

2001 DRAFTING REQUEST

Assembly Amendment (AA-ASA1-SB55)

Received: 06/23/2001

Received By: **champra**

Wanted: **Today**

Identical to LRB:

For: **Assembly Republican Caucus**

By/Representing: **Hartsough**

This file may be shown to any legislator: **NO**

Drafter: **champra**

May Contact:

Addl. Drafters:

Subject: **Bus. Assn. - corporations**
Bus. Assn. - LLCs
Bus. Assn. - miscellaneous

Extra Copies:

Submit via email: **NO**

Requester's email:

Pre Topic:

ARC:.....Hartsough -

Topic:

Business association law modifications

Instructions:

See Attached

Drafting History:

<u>Vers.</u>	<u>Drafted</u>	<u>Reviewed</u>	<u>Typed</u>	<u>Proofed</u>	<u>Submitted</u>	<u>Jacketed</u>	<u>Required</u>
/1	champra 06/25/2001	wjackson 06/26/2001	rschluet 06/26/2001	_____	lrb_docadmin 06/26/2001		
/2	rryan 06/28/2001	wjackson 06/28/2001	haugeca 06/28/2001	_____	lrb_docadmin 06/28/2001		

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/1	champra 06/25/2001	wjackson 06/26/2001	rschluet 06/26/2001	<i>CH 6-28</i> <i>BEW</i>	lrb_docadmin 06/26/2001		

FE Sent For:

1/2 Wlj 6/28

CH 6-28

<END>

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/1	champra	1 WJ 6/26		 <i>gen</i>			
			6-26-1				

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b) Limited Liability Statutory Modifications (at the request of Representative Vrakas)

Wisconsin law requires that a new entity must be formed to merge an in-state entity with an out-of-state entity. While the merger is lawful, this requirement imposes an additional step not required under the laws of Delaware and other states. Wisconsin's "indirect" merger requirement is burdensome in comparison to other states and therefore may discourage potential investors concerned about unique complexities.

The default provision in the Wisconsin LLC Act provides that dissociation of a member results in dissolution of the LLC. This provision was put in place prior to the IRS providing a "check the box" tax regime. Since IRS regulations are now more flexible, a default provision of dissolution upon dissociation of a member is not necessary for the LLC to obtain taxation as a partnership. The adoption of the "check the box" regulations makes the dissolution default provision nothing more than a potentially costly trap for the unwary. Furthermore, the free-wheeling nature of venture capital investment requires the flexibility of easy entry and withdrawal without resulting in the dissolution of the LLC.

Currently, the Wisconsin statutes recognize only the withdrawal of a member, not the expulsion. Such a situation creates a serious problem when an LLC is forced to deal with an uncooperative or problematic member who refuses to withdraw. As the law exists, thinly option is an unappealing and expensive one: judicial dissolution. Venture capital investment is by its very nature uncertain. The threat of being trapped in a LLC with a member who embezzles, breaches his fiduciary duty or otherwise refuses to act in the entity's best interest is not appealing. An LLC needs to have some freedom and flexibility in expelling a member that refuses to act in the LLC's best interest. Including a provision in the Wisconsin LLC Act that guarantees the expelled member fair value for its interest provides ample protection for the removed member's financial interest, while providing for the continued and uninterrupted existence of the LLC.

Motion: **Revise Chapters 178, 179, 180 and 183 to permit cross entity mergers as in Delaware and other states and establish a \$150.00 conversion fee. Eliminate the default provision in the Wisconsin LLC Act that dissociation of a member in an LLC results in dissolution of the LLC. Recognize expulsion of a member if permitted by the LLC operating agreement provided the expelled member receives the fair value of its interest.**

(No Fiscal Effect)

RAE
Part of ARC AM # 48

1609/11

CROSS SPECIES MERGER
ATTACHMENT 1 (JBOUCHER)

Section 13. 180.1100 of the statutes is created to read:

180.1100 Definitions. In this subchapter:

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

(2) “Domestic business entity” includes a corporation, limited liability company, as defined in s. 183.0102 (10), a limited partnership, as defined in s. 179.01 (7), a partnership (whether general as defined in s. 178.03 or a limited liability partnership as defined in s. 178.41) or a nonstock corporation, as defined in s. 181.0103 (18),

(3) “Foreign business entity” includes a foreign limited liability company, as defined in s. 183.0102 (8), a foreign limited partnership, as defined in s. 179.01(4), a foreign corporation, as defined, in s. 180.0103(9), and a foreign corporation, as defined in s. 181.0103(13).

WITHDRAWAL RIGHTS

ATTACHMENT 2 (TNICHOLS)

183.0802(3)(a)

(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.

183.0802(3)(b)

(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 restricted in the operating agreement, the member may withdraw from the limited liability company with respect to such 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 so withdraw, the member 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 for a definite term or particular undertaking, the operating agreement is deemed to provide that a member does not have the power to withdraw before the expiration of that term or completion of that undertaking.)

CONVERSIONS and MERGERS
ATTACHMENT 3 (LSOSNOWSKI)

Amend Title of Subchapter XI to read: “Merger, Share Exchange and Conversion.”

Create s. 180.1160 to read:. In this subchapter “conversion” means the procedure authorized under s. 180.1161 in which:

- (a) A domestic corporation continues as a different type of domestic business entity or any type of foreign business entity; or
- (b) Any type of entity other than a domestic corporation continues as a domestic corporation.

