

## CHAPTER 183

### LIMITED LIABILITY COMPANIES

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#### SUBCHAPTER I

##### GENERAL PROVISIONS

**183.0102 Definitions.** In this chapter, except as otherwise provided:

(1) “Articles of organization” means articles filed under s. 183.0201, and those articles as amended or restated.

(2) “Corporation” includes a domestic corporation and a foreign corporation.

(3) “Court” includes every court having jurisdiction in the case.

(3m) “Department” means the department of financial institutions.

(4) “Distribution” means a direct or indirect transfer by a limited liability company of money or other property, other than an interest in the limited liability company, to or for the benefit of its members in respect of their interests.

(5) “Domestic corporation” has the meaning given in s. 180.0103 (5).

(6) “Event of dissociation” means an event that causes a person to cease to be a member, as provided in s. 183.0802.

(7) “Foreign corporation” has the meaning given in s. 180.0103 (9).

(8) “Foreign limited liability company” means an organization that is all of the following:

(a) An unincorporated association.

(b) Organized under a law other than the laws of this state.

(c) Organized under a statute pursuant to which an association may be formed that affords to each of its members limited liability with respect to the liabilities of the entity.

(d) Not required to be registered or organized under any statute of this state other than this chapter.

(9) “Foreign limited partnership” has the meaning given in s. 179.01 (4).

(10) “Limited liability company” or “domestic limited liability company” means, except as provided in s. 183.1201 (1), an organization formed under this chapter.

(11) “Limited liability company interest”, “interest in the limited liability company” or “member’s interest” means a member’s rights in the limited liability company, including the member’s share of the profits and losses of the limited liability company, the member’s right to receive distributions of limited liability company assets, and the member’s right to vote or participate in management of the limited liability company.

(12) “Limited partnership” has the meaning given in s. 179.01 (7).

(13) “Manager” or “managers” means, with respect to a limited liability company that has set forth in its articles of organization that it is to be managed by one or more managers, the person or persons designated in accordance with s. 183.0401.

(15) “Member” means a person who has been admitted to membership in a limited liability company as provided in s. 183.0801 and who has not dissociated from the limited liability company.

(16) “Operating agreement” means an agreement in writing, if any, among all of the members as to the conduct of the business of a limited liability company and its relationships with its members.

(17) “Organizer” means the person who signs and delivers the articles of organization for filing to the department.

(18) “Person” includes an individual, a partnership, a domestic or foreign limited liability company, a trust, an estate, an association, a corporation or any other legal or commercial entity.

(19) “State” includes a state, territory or possession of the United States, the District of Columbia or the commonwealth of Puerto Rico.

**History:** 1993 a. 112; 1995 a. 27, 97.

Wisconsin’s Limited Liability Company. Emerging Issues and Prospects for the Future. Levinoff. 78 MLR 757.

The Wisconsin Limited Liability Company. Boucher & Sosnowski. Wis. Law. Dec. 1993.

LLC and Corporate Law Revisions. Boucher and Sosnowski. Wis. Law. Oct. 1996.

Shedding Light on Recent Developments Affecting LLCs. Boucher, Kamperschoer & Knudson. Wis. Law. Aug. 2008.

**183.0103 Name.** (1) The name of a limited liability company as set forth in its articles of organization must contain the words “limited liability company” or “limited liability co.” or end with the abbreviation “L.L.C.” or “LLC”. The name may not contain language stating or implying that the limited liability company is organized for any purpose other than that permitted under s. 183.0106 (1).

(2) Except as provided in sub. (4), the name of a domestic limited liability company shall be distinguishable upon the records of the department from all of the following names:

(a) The name of any other limited liability company, a corporation, a nonstock corporation, a limited partnership, a limited liability partnership, a cooperative association, or an unincorporated cooperative association existing under the laws of this state.

(b) The name of any foreign limited liability company, foreign corporation, foreign nonstock corporation, foreign limited partnership, foreign limited liability partnership, foreign cooperative association, or foreign unincorporated cooperative association, or the designated, registered or fictitious name under which any such entity is licensed to transact business in this state.

(c) Any name reserved or registered under ch. 179, 180, 181, 185, or 193.

(3) The name of a limited liability company is not distinguishable from a name referred to in sub. (2) (a) to (c) if the only difference between it and the other name is the inclusion or absence of a word or words referred to in sub. (1) or of the words “corporation”, “incorporated”, “limited”, “company”, “limited partnership”, “limited liability partnership” or “cooperative” or an abbreviation of these words.

(4) A limited liability company may apply to the department for authorization to use a name that is not distinguishable upon the records of the department from one or more of the names described in sub. (2) (a) to (c). The department shall authorize use of the name applied for if any of the following occurs:

(a) The other limited liability company, corporation, nonstock corporation, limited partnership, limited liability partnership, cooperative association, or unincorporated cooperative association consents to the use in writing and submits an undertaking in a form satisfactory to the department to change its name to a name that is distinguishable upon the records of the department from the name of the applicant.

(b) The applicant delivers to the department a certified copy of a final judgment of a court of competent jurisdiction establishing the applicant’s right to use the name applied for in this state.

**History:** 1993 a. 112; 1995 a. 27, 97; 2005 a. 441.

**183.0104 Reservation and registration of name.** (1) A person may reserve the exclusive use of a limited liability company name, including a fictitious name for a foreign limited liability company whose name is not available, by delivering an application to the department for filing or by making a telephone application. The application shall include the applicant’s name and address and the name proposed to be reserved. If the department finds that the name applied for under this subsection is available, the department shall reserve the name for the applicant’s exclusive use for a 120-day period, which may be renewed by the applicant or a transferee under sub. (2) from time to time.

(1m) A domestic limited liability company or a foreign limited liability company authorized to transact business in this state may, upon merger, change of name, or dissolution, register its company name for no more than 10 years by delivering to the department for filing an application, executed by the domestic limited liability company or foreign limited liability company, simultaneously with the delivery for filing of the articles of merger or dissolution, the articles of amendment or restated articles that change the company name or an application for an amended certificate of registration that changes the company name.

(2) A person who has the right to exclusive use of a reserved name under sub. (1) or (1m) may transfer the reservation to another person by delivering to the department a written and signed notice of the transfer that states the name and address of the transferee.

(3) (a) A foreign limited liability company may register its name if the name is distinguishable upon the records of the department from the names described in s. 183.0103 (2) (a) to (c) and if the foreign limited liability company delivers to the department for filing an application complying with par. (b).

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(b) A foreign limited liability company's application to register a name shall be accompanied by a certificate of status or similar document from the state or other jurisdiction of organization and shall include all of the following information:

1. The foreign limited liability company's name.
2. The state or jurisdiction and the date of its organization.
3. The street address of its principal office.

(c) The registration expires annually on December 31. A foreign limited liability company may renew its registration by delivering to the department for filing a renewal application, which complies with par. (b), between October 1 and December 31 of each year that the registration is in effect. The renewal application when filed renews the registration for the next year.

(4) A name is registered under sub. (1), (1m), or (3) for the applicant's exclusive use on the effective date of the application.

**History:** 1993 a. 112; 1995 a. 27; 2001 a. 44; 2009 a. 236.

**183.0105 Registered office and registered agent.**

(1) Each limited liability company shall continuously maintain in this state a registered office and registered agent. The registered office may, but need not, be the same as any of its places of business. Except as provided in s. 165.68 (5) (f) 1., the registered agent shall be one of the following:

(a) A natural person who resides in this state and whose business office is identical with the registered office.

(b) A domestic corporation, limited liability company, limited partnership, limited liability partnership, or corporation organized in this state or that has in effect a statement of qualification under s. 178.0901, whose business office is identical with the registered office.

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

(2) A limited liability company may change its registered office or registered agent, or both, by doing any of the following:

(a) Delivering to the department for filing a statement of change.

(b) Including the name of its registered agent and the street address of its registered office, as changed, in articles of amendment to its articles of organization or in articles of merger.

(c) Including the name of its registered agent and the street address of its registered office, as changed, in its annual report under s. 183.0120. This paragraph also applies to a foreign limited liability company. A change under this paragraph is effective on the date the annual report is filed by the department.

(3) A statement of change delivered under sub. (2) (a) shall include all of the following information:

- (a) The name of the limited liability company.
- (b) The name of its registered agent, as changed.
- (c) The street address of its registered agent, as changed.

(d) A statement that after the change or changes are made, the street address of its registered office and the business office of its registered agent will be identical.

(4) If the name of a registered agent changes or if the street address of a registered agent's business office changes, the registered agent may change the name of the registered agent or street address of the registered office of any limited liability company for which that person is the registered agent. To make a change under this subsection, the registered agent shall notify the limited liability company in writing of the change and deliver to the department for filing a signed statement that complies with sub. (3) and recites that the limited liability company has been notified of the change.

(5) The registered agent of a limited liability company may resign as registered agent by delivering to the department for fil-

ing a written statement that includes all of the following information:

(a) The name of the limited liability company for which the registered agent is acting.

(b) The name of the registered agent.

(c) The street address of the limited liability company's current registered office and its principal office.

(d) A statement that the registered agent resigns.

(e) If applicable, a statement that the registered office is also discontinued.

(6) After filing the statement required under sub. (5), the department shall mail a copy of the statement to the limited liability company at its principal office.

(7) The resignation is effective and, if applicable, the registered office is discontinued on the earlier of the following:

(a) Thirty days after the date determined under s. 183.0111 (1).

(b) The date on which the appointment of a successor registered agent is effective.

(8) (a) A limited liability company's registered agent is the limited liability company's agent for service of process, notice or demand required or permitted by law to be served on the limited liability company.

(b) Except as provided in par. (c), if a limited liability company has no registered agent or the agent cannot with reasonable diligence be served, the limited liability company may be served by registered or certified mail, return receipt requested, addressed to the limited liability company at its principal office. Service is perfected under this paragraph at the earliest of the following:

1. The date on which the limited liability company receives the mail.

2. The date shown on the return receipt, if signed on behalf of the limited liability company.

3. Five days after its deposit in the U.S. mail, if mailed postpaid and correctly addressed.

(c) Except as provided in s. 183.09025 (2) (d), if the address of the limited liability company's principal office cannot be determined from the records of the department, the limited liability company may be served by publishing a class 3 notice, under ch. 985, in the community where the limited liability company's registered office, as most recently designated in the records of the department, is located.

(d) This subsection does not limit or affect the right to serve any process, notice or demand required or permitted by law to be served on a limited liability company in any other manner permitted by law.

**History:** 1993 a. 112; 1995 a. 27, 400; 2001 a. 44; 2003 a. 33; 2005 a. 476; 2011 a. 234; 2015 a. 295; 2017 a. 144.

**183.0106 Nature of business.** (1) A limited liability company may be organized under this chapter for any lawful purpose. A limited liability company engaging in a business that is subject to the provisions of another chapter may organize under this chapter only if not prohibited by, and subject to all limitations of, the other chapter.

(2) Unless otherwise provided in an operating agreement, a limited liability company organized and existing under this chapter has the same powers as an individual to do all things necessary and convenient to carry out its business, including but not limited to all of the following:

(a) Sue and be sued, complain and defend in its name.

(b) Purchase, take, receive, lease or otherwise acquire and own, hold, improve, use and otherwise deal in or with real or personal property, or any legal or equitable interest in real or personal property, wherever situated.

(c) Sell, convey, mortgage, pledge, create a security interest in, lease, exchange and otherwise dispose of all or any part of its property.

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(d) Lend money, property and services to, and otherwise assist, its members or managers, if any.

(e) Purchase, take, receive, subscribe for or otherwise acquire and own, hold, vote, use, employ, sell, mortgage, lend, pledge or otherwise dispose of and deal in and with shares or other interests in, or obligations of, any other enterprise or entity.

(f) Make contracts and guarantees; incur liabilities; borrow money; issue its notes, bonds and other obligations; and secure any of its obligations by mortgage or pledge of all or any part of its property, franchises and income.

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

(h) Conduct its business, locate offices and exercise the powers granted by this chapter inside or outside this state.

(i) Be a promoter, incorporator, partner, member, associate or manager of any enterprise or entity.

(j) Elect or appoint managers, agents and employees of the limited liability company, define their duties and fix their compensation.

(k) Pay pensions and establish pension plans, pension trusts, profit-sharing plans, and benefit or incentive plans for any or all of its current or former members, managers, employees and agents.

(L) Make donations to and otherwise devote its resources for the public welfare or for charitable, scientific, educational, humanitarian, philanthropic or religious purposes.

(m) Indemnify a member, manager, employee, officer or agent or any other person.

(n) Transact any lawful business that the members or the managers find to be in aid of governmental policy.

(o) Make payments or donations, or do any other act not prohibited by law, that furthers the business of the limited liability company.

(p) Provide benefits or payments to members, managers, employees and agents of the limited liability company, and to their estates, families, dependents or beneficiaries, in recognition of the past services of the members, managers, employees and agents of the limited liability company.

**History:** 1993 a. 112.

**183.0107 Execution of documents. (1g)** In this section:

(a) “Electronic” has the meaning given in s. 183.0108 (1g) (b).

(b) “Electronic signature” means an electronic sound, symbol, or process, attached to or logically associated with a writing and executed or adopted by a person with intent to authenticate the writing.

