



PRELIMINARY DRAFT - NOT READY FOR INTRODUCTION

INSECTS

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~~AN ACT to amend subchapter VIII (title) of chapter 179 [precedes 179.70],  
subchapter XI (title) of chapter 180 [precedes 180.1100], subchapter XI (title)  
of chapter 181 [precedes 181.1100], 183.0802 (3), 183.0901 (4) (intro.), 183.1001  
(1) and subchapter XII (title) of chapter 183 [precedes 183.1200]; to repeal and  
recreate 183.0204; and to create 179.70, 179.76, 180.0121 (1) (a) 4., 180.0122  
(1) (yr), 180.1100, 180.1161, 180.1302 (1) (cm), 181.0121 (1) (a) 4., 181.0122 (1)  
(yr), 181.1100, 181.1161, 183.0109 (1) (a) 5., 183.0114 (1) (mp), 183.0404 (2)  
(fm), 183.0504, 183.1200 and 183.1207 of the statutes; relating to: conversion  
of business entities.~~

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*Analysis by the Legislative Reference Bureau*  
This is a preliminary draft. An analysis will be provided in a later version.

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*The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:*

SECTION ~~1~~<sup>4</sup>. Subchapter VIII (title) of chapter 179 [precedes 179.70] of the statutes is amended to read:

INSECT  
4-18

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## CHAPTER 179

## SUBCHAPTER VIII

DISSOLUTION; CONVERSION

#  
SECTION ~~§~~. 179.70 of the statutes is created to read:

**179.70 Definitions.** In this subchapter:

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

(2) "Domestic business entity" includes a corporation, as defined in s. 180.0103 (5), a limited liability company, as defined in s. 183.0102 (10), a limited partnership, or a corporation, as defined in s. 181.0103 (5).

(3) "Foreign business entity" includes a foreign limited liability company, as defined in s. 183.0102 (8), a foreign limited partnership, a foreign corporation, as defined in s. 180.0103 (9), or a foreign corporation, as defined in s. 181.0103 (13).

#  
SECTION ~~§~~. 179.76 of the statutes is created to read:

**179.76 Conversion.** (1) A domestic limited partnership 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 partnership is converting.

(2) (a) A business entity other than a domestic limited partnership may convert to a domestic limited partnership 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.

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

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

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

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

9 (c) The terms and conditions of the conversion.

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

13 (e) The delayed effective date and time of the conversion, if the conversion is  
14 to be effective at a time other than the time of filing the certificate of limited  
15 partnership, as provided under s. 179.11 (2).

16 (f) If a business entity other than a domestic limited partnership is converting  
17 to a domestic limited partnership, a copy of the certificate of limited partnership of  
18 the new domestic limited partnership.

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

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

22 (a) Except with respect to taxation laws of each jurisdiction that are applicable  
23 upon the conversion of the business entity, the business entity that is converted is  
24 no longer subject to the applicable law of the jurisdiction that governed the

1 organization of the prior form of business entity and is subject to the applicable law  
2 of the jurisdiction that governs the new form of business entity.

3 (b) The new business entity has all liabilities of the business entity that was  
4 converted.

5 (c) The new business entity is vested with title to all property owned by the  
6 business entity that was converted without reversion or impairment.

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

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

11 (5) After a plan of conversion is submitted and approved, the business entity  
12 that is to be converted shall deliver to the department for filing a certificate of  
13 conversion that includes all of the following together with a fee of \$150:

14 (a) The plan of conversion.

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

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

20 (d) If a business entity other than a domestic limited partnership is converting  
21 to a domestic limited partnership, a copy of the certificate of limited partnership of  
22 the new domestic limited partnership.

23 (e) If a domestic limited partnership is to be converted to another form of  
24 business entity, a copy of the articles of incorporation, articles of organization,

1 certificate of limited partnership or other similar governing document, whichever is  
2 applicable, of the new business entity.

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

*INSD  
5-7*

6 ~~SECTION #~~ SECTION # 180.0121 (1) (a) 4. of the statutes is created to read:

7 180.0121 (1) (a) 4. An application for a certificate of conversion under s.  
8 180.1161 (5).

9 ~~SECTION #~~ SECTION # 180.0122 (1) (yr) of the statutes is created to read:

10 180.0122 (1) (yr) A certificate of conversion, \$150.

11 ~~SECTION #~~ SECTION # Subchapter XI (title) of chapter 180 [precedes 180.1100] of the  
12 statutes is amended to read:

13 **CHAPTER 180**

14 **SUBCHAPTER XI**

15 **MERGER AND, SHARE**

16 **EXCHANGE, AND CONVERSION**

*INSD  
6-11*

17 ~~SECTION #~~ SECTION # 180.1100 of the statutes is created to read:

18 **180.1100 Definitions.** In this subchapter:

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

21 (2) "Domestic business entity" includes a corporation, a limited liability  
22 company, as defined in s. 183.0102 (10), a limited partnership, as defined in s. 179.01  
23 (7), or a corporation, as defined in s. 181.0103 (5).

24 (3) "Foreign business entity" includes a foreign limited liability company, as  
25 defined in s. 183.0102 (8), a foreign limited partnership, as defined in s. 179.01 (4),

## SECTION 6

1 a foreign corporation, as defined in s. 180.0103 (9), or a foreign corporation, as  
2 defined in s. 181.0103 (13).

3 SECTION ~~7~~<sup>\*</sup>. 180.1161 of the statutes is created to read:

4 **180.1161 Conversion.** (1) (a) A domestic corporation may convert to another  
5 form of business entity if it satisfies the requirements under this section and if the  
6 conversion is permitted under the applicable law of the jurisdiction that governs the  
7 organization of the business entity into which the domestic corporation is converting.

8 (b) In addition to satisfying any applicable legal requirements of the  
9 jurisdiction that governs the organization of the business entity into which the  
10 domestic corporation is converting and that relate to the submission and approval  
11 of a plan of conversion, the domestic corporation shall comply with the procedures  
12 that govern a plan of merger under s. 180.1103 for the submission and approval of  
13 a plan of conversion.

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

18 (b) A business entity converting into a domestic corporation shall comply with  
19 the procedures that govern the submission and approval of a plan of conversion of  
20 the jurisdiction that governs the business entity.

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

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

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

1 (c) The terms and conditions of the conversion.

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

5 (e) The delayed effective date and time of the conversion, if the conversion is  
6 to be effective at a time other than the time of filing the articles of incorporation, as  
7 provided under s. 180.0123 (2).

8 (f) If a business entity other than a domestic corporation is converting to a  
9 domestic corporation, a copy of the articles of incorporation of the new domestic  
10 corporation.

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

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

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

19 (b) The new business entity has all liabilities of the business entity that was  
20 converted.

21 (c) The new business entity is vested with title to all property owned by the  
22 business entity that was converted without reversion or impairment.

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

SECTION 7

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

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

5 (a) The plan of conversion.

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

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

11 (d) If a business entity other than a domestic corporation is converting to a  
12 domestic corporation, a copy of the articles of incorporation of the new domestic  
13 corporation.

14 (e) If a domestic corporation is to be converted to another form of business  
15 entity, a copy of the articles of incorporation, articles of organization, certificate of  
16 limited partnership, or other similar governing document, whichever is applicable,  
17 of the new business entity.

