

2007 DRAFTING REQUEST

Bill

Received: **12/06/2007**

Received By: **csundber**

Wanted: **As time permits**

Identical to LRB:

For: **Legislative Council - LRC**

By/Representing: **Don Dyke**

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

Drafter: **csundber**

May Contact:

Addl. Drafters:

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

Extra Copies:

Submit via email: **YES**

Requester's email: **don.dyke@legis.wisconsin.gov**

Carbon copy (CC:) to: **christopher.sundberg@legis.wisconsin.gov**

Pre Topic:

No specific pre topic given

Topic:

Revoking voluntary dissolution

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>
/?	csundber 12/07/2007	kfollett 12/07/2007		_____			
/P1	csundber 12/18/2007	kfollett 12/19/2007	jfrantze 12/07/2007	_____	cduerst 12/07/2007		
/P2	csundber 01/07/2008	kfollett 01/10/2008	nnatzke 12/19/2007	_____	lparisi 12/19/2007		
/1	csundber	jdyer	rschluet	_____	sbasford		

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	01/11/2008	01/11/2008	01/10/2008	_____	01/10/2008		
/2			pgreensl	_____	mbarman	mbarman	
			01/11/2008	_____	01/11/2008	01/15/2008	
			pgreensl	_____	cduerst		
			01/15/2008	_____	01/15/2008		

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/2			pgreensl	_____	mbarman		
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/1		2 1/11 JLD	rschlue 1/11 ps	1/11 ps	sbasford		

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			01/10/2008 _____		01/10/2008		

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[Handwritten signature and date 11/08]

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/?	csundber	1P/KF 12/9					

FE Sent For:

<END>

Aaron -
Pls. call me.
Don Dyke 266-0292

Dyke, Don

From: Haberland, Catherine [Catherine.Haberland@dfi.state.wi.us]
Sent: Wednesday, December 05, 2007 4:34 PM
To: Dyke, Don
Subject: Additional issues for minor substantive remedial amendment

Per our conversation, below are a few more issues that were brought to my attention. Please let me know if you need additional information or would prefer a different format on this. Thank you.

1

To section 186.235 - Office of Credit Unions

ARC

Current version:

186.235(7b)(1m) Furnish any state regulatory authority regulating state financial institutions with a copy of any examination made by the office of credit unions of any credit union or of any report made by the credit union, if the authority agrees to treat the information received under this subdivision with the same degree of confidentiality that is required of employees of the office of credit unions under par.(a).

Note: This allows OCU to share exam reports with regulators from other states that may have Wisconsin CU branches in their state.

Proposal:

186.235(7b)(1m) Furnish any state regulatory authority regulating state financial institutions *or any federal government authority* with a copy of any examination made by the office of credit unions of any credit union or of any report made by the credit union, if the authority agrees to treat the information received under this subdivision with the same degree of confidentiality that is required of employees of the office of credit unions under par.(a).

Note: This would allow OCU to share information with FINCen, IRS, etc. We currently rely on 186.235(7a) (1) the "public duty to report". But I think that clause is targeted to law enforcement on a case by case basis. I also purposely placed the inserted phrase after "regulating state financial institutions" since FINCen and the IRS are not regulators.

2

To section 180.1404 - Revocation of Voluntary Dissolution

Current version:

Chapter 180.1404 'Revocation of dissolution. (1) A corporation may revoke its dissolution authorized under s.180.1401 or 180.1402, within 120 days after the effective date of the dissolution.

(2) Revocation of dissolution shall be authorized in the same manner that the dissolution was authorized, except the board of directors may revoke the dissolution if any of the following applies:

- (a) the dissolution was authorized by the incorporators under s. 180.1401.
- (b) the authorization of the dissolution permits revocation by action of the board of directors alone, without shareholder action.

(3) After the revocation of dissolution is authorized, the corporation may revoke the dissolution by delivering to the department for filing articles of revocation of dissolution, together with a copy of it's articles of dissolution, that include all of the following:

- (a) the name of the corporation.
- (b) the effective date of the dissolution that is revoked.

- (c) the date that the revocation of dissolution was authorized.
- (d) a statement that the revocation of dissolution was authorized in the same manner as the dissolution or that the revocation of dissolution was authorized by the board of directors under sub. (2)(a) or (b).

(4) On the effective date of the articles of revocation of dissolution, the revocation of dissolution shall relate back to and take effect as of the effective date of the dissolution, and the corporation may resume carrying on its business as if dissolution has never occurred.