(c) “Sign” means to execute or adopt a manual, facsimile, conformed, or electronic signature or any symbol with intent to authenticate a writing.

(1r) Except as provided in this chapter, any document required or permitted by this chapter to be delivered for filing to the department shall be executed by a manager, if management of the limited liability company is vested in a manager or managers, or any member, if management of the limited liability company is reserved to the members.

(2) The person executing the document shall sign it and state beneath or opposite the signature the person’s name and the capacity in which the person signs.

(3) The person executing the document may do so as an attorney-in-fact. Powers of attorney relating to the execution of the document do not need to be shown to or filed with the department.

**History:** 1993 a. 112; 1995 a. 27, 400; 2001 a. 44.

**183.0108 Filing requirements. (1g)** In this section:

(a) “Deliver” means deliver by hand, mail, commercial delivery service, electronic transmission, or any other method of delivery used in conventional commercial practice.

(b) “Electronic” means relating to technology having electrical, digital, magnetic, wireless, optical, electromagnetic, or similar capabilities.

(1r) Except as provided in sub. (3), to be filed under s. 183.0110, a document required or permitted to be filed under this chapter with the department shall satisfy all of the following requirements:

(a) Contain the information required by this chapter.

(b) Be in the English language, except that a limited liability company name need not be in English if it is written in English letters or Arabic or Roman numerals, and the application for registration required of a foreign limited liability company need not be in English if it is accompanied by a reasonably authenticated English translation.

(c) Contain the name of the drafter, if required by s. 182.01 (3).

(d) Be executed in accordance with s. 183.0107.

(e) Be on the form prescribed by the department if the document is described in s. 183.0109 (1).

(f) Be delivered to the office of the department for filing and be accompanied by one exact or conformed copy and the filing fee required by s. 183.0114.

(2) The department shall file photocopies or other reproduced copies of typewritten or printed documents if the copies are manually signed and satisfy this section.

(3) The department may waive any of the requirements of subs. (1r) and (2) and of s. 183.0107 if it appears from the face of the document that the document’s failure to satisfy the requirement is immaterial.

**History:** 1993 a. 112; 1995 a. 27; 2001 a. 44.

**183.0109 Forms. (1)** (a) The department shall prescribe, and furnish on request, forms for all of the following documents:

1. A foreign limited liability company’s application for a certificate of registration under s. 183.1004.

2. A foreign limited liability company’s application for an amended certificate of registration under s. 183.1006.

3. A foreign limited liability company’s application for a certificate of withdrawal under s. 183.1011.

4. An annual report under s. 183.0120.

5. An application for a certificate of conversion under s. 183.1207 (5).

(b) The forms prescribed by the department under par. (a) 1. to 4. shall require disclosure of only the information required under ss. 183.1004, 183.1006, 183.1011 and 183.0120, respectively.

(c) Use of a form prescribed under par. (a) is mandatory.

(2) The department may prescribe, and furnish on request, forms for other documents required or permitted to be filed by this chapter, but use of these forms is not mandatory.

**History:** 1993 a. 112; 1995 a. 27, 225; 2001 a. 44; 2003 a. 33; 2005 a. 476; 2015 a. 295.

**183.0110 Filing duty of department of financial institutions. (1)**

(1) Upon receipt of a document by the department for filing under this chapter, the department shall stamp or otherwise endorse the date of receipt on the original, the document copy and, upon request, any additional document copy received. The department shall return any additional document copy to the person delivering it, as confirmation of the date of receipt.

(2) (a) Except as provided in par. (b), if a document satisfies s. 183.0108 and the terms of the document satisfy the applicable provisions of this chapter, the department shall file the document by stamping or otherwise endorsing “filed”, together with the department’s name, on both the original and the document copy. After filing a document, the department shall deliver the document copy to the domestic limited liability company or foreign limited liability company, or its representative.

(b) If a domestic limited liability company or foreign limited liability company is in default in the payment of any fee required

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under this chapter, the department shall refuse to file any document relating to the domestic limited liability company or foreign limited liability company until all delinquent fees are paid by the domestic limited liability company or foreign limited liability company.

**(3)** (a) If the department refuses to file a document, the department shall return it to the domestic limited liability company or foreign limited liability company, or its representative, within 5 business days after the date on which the document is received by the department for filing, together with a brief, written explanation of the reason for the refusal.

(b) The department's failure to either file or return a document within 5 business days after the date on which it is received constitutes a refusal to file the document.

(c) Except as provided in s. 183.0112 (3), if a document that had been refused for filing by the department is resubmitted to and filed by the department, the effective date of the filed document under s. 183.0111 is the date that the resubmitted document is received by the department for filing or a delayed effective date specified in the resubmitted document in accordance with s. 183.0111 (2). The effective time of the resubmitted documents shall be determined under s. 183.0111 (1) or (2), whichever is applicable.

**(4)** Except as provided in s. 183.0204 (2), the department's filing of a document or refusal to file a document does not do any of the following:

(a) Affect the validity or invalidity of the document in whole or part.

(b) Relate to the correctness or incorrectness of information contained in the document.

(c) Create a presumption that the document is valid or invalid and that information contained in the document is correct or incorrect.

**History:** 1993 a. 112; 1995 a. 27; 2001 a. 44.

**183.0111 Effective date and time of document.** **(1)** (a) Except as provided in sub. (2) and ss. 183.0105 (7), 183.0112 (3), 183.0120 (5) and 183.1009 (3), a document filed by the department under this chapter is effective on the date that it is received by the department for filing and at any of the following times on that date:

1. The time of day specified in the document as its effective time.

2. If no effective time is specified, at the close of business.

(b) The date that a document is received by the department is determined by the department's endorsement on the original document under s. 183.0110 (1).

**(2)** A document may specify a delayed effective date and time, except the effective date may not be more than 90 days after the date that it is received for filing. If a document specifies a delayed effective date and time in accordance with this subsection, the document is effective at the time and date specified. If a delayed effective date but no time is specified, the document is effective at the close of business on that date.

**History:** 1993 a. 112; 1995 a. 27.

**183.0112 Correcting filed document.** **(1)** A domestic limited liability company or foreign limited liability company may correct a document that is filed by the department if the document contains a statement that was incorrect at the time of filing or was defectively executed, including defects in any attestation, seal, verification or acknowledgment.

**(2)** To correct a document under sub. (1), a domestic limited liability company or foreign limited liability company shall prepare and deliver to the department for filing articles of correction that satisfy all of the following:

(a) Describe the document, including its filing date, or include a copy of the document.

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(b) Specify the incorrect statement and the reason that it is incorrect, or specify the manner in which the execution was defective, whichever is applicable.

(c) Correct the incorrect statement or defective execution.

**(3)** (a) Except as provided in par. (b), articles of correction are effective as of the effective date of the document that they correct.

(b) With respect to persons relying on the uncorrected document and adversely affected by the correction, the articles of correction are effective when filed.

**History:** 1993 a. 112; 1995 a. 27.

**183.0113 Confirmation of status.** **(1)** Any person may obtain from the department, upon request, a certificate of status for a domestic limited liability company or foreign limited liability company.

**(2)** A certificate of status shall include all of the following information:

(a) The domestic limited liability company's name or the foreign limited liability company's name and fictitious name, if any, used in this state.

(b) Whether each of the following is true:

1. The domestic limited liability company is organized under the laws of this state, or the foreign limited liability company is authorized to transact business in this state.

1m. The domestic or foreign limited liability company has, during its most recently completed report year, filed with the department an annual report required by s. 183.0120.

2. The domestic limited liability company has not filed articles of dissolution.

3. The foreign limited liability company has not applied for a certificate of withdrawal under s. 183.1011.

4. The foreign limited liability company is not the subject of a proceeding to revoke its certificate of registration under s. 183.1021.

(c) The date of organization of the domestic limited liability company or the date of registration of the foreign limited liability company.

**(3)** The certificate of status may include other facts of record in the department that are requested.

**(4)** Upon request, the department shall issue, by telegraph, teletype, facsimile or other form of wire or wireless communication, a statement of status, which shall contain the information required in a certificate of status under sub. (2) and may contain any other information permitted under sub. (3).

**(5)** Subject to any qualification stated in a certificate or statement of status issued by the department, the certificate or statement is conclusive evidence that the domestic limited liability company or foreign limited liability company is in existence or is authorized to transact business in this state.

**(6)** Upon request by telephone or otherwise, the department shall confirm, by telephone, any of the information required in a certificate of status under sub. (2) and may confirm any other information permitted under sub. (3).

**History:** 1993 a. 112; 1995 a. 27; 2003 a. 33.

**183.0114 Filing and service fees.** **(1)** Except as provided under sub. (3), the department shall collect the following fees when the documents described in this subsection are delivered for filing, or, under pars. (e) and (f), the telephone applications are made:

(a) Except as provided in sub. (2m), articles of organization, \$130.

(b) Application for use of indistinguishable name, \$10.

(c) Written application for reserved name, \$15.

(d) Written application for renewal of reserved name, \$15.

(e) Telephone application for reserved name, \$30.

(f) Telephone application for renewal of reserved name, \$30.

**183.0114 LIMITED LIABILITY COMPANIES**

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- (g) Notice of transfer of reserved name, \$10.
- (h) Application for registered name, \$50.
- (i) Application for renewal of registered name, \$50.
- (j) Subject to sub. (2) (b), a domestic limited liability company's or foreign limited liability company's statement of change of registered office, \$10.
- (k) Agent's statement of change of registered office, \$10 for each affected domestic limited liability company or foreign limited liability company, except that if simultaneous filings are made the filing is reduced to \$1 for each domestic limited liability company or foreign limited liability company in excess of 200.
- (L) Agent's statement of resignation, \$10.
- (m) Amendment to articles of organization, \$40.
- (mp) A certificate of conversion filed under s. 183.1207 (5), \$150.
- (n) Articles of merger, \$150.
- (o) Articles of dissolution, \$20.
- (p) Foreign limited liability company's application for certificate of registration, \$100.
- (q) Foreign limited liability company's application for amended certificate of registration, \$40.
- (r) Foreign limited liability company's application for certificate of withdrawal, \$40.
- (s) Articles of correction, \$40.
- (t) Request for certificate or statement of status, the fee established under s. 182.01 (4) (b).
- (u) Processing in an expeditious manner a document required or permitted to be filed under this chapter, or preparing in an expeditious manner a certificate or statement of status, the fee established under s. 182.01 (4) (d).
- (v) Annual report of a domestic limited liability company, \$25.
- (w) Annual report of a foreign limited liability company, \$65.
- (2)** The department may not collect a fee for any of the following:
  - (a) Providing a confirmation of status by telephone.
  - (b) Filing a domestic limited liability company's or a foreign limited liability company's statement of change of registered office if the only change is to an address and all of the following apply:
    1. The new address is the result of a change in the way a county, city, village or town or the U.S. postal service describes the physical location of the registered office.
    2. A copy of the notice indicating the new address is submitted with the statement.
    3. The physical location of the registered office has not changed.
  - (c) Filing a certificate of revocation of registration to transact business.
- (2m)** (a) In this subsection, "student entrepreneur" means a student to whom all of the following apply:
  1. The student is enrolled in a postsecondary institution in this state.
  2. The student is an organizer of a limited liability company or will be a member of the limited liability company upon its formation, and the limited liability company is being formed as a business start-up.
  3. The student is at least 18 years of age.
- (b) The department may not collect a fee for filing articles of organization if all of the following apply:
  1. All members of the limited liability company, upon its formation, are student entrepreneurs.
  2. If the limited liability company is formed by any organizer who will not become a member of the limited liability company upon its formation, all such organizers of the limited liability company are student entrepreneurs.

**(3)** The department, by rule, may specify a larger fee for filing documents described in sub. (1) in paper format.

**History:** 1993 a. 112; 1995 a. 27; 1997 a. 35; 2001 a. 16, 44; 2003 a. 33; 2017 a. 177.

**183.0120 Annual report.** (1) Each foreign limited liability company registered to transact business in this state and each domestic limited liability company shall file with the department an annual report that includes all of the following information:

(a) The name of the domestic or foreign limited liability company and, if a foreign limited liability company, the state or country under whose law it is organized.

(b) The address of the domestic or foreign limited liability company's registered office and the name of its registered agent at that office in this state.

(c) The address of the domestic or foreign limited liability company's principal office.

(d) If management of the domestic or foreign limited liability company is vested in one or more managers, the name and business address of each manager.

(e) If the company is a foreign limited liability company, the name and business address of each member of the foreign limited liability company.

(f) A brief description of the nature of the domestic or foreign limited liability company's business.

**(2)** Information in the annual report shall be current as of the date on which the annual report is executed on behalf of the domestic or foreign limited liability company, except that the information required by sub. (1) (e) shall be current as of the close of the domestic or foreign limited liability company's fiscal year immediately before the date by which the annual report is required to be delivered to the department.

**(3)** A domestic limited liability company shall deliver its annual report to the department during the calendar quarter during which each anniversary of the effective date of the limited liability company's articles of organization under s. 183.0111 occurs. A foreign limited liability company registered to transact business in this state shall deliver its annual report to the department during the first calendar quarter of each year following the calendar year in which the foreign limited liability company becomes registered to transact business in this state.

