-16.1-1-13;

as applicable.

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

entity. The term does not include a:

(1) corporation (as defined in IC 23-1-20-5);

(2) foreign corporation (as defined in IC 23-1-20-11);

(3) foreign limited partnership (as defined in IC 23-16-1-6 **(before its repeal) or IC 23-16.1-1-9, as applicable);**

(4) limited partnership (as defined in IC 23-16-1-9 **(before its repeal) or IC 23-16.1-1-13, as applicable);**

(5) limited liability company (as defined in IC 23-18-1-11 **(before its repeal) or IC 23-18.1-1-10, as applicable);** or

(6) foreign limited liability company (as defined in IC 23-18-1-9 **(before its repeal) or IC 23-18.1-1-9, as applicable).**

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

ARTICLE 16.1. LIMITED PARTNERSHIPS

Chapter 1. Definitions

Sec. 1. The definitions in this chapter apply throughout this article.

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

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

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

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

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

Sec. 5. "Designated office" means:

(1) with respect to a limited partnership, the office that the limited partnership is required to designate and maintain under IC 23-16.1-2-13; or

(2) with respect to a foreign limited partnership, its principal office.

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

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

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

Sec. 9. "General partner" means:

(1) with respect to a limited partnership, a person that:

(A) becomes a general partner under IC 23-16.1-5-1; or

(B) was a general partner in a limited partnership when the limited partnership became subject to this article under IC 23-16.1-13-4(a) or IC 23-16.1-13-4(b); and

(2) with respect to a foreign limited partnership, a person that has rights, powers, and obligations similar to those of a general partner in a limited partnership.

Sec. 10. "Limited liability limited partnership", except in the term "foreign limited liability limited partnership", means a limited partnership whose certificate of limited partnership states that the limited partnership is a limited liability limited partnership.

Sec. 11. "Limited partner" means:

(1) with respect to a limited partnership, a person that:

(A) becomes a limited partner under IC 23-16.1-4-1; or

(B) was a limited partner in a limited partnership when the limited partnership became subject to this article under IC 23-16.1-13-4(a) or IC 23-16.1-13-4(b); and

(2) with respect to a foreign limited partnership, a person that has rights, powers, and obligations similar to those of a limited partner in a limited partnership.

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

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

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

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

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

Sec. 17. "Principal office" means the office where the principal executive office of a limited partnership or foreign limited partnership is located, 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. "Required information" means the information that a limited partnership is required to maintain under IC 23-16.1-2-10.

Sec. 20. "Sign" means:

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

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

Sec. 21. "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. 22. "Transfer" includes an assignment, conveyance, deed, bill of sale, lease, mortgage, security interest, encumbrance, gift, and transfer by operation of law.

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

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

Chapter 2. General Provisions

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

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

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

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

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

(c) A limited partnership has a perpetual duration.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(i) complies with subsection (d); and

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

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

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

(A) has merged into the applicant;

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(B) has been converted into the applicant; or

(C) has transferred substantially all of its assets, including the conflicting name, to the applicant.

(f) Subject to IC 23-16.1-10-5, this section applies to any foreign limited partnership transacting business in this state, having a certificate of authority to transact business in this state, or applying for a certificate of authority.

Sec. 8. (a) The exclusive right to the use of a name that complies with section 7 of this chapter may be reserved by:

(1) a person intending to organize a limited partnership under this article and to adopt the name;

(2) a limited partnership or a foreign limited partnership authorized to transact business in this state intending to adopt the name;

(3) a foreign limited partnership intending to obtain a certificate of authority to transact business in this state and adopt the name;

(4) a person intending to organize a foreign limited partnership and intending to have it obtain a certificate of authority to transact business in this state and adopt the name;

(5) a foreign limited partnership formed under the name; or

(6) a foreign limited partnership formed under a name that does not comply with section 7(b) or 7(c) of this chapter, but the name reserved under this subdivision may differ from the foreign limited partnership's name only to the extent necessary to comply with section 7(b) and 7(c) of this chapter.

(b) A person may apply to reserve a name under subsection (a) by delivering to the secretary of state for filing an application that states the name to be reserved and the subdivision of subsection (a) that applies. If the secretary of state finds that the name is available for use by the applicant, the secretary of state shall file a statement of name reservation and thereby reserve the name for the exclusive use of the applicant for one hundred twenty (120) days.

(c) An applicant that has reserved a name as provided under subsection (b) may reserve the same name for additional one hundred twenty (120) day periods. A person having a current reservation for a name may not apply for another one hundred twenty (120) day period for the same name until ninety (90) days have elapsed in the current reservation.

(d) A person that has reserved a name under this section may

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

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

(b) A partnership agreement may not:

(1) vary a limited partnership's power under section 4 of this chapter to sue, be sued, and defend in its own name;

(2) vary the law applicable to a limited partnership under section 5 of this chapter;

(3) vary the requirements of IC 23-16.1-3-4;

(4) vary the information required under section 10 of this chapter or unreasonably restrict the right to information under IC 23-16.1-4-4 or IC 23-16.1-5-7, but the partnership agreement may impose reasonable restrictions on the availability and use of information obtained under those sections and may define appropriate remedies, including liquidated damages, for a breach of any reasonable restriction on use;

(5) eliminate the duty of loyalty under IC 23-16.1-5-8, but the partnership agreement may:

(A) identify specific types or categories of activities that do not violate the duty of loyalty, if not manifestly unreasonable; and

(B) specify the number or percentage of partners that may authorize or ratify, after full disclosure to all partners of all material facts, a specific act or transaction that otherwise would violate the duty of loyalty;

(6) unreasonably reduce the duty of care under IC 23-16.1-5-8(c);

(7) eliminate the obligation of good faith and fair dealing under IC 23-16.1-4-5(b) and IC 23-16.1-5-8(d), but the partnership agreement may prescribe the standards by which the performance of the obligation is to be measured, if the standards are not manifestly unreasonable;

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(8) vary the power of a person to dissociate as a general partner under IC 23-16.1-7-4(a) except to require that the notice under IC 23-16.1-7-3(1) be in a record;

(9) vary the power of a court to decree dissolution in the circumstances specified in IC 23-16.1-9-2;

(10) vary the requirement to wind up the partnership's business as specified in IC 23-16.1-9-3;

(11) unreasonably restrict the right to maintain an action under IC 23-16.1-11;

(12) restrict the right of a partner under IC 23-16.1-12-10(a) to approve a conversion or merger or the right of a general partner under IC 23-16.1-12-10(b) to consent to an amendment to the certificate of limited partnership that deletes a statement that the limited partnership is a limited liability limited partnership; or

(13) restrict rights under this article of a person other than a partner or a transferee.

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

(1) a current list showing the full name and last known street address and mailing address of each partner, separately identifying the general partners, in alphabetical order, and the limited partners, in alphabetical order;

(2) a copy of the initial certificate of limited partnership and all amendments to and restatements of the certificate, together with signed copies of any powers of attorney under which any certificate, amendment, or restatement has been signed;

(3) a copy of any filed articles of conversion or merger;

(4) a copy of the limited partnership's federal, state, and local income tax returns and reports, if any, for the three (3) most recent years;

(5) a copy of any partnership agreement made in a record and any amendment made in a record to any partnership agreement;

(6) a copy of any financial statement of the limited partnership for the three (3) most recent years;

(7) a copy of the three (3) most recent biennial reports delivered by the limited partnership to the secretary of state under IC 23-16.1-3-10;

(8) a copy of any record made by the limited partnership during the past three (3) years of any consent given by or vote

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taken of any partner with respect to any action authorized by this article or the partnership agreement; and

(9) unless contained in a partnership agreement made in a record, a record stating:

(A) the amount of cash, and a description and statement of the agreed value of the other benefits, contributed and agreed to be contributed by each partner;

(B) the times at which, or events on the happening of which, any additional contributions agreed to be made by each partner are to be made;

(C) for any person that is both a general partner and a limited partner, a specification of what transferable interest the person owns in each capacity; and

(D) any events upon the happening of which the limited partnership is to be dissolved and its activities wound up.

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

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

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

(1) an office, which need not be a place of its activity in this state; and

(2) an agent for service of process.

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

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

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

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to the secretary of state for filing a statement of change containing:

(1) the name of the limited partnership or foreign limited partnership;

(2) the street address and the mailing address of its current designated office;

(3) if the current designated office is to be changed, the street address and the mailing address of the new designated office;

(4) the name, street address, and mailing address of its current agent for service of process; and

(5) if the current agent for service of process or an address of the agent is to be changed, the new information.

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

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

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

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

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

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

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

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

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

(1) the date the limited partnership or foreign limited partnership receives the process, notice, or demand;

(2) the date shown on the return receipt, if signed on behalf of the limited partnership or foreign limited partnership; or

(3) five (5) days after the process, notice, or demand is deposited in the mail, if mailed postpaid and correctly addressed.

(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.

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

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

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

(1) the name of the limited partnership, which must comply with IC 23-16.1-2-7;

(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;

(4) the name, street address, and mailing address of each general partner;

(5) whether the limited partnership is a limited liability limited partnership; and

(6) any additional information required by IC 23-16.1-12.

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

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

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

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

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

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

(1) the name of the limited partnership;

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

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

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

(1) the admission of a new general partner;

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

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

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

(1) cause the certificate to be amended; or

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

(d) A certificate of limited partnership may be amended at any 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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the alternative.

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

Sec. 6. (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. Unless the secretary of state determines that a record does not comply with the filing requirements of this article, and if all filing fees have been paid, the secretary of state shall file the record and:

(1) for a statement of dissociation, send:

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

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

(2) for a statement of withdrawal, send:

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

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

(3) 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 a fee, the secretary of state shall send to the requester a certified copy of the requested record.

(c) Except as otherwise provided in IC 23-16.1-2-15 or section 7 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. Except as otherwise provided in this article, a record filed by the secretary of state is effective:

(1) if the record does not specify an effective time and does not specify 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:

(A) the specified date; or

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(B) the ninetieth day after the record is filed; or

(4) if the record specifies an effective time and a delayed effective date, at the specified time on the earlier of:

(A) the specified date; or

(B) the ninetieth day after the record is filed.

Sec. 7. (a) A limited partnership or foreign limited partnership may deliver to the secretary of state for filing a statement of correction to correct a record previously delivered by the limited partnership or foreign limited partnership to the secretary of state and filed by the secretary of state, if at the time of filing the record:

(1) contained false or erroneous information; or

(2) was defectively signed.

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

(1) describe the record to be corrected, including its filing date, or attach a copy of the record as filed;

(2) specify the incorrect information and the reason it is incorrect or the manner in which the signing was defective; and

(3) correct the incorrect information or defective signature.

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

(1) for the purposes of IC 23-16.1-2-2(c) and IC 23-16.1-2-2(d); and

(2) as to persons relying on the uncorrected record and adversely affected by the correction.