**NOTE: Chapter 183 does not currently contain any language pertaining to this.
Current version as reflected in chapter 180. (Chapter 181 also has similar language)**

Proposal: Chapter 183 does not currently contain any language pertaining to this.

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

- (a) The name of the limited liability company
- (b) The date of filing of its articles of organization.
- (c) The statutory grounds under s. 183.0901 for dissolution.
- (d) The delayed effective date of the articles of dissolution under s. 183.0111 (2), if applicable. *+ his section*
- (1m) Revocation of dissolution. A limited liability company may revoke its dissolution authorized under s.183.0906 within 120 days after the effective date of the dissolution.

(2) Revocation of dissolution shall be authorized in the same manner that the dissolution was authorized

(3) After the revocation of dissolution is authorized, the limited liability company may revoke the dissolution by delivering to the department for filing articles of revocation of dissolution, together with a copy of it's articles of dissolution, that include all of the following:

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

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

NOTE: This language would allow Limited Liability Companies that have voluntarily filed articles of dissolution with the department to revoke the dissolution by filing a Revocation of Voluntary Dissolution with the department within 120 days of the dissolution. As noted above Chapter 180 Business Corporations and Chapter 181 nonstock corporations currently have that option.

3

To Section 180.0403 - Long Term Name Reservation

Current language:

180.0403 (2) A domestic corporation or a foreign corporation authorized to transact business in this state may, upon merger, change of name or dissolution, register its corporate name for no more than 10 years by delivering to the department for filing an application, executed by the domestic corporation or foreign corporation, simultaneously with the delivery for filing of the articles of merger or dissolution, the articles of amendment or restated articles that change the corporation name or an application for an amended certificate of authority that changes the corporate name.

(3) A corporate name is registered under sub. (1) or (2) for the applicant's exclusive use on the effective date of the application.

(3m) A person who has the right to exclusive use of a registered name under sub. (1) or (2) may transfer the registration to another person by delivering to the department a written and signed notice of the transfer that states the name and address of the transferee.

NOTE: This language allows a corporation to reserve a name for up to 10 years under certain conditions. (Similar language in chapter 181)

Proposal:

current

183.0104 Reservation and registration of name. (1) A person may reserve the exclusive use of a limited liability company name, including a fictitious name for a foreign limited liability company whose name is not available, by delivering an application to the department for filing or by making a telephone application. The application shall include the applicant's name and address and the name proposed to be reserved. If the department finds that the name applied for under this subsection is available, the department shall reserve the name for the applicant's exclusive use for a 120-day period, which may be renewed by the applicant or transferee under sub. (3m) from time to time.

repeat current (2) to (4)?

New

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

(3) A company name is registered under sub. (1) or (2) for the applicant's exclusive use on the effective date of the application.

(3m) A person who has the right to exclusive use of a registered name under sub. (1) or (2) may transfer the registration to another person by delivering to the department a written and signed notice of the transfer that states the name and address of the transferee.

NOTE: The language would allow a Limited Liability Company to reserve a name for up to 10 years similar to the name reservation rights of a corporation.

4

Changes to 180.0502 - Change of Registered Agent and Registered Office

Current language:

180.0502 Change of registered office or registered agent. (1) A corporation may change its registered office or registered agent, or both, by doing any of the following:

- (a) Delivering to the department for filing a statement of change.
- (b) Including the name of its registered agent and the street address of its registered office, as changed, in articles of amendment to its articles of incorporation, in a restatement of its articles of incorporation or in articles of merger.
- (c) if a domestic corporation, including the name of its registered agent and the street address of its registered office, as changed, in its annual report under s. 180.1622 or 180.1921. A change under this paragraph is effective on the date the annual report is filed by the department.

(2) Except as provided in sub. (3), a statement of change shall include all of the following information:

(a) The name of the corporation and, if applicable, a statement that the corporation is incorporated under this chapter.

(d) The name of its registered agent, as changed.

(e) The street address of its registered agent, as changed.

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

(3) If the name of a registered agent changes or if the street address of a registered agent's business office changes, the registered agent may change the name of the registered agent or street address of the registered office of any corporation for which he, she or it is the registered agent. To make a change under this sub-section, the registered agent shall notify the corporation in writing of the change and deliver to the department for filing a signed statement that complies with sub. (2) and recites that the corporation has been notified of the change.