**(4)** If an annual report does not contain the information required by this section, the department shall promptly notify the reporting domestic or foreign limited liability company in writing and return the report to it for correction.

**(5)** An annual report is effective on the date that it is filed by the department.

**History:** 1995 a. 27, 225; 2003 a. 33.

**SUBCHAPTER II****ORGANIZATION**

**183.0201 Organization.** One or more persons may organize a limited liability company by signing and delivering articles of organization to the department for filing. The organizer or organizers need not be members of the limited liability company at the time of organization or thereafter.

**History:** 1993 a. 112; 1995 a. 27, 400.

**183.0202 Articles of organization.** The articles of organization shall contain all of and only the following information:

**(1)** A statement that the limited liability company is organized under this chapter.

**(2)** A name for the limited liability company that satisfies s. 183.0103.

**(3)** The street address of the registered office and the name of the registered agent at that office.

**(4)** If management of the limited liability company is vested in one or more managers, a statement to that effect.

(5) The name and address of each person organizing the limited liability company.

(6) If applicable, the delayed effective date and time of the articles of organization permitted under s. 183.0111 (2).

History: 1993 a. 112; 1995 a. 400.

### 183.0203 Amendment of articles of organization.

(1) A limited liability company may amend its articles of organization at any time.

(2) A limited liability company amending its articles of organization shall deliver to the department for filing articles of amendment that include all of the following information:

(a) The name of the limited liability company.

(b) The text of the amendment to the articles of organization.

(c) A statement that the amendment was adopted by the vote required under s. 183.0404 (2).

History: 1993 a. 112; 1995 a. 27.

**183.0204 Effect of delivery or filing of articles of organization and other documents.** (1) (a) A limited liability company is formed when the articles of organization become effective under s. 183.0111.

(b) The department's filing of the articles of organization is conclusive proof that the limited liability company is organized and formed under this chapter.

(c) The status of a limited liability company as a limited liability company or as a foreign limited liability company registered to transact business in this state and the liability of any member of any such limited liability company is not adversely affected by errors or subsequent changes in any information stated in any filing made under this chapter.

(2) The department's filing of the articles of organization of a foreign limited liability company under s. 183.1004 shall be considered the certificate of authority for that foreign limited liability company to transact business in this state and is notice of all other facts set forth in the registration statement.

(3) (a) If a limited liability company or a foreign limited liability company that is registered to transact business in this state dissolves, but its business continues without winding up and without liquidating the company, the status of the limited liability company or foreign limited liability company before dissolution shall continue to be applicable to the company as it continues its business, and the company shall not be required to make any new filings under this chapter. Any filings made by such a limited liability company or foreign limited liability company before dissolution shall be considered to have been filed by the company while it continues its business.

(b) If a limited liability company or a foreign limited liability company that is registered to transact business in this state dissolves, any filings made by the company before dissolution remain in effect as to the company and its members during the period of winding up and to the members during the period after the company's liquidation or termination with respect to the liabilities of the company.

History: 1993 a. 112; 1995 a. 27; 2001 a. 44.

## SUBCHAPTER III

### RELATIONS OF MEMBERS AND MANAGERS TO PERSONS DEALING WITH THE LIMITED LIABILITY COMPANY

### 183.0301 Agency power of members and managers.

(1) Except as provided in sub. (2), all of the following apply:

(a) Each member is an agent of the limited liability company, but not of the other members or any of them, for the purpose of its business.

(b) The act of any member, including the execution in the name of the limited liability company of any instrument, for apparently carrying on in the ordinary course of business the business of the limited liability company binds the limited liability company unless the member has, in fact, no authority to act for the limited liability company in the particular matter, and the person with whom the member is dealing has knowledge that the member has no authority to act in the matter.

(2) If management of the limited liability company is vested in one or more managers, all of the following apply:

(a) No member, solely by being a member, is an agent of the limited liability company or of the other members or any of them.

(b) Each manager is an agent of the limited liability company, but not of the members or any of them, for the purpose of its business. The act of any manager, including the execution in the name of the limited liability company of any instrument, for apparently carrying on in the ordinary course of business the business of the limited liability company binds the limited liability company unless the manager has, in fact, no authority to act for the limited liability company in the particular matter, and the person with whom the manager is dealing has knowledge that the manager has no authority to act in the matter.

(3) No act of a member or, if management of the limited liability company is vested in one or more managers, of a manager that is not apparently for the carrying on in the ordinary course of business the business of the limited liability company shall bind the limited liability company unless in fact authorized at the time of the transaction or at any other time.

History: 1993 a. 112; 1995 a. 400.

### 183.0302 Admissions of members and managers.

(1) Except as provided in sub. (2), an admission or representation made by any member concerning the business of a limited liability company within the scope of the member's actual authority as provided under s. 183.0301 may be used as evidence against the limited liability company in any legal proceeding.

(2) If management of the limited liability company is vested in one or more managers, all of the following apply:

(a) An admission or representation made by a manager concerning the business of a limited liability company within the scope of the manager's authority as provided under s. 183.0301 may be used as evidence against the limited liability company in any legal proceeding.

(b) The admission or representation of any member, acting solely in the member's capacity as a member, is not evidence against the limited liability company in any legal proceeding.

History: 1993 a. 112.

### 183.0303 Limited liability company charged with knowledge of or notice to member or manager.

(1) Except as provided in sub. (2), notice to any member of any matter relating to the business of a limited liability company, and the knowledge of a member acting in the particular matter, acquired while a member or known by the person at the time of becoming a member, and the knowledge of any other member who reasonably could and should have communicated it to the acting member, operate as notice to or knowledge of the limited liability company.

(2) If management of the limited liability company is vested in one or more managers, all of the following apply:

(a) Notice to any manager of any matter relating to the business of the limited liability company, and the knowledge of the manager acting in the particular matter, acquired while a manager or known by the person at the time of becoming a manager, and the knowledge of any other manager who reasonably could and should have communicated it to the acting manager, operate as notice to or knowledge of the limited liability company.

(b) Notice to or knowledge of any member while the member is acting solely in the capacity of a member is not notice to or knowledge of the limited liability company.

**History:** 1993 a. 112.

**183.0304 Liability of members to 3rd parties.** (1) The debts, obligations and liabilities of a limited liability company, whether arising in contract, tort or otherwise, shall be solely the debts, obligations and liabilities of the limited liability company. Except as provided in ss. 73.0306, 183.0502, and 183.0608, a member or manager of a limited liability company is not personally liable for any debt, obligation or liability of the limited liability company, except that a member or manager may become personally liable by his or her acts or conduct other than as a member or manager.

(2) Notwithstanding sub. (1), nothing in this chapter shall preclude a court from ignoring the limited liability company entity under principles of common law of this state that are similar to those applicable to business corporations and shareholders in this state and under circumstances that are not inconsistent with the purposes of this chapter.

**History:** 1993 a. 112; 1995 a. 400; 2017 a. 58.

Personal Liability for Corporate Debt. Kelley. Wis. Law. Oct. 1994.  
When Nonlawyers “Represent” LLCs. Mehl. Wis. Law. March 2009.

**183.0305 Parties to actions.** A member of a limited liability company is not a proper party to a proceeding by or against a limited liability company, solely by reason of being a member of the limited liability company, except if any of the following situations exists:

(1) The object of the proceeding is to enforce a member’s right against or liability to the limited liability company.

(2) The action is brought by the member under s. 183.1101.

**History:** 1993 a. 112.

#### SUBCHAPTER IV

##### RIGHTS AND DUTIES OF MEMBERS AND MANAGERS

**183.0401 Management.** (1) Unless the articles of organization vest management of a limited liability company in one or more managers, management of the limited liability company shall be vested in the members, subject to any provision in an operating agreement or this chapter restricting or enlarging the management rights and duties of any member or group of members.

(2) If the articles of organization vest management of a limited liability company in one or more managers, management of the business or affairs of the limited liability company shall be vested in the manager or managers, subject to any provisions in an operating agreement or this chapter restricting or enlarging the management rights and duties of any manager or group of managers. Unless otherwise provided in an operating agreement, the manager or managers:

(a) Shall be designated, appointed, elected, removed or replaced by a vote of the members that meets the requirements under s. 183.0404 (1) (a).

(b) Need not be members of the limited liability company or individuals.

(c) Shall hold office until a successor is elected and qualified, or until prior death, resignation or removal.

**History:** 1993 a. 112; 1995 a. 400.

**183.0402 Duties of managers and members.** Unless otherwise provided in an operating agreement:

(1) No member or manager shall act or fail to act in a manner that constitutes any of the following:

(a) A willful failure to deal fairly with the limited liability company or its members in connection with a matter in which the member or manager has a material conflict of interest.

(b) A violation of criminal law, unless the member or manager had reasonable cause to believe that the person’s conduct was lawful or no reasonable cause to believe that the conduct was unlawful.

(c) A transaction from which the member or manager derived an improper personal profit.

(d) Willful misconduct.

(2) Every member and manager shall account to the limited liability company and hold as trustee for it any improper personal profit derived by that member or manager without the consent of a majority of the disinterested members or managers, or other persons participating in the management of the limited liability company, from any of the following:

(a) A transaction connected with the organization, conduct or winding up of the limited liability company.

(b) A use by a member or manager of the property of a limited liability company, including confidential or proprietary information or other matters entrusted to the person as a result of the person’s status as member or manager.

(3) An operating agreement may impose duties on its members and managers that are in addition to those provided under sub. (1).

**History:** 1993 a. 112; 1995 a. 400.

Reading ss. 183.0402 and 183.0404 together, members with a material conflict of interest are not prevented from voting their ownership interest with respect to a given matter. Rather, they are prohibited from acting in a manner that constitutes a willful failure to deal fairly with the LLC or its other members by willfully acting, or failing to act, in a manner that will have the effect of injuring the LLC or its other members. *Gottsacker v. Monnier*, 2005 WI 69, 281 Wis. 2d 361, 697 N.W.2d 436, 03–0457.

The First LLC Case. *Boucher & Kamerschroer*. Wis. Law. Sept. 2005.  
Fiduciary Duties of LLC Members and Managers. *Boucher and Kramer*. Wis. Law. Jan. 2018.

**183.0403 Limitation of liability and indemnification of members and managers.** (1) In this section:

(a) “Expenses” has the meaning given in s. 180.0850 (3).

(b) “Liabilities” include the obligation to pay a judgment, settlement, forfeiture, or fine, including an excise tax assessed with respect to an employee benefit plan, plus costs, fees, and surcharges imposed under ch. 814, and reasonable expenses.

(2) A limited liability company shall indemnify or allow reasonable expenses to and pay liabilities of each member and, if management of the limited liability company is vested in one or more managers, of each manager, incurred with respect to a proceeding if that member or manager was a party to the proceeding in the capacity of a member or manager.

(3) An operating agreement may alter or provide additional rights to indemnification of liabilities or allowance of expenses to members and managers.

(4) Notwithstanding subs. (2) and (3), a limited liability company may not indemnify a member or manager for liabilities or permit a member or manager to retain any allowance for expenses provided under those subsections unless it is determined by or on behalf of the limited liability company that the liabilities or expenses did not result from the member’s or manager’s breach or failure to perform a duty to the limited liability company as provided in s. 183.0402.

(5) Unless otherwise provided in an operating agreement, all of the following apply:

(a) A member or manager who is a party to a proceeding because the person is a member or manager shall be conclusively presumed not to have breached or failed to perform a duty to the limited liability company to the extent that the member or manager has been successful on the merits or otherwise in the defense of the proceeding.

(b) In situations not described in par. (a), the determination of whether a member or manager, who is a party to a proceeding because the person is a member or manager, has breached or failed to perform a duty to the limited liability company, or whether the liability or expenses resulted from the breach or failure, shall be made by the vote of the members that meets the requirements



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under s. 183.0404 (1) (a), except that the vote of any member who is a party to the same or a related proceeding shall be excluded unless all members are parties.

**History:** 1993 a. 112; 1995 a. 400; 2003 a. 139.

**183.0404 Voting. (1)** Unless otherwise provided in an operating agreement or this chapter, and subject to sub. (2), an affirmative vote, approval or consent as follows shall be required to decide any matter connected with the business of a limited liability company:

(a) If management of a limited liability company is reserved to the members, an affirmative vote, approval or consent by members whose interests in the limited liability company represent contributions to the limited liability company of more than 50 percent of the value, as stated in the records required to be kept under s. 183.0405 (1), of the total contributions made to the limited liability company.

(b) If the management of a limited liability company is vested in one or more managers, the affirmative vote, consent or approval of more than 50 percent of the managers.

**(2)** Unless otherwise provided in an operating agreement or this chapter, the affirmative vote, approval or consent of all members shall be required to do any of the following:

(a) Amend the articles of organization.

(b) Issue an interest in a limited liability company to any person.

(c) Adopt, amend or revoke an operating agreement.

(d) Allow a limited liability company to accept any additional contribution from a member.

(e) Allow a partial redemption of an interest in a limited liability company under s. 183.0603.

(f) Value the contributions of members under s. 183.0501 (2).

(fm) Convert to a new form of business entity under s. 183.1207.

(g) Authorize a manager, member or other person to do any act on behalf of the limited liability company that contravenes an operating agreement, including any provision of the operating agreement that expressly limits the purpose or business of the limited liability company or the conduct of the business of the limited liability company.