Sec. 8. (a) If a record delivered to the secretary of state for filing under this article and filed by the secretary of state contains false information, a person that suffers loss by reliance on the information may recover damages for the loss from:

(1) a person that signed the record, or caused another to sign it on the person's behalf, and knew the information to be false at the time the record was signed; and

(2) a general partner that has notice that the information was false when the record was filed or has become false because of changed circumstances, if the general partner has notice for a reasonably sufficient time before the information is relied upon to enable the general partner to:

(A) effect an amendment under section 2 of this chapter;

(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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(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 foreign limited partnership's most recent biennial report required by section 10 of this chapter has been filed by the secretary of state;

(5) that the secretary of state has not revoked its certificate of authority and has not filed a notice of cancellation; and

(6) other facts of record in the office of the secretary of state that may be requested by the applicant.

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

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

(1) the name of the limited partnership or foreign limited partnership;

(2) the street address and the mailing address of its designated office;

(3) the name, street address, and mailing address of its agent for service of process in this state;

(4) in the case of a limited partnership, the street address and the mailing address of its principal office; and

(5) in the case of a foreign limited partnership, the state or other jurisdiction under whose law the foreign limited partnership is formed and any alternate name adopted under IC 23-16.1-10-5(a).

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

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

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

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

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

Chapter 4. Limited Partners

Sec. 1. A person becomes a limited partner:

(1) as provided in the partnership agreement;

(2) as the result of a conversion or merger under IC 23-16.1-12; or

(3) with the consent of all the partners.

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

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

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

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

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(1) the limited partner seeks the information for a purpose reasonably related to the partner's interest as a limited partner;

(2) the limited partner makes a demand in a record received by the limited partnership, describing with reasonable particularity the information sought and the purpose for seeking the information; and

(3) the information sought is directly connected to the limited partner's purpose.

(c) Within ten (10) days after receiving a demand under subsection (b), the limited partnership in a record shall inform the limited partner that made the demand:

(1) what information the limited partnership will provide in response to the demand;

(2) when and where the limited partnership will provide the information; and

(3) if the limited partnership declines to provide any demanded information, the limited partnership's reasons for declining.

(d) Subject to subsection (f), a person dissociated as a limited partner may inspect and copy required information during regular business hours in the limited partnership's designated office if:

(1) the information pertains to the period during which the person was a limited partner;

(2) the person seeks the information in good faith; and

(3) the person meets the requirements of subsection (b).

(e) The limited partnership shall respond to a demand made under subsection (d) in the same manner as provided in subsection (c).

(f) If a limited partner dies, IC 23-16.1-8-4 applies.

(g) The limited partnership may impose reasonable restrictions on the use of information obtained under this section. In a dispute concerning the reasonableness of a restriction under this subsection, the limited partnership has the burden of proving reasonableness.

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

(i) Whenever this article or a partnership agreement provides for a limited partner to give or withhold consent to a matter, before the consent is given or withheld, the limited partnership shall, without demand, provide the limited partner with all

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information material to the limited partner's decision that the limited partnership knows.

(j) A limited partner or person dissociated as a limited partner may exercise the rights under this section through an attorney or other agent. Any restriction imposed under subsection (g) or by the partnership agreement applies both to the attorney or other agent and to the limited partner or person dissociated as a limited partner.

(k) The rights stated in this section do not extend to a person as transferee, but may be exercised by the legal representative of an individual under legal disability who is a limited partner or person dissociated as a limited partner.

Sec. 5. (a) A limited partner does not have any fiduciary duty to the limited partnership or to any other partner solely by reason of being a limited partner.

(b) A limited partner shall discharge the duties to the partnership and the other partners under this article or under the partnership agreement and exercise any rights consistently with the obligation of good faith and fair dealing.

(c) A limited partner does not violate a duty or obligation under this article or under the partnership agreement merely because the limited partner's conduct furthers the limited partner's own interest.

Sec. 6. (a) Except as otherwise provided in subsection (b), if a person makes an investment in a business enterprise and erroneously but in good faith believes that the person has become a limited partner in the enterprise, the person is not liable for the enterprise's obligations by reason of making the investment, receiving distributions from the enterprise, or exercising any rights of or appropriate to a limited partner, if, on ascertaining the mistake, the person:

(1) causes an appropriate certificate of limited partnership, amendment, or statement of correction to be signed and delivered to the secretary of state for filing; or

(2) withdraws from future participation as an owner in the enterprise by signing and delivering to the secretary of state for filing a statement of withdrawal under this section.

(b) A person that makes an investment described in subsection (a) is liable to the same extent as a general partner to any third party that enters into a transaction with the enterprise, believing in good faith that the person is a general partner, before the secretary of state files a statement of withdrawal, certificate of

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

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

Chapter 5. General Partners

Sec. 1. A person becomes a general partner:

(1) as provided in the partnership agreement;

(2) under IC 23-16.1-9-1(3)(B) following the dissociation of a limited partnership's last general partner;

(3) as the result of a conversion or merger under IC 23-16.1-12; or

(4) with the consent of all the partners.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(1) amend the partnership agreement;

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

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

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

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

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

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

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

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

(2) at a reasonable location specified by the limited

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partnership, any other records maintained by the limited partnership regarding the limited partnership's activities and financial condition.

(b) Each general partner and the limited partnership shall furnish to a general partner:

(1) without demand, any information concerning the limited partnership's activities and activities reasonably required for the proper exercise of the general partner's rights and duties under the partnership agreement or this article; and

(2) on demand, any other information concerning the limited partnership's activities, except to the extent the demand or the information demanded is unreasonable or otherwise improper under the circumstances.

(c) Subject to subsection (e), on ten (10) days demand made in a record received by the limited partnership, a person dissociated as a general partner may have access to the information and records described in subsection (a) at the location specified in subsection (a) if:

(1) the information or record pertains to the period during which the person was a general partner;

(2) the person seeks the information or record in good faith; and

(3) the person satisfies the requirements imposed on a limited partner by IC 23-16.1-4-4(b).

(d) The limited partnership shall respond to a demand made under subsection (c) in the same manner as provided in IC 23-16.1-4-4(c).

(e) If a general partner dies, IC 23-16.1-8-4 applies.

(f) The limited partnership may impose reasonable restrictions on the use of information under this section. In any dispute concerning the reasonableness of a restriction under this subsection, the limited partnership has the burden of proving reasonableness.

(g) A limited partnership may charge a person dissociated as a general partner that makes a demand under this section reasonable costs of copying, limited to the costs of labor and material.

(h) A general partner or person dissociated as a general partner may exercise the rights under this section through an attorney or other agent. Any restriction imposed under subsection (f) or by the partnership agreement applies both to the attorney or other agent and to the general partner or person dissociated as a general partner.

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

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

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

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

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

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

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

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

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

Chapter 6. Contributions and Distributions

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

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

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

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

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

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

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

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

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

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

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

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(1) the limited partnership would not be able to pay its debts as they become due in the ordinary course of the limited partnership's activities; or

(2) the limited partnership's total assets would be less than the sum of its total liabilities plus the amount that would be needed, if the limited partnership were to be dissolved, wound up, and terminated at the time of the distribution, to satisfy the preferential rights upon dissolution, winding up, and termination of partners whose preferential rights are superior to those of persons receiving the distribution.

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

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

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

(2) in all other cases, as of the date:

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

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

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

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

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

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

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

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

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

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

(2) implead in the action any person that received a distribution in violation of subsection (b) and compel contribution from the person in the amount the person received in violation of subsection (b).

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

Chapter 7. Dissociation

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

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

(1) the limited partnership's having notice of the person's express will to withdraw as a limited 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 limited partner;

(3) the person's expulsion as a limited partner in accordance with the terms of the partnership agreement;

(4) the person's expulsion as a limited 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 limited partner;

(B) there has been a transfer of 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

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after the limited partnership notifies the person that it will be expelled as a limited 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 reinstatement of its charter or its right to conduct business; or

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

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

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

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

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

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

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

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

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

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

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

(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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reinstatement of its charter or its right to conduct business; or

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

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

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

(B) the person willfully or persistently committed a material breach of the partnership agreement or of a duty owed to the partnership or the other partners under IC 23-16.1-5-8; or

(C) the person engaged in conduct relating to the limited partnership's activities which makes it not reasonably practicable to carry on the activities of the limited partnership with the person as a general partner;

(6) the person's:

(A) becoming a debtor in bankruptcy;

(B) execution of an assignment for the benefit of creditors;

(C) seeking, consenting to, or acquiescing in the appointment of a trustee, receiver, or liquidator of the person or of all or substantially all of the person's property; or

(D) failure, within ninety (90) days after the appointment, to have vacated or stayed the appointment of a trustee, receiver, or liquidator of the general partner or of all or substantially all of the person's property obtained without the person's consent or acquiescence, or failing within ninety (90) days after the expiration of a stay to have the appointment vacated;

(7) in the case of a person who is an individual:

(A) the person's death;

(B) the appointment of a guardian or general conservator for the person; or

(C) a judicial determination that the person has otherwise become incapable of performing the person's duties as a general partner under the partnership agreement;

(8) in the case of a person that is a trust or is acting as a general partner by virtue of being a trustee of a trust, distribution of the trust's entire transferable interest in the

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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management and conduct of the partnership's activities terminates;

(2) the person's duty of loyalty as a general partner under IC 23-16.1-5-8(b)(3) terminates;

(3) the person's duty of loyalty as a general partner under IC 23-16.1-5-8(b)(1) and IC 23-16.1-5-8(b)(2) and duty of care under IC 23-16.1-5-8(c) continue only with regard to matters arising and events occurring before the person's dissociation as a general partner;

(4) the person may sign and deliver to the secretary of state for filing a statement of dissociation pertaining to the person and, at the request of the limited partnership, shall sign an amendment to the certificate of limited partnership that states that the person has dissociated; and

(5) subject to IC 23-16.1-8-4 and IC 23-16.1-12, any transferable interest owned by the person immediately before dissociation in the person's capacity as a general partner is owned by the person as a mere transferee.

(b) A person's dissociation as a general 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 general partner.

Sec. 6. (a) After a person is dissociated as a general partner and before the limited partnership is dissolved, converted under IC 23-16.1-12, or merged out of existence under IC 23-16.1-12, the limited partnership is bound by an act of the person only if:

(1) the act would have bound the limited partnership under IC 23-16.1-5-2 before the dissociation; and

(2) at the time the other party enters into the transaction:

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

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

(b) If a limited partnership is bound under subsection (a), the person dissociated as a general partner that caused the limited partnership to be bound is liable:

(1) to the limited partnership for any damage caused to the limited partnership arising from the obligation incurred under subsection (a); and

(2) if a general partner or another person dissociated as a general partner is liable for the obligation, to the general

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

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

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

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

(1) a general partner would be liable on the transaction; and

(2) at the time the other party enters into the transaction:

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

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

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

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

Chapter 8. Transferable Interests and Rights of Transferees and Creditors

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

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

(1) is permissible;

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(2) does not by itself cause the partner's dissociation or a dissolution and winding up of the limited partnership's activities; and

(3) does not, as against the other partners or the limited partnership, entitle the transferee to participate in the management or conduct of the limited partnership's activities, to require access to information concerning the limited partnership's transactions except as otherwise provided in subsection (c), or to inspect or copy the required information or the limited partnership's other records.