NOTE: This allows a chapter 180; 181; and 183 entity to change there registered agent and registered office by filing a registered agent of office independent of any other changes to the entity.

New Proposal: (Language should also be modified for chapter 179) *add*

178.43 Registered office and registered agent. (1) A registered limited liability partnership and foreign registered limited liability partnership shall continuously maintain in this state a registered office and registered agent. The registered office may be the same as any of the partnership's places of business. The registered agent shall be any of the following:

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

(b) A domestic corporation, nonstock corporation, limited liability company, limited partnership or registered limited liability partnership.

(c) a foreign corporation, foreign limited liability company, foreign limited partnership or a foreign registered limited liability partnership if that entity is authorized to transact business in this state and the entity's business office is identical with the registered office.

(2m) The registered agent of a registered limited liability partnership or a foreign limited liability partnership may resign as registered agent by executing and filing with the department a written statement that includes all of the following information, as applicable: (a) the name of the registered limited liability partnership or foreign limited liability partnership for which the registered agent is acting.

(b) the name of the registered agent.

(c) if the registered agent is acting for a registered limited liability partnership, the street address of the registered limited liability partnership.

(d) if the registered agent is acting for a foreign registered limited liability partnership, the foreign registered limited liability partnership's current registered office and the mailing address of the foreign registered limited liability partnership's current principal office.

(e) a statement that the registered agent resigns.

(f) If the registered office is also discontinued, a statement to that effect.

(3m) after the filing of a statement under sub. (2m), the department shall mail a copy of the statement to the registered limited liability partnership or foreign registered limited liability partnership at the address provided under sub. (2m) (c) or (d).

(4) Change of registered office or registered agent. (4m) A registered limited liability partnership or foreign registered limited liability partnership may change its registered office or registered agent, or both, by doing any of the following:

- (a) Delivering to the department for filing a statement of change.
- (b) Including the name of its registered agent and the street address of its registered office, as changed, in an amendment to its registration statement.

(5) Except as provided in sub. (6), a statement of change shall include all of the following information:

(a) The name of the registered limited liability partnership or foreign registered limited liability partnership and, if applicable, a statement that the registered limited liability partnership or foreign registered limited liability partnership is registered under this chapter.

(d) The name of its registered agent, as changed.

(e) The street address of its registered agent, as changed.

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

(6) If the name of a registered agent changes or if the street address of a registered agent's business office changes, the registered agent may change the name of the registered agent or street address of the registered office of any registered limited liability partnership or foreign registered limited liability partnership for which he, she or it is the registered agent. To make a change under this sub-section, the registered agent shall notify the registered limited liability partnership or foreign registered limited liability partnership in writing of the change and deliver to the department for filing a signed statement that complies with sub. (5) and recites that the registered limited liability partnership or foreign registered limited liability partnership has been notified of the change.

NOTE: Currently a Chapter 178 or 179 entity can only change their registered agent or office by filing an amendment. This allows either the agent or the entity the same options to change this information granted chapter 180;181and 183 entities.

Catherine Haberland
Executive Assistant
Department of Financial Institutions
345 West Washington Ave. - 5th Fl
Madison, WI 53708
(608) 264-7800



In: 12/7/07 Wanted: Noon on Monday, 12/10/07 if possible

State of Wisconsin
2007 - 2008 LEGISLATURE

PI
LRB-3605/PL
CTS: [signature] DMNR

PRELIMINARY DRAFT - NOT READY FOR INTRODUCTION

Gen

1 AN ACT ...; relating to: revoking the voluntarily dissolution of a limited liability
2 company.

Analysis by the Legislative Reference Bureau

This is a preliminary draft. An analysis will be provided in a later version.

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

3 SECTION 1. 183.0906 (intro.) of the statutes is renumbered 183.0906 (1m)
4 (intro.).

5 SECTION 2. 183.0906 (2m) of the statutes is created to read:
6 183.0906 (2m) A limited liability company may revoke a dissolution of the
7 limited liability company authorized under this section within 120 days after the
8 effective date of the dissolution. Revocation of the dissolution shall be authorized in
9 the same manner that the dissolution was authorized. After the revocation of the
10 dissolution is authorized, the limited liability company may revoke the dissolution

1 by delivering to the department for filing a copy of the limited liability company's
2 articles of dissolution and articles of revocation of dissolution, which shall include
3 all of the following:

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

10 **SECTION 3.** 183.0906 (3m) of the statutes is created to read:

11 183.0906 (3m) On the effective date of articles of revocation of dissolution
12 under sub. (2m), the revocation of dissolution shall relate back to, and take effect as
13 of, the effective date of the dissolution, and the limited liability company may resume
14 carrying on its business as if the dissolution never occurred.