**(3)** Unless otherwise provided in an operating agreement, if any member is precluded from voting with respect to a given matter, then the value of the contribution represented by the interest in the limited liability company with respect to which the member would otherwise have been entitled to vote shall be excluded from the total contributions made to the limited liability company for purposes of determining the 50 percent threshold under sub. (1) (a) for that matter.

**(4)** Unless otherwise provided in an operating agreement or this chapter, if all or part of an interest in the limited liability company is assigned under s. 183.0704, all of the following apply:

(a) The assigning member shall be considered the owner of the assigned interest for purposes of determining the 50 percent threshold under sub. (1) (a) until the assignee of the interest in the limited liability company becomes a member under s. 183.0706.

(b) If the assigning member ceases to be a member of the limited liability company, and until the assignee of the interest in the limited liability company becomes a member under s. 183.0706, the contribution represented by the assigned interest shall be excluded from the total contributions made to the limited liability company for purposes of determining the 50 percent threshold under sub. (1) (a).

**History:** 1993 a. 112; 2001 a. 44.

Reading ss. 183.0402 and 183.0404 together, members with a material conflict of interest are not prevented from voting their ownership interest with respect to a given matter. Rather, they are prohibited from acting in a manner that constitutes a willful failure to deal fairly with the LLC or its other members by willfully acting, or failing to act, in a manner that will have the effect of injuring the LLC or its other members. *Gottsacker v. Monnier*, 2005 WI 69, 281 Wis. 2d 361, 697 N.W.2d 436, 03–0457.

Chapter 183, unlike ch. 180, does not contain a requirement that approval or consent of members to undertake an action be reduced to written form. Rather, it requires

an affirmative vote, approval, or consent to decide any matter connected with the business of an LLC. *Sanitary District No. 4 – Town of Brookfield v. City of Brookfield*, 2009 WI App 47, 317 Wis. 2d 532, 767 N.W.2d 316, 08–0511.

The First LLC Case. *Boucher & Kamperschroer*. Wis. Law. Sept. 2005.

**183.0405 Records and information. (1)** A limited liability company shall keep at its principal place of business all of the following:

(a) A list, kept in alphabetical order, of each past and present member and, if applicable, manager. The list shall include the full name and last-known mailing address of each member or manager, the date on which the person became a member or manager and the date, if applicable, on which the person ceased to be a member or manager.

(b) A copy of the articles of organization and all amendments to the articles.

(c) Copies of the limited liability company's federal, state and local income or franchise tax returns and financial statements, if any, for the 4 most recent years or, if such returns and statements are not prepared for any reason, copies of the information and statements provided to, or which should have been provided to, the members to enable them to prepare their federal, state and local income tax returns for the 4 most recent years.

(d) Copies of all operating agreements, all amendments to operating agreements and any operating agreements no longer in effect.

(e) Unless already set forth in an operating agreement, written records containing all of the following information:

1. The value of each member's contribution made to the limited liability company as determined under s. 183.0501 (2).

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

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

4. Other writings as required by an operating agreement.

**(2)** Upon reasonable request, a member may, at the member's own expense, inspect and copy during ordinary business hours any limited liability company record required to be kept under sub. (1) and, unless otherwise provided in an operating agreement, any other limited liability company record, wherever the record is located.

**(3)** Members or, if the management of the limited liability company is vested in one or more managers, managers shall provide, to the extent that the circumstances render it just and reasonable, true and full information of all things affecting the members to any member or to the legal representative of any member upon reasonable request of the member or the legal representative.

**(4)** Failure of a limited liability company to keep or maintain any of the records or information required under this section shall not be grounds for imposing liability on any person for the debts and obligations of the limited liability company.

**History:** 1993 a. 112; 1995 a. 400.

The scope of a member's right of inspection under sub. (2) is exceptionally broad and hinges on what constitutes an LLC record and the degree and kind of restrictions on access that upon reasonable request may impose. *Kasten v. Doral Dental USA*, 2007 WI 76, 301 Wis. 2d 598, 733 N.W.2d 300, 05–0995.

Inspection "upon reasonable request" in sub. (2) pertains to the breadth of an inspection request, as well as the timing and form of the inspection. One purpose of the "upon reasonable request" requirement is to protect the company from member inspection requests that impose undue financial burdens on the company. Whether an inspection request is unreasonable requires balancing the statute's bias in favor of member access to records against the costs of the inspection to the company. *Kasten v. Doral Dental USA*, 2007 WI 76, 301 Wis. 2d 598, 733 N.W.2d 300, 05–0995.

When applying the balancing test to determine whether a request for records imposes undue financial burdens, a number of factors may be relevant, including: 1) whether the request is restricted by date or subject matter; 2) the reason given, if any, for the request, and whether the request is related to that reason; 3) the importance of the information to the member's interest in the company; and 4) whether the information may be obtained from another source. *Kasten v. Doral Dental USA*, 2007 WI 76, 301 Wis. 2d 598, 733 N.W.2d 300, 05–0995.

Sub. (3) establishes a member right to true and full information, without regard to whether that information is recorded and stored as a record or document, but restricted to information affecting the members and to the extent that the circumstances render the provision of the information just and reasonable. "All things affecting the members" means all things affecting the requesting member's financial interest in the company. To the extent records and documents requested contain information affecting a member's financial interest in the company, the information con-

tained in the records or documents must be furnished to the requesting member. *Kasten v. Doral Dental USA*, 2007 WI 76, 301 Wis. 2d 598, 733 N.W.2d 300, 05–0995.

## SUBCHAPTER V

## FINANCE

**183.0501 Contributions.** (1) A member's contributions to a limited liability company may consist of cash, property or services rendered, or promissory notes or other written obligations to provide cash or property or to perform services.

(2) The value of a member's contribution shall be determined in the manner provided in an operating agreement. If the members do not enter into an operating agreement or if an operating agreement does not so provide, the value of a contribution shall be approved by the members under s. 183.0404 (2) (f). That value shall be properly reflected in the records and information kept by the limited liability company under s. 183.0405 (1) and the value shall be binding and conclusive on the limited liability company and its members.

History: 1993 a. 112.

**183.0502 Liability for contribution.** (1) An obligation of a member to provide cash or property or to perform services as a contribution to a limited liability company is not enforceable unless specified in a writing signed by the member.

(2) Unless otherwise provided in an operating agreement, a member is obligated to a limited liability company to perform any enforceable promise to provide cash or property or to perform services, even if the member is unable to perform because of death, disability or any other reason. If a member does not provide cash, property or services as promised, the member is obligated at the option of the limited liability company to provide cash equal to that portion of the value, as stated in the records required to be kept under s. 183.0405 (1), of the stated contribution that has not been fulfilled.

(3) Unless otherwise provided in an operating agreement, a member's obligation to provide cash or property or perform services as a contribution to the limited liability company may be compromised only by the written consent of all of the members.

History: 1993 a. 112.

**183.0503 Allocation of profits and losses.** The profits and losses of a limited liability company shall be allocated among the members in the manner provided in an operating agreement. If the members do not enter into an operating agreement or the operating agreement does not so provide, profits and losses shall be allocated on the basis of value, as stated in the records required to be kept under s. 183.0405 (1), of the contributions made by each member.

History: 1993 a. 112.

**183.0504 Series of members, managers, or limited liability company interests.** An operating agreement may establish, or provide for the establishment of, designated series or classes of members, managers, or limited liability company interests that have separate or different preferences, limitations, rights, or duties, with respect to profits, losses, distributions, voting, property, or other incidents associated with the limited liability company.

History: 2001 a. 44.

## SUBCHAPTER VI

## NONLIQUIDATING DISTRIBUTIONS

**183.0601 Interim distributions.** Except as provided in this subchapter, a member is entitled to receive distributions from a limited liability company, before the member's dissociation from the limited liability company and before its dissolution and wind-

ing up, to the extent and at the times or upon the events specified in an operating agreement, or, if not otherwise provided in an operating agreement, to the extent and at the times determined by the members or managers under s. 183.0404 (1).

History: 1993 a. 112; 1995 a. 400.

**183.0602 Allocation of distributions.** Distributions of cash or other assets of a limited liability company shall be allocated among the members as provided in an operating agreement. If the members do not enter into an operating agreement or the operating agreement does not so provide, distributions shall be allocated in the same manner that profits are allocated under s. 183.0503.

History: 1993 a. 112; 1995 a. 400.

**183.0603 Distribution upon partial redemption.** Except as provided in this subchapter, upon the distribution in partial redemption by a limited liability company of a member's interest, the redeeming member is entitled to receive with respect to the redeemed interest any distribution to which the member is entitled under an operating agreement and, if not otherwise provided in an operating agreement, within a reasonable time after the redemption, the redeeming member is entitled to receive the fair value of the redeemed interest as of the date of redemption based on the member's right to share in distributions from the limited liability company.

History: 1993 a. 112.

**183.0604 Distribution upon dissociation.** Except as otherwise provided in this subchapter, upon an event of dissociation under s. 183.0802 that does not cause dissolution of the limited liability company, a dissociating member is entitled to receive any distribution to which the member is entitled under an operating agreement and, if not otherwise provided in an operating agreement, within a reasonable time after dissociation, the dissociating member is entitled to receive a distribution in complete redemption of the fair value of the member's interest in the limited liability company as of the date of dissociation based on the member's right to share in distributions from the limited liability company.

History: 1993 a. 112.

**183.0605 Distribution in kind.** Unless otherwise provided in an operating agreement, all of the following apply:

(1) A member may not demand and receive any distribution from a limited liability company in any form other than cash, regardless of the form of the member's contribution to the limited liability company.

(2) A member may not be compelled to accept a distribution of any asset in kind from a limited liability company to the extent that the percentage of the asset distributed to the member exceeds the percentage in which the member shares in distributions from the limited liability company.

History: 1993 a. 112.

**183.0606 Right to distribution.** At the time that a member becomes entitled to receive a distribution from a limited liability company, the member has the status of and is entitled to all remedies available to a creditor of the limited liability company with respect to the distribution.

History: 1993 a. 112.

**183.0607 Limitations on distribution.** (1) A limited liability company may not declare or make a distribution to any of its members if, after giving effect to the distribution, any of the following would occur:

(a) The limited liability company would be unable to pay its debts as they become due in the usual course of business.

(b) The fair value of the limited liability company's total assets would be less than the sum of its total liabilities plus, unless an operating agreement provides otherwise, the amount that would be needed, if the limited liability company were to be dissolved at the time of the distribution, to satisfy the preferential rights upon

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dissolution of members, if any, whose preferential rights are superior to those of the members receiving the distribution.

(2) A limited liability company may base a determination that a distribution is not prohibited by sub. (1) on any of the following:

(a) Financial statements and other financial data prepared on the basis of accounting practices and principles that are reasonable under the circumstances.

(b) A fair valuation or other method that is reasonable under the circumstances.

(3) Except as provided in sub. (5), the effect of a distribution for purposes of sub. (1) is measured as of the following date:

(a) The date on which the distribution is authorized if the payment occurs within 120 days after the date of authorization.

(b) The date on which payment is made if the payment occurs more than 120 days after the date of authorization.

(4) A limited liability company's indebtedness to a member incurred by reason of a distribution made in accordance with this section is at parity with the limited liability company's indebtedness to its general, unsecured creditors, except to the extent subordinated by written agreement. This subsection does not affect the validity or priority of a security interest in a limited liability company's property that is created to secure the indebtedness to the member.

(5) Indebtedness of a limited liability company, including indebtedness issued as a distribution, is not considered a liability for purposes of a determination under sub. (1) if the terms of the indebtedness provide that payment of principal and interest is to be made only if, and to the extent that, payment of a distribution to members could then be made under this section. 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 on which the payment is made.

**History:** 1993 a. 112.

**183.0608 Liability for wrongful distribution.** (1) Except as provided in sub. (3), a member or manager who votes for or assents to a distribution in violation of s. 183.0607 or of an operating agreement is personally liable to the limited liability company for the amount of the distribution that exceeds what could have been distributed without violating s. 183.0607 or the operating agreement.

(2) Each member or manager who is liable under sub. (1) for a wrongful distribution is entitled to contribution from all of the following persons:

(a) Every other member or manager who could be held liable under sub. (1) for the wrongful distribution.

(b) Every member for the amount that the member received knowing that the distribution was made in violation of s. 183.0607 or of an operating agreement.

(3) A proceeding under this section is barred unless it is brought within 2 years after the date on which the effect of the distribution was measured under s. 183.0607.

**History:** 1993 a. 112.

## SUBCHAPTER VII

### OWNERSHIP AND TRANSFER OF PROPERTY

**183.0701 Ownership of limited liability company property.** (1) All property originally transferred to or subsequently acquired by or on account of a limited liability company is property of the limited liability company and not of the members individually.

(2) Property acquired with limited liability company funds is presumed to be limited liability company property.

(3) Property may be acquired, held and conveyed in the name of a limited liability company. Any interest in real property may

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be acquired in the name of a limited liability company and title to any interest so acquired shall vest in the limited liability company rather than in the members individually.

**History:** 1993 a. 112.

**183.0702 Transfer of property.** (1) Except as provided in sub. (2), property of a limited liability company held in the name of the limited liability company may be transferred by an instrument of transfer executed by any member in the name of the limited liability company.