(b) A transferee has a right to receive, in accordance with the transfer:

(1) distributions to which the transferor would otherwise be entitled; and

(2) upon the dissolution and winding up of the limited partnership's activities, the net amount otherwise distributable to the transferor.

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

(d) Upon transfer, the transferor retains the rights of a partner other than the interest in distributions transferred and retains all duties and obligations of a partner.

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

(f) A transfer of a partner's transferable interest in the limited partnership in violation of a restriction on transfer contained in the partnership agreement is ineffective as to a person having notice of the restriction at the time of transfer.

(g) A transferee that becomes a partner with respect to a transferable interest is liable for the transferor's obligations under IC 23-16.1-6-2 and IC 23-16.1-6-9. However, the transferee is not obligated for liabilities unknown to the transferee at the time the transferee became a partner.

Sec. 3. (a) On application to a court with jurisdiction by any judgment creditor of a partner or transferee, the court may charge the transferable interest of the judgment debtor with payment of the unsatisfied amount of the judgment with interest. To the extent so charged, the judgment creditor has only the rights of a transferee. The court may appoint a receiver of the share of the distributions due or to become due to the judgment 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) has the powers of a general partner under section 4 of this chapter; and

(2) shall promptly amend the certificate of limited partnership to state:

(A) that the limited partnership does not have a general partner;

(B) the name of the person that has been appointed to wind up the limited partnership; and

(C) the street address and the mailing address of the person.

(d) On the application of any partner, the circuit or superior court may order judicial supervision of the winding up, including the appointment of a person to wind up the dissolved limited partnership's activities, if:

(1) a limited partnership does not have a general partner and within a reasonable time following the dissolution no person has been appointed as provided in subsection (c); or

(2) the applicant establishes other good cause.

Sec. 4. (a) A limited partnership is bound by a general partner's act after dissolution that:

(1) is appropriate for winding up the limited partnership's activities; or

(2) would have bound the limited partnership under IC 23-16.1-5-2 before dissolution, if, at the time the other party enters into the transaction, the other party does not have notice of the dissolution.

(b) A person dissociated as a general partner binds a limited partnership through an act occurring after dissolution if:

(1) at the time the other party enters into the transaction:

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

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

(2) the act:

(A) is appropriate for winding up the limited partnership's activities; or

(B) would have bound the limited partnership under IC 23-16.1-5-2 before dissolution and at the time the other party enters into the transaction the other party does not have notice of the dissolution.

Sec. 5. (a) If a general partner having knowledge of the

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

(1) to the limited partnership for any damage caused to the limited partnership arising from the obligation; and

(2) if another general partner or a person dissociated as a general partner is liable for the obligation, to that other general partner or person for any damage caused to that other general partner or person arising from the liability.

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

(1) to the limited partnership for any damage caused to the limited partnership arising from the obligation; and

(2) if a general partner or another person dissociated as a general partner is liable for the obligation, to the general partner or other person for any damage caused to the general partner or other person arising from the liability.

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

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

(1) specify the information required to be included in a claim;

(2) provide a mailing address to which the claim is to be sent;

(3) state the deadline for receipt of the claim, which may not be less than one hundred twenty (120) days after the date the notice is received by the claimant;

(4) state that the claim will be barred if not received by the deadline; and

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

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

(1) the claim is not received by the specified deadline; or

(2) in the case of a claim that is timely received but rejected by the dissolved limited partnership, the claimant does not

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

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

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

(b) The notice must:

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

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

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

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

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

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

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

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

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

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

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(2) if the assets have been distributed in liquidation, against a partner or transferee to the extent of that person's proportionate share of the claim or the limited partnership's assets distributed to the partner or transferee in liquidation, whichever is less, but a person's total liability for all claims under this subdivision does not exceed the total amount of assets distributed to the person as part of the winding up of the dissolved limited partnership; or

(3) against any person liable on the claim under IC 23-16.1-5-4.

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

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

(1) pay any fee, tax, or penalty due to the secretary of state under this article or other law; or

(2) deliver its biennial report to the secretary of state.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

Chapter 10. Foreign Limited Partnerships

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

(1) relations among the partners of the foreign limited

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partnership;

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

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

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

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

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

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

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

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

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

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

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

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

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

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this article include:

(1) maintaining, defending, and settling an action or proceeding;

(2) holding meetings of its partners or carrying on any other activity concerning its internal affairs;

(3) maintaining accounts in financial institutions;

(4) maintaining offices or agencies for the transfer, exchange, and registration of the foreign limited partnership's own securities or maintaining trustees or depositories with respect to those securities;

(5) selling through independent contractors;

(6) soliciting or obtaining orders, whether by mail or electronic means or through employees or agents or otherwise, if the orders require acceptance outside this state before they become contracts;

(7) creating or acquiring indebtedness, mortgages, or security interests in real or personal property;

(8) securing or collecting debts or enforcing mortgages or other security interests in property securing the debts, and holding, protecting, and maintaining property so acquired;

(9) conducting an isolated transaction that is completed within thirty (30) days and is not a transaction in the course of similar transactions of a like manner; and

(10) transacting business in interstate commerce.

(b) For purposes of this article, the ownership in this state of income producing real property or tangible personal property, other than property excluded under subsection (a), constitutes transacting business in this state.

(c) This section does not apply in determining the contacts or activities that may subject a foreign limited partnership to service of process, taxation, or regulation under any other law of this state.

Sec. 4. Unless the secretary of state determines that an application for a certificate of authority does not comply with the filing requirements of this article, the secretary of state, upon payment of all filing fees, shall file the application, prepare, sign and file a certificate of authority to transact business in this state, and send a copy of the filed certificate, together with a receipt for the fees, to the foreign limited partnership or its representative.

Sec. 5. (a) A foreign limited partnership whose name does not comply with IC 23-16.1-2-7 may not obtain a certificate of authority until the foreign limited partnership adopts, for the purpose of transacting business in this state, an alternate name that

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

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

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

(1) pay, within sixty (60) days after the due date, any fee, tax, or penalty due to the secretary of state under this article or other law;

(2) deliver, within sixty (60) days after the due date, its biennial report required under IC 23-16.1-3-10;

(3) appoint and maintain an agent for service of process as required by IC 23-16.1-2-13(b); or

(4) deliver for filing a statement of a change under IC 23-16.1-2-14 within thirty (30) days after a change has occurred in the name or address of the agent.

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

(1) the revocation's effective date, which must be at least sixty (60) days after the date the secretary of state sends the copy; and

(2) the foreign limited partnership's failures to comply with subsection (a), which are the reason for the revocation.

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

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

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

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

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

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

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

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

Chapter 11. Actions by Partners

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

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

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

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

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

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

(2) a demand would be futile.

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

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

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

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

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

(2) why demand should be excused as futile.

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

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

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

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

Chapter 12. Conversion and Merger

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

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

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

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

(1) as provided in the plan; and

(2) except as prohibited by the plan, by the same consent as was required to approve the plan.

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

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

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

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

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

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

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

(F) if the converted 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 5(c) of this chapter; and

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

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

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

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

(b) A conversion becomes effective:

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

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

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as provided by the governing statute of the converted organization.

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

(b) When a conversion takes effect:

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

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

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

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

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

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

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

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

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

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

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(3) each of the other organizations complies with its governing statute in effecting the merger.

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

(1) the name and form of each constituent organization;

(2) the name and form of the surviving organization and, if the surviving organization is to be created by the merger, a statement to that effect;

(3) the terms and conditions of the merger, including the manner and basis for converting the interests in each constituent organization into any combination of money, interests in the surviving organization, and other consideration;

(4) if the surviving organization is to be created by the merger, the surviving organization's organizational documents; and

(5) if the surviving organization is not to be created by the merger, any amendments to be made by the merger to the surviving organization's organizational documents.

Sec. 7. (a) Subject to section 10 of this chapter, a plan of merger must be consented to by all the partners of a constituent limited partnership.

(b) Subject to section 10 of this chapter and any contractual rights, after a merger is approved, and at any time before a filing is made under section 8 of this chapter, a constituent limited partnership may amend the plan or abandon the planned merger:

(1) as provided in the plan; and

(2) except as prohibited by the plan, with the same consent as was required to approve the plan.

Sec. 8. (a) After each constituent organization has approved a merger, articles of merger must be signed on behalf of:

(1) each preexisting constituent limited partnership, by each general partner listed in the certificate of limited partnership; and

(2) each other preexisting constituent organization, by an authorized representative.

(b) The articles of merger must include:

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

(2) the name and form of the surviving organization, the jurisdiction of its governing statute, and, if the surviving organization is created by the merger, a statement to that 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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obligations of the surviving organization;

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

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

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

(8) except as otherwise agreed, if a constituent limited partnership ceases to exist, the merger does not dissolve the limited partnership for the purposes of IC 23-16.1-9;

(9) if the surviving organization is created by the merger:

(A) if it is a limited partnership, the certificate of limited partnership becomes effective; or

(B) if it is an organization other than a limited partnership, the organizational document that creates the organization becomes effective; and

(10) if the surviving organization preexists the merger, any amendments provided for in the articles of merger for the organizational document that created the organization become effective.

(b) A surviving organization that is a foreign organization consents to the jurisdiction of the courts of this state to enforce any obligation owed by a constituent organization, if before the merger the constituent organization was subject to suit in this state on the obligation. A surviving organization that is a foreign organization and is not authorized to transact business in this state appoints the secretary of state as its agent for service of process for purposes of enforcing an obligation under this subsection. Service on the secretary of state under this subsection is made in the same manner and with the same consequences as in IC 23-16.1-2-16(c) and IC 23-16.1-2-16(d).

Sec. 10. (a) If a partner of a converting or constituent limited partnership will have personal liability with respect to a converted or surviving organization, approval and amendment of a plan of conversion or merger are ineffective without the consent of the partner, unless:

(1) the limited partnership's partnership agreement provides for the approval of the conversion or merger with the consent of fewer than all the partners; and

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

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

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

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

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

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

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

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

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

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

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

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

(1) a person that immediately before a conversion or merger became effective was a general partner in a converting or constituent limited partnership that was not a limited liability limited partnership is personally liable for each obligation of 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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effect without the invalid provision or application, and to this end the provisions of this article are severable.

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

Sec. 4. (a) Before July 1, 2012, this article governs only:

(1) a limited partnership formed after June 30, 2011; and

(2) except as otherwise provided in subsections (c) and (d), a limited partnership formed before July 1, 2011, that elects, in the manner provided in its partnership agreement or by law for amending the partnership agreement, to be subject to this article.