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

21 SECTION ~~§~~<sup>#</sup> 180.1302 (1) (cm) of the statutes is created to read:

22 180.1302 (1) (cm) Consumation of a plan of conversion. *lead ins*

23 SECTION ~~§~~<sup>#</sup> 181.0121 (1) (a) 4. of the statutes is created to read:

24 181.0121 (1) (a) 4. An application for a certificate of conversion under s.  
25 181.1161 (5).

*7/5/97  
10-823*





## SECTION 13

1 domestic corporation is converting and that relate to the submission and approval  
2 of a plan of conversion, the domestic corporation shall comply with the procedures  
3 that govern a plan of merger under s. 181.1103 for the submission and approval of  
4 a plan of conversion.

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

9 (b) A business entity converting into a domestic corporation shall comply with  
10 the procedures that govern the submission and approval of a plan of conversion of  
11 the jurisdiction that governs the business entity.

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

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

15 (b) The name, form of business entity, and the identity of the jurisdiction that  
16 will govern the new business entity.

17 (c) The terms and conditions of the conversion.

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

21 (e) The delayed effective date and time of the conversion if the conversion is to  
22 be effective at a time other than the time of filing the articles of incorporation, as  
23 provided under s. 181.0123 (2).

1 (f) If a business entity other than a domestic corporation is converting to a  
2 domestic corporation, a copy of the articles of incorporation of the new domestic  
3 corporation.

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

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

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

12 (b) The business entity has all liabilities of the business entity that was  
13 converted.

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

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

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

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

23 (a) The plan of conversion.

SECTION 13

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

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

7 (d) If a business entity other than a domestic corporation is converting to a  
8 domestic corporation, a copy of the articles of incorporation of the new domestic  
9 corporation.

10 (e) If a domestic corporation is to be converted to another form of business  
11 entity, a copy of the article of incorporation, articles of organization, certificate of  
12 limited partnership, or other similar governing document, whichever is applicable,  
13 of the new business entity.

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

*ENSR  
17-40-17*

~~SECTION 14~~ 183.0109 (1) (a) 5. of the statutes is created to read:

18 183.0109 (1) (a) 5. An application for a certificate of conversion under s.  
19 183.1207 (5).

*ENSR  
17-40-20*

~~SECTION 14~~ 183.0114 (1) (mp) of the statutes is created to read:

21 183.0114 (1) (mp) A certificate of conversion filed under s. 183.1207 (5), \$150.

~~SECTION 14~~ 183.0204 of the statutes is repealed and recreated to read:

23 **183.0204 Effect of delivery or filing of articles of organization and**  
24 **other documents.** (1) (a) A limited liability company is formed when the articles  
25 of organization become effective under s. 183.0111.

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

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

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

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

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

1 SECTION ~~17~~<sup>\*</sup> 183.0404 (2) (fm) <sup>✓</sup> of the statutes is created to read:

2 183.0404 (2) (fm) Convert to a new form of business entity under s. 183.1207.

3 SECTION ~~17~~<sup>\*</sup> 183.0504 <sup>✓</sup> of the statutes is created to read:

4 **183.0504 Series of members, managers, or limited liability company**  
5 **interests.** An operating agreement may establish, or provide for the establishment  
6 of, designated series or classes of members, managers, or limited liability company  
7 interests that have separate or different preferences, limitations, rights, or duties,  
8 with respect to profits, losses, distributions, voting, property, or other incidents  
9 associated with the limited liability company.

10 SECTION ~~17~~<sup>\*</sup> 183.0802 (3) <sup>✓</sup> of the statutes is amended to read:

11 183.0802 (3) (a) Except as provided in par. (b), ~~unless an operating agreement~~  
12 ~~provides that a member does not have the power to withdraw by voluntary act from~~  
13 ~~a limited liability company, the a member may do so~~ voluntarily withdraw from a  
14 limited liability company at any time by giving written notice to the other members,  
15 or on any other terms as are provided in an operating agreement. ~~If the member has~~  
16 ~~the power to withdraw but the withdrawal is a breach of an operating agreement or~~  
17 ~~the withdrawal occurs as a result of otherwise wrongful conduct of the member, the~~  
18 ~~limited liability company may recover from the withdrawing member damages for~~  
19 ~~breach of the operating agreement or as a result of the wrongful conduct and may~~  
20 ~~offset the damages against the amount otherwise distributable to the member, in~~  
21 ~~addition to pursuing any remedies provided for in an operating agreement or~~  
22 ~~otherwise available under applicable law. Unless otherwise provided in an operating~~  
23 ~~agreement, in the case of a limited liability company for a definite term or particular~~  
24 ~~undertaking, a withdrawal by a member before the expiration of that term or~~  
25 ~~completion of that undertaking is a breach of the operating agreement.~~

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

16 SECTION ~~20~~<sup>\*</sup> 183.0901 (4) (intro.) of the statutes is amended to read:

17 183.0901 (4) (intro.) ~~An~~ For a limited liability company organized before the  
18 effective date of this subsection .... [revisor inserts date], an event of dissociation of  
19 a member, unless any of the following applies:

20 SECTION ~~21~~<sup>\*</sup> 183.1001 (1) of the statutes is amended to read:

21 183.1001 (1) The laws of the state or other jurisdiction under which a foreign  
22 limited liability company is organized shall govern its organization and internal  
23 affairs and the liability and authority of its managers and members, regardless of  
24 whether the foreign limited liability company obtained or should have obtained a  
25 certificate of registration under this chapter, except that a foreign limited liability

1 company that has filed a certificate of conversion under s. 183.1207 (5) to become a  
 2 domestic limited liability company shall be subject to the requirements of this  
 3 chapter governing domestic limited liability companies on the effective date of the  
 4 conversion and shall not be subject to the requirements of this chapter governing  
 5 foreign limited liability companies. *Leads ins >*

INSE 20-116

7 SECTION ~~22~~. Subchapter XII (title) of chapter 183 [precedes 183.1200] of the  
 statutes is amended to read:

8 **CHAPTER 183**

9 **SUBCHAPTER XII**

10 **MERGER; CONVERSION**

11 SECTION ~~23~~. 183.1200 of the statutes is created to read:

12 **183.1200 Definitions.** In this subchapter:

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

15 (2) "Domestic business entity" includes a corporation, as defined in s. 180.0103  
 16 (5), a domestic limited liability company, a limited partnership, as defined in s.  
 17 179.01 (7), or a corporation, as defined in s. 181.0103 (5).

18 (3) "Foreign business entity" includes a foreign limited liability company, a  
 19 foreign limited partnership, as defined in s. 179.01 (4), a foreign corporation, as  
 20 defined in s. 180.0103 (9), or a foreign corporation, as defined in s. 181.0103 (13).

21 SECTION ~~24~~. 183.1207 of the statutes is created to read:

22 **183.1207 Conversion.** (1) (a) A domestic limited liability company may  
 23 convert to another form of business entity if it satisfies the requirements under this  
 24 section and if the conversion is permitted under the applicable law of the jurisdiction



1 that governs the organization of the business entity into which the domestic limited  
2 liability company is converting.

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

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

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

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

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

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

21 (c) The terms and conditions of the conversion.

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

**SECTION 24**

1 (e) The delayed effective date and time of the conversion, if the conversion is  
2 to be effective at a time other than the time of filing the articles of organization, as  
3 provided under s. 183.0111 (2).