(2) If management of a limited liability company is vested in one or more managers, all of the following apply:

(a) Title to property of the limited liability company that is held in the name of the limited liability company may be transferred by an instrument of transfer executed by any manager in the name of the limited liability company.

(b) A member who is not a manager does not have authority, in the member's capacity as a member, to transfer title to property of the limited liability company.

**History:** 1993 a. 112; 1995 a. 400.

**183.0703 Nature of limited liability company interest.**

A limited liability company interest is personal property.

**History:** 1993 a. 112.

**183.0704 Assignment of limited liability company interest.**

(1) Unless otherwise provided in an operating agreement, all of the following apply:

(a) A limited liability company interest is assignable in whole or in part.

(b) An assignment of a limited liability company interest entitles the assignee to receive only the distributions and to share in the allocations of profits and losses to which the assignor would be entitled with respect to the assigned interest.

(c) An assignment of a limited liability company interest does not dissolve the limited liability company.

(d) Unless and until the assignee becomes a member of the limited liability company under s. 183.0706, an assignment of a limited liability company interest does not entitle the assignee to participate in the management of the business of the limited liability company or to become or exercise any rights of a member nor does an assignment result in the assignee having liability as a member of the limited liability company as a result of the assignment.

(e) Unless and until the assignee of a limited liability company interest becomes a member of the limited liability company under s. 183.0706, the assignor continues to be a member and to have the power to exercise the rights of a member, subject to the members' right to remove the assignor under s. 183.0802.

(f) The assignor of a limited liability company interest is not released from any personal liability arising under this chapter as a member of the limited liability company solely as a result of the assignment.

(2) An operating agreement may provide that a member's limited liability company interest may be evidenced by a certificate of limited liability company interest issued by the limited liability company and may also provide for the assignment or transfer of any interest represented by the certificate.

(3) Unless otherwise provided in an operating agreement, the pledge of, or the granting of a security interest, lien or other encumbrance in or against any or all of a member's limited liability company interest is not an assignment and shall not cause the member to be an assignor or to cease to have the power to exercise any rights or powers of a member.

**History:** 1993 a. 112.

*When Does a Member's Interest in an LLC Become a Security?* Briska. Wis. Law. Sept. 1994.

**183.0705 Rights of judgment creditor.** On application to a court of competent jurisdiction by any judgment creditor of a member, the court may charge the member's limited liability company interest with payment of the unsatisfied amount of the judg-

ment. To the extent so charged, the judgment creditor has only the rights of an assignee of the member's limited liability company interest. This section does not deprive any member of the benefit of any exemption laws applicable to the limited liability company interest.

**History:** 1993 a. 112.

**183.0706 Right of assignee to become a member.**

(1) Unless otherwise provided in an operating agreement, an assignee of a limited liability company interest may become a member only if the other members unanimously consent. The consent of a member may be evidenced in any manner specified in an operating agreement, but in the absence of such specification, consent shall be evidenced by a written instrument that is dated and signed by the member.

(2) (a) An assignee of a limited liability company interest who becomes a member has, to the extent assigned, the rights and powers, and is subject to the restrictions and liabilities, of the assignor under an operating agreement and this chapter. An assignee who becomes a member is liable for any of the assignor's obligations under an operating agreement and this chapter to the limited liability company.

(b) Notwithstanding par. (a), an assignee is not obligated for liabilities of which the assignee had no knowledge at the time the assignee became a member or which could not be ascertained from any written records of the limited liability company kept under s. 183.0405 (1).

(3) Unless otherwise provided in an operating agreement, an assignor of a limited liability company interest is not released from any liability of the assignor to the limited liability company under this chapter without the written consent of all of the members, whether or not the assignee becomes a member.

**History:** 1993 a. 112; 1995 a. 400.

**183.0707 Powers of legal representative.** If a member who is an individual dies or is adjudged to be incompetent to manage his or her person or estate by a court of competent jurisdiction, the member's personal representative, administrator, guardian, conservator, trustee or other legal representative shall have all of the rights of an assignee of the member's interest. If a member is a corporation, trust, partnership, limited liability company or other entity and is dissolved or terminated, its legal representative or successor shall have all of the rights of an assignee of the member's interest.

**History:** 1993 a. 112; 1995 a. 400.

## SUBCHAPTER VIII

### ADMISSION AND DISSOCIATION OF MEMBERS

**183.0801 Admission of members. (1)** In connection with the formation of a limited liability company, a person acquiring a limited liability company interest is admitted as a member of the limited liability company upon the later of the following to occur:

(a) The formation of the limited liability company.

(b) The time provided in and upon compliance with an operating agreement or, if the limited liability company does not have an operating agreement or an operating agreement does not so provide, on the effective date of the person's admission as reflected in the records of the limited liability company maintained under s. 183.0405 (1).

(2) After the formation of a limited liability company, a person acquiring a limited liability company interest is admitted as a member of the limited liability company:

(a) In the case of a person acquiring a limited liability company interest directly from the limited liability company, at the time provided in and upon compliance with an operating agreement or, if the limited liability company does not have an operating agreement or an operating agreement does not so provide, upon the consent of all members and on the effective date of the person's

admission as reflected in the records of the limited liability company maintained under s. 183.0405 (1).

(b) In the case of an assignee of a limited liability company interest, as provided in s. 183.0706 (1) and at the time provided in and upon compliance with an operating agreement or, if the limited liability company does not have an operating agreement or an operating agreement does not so provide, on the effective date of the person's admission as reflected in the records of the limited liability company maintained under s. 183.0405 (1).

**History:** 1993 a. 112; 1995 a. 400.

**183.0802 Events of dissociation. (1)** A person ceases to be a member of a limited liability company upon the occurrence of, and at the time of, any of the following events:

(a) The member withdraws by voluntary act from the limited liability company under sub. (3).

(b) The member assigns all of the member's interest in the limited liability company and one or more assignees are admitted as members under s. 183.0706 (1).

(c) The member is removed as a member in accordance with an operating agreement.

(cm) Unless otherwise provided in an operating agreement, the member assigns all of the member's interest in the limited liability company if the member is removed by the affirmative vote of the members as determined under s. 183.0404 (1) (a), except that the vote of the member who assigns all of the member's interest shall be excluded.

(d) Unless otherwise provided in an operating agreement or by the written consent of all members at the time of the event, the member does any of the following:

1. Makes an assignment for the benefit of creditors.

2. Files a voluntary petition in bankruptcy.

3. Becomes the subject of an order for relief under the federal bankruptcy laws.

4. Files a petition or answer seeking for the member any reorganization, arrangement, composition, readjustment, liquidation, dissolution or similar relief under any statute, law or regulation.

5. Files an answer or other pleading admitting or failing to contest the material allegations of a petition filed against the member in any proceeding under subd. 4.

6. Seeks, consents to or acquiesces in the appointment of a trustee, receiver or liquidator of the member or of all or any substantial part of the member's properties.

(e) Unless otherwise provided in an operating agreement or by the written consent of all members:

1. At the expiration of 120 days after the commencement of any involuntary proceeding against the member seeking reorganization, arrangement, composition, readjustment, liquidation, dissolution or similar relief under any statute, law or regulation, if the proceeding has not been dismissed.

2. At the expiration of 120 days after the appointment without the member's consent or acquiescence of a trustee, receiver or liquidator of the member or of all or any substantial part of the member's properties, if the appointment is not vacated or stayed, or at the expiration of 120 days after the expiration of any stay, if the appointment is not vacated.

(f) Unless otherwise provided in an operating agreement or by the written consent of all members, if the member is an individual:

1. The member's death.

2. The entry of an order by a court of competent jurisdiction adjudicating the member incompetent to manage the member's person or estate.

(g) Unless otherwise provided in an operating agreement or by the written consent of all members at the time, if the member is a trust or is acting as a member by virtue of being a trustee of a trust, the termination of the trust, but not merely the substitution of a new trustee.

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(h) Unless otherwise provided in an operating agreement or by the written consent of all members at the time, if the member is a separate domestic or foreign limited liability company, the dissolution and commencement of winding up of the separate domestic or foreign limited liability company.

(i) Unless otherwise provided in an operating agreement or by the written consent of all members at the time, if the member is a corporation, the filing of articles of dissolution for the corporation or the revocation of its charter and the lapse of the time provided by the laws of the state of incorporation without a reinstatement of its charter.

(j) Unless otherwise provided in an operating agreement or by the written consent of all members at the time, if the member is an estate, the distribution by the fiduciary of the estate's entire interest in the limited liability company.

(k) Unless otherwise provided in an operating agreement or by the written consent of all members at the time, if the member is a partnership or other entity not described under pars. (g) to (j), the dissolution of the partnership or entity.

(2) The members may provide in an operating agreement for other events the occurrence of which result in a person ceasing to be a member of the limited liability company.

(3) (a) Except as provided in par. (b), a member may voluntarily withdraw from a limited liability company at any time by giving written notice to the other members, or on any other terms as are provided in an operating agreement. If the withdrawal occurs as a result of wrongful conduct of the member, the limited liability company may recover from the withdrawing member damages as a result of the wrongful conduct and may offset the damages against the amount otherwise distributable to the member, in addition to pursuing any remedies provided for in an operating agreement or otherwise available under applicable law.

(b) If a member acquired an interest in a limited liability company for no or nominal consideration or owns an interest as to which the power to withdraw is prohibited or otherwise restricted in the operating agreement, the member may withdraw from the limited liability company with respect to that interest only in accordance with the operating agreement and only at the time or upon the occurrence of an event specified in the operating agreement. If the operating agreement does not specify the time or the event upon the occurrence of which the member may withdraw, a member who acquired an interest in the limited liability company for no or nominal consideration may not withdraw prior to the time for the dissolution and commencement of winding up of the limited liability company without the written consent of all members of the limited liability company. Unless otherwise provided in an operating agreement, in the case of a limited liability company that is organized for a definite term or particular undertaking, the operating agreement shall be considered to provide that a member may not withdraw before the expiration of that term or completion of that undertaking.

**History:** 1993 a. 112; 1995 a. 400; 1997 a. 27; 2001 a. 44.

**SUBCHAPTER IX****DISSOLUTION**

**183.0901 Dissolution.** A limited liability company is dissolved and its affairs shall be wound up upon the happening of the first of the following:

(1) The occurrence of events specified in an operating agreement.

(2) The written consent of all members.

(3) The department administratively dissolves the limited liability company under s. 183.09025 (2) (c), unless the limited liability company is subsequently reinstated under s. 183.09025 (4) (b) or pursuant to judicial review under ss. 227.52 to 227.58.

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(4) For a limited liability company organized before October 1, 2002, an event of dissociation of a member, unless any of the following applies:

(a) The business of the limited liability company is continued by the consent of all of the remaining members within 90 days after the date on which the event occurs at which time the remaining members may agree to the admission of one or more additional members or to the appointment of one or more additional managers, or both.

(b) Otherwise provided in an operating agreement.

(5) Entry of a decree of judicial dissolution under s. 183.0902. **History:** 1993 a. 112; 1995 a. 400; 2001 a. 44; 2003 a. 33.

**183.0902 Judicial dissolution.** In a proceeding by or for a member, the circuit court for the county where the limited liability company's principal office, or, if none in this state, its registered office, is or was last located may order dissolution of a limited liability company if any of the following is established:

(1) That it is not reasonably practicable to carry on the business of the limited liability company.

(2) That the limited liability company is not acting in conformity with an operating agreement.

(3) That one or more managers are acting or will act in a manner that is illegal, oppressive or fraudulent.

(4) That one or more members in control of the limited liability company are acting or will act in a manner that is illegal, oppressive or fraudulent.

(5) That limited liability company assets are being misapplied or wasted.

**History:** 1993 a. 112.

When one LLP member intentionally made an outrageous offer to buy out the other member, but did nothing to close the transaction when the other accepted and opposed every motion brought by the offeree, as well as those requested by the court appointed receiver, the offeror's behavior not only lacked good faith but also was oppressive. *Decker v. Decker*, 2006 WI App 247, 298 Wis. 2d 141, 726 N.W.2d 664, 04–3112.

**183.09025 Administrative dissolution and reinstatement.** (1) **GROUNDS FOR ADMINISTRATIVE DISSOLUTION.** The department may bring a proceeding under sub. (2) to administratively dissolve any limited liability company that does not deliver to the department the limited liability company's complete annual report within one year after the annual report is due.

(2) **PROCEDURE FOR ADMINISTRATIVE DISSOLUTION.** (a) If the department determines that grounds exist under sub. (1) for dissolving a limited liability company, the department shall mail the limited liability company a notice of the determination. The notice shall be in writing and addressed to the registered office of the limited liability company.

(b) Within 60 days after the date on which the notice is received or the date on which the notice under par. (d) is posted, the limited liability company shall correct each ground for dissolution or demonstrate to the reasonable satisfaction of the department that each ground determined by the department does not exist.

(c) If a limited liability company fails to satisfy par. (b), the department shall administratively dissolve the limited liability company. The department shall enter a notation in its records to reflect each ground for dissolution and the effective date of dissolution and shall mail the limited liability company a notice of those facts and a certificate of dissolution. The notice and certificate shall be in writing and addressed to the registered office of the limited liability company. The dissolution is subject to judicial review as provided in ss. 227.52 to 227.58.