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

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

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

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

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

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

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

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

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

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limited partnership's general partners to third parties apply:

(1) before July 1, 2012, to:

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

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

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

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

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

Record	Electronic Filing Fee	Filing Fee (Other than electronic filing)
(1) Application for reservation of name	$10	$20
(2) Application for use of indistinguishable name	$10	$20
(3) Application for renewal of reservation	$10	$20
(4) Notice of transfer of reserved name	$10	$20
(5) Certificate of change of registered agent's business address	No fee	No fee
(6) Certificate of resignation of agent	No fee	No fee
(7) Certificate of limited partnership	$75	$90
(8) Certificate of amendment	$20	$30
(9) Certificate of cancellation	$75	$90
(10) Restated certificate of limited partnership or		

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authority	**$20**	**$30**
(11) Restated certificate of limited partnership or authority with amendments	**$20**	**$30**
(12) Application for certificate of authority	**$75**	**$90**
(13) Certificate of change of application	**$20**	**$30**
(14) Notice of cancellation of certificate of authority	**$20**	**$30**
(15) Certificate of change of registered agent	**No fee**	**No fee**
(16) Application for certificate of existence or authority	**$15**	**$15**
(17) Biennial report	**$20**	**$30**
(18) Any other record required or permitted to be filed under this article, including an application for any other certificates or certification certificate (except for any such other certificates that the secretary of state may determine to issue without additional fee in connection with particular filings)	**$20**	**$30**

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

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

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

(1) Per page for copying	**$ 1**
(2) For a certification stamp	**$15**

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

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

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(c) A record must be typewritten or printed.

(d) The record must be legible and otherwise suitable for filing.

(e) The record must be in the English language. A limited partnership name need not be in English if written in English letters or Arabic or Roman numerals.

(f) Every person executing the record shall sign it and state beneath or opposite the signature the person's name and the capacity in which the person signs. A signature on a record authorized to be filed under this article may be a facsimile. A signature on a record under this subsection that is transmitted and filed electronically is sufficient if the person transmitting and filing the record:

(1) has the intent to file the record as evidenced by a symbol executed or adopted by a party with present intention to authenticate the filing; and

(2) enters the filing party's name on the electronic form in a signature box or other place indicated by the secretary of state.

(g) The record must be delivered to the office of the secretary of state as required by section 8 of this chapter, and the correct filing fee must be paid in the manner and form required by the secretary of state.

(h) The secretary of state may accept payment of the correct filing fee by credit card, debit card, charge card, or similar method. However, if the filing fee is paid by credit card, debit card, charge card, or similar method, the liability is not finally discharged until the secretary of state receives payment or credit from the institution responsible for making the payment or credit. The secretary of state may contract with a bank or credit card vendor for acceptance of bank or credit cards. However, if there is a vendor transaction charge or discount fee, whether billed to the secretary of state or charged directly to the secretary of state's account, the secretary of state or the credit card vendor may collect from the person using the bank or credit card a fee that may not exceed the highest transaction charge or discount fee charged to the secretary of state by the bank or credit card vendor during the most recent collection period. This fee may be collected regardless of any agreement between the bank and a credit card vendor or regardless of any internal policy of the credit card vendor that may prohibit this type of fee. The fee is an additional charge permitted under IC 24-4.5-3-202.

Sec. 8. (a) For purposes of this article, a record is delivered for

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

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

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

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

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

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

ARTICLE 18.1. LIMITED LIABILITY COMPANIES

Chapter 1. Definitions

Sec. 1. The definitions in this chapter apply throughout this article.

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

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

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

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

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

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

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

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

Sec. 5. "Designated office" means:

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(1) the office that a limited liability company is required to designate and maintain under IC 23-18.1-2-12; or

(2) the principal office of a foreign limited liability company.

Sec. 6. "Distribution", except as otherwise provided in IC 23-18.1-5-5(g), means a transfer of money or other property from a limited liability company to another person on account of a transferable interest.

Sec. 7. "Effective", with respect to a record required or permitted to be delivered to the secretary of state for filing under this article, means effective under IC 23-18.1-3-5(c).

Sec. 8. "Foreign limited liability company" means an unincorporated entity formed under the law of a jurisdiction other than this state and denominated by that law as a limited liability company.

Sec. 9. "Limited liability company", except in the term "foreign limited liability company", means an entity formed under this article.

Sec. 10. "Manager" means a person that under the operating agreement of a manager managed limited liability company is responsible, alone or in concert with others, for performing the management functions stated in IC 23-18.1-5-7(c).

Sec. 11. "Manager managed limited liability company" means a limited liability company whose operating agreement conforms with IC 23-18.1-5-7(a)(1) or IC 23-18.1-5-7(a)(2).

Sec. 12. "Member" means a person that has become a member of a limited liability company under IC 23-18.1-5-1 and has not dissociated under IC 23-18.1-7-2.

Sec. 13. "Member managed limited liability company" means a limited liability company that is not a manager managed limited liability company.

Sec. 14. "Operating agreement" means the agreement, whether or not referred to as an operating agreement and whether oral, in a record, implied, or some combination thereof, of all the members of a limited liability company, including a sole member, concerning the matters described in IC 23-18.1-2-9(a). The term includes the agreement as amended or restated.

Sec. 15. "Organizer" means a person that acts under IC 23-18.1-3-1 to form a limited liability company.

Sec. 16. "Person" means an individual, corporation, business trust, estate, trust, partnership, limited liability company, association, joint venture, public corporation, government or 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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(d) A person that is not a member is considered:

(1) to know of a limitation on authority to transfer real property as provided in IC 23-18.1-4-2(g); and

(2) to have notice of a limited liability company's:

(A) dissolution, ninety (90) days after a statement of dissolution under IC 23-18.1-8-2(b)(2)(A) becomes effective;

(B) termination, ninety (90) days after a statement of termination under IC 23-18.1-8-2(b)(2)(F) becomes effective; and

(C) merger, conversion, or domestication, ninety (90) days after articles of merger, conversion, or domestication under IC 23-18.1-11 become effective.

Sec. 3. (a) A limited liability company is an entity distinct from its members.

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

(c) A limited liability company has perpetual duration.

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

Sec. 5. The law of this state governs:

(1) the internal affairs of a limited liability company; and

(2) the liability of a member as member and a manager as manager for the debts, obligations, or other liabilities of a limited liability company.

Sec. 6. Unless displaced by particular provisions of this article, the principles of law and equity supplement this article.

Sec. 7. (a) The name of a limited liability company must contain the words "limited liability company" or "limited company" or the abbreviation "L.L.C.", "LLC", "L.C.", or "LC". "Limited" may be abbreviated as "Ltd.", and "company" may be abbreviated as "Co.".

(b) Unless authorized by subsection (c), the name of a limited liability company must be distinguishable in the records of the secretary of state from:

(1) the name of each person that is not an individual and that is incorporated, organized, or authorized to transact business in this state;

(2) the limited liability company name stated in each certificate of organization that contains the statement as provided in IC 23-18.1-3-1(b)(4) and that has not lapsed; and

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

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

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

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

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

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

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

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

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

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

(3) the activities of the company and the conduct of those 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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(B) as required in IC 23-18.1-5-9(b)(2) and IC 23-18.1-5-9(g), to refrain from dealing with the company in the conduct or winding up of the company's business as or on behalf of a party having an interest adverse to the company; and

(C) as required by IC 23-18.1-5-9(b)(3) and IC 23-18.1-5-9(g), to refrain from competing with the company in the conduct of the company's business before the dissolution of the company;

(2) identify specific types or categories of activities that do not violate the duty of loyalty;

(3) alter the duty of care, except to authorize intentional misconduct or knowing violation of law;

(4) alter any other fiduciary duty, including eliminating particular aspects of that duty; and

(5) prescribe the standards by which to measure the performance of the contractual obligation of good faith and fair dealing under IC 23-18.1-5-9(d).

(e) The operating agreement may specify the method by which a specific act or transaction that would otherwise violate the duty of loyalty may be authorized or ratified by one (1) or more disinterested and independent persons after full disclosure of all material facts.

(f) To the extent the operating agreement of a member managed limited liability company expressly relieves a member of a responsibility that the member would otherwise have under this article and imposes the responsibility on one (1) or more other members, the operating agreement may, to the benefit of the member that the operating agreement relieves of the responsibility, also eliminate or limit any fiduciary duty that would have pertained to the responsibility.

(g) The operating agreement may alter or eliminate the indemnification for a member or manager provided by IC 23-18.1-5-8(a) and may eliminate or limit a member or manager's liability to the limited liability company and members for money damages, except for:

(1) breach of the duty of loyalty;

(2) a financial benefit received by the member or manager to which the member or manager is not entitled;

(3) a breach of a duty under IC 23-18.1-5-6;

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

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

(1) the operating agreement prevails as to members, dissociated members, transferees, and managers; and

(2) the record prevails as to other persons to the extent other persons reasonably rely on the record.

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

(1) an office, which need not be a place of its activity in this state; and

(2) an agent for service of process.

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

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

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

(1) the name of the company;

(2) the street address and the mailing address of its current designated office;

(3) if the current designated office is to be changed, the street address and the mailing address of the new designated office;

(4) the name, street address, and mailing address of its current agent for service of process; and

(5) if the current agent for service of process or an address of the agent is to be changed, the new information.

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

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

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

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

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

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

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

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

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

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

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

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

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

(3) five (5) days after the process, notice, or demand is 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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(A) the specified date; or

(B) the ninetieth day after the record is filed; or

(4) if the record specifies an effective time and a delayed effective date, at the specified time on the earlier of:

(A) the specified date; or

(B) the ninetieth day after the record is filed.

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

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

(1) describe the record to be corrected, including its filing date, or attach a copy of the record as filed;

(2) specify the inaccurate information and the reason it is inaccurate or the manner in which the signing was defective; and

(3) correct the defective signature or inaccurate information.

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

(1) for purposes of IC 23-18.1-2-2(d); and

(2) as to persons that previously relied on the uncorrected record and would be adversely affected by the retroactive effect.

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

(1) a person that:

(A) signed the record, or caused another to sign it on the person's behalf; and

(B) knew the information to be inaccurate at the time the record was signed; and

(2) subject to subsection (b), a member of a member managed limited liability company or the manager of a manager managed limited liability company, if:

(A) the record was delivered for filing on behalf of the 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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secretary of state; and

(8) other facts of record in the office of the secretary of state that are specified by the person requesting the certificate.

(b) The secretary of state, upon request and payment of the requisite fee, shall furnish to any person a certificate of authorization for a foreign limited liability company 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 company's name and any alternate name adopted under IC 23-18.1-9-5(a) for use in this state;

(2) that the company is authorized to transact business in this state;

(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) that the secretary of state has not revoked the company's certificate of authority and has not filed a notice of cancellation; and

(6) other facts of record in the office of the secretary of state that are specified by the person requesting the certificate.

(c) Subject to any qualification stated in the certificate, a certificate of existence or certificate of authorization issued by the secretary of state is conclusive evidence that the limited liability company is in existence or the foreign limited liability company is authorized to transact business in this state.

Sec. 9. (a) Every two (2) years, a limited liability company or a foreign limited liability company authorized to transact business in this state shall deliver to the secretary of state for filing a report that states:

(1) the name of the company;

(2) the street address and the mailing address of the company's designated office;

(3) the name, street address, and mailing address of the company's agent for service of process in this state;

(4) the street address and the mailing address of the company's principal office; and

(5) in the case of a foreign limited liability company, the state or other jurisdiction under whose law the company is formed

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and any alternate name adopted under IC 23-18.1-9-5(a).