Section 180.1161 of the statutes is created to read:

180.1161 Conversion.

- (1) A domestic corporation may become another form of entity by conversion if it complies with the requirements of s. 180.1161 (3) and the conversion is permitted by applicable law of the jurisdiction governing that form of entity.
- (2) An entity other than a domestic corporation may become a domestic corporation by conversion if it complies with the requirements of s. 180.1161 (4) and such conversion is permitted by applicable law of the jurisdiction governing such entity .
- (3) A domestic corporation shall comply with the requirements of this section by adopting and obtaining approval of a plan of conversion in accordance with the requirements of s. 180.1103 and of the jurisdiction governing the type of business entity into which it is converting and filing the certificate required by s. 180.1162.

(4) An entity other than a domestic corporation shall adopt and obtain approval of a plan of conversion in accordance with the applicable law of the jurisdiction governing such entity and filing the certificate required by s. 180.1162.

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

(a) The name, form of entity and jurisdiction of the entity that will convert.

(b) The name, form of entity and jurisdiction of the business entity upon conversion.

(c) The terms and conditions of the conversion.

(d) The manner and basis of converting the shares (or other ownership interests) of the entity that will convert into shares (or other ownership interests) of the business entity upon conversion.

(e) The future effective date of the conversion if it is not to be effective upon the filing of the certificate of conversion.

(f) If the case of a conversion described in s. 180.1160(b), the provisions of the articles of incorporation of the domestic corporation after conversion.

(g) Other provisions relating to the conversion, if desired.

(6) When a conversion becomes effective:

(a) ~~Except with respect to taxation laws of each jurisdiction applicable upon changing the form of entity,~~ the entity undergoing conversion shall cease to be subject to the applicable law of the jurisdiction governing that entity and shall become subject to the applicable laws of the jurisdiction governing the entity after conversion.

(b) The converted entity has all liabilities of the converting entity prior to conversion.

(c) The title to all property owned by the converting entity is vested in the converted entity without reversions or impairment.

Separate section
(d) A civil, criminal, administrative or investigatory proceeding pending against the converting entity may be continued as if the conversion did not occur or the converted entity may be substituted in the proceeding.

(e) The articles of incorporation, articles of organizations, by laws, operating agreement, certificate of limited partnership or similar document, as applicable, of the converted entity is amended to the extent provided in the plan of conversion.

(f) all other provisions of the plan of conversion shall apply.

180.1162 Certificate of Conversion After a plan of conversion is approved and adopted the business entity shall deliver to the department for filing a certificate of conversion setting forth or attaching all of the following as applicable:

(a) The plan of conversion;

(b) A statement that the plan of conversion was approved in accordance with the applicable law of the jurisdiction governing the entity prior to conversion;

Not needed since above
(c) The future effective date of the conversion if it is not to be effective upon the filing of the certificate of conversion;

(d) The registered agent and registered office of the entity before and after conversion;

Not needed
(e) In the case of a conversion of an entity to a domestic corporation, the articles of incorporation; and

(f) In the case of a conversion of a domestic corporation to another business

entity, the articles of organization, limited partnership certificate or other organizational document applicable to the business entity.

[Add appropriate changes to s. 180.0121 (forms) and 180.0122 (fees)].

Amend Title of Subchapter XII to read: "Merger and Conversion."

Create s. 183.1206 to read: In this chapter:

1. "Conversion" means the procedure authorized under s. 183.1207 in which:
 - (a) A domestic limited liability company continues as a different type of domestic business entity or any type of foreign business entity; or
 - (b) Any type of entity other than a domestic limited liability company continues as a domestic limited liability company.
2. "Entity" shall have the meaning ascribed in s. 180.0103(8).

Section 183.1207 of the statutes is created to read:

183.1207 Conversion.

- (1) A domestic limited liability company may become another form of entity by conversion if it complies with the requirements of s. 180.1161 (3) and the conversion is permitted by applicable law of the jurisdiction governing that form of entity.
- (2) An entity other than a domestic limited liability company may become a domestic limited liability company by conversion if it complies with the requirements of s. 183.1207 (4) and such conversion is permitted by applicable law of the jurisdiction governing such entity.

- (3) A domestic limited liability shall comply with the requirements of this section by adopting and obtaining approval of a plan of conversion in accordance with the requirements of s. 183.0404 and of the jurisdiction governing the type of business entity into which it is converting and filing the certificate required by s. 183.1208.
- (4) An entity other than a domestic limited liability company shall adopt and obtain approval of a plan of conversion in accordance with the applicable law of the jurisdiction governing such entity and filing the certificate required by s. 183.1208.
- (5) A plan of conversion shall set forth all of the following:
- (a) The name, form of entity and jurisdiction of the entity that will convert.
 - (b) The name, form of entity and jurisdiction of the business entity upon conversion.
 - (c) The terms and conditions of the conversion.
 - (d) The manner and basis of converting the shares (or other ownership interests) of the entity that will convert into shares (or other ownership interests) of the business entity upon conversion.
 - (e) The future effective date of the conversion if it is not to be effective upon the filing of the certificate of conversion.
 - (f) If the case of a conversion described in s. 183.1207(b), the articles of organization of the domestic limited liability company after conversion.
 - (g) Other provisions relating to the conversion, if desired.
- (6) When a conversion becomes effective:
- (a) The entity undergoing conversion shall cease to be subject to

the applicable law of the jurisdiction governing that entity and shall become subject to the applicable laws of the jurisdiction governing the entity after conversion.

(b) The converted entity has all liabilities of the converting entity prior to conversion.

(c) The title to all property owned by the converting entity is vested in the converted entity without reversions or impairment.

(d) A civil, criminal, administrative or investigatory proceeding pending against the converting entity may be continued as if the conversion did not occur or the converted entity may be substituted in the proceeding.