(d) If a notice under par. (a) or (c) is returned to the department as undeliverable, the department shall again mail the notice to the limited liability company as provided under that paragraph. If the notice is again returned to the department as undeliverable, the department shall give the notice by posting the notice on the department's Internet site.

(3) **USE OF NAME FOLLOWING ADMINISTRATIVE DISSOLUTION.** A limited liability company's right to the exclusive use of its name

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terminates on the date of the administrative dissolution under sub. (2) (c).

(4) **REINSTATEMENT.** (a) A limited liability company that is administratively dissolved under sub. (2) (c) may apply to the department for reinstatement. The application shall include all of the following:

1. The name of the limited liability company and the date on which it was administratively dissolved.

2. A statement that each ground for dissolution either did not exist or has been cured.

3. A statement that the limited liability company's name satisfies s. 183.0103.

(b) The department shall cancel the certificate of dissolution and issue a certificate of reinstatement under this paragraph if the department determines that the application contains the information required under par. (a), that the information is correct, and that all fees and penalties owed by the limited liability company to the department under this chapter have been paid. The certificate of reinstatement shall state the department's determination under this paragraph and the effective date of reinstatement. The department shall file the certificate and provide a copy to the limited liability company or its representative.

(c) When the reinstatement becomes effective, it shall relate back to and take effect as of the effective date of the administrative dissolution, and the limited liability company may resume carrying on its business as if the administrative dissolution had never occurred.

(d) If the department denies a limited liability company's application for reinstatement under par. (a), the department shall serve the limited liability company with a written notice of denial that explains each reason for the denial. The denial is subject to judicial review as provided in ss. 227.52 to 227.58.

**History:** 2003 a. 33; 2005 a. 132; 2011 a. 234; 2013 a. 20.

**183.0903 Winding up.** A dissolved limited liability company continues its legal existence but may not carry on any business except that which is appropriate to wind up and liquidate its business. Unless otherwise provided in an operating agreement:

(1) The business of the limited liability company may be wound up by any of the following:

(a) The members or managers who have authority under s. 183.0401 to manage the limited liability company before dissolution.

(b) If one or more of the members or managers who have authority to manage the limited liability company have engaged in wrongful conduct, or upon other cause shown, on application of any member or any member's legal representative or assignee, the circuit court for the county where the limited liability company's principal office, or, if none in this state, its registered office, is or was last located.

(2) The persons winding up the business of the limited liability company may do all of the following in the name of and on behalf of the limited liability company:

(a) Collect its assets.

(b) Prosecute and defend suits.

(c) Take any action necessary to settle and close the business of the limited liability company.

(d) Dispose of and transfer the property of the limited liability company.

(e) Discharge or make provision for discharging the liabilities of the limited liability company.

(f) Distribute to the members any remaining assets of the limited liability company.

(3) Dissolution of a limited liability company does not do any of the following:

(a) Transfer title to the limited liability company's property.

(b) Prevent transfer of all or part of a member's interest.

(c) Prevent commencement of a civil, criminal, administrative or investigatory proceeding by or against the limited liability company.

(d) Abate or suspend a civil, criminal, administrative or investigatory proceeding pending by or against the limited liability company at the time of dissolution.

(e) Terminate the authority of the registered agent of the limited liability company.

(f) Alter the limited liability of a member.

**History:** 1993 a. 112.

**183.0904 Agency power of managers or members after dissolution.** (1) Except as provided in subs. (3), (4) and (5), after dissolution of the limited liability company, each of the members having authority to wind up the limited liability company's business may bind the limited liability company in any of the following ways:

(a) By any act appropriate for winding up the limited liability company's business or completing transactions unfinished at dissolution.

(b) By any transaction that would have bound the limited liability company if it had not been dissolved, if the other party to the transaction does not have notice of the dissolution.

(2) The filing of the articles of dissolution shall be considered to constitute notice of dissolution for purposes of sub. (1) (b).

(3) An act of a member that is not binding on a limited liability company under sub. (1) is binding if it is otherwise authorized by the limited liability company.

(4) An act of a member that would be binding under sub. (1) or that otherwise would be authorized but which is in contravention of a restriction on authority shall not bind a limited liability company to persons having knowledge of the restriction.

(5) If management of a limited liability company is vested in one or more managers, a manager shall have the authority of a member under sub. (1), and a member shall not have that authority if the member is acting solely in the capacity of a member.

**History:** 1993 a. 112.

**183.0905 Distribution of assets.** Upon the winding up of a limited liability company, the assets shall be distributed in the following order:

(1) To creditors, including, to the extent permitted by law, members who are creditors, in satisfaction of liabilities of the limited liability company.

(2) Unless otherwise provided in an operating agreement, to members and former members in satisfaction of liabilities for distributions under ss. 183.0601, 183.0603 and 183.0604.

(3) Unless otherwise provided in an operating agreement, to members and former members first for the return of their contributions in proportion to their respective values as specified in the records required to be maintained under s. 183.0405 (1) and, 2nd, for their membership interests in proportion to their respective rights to share in distributions from the limited liability company before dissolution.

**History:** 1993 a. 112.

**183.0906 Articles of dissolution. (1m)** After the dissolution of a limited liability company under s. 183.0901, the limited liability company may file articles of dissolution with the department that include all of the following:

(a) The name of the limited liability company.

(b) The date of filing of its articles of organization.

(c) The statutory grounds under s. 183.0901 for dissolution.

(d) The delayed effective date of the articles of dissolution under s. 183.0111 (2), if applicable.

(2m) A limited liability company may revoke a dissolution of the limited liability company under s. 183.0901 (1) within 120 days after the effective date of the dissolution. Revocation of the dissolution shall be authorized in the same manner that the dis-

solution was authorized. After the revocation of the dissolution is authorized, the limited liability company may revoke the dissolution by delivering to the department for filing a copy of the limited liability company's articles of dissolution and articles of revocation of dissolution, which shall include all of the following:

- (a) The name of the limited liability company.
- (b) The effective date of the dissolution that is being revoked.
- (c) The date on which the revocation of the dissolution was authorized.
- (d) A statement that the revocation of dissolution was authorized in the same manner as the dissolution or a statement that the revocation of dissolution was authorized under sub. (1m) (c).

**(3m)** On the effective date of articles of revocation of dissolution under sub. (2m), the revocation of dissolution shall relate back to, and take effect as of, the effective date of the dissolution, and the limited liability company may resume carrying on its business as if the dissolution never occurred.

**History:** 1993 a. 112; 1995 a. 27; 2007 a. 133; 2009 a. 180.

**183.0907 Known claims against dissolved limited liability company.** (1) In this section, "claim" does not include a contingent liability or a claim based on an event occurring after the effective date of dissolution and does not include liability of a limited liability company for an additional assessment under s. 71.74 or for sales and use taxes determined as owing under s. 77.59.

**(1m)** Upon dissolution, a limited liability company may dispose of the known claims against it by filing articles of dissolution under s. 183.0906 and following the procedures in this section.

**(2)** A dissolved limited liability company may notify its known claimants in writing of the dissolution at any time after the effective date of its articles of dissolution. The written notice shall include all of the following:

- (a) A description of the pertinent information that must be included in a claim.
- (b) A mailing address where a claim may be sent.
- (c) The deadline, which may not be fewer than 120 days after the date of the written notice, by which the limited liability company must receive the claim.
- (d) A statement that the claim will be barred if not received by the deadline.

**(3)** A claim against the limited liability company is barred if any of the following occurs:

(a) A claimant who was given written notice under sub. (2) does not deliver the claim, in writing, to the limited liability company by the deadline specified in the notice.

(b) A claimant whose claim is rejected by the limited liability company does not commence a proceeding to enforce the claim within 90 days after receipt of the rejection notice.

**(4)** In order to be effective, a rejection of a claim shall be in writing.

**History:** 1993 a. 112; 1995 a. 400.

**183.0908 Unknown or contingent claims against dissolved limited liability company.** (1) At any time after the effective date of its articles of dissolution, a dissolved limited liability company may publish a notice of its dissolution under this section that requests that persons with claims, whether known or unknown, against the limited liability company or its members or managers, in their capacities as such, present the claims in accordance with the notice.

**(2)** The notice shall be published as a class 1 notice, under ch. 985, in a newspaper of general circulation in the county in which the limited liability company's principal office or, if none in this state, its registered office is located.

**(2m)** The notice shall include all of the following:

- (a) A description of the information that must be included in a claim.

(b) A mailing address where the claim may be sent.

(c) A statement that a claim against the limited liability company or its members or managers will be barred unless a proceeding to enforce the claim is commenced within 2 years after the publication of the notice.

**(3)** If a dissolved limited liability company publishes a notice under sub. (2), the claim of any of the following claimants against the limited liability company or its members or managers is barred unless the claimant commences a proceeding to enforce the claim within 2 years after the date of the publication of the notice:

(a) A claimant who did not receive written notice under s. 183.0907.

(b) A claimant whose claim was timely sent to the limited liability company under the deadline in s. 183.0907 but was not acted on.

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

**History:** 1993 a. 112; 1995 a. 400.

**183.0909 Enforcing claims.** A claim not barred under s. 183.0907 or 183.0908 may be enforced under this section against any of the following:

**(1)** The dissolved limited liability company, to the extent of its undistributed assets.

**(2)** If the dissolved limited liability company's assets have been distributed in liquidation, a member of the limited liability company to the extent of the member's proportionate share of the claim or to the extent of the assets of the limited liability company distributed to the member in liquidation, whichever is less, but a member's total liability for all claims under this section may not exceed the total value of assets distributed to the member in liquidation.

**History:** 1995 a. 400.

## SUBCHAPTER X

### FOREIGN LIMITED LIABILITY COMPANIES

**183.1001 Law governing.** (1) The laws of the state or other jurisdiction under which a foreign limited liability company is organized shall govern its organization and internal affairs and the liability and authority of its managers and members, regardless of whether the foreign limited liability company obtained or should have obtained a certificate of registration under this chapter, except that a foreign limited liability company that has filed a certificate of conversion under s. 183.1207 (5) to become a domestic limited liability company shall be subject to the requirements of this chapter governing domestic limited liability companies on the effective date of the conversion and shall not be subject to the requirements of this chapter governing foreign limited liability companies.

**(1m)** A foreign limited liability company may not be denied a certificate of registration by reason of any difference between the laws of the state or other jurisdiction under which it is organized and the laws of this state.

**(2)** A foreign limited liability company holding a valid certificate of registration in this state shall have no greater rights and privileges than a domestic limited liability company. Registration may not be considered to authorize a foreign limited liability company to exercise any powers or purposes that a domestic limited liability company is forbidden by law to exercise in this state.

**History:** 1993 a. 112; 2001 a. 44.

**183.1002 Registration required.** (1) A foreign limited liability company may not transact business in this state until it obtains a certificate of registration from the department.

**(2)** Activities that for purposes of sub. (1) do not constitute transacting business in this state include but are not limited to:

- (a) Maintaining, defending or settling any civil, criminal, administrative or investigatory proceeding.

(b) Holding meetings of its members or managers or carrying on any other activities concerning its internal affairs.

(c) Maintaining financial institution accounts.

(d) Maintaining offices or agencies for the transfer, exchange and registration of the foreign limited liability company's own securities or interests or maintaining trustees or depositories with respect to those securities or interests.

(e) Selling through independent contractors.

(f) Soliciting or obtaining orders, by mail or through employees or agents or otherwise, if the orders require acceptance outside this state before they become contracts.

(g) Lending money or creating or acquiring indebtedness, mortgages, and security interests in property.

(h) Securing or collecting debts or enforcing mortgages and security interests in property securing the debts.

(i) Owning, without more, property.

(j) Conducting an isolated transaction that is completed within 30 days and that is not one in the course of repeated transactions of a like nature.

(k) Transacting business in interstate commerce.

**(3)** A foreign limited liability company shall not be considered to be transacting business in this state solely because of any of the following:

(a) The foreign limited liability company owns a controlling interest in a corporation that is transacting business in this state.

(b) The foreign limited liability company is a limited partner of a limited partnership that is transacting business in this state.

(c) The foreign limited liability company is a member or manager of a limited liability company or foreign limited liability company that is transacting business in this state.

(d) The foreign limited liability partnership is a limited partner of a limited partnership that is transacting business in this state.

**(4)** This section does not apply in determining the contracts or activities that may subject a foreign limited liability company to service of process or taxation in this state or to regulation under any other law of this state.

*History: 1993 a. 112; 1995 a. 27, 97.*

**183.1003 Consequences of transacting business without registration.** **(1)** A foreign limited liability company transacting business in this state without a certificate of registration may not maintain a proceeding in a court of this state until the foreign limited liability company obtains a certificate of registration.

**(2)** Neither the successor to a foreign limited liability company that transacted business in this state without a certificate of registration nor the assignee of a cause of action arising out of that business may maintain a proceeding based on that cause of action in a court in this state until the foreign limited liability company or its successor obtains a certificate of registration.

**(3)** A court may stay a proceeding commenced by a foreign limited liability company, or its successor or assignee, until the court determines if the foreign limited liability company or its successor requires a certificate of registration. If the court determines that a certificate is required, the court may further stay the proceeding until the foreign limited liability company or its successor obtains the certificate of registration.