(b) Information in a biennial report under this section must be current as of the date the report is delivered to the secretary of state for filing.

(c) The first biennial report under this section must be delivered to the secretary of state in the second year following the calendar year in which a limited liability company was formed or a foreign limited liability company was authorized to transact business. The report is due during the same month as the month in which the limited liability company was organized or authorized to transact business. Subsequent biennial reports must be delivered to the secretary of state during the same month every two (2) calendar years thereafter. The secretary of state may accept biennial reports during the two (2) months before the month the limited liability company's report is due.

(d) If a biennial report under this section does not contain the information required in subsection (a), the secretary of state shall promptly notify the reporting limited liability company or foreign limited liability company and return the report to the limited liability company or foreign limited liability company for correction. If the report is corrected to contain the information required in subsection (a) and delivered to the secretary of state within thirty (30) days after the effective date of the notice, the report is timely delivered.

(e) If a biennial report submitted under this section contains an address of a designated office or the name or address of an agent for service of process that differs from the information shown in the records of the secretary of state immediately before the biennial report becomes effective, the differing information in the biennial report is considered a statement of change under IC 23-18.1-2-13.

Chapter 4. Relations of Members and Managers to Persons Dealing With Limited Liability Company

Sec. 1. (a) A member is not an agent of a limited liability company solely by reason of being a member.

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

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

(1) must include the name of the company, the street address of its designated office, and the mailing address of its

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designated office;

(2) with respect to any position that exists in or with respect to the company, may state the authority, or limitations on the authority, of all persons holding a position to:

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

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

(3) may state the authority, or limitations on the authority, of a specific person to:

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

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

(b) To amend or cancel a statement of authority filed by the secretary of state under IC 23-18.1-3-5(a), a limited liability company must deliver to the secretary of state for filing an amendment or cancellation stating:

(1) the name of the company;

(2) the street address and the mailing address of the company's designated office;

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

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

(c) A statement of authority affects only the power of a person to bind a limited liability company to persons that are not members.

(d) Subject to subsection (c) and IC 23-18.1-2-2(d) and except as otherwise provided in subsections (f), (g), and (h), a limitation on the authority of a person or a position contained in an effective statement of authority is not by itself evidence of knowledge or notice of the limitation by any person.

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

(1) the person has knowledge to the contrary;

(2) the statement has been canceled or restrictively amended 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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granting that person authority may deliver to the secretary of state for filing a statement of denial that:

(1) provides the name of the limited liability company and the caption of the statement of authority to which the statement of denial pertains; and

(2) denies the grant of authority.

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

(1) are solely the debts, obligations, or other liabilities of the company; and

(2) do not become the debts, obligations, or other liabilities of a member or manager solely by reason of the member acting as a member or manager acting as a manager.

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

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

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

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

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

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

(1) as provided in the operating agreement;

(2) as the result of a transaction effective under IC 23-18.1-11;

(3) with the consent of all the members; or

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

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

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

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

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

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

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

(2) in all other cases, as of the date:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(1) expressly provides that:

(A) the company is or will be "manager managed";

(B) the company is or will be "managed by managers"; or

(C) management of the company is or will be "vested in managers"; or

(2) includes words of similar import.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(D) amend the operating agreement.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(2) The company shall furnish to each member:

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

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

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

(b) In a manager managed limited liability company, the 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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this section through an agent or, in the case of an individual under legal disability, a legal representative. Any restriction or condition imposed by the operating agreement or under subsection (g) applies both to the agent or legal representative and the member or dissociated member.

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

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

Chapter 6. Transferable Interests and Rights of Transferees and Creditors

Sec. 1. A transferable interest is personal property.

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

(1) is permissible;

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(c) Upon a showing that distributions under a charging order will not pay the judgment debt within a reasonable time, the court may foreclose the lien and order the sale of the transferable interest. The purchaser at the foreclosure sale obtains only the transferable interest, does not thereby become a member, and is subject to section 2 of this chapter.

(d) At any time before foreclosure under subsection (c), the member or transferee whose transferable interest is subject to a charging order under subsection (a) may extinguish the charging order by satisfying the judgment and filing a certified copy of the

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satisfaction with the court that issued the charging order.

(e) At any time before foreclosure under subsection (c), a limited liability company or one (1) or more members whose transferable interests are not subject to the charging order may pay to the judgment creditor the full amount due under the judgment and thereby succeed to the rights of the judgment creditor, including the charging order.

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

(g) This section provides the exclusive remedy by which a person seeking to enforce a judgment against a member or transferee may, in the capacity of judgment creditor, satisfy the judgment from the judgment debtor's transferable interest.

Sec. 4. If a member dies, the deceased member's personal representative or other legal representative may exercise the rights of a transferee provided in section 2(c) of this chapter and, for the purposes of settling the estate, the rights of a current member under IC 23-18.1-5-10.

Chapter 7. Member's Dissociation

Sec. 1. (a) A person has the power to dissociate as a member at any time, rightfully or wrongfully, by withdrawing as a member by express will under section 2(1) of this chapter.

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

(1) is in breach of an express provision of the operating agreement; or

(2) occurs before the termination of the company and:

(A) the person withdraws as a member by express will;

(B) the person is expelled as a member by judicial order under section 2(5) of this chapter;

(C) the person is dissociated under section 2(7)(A) of this chapter by becoming a debtor in bankruptcy; or

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

(c) A person that wrongfully dissociates as a member is liable to the limited liability company and, subject to IC 23-18.1-10-1, to the other members for damages caused by the dissociation. The liability is in addition to any other debt, obligation, or other liability of the member to the company or the other members.

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Sec. 2. A person is dissociated as a member from a limited liability company when:

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

(2) an event stated in the operating agreement as causing the person's dissociation occurs;

(3) the person is expelled as a member under the operating agreement;

(4) the person is expelled as a member by the unanimous consent of the other members if:

(A) it is unlawful to carry on the company's activities with the person as a member;

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

(i) a transfer for security purposes; or

(ii) a charging order in effect under IC 23-18.1-6-3 that has not been foreclosed;

(C) the person is a corporation and, within ninety (90) days after the company notifies the person that the person will be expelled as a member because the person 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, the certificate of dissolution has not been revoked or its charter or right to conduct business has not been reinstated; or

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

(5) on application by the company, the person is expelled as a member by judicial order because the person:

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

(B) has willfully or persistently committed, or is willfully and persistently committing, a material breach of the operating agreement or the person's duties or obligations under IC 23-18.1-5-9; or

(C) has engaged in, or is engaging in, conduct relating to the company's activities that makes it not reasonably

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practicable to carry on the activities with the person as a member;

(6) in the case of a person who is an individual:

(A) the person dies; or

(B) in a member managed limited liability company:

(i) a guardian or general conservator for the person is appointed; or

(ii) there is a judicial order that the person has otherwise become incapable of performing the person's duties as a member under this article or the operating agreement;

(7) in a member managed limited liability company, the person:

(A) becomes a debtor in bankruptcy;

(B) executes an assignment for the benefit of creditors; or

(C) seeks, consents to, or acquiesces in the appointment of a trustee, receiver, or liquidator of the person or of all or substantially all of the person's property;

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

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

(10) in the case of a member that is not an individual, partnership, limited liability company, corporation, trust, or estate, the member is terminated;

(11) the company participates in a merger under IC 23-18.1-11, if:

(A) the company is not the surviving entity; or

(B) otherwise as a result of the merger, the person ceases to be a member;

(12) the company participates in a conversion under IC 23-18.1-11;

(13) the company participates in a domestication under IC 23-18.1-11, if, as a result of the domestication, the person ceases to be a member; or

(14) the company terminates.

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

(1) the person's right to participate as a member in the management and conduct of the company's activities

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terminates;

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

(3) subject to IC 23-18.1-6-4 and IC 23-18.1-11, any transferable interest owned by the person immediately before dissociation in the person's capacity as a member is owned by the person solely as a transferee.

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

Chapter 8. Dissolution and Winding Up

Sec. 1. (a) A limited liability company is dissolved, and its activities must be wound up, upon the occurrence of any of the following:

(1) An event or circumstance that the operating agreement states causes dissolution.

(2) The consent of all the members.

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

(4) On application by a member, the entry by the circuit or superior court of an order dissolving the company on the grounds that:

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

(B) it is not reasonably practicable to carry on the company's activities in conformity with the certificate of organization and the operating agreement.

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

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

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

(b) In a proceeding brought under subsection (a)(5), the court may order a remedy other than dissolution.

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

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

(1) shall discharge the company's debts, obligations, or other liabilities, settle and close the company's activities, and marshal and distribute the assets of the company; and

(2) may:

(A) deliver to the secretary of state for filing a statement of dissolution stating the name of the company and that the company is dissolved;

(B) preserve the company activities and property as a going concern for a reasonable time;

(C) prosecute and defend actions and proceedings, whether civil, criminal, or administrative;

(D) transfer the company's property;

(E) settle disputes by mediation or arbitration;

(F) deliver to the secretary of state for filing a statement of termination stating the name of the company and that the company is terminated; and

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

(c) If a dissolved limited liability company has no members, the legal representative of the last person to have been a member may wind up the activities of the company. If the person does so, the person has the powers of a sole manager under IC 23-18.1-5-7(c) and is considered to be a manager for purposes of IC 23-18.1-4-4(a)(2).

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

(1) has the powers of a sole manager under IC 23-18.1-5-7(c) and is considered to be a manager for purposes of IC 23-18.1-4-4(a)(2); and

(2) shall promptly deliver to the secretary of state for filing an amendment to the company's certificate of organization:

(A) stating that the company has no members;

(B) stating that the person has been appointed under this subsection to wind up the company; and

(C) providing the street address and the mailing address of the person.

(e) The circuit or superior court may order judicial supervision

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of the winding up of a dissolved limited liability company, including the appointment of a person to wind up the company's activities:

(1) on application of a member, if the applicant establishes good cause;

(2) on the application of a transferee, if:

(A) the company does not have any members;

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

(C) within a reasonable time following the dissolution a person has not been appointed under subsection (d); or

(3) in connection with a proceeding under section 1(a)(4) or 1(a)(5) of this chapter.

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

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

(1) specify the information required to be included in a claim;

(2) provide a mailing address to which the claim is to be sent;

(3) state the deadline for receipt of the claim, which may not be less than one hundred twenty (120) days after the date the notice is received by the claimant; and

(4) state that the claim will be barred if not received by the deadline.

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

(1) the claim is not received by the specified deadline; or

(2) if the claim is timely received but rejected by the company:

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

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

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

Sec. 4. (a) A dissolved limited liability company may publish

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notice of its dissolution and request persons having claims against the company to present them in accordance with the notice.

(b) The notice authorized by subsection (a) must:

(1) be published at least once in a newspaper of general circulation in the county in this state in which the dissolved limited liability company's principal office is located or, if it has none in this state, in the county in which the company's designated office is or was last located;

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

(3) state that a claim against the company is barred unless an action to enforce the claim is commenced within five (5) years after publication of the notice.