15 (END)

12/19/2007 Don Dyke

Redraft LRB 3605: Add anal; leave
as a p-draft.



PRELIMINARY DRAFT - NOT READY FOR INTRODUCTION

D-N

INS
A

Regen

1 AN ACT to renumber 183.0906 (intro.); and to create 183.0906 (2m) and
2 183.0906 (3m) of the statutes; relating to: revoking the voluntary dissolution
3 of a limited liability company.

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5 (intro.).

under s. 183.0901 (1)

6 SECTION 2. 183.0906 (2m) of the statutes is created to read:
7 183.0906 (2m) A limited liability company may revoke a dissolution of the
8 limited liability company ~~authorized under this section~~ within 120 days after the
9 effective date of the dissolution. Revocation of the dissolution shall be authorized in
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1 dissolution is authorized, the limited liability company may revoke the dissolution
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16 (END)

O-Note

**2007-2008 DRAFTING INSERT
FROM THE
LEGISLATIVE REFERENCE BUREAU**

LRB-3605/P2ins
CTS:.....

1

Insert A:

Current law generally provides for the creation, operation, and dissolution of limited liability companies (LLCs). This bill authorizes an LLC to revoke a dissolution that was authorized by the consent of the members of the LLC if the revocation is authorized in the same manner that the dissolution was authorized.

DRAFTER'S NOTE
FROM THE
LEGISLATIVE REFERENCE BUREAU

LRB-3605/P2dn

CTS: 1/5/05

Date

Don Dyke:

Please note that I have added a reference to s. 183.0901 (1) to clarify that only voluntary dissolutions may be revoked.

Christopher T. Sundberg
Legislative Attorney
Phone: (608) 266-9739
E-mail:
christopher.sundberg@legis.wisconsin.gov

DRAFTER'S NOTE
FROM THE
LEGISLATIVE REFERENCE BUREAU

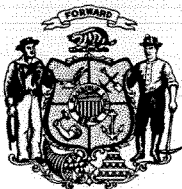
LRB-3605/P2dn
CTS:kjf:nwn

December 19, 2007

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Christopher T. Sundberg
Legislative Attorney
Phone: (608) 266-9739
E-mail:
christopher.sundberg@legis.wisconsin.gov



State of Wisconsin
2007 - 2008 LEGISLATURE

LRB-3605/P2
CTS:kjf:nwn

PRELIMINARY DRAFT - NOT READY FOR INTRODUCTION

1 **AN ACT** *to renumber* 183.0906 (intro.); and *to create* 183.0906 (2m) and
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1 date of the dissolution. Revocation of the dissolution shall be authorized in the same
2 manner that the dissolution was authorized. After the revocation of the dissolution
3 is authorized, the limited liability company may revoke the dissolution by delivering
4 to the department for filing a copy of the limited liability company's articles of
5 dissolution and articles of revocation of dissolution, which shall include all of the
6 following:

7 (a) The name of the limited liability company.

8 (b) The effective date of the dissolution that is being revoked.

9 (c) The date on which the revocation of the dissolution was authorized.

10 (d) A statement that the revocation of dissolution was authorized in the same
11 manner as the dissolution or a statement that the revocation of dissolution was
12 authorized under sub. (1m) (c).

13 **SECTION 3.** 183.0906 (3m) of the statutes is created to read:

14 183.0906 (3m) On the effective date of articles of revocation of dissolution
15 under sub. (2m), the revocation of dissolution shall relate back to, and take effect as
16 of, the effective date of the dissolution, and the limited liability company may resume
17 carrying on its business as if the dissolution never occurred.

18 (END)

In: 1/7/08

KUNNE

2007 BILL

PRELIMINARY DRAFT - NOT READY FOR INTRODUCTION

gnakjlc:note →

For further information, see the NOTES provided by the Law Revision Committee of the Joint Legislative Council.

Reger

(suggested as remedial legislation by the Department of Financial Institutions)

1 AN ACT to renumber 183.0906 (intro.); and to create 183.0906 (2m) and
 2 183.0906 (3m) of the statutes; relating to: revoking the voluntary dissolution
 3 of a limited liability company.