(e) The articles of incorporation, articles of organizations, by laws, operating agreement, certificate of limited partnership or similar document, as applicable, of the converted entity is amended to the extent provided in the plan of conversion.

(f) all other provisions of the plan of conversion shall apply.

183.162 Certificate of Conversion After a plan of conversion is approved and adopted the business entity shall deliver to the department for filing a certificate of conversion setting forth or attaching all of the following as applicable:

(a) The plan of conversion;

(b) A statement that the plan of conversion was approved in accordance with the applicable law of the jurisdiction governing the entity prior to conversion;

(c) The future effective date of the conversion if it is not to be effective upon the filing of the certificate of conversion;

(d) The registered agent and registered office of the entity before and after conversion;

(e) In the case of a conversion of an entity to a domestic limited liability company, the articles of organization; and

(f) In the case of a conversion of a domestic limited liability company to another business entity, the articles of organization, limited partnership certificate or other organizational document applicable to the business entity.

[Add appropriate changes to s. 183.0109 (forms) and 183.0114 (fees)].

✓ Amend s. 183.0404(2) by renumbering existing paragraph (g) as (h) and creating paragraph (g) to read:

(g) undergo a conversion.

Amend s. 183.0102(1) by creating paragraph (m) to read:

(m) "Certificate of conversion means a certificate of conversion to limited liability company filed under s. 183.1208.

(x) Certificate of conversion.

Amend s. 183.1001 (I) by adding:

At the end of the section " , except that a foreign limited liability company that has filed a certificate of conversion under s. 183.1208 shall be subject to the provisions of this chapter upon the date the conversion is effected.

Amend s. 183.1001 by creating paragraph (3) to read:

For purposes of this subchapter, the term "foreign limited liability company" shall not include a foreign limited liability company that has converted to a domestic limited liability company pursuant to s. 183.1207.

ACCIDENTAL DISSOCIATIONS

ATTACHMENT 4 (TNICHOLS)

Section 183.0901

(4) With respect to limited liability companies organized prior to [date of enactment] only, 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.

MULTIPLE INTERESTS

ATTACHMENT 5 (JBOUCHER)

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 having separate or different preferences, limitations, rights, or duties with respect to profits, losses, distributions, voting, property or other incidents associated with the limited company.

TERMINATIONS

ATTACHMENT 6

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 foreign registered limited liability company and the liability of a member of that limited liability company or foreign registered limited liability company shall not be adversely affected by errors or subsequent changes in the information stated in any filing under this chapter.

(2) The department's filing of articles of organization of a foreign registered limited liability company under s. 183.1004 constitutes its certificate of authority to transact 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 registered foreign limited liability company dissolves for any reason and its business continues without winding up the limited liability company and without liquidating the limited liability company, the status of the limited liability company or the registered foreign limited liability company shall continue to be applicable to the company continuing the business, and the limited liability company shall not be required to make any new filings. The limited liability company or registered foreign limited liability company continuing the business shall be considered to have filed any documents required or permitted under this chapter which were filed by the dissolved limited liability company or registered foreign limited liability company.

(b) If a limited liability company or a registered foreign limited liability company dissolves for any reason and winds up its affairs, liquidates or terminates, the filings remain in effect as to the limited liability company and members during the period of winding up and remain in effect as to the members after liquidation or termination with respect to liabilities of the limited liability company.

✓ Fee and Form changes to Chs. 180 and 183

✓ 180.0121 (1) (a) (4) A certificate of conversion under 180.1162.

✓ 180.0122 (1) (??) Certificate of conversion, \$150.

183.0109 (1) (a) (5) A certificate of conversion under s. 183.1162.

183.0114 (1) (??) Certificate of conversion, \$150.



WJ

Joan

ARC:.....Hartsough – Business association law modifications

FOR 2001-03 BUDGET — NOT READY FOR INTRODUCTION

CAUCUS ASSEMBLY AMENDMENT

TO ASSEMBLY SUBSTITUTE AMENDMENT 1,

TO 2001 SENATE BILL 55

✓

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

2 1. Page 983, line 3: after that line insert:

3 "SECTION 2917c. 180.0121 (1) (a) 4. of the statutes is created to read:

4 180.0122⁹¹ (1) (a) 4. An application for a certificate of conversion under s.
5 180.1161 (5). ✓

6 SECTION 2917r. 180.0122 (1) (yr) ✓ of the statutes is created to read:

7 180.0122 (1) (yr) A certificate of conversion, \$150."

8 2. Page 983, line 18: after that line insert:

9 "SECTION 2920e. Subchapter XI^(title) of chapter 180 [precedes 180.1101⁹⁰] of the

10 statutes is amended to read:

1 CHAPTER 180

2 SUBCHAPTER XI

3 MERGER AND, SHARE EXCHANGE, AND CONVERSION

4 SECTION 2920h. 180.1100 of the statutes is created to read:

5 180.1100 Definitions. In this subchapter:

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

8 (2) "Domestic business entity" includes a corporation, limited liability
9 company, as defined in s. 183.0102 (10), a limited partnership, as defined in s. 179.01
10 (7), a partnership, as defined in s. 178.03, a limited liability partnership that is
11 registered under s. 178.41, or a nonstock corporation, as defined in s. 181.0103 (18).

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

16 SECTION 2920r. 180.1161 of the statutes is created to read:

17 180.1161 Conversion. (1) (a) A domestic corporation may convert to another
18 form of business entity if it satisfies the requirements under this section and if the
19 conversion is permitted under the applicable law of the jurisdiction that governs the
20 organization of the business entity into which the domestic corporation is converting.