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

(1) A claimant that did not receive notice in a record under section 3 of this chapter.

(2) A claimant whose claim was timely sent to the company but not acted on.

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

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

(1) against a dissolved limited liability company to the extent of its undistributed assets; and

(2) if assets of the company have been distributed after dissolution, against a member or transferee to the extent of that person's proportionate share of the claim or of the assets distributed to the member or transferee after dissolution, whichever is less. However, a person's total liability for all claims under this subdivision does not exceed the total amount of assets distributed to the person after dissolution.

Sec. 5. (a) The secretary of state may dissolve a limited liability company administratively if the company does not:

(1) pay, within sixty (60) days after the due date, any fee, tax, or penalty due to the secretary of state under this article or law other than this article; or

(2) deliver, within sixty (60) days after the due date, its biennial report to the secretary of state.

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(b) If the secretary of state determines that a ground exists for administratively dissolving a limited liability company, the secretary of state shall file a record of the determination and serve the company with a copy of the filed record.

(c) If within sixty (60) days after service of the copy under subsection (b) a limited liability company does not correct each ground for dissolution or demonstrate to the reasonable satisfaction of the secretary of state that each ground determined by the secretary of state does not exist, the secretary of state shall dissolve the company administratively by preparing, signing, and filing a declaration of dissolution that states the grounds for dissolution. The secretary of state shall serve the company with a copy of the filed declaration.

(d) A limited liability company that has been administratively dissolved continues in existence but, subject to section 6 of this chapter, may carry on only activities necessary to wind up its activities and liquidate its assets under sections 2 and 8 of this chapter and to notify claimants under sections 3 and 4 of this chapter.

(e) The administrative dissolution of a limited liability company does not terminate the authority of its agent for service of process.

Sec. 6. (a) A limited liability company that has been administratively dissolved may apply to the secretary of state for reinstatement within two (2) years after the effective date of dissolution. The application must be delivered to the secretary of state for filing and state:

(1) the name of the company and the effective date of its dissolution;

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

(3) that the company's name satisfies the requirements of IC 23-18.1-2-7.

(b) If the secretary of state determines that an application under subsection (a) contains the required information and that the information is correct, the secretary of state shall prepare a declaration of reinstatement that states this determination, sign and file the original of the declaration of reinstatement, and serve the limited liability company with a copy.

(c) When a reinstatement becomes effective, it relates back to and takes effect as of the effective date of the administrative dissolution and the limited liability company may resume its activities as if the dissolution had not occurred.

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Sec. 7. (a) If the secretary of state rejects a limited liability company's application for reinstatement following administrative dissolution, the secretary of state shall prepare, sign, and file a notice that explains the reason for rejection and serve the company with a copy of the notice.

(b) Within thirty (30) days after service of a notice of rejection of reinstatement under subsection (a), a limited liability company may appeal from the rejection by petitioning the circuit or superior court to set aside the dissolution. The petition must be served on the secretary of state and contain a copy of the secretary of state's declaration of dissolution, the company's application for reinstatement, and the secretary of state's notice of rejection.

(c) The court may order the secretary of state to reinstate a dissolved limited liability company or take other action the court considers appropriate.

Sec. 8. (a) In winding up its activities, a limited liability company must apply its assets to discharge its obligations to creditors, including members that are creditors.

(b) After a limited liability company complies with subsection (a), any surplus must be distributed in the following order, subject to any charging order in effect under IC 23-18.1-6-3:

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

(2) 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.

(c) If a limited liability company does not have sufficient surplus to comply with subsection (b)(1), any surplus must be distributed among the owners of transferable interests in proportion to the value of their respective unreturned contributions.

(d) All distributions made under subsections (b) and (c) must be paid in money.

Chapter 9. Foreign Limited Liability Companies

Sec. 1. (a) The law of the state or other jurisdiction under which a foreign limited liability company is formed governs:

(1) the internal affairs of the company; and

(2) the liability of a member as member and a manager as manager for the debts, obligations, or other liabilities of the company.

(b) A foreign limited liability company may not be denied a

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certificate of authority by reason of any difference between the law of the jurisdiction under which the company is formed and the law of this state.

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

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

(1) the name of the company and, if the name does not comply with IC 23-18.1-2-7, an alternate name adopted as provided under section 5(a) of this chapter;

(2) the name of the state or other jurisdiction under whose law the company is formed;

(3) the street address and the mailing address of the company's principal office and, if the law of the jurisdiction under which the company is formed requires the company to maintain an office in that jurisdiction, the street address and the mailing address of the required office; and

(4) the name, street address, and mailing address of the company's initial agent for service of process in this state.

(b) A foreign limited liability company shall deliver with a completed application under subsection (a) a certificate of existence or a record of similar import signed by the secretary of state or other official having custody of the company's publicly filed records in the state or other jurisdiction under whose law the company is formed.

Sec. 3. (a) Activities of a foreign limited liability company that do not constitute transacting business in this state within the meaning of this article include:

(1) maintaining, defending, or settling an action or proceeding;

(2) carrying on any activity concerning its internal affairs, including holding meetings of its members or managers;

(3) maintaining accounts in financial institutions;

(4) maintaining offices or agencies for the transfer, exchange, and registration of the company's own securities or maintaining trustees or depositories with respect to those securities;

(5) selling through independent contractors;

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(6) soliciting or obtaining orders, whether by mail or electronic means or through employees or agents or otherwise, if the orders require acceptance outside this state before they become contracts;

(7) creating or acquiring indebtedness, mortgages, or security interests in real or personal property;

(8) securing or collecting debts or enforcing mortgages or other security interests in property securing the debts and holding, protecting, or maintaining property so acquired;

(9) conducting an isolated transaction that is completed within thirty (30) days and is not in the course of similar transactions; and

(10) transacting business in interstate commerce.

(b) For purposes of this article, the ownership in this state of income producing real property or tangible personal property, other than property excluded under subsection (a), constitutes transacting business in this state.

(c) This section does not apply in determining the contacts or activities that may subject a foreign limited liability company to service of process, taxation, or regulation under law of this state other than this article.

Sec. 4. Unless the secretary of state determines that an application for a certificate of authority does not comply with the filing requirements of this article, the secretary of state, upon payment of all filing fees, shall file the application of a foreign limited liability company, prepare, sign, and file a certificate of authority to transact business in this state, and send a copy of the filed certificate, together with a receipt for the fees, to the company or its representative.

Sec. 5. (a) A foreign limited liability company whose name does not comply with IC 23-18.1-2-7 may not obtain a certificate of authority until the foreign limited liability company adopts, for the purpose of transacting business in this state, an alternate name that complies with IC 23-18.1-2-7. A foreign limited liability company that adopts an alternate name under this subsection and obtains a certificate of authority with the alternate name need not comply with IC 23-15-1. After obtaining a certificate of authority with an alternate name, a foreign limited liability company shall transact business in this state under the alternate name unless the company is authorized under IC 23-15-1 to transact business in this state under another name.

(b) If a foreign limited liability company authorized to transact

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business in this state changes its name to a name that does not comply with IC 23-18.1-2-7, the foreign limited liability company may not thereafter transact business in this state until the foreign limited liability company complies with subsection (a) and obtains an amended certificate of authority.

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

(1) pay, within sixty (60) days after the due date, any fee, tax, or penalty due to the secretary of state under this article or law other than this article;

(2) deliver, within sixty (60) days after the due date, its biennial report required under IC 23-18.1-3-9;

(3) appoint and maintain an agent for service of process as required by IC 23-18.1-2-12(b); or

(4) deliver for filing a statement of a change under IC 23-18.1-2-13 within thirty (30) days after a change has occurred in the name or address of the agent.

(b) To revoke a certificate of authority of a foreign limited liability company, the secretary of state must prepare, sign, and file a notice of revocation and send a copy to the company's agent for service of process in this state, or if the company does not appoint and maintain a proper agent in this state, to the company's designated office. The notice must state:

(1) the revocation's effective date, which must be at least sixty (60) days after the date the secretary of state sends the copy; and

(2) the grounds for revocation under subsection (a).

(c) The authority of a foreign limited liability company to transact business in this state ceases on the effective date of the notice of revocation unless before that date the company cures each ground for revocation stated in the notice filed under subsection (b). If the company cures each ground, the secretary of state shall file a record so stating.

Sec. 7. To cancel its certificate of authority to transact business in this state, a foreign limited liability company must deliver to the secretary of state for filing a notice of cancellation stating the name of the company and that the company desires to cancel its certificate of authority. The certificate is canceled when the notice becomes effective.

Sec. 8. (a) A foreign limited liability company transacting

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business in this state may not maintain an action or proceeding in this state unless the foreign limited liability company has a certificate of authority to transact business in this state.

(b) The failure of a foreign limited liability company to have a certificate of authority to transact business in this state does not impair the validity of a contract or act of the company or prevent the company from defending an action or proceeding in this state.

(c) A member or manager of a foreign limited liability company is not liable for the debts, obligations, or other liabilities of the company solely because the company transacted business in this state without a certificate of authority.

(d) If a foreign limited liability company transacts business in this state without a certificate of authority or cancels its certificate of authority, it appoints the secretary of state as its agent for service of process for rights of action arising out of the transaction of business in this state.

Sec. 9. The attorney general may maintain an action to enjoin a foreign limited liability company from transacting business in this state in violation of this article.

Chapter 10. Actions by Members

Sec. 1. (a) Subject to subsection (b), a member may maintain a direct action against another member, a manager, or the limited liability company to enforce the member's rights and otherwise protect the member's interests, including rights and interests under the operating agreement or this article or arising independently of the membership relationship.

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

Sec. 2. A member may maintain a derivative action to enforce a right of a limited liability company if:

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

(2) a demand under subdivision (1) would be futile.

Sec. 3. (a) Except as otherwise provided in subsection (b), a derivative action under section 2 of this chapter may be maintained only by a person that is a member at the time the action is

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commenced and remains a member while the action continues.

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

Sec. 4. In a derivative action under section 2 of this chapter, the complaint must state with particularity:

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

(2) if a demand has not been made, the reasons a demand under section 2(1) of this chapter would be futile.

Sec. 5. (a) If a limited liability company is named as or made a party in a derivative proceeding, the company may appoint a special litigation committee to investigate the claims asserted in the proceeding and determine whether pursuing the action is in the best interests of the company. If the company appoints a special litigation committee, on motion by the committee made in the name of the company, except for good cause shown, the court shall stay discovery for the time reasonably necessary to permit the committee to make its investigation. This subsection does not prevent the court from enforcing a person's right to information under IC 23-18.1-5-10 or, for good cause shown, granting extraordinary relief in the form of a temporary restraining order or preliminary injunction.

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

(c) A special litigation committee may be appointed:

(1) in a member managed limited liability company:

(A) by the consent of a majority of the members not named as defendants or plaintiffs in the proceeding; and

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

(2) in a manager managed limited liability company:

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

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

(d) After appropriate investigation, a special litigation 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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converts into another organization as provided under section 6 of this chapter.