4 (f) If a business entity other than a domestic limited liability company is  
5 converting to a domestic limited liability company, a copy of the articles of  
6 organization of the new domestic limited liability company.

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

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

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

15 (b) The new business entity has all liabilities of the business entity that was  
16 converted.

17 (c) The new business entity is vested with title to all property owned by the  
18 business entity that was converted without reversion or impairment.

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

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

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

1 (a) The plan of conversion.

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

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

7 (d) If a business entity other than a domestic limited liability company is  
8 converting to a domestic limited liability company, a copy of the articles of  
9 organization of the new domestic limited liability company.

10 (e) If a domestic limited liability company is to be converted to another form of  
11 business entity, a copy of the articles of incorporation, articles of organization,  
12 certificate of limited partnership, or other similar governing document, whichever  
13 is applicable, of the new business entity.

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

17 (END)

ARC:.....Hartsough – AM48, Securities registration exemptions  
 FOR 2001-03 BUDGET — NOT READY FOR INTRODUCTION  
**CAUCUS ASSEMBLY AMENDMENT**  
**TO ASSEMBLY SUBSTITUTE AMENDMENT 1,**  
**TO 2001 SENATE BILL 55**

*INUSRT*  
*20-12*

1 ~~At the locations indicated, amend the substitute amendment as follows:~~

2 ~~1. Page 1156, line 6: after that line insert:~~

3 ~~SECTION 3608d.~~ 551.02 (1)<sup>✓</sup> of the statutes is renumbered 551.02 (1r)<sup>✓</sup>.

4 ~~SECTION 3608f.~~ 551.02 (1g)<sup>✓</sup> of the statutes is created to read.

5 551.02 (1g) "Accredited investor" has the meaning given in 17 CFR 230.501(a).

6 ~~SECTION 3608h.~~ 551.23 (8) (g)<sup>✓</sup> of the statutes is amended to read:

7 551.23 (8) (g) An individual accredited investor, as defined by rule of the  
 8 division, if the issuer reasonably believes immediately before the sale that the  
 9 individual accredited investor, either alone or with the individual accredited  
 10 investor's representative, has such knowledge and experience in financial and

1 ~~business matters as to be capable of evaluating the merits and risks of the~~  
2 ~~prospective investment.~~

3 SECTION ~~3608j~~. 551.23 (10) of the statutes is amended to read:

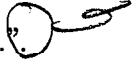
4 551.23 (10) Any offer or sale of its securities by an issuer having its principal  
5 office in this state, if the aggregate number of persons holding directly or indirectly  
6 all of the issuer's securities, after the securities to be issued are sold, does not exceed  
7 ~~15~~ 25, exclusive of persons under sub. (8), if no commission or other remuneration  
8 is paid or given directly or indirectly for soliciting any person in this state, except to  
9 broker-dealers and agents licensed in this state, and if no advertising is published  
10 unless it has been permitted by the division.

11 SECTION ~~3608L~~. 551.23 (11) (a) of the statutes is amended to read:

12 551.23 (11) (a) Any transaction pursuant to an offer directed by the offeror to  
13 not more than ~~10~~ 25 persons in this state, excluding persons exempt under sub. (8)  
14 but including persons exempt under sub. (10), during any period of 12 consecutive  
15 months, whether or not the offeror or any of the offerees is then present in this state,  
16 if the offeror reasonably believes that all the persons in this state are purchasing for  
17 investment, and no commission or other remuneration is paid or given directly or  
18 indirectly for soliciting any person in this state other than those exempt by sub. (8).

19 SECTION ~~3608n~~. 551.31 (1) (d) of the statutes is created to read:

20 551.31 (1) (d) An agent who is acting exclusively as an agent representing an  
21 issuer of securities and who makes offers and sales of the issuer's securities in  
22 transactions that are exempt under s. 551.23 (8) (g) or under a rule of the division  
23 promulgated under s. 551.23 (18) that specifically exempts transactions involving

1 accredited investors and that is based on a model accredited investor exemption  
2 adopted by the North American Securities Administrators Association. 

3

~~(END)~~

*Lead insert*

**DRAFTER'S NOTE**  
**FROM THE**  
**LEGISLATIVE REFERENCE BUREAU**

LRB-3724/P1dn

RJM:.....

WJ

RAC

This preliminary draft constitutes the next economy package. It incorporates LRB-3531/P1 (merger and LLC dissolution provisions), LRBb1570/2 (securities changes), and changes to the business organizations and tax chapters requested by DFI on September 5, 2001. However, the draft does not include the requested changes relating to electronic filing. Please refer to the email from Rob Marchant to Lisa Roys dated September 10, 2001, for a discussion of the issues relating to electronic filing. We will incorporate those changes after you have a chance to read and respond to those issues. Please note the following additional issues regarding this draft:

1. Regarding the treatment of s. 178.43, stats., it appeared as though the only new text was in proposed subs. (2) and (3). Thus, we have renumbered the current text to be sub. (1) and have created subs. (2) and (3). Please review the new text to ensure that it is consistent with your intent. The language includes a few slight clarifications.

2. Regarding proposed s. 179.045, please note that the proposed language, in two different places, required the statement of resignation to be executed. This draft states that requirement only in sub. (1).

3. Regarding proposed ss. 179.04 (1) (b) and 179.82 (4), this treatment says that an agent for service of process can be a foreign entity whose address is the same as the address of the business office of the agent for service of process (i.e., the foreign entity). This seems circular. Is it what you intended? Also, is the identical address requirement intended to apply to both resident and foreign entities? As currently drafted, it only applies to foreign entities.

4. We have attempted to clarify the proposed treatment of ss. 179.76 (3) (e), 180.1161 (3) (e), and 183.1207 (3) (e). Please review these treatments and let us know if you desire any changes.

5. The language in proposed ss. 179.76 (1), 180.1161 (1) (a), and 183.1207 (1) (a) may be problematic because the conversion requirements under each of these sections may be different from or conflict with the requirements imposed under the statute that governs the type of entity to which the organization is converting. Do you want to specify that, in the event of such a conflict, the law governing the type of entity to which the organization is converting will govern? For example, proposed s. 180.1161 (1) (a)

could read "Except as provided in par. (b), if that applicable law conflicts with the requirements under this section, that applicable law shall govern."

6. Regarding the treatment of s. 180.0501 (2),<sup>✓</sup> stats., we assumed that the first entity listed in the new language should be "limited partnership" rather than "limited liability partnership." Please let us know if we have misunderstood your intent.

7. Please see the revised treatment of ss. 180.1421 (1)<sup>✓</sup> and (2) (b),<sup>✓</sup> 180.1531 (1)<sup>✓</sup> and (2) (b).<sup>✓</sup> This treatment was necessary ~~in order~~ to resolve conflicts between your apparent intent and the requirements of s. 180.0141,<sup>✓</sup> stats.

8. Section 180.1504 (1) (b),<sup>✓</sup> stats., says a foreign corporation must obtain an amended certificate of authority if the foreign corporation changes the "period of its duration." To what does this refer? The duration of the foreign corporation? Of the original certificate of authority? Of the incorporation? The same concern arises under s. 181.1504 (1) (b),<sup>✓</sup> stats.