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

1 a plan of merger under s. 180.1103^j for the submission and approval of a plan of
2 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 other than a domestic corporation shall use the procedures
8 that govern the submission and approval of a plan of conversion of the jurisdiction
9 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 that ^{are} ~~is~~ to be converted into the shares or other ownership
18 interests of the new business entity.

19 (e) The delayed effective date of the conversion under s. 180.0123 (2), if
20 applicable.

21 (f) 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.

24 (g) Other provisions relating to the conversion.

25 (4) A conversion is effective when all of the following occur:

1 (a) The business entity that is to be converted is no longer subject to the
2 applicable law of the jurisdiction that governed the organization of the business
3 entity and is subject to the applicable law of the jurisdiction that governs the new
4 business entity.

5 (b) The new business entity has assumed all liabilities of the business entity
6 that is to be converted.

7 (c) The new business entity is vested with title to all property owned by the
8 business entity that is to be converted without reversions or impairment.

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

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

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

17 (a) The plan of conversion.

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

21 (c) The delayed effective date of the conversion under s. 180.0123 (2), if
22 applicable.

23 (d) If a business entity other than a domestic corporation is converting to a
24 domestic corporation, a copy of the articles of incorporation of the new domestic
25 corporation.

1 (e) If a domestic corporation is to be converted to another form of business
2 entity, a copy of the articles of incorporation, articles of organization, bylaws,
3 operating agreement, certificate of limited partnership, or other similar governing
4 document, whichever is applicable, of the new business entity.

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

9 ↓ 3. Page 985, line 2: after that line insert:

10 “SECTION 2925c. 183.0109⁽¹⁾ (a) 5. of the statutes is created to read:

11 No. 183.0109^{(1) ← (b)} (a) 5. An application for a certificate of conversion under s. 183.1207
12 (5).↓

13 SECTION 2925r. 183.0114 (1) (mp)[↓] of the statutes is created to read:

14 183.0114 (1) (mp) A certificate of conversion filed under s. 183.1207 (5)[↓], \$150.”.

15 ↓ 4. Page 985, line 9: after that line insert:

16 “SECTION 2928L. 183.0204[↓] of the statutes is repealed and recreated to read:

17 **183.0204 Effect of delivery or filing of articles of organization and**
18 **other documents.** (1) (a) A limited liability company is formed when the articles
19 of organization become effective under s. 183.0111.[↓]

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

22 (c) The status of a limited liability company as a limited liability company or
23 as a foreign limited liability company registered to transact business in this state and
24 the liability of any member of any such limited liability company is not adversely

1 affected by errors or subsequent changes in any information stated in any filing
2 made under this chapter.

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

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

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

21 **SECTION 2928n.** 183.0404 (2) (fm)[↓] of the statutes is created to read:

22 183.0404 (2) (fm) Convert to a new form of business entity under s. 183.1207. ✓

23 **SECTION 2929b.** 183.0504[↓] of the statutes is created to read:

24 **183.0504 Series of members, managers, or limited liability company**
25 **interests.** An operating agreement may establish, or provide for the establishment

1 of, designated series or classes of members, managers, or limited liability company
2 interests that have separate or different preferences, limitations, rights, or duties,
3 with respect to profits, losses, distributions, voting, property, or other incidents
4 associated with the limited liability company.

5 **SECTION 2929bm.** 183.0802 (3) of the statutes is amended to read:

6 183.0802 (3) (a) Except as provided in par. (b), ~~unless an operating agreement~~
7 ~~provides that a member does not have the power to withdraw by voluntary act from~~
8 ~~a limited liability company, the~~ a member may do so voluntarily withdraw from a
9 limited liability company at any time by giving written notice to the other members,
10 or on any other terms as are provided in an operating agreement. ~~If the member has~~
11 ~~the power to withdraw but the withdrawal is a breach of an operating agreement or~~
12 ~~the withdrawal occurs as a result of otherwise wrongful conduct of the member, the~~
13 ~~limited liability company may recover from the withdrawing member damages for~~
14 ~~breach of the operating agreement or as a result of the wrongful conduct and may~~
15 ~~offset the damages against the amount otherwise distributable to the member, in~~
16 ~~addition to pursuing any remedies provided for in an operating agreement or~~
17 ~~otherwise available under applicable law. Unless otherwise provided in an operating~~
18 ~~agreement, in the case of a limited liability company for a definite term or particular~~
19 ~~undertaking, a withdrawal by a member before the expiration of that term or~~
20 ~~completion of that undertaking is a breach of the operating agreement.~~

21 (b) If a member acquired an interest in a limited liability company for no or
22 nominal consideration or owns an interest as to which the power to withdraw is
23 restricted in the operating agreement, the member may withdraw from the limited
24 liability company, or with respect to the interest, only in accordance with the
25 operating agreement and only at the time or upon the occurrence of an event

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

History: 1993 a. 112; 1995 a. 400; 1997 a. 27.

11 **SECTION 2929c.** 183.0901 (4) (intro.) of the statutes is amended to read:

12 183.0901 (4) (intro.) ~~An~~ For a limited liability company organized before the
13 effective date of this subsection ... [revisor inserts date], an event of dissociation of
14 a member, unless any of the following applies:

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

15 **SECTION 2929d.** 183.1001 (1) of the statutes is amended to read:

16 183.1001 (1) The laws of the state or other jurisdiction under which a foreign
17 limited liability company is organized shall govern its organization and internal
18 affairs and the liability and authority of its managers and members, regardless of
19 whether the foreign limited liability company obtained or should have obtained a
20 certificate of registration under this chapter, except that a foreign limited liability
21 company that has filed a certificate of conversion under s. 183.1207 (5) to become a
22 domestic limited liability company shall be subject to the requirements of this
23 chapter governing domestic limited liability companies on the effective date of the

1 conversion and shall not be subject to the requirements of this chapter governing
2 foreign limited liability companies.