(6) "Domesticated company" means the company that exists after a domesticating foreign limited liability company or limited liability company effects a domestication as provided under sections 10 through 13 of this chapter.

(7) "Domesticating company" means the company that effects a domestication as provided under sections 10 through 13 of this chapter.

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

(9) "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 a domestic or foreign organization regardless of whether organized for profit.

(10) "Organizational documents" means the following:

(A) For a domestic or foreign general partnership, its partnership agreement.

(B) For a limited partnership or foreign limited partnership, its certificate of limited partnership and partnership agreement.

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

(D) For a business trust, its agreement of trust and declaration of trust.

(E) For a domestic or foreign corporation for profit, its articles of incorporation, bylaws, and other agreements among its shareholders 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

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it, have an interest in it, or are members of it.

(11) "Personal liability" means liability for a debt, obligation, or other liability 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 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 governing statute authorizing those documents to make one (1) or more specified persons liable for all or specified debts, obligations, or other liabilities of the organization solely by reason of the person or persons co-owning, having an interest in, or being a member of the organization.

(12) "Surviving organization" means an organization into which one (1) or more other organizations are merged whether the organization preexisted the merger or was created by the merger.

Sec. 2. (a) A limited liability company may merge with one (1) or more other constituent organizations under this section, sections 3 through 5 of this chapter, and a plan of merger, if:

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

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

(3) each of the other organizations complies with its governing statute in effecting the merger.

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

(1) the name and form of each constituent organization;

(2) the name and form of the surviving organization and, if the surviving organization is to be created by the merger, a statement to that effect;

(3) the terms and conditions of the merger, including the manner and basis for converting the interests in each constituent organization into any combination of money, interests in the surviving organization, and other consideration;

(4) if the surviving organization is to be created by the merger, the surviving organization's organizational documents that are proposed to be in a record; and

(5) if the surviving organization is not to be created by the

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merger, any amendments to be made by the merger to the surviving organization's organizational documents that are, or are proposed to be, in a record.

Sec. 3. (a) Subject to section 14 of this chapter, a plan of merger must be consented to by all the members of a constituent limited liability company.

(b) Subject to section 14 of this chapter and any contractual rights, after a merger is approved, and at any time before articles of merger are delivered to the secretary of state for filing under section 4 of this chapter, a constituent limited liability company may amend the plan or abandon the merger:

(1) as provided in the plan; or

(2) except as otherwise prohibited in the plan, with the same consent as was required to approve the plan.

Sec. 4. (a) After each constituent organization has approved a merger, articles of merger must be signed on behalf of:

(1) each constituent limited liability company, as provided in IC 23-18.1-3-3(a); and

(2) each other constituent organization, as provided in its governing statute.

(b) Articles of merger under this section must include:

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

(2) the name and form of the surviving organization, the jurisdiction of its governing statute, and, if the surviving organization is created by the merger, a statement to that effect;

(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 liability company, the company's certificate of organization; or

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

(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 that are in a public record;

(6) a statement as to each constituent organization that the

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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 5(b) of this chapter; and

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

(c) Each constituent limited liability company 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 liability company, upon the later of:

(A) compliance with subsection (c); or

(B) subject to IC 23-18.1-3-5(c), as specified in the articles of merger; or

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

Sec. 5. (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, obligations, or other liabilities of each constituent organization that ceases to exist continue as debts, obligations, or other liabilities of the surviving organization;

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

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

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

(8) except as otherwise agreed, if a constituent limited liability company ceases to exist, the merger does not dissolve the limited liability company for purposes of IC 23-18.1-8;

(9) if the surviving organization is created by the merger:

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(A) if the surviving organization is a limited liability company, the certificate of organization becomes effective; or

(B) if the surviving organization is an organization other than a limited liability company, the organizational document that creates the organization becomes effective; and

(10) if the surviving organization preexisted the merger, any amendments provided for in the articles of merger for the organizational document that created the organization become effective.

(b) A surviving organization that is a foreign organization consents to the jurisdiction of the courts of this state to enforce any debt, obligation, or other liability owed by a constituent organization, if before the merger the constituent organization was subject to suit in this state on the debt, obligation, or other liability. A surviving organization that is a foreign organization and not authorized to transact business in this state appoints the secretary of state as its agent for service of process for purposes of enforcing a debt, obligation, or other liability under this subsection. Service on the secretary of state under this subsection must be made in the same manner and has the same consequences as in IC 23-18.1-2-15(c) and IC 23-18.1-2-15(d).

Sec. 6. (a) An organization other than a limited liability company or a foreign limited liability company may convert to a limited liability company, and a limited liability company may convert to an organization other than a foreign limited liability company under this section, sections 7 through 9 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 other organization's 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

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converted organization, and other consideration; and

(4) the organizational documents of the converted organization that are, or are proposed to be, in a record.

Sec. 7. (a) Subject to section 14 of this chapter, a plan of conversion must be consented to by all the members of a converting limited liability company.

(b) Subject to section 14 of this chapter and any contractual rights, after a conversion is approved, and at any time before articles of conversion are delivered to the secretary of state for filing under section 8 of this chapter, a converting limited liability company may amend the plan or abandon the conversion:

(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. 8. (a) After a plan of conversion is approved:

(1) a converting limited liability company shall deliver to the secretary of state for filing articles of conversion, which must be signed as provided in IC 23-18.1-3-3(a) and must include:

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

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

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

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

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

(F) if the converted 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 the purposes of section 9(c) of this chapter; and

(2) if the converting organization is not a converting limited liability company, the converting organization shall deliver to the secretary of state for filing a certificate of organization, which must include, in addition to the information required by IC 23-18.1-3-1(b):

(A) a statement that the converted organization was converted from another organization;

(B) the name and form of that converting organization and

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the jurisdiction of its governing statute; and

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

(b) A conversion becomes effective:

(1) if the converted organization is a limited liability company, when the certificate of organization takes effect; and

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

Sec. 9. (a) An organization that has been converted as provided by this article is for all purposes the same entity that existed before the conversion.

(b) When a conversion takes effect:

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

(2) all debts, obligations, or other liabilities of the converting organization continue as debts, obligations, or other liabilities of the converted organization;

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

(4) except as prohibited by law other than this article, all of the rights, privileges, immunities, powers, and purposes of the converting organization remain vested in the converted organization;

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

(6) except as otherwise agreed, the conversion does not dissolve a converting limited liability company for the purposes of IC 23-18.1-8.

(c) A converted organization that is a foreign organization consents to the jurisdiction of the courts of this state to enforce any debt, obligation, or other liability for which the converting limited liability company is liable if, before the conversion, the converting limited liability company was subject to suit in this state on the debt, obligation, or other liability. A converted organization that is a foreign organization and not authorized to transact business in this state appoints the secretary of state as its agent for service of process for purposes of enforcing a debt, obligation, or other liability under this subsection. Service on the secretary of state under this subsection must be made in the same manner and has

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the same consequences as in IC 23-18.1-2-15(c) and IC 23-18.1-2-15(d).

Sec. 10. (a) A foreign limited liability company may become a limited liability company under this section, sections 11 through 13 of this chapter, and a plan of domestication, if:

(1) the foreign limited liability company's governing statute authorizes the domestication;

(2) the domestication is not prohibited by the law of the jurisdiction that enacted the governing statute; and

(3) the foreign limited liability company complies with its governing statute in effecting the domestication.

(b) A limited liability company may become a foreign limited liability company under this section, sections 11 through 13 of this chapter, and a plan of domestication, if:

(1) the foreign limited liability company's governing statute authorizes the domestication;

(2) the domestication is not prohibited by the law of the jurisdiction that enacted the governing statute; and

(3) the foreign limited liability company complies with its governing statute in effecting the domestication.

(c) A plan of domestication must be in a record and must include:

(1) the name of the domesticating company before domestication and the jurisdiction of its governing statute;

(2) the name of the domesticated company after domestication and the jurisdiction of its governing statute;

(3) the terms and conditions of the domestication, including the manner and basis for converting interests in the domesticating company into any combination of money, interests in the domesticated company, and other consideration; and

(4) the organizational documents of the domesticated company that are, or are proposed to be, in a record.

Sec. 11. (a) A plan of domestication must be consented to:

(1) by all the members, subject to section 14 of this chapter, if the domesticating company is a limited liability company; and

(2) as provided in the domesticating company's governing statute, if the company is a foreign limited liability company.

(b) Subject to any contractual rights, after a domestication is approved, and at any time before articles of domestication are delivered to the secretary of state for filing under section 12 of this 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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domesticating company may be continued as if the domestication had not occurred;

(5) except as prohibited by other law, all of the rights, privileges, immunities, powers, and purposes of the domesticating company remain vested in the domesticated company;

(6) except as otherwise provided in the plan of domestication, the terms and conditions of the plan of domestication take effect; and

(7) except as otherwise agreed, the domestication does not dissolve a domesticating limited liability company for the purposes of IC 23-18.1-8.

(b) A domesticated company that is a foreign limited liability company consents to the jurisdiction of the courts of this state to enforce any debt, obligation, or other liability owed by the domesticating company, if, before the domestication, the domesticating company was subject to suit in this state on the debt, obligation, or other liability. A domesticated company that is a foreign limited liability company and not authorized to transact business in this state appoints the secretary of state as its agent for service of process for purposes of enforcing a debt, obligation, or other liability under this subsection. Service on the secretary of state under this subsection must be made in the same manner and has the same consequences as in IC 23-18.1-2-15(c) and IC 23-18.1-2-15(d).

(c) If a limited liability company has adopted and approved a plan of domestication under section 10 of this chapter providing for the company to be domesticated in a foreign jurisdiction, a statement surrendering the company's certificate of organization must be delivered to the secretary of state for filing setting forth:

(1) the name of the company;

(2) a statement that the certificate of organization is being surrendered in connection with the domestication of the company in a foreign jurisdiction;

(3) a statement the domestication was approved as required by this article; and

(4) the jurisdiction of formation of the domesticated foreign limited liability company.

Sec. 14. (a) If a member of a constituent, converting, or domesticating limited liability company will have personal liability with respect to a surviving, converted, or domesticated organization, approval or amendment of a plan of merger,

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conversion, or domestication is ineffective without the consent of the member, unless:

(1) the company's operating agreement provides for approval of a merger, conversion, or domestication with the consent of fewer than all the members; and

(2) the member has consented to the provision of the operating agreement.

(b) A member does not give the consent required by subsection (a) merely by consenting to a provision of the operating agreement that permits the operating agreement to be amended with the consent of fewer than all the members.

Sec. 15. This article does not preclude an entity from being merged, converted, or domesticated under law other than this article.

Chapter 12. Filing Requirements, Fees, and Other Administrative Provisions

Sec. 1. (a) A record required or permitted under this article may be filed with the secretary of state if the record meets the requirements under this article, including the following requirements:

(1) The record must contain the information required by this article. However, it may also contain additional information.

(2) The record must be typewritten or printed.

(3) The record must be legible.