9. We changed the cross-reference in s. 180.1532 (1),<sup>✓</sup> stats., from s. 180.1510<sup>✓</sup> to s. 180.0141 (5) (a), ~~in order~~ to reflect the new notice procedure created under the bill. Please let us know if this change was incorrect.

10. We changed the intro. to proposed s. 181.1531 (2r)<sup>✓</sup> to specify which notices the effective date provision covers. This eliminates any possible confusion over the effect of this provision on s. 181.1531 (4),<sup>✓</sup> stats. Please review the treatment to make sure that it is consistent with your intent.

11. We drafted proposed s. 183.1021 (2g) (b)<sup>✓</sup> to be parallel to the other provisions of this kind in the draft. Thus, this provision allows notification by publication if the notice to the principal office is returned as undeliverable *or if the records of the department do not contain an address for the principal office*. Please let us know if we have misunderstood your intent.

12. We did not include an effective date under proposed s. 183.1021 (2r)<sup>✓</sup> for notices that are published under ch. 985.<sup>✓</sup> Proposed s. 181.1531 (2r)<sup>✓</sup> does not contain such an effective date and one is probably not necessary, as a legal matter. See s. 985.09 (1), stats.<sup>✓</sup> Also, we changed the intro. to proposed s. 183.1021 (2r)<sup>✓</sup> to specify which notices the effective date provision covers. This eliminates any possible confusion over the effect of this provision on s. 183.1021 (4),<sup>✓</sup> stats. Please review the treatment to make sure that it is consistent with your intent.

13. We updated the cross-reference in proposed s. 183.1022 (1) to reflect the new effective date provision in proposed s. 183.1021 (2r).<sup>✓</sup> Please let us know if this cross-reference is correct.

Robert J. Marchant  
Legislative Attorney  
Phone: (608) 261-4454  
E-mail: robert.marchant@legis.state.wi.us

[RAC]



2001-2002 DRAFTING INSERT  
FROM THE  
LEGISLATIVE REFERENCE BUREAU

LRB-3531/P1insJK  
JK:.....

INSERT A

DWSEPT 1-2

1 SECTION ~~71.80~~<sup>#</sup>. 71.80 (21)<sup>✓</sup> of the statutes is created to read:

2 71.80 (21) BUSINESS ENTITY CONVERSION. Notwithstanding any provision of ss.  
3 179.76,<sup>✓</sup> 180.1161,<sup>✓</sup> 181.1161,<sup>✓</sup> and 183.1207,<sup>✓</sup> a business entity that converts to another  
4 business entity under s. 179.76,<sup>✓</sup> 180.1161,<sup>✓</sup> 181.1161,<sup>✓</sup> or 183.1207<sup>✓</sup> shall be subject to  
5 the provisions under this chapter applicable to liquidations, reorganizations, and  
6 business entity formations.

7 SECTION ~~73.03~~<sup>#</sup>. 73.03 (57)<sup>✓</sup> of the statutes is created to read:

8 73.03 (57) Notwithstanding any provision of ss. 179.76,<sup>✓</sup> 180.1161,<sup>✓</sup> 181.1161,<sup>✓</sup>  
9 and 183.1207,<sup>✓</sup> to subject a business entity that converts to another business entity  
10 under s. 179.76,<sup>✓</sup> 180.1161,<sup>✓</sup> 181.1161,<sup>✓</sup> or 183.1207<sup>✓</sup> to the provisions under ch. 71<sup>✓</sup> and  
11 subchapters II<sup>✓</sup> and III<sup>✓</sup> of ch. 77 applicable to liquidations, reorganizations, and  
12 business entity formations.

13 SECTION ~~77.26~~<sup>#</sup>. 77.26 (9)<sup>✓</sup> of the statutes is created to read:

14 77.26 (9) Notwithstanding any provision of ss. 179.76,<sup>✓</sup> 180.1161,<sup>✓</sup> 181.1161,<sup>✓</sup> and  
15 183.1207,<sup>✓</sup> a business entity that converts to another business entity under s. 179.76,<sup>✓</sup>  
16 180.1161,<sup>✓</sup> 181.1161,<sup>✓</sup> or 183.1207<sup>✓</sup> shall be subject to the provisions under this  
17 subchapter applicable to liquidations, reorganizations, and business entity  
18 formations.

19 SECTION ~~77.61~~<sup>#</sup>. 77.61 (15)<sup>✓</sup> of the statutes is created to read:

20 77.61 (15) Notwithstanding any provision of ss. 179.76,<sup>✓</sup> 180.1161,<sup>✓</sup> 181.1161,<sup>✓</sup>  
21 and 183.1207,<sup>✓</sup> a business entity that converts to another business entity under s.  
22 179.76,<sup>✓</sup> 180.1161,<sup>✓</sup> 181.1161,<sup>✓</sup> or 183.1207<sup>✓</sup> shall be subject to the provisions under this

- 1 subchapter applicable to liquidations, reorganizations, and business entity
- 2 formations.

*Lead asset*

**DRAFTER'S NOTE**  
**FROM THE**  
**LEGISLATIVE REFERENCE BUREAU**

LRB-3724/P1dn  
RJM&RAC:wlj:pg

September 26, 2001

This preliminary draft constitutes the next economy package. It incorporates LRB-3531/P1 (merger and LLC dissolution provisions), LRBb1570/2 (securities changes), and changes to the business organizations and tax chapters requested by DFI on September 5, 2001. However, the draft does not include the requested changes relating to electronic filing. Please refer to the e-mail from Rob Marchant to Lisa Roys dated September 10, 2001, for a discussion of the issues relating to electronic filing. We will incorporate those changes after you have a chance to read and respond to those issues. Please note the following additional issues regarding this draft:

1. Regarding the treatment of s. 178.43, stats., it appeared as though the only new text was in proposed subs. (2) and (3). Thus, we have renumbered the current text to be sub. (1) and have created subs. (2) and (3). Please review the new text to ensure that it is consistent with your intent. The language includes a few slight clarifications.
2. Regarding proposed s. 179.045, please note that the proposed language, in two different places, required the statement of resignation to be executed. This draft states that requirement only in sub. (1).
3. Regarding proposed ss. 179.04 (1) (b) and 179.82 (4), this treatment says that an agent for service of process can be a foreign entity whose address is the same as the address of the business office of the agent for service of process (i.e., the foreign entity). This seems circular. Is it what you intended? Also, is the identical address requirement intended to apply to both resident and foreign entities? As currently drafted, it only applies to foreign entities.
4. We have attempted to clarify the proposed treatment of ss. 179.76 (3) (e), 180.1161 (3) (e), and 183.1207 (3) (e). Please review these treatments and let us know if you desire any changes.
5. The language in proposed ss. 179.76 (1), 180.1161 (1) (a), and 183.1207 (1) (a) may be problematic because the conversion requirements under each of these sections may be different from or conflict with the requirements imposed under the statute that governs the type of entity to which the organization is converting. Do you want to specify that, in the event of such a conflict, the law governing the type of entity to which the organization is converting will govern? For example, proposed s. 180.1161 (1) (a) could read "Except as provided in par. (b), if that applicable law conflicts with the requirements under this section, that applicable law shall govern."