History: 1993 a. 112.

3 **SECTION 2929f.** Subchapter XII ^(title) of chapter 183 [precedes 183.1200] ⁹⁰ of the
4 statutes is amended to read:

5 **CHAPTER 183**

6 **SUBCHAPTER XII**

7 **MERGER AND CONVERSION**

8 **SECTION 2929n.** 183.1200¹ of the statutes is created to read:

9 **183.1200 Definitions.** In this subchapter:

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

12 (2) "Domestic business entity" includes a corporation, a domestic limited
13 liability company, a limited partnership, as defined in s. 179.01 (7)¹, a partnership,
14 as defined in s. 178.03¹, a limited liability partnership that is registered under s.
15 178.41¹, or a nonstock corporation, as defined in s. 181.0103 (18)¹.

16 (3) "Foreign business entity" includes a foreign limited liability company, a
17 foreign limited partnership, as defined in s. 179.01 (4)¹, a foreign corporation, as
18 defined in s. 180.0103 (9)¹, or a foreign corporation, as defined in s. 181.0103 (13)¹.

19 **SECTION 2929r.** 183.1207 of the statutes is created to read:

20 **183.1207 Conversion.** (1) (a) A domestic limited liability company may
21 convert to another form of business entity if it satisfies the requirements under this
22 section and if the conversion is permitted under the applicable law of the jurisdiction
23 that governs the organization of the business entity into which the domestic
24 corporation is converting.

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

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

11 (b) A business entity other than a domestic limited liability company shall use
12 the procedures that govern the submission and approval of a plan of conversion of
13 the jurisdiction that governs the business entity.

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

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

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

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

20 (d) The manner and basis of converting the shares or other ownership interests
21 of the business entity that ^{are} is to be converted into the shares or other ownership
22 interests of the new business entity.

23 (e) The delayed effective date of the conversion under s. 183.0111 (2),[√] if
24 applicable.

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

4 (g) Other provisions relating to the conversion.

5 (4) A conversion is effective when all of the following occur:

6 (a) The business entity that is to be converted is no longer subject to the
7 applicable law of the jurisdiction that governed the organization of the business
8 entity and is subject to the applicable law of the jurisdiction that governs the new
9 business entity.

10 (b) The new business entity has assumed all liabilities of the business entity
11 that is to be converted.

12 (c) The new business entity is vested with title to all property owned by the
13 business entity that is to be converted without reversions or impairment.

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

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

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

22 (a) The plan of conversion.

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

1 (c) The delayed effective date of the conversion under s. 183.0111 (2), if
2 applicable.

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

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

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

14 (END)

Champagne, Rick

From: Hanaman, Cathlene
Sent: Thursday, June 28, 2001 11:14 AM
To: Champagne, Rick
Subject: FW: LRB Draft: 01b1609/1 Business association law modifications

-----Original Message-----

From: Hartsough, Melanie
Sent: Thursday, June 28, 2001 11:13 AM
To: Hanaman, Cathlene
Subject: LRB Draft: 01b1609/1 Business association law modifications

Please make the below changes.

-----Original Message-----

From: Anderson, David
Sent: Thursday, June 28, 2001 10:39 AM
To: Pleva, Brian
Cc: Grosenheider, Terry; Roys, Lisa; Morrissey, William - DFI; Dietzel, Susan
Subject: RE: LRB Draft: 01b1609/1 Business association law modifications

Thanks for letting us review the language prepared by the LRB relating to business associations. Unfortunately, the current draft does not address some concerns from the Department of Revenue and it also expands applicability of these provisions to partnerships and limited liability partnerships, which was not the intent. As such, we would recommend four modifications:

- 1) p. 2, lines 11-12 - Delete "a partnership, as defined in s. 178.03, a limited liability partnership that is registered under s. 178.41,"
- 2) p. 4, line 1 - insert after (a) and before "the," "Except with respect to taxation laws of each jurisdiction applicable upon changing the form of entity,"
- 3) p. 9, lines 12-13 - Delete "a partnership, as defined in s. 178.03, a limited liability partnership that is registered under s. 178.41,"
- 4) p. 11 - line 2 - insert after (a) and before "the," "Except with respect to taxation laws of each jurisdiction applicable upon changing the form of entity,"

<< File: 01b1609/1 >>



State of Wisconsin
2001 - 2002 LEGISLATURE

LRBb1609/rz

RAC:wlj:7/3

RMR

ARC:.....Hartsough – Business association law modifications

FOR 2001-03 BUDGET — NOT READY FOR INTRODUCTION

CAUCUS ASSEMBLY AMENDMENT

TO ASSEMBLY SUBSTITUTE AMENDMENT 1,

TO 2001 SENATE BILL 55

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

2 **1.** Page 983, line 3: after that line insert:

3 “SECTION 2917c. 180.0121 (1) (a) 4. of the statutes is created to read:

4 180.0121 (1) (a) 4. An application for a certificate of conversion under s.

5 180.1161 (5).

6 SECTION 2917r. 180.0122 (1) (yr) of the statutes is created to read:

7 180.0122 (1) (yr) A certificate of conversion, \$150.”.