**(4)** The failure of a foreign limited liability company to obtain a certificate of registration does not do any of the following:

(a) Impair the validity of any contract or act of the foreign limited liability company or its title to property in this state.

(b) Affect the right of any other party to a contract to maintain any action, suit or proceeding on a contract.

(c) Prevent the foreign limited liability company from defending any civil, criminal, administrative or investigatory proceeding in any court of this state.

**(5)** (a) A foreign limited liability company that transacts business in this state without a certificate of registration is liable to this state, for each year or any part of a year during which it transacted business in this state without a certificate of registration, in an amount equal to the sum of the following:

1. All fees that would have been imposed by this chapter upon the foreign limited liability company had it applied for and received a certificate of registration.

2. Fifty percent of the amount owed under subd. 1. or \$5,000, whichever is less.

(b) The foreign limited liability company shall pay the amount owed under par. (a) to the department. The department may not issue a certificate of registration to the foreign limited liability company until the amount owed is paid. The attorney general may enforce a foreign limited liability company's obligation to pay to the department any amount owed under par. (a).

**(6)** A member or manager of a foreign limited liability company is not liable for the debts and obligations of the limited liability company solely because the limited liability company transacted business in this state without a certificate of registration.

*History: 1993 a. 112; 1995 a. 27.*

**183.1004 Application for certificate of registration.** A foreign limited liability company may apply for a certificate of registration to transact business in this state by delivering an application to the department for filing. The application shall include all of the following:

**(1)** The name of the foreign limited liability company and, if different, the name under which it proposes to transact business in this state.

**(2)** The name of the state or other jurisdiction under whose laws it is organized.

**(3)** The date of its organization.

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

**(5)** If management of the limited liability company is vested in one or more managers, a statement to that effect.

**(6)** The street address of the office required to be maintained in the state or other jurisdiction of its organization by the laws of that state or jurisdiction or, if no office is required, its principal office.

**(7)** A statement that the applicant is a foreign limited liability company.

*History: 1993 a. 112; 1995 a. 27.*

**183.1005 Name.** A certificate of registration may not be issued to a foreign limited liability company unless its name satisfies s. 183.0103 (1) and (2). If the name under which a foreign limited liability company is registered in the jurisdiction of its formation does not satisfy s. 183.0103 (1) and (2), the foreign limited liability company may obtain a certificate of registration to transact business in this state under a fictitious name that is available and that satisfies s. 183.0103 (1) and (2).

*History: 1993 a. 112.*

**183.1006 Amended certificate of registration.** **(1)** A foreign limited liability company authorized to transact business in this state shall obtain an amended certificate of registration from the department if the foreign limited liability company changes any of the following:

(a) Its name or the fictitious name under which it has been issued a certificate of registration.

(b) The state or jurisdiction under whose laws it is organized or its date of organization.

(c) Whether management of the foreign limited liability company is vested in one or more managers.



(2) The requirements of s. 183.1004 for obtaining an original certificate of registration apply to obtaining an amended certificate of registration.

History: 1993 a. 112; 1995 a. 27; 2001 a. 44.

**183.1007 Registered office and registered agent of foreign limited liability company.** A foreign limited liability company authorized to transact business in this state shall continuously maintain in this state a registered office and registered agent. The registered office may, but need not, be the same as any of its places of business in this state, if any. The registered agent shall be any of the following:

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

(2) A domestic corporation, a domestic limited liability company or a nonstock, nonprofit corporation incorporated in this state, whose business office is identical with the registered office.

(3) A foreign corporation or foreign limited liability company authorized to transact business in this state, whose business office is identical with the registered office.

History: 1993 a. 112.

**183.1008 Change of registered office or registered agent of foreign limited liability company.** (1) A foreign limited liability company authorized to transact business in this state may change its registered office or registered agent, or both, by delivering to the department for filing a statement of change that includes all of the following:

(a) The name of the foreign limited liability company and the name of the state or jurisdiction under whose law it is organized.

(b) The street address of its registered office as changed.

(c) The name of its registered agent as changed.

(d) A statement that after the change is made, the street addresses of its registered office and the business office of its registered agent will be identical.

(2) If a registered agent changes the street address of the registered agent's business office, the registered agent may change the street address of the registered office of any foreign limited liability company for which the person is the registered agent by notifying the foreign limited liability company in writing of the change and by signing, either manually or in facsimile, and delivering to the department for filing a statement that complies with sub. (1) and recites that the foreign limited liability company has been notified of the change.

History: 1993 a. 112; 1995 a. 27, 400.

**183.1009 Resignation of registered agent of foreign limited liability company.** (1) The registered agent of a foreign limited liability company may resign by signing and delivering to the department for filing a statement of resignation that includes all of the following information:

(a) The name of the foreign limited liability company for which the registered agent is acting.

(b) The name of the registered agent.

(c) The street address of the foreign limited liability company's current registered office and its principal office.

(d) A statement that the registered agent resigns.

(e) If applicable, a statement that the registered office is discontinued.

(2) After filing the statement, the department shall mail a copy to the foreign limited liability company at its principal office.

(3) The resignation is effective and, if applicable, the registered office is discontinued on the earlier of the following:

(a) Sixty days after the date determined under s. 183.0111 (1).

(b) The date on which the appointment of a successor registered agent is effective.

History: 1993 a. 112; 1995 a. 27.

**183.1010 Service on foreign limited liability company.**

(1) Except as provided in subs. (2) and (3), the registered agent of a foreign limited liability company authorized to transact business in this state is the foreign limited liability company's agent for service of process, notice or demand required or permitted by law to be served on the foreign limited liability company.

(2) A foreign limited liability company authorized to transact business in this state may be served in the manner provided in sub. (4) if the foreign limited liability company has no registered agent or its registered agent cannot with reasonable diligence be served.

(3) A foreign limited liability company formerly authorized to transact business in this state may be served in the manner provided in sub. (4) in any civil, criminal, administrative or investigatory proceeding based on a cause of action arising while it was authorized to transact business in this state, if the foreign limited liability company has withdrawn its registration in this state under s. 183.1011.

(4) (a) With respect to a foreign limited liability company described in sub. (2) or (3), the foreign limited liability company may be served by registered or certified mail, return receipt requested, addressed to the foreign limited liability company at its principal office as shown on the records of the department, except as provided in par. (b). Service is perfected under this paragraph at the earliest of the following:

1. The date on which the foreign limited liability company receives the mail.

2. The date shown on the return receipt, if signed on behalf of the foreign limited liability company.

3. Five days after the mail is deposited in the U.S. mail, if mailed postpaid and correctly addressed.

(b) Except as provided in s. 183.1021 (2g) (b), if the address of the foreign limited liability company's principal office cannot be determined from the records of the department, the foreign limited liability company may be served by publishing a class 3 notice, under ch. 985, in the community where the foreign limited liability company's principal office or, if not in this state, its registered office, as most recently designated in the records of the department, is located.

(5) This section does not limit or affect the right to serve any process, notice or demand required or permitted by law to be served upon a foreign limited liability company in any other manner permitted by law.

History: 1993 a. 112; 1995 a. 27; 2011 a. 234.

**183.1011 Withdrawal of registration.** (1) A foreign limited liability company authorized to transact business in this state may not withdraw from this state until it obtains a certificate of withdrawal from the department.

(2) A foreign limited liability company authorized to transact business in this state may apply for a certificate of withdrawal by delivering an application to the department for filing. The application shall include all of the following:

(a) The name of the foreign limited liability company and the name of the state or jurisdiction under whose laws it is organized.

(b) A statement that the foreign limited liability company is not transacting business in this state and that it surrenders its authority to transact business in this state.

(c) A statement that the foreign limited liability company revokes the authority of its registered agent to accept service on its behalf and that it consents to service of process under s. 183.1010 (3) and (4) in any civil, criminal, administrative or investigatory proceeding based on a cause of action arising while it was authorized to transact business in this state.

(d) An address to which a person may mail a copy of any process against the foreign limited liability company.

(e) A commitment to notify the department in the future of any change in the mailing address of the foreign limited liability company principal office.

**History:** 1993 a. 112; 1995 a. 27.

When the legislature provides a specific default term on a topic and the operating agreement does not explicitly refer to that topic, it is reasonable to conclude the parties did not intend to override that default term. If an operating agreement is ambiguous as to whether the members intended to override a particular statutory default term, the statutory default term governs. An operating agreement that does not refer to voting on any particular matter does not explicitly address voting to authorize an action on behalf of an LLC and does not override sub. (1). *Lenticular Europe, LLC v. Cunnally*, 2005 WI App 33, 279 Wis. 2d 385, 693 N.W.2d 302, 04–1054.

**183.1020 Grounds for revocation.** (1) Except as provided in sub. (2), the department may bring a proceeding under s. 183.1021 to revoke the certificate of registration of a foreign limited liability company registered to transact business in this state if any of the following applies:

(a) The foreign limited liability company fails to file its annual report with the department within 4 months after it is due.

(b) The foreign limited liability company does not pay, within 4 months after they are due, any fees or penalties due the department under this chapter.

(c) The foreign limited liability company is without a registered agent or registered office in this state for at least 6 months.

(d) The foreign limited liability company does not inform the department under s. 183.1008 or 183.1009 that its registered agent or registered office has changed, that its registered agent has resigned or that its registered office has been discontinued, within 6 months of the change, resignation or discontinuance.

(e) The foreign limited liability company obtained its certificate of registration through fraud.

(f) The department receives an authenticated certificate from the secretary of state or other official having custody of limited liability company records in the state or country under whose law the foreign limited liability company is incorporated stating that it has been dissolved or disappeared as the result of a merger.

(2) If the department receives a certificate under sub. (1) (f) and a statement by the foreign limited liability company that the certificate is submitted by the foreign limited liability company to terminate its registration to transact business in this state, the department shall revoke the foreign limited liability company's certificate of registration under s. 183.1021 (2) (b).

(3) A court may revoke under s. 946.87 the certificate of registration of a foreign limited liability company registered to transact business in this state. The court shall notify the department of the action, and the department shall revoke the foreign limited liability company's certificate of registration under s. 183.1021 (2) (b).

**History:** 1995 a. 27; 2001 a. 44.

**183.1021 Procedure for and effect of revocation.** (1) If the department determines that one or more grounds exist under s. 183.1020 (1) for revocation of a certificate of registration, the department shall give the foreign limited liability company written notice of the determination by first class mail, addressed to the foreign limited liability company's registered office.

(2) (a) Within 60 days after the notice takes effect, the foreign limited liability company shall correct each ground for revocation or demonstrate to the reasonable satisfaction of the department that each ground determined by the department does not exist.

(b) If the foreign limited liability company fails to satisfy par. (a), the department may revoke the foreign limited liability company's certificate of registration by entering a notation in the department's records to reflect each ground for revocation and the effective date of the revocation. The department shall give written notice of those facts to the foreign limited liability company by first class mail, addressed to the foreign limited liability company's registered office.

(2g) (a) If a notice under sub. (1) or (2) (b) is returned to the department as undeliverable, the department shall again give writ-

ten notice to the foreign limited liability company, addressed to the principal office of the foreign limited liability company.

(b) If the notice under par. (a) is returned to the department as undeliverable or if the foreign limited liability company's principal office cannot be determined from the records of the department, the department shall give the notice by posting the notice on the department's Internet site.

(2r) A notice under sub. (1), (2) (b), or (2g) (a) takes effect at the earliest of the following:

(a) When received.

(b) Five days after its deposit in the U.S. mail, if mailed postpaid and correctly addressed.

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

(3) The authority of a foreign limited liability company to transact business in this state, other than as provided in s. 183.1002 (2), ends on the effective date of revocation of its certificate of registration as reflected in the records of the department.

(4) If the department or a court revokes a foreign limited liability company's certificate of registration, the foreign limited liability company may be served under s. 183.1010 (3) and (4) or the foreign limited liability company's registered agent may be served until the registered agent's authority is terminated, in any civil, criminal, administrative or investigatory proceeding based on a cause of action which arose while the foreign limited liability company was registered to transact business in this state.

(5) Revocation of a foreign limited liability company's certificate of registration does not terminate the authority of its registered agent.

**History:** 1995 a. 27; 2001 a. 44; 2011 a. 234; 2013 a. 20.

**183.1022 Appeal from revocation.** (1) A foreign limited liability company may appeal the department's revocation of its certificate of registration under s. 183.1020 (1) to the circuit court for the county where the foreign limited liability company's principal office or, if none in this state, its registered office is located, within 30 days after notice of revocation takes effect under s. 183.1021 (2r). The foreign limited liability company shall appeal by petitioning the court to set aside the revocation and attaching to the petition copies of its certificate of registration and the department's notice of revocation.

(2) The court may order the department to reinstate the certificate of registration or may take any other action that the court considers appropriate.

(3) The court's final decision may be appealed as in other civil proceedings.

**History:** 1995 a. 27; 2001 a. 44.

## SUBCHAPTER XI

### SUITS BY AND AGAINST A LIMITED LIABILITY COMPANY

**183.1101 Authority to sue on behalf of limited liability company.** (1) Unless otherwise provided in an operating agreement, an action on behalf of a limited liability company may be brought in the name of the limited liability company by one or more members of the limited liability company, whether or not the management of the limited liability company is vested in one or more managers, if the members are authorized to sue by the affirmative vote as described in s. 183.0404 (1) (a), except that the vote of any member who has an interest in the outcome of the action that is adverse to the interest of the limited liability company shall be excluded.