6. Regarding the treatment of s. 180.0501 (2), stats., we assumed that the first entity listed in the new language should be "limited partnership" rather than "limited liability partnership." Please let us know if we have misunderstood your intent.
7. Please see the revised treatment of ss. 180.1421 (1) and (2) (b), 180.1531 (1) and (2) (b). This treatment was necessary to resolve conflicts between your apparent intent and the requirements of s. 180.0141, stats.
8. Section 180.1504 (1) (b), stats., says a foreign corporation must obtain an amended certificate of authority if the foreign corporation changes the "period of its duration." To what does this refer? The duration of the foreign corporation? Of the original certificate of authority? Of the incorporation? The same concern arises under s. 181.1504 (1) (b), stats.
9. We changed the cross-reference in s. 180.1532 (1), stats., from s. 180.1510 to s. 180.0141 (5) (a), to reflect the new notice procedure created under the bill. Please let us know if this change was incorrect.
10. We changed the intro. to proposed s. 181.1531 (2r) to specify which notices the effective date provision covers. This eliminates any possible confusion over the effect of this provision on s. 181.1531 (4), stats. Please review the treatment to make sure that it is consistent with your intent.
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13. We updated the cross-reference in proposed s. 183.1022 (1) to reflect the new effective date provision in proposed s. 183.1021 (2r). Please let us know if this cross-reference is correct.

Robert J. Marchant  
Legislative Attorney  
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E-mail: robert.marchant@legis.state.wi.us

Rick A. Champagne  
Senior Legislative Attorney  
Phone: (608) 266-9930  
E-mail: rick.champagne@legis.state.wi.us

## Barman, Mike

---

**From:** Barman, Mike  
**Sent:** Wednesday, September 26, 2001 2:51 PM  
**To:** Lisa Roys  
**Subject:** LRB-3724/P1 (attached - for your review)



01-3724/P1



01-3724/P1dn

*Mike Barman*

Mike Barman - Senior Program Asst. (PH. 608-266-3561)  
(E-Mail: [mike.barman@legis.state.wi.us](mailto:mike.barman@legis.state.wi.us)) (FAX: 608-264-6948)

State of Wisconsin  
Legislative Reference Bureau - Legal Section - Front Office  
100 N. Hamilton Street - 5th Floor  
Madison, WI 53703

## Champagne, Rick

---

**From:** Roys, Lisa  
**Sent:** Tuesday, October 09, 2001 4:09 PM  
**To:** Marchant, Robert; Champagne, Rick  
**Cc:** Anderson, David; Grosenheider, Terry  
**Subject:** LRB 3724 - Next Economy

We have reviewed your drafting notes for LRB 3724 and believe the suggested language under items, one, two, six, seven, and nine through 13 are fine.

As we discussed on Friday, under item three, the language under 179.04 (1)(b) and 179.82 should be consistent with other sections that have the same requirements.

Under item eight, "period of its duration" refers to the duration of the foreign corporation specified in their articles of incorporation (if not perpetual). Jennifer Unitan, Corporations Section Director, would be able to answer any additional questions on this subject. (264-7814)

As to your questions regarding the federal Electronic Signatures in Global and National Commerce Act (E-sign) problems, we agree with your suggested modifications to the draft. Our intent is not to be pre-empted nor conflict with the federal act.

Tom Nichols submitted additional changes that should be incorporated in the draft. The fee for filing a merger document should be \$150.

### ADDITIONAL ISSUES:

The Department requests the addition of the following provisions:

- 1) A delayed effective date for the merger and conversion provisions of six months from the date of publication.
- 2) The general authority for the Department to add a fee (established by rule) for documents filed with the department by paper.
- 3) An appropriation of \$821,600 in FY 2002 for the purposes of updating the corporate registration system to handle new transactions for consolidations and mergers, permit viewing of images, and allow on-line access with secure processing of transactions.

Thank you.

**Lisa Roys**  
Policy Advisor, DFI  
(608) 266-0450

**MEISSNER TIERNEY FISHER & NICHOLS S.C.  
ATTORNEYS AT LAW**

THE MILWAUKEE CENTER

19th FLOOR

111 EAST KILBOURN AVENUE  
MILWAUKEE, WISCONSIN 53202TELEPHONE (414) 273-1300  
FACSIMILE (414) 273-5840**FACSIMILE COVER SHEET**OF COUNSEL:  
PAUL F. MEISSNER

+ Also licensed in Iowa

Date: October 4, 2001

**From:** Thomas J. Nichols

**To:** Richard A. Champagne, Jr.

**Company:** Legislative Reference Bureau

**Fax Number:** 608-264-8522

**Internal Reference:** Firm

**Total Pages (Including Cover Sheet):** 87

**Original/Copy:** Will Follow (via Federal Express)

**Operator:** Brenda

**Message:**

If this transmission is interrupted or of poor quality, please contact the operator, identified above, by calling (414) 273-1300. Our Facsimile number is (414) 273-5840.

The information contained in this Facsimile is attorney privileged and confidential information intended for the use of the individual or entity named above. If the reader of this Facsimile is not the intended recipient, or the employee or agent responsible to deliver it to the intended recipient, you are hereby notified that any dissemination, distribution or copying of this communication is strictly prohibited. If you have received this facsimile in error, please notify us immediately by telephone and return the original message to us at the above address, via the U.S. Postal Service, at our expense.

Thank you.

JOSEPH E. TIERNEY III  
 DENNIS L. FISHER  
 THOMAS J. NICHOLS  
 RANDAL J. BROTHENHOOD  
 MICHAEL J. COHEN  
 WILLIAM T. STUART  
 STEVEN F. STANASZAK  
 ADAM J. TUTAJ  
 ARY M. ALGIERS  
 CATHERINE A. RITTERBUSCH  
 WILLIAM F. GRADY IV

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OF COUNSEL  
 PAUL F. MEISSNER

October 4, 2001

\* Also licensed in Iowa

**VIA FACSIMILE AND FEDERAL EXPRESS**

Richard A. Champagne, Jr.  
 Senior Legislative Attorney  
 Legislative Reference Bureau  
 100 N. Hamilton Street  
 Madison, WI 53701-2037

**VIA FACSIMILE (Letter Only) AND U.S. MAIL**

Lisa M. Roys  
 Department of Financial Institutions  
 345 W. Washington Ave., 5<sup>th</sup> Fl.  
 Madison, WI 53703-2701

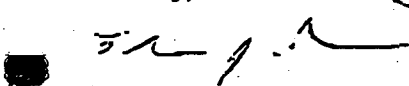
Dear Rick and Lisa;

Enclosed are copies of LRB 3724/P1 and 1746/1 that I have marked up to show our suggested changes to incorporate the cross-merger provisions into the Governor's New Economy Proposal. As you will see, there are also a few clean-up changes on LRB 3724/P1. I should mention that the State Bar's Business Law Section unanimously recommended adoption of this LLC Improvement/Cross-Species Project at its board Meeting on Tuesday, October 2, 2001.

Integrating these materials turned out to be more involved than I had thought it would be, but I did want to give you the benefit of all of our thoughts for your review. For readability purposes, I am federal expressing the originals of these materials to Rick Champagne.

I am sure that Joe Boucher, Len Sosnowski and I will be happy to make ourselves available for a meeting, conference call or anything else that would help to pull all of this together. Please let us know if we can be of any further assistance.