8 **2.** Page 983, line 18: after that line insert:

9 “SECTION 2920e. Subchapter XI (title) of chapter 180 [precedes 180.1100] of the

10 statutes is amended to read:

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CHAPTER 180
SUBCHAPTER XI
MERGER AND, SHARE
EXCHANGE, AND CONVERSION

SECTION 2920h. 180.1100 of the statutes is created to read:

180.1100 Definitions. In this subchapter:

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

(2) "Domestic business entity" includes a corporation, limited liability company, as defined in s. 183.0102 (10), a limited partnership, as defined in s. 179.01

~~(7), a partnership, as defined in s. 178.03, a limited liability partnership that is registered under s. 178.41,~~ or a nonstock corporation, as defined in s. 181.0103 (18).

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

SECTION 2920r. 180.1161 of the statutes is created to read:

180.1161 Conversion. (1) (a) A domestic corporation 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 corporation 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 corporation is converting and that relate to the submission and approval of a plan of conversion, the domestic corporation shall use the procedures that govern

1 a plan of merger under s. 180.1103 for the submission and approval of a plan of
2 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 other than a domestic corporation shall use the procedures
8 that govern the submission and approval of a plan of conversion of the jurisdiction
9 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 that are to be converted into the shares or other ownership
18 interests of the new business entity.

19 (e) The delayed effective date of the conversion under s. 180.0123 (2), if
20 applicable.

21 (f) 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.

24 (g) Other provisions relating to the conversion.

25 (4) A conversion is effective when all of the following occur:

Except with respect to taxation laws of each jurisdiction that are applicable upon the conversion

1 (a) ~~The~~ business entity that is to be converted is no longer subject to the of
2 applicable law of the jurisdiction that governed the organization of the business the
3 entity and is subject to the applicable law of the jurisdiction that governs the new BUSINESS
4 business entity. entity,

5 (b) The new business entity has assumed all liabilities of the business entity
6 that is to be converted.

7 (c) The new business entity is vested with title to all property owned by the
8 business entity that is to be converted without reversions or impairment.

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

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

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

17 (a) The plan of conversion.

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

21 (c) The delayed effective date of the conversion under s. 180.0123 (2), if
22 applicable.

23 (d) If a business entity other than a domestic corporation is converting to a
24 domestic corporation, a copy of the articles of incorporation of the new domestic
25 corporation.

1 (e) If a domestic corporation is to be converted to another form of business
2 entity, a copy of the articles of incorporation, articles of organization, bylaws,
3 operating agreement, certificate of limited partnership, or other similar governing
4 document, whichever is applicable, of the new business entity.

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

9 **3.** Page 985, line 2: after that line insert:

10 **“SECTION 2925c.** 183.0109 (1) (a) 5. of the statutes is created to read:

11 183.0109 (1) (a) 5. An application for a certificate of conversion under s.
12 183.1207 (5).

13 **SECTION 2925r.** 183.0114 (1) (mp) of the statutes is created to read:

14 183.0114 (1) (mp) A certificate of conversion filed under s. 183.1207 (5), \$150.”.

15 **4.** Page 985, line 9: after that line insert:

16 **“SECTION 2928L.** 183.0204 of the statutes is repealed and recreated to read:

17 **183.0204 Effect of delivery or filing of articles of organization and**
18 **other documents.** (1) (a) A limited liability company is formed when the articles
19 of organization become effective under s. 183.0111.

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

22 (c) The status of a limited liability company as a limited liability company or
23 as a foreign limited liability company registered to transact business in this state and
24 the liability of any member of any such limited liability company is not adversely

1 affected by errors or subsequent changes in any information stated in any filing
2 made under this chapter.

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

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

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

21 **SECTION 2928n.** 183.0404 (2) (fm) of the statutes is created to read:

22 183.0404 (2) (fm) Convert to a new form of business entity under s. 183.1207.

23 **SECTION 2929b.** 183.0504 of the statutes is created to read:

24 **183.0504 Series of members, managers, or limited liability company**
25 **interests.** An operating agreement may establish, or provide for the establishment

1 of, designated series or classes of members, managers, or limited liability company
2 interests that have separate or different preferences, limitations, rights, or duties,
3 with respect to profits, losses, distributions, voting, property, or other incidents
4 associated with the limited liability company.

5 **SECTION 2929bm.** 183.0802 (3) of the statutes is amended to read:

6 183.0802 (3) (a) Except as provided in par. (b), ~~unless an operating agreement~~
7 ~~provides that a member does not have the power to withdraw by voluntary act from~~
8 ~~a limited liability company, the~~ a member may ~~do so~~ voluntarily withdraw from a
9 limited liability company at any time by giving written notice to the other members,
10 or on any other terms as are provided in an operating agreement. ~~If the member has~~
11 ~~the power to withdraw but the withdrawal is a breach of an operating agreement or~~
12 ~~the withdrawal occurs as a result of otherwise wrongful conduct of the member, the~~
13 ~~limited liability company may recover from the withdrawing member damages for~~
14 ~~breach of the operating agreement or as a result of the wrongful conduct and may~~
15 ~~offset the damages against the amount otherwise distributable to the member, in~~
16 ~~addition to pursuing any remedies provided for in an operating agreement or~~
17 ~~otherwise available under applicable law. Unless otherwise provided in an operating~~
18 ~~agreement, in the case of a limited liability company for a definite term or particular~~
19 ~~undertaking, a withdrawal by a member before the expiration of that term or~~
20 ~~completion of that undertaking is a breach of the operating agreement.~~

21 (b) If a member acquired an interest in a limited liability company for no or
22 nominal consideration or owns an interest as to which the power to withdraw is
23 restricted in the operating agreement, the member may withdraw from the limited
24 liability company, or with respect to the interest, only in accordance with the
25 operating agreement and only at the time or upon the occurrence of an event

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

11 **SECTION 2929c.** 183.0901 (4) (intro.) of the statutes is amended to read:

12 183.0901 (4) (intro.) ~~An~~ For a limited liability company organized before the
13 effective date of this subsection [revisor inserts date], an event of dissociation of
14 a member, unless any of the following applies:

15 **SECTION 2929d.** 183.1001 (1) of the statutes is amended to read:

16 183.1001 (1) The laws of the state or other jurisdiction under which a foreign
17 limited liability company is organized shall govern its organization and internal
18 affairs and the liability and authority of its managers and members, regardless of
19 whether the foreign limited liability company obtained or should have obtained a
20 certificate of registration under this chapter, except that a foreign limited liability
21 company that has filed a certificate of conversion under s. 183.1207 (5) to become a
22 domestic limited liability company shall be subject to the requirements of this
23 chapter governing domestic limited liability companies on the effective date of the
24 conversion and shall not be subject to the requirements of this chapter governing
25 foreign limited liability companies.

1 **SECTION 2929f.** Subchapter XII (title) of chapter 183 [precedes 183.1200] of the
2 statutes is amended to read:

3 **CHAPTER 183**

4 **SUBCHAPTER XII**

5 **MERGER AND CONVERSION**

6 **SECTION 2929n.** 183.1200 of the statutes is created to read:

7 **183.1200 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, a domestic limited
11 liability company, a limited partnership, as defined in s. 179.01 (7), ~~a partnership,~~
12 ~~as defined in s. 178.03, a limited liability partnership that is registered under s.~~
13 ~~178.41,~~ or a nonstock corporation, as defined in s. 181.0103 (18).

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

17 **SECTION 2929r.** 183.1207 of the statutes is created to read:

18 **183.1207 Conversion.** (1) (a) A domestic limited liability company may
19 convert to another form of business entity if it satisfies the requirements under this
20 section and if the conversion is permitted under the applicable law of the jurisdiction
21 that governs the organization of the business entity into which the domestic
22 ~~corporation~~ *limited liability company* is converting.

23 (b) In addition to satisfying any applicable legal requirements of the
24 jurisdiction that governs the organization of the business entity into which the
25 domestic limited liability company is converting and that relate to the submission

1 and approval of a plan of conversion, the domestic limited liability company shall use
2 the procedures that govern a plan of merger under s. 183.1202 for the submission and
3 approval of a plan of conversion.

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

8 (b) A business entity other than a domestic limited liability company shall use
9 the procedures that govern the submission and approval of a plan of conversion of
10 the jurisdiction that governs the business entity.

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

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

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

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

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

20 (e) The delayed effective date of the conversion under s. 183.0111 (2), if
21 applicable.

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

25 (g) Other provisions relating to the conversion.

*Except with respect to ~~all~~
= taxation laws of each jurisdiction
that are applicable upon the conversion of
the business entity, the*

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(4) A conversion is effective when all of the following occur:

(a) ~~The~~ business entity that is to be converted is no longer subject to the applicable law of the jurisdiction that governed the organization of the business entity and is subject to the applicable law of the jurisdiction that governs the new business entity.

(b) The new business entity has assumed all liabilities of the business entity that is to be converted.

(c) The new business entity is vested with title to all property owned by the business entity that is to be converted without reversions or impairment.

(d) The articles of incorporation, articles of organization, bylaws, operating agreement, certificate of limited partnership, or other similar governing document, whichever is applicable, of the new business entity are amended 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.

(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 delayed effective date of the conversion under s. 183.0111 (2), if applicable.



ARC:.....Hartsough – Business association law modifications

FOR 2001-03 BUDGET — NOT READY FOR INTRODUCTION

CAUCUS ASSEMBLY AMENDMENT
TO ASSEMBLY SUBSTITUTE AMENDMENT 1,
TO 2001 SENATE BILL 55

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

2 **1.** Page 983, line 3: after that line insert:

3 “**SECTION 2917c.** 180.0121 (1) (a) 4. of the statutes is created to read:

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

6 **SECTION 2917r.** 180.0122 (1) (yr) of the statutes is created to read:

7 180.0122 (1) (yr) A certificate of conversion, \$150.”

8 **2.** Page 983, line 18: after that line insert:

9 “**SECTION 2920e.** Subchapter XI (title) of chapter 180 [precedes 180.1100] of the
10 statutes is amended to read:

1 a plan of merger under s. 180.1103 for the submission and approval of a plan of
2 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 other than a domestic corporation shall use the procedures
8 that govern the submission and approval of a plan of conversion of the jurisdiction
9 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 that are to be converted into the shares or other ownership
18 interests of the new business entity.

19 (e) The delayed effective date of the conversion under s. 180.0123 (2), if
20 applicable.

21 (f) 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.

24 (g) Other provisions relating to the conversion.

25 (4) A conversion is effective when all of the following occur:

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

6 (b) The new business entity has assumed all liabilities of the business entity
7 that is to be converted.

8 (c) The new business entity is vested with title to all property owned by the
9 business entity that is to be converted without reversions or impairment.

10 (d) The articles of incorporation, articles of organization, bylaws, operating
11 agreement, certificate of limited partnership, or other similar governing document,
12 whichever is applicable, of the new business entity are amended as provided in the
13 plan of conversion.

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

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

18 (a) The plan of conversion.

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

22 (c) The delayed effective date of the conversion under s. 180.0123 (2), if
23 applicable.

1 (d) 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 (e) If a domestic corporation is to be converted to another form of business
5 entity, a copy of the articles of incorporation, articles of organization, bylaws,
6 operating agreement, certificate of limited partnership, or other similar governing
7 document, whichever is applicable, of the new business entity.