Analysis by the Legislative Reference Bureau

Current law generally provides for the creation, operation, and dissolution of limited liability companies (LLCs). This bill authorizes an LLC to revoke a dissolution that was authorized by the consent of the members of the LLC if the revocation is authorized in the same manner that the dissolution was authorized.

insert LLC →

Law Revision Committee Preliminary Note: (insert to complete)

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

4 SECTION 1. 183.0906 (intro.) of the statutes is renumbered 183.0906 (1m)
 5 (intro.).

6 SECTION 2. 183.0906 (2m) of the statutes is created to read:

7 183.0906 (2m) A limited liability company may revoke a dissolution of the
 8 limited liability company under s. 183.0901 (1) within 120 days after the effective

1 date of the dissolution. Revocation of the dissolution shall be authorized in the same
2 manner that the dissolution was authorized. After the revocation of the dissolution
3 is authorized, the limited liability company may revoke the dissolution by delivering
4 to the department for filing a copy of the limited liability company's articles of
5 dissolution and articles of revocation of dissolution, which shall include all of the
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17 carrying on its business as if the dissolution never occurred.

18 (END)

insert A

INSERT A to LRB-3605/P2

Note: ^{NO 5} ~~std~~

NOTE: Allows a limited liability company (LLC) that has voluntarily filed articles of dissolution with the Department of Financial Institutions (DFI) to revoke the dissolution by filing a revocation of voluntary dissolution with DFI within 120 days after the effective date of the dissolution. Current law contains no provision concerning revocation of a voluntary LLC dissolution. The proposed language is based on language that currently applies to corporations organized under chs. 180 and 181, stats. See ss. 180.1404 and 181.1404, stats.

Note: ^{se} ~~std~~

DFI indicates that revocation of a voluntary dissolution of an LLC is likely to occur when the dissolution was initiated by a disgruntled LLC member or resulted from mistake. Without opportunity to revoke a voluntary dissolution, a dissolved LLC that intends to continue must begin the organization process again and risks losing its name in the interim.

stored as:
note lrc 5

**2007-2008 DRAFTING INSERT
FROM THE
LEGISLATIVE REFERENCE BUREAU**

LRB-3605/lins
CTS:kjf:nwn

insert LRC

LAW REVISION COMMITTEE PREFATORY NOTE: This bill is a remedial legislation proposal, requested by the Department of Financial Institutions and introduced by the Law Revision Committee under s. 13.83 (1) (c) 4., stats. After careful consideration of the various provisions of the bill, the Law Revision Committee has determined that this bill makes minor substantive changes in the statutes, and that these changes are desirable as a matter of public policy.

lu: 1/16/08 Wanted: soon

2007 BILL

Regen

1 AN ACT *to renumber* 183.0906 (intro.); and *to create* 183.0906 (2m) and
2 183.0906 (3m) of the statutes; **relating to:** revoking the voluntary dissolution
3 of a limited liability company (suggested as remedial legislation by the
4 Department of Financial Institutions).

The Law Revision Committee of

Analysis by the Legislative Reference Bureau

Current law generally provides for the creation, operation, and dissolution of limited liability companies (LLCs). This bill authorizes an LLC to revoke a dissolution that was authorized by the consent of the members of the LLC if the revocation is authorized in the same manner that the dissolution was authorized.

This bill is explained in the NOTES provided by the Joint Legislative Council in the bill.

LAW REVISION COMMITTEE PREFATORY NOTE: This bill is a remedial legislation proposal, requested by the Department of Financial Institutions and introduced by the Law Revision Committee under s. 13.83 (1) (c) 4., stats. After careful consideration of the various provisions of the bill, the Law Revision Committee has determined that this bill makes minor substantive changes in the statutes, and that these changes are desirable as a matter of public policy.

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

For further information, see

anal: LRCnote

X

BILL**SECTION 1**

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BILL

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3 of, the effective date of the dissolution, and the limited liability company may resume
4 carrying on its business as if the dissolution never occurred.

5

(END)

Barman, Mike

From: Dyke, Don
Sent: Tuesday, January 15, 2008 9:36 AM
To: LRB.Legal
Subject: Draft Review: LRB 07-3605/2 Topic: Revoking voluntary dissolution

Please Jacket LRB 07-3605/2 for the SENATE.

Thanks,
Don Dyke