Sincerely,

  
 Thomas J. Nichols

BNM8923.WPD:1  
 encs.

cc: Joseph W. Boucher (via Facsimile (letter only) and U.S. Mail)  
 Leonard S. Sosnowski (via Facsimile (letter only) and U.S. Mail)  
 Jenny Boese (via Facsimile (letter only) and U.S. Mail)



2001 - 2002 Legislature

- 7 -

LRB-3724/P1  
RJM/RAC/UCW/EPG  
SECTION 13

1           **179.76 Conversion.** (1) A domestic limited partnership may convert to  
2 another form of business entity if it satisfies the requirements under this section and  
3 if the conversion is permitted under the applicable law of the jurisdiction that  
4 governs the organization of the business entity into which the domestic limited  
5 partnership is converting.

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

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

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

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

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

18           (c) The terms and conditions of the conversion.

19           (d) The manner and basis of converting the shares or other ownership interests  
20 of the business entity that <sup>is</sup> are to be converted into the shares or other ownership  
21 interests of the new <sup>same as</sup> business entity .

22           (e) The ~~date~~ effective date and time of the conversion, if the conversion is  
23 to be effective at a time other than the ~~date~~ of filing the certificate of limited ~~conversion~~  
24 partnership, as provided under s. 179.11 (2), *or otherwise.*

See notes  
on pages  
13-14

To conform to  
§ 140.1161 (3) (c)

2001 - 2002 Legislature

- 8 -

LRB-0724/P1  
RJM/RAC/JK/MPG  
SECTION 13

*articles of incorporation,  
articles of organization*

*governing document*

1 ~~(f) If a business entity other than a domestic limited partnership is converting~~  
2 ~~to a domestic limited partnership, a copy of the certificate of limited partnership, or other similar~~  
3 ~~the new domestic limited partnership, business entity after conversion.~~

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

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

7 (a) Except with respect to taxation laws of each jurisdiction that are applicable  
8 upon the conversion of the business entity, the business entity that is converted is  
9 no longer subject to the applicable law of the jurisdiction that governed the  
10 organization of the prior form of business entity and is subject to the applicable law  
11 of the jurisdiction that governs the new form of business entity. *Insert A*

12 (b) The ~~new~~ business entity *continues to have* has all liabilities of the business entity that was  
13 converted.

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

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

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

20 (5) After a plan of conversion is submitted and approved, the business entity  
21 that is to be converted shall deliver to the department for filing a certificate of  
22 conversion that includes all of the following together with a fee of \$150:

23 (a) The plan of conversion.

2001 - 2002 Legislature

- 9 -

LRB-3724/P1  
RJM/RAC/INC-4/PP  
SECTION 13

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

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

6 ~~(d) If a business entity other than a domestic limited partnership is converting~~  
7 ~~to a domestic limited partnership, a copy of the certificate of limited partnership of~~  
8 ~~the now domestic limited partnership.~~

9 ~~(e) If a domestic limited partnership is to be converted to another form of~~  
10 ~~business entity, a copy of the articles of incorporation, articles of organization,~~  
11 ~~certificate of limited partnership or other similar governing document, whichever is~~  
12 ~~applicable, of the new business entity.~~

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

16 SECTION 14. 179.82 (4) of the statutes is amended to read:

17 179.82 (4) The name and address of an agent for service of process on the  
18 foreign limited partnership, who must be an individual resident of this state, a  
19 domestic corporation, nonstock corporation, limited partnership, registered limited  
20 liability partnership, or limited liability company , or a foreign corporation, nonstock  
21 corporation, limited partnership, registered limited liability partnership, or limited  
22 liability company having a place of business and authorized to do business in this  
23 state whose address is identical with the address of the business office of the agent.

24 SECTION 15. 179.88 of the statutes, as affected by 2001 Wisconsin Act 16, is  
25 amended to read:

See  
Note  
on p. 14

1 conversion is permitted under the applicable law of the jurisdiction that governs the  
2 business entity .

3 (b) A business entity converting into a domestic corporation shall comply with  
4 the procedures that govern the submission and approval of a plan of conversion of  
5 the jurisdiction that governs the business entity .

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

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

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

11 (c) The terms and conditions of the conversion.

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

15 (e) The effective date and time of the conversion, if the conversion is  
16 to be effective at a time other than the time of filing the articles of incorporation, as  
17 provided under s. 180.0123 .

18 (f) If a business entity other than a domestic corporation is converting to a  
19 domestic corporation, a copy of the articles of incorporation, certificate  
20 of limited partnership, or other similar governing instrument of the new domestic  
21 corporation .

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

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

25 (a) 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

The time could be either delayed or accelerated

This could be a conversion into a different type of entity

The concept is that this is the same entity it has just changed its "form"

I think this is the rule, except for chapp. 179

articles of organization, certificate of limited partnership, or other similar governing instrument

(2) colors the date of a no answer to (1) is necessary too, because the time could be changed too

business entity after conversion.

I believe the new governing instrument must be attached in all cases, because of section (4)(a) below

1 is no longer subject to the applicable law of the jurisdiction that governed the  
2 organization of the prior form of business entity and is subject to the applicable law  
3 of the jurisdiction that governs the new form of business entity.

Insert B

As mentioned above,  
the concept is that  
this is the same  
business entity

4 (b) The ~~new~~ business entity ~~has~~ all liabilities of the business entity that was  
5 converted ~~to~~ *continues to have*

6 (c) The ~~new~~ business entity, ~~is~~ *continues to be* vested with title to all property owned by the  
7 business entity that was converted without reversion or impairment.

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

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

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

15 (a) The plan of conversion.

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

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

21 ~~(d) If a business entity other than a domestic corporation is converting to a~~  
22 ~~domestic corporation a copy of the articles of incorporation of the new domestic~~  
23 ~~corporation.~~

These should be redundant because of change  
to (a) (b) above.

24 ~~(e) If a domestic corporation is to be converted to another form of business~~  
25 ~~entity a copy of the articles of incorporation, articles of organization, certificate of~~

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Section 23

1 ~~limited partnership, or other similar governing document, whichever is applicable,~~  
2 ~~of the new business entity.~~

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

6 SECTION 24. 180.1302 (1) (cm) of the statutes is created to read:

7 180.1302 (1) (cm) Consumption of a plan of conversion.

8 SECTION 25. 180.1421 (1) and (2) of the statutes are amended to read:

9 180.1421 (1) If the department determines that one or more grounds exist  
10 under s. 180.1420 for dissolving a corporation, the department shall serve give the  
11 corporation under s. 180.0504 with written 180.0141 notice of the determination.

12 Notwithstanding s. 180.0141 (2) (b), (3), and (4), the notice shall be in writing and  
13 addressed to the registered office of the corporation.

14 (2) (a) Within 60 days after service of the notice is perfected takes effect under  
15 s. 180.0504 180.0141 (5) (a), the corporation shall correct each ground for dissolution  
16 or demonstrate to the reasonable satisfaction of the department that each ground  
17 determined by the department does not exist.

18 (b) If the corporation fails to satisfy par. (a), the department shall  
19 administratively dissolve the corporation by issuing a certificate of dissolution that  
20 recites each ground for dissolution and its effective date. The department shall file  
21 the original of the certificate and serve a copy on the corporation under s. 180.0504  
22 enter a notation in its records to reflect each ground for dissolution and the effective  
23 date of dissolution and shall give the corporation under s. 180.0141 notice of those  
24 facts. Notwithstanding s. 180.0141 (2) (b), (3), and (4), the notice shall be in writing  
25 and addressed to the registered office of the corporation.