(2) In an action brought on behalf of a limited liability company, the member bringing the action shall be a member at the time of bringing the action and at the time of the transaction which is

the subject of the action or the person's status as a member devolved upon that person by operation of law or under the terms of an operating agreement from a person who was a member at the time of the transaction.

(3) In an action brought on behalf of a limited liability company, the complaint shall describe with particularity the authorization of the member to bring the action and the determination of the authorization.

(4) If an action brought on behalf of a limited liability company is successful, in whole or in part, as a result of a judgment, compromise or settlement of the action, the court may award the member bringing the action reasonable expenses, including reasonable attorney fees, from any recovery in the action or from the limited liability company.

**History:** 1993 a. 112; 1995 a. 400.

This section does not require a formal vote or written consent. It requires the complaint to "describe with particularity the authorization of the member to bring this action." *Carhart–Halaska International v. Carhart, Inc.* 920 F. Supp. 2d 971 (2013).

**183.1102 Effect of lack of authority to sue.** The lack of authority of a member to sue on behalf of a limited liability company may not be asserted by the limited liability company as a basis for bringing a subsequent suit on the same cause of action.

**History:** 1993 a. 112; 1995 a. 400.

## SUBCHAPTER XII

### MERGER; CONVERSION

**183.1200 Definitions.** In this subchapter:

(1) "Business entity" means a domestic business entity and a foreign business entity.

(2) "Domestic business entity" means a corporation, as defined in s. 180.0103 (5), a domestic limited liability company, a partnership, as defined in s. 178.0102 (11), a limited partnership, as defined in s. 179.01 (7), or a corporation, as defined in s. 181.0103 (5).

(3) "Foreign business entity" means a foreign limited liability company, a foreign partnership, as defined in s. 178.0102 (6), a foreign limited partnership, as defined in s. 179.01 (4), a foreign corporation, as defined in s. 180.0103 (9), or a foreign corporation, as defined in s. 181.0103 (13).

**History:** 2001 a. 44; 2015 a. 295.

**183.1201 Merger.** (1) Unless the context requires otherwise, in this subchapter, "limited liability company" includes a domestic limited liability company and a foreign limited liability company.

(2) Unless otherwise provided in an operating agreement, one or more limited liability companies may merge with or into one or more other business entities if the merger is permitted under the applicable laws of the jurisdiction that governs each such other business entity and each business entity approves the plan of merger in the manner required by the laws applicable to the business entity.

(3) Interests in a limited liability company that is a party to a merger may be exchanged for or converted into cash, property, shares, obligations of or interests in the surviving business entity, or of any other business entity.

**History:** 1993 a. 112; 2001 a. 44.

**183.1202 Approval of merger.** (1) Unless otherwise provided in an operating agreement and except as provided in s. 180.11045 (2), a limited liability company that is a party to a proposed merger shall approve the plan of merger by an affirmative vote of members as described in s. 183.0404 (1) (a). Unless otherwise provided in an operating agreement or waived by the members, a limited liability company may obtain the approving vote of its members only after providing the members with not less than 10 nor more than 50 days' written notice of its intent to merge accompanied by the plan of merger.

(2) Unless otherwise provided in an operating agreement, the manager or managers of a limited liability company may not approve a merger without also obtaining the approval of the limited liability company's members under sub. (1).

(3) Each business entity, other than a domestic limited liability company, that is a party to a proposed merger shall approve the merger in the manner required by the laws applicable to the business entity.

(4) Each business entity that is a party to the merger shall have any rights to abandon the merger that are provided for in the plan of merger or in the laws applicable to the business entity.

(5) Upon approval of a merger, the limited liability company shall notify each member of the approval and of the effective date of the merger.

(6) After a merger is authorized, and at any time before the articles of merger are filed with the department, the planned merger may be abandoned, subject to any contractual rights, without further action on the part of the shareholders or other owners, in accordance with the procedure set forth in the plan of merger or, if none is set forth, in the manner determined by the governing body of any business entity that is a party to the merger.

**History:** 1993 a. 112; 1995 a. 400; 2001 a. 44; 2005 a. 476.

**183.1203 Plan of merger.** The plan of merger shall include all of the following:

(1) The name, form of business entity, and identity of the jurisdiction governing each business entity that is a party to the merger and the name, form of business entity, and identity of the jurisdiction of the surviving business entity with, or into, which each other business entity proposes to merge.

(2) The terms and conditions of the proposed merger.

(3) The manner and basis of converting the interests in each business entity that is a party to the merger into shares, interests, obligations, or other securities of the surviving business entity or any other business entity or into cash or other property in whole or in part.

(4) Amendments to the articles of organization or other similar governing document of the surviving business entity.

(5) Other necessary or desirable provisions relating to the proposed merger.

**History:** 1993 a. 112; 1995 a. 400; 2001 a. 44.

**183.1204 Articles of merger.** (1) The surviving business entity shall deliver to the department articles of merger that include all of the following:

(a) The plan of merger.

(b) The effective date and time of the merger, if the merger is to take effect at a time other than the close of business on the date of filing the articles of merger under s. 183.0111.

(c) A statement that the plan was approved by each domestic limited liability company that is a party to the merger in accordance with s. 183.1202, and by each other business entity that is a party to the merger in the manner required by the laws applicable to the business entity.

(e) Other provisions relating to the merger, as determined by the surviving business entity.

(2) A merger takes effect upon the effective date of the articles of merger.

**History:** 1993 a. 112; 1995 a. 27; 2001 a. 44; 2005 a. 476; 2015 a. 295.

**183.1205 Effects of merger.** A merger has the following effects:

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

(1m) (a) If, under the laws applicable to a business entity that is a party to the merger, one or more of the owners thereof is liable for the debts and obligations of such business entity, such owner or owners shall continue to be liable for the debts and obligations

of the business entity, but only for such debts and obligations accrued during the period or periods in which such laws are applicable to such owner or owners.

(b) If, under the laws applicable to the surviving business entity, one or more of the owners thereof is liable for the debts and obligations of such business entity, the owner or owners of a business entity that is party to the merger, other than the surviving business entity, who become subject to such laws shall be liable for the debts and obligations of the surviving business entity to the extent provided in such laws, but only for such debts and obligations accrued after the merger. The owner or owners of the surviving business entity prior to the merger shall continue to be liable for the debts and obligations of the surviving business entity to the extent provided in par. (a).

(2) The title to all property owned by each business entity that is a party to the merger is vested in the surviving business entity without reversion or impairment.

(3) The surviving business entity has all liabilities of each business entity that is party to the merger.

(4) A civil, criminal, administrative, or investigatory proceeding pending by or against any business entity that is a party to the merger may be continued as if the merger did not occur, or the surviving business entity may be substituted in the proceeding for the business entity whose existence ceased.

(5) The articles of organization, certificate of limited partnership, or other similar governing document, whichever is applicable, of the surviving business entity shall be amended to the extent provided in the plan of merger.

(6) The shares or other interests of each business entity that is party to the merger that are to be converted into shares, interests, obligations, or other securities of the surviving business entity or any other business entity or into cash or other property are converted, and the former holders of the shares or interests are entitled only to the rights provided in the articles of merger or to their rights under the laws applicable to each business entity that is a party to the merger.

(7) If the surviving business entity is a foreign business entity, the department is the agent of the surviving foreign business entity for service of process in a proceeding to enforce any obligation of any business entity that is a party to the merger or the rights of the dissenting members or other owners of each business entity that is a party to the merger.

(8) When a merger takes effect, any surviving foreign business entity of the merger shall promptly pay to the dissenting shareholders of each domestic corporation or dissenting owners of each other domestic business entity that is a party to the merger the amount, if any, to which they are entitled under ss. 180.1301 to 180.1331 or under any law applicable to the other domestic business entity.

**History:** 1993 a. 112; 2001 a. 44; 2005 a. 476.

**183.1206 Right to object.** Unless otherwise provided in an operating agreement, upon receipt of the notice required by s. 183.1202 (5), a member of a limited liability company who did not vote in favor of the merger may, within 20 days after the date of the notice, voluntarily dissociate from the limited liability company under s. 183.0802 (3) and receive fair value for the member's limited liability company interest under s. 183.0604. The rights afforded to shareholders, partners, or other owners of other business entities shall be as required or provided by the laws applicable to the other business entities.

**History:** 1993 a. 112; 2001 a. 44.

**183.1207 Conversion.** (1) (a) A domestic limited liability company may convert to another form of business entity if it satisfies the requirements under this section and if the conversion is permitted under the applicable law of the jurisdiction that governs the organization of the business entity into which the domestic limited liability company is converting.

(b) In addition to satisfying any applicable legal requirements of the jurisdiction that governs the organization of the business entity into which the domestic limited liability company is converting and that relate to the submission and approval of a plan of conversion, the domestic limited liability company shall comply with the procedures that govern a plan of merger under s. 183.1202 for the submission and approval of a plan of conversion.

(2) (a) A business entity other than a domestic limited liability company may convert to a domestic limited liability company if it satisfies the requirements under this section and if the conversion is permitted under the applicable law of the jurisdiction that governs the business entity.

(b) A business entity converting into a domestic limited liability company shall comply with the procedures that govern the submission and approval of a plan of conversion of the jurisdiction that governs the business entity.

(3) A plan of conversion shall set forth all of the following:

(a) The name, form of business entity, and the identity of the jurisdiction governing the business entity that is to be converted.

(b) The name, form of business entity, and the identity of the jurisdiction that will govern the business entity after conversion.

(c) The terms and conditions of the conversion.

(d) The manner and basis of converting the shares or other ownership interests of the business entity that is to be converted into the shares or other ownership interests of the new form of business entity.

(e) The effective date and time of the conversion, if the conversion is to be effective other than at the close of business on the date of filing the certificate of conversion, as provided under s. 183.0111.

(f) A copy of the articles of incorporation, article of organization, certificate of limited partnership or other governing document of the business entity after conversion.

(g) Other provisions relating to the conversion, as determined by the business entity.

(4) When a conversion is effective, all of the following shall occur:

(a) 1. Except with respect to taxation laws of each jurisdiction that are applicable upon the conversion of the business entity, the business entity that was converted is no longer subject to the applicable law of the jurisdiction that governed the organization of the prior form of business entity and is subject to the applicable law of the jurisdiction that governs the new form of business entity.

2. If the conversion is from or to a business entity under the laws applicable to which one or more of the owners thereof is liable for the debts and obligations of such business entity, such owner or owners shall continue to be or become so liable for debts and obligations of such business entity, but only for such debts and obligations accrued during the period or periods in which such laws are applicable to such owner or owners. This subdivision does not affect liability under any taxation laws.

(b) The business entity continues to have all liabilities of the business entity that was converted.

(c) The business entity continues to be vested with title to all property owned by the business entity that was converted without reversion or impairment.

(d) The articles of incorporation, articles of organization, certificate of limited partnership, or other similar governing document, whichever is applicable, of the business entity are as provided in the plan of conversion.

(e) All other provisions of the plan of conversion apply.

(5) After a plan of conversion is submitted and approved, the business entity that is to be converted shall deliver to the department for filing a certificate of conversion that includes all of the following:

(a) The plan of conversion.

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(b) A statement that the plan of conversion was approved in accordance with the applicable law of the jurisdiction that governs the organization of the business entity.

(c) The registered agent and registered office, record agent and record office, or other similar agent and office of the business entity before and after conversion.

(6) Any civil, criminal, administrative, or investigatory proceeding that is pending by or against a business entity that is converted may be continued by or against the business entity after the effective date of conversion.

**History:** 2001 a. 44; 2005 a. 476; 2015 a. 295.

Next Economy Legislation: Allowing Complex Business Reorganizations. Boucher, Sosnowski, & Nichols. Wis. Law. Aug. 2002.

SUBCHAPTER XIII

MISCELLANEOUS

**183.1301 Execution by judicial act.** Any person who is adversely affected by the failure or refusal of any person to execute and file any articles or other document to be filed under this chapter may petition the circuit court for the county in which the registered office of the limited liability company is located or, if no address is on file with the department, in the circuit court for Dane County, to direct the execution and filing of the articles or

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other document. If the court finds that it is proper for the articles or other document to be executed and filed and that there has been failure or refusal to execute and file the document, the court shall order the department to file the appropriate articles or other document.

**History:** 1993 a. 112; 1995 a. 27.

**183.1302 Rules of construction. (1)** It is the policy of this chapter to give maximum effect to the principle of freedom of contract and to the enforceability of operating agreements.

(2) Unless displaced by particular provisions of this chapter, the principles of law and equity supplement this chapter.

(3) Rules that statutes in derogation of the common law are to be strictly construed do not apply to this chapter.

**History:** 1993 a. 112.

**183.1303 Securities law application.** An interest in a limited liability company may be a security, as specified in s. 551.102 (28) (e).

**History:** 1993 a. 112; 2007 a. 196.

**183.1305 Interstate application.** A limited liability company may conduct its business, carry on its operations and have and exercise the powers granted by this chapter in any state, territory, district or possession of the United States, or in any foreign jurisdiction.

**History:** 1993 a. 112.