8 (6) Any civil, criminal, administrative, or investigatory proceeding that is
9 pending against a business entity that is to be converted may be continued against
10 the business entity after the effective date of conversion or against the new business
11 entity.”.

12 **3.** Page 985, line 2: after that line insert:

13 “**SECTION 2925c.** 183.0109 (1) (a) 5. of the statutes is created to read:

14 183.0109 (1) (a) 5. An application for a certificate of conversion under s.
15 183.1207 (5).

16 **SECTION 2925r.** 183.0114 (1) (mp) of the statutes is created to read:

17 183.0114 (1) (mp) A certificate of conversion filed under s. 183.1207 (5), \$150.”.

18 **4.** Page 985, line 9: after that line insert:

19 “**SECTION 2928L.** 183.0204 of the statutes is repealed and recreated to read:

20 **183.0204 Effect of delivery or filing of articles of organization and**
21 **other documents.** (1) (a) A limited liability company is formed when the articles
22 of organization become effective under s. 183.0111.

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

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

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

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

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

24 **SECTION 2928n.** 183.0404 (2) (fm) of the statutes is created to read:

25 183.0404 (2) (fm) Convert to a new form of business entity under s. 183.1207.

1 **SECTION 2929b.** 183.0504 of the statutes is created to read:

2 **183.0504 Series of members, managers, or limited liability company**
3 **interests.** An operating agreement may establish, or provide for the establishment
4 of, designated series or classes of members, managers, or limited liability company
5 interests that have separate or different preferences, limitations, rights, or duties,
6 with respect to profits, losses, distributions, voting, property, or other incidents
7 associated with the limited liability company.

8 **SECTION 2929bm.** 183.0802 (3) of the statutes is amended to read:

9 183.0802 (3) (a) ~~Except as provided in par. (b), unless an operating agreement~~
10 ~~provides that a member does not have the power to withdraw by voluntary act from~~
11 ~~a limited liability company, the a member may do so voluntarily withdraw from a~~
12 ~~limited liability company at any time by giving written notice to the other members,~~
13 ~~or on any other terms as are provided in an operating agreement. If the member has~~
14 ~~the power to withdraw but the withdrawal is a breach of an operating agreement or~~
15 ~~the withdrawal occurs as a result of otherwise wrongful conduct of the member, the~~
16 ~~limited liability company may recover from the withdrawing member damages for~~
17 ~~breach of the operating agreement or as a result of the wrongful conduct and may~~
18 ~~offset the damages against the amount otherwise distributable to the member, in~~
19 ~~addition to pursuing any remedies provided for in an operating agreement or~~
20 ~~otherwise available under applicable law. Unless otherwise provided in an operating~~
21 ~~agreement, in the case of a limited liability company for a definite term or particular~~
22 ~~undertaking, a withdrawal by a member before the expiration of that term or~~
23 ~~completion of that undertaking is a breach of the operating agreement.~~

24 (b) If a member acquired an interest in a limited liability company for no or
25 nominal consideration or owns an interest as to which the power to withdraw is

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

14 **SECTION 2929c.** 183.0901 (4) (intro.) of the statutes is amended to read:

15 183.0901 (4) (intro.) ~~An~~ For a limited liability company organized before the
16 effective date of this subsection ... [revisor inserts date], an event of dissociation of
17 a member, unless any of the following applies:

18 **SECTION 2929d.** 183.1001 (1) of the statutes is amended to read:

19 183.1001 (1) The laws of the state or other jurisdiction under which a foreign
20 limited liability company is organized shall govern its organization and internal
21 affairs and the liability and authority of its managers and members, regardless of
22 whether the foreign limited liability company obtained or should have obtained a
23 certificate of registration under this chapter, except that a foreign limited liability
24 company that has filed a certificate of conversion under s. 183.1207 (5) to become a
25 domestic limited liability company shall be subject to the requirements of this

1 chapter governing domestic limited liability companies on the effective date of the
2 conversion and shall not be subject to the requirements of this chapter governing
3 foreign limited liability companies.

4 **SECTION 2929f.** Subchapter XII (title) of chapter 183 [precedes 183.1200] of the
5 statutes is amended to read:

6 **CHAPTER 183**

7 **SUBCHAPTER XII**

8 **MERGER AND CONVERSION**

9 **SECTION 2929n.** 183.1200 of the statutes is created to read:

10 **183.1200 Definitions.** In this subchapter:

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

13 (2) "Domestic business entity" includes a corporation, a domestic limited
14 liability company, a limited partnership, as defined in s. 179.01 (7), or a nonstock
15 corporation, as defined in s. 181.0103 (18).

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

19 **SECTION 2929r.** 183.1207 of the statutes is created to read:

20 **183.1207 Conversion.** (1) (a) A domestic limited liability company may
21 convert to another form of business entity if it satisfies the requirements under this
22 section and if the conversion is permitted under the applicable law of the jurisdiction
23 that governs the organization of the business entity into which the domestic limited
24 liability company is converting.

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

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

11 (b) A business entity other than a domestic limited liability company shall use
12 the procedures that govern the submission and approval of a plan of conversion of
13 the jurisdiction that governs the business entity.

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

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

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

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

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

23 (e) The delayed effective date of the conversion under s. 183.0111 (2), if
24 applicable.

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

4 (g) Other provisions relating to the conversion.

5 (4) A conversion is effective when all of the following occur:

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

11 (b) The new business entity has assumed all liabilities of the business entity
12 that is to be converted.

13 (c) The new business entity is vested with title to all property owned by the
14 business entity that is to be converted without reversions or impairment.

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

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 (c) The delayed effective date of the conversion under s. 183.0111 (2), if
5 applicable.

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

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

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

17 (END)