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SECTION 30

1 Section 30. Chapter XI (50e) of chapter 181 [precedes 181.1100] of the  
2 statutes is amended to read:

3 CHAPTER 181  
4 SUBCHAPTER XI  
5 MERGER; CONVERSION

6 SECTION 40. 181.1100 of the statutes is created to read:

7 181.1100 Definitions. In this subchapter:

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

10 (2) "Domestic business entity" includes a corporation, as defined in s. 180.0103  
11 (5), a limited liability company as defined in s. 183.0102 (10), a limited partnership,  
12 as defined in s. 179.01 (7) or a nonstock corporation, as defined in s. 181.0103 (5).

13 (3) "Foreign business entity" includes a foreign limited liability company, as  
14 defined in s. 183.0102 (8), a foreign limited partnership, as defined in s. 179.01 (4),  
15 a foreign corporation, as defined in s. 180.0103 (9), or a foreign corporation, as  
16 defined in s. 181.0103 (13).

17 SECTION 41. 181.1161 of the statutes is created to read:

18 181.1161 Conversion. (1) (a) A domestic corporation may convert to another  
19 form of business entity if it satisfies the requirements under this section and if the  
20 conversion is permitted under the applicable law of the jurisdiction that governs the  
21 organization of the business entity into which the domestic corporation is converting.

22 (b) In addition to satisfying any applicable legal requirements of the  
23 jurisdiction that governs the organization of the business entity into which the  
24 domestic corporation is converting, and that relate to the submission and approval  
25 of a plan of conversion, the domestic corporation shall comply with the procedures

*I think this should match  
references to other chapters,  
which I think are  
correct*

1 that govern a plan of merger under s. 181.1103 for the submission and approval of  
2 a plan of conversion.

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

7 (b) A business entity converting into a domestic corporation shall comply with  
8 the procedures that govern the submission and approval of a plan of conversion of  
9 the jurisdiction that governs the business entity .

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

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

13 (b) The name, form of business entity , and the identity of the jurisdiction that  
14 will govern the new business entity .

15 (c) The terms and conditions of the conversion.

16 (d) The manner and basis of converting the shares or other ownership interests  
17 of the business ~~entity~~ <sup>Share of</sup> that is to be converted into the shares or other ownership  
18 interests of the new business entity .

19 (e) The ~~delayed~~ effective date and time of the conversion, if the conversion is to  
20 be effective at a time other than the ~~time~~ <sup>date</sup> of filing the ~~articles of incorporation~~ <sup>certificate of conversion</sup>, as  
21 provided under s. 181.0123 ~~or~~ <sup>date of business on the date</sup>.

22 (f) ~~If a business entity other than a domestic corporation is converting to a~~  
23 ~~domestic corporation, A copy of the articles of incorporation, of the new domestic~~  
24 ~~corporation,~~

articles of organization,  
certificate of limited partnership, or other  
similar governing document of the  
business entity after conversion.

See Notes  
on pp. 13-14



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

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

4 (a) Except with respect to taxation laws of each jurisdiction that are applicable  
5 upon the conversion of the business entity, the business entity that was converted  
6 is no longer subject to the applicable law of the jurisdiction that governed the  
7 organization of the prior form of business entity and is subject to the applicable law  
8 of the jurisdiction that governs the new form of business entity . → **Insert C**

9 (b) The business entity has all liabilities of the business entity that was  
10 converted. *↳ continues to have*

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

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

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

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

20 (a) The plan of conversion.

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

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

4 ~~(d) If a business entity other than a domestic corporation is converting to a~~  
5 ~~domestic corporation, a copy of the articles of incorporation of the new domestic~~  
6 ~~corporation.~~

7 ~~(e) If a domestic corporation is to be converted to another form of business~~  
8 ~~entity, a copy of the articles of incorporation, articles of organization, certificate of~~  
9 ~~limited partnership, or other similar governing document, whichever is applicable,~~  
10 ~~of the new business entity.~~

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

14 SECTION 42. 181.1403 (1) (e) of the statutes is repealed and recreated to read:  
15 181.1403 (1) (e) If approval by members is required, a statement that  
16 dissolution was approved by a sufficient vote of the members of each class entitled  
17 to vote on dissolution.

18 SECTION 43. 181.1421 (1) of the statutes is amended to read:  
19 181.1421 (1) NOTICE OF DETERMINATION. If the department determines that one  
20 or more grounds exist under s. 181.1420 for dissolving a corporation, the department  
21 shall give the corporation written notice of the department's determination by  
22 certified first-class mail, return receipt requested addressed to the corporation's  
23 registered agent to the corporation's principal office, as most recently designated  
24 on the records of the department.

25 SECTION 44. 181.1421 (2) of the statutes is repealed and recreated to read:

See note  
on p. 14

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RJM/RAG/JKW/epj  
SECTION 63

1 filings made by such a limited liability company or foreign limited liability company  
2 before dissolution shall be considered to have been filed by the company while it  
3 continues its business.

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

9 SECTION 64. 183.0404 (2) (fm) of the statutes is created to read:

10 183.0404 (2) (fm) Convert to a new form of business entity under s. 183.1207.

11 SECTION 65. 183.0504 of the statutes is created to read:

12 183.0504 Series of members, managers, or limited liability company  
13 interests. An operating agreement may establish, or provide for the establishment  
14 of, designated series or classes of members, managers, or limited liability company  
15 interests that have separate or different preferences, limitations, rights, or duties,  
16 with respect to profits, losses, distributions, voting, property, or other incidents  
17 associated with the limited liability company.

18 SECTION 66. 183.0802 (3) of the statutes is amended to read:

19 183.0802 (3) (a) Except as provided in par. (b), unless an operating agreement  
20 provides that a member does not have the power to withdraw by voluntary act from  
21 a limited liability company the a member may do so voluntarily withdraw from a  
22 limited liability company at any time by giving written notice to the other members,  
23 or on any other terms as are provided in an operating agreement. If the member has  
24 the power to withdraw but the withdrawal is a breach of an operating agreement or  
25 the withdrawal occurs as a result of otherwise wrongful conduct of the member, the

*I assume this is  
an addition*

unless an operating agreement provides that a member does not have the power to withdraw by voluntary act from a limited liability company the a member may do so 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 member has the power to withdraw but the withdrawal is a breach of an operating agreement or

Assume this  
is deleted  
too

1 limited liability company may recover from the withdrawing member damages for  
 2 breach of the operating agreement or as a result of the wrongful conduct and may  
 3 offset the damages against the amount otherwise distributable to the member, in  
 4 addition to pursuing any remedies provided for in an operating agreement or  
 5 otherwise available under applicable law. Unless otherwise provided in an operating  
 6 agreement, in the case of a limited liability company for a definite term or particular  
 7 undertaking, a withdrawal by a member before the expiration of that term or  
 8 completion of that undertaking is a breach of the operating agreement.

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

24 SECTION 67. 183.0001 (4) (intro.) of the statutes is amended to read:

See notes  
on pp. 13-14

1 (d) The manner and basis of converting the shares or other ownership interests  
2 of the business entity that is to be converted into the shares or other ownership  
3 interests of the new <sup>form of</sup> business entity.