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

(5) The record must be executed:

(A) by a member or an agent designated by the limited liability company if the articles of organization do not provide for a manager or managers;

(B) by a manager or an agent designated by the limited liability company if the articles of organization provide for a manager or managers; or

(C) if the limited liability company is in the hands of a receiver, trustee, or other court appointed fiduciary, by that fiduciary.

(6) The person executing the record must sign the record and state beneath or opposite the signature the person's name and

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the capacity in which the person signs. A signature on a record authorized to be filed under this article may be a facsimile. A signature on a record under this subdivision that is transmitted and filed electronically is sufficient if the person transmitting and filing the record:

(A) has the intent to file the record as evidenced by a symbol executed or adopted by a party with present intention to authenticate the filing; and

(B) enters the filing party's name on the electronic form in a signature box or other place indicated by the secretary of state.

(7) If the secretary of state has prescribed a mandatory form for the record under section 2 of this chapter, the record must be in or on the prescribed form.

(8) The record must be delivered to the secretary of state for filing and must be accompanied by the correct filing fee. The filing fee must be paid in the manner and form required by the secretary of state.

(b) The secretary of state may accept payment of the correct filing fee by credit card, debit card, charge card, or similar method. However, if the filing fee is paid by credit card, debit card, charge card, or similar method, the liability is not finally discharged until the secretary of state receives payment or credit from the institution responsible for making the payment or credit. The secretary of state may contract with a bank or credit card vendor for acceptance of bank or credit cards. However, if there is a vendor transaction charge or discount fee, whether billed to the secretary of state or charged directly to the secretary of state's account, the secretary of state or the credit card vendor may collect from the person using the bank or credit card a fee that may not exceed the highest transaction charge or discount fee charged to the secretary of state by the bank or credit card vendor during the most recent collection period. This fee may be collected regardless of any agreement between the bank and a credit card vendor or regardless of any internal policy of the credit card vendor that may prohibit this type of fee. The fee is a permitted additional charge under IC 24-4.5-3-202.

Sec. 2. (a) For purposes of this article, a record is delivered for filing if the record is transferred to the secretary of state by hand, mail, telecopy, facsimile, or other form of electronic transmission meeting the requirements established by the secretary of state.

(b) If a record is delivered for filing by hand or mail, the record

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must be accompanied by:

(1) two (2) exact or conformed copies of a record filed under IC 23-18.1-2-14; or

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

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

Sec. 3. (a) The secretary of state may prescribe and furnish on request forms for the following:

(1) Biennial report forms for domestic and foreign limited liability companies.

(2) A foreign limited liability company's application for a certificate of authority to transact business in Indiana.

(3) A foreign limited liability company's application for a certificate of withdrawal.

If the secretary of state requires and the form so states, use of these forms is mandatory.

(b) The secretary of state may prescribe and furnish on request forms for other records required or permitted to be filed by this article, but their use is not mandatory.

Sec. 4. (a) The secretary of state shall collect the following fees when the records specified in this section are delivered for filing:

Record	Electronic Filing Fee	Filing Fee (Other than electronic filing)
(1) Certificate of organization	$75	$90
(2) Application for use of indistinguishable name	$10	$20
(3) Application for reservation of name	$10	$20
(4) Application for renewal of reservation	$10	$20
(5) Notice of transfer or cancellation of reservation	$10	$20
(6) Application of registered name	$20	$30
(7) Application for renewal of registered name	$20	$30
(8) Statement of agent's change		

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of business address	No Fee	No Fee
(9) Statement of resignation of agent	No Fee	No Fee
(10) Statement of change of agent	No Fee	No Fee
(11) Amendment of certificate of organization	$20	$30
(12) Restatement of certificate of organization	$20	$30
(13) Statement of dissolution	$20	$30
(14) Application for certificate of authority	$75	$90
(15) Application for amended certificate of authority	$20	$30
(16) Application for certificate of withdrawal	$20	$30
(17) Application for reinstatement following administrative dissolution	$20	$30
(18) Statement of correction	$20	$30
(19) Application for certificate of existence or authorization	$15	$15
(20) Biennial report	$20	$30
(21) Articles of merger involving a limited liability company	$75	$90
(22) Any other record required or permitted to be filed under this article	$20	$30
(23) Registration of intent to sell sexually explicit materials, products, or services		$250

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

(b) The fee set forth in subsection (a)(20) for filing a biennial report is:

(1) for an electronic filing, ten dollars ($10) per year; or

(2) for a filing other than an electronic filing, fifteen dollars ($15) per year;

to be paid biennially.

(c) The secretary of state shall collect a fee of ten dollars ($10)

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each time process is served on the secretary of state under this article. If the party to a proceeding causing service of process prevails in the proceeding, that party is entitled to recover this fee as costs from the nonprevailing party.

(d) The secretary of state shall collect the following fees for copying and certifying the copy of any filed records relating to a domestic or foreign limited liability company:

(1) One dollar ($1) per page for copying.

(2) Fifteen dollars ($15) for certification stamp.

Sec. 5. (a) If a record delivered to the office of the secretary of state for filing satisfies the requirements of section 1 of this chapter, the secretary of state must file the record.

(b) The secretary of state files a record by stamping or otherwise endorsing "Filed" together with the secretary of state's name and official title and the date and time of receipt on both the original and the record copy and on the receipt for the filing fee. After filing a record, except as provided under IC 23-18.1-2-14, the secretary of state shall deliver the record copy, with the filing fee receipt attached, or acknowledgment of receipt if no fee is required, to the domestic or foreign limited liability company or its representative.

(c) If the secretary of state refuses to file a record, the secretary of state shall return the record to the domestic or foreign limited liability company or its representative not more than ten (10) days after the record was delivered, together with a brief, written explanation of the reason for the refusal.

(d) The secretary of state's duty to file records under this section is ministerial. The secretary of state's filing or refusing to file a record does not:

(1) affect the validity or invalidity of the record in whole or in part;

(2) relate to the correctness or incorrectness of the information contained in the record; or

(3) create a presumption that the record is valid or invalid or that information contained in the record is correct or incorrect.

Sec. 6. (a) If the secretary of state refuses to file a record delivered to the secretary of state for filing, the domestic or foreign limited liability company may appeal the refusal to the circuit or superior court. The appeal is commenced by petitioning the court to compel the filing of the record and by attaching to the petition the record and the secretary of state's explanation of the refusal to

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file.

(b) The court may order the secretary of state to file the record or take other action the court considers appropriate.

(c) The court's final decision may be appealed as in other civil proceedings.

Sec. 7. A certification stamp affixed on or a certification certificate attached to a copy of a record under this chapter, bearing the secretary of state's signature, which may be in facsimile, and the seal of this state is conclusive evidence that the original record is on file with the secretary of state.

Sec. 8. A person commits a Class A misdemeanor if the person signs a record that the person knows is false in a material respect with the intent that the record be delivered to the secretary of state for filing.

Chapter 13. Miscellaneous Provisions

Sec. 1. In applying and construing this uniform act, consideration must be given to the need to promote uniformity of the law with respect to its subject matter among states that enact the Revised Uniform Limited Liability Company Act.

Sec. 2. This article modifies, limits, and supersedes the federal Electronic Signatures in Global and National Commerce Act, 15 U.S.C. 7001 et seq., but does not modify, limit, or supersede Section 101(c) of that act, 15 U.S.C. 7001(c), or authorize electronic delivery of any of the notices described in Section 103(b) of that act, 15 U.S.C. 7003(b).

Sec. 3. This article does not affect an action commenced, proceeding brought, or right accrued before July 1, 2011.

Sec. 4. (a) Before July 1, 2012, this article governs only:

(1) a limited liability company formed after June 30, 2011; and

(2) except as otherwise provided in subsection (c), a limited liability company formed before July 1, 2011, that elects, in the manner provided in its operating agreement or by law for amending the operating agreement, to be subject to this article.

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

(c) Under this article, the following apply to a limited liability company formed before July 1, 2011:

(1) The company's articles of organization are considered to be the company's certificate of organization.

(2) Subject to IC 23-18.1-2-11(d), for the purpose of

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construing IC 23-18.1-1-12, language in the company's articles of organization designating the company's management structure operates as if that language were in the operating agreement.

SECTION 6. IC 28-11-5-10, AS ADDED BY P.L.90-2008, SECTION 76, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2011]: Sec. 10. (a) Subject to subsection (g), a financial institution subject to this chapter may:

(1) be organized as a limited liability company;

(2) convert to a limited liability company; or

(3) merge with or into a limited liability company;

under the laws of Indiana or the United States, including any rules or regulations adopted or promulgated under the laws of Indiana or the United States.

(b) A bank organized as a limited liability company is subject to:

(1) **IC 23-18.1 or** IC 23-18 **(before its repeal), as applicable;** and

(2) this title.

If a provision of **IC 23-18.1 or** IC 23-18 **(before its repeal), as applicable,** conflicts with a provision of this title or with any rule of the department, the provision of this title or the rule the department controls.

(c) Any filing required to be made under **IC 23-18.1 or** IC 23-18 **(before its repeal), as applicable,** shall be made in the same manner as for a bank that is organizing or is organized in stock form.

(d) The department may prescribe any requirements for:

(1) the articles of organization; and

(2) the operating agreement;

of a financial institution that is organized and operates as a limited liability company.

(e) The department has the exclusive authority under this title to regulate a financial institution organized as a limited liability company. A financial institution that is a limited liability company is subject to the department's authority in the same manner as a bank that is organized in stock form.

(f) A financial institution that is a limited liability company is subject to the provisions of this title that apply to banks, except for the provisions concerning corporate governance (IC 28-13), in the same manner as a financial institution that is organized in stock form, subject to the following:

(1) In the case of a manager managed limited liability company, "director" means a manager of the limited liability company.

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(2) In the case of a member managed limited liability company, "director" means a member of the limited liability company.

(g) A financial institution may not:

(1) organize as;

(2) convert to; or

(3) merge with or into;

a limited liability company without the prior approval of the department under this title.

SECTION 7. IC 34-30-2-92 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2011]: Sec. 92. IC 23-16-3-3 and IC 23-16-3-8 **(before their repeal)** (Concerning persons filing or failing to file amended certificates of limited partnership reporting the occurrence of certain events).

SECTION 8. IC 34-30-2-93 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2011]: Sec. 93. IC 23-16-4-3 **(before its repeal) or IC 23-16.1-4-3, as applicable** (Concerning limited partners for certain obligations of a limited partnership).

SECTION 9. IC 34-30-2-94 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2011]: Sec. 94. IC 23-16-8-4 **(before its repeal)** (Concerning assignees of a limited partnership interest for certain obligations of a limited partnership) **or IC 23-16.1-8-2 (Concerning transferees of a limited partnership interest for certain obligations of a limited partnership), as applicable.**

SECTION 10. IC 34-30-2-95 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2011]: Sec. 95. IC 23-16-12-2(h)(2) **(before its repeal)** (Concerning limited partner for failure to file certificate of limited partnership).

SECTION 11. THE FOLLOWING ARE REPEALED [EFFECTIVE JULY 1, 2012]: IC 23-16; IC 23-18.

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