4 (e) The delayed effective date and time of the conversion, if the conversion is  
5 to be effective at a time other than the <sup>certificate of conversion</sup> date of filing the articles of organization, as  
6 provided under s. 183.0111 <sup>close of business on the date</sup>.

7 (f) ~~If a business entity other than a domestic limited liability company is~~  
8 ~~converting to a domestic limited liability company, a copy of the articles of incorporation,~~  
<sup>articles of</sup> organization <sup>of the new domestic limited liability company</sup> ~~of the new domestic limited liability company,~~ <sup>A copy of the articles of incorporation,</sup>  
<sup>articles of organization, certificate of limited partnership of the business entity</sup> ~~of the new domestic limited liability company,~~ <sup>as per conversion.</sup>

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

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

13 (a) Except with respect to taxation laws of each jurisdiction that are applicable  
14 upon the conversion of the business entity, the business entity that was converted  
15 is no longer subject to the applicable law of the jurisdiction that governed the  
16 organization of the prior form of business entity and is subject to the applicable law  
17 of the jurisdiction that governs the new form of business entity. → **Insert D**

18 (b) The ~~new~~ <sup>business entity</sup> ~~has~~ <sup>continues to have</sup> all liabilities of the business entity that was  
19 converted.

20 (c) The ~~new~~ <sup>business entity</sup> ~~is~~ <sup>continues to be</sup> vested with title to all property owned by the  
21 business entity that was converted without reversion or impairment.

22 (d) The articles of incorporation, articles of organization, certificate of limited  
23 partnership, or other similar governing document, whichever is applicable, of the  
24 ~~new~~ <sup>business entity</sup> are as provided in the plan of conversion.

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

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RJM/RAC/CLK/epg  
SECTION 80

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

4 (a) The plan of conversion.

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

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

10 ~~(c) If a business entity other than a domestic limited liability company is~~  
11 ~~converting to a domestic limited liability company, a copy of the articles of~~  
12 ~~organization of the new domestic limited liability company.~~

13 ~~(e) If a domestic limited liability company is to be converted to another form of~~  
14 ~~business entity, a copy of the articles of incorporation, articles of organization,~~  
15 ~~certificate of limited partnership, or other similar governing document, whichever~~  
16 ~~is applicable, of the new business entity.~~

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

20 Section 81. 551.02 (1) of the statutes is renumbered 551.02 (1r).

21 Section 82. 551.02 (1g) of the statutes is created to read:

22 551.02 (1g) "Accredited investor" has the meaning given in 17 CFR 230.501(a).

23 Section 83. 551.23 (8) (g) of the statutes is amended to read:

24 551.23 (8) (g) An individual accredited investor, as defined by rule of the  
25 division, if the issuer reasonably believes immediately before the sale that the

See note  
on p. 14

DRAFTER'S NOTE  
FROM THE  
LEGISLATIVE REFERENCE BUREAU

LRB-S724P1dn  
RJM:RAC:mgp

September 26, 2001

This preliminary [redacted] constitutes the next economy package. It incorporates LRB-3531/P1 (merger and LLC dissolution provisions), LRBb1570/2 (securities changes), and changes to the business organizations and tax chapters requested by DFI on September 5, 2001. However, the draft does not include the requested changes relating to electronic filing. Please refer to the e-mail from Rob Marchant to Lisa Roys dated September 10, 2001, for a discussion of the issues relating to electronic filing. We will incorporate those changes after you have a chance to read and respond to those issues. Please note the following additional issues regarding this draft:

1. Regarding the treatment of s. 178.43, stat., it appeared as though the only new text was in proposed subs. (2) and (3). Thus, we have renumbered the current text to be sub. (1) and have created subs. (2) and (3). Please review the new text to ensure that it is consistent with your intent. The language includes a few slight clarifications.
2. Regarding proposed s. 179.045, please note that the proposed language, in two different places, required the statement of resignation to be executed. This draft states that requirement only in sub. (1).
3. Regarding proposed ss. 179.04 (1) (b) and 179.82 (4), this treatment says that an agent for service of process can be a foreign entity whose address is the same as the address of the business office of the agent for service of process (i.e., the foreign entity). This seems circular. Is it what you intended? Also, is the identical address requirement intended to apply to both resident and foreign entities? As currently drafted, it only applies to foreign entities.
4. We have attempted to clarify the proposed treatment of ss. 179.76 (3) (e), 180.1161 (3) (e), and 183.1207 (3) (e). Please review these treatments and let us know if you desire any changes.
5. The language in proposed ss. 179.76 (1), 180.1161 (1) (a), and 183.1207 (1) (a) may be problematic because the conversion requirements under each of these sections may be different from or conflict with the requirements imposed under the statute that governs the type of entity to which the organization is converting. Do you want to specify that in the event of such a conflict, the law governing the type of entity to which the organization is converting will govern? For example, proposed s. 180.1161 (1) (a) could read "Except as provided in par. (b), if that applicable law conflicts with the requirements under this section, that applicable law shall govern."

← Please see  
our notes  
011 p. 13  
§. 70.1161(3)(e)

↳ I would leave this where it is, In most cases, other jurisdictions' law will not be affirmatively inconsistent. For those that are, we may want to leave at least the argument that Wisconsin's provisions could control.

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RJMRACWjpp

6. Regarding the treatment of s. 180.0501 (2), *stats.*, we assumed that the first entity listed in the new language should be "limited partnership" rather than "limited liability partnership." Please let us know if we have misunderstood your intent.

7. Please see the revised treatment of ss. 180.1421 (1) and (2) (b), 180.1531 (1) and (2) (b). This treatment was necessary to resolve conflicts between your apparent intent and the requirements of s. 180.0141, *stats.*

8. Section 180.1504 (1) (b), *stats.*, says a foreign corporation must obtain an amended certificate of authority if the foreign corporation changes the "period of its duration." To what does this refer? The duration of the foreign corporation? Of the original certificate of authority? Of the incorporation? The same concern arises under s. 181.1504 (1) (b), *stats.*

9. We changed the cross-reference in s. 180.1532 (1), *stats.*, from s. 180.1510 to s. 180.0141 (5) (a), to reflect the new notice procedure created under the bill. Please let us know if this change was incorrect.

10. We changed the intro. to proposed s. 181.1531 (2r) to specify which notices the effective date provision covers. This eliminates any possible confusion over the effect of this provision on s. 181.1531 (4), *stats.* Please review the treatment to make sure that it is consistent with your intent.

11. We drafted proposed s. 183.1021 (2g) (b) to be parallel to the other provisions of this kind in the draft. Thus, this provision allows notification by publication if the notice to the principal office is returned as undeliverable or if the records of the department do not contain an address for the principal office. Please let us know if we have misunderstood your intent.

12. We did not include an effective date under proposed s. 183.1021 (2r) for notices that are published under ch. 985. Proposed s. 181.1531 (2r) does not contain such an effective date and one is probably not necessary, as a legal matter. See s. 985.09 (1), *stats.* Also, we changed the intro. to proposed s. 183.1021 (2r) to specify which notices the effective date provision covers. This eliminates any possible confusion over the effect of this provision on s. 183.1021 (4), *stats.* Please review the treatment to make sure that it is consistent with your intent.

13. We updated the cross-reference in proposed s. 183.1022 (1) to reflect the new effective date provision in proposed s. 183.1021 (2r). Please let us know if this cross-reference is correct.

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