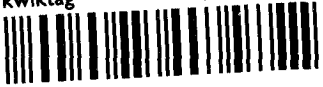


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COUNCIL OF THE DISTRICT OF COLUMBIA

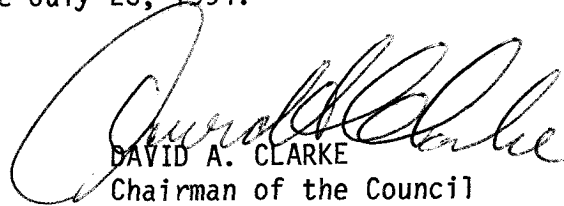
NOTICE

D.C. LAW 10-138

"Limited Liability Company Act of 1994".

Pursuant to Section 412 of the District of Columbia Self-Government and Governmental Reorganization Act, P. L. 93-198 "the Act", the Council of the District of Columbia adopted Bill No. 10-277 on first and second readings, April 12, 1994, and May 3, 1994, respectively. Following the signature of the Mayor on May 18 1994, this legislation was assigned Act No. 10-243, and published in the May 27, 1994, edition of the D.C. Register (Vol.41 page 3010) and transmitted to Congress on May 23, 1994 for a 30-day review, in accordance with Section 602(c)(1) of the Act.

The Council of the District of Columbia hereby gives notice that the 30-day Congressional Review Period has expired, and therefore, cites this enactment as D.C. Law 10-138 effective July 23, 1994.


DAVID A. CLARKE
Chairman of the Council

Dates Counted During the 30-day Congressional Review Period:

May	23,24,25,26
June	8,9,10,13,14,15,16,17,20,21,22,23,24,27,28,29,30
July	12,13,14,15,18,19,20,21,22

IN THE COUNCIL OF THE DISTRICT OF COLUMBIA

MAY 18, 1994

NEW CHAPTER 13
TITLE 29

To adopt a limited liability company statute.

BE IT ENACTED BY THE COUNCIL OF THE DISTRICT OF COLUMBIA,
That this act may be cited as the "Limited Liability Company Act of 1994".

Sec. 2. Definitions.

For the purposes of this act, the term:

New
Section
29-1301

(1) "Articles of organization" means the articles of organization filed with the Mayor for the purpose of forming a limited liability company and includes all amendments and restatements thereof.

(2) "Authorized person" means any person, whether or not a member, who is authorized by the articles of organization, by an operating agreement, or otherwise, to execute or file a document required or permitted to be executed or filed on behalf of a limited liability company or foreign limited liability company under this act, or to otherwise act as an agent of the limited liability company.

(3) "Bankrupt" means bankrupt under the United States Bankruptcy Code, as amended, or insolvent under any state insolvency act.

(4) "Code" means the District of Columbia Code.

(5) "Contribution" means anything of value that a person contributes to a limited liability company in that person's capacity as a member, including cash, property, services rendered, or a written promissory note or other written binding obligation to contribute cash or property or to perform services.

(6) "Distribution" means a direct or indirect transfer of money or other property (including a return of a member's contribution), or incurrence of indebtedness by a limited liability company, to or for the benefit of its members in respect of their interests.

(7) "District" means the District of Columbia.

(8) "Domestic corporation" has the same meaning as defined in section 2 of the District of Columbia Business Corporation Act, approved June 8, 1954 (68 Stat. 179; D.C. Code § 29-302), but shall also include a professional corporation as defined in section 2 of the District of Columbia Professional Corporation Act, approved December 10, 1971 (85 Stat. 576; D.C. Code § 29-602).

(9) "Domestic limited partnership" has the same meaning as specified in section 101 of the Uniform Limited Partnership Act of 1987, effective December 10, 1987 (D.C. Law 7-49; D.C. Code § 41-401).

(10) "Financial rights" means a member's rights to share in profits and losses of, and distributions from, a limited liability company.

(11) "Foreign corporation" has the same meaning as defined in section 2 of the District of Columbia Business Corporation Act, approved June 8, 1954 (68 Stat. 179; D.C. Code § 29-302).

(12) "Foreign limited liability company" means a limited liability company formed under the laws of a state other than the District.

(13) "Foreign limited partnership" has the same meaning as defined in section 101 of the Uniform Limited Partnership Act of 1987, effective December 10, 1987 (D.C. Law 7-49; D.C. Code § 41-401).

(14) "General partnership" includes a limited liability partnership.

(15) "Governance rights" means all of a member's rights as a member in the limited liability company other than financial rights and the right to assign financial rights.

(16) "Limited liability company" or "domestic limited liability company" means an entity that is an unincorporated association, without perpetual duration, having 2 or more members that is organized and existing under this act.

(17) "Manager" means a person designated by the members of a limited liability company to manage the limited liability company as provided in the articles of organization.

(18) "Mayor" means the Mayor of the District or the agent designated by him or her to perform any function vested in the Mayor by this act.

(19) "Member" means a person that owns an interest in a limited liability company.

(20) "Membership interest" or "interest" means a member's share of the profits and losses of the limited liability company and a member's right to receive distributions of the limited liability company's assets.

(21) "Operating agreement" means a written agreement and any written amendment thereto of the members as to the affairs of a limited liability company and the conduct of its business.

(22) "Person" means a natural person (age 18 or older), partnership (whether general or limited and whether domestic or foreign), limited liability company, trust, estate, association, corporation, custodian, nominee, or any other individual or entity in its own or any representative capacity.

(23) "Principal office" means the office, in or out of the District, where the principal executive offices of a domestic or foreign limited liability company are located.

(24) "Professional limited liability company" means a limited liability company organized under this act solely for the purpose of rendering professional services through its members, managers, employees, or agents.

(25) "Professional service" has the same meaning as specified in section 2 of the District of Columbia Professional Corporation Act, approved December 10, 1971 (85 Stat. 576; D.C. Code § 29-602).

(26) "State" means any state, territory, colony, dependency, or possession of the United States of America, or any foreign country or other foreign jurisdiction.

Enrolled Original

Sec. 3. Formation.

One or more persons may form a limited liability company by signing and filing articles of organization with the Mayor. Such person or persons need not be members of the limited liability company at the time of formation or after formation has occurred.

New
Section
29-1302

Sec. 4. Powers.

Unless the articles of organization provide otherwise, every limited liability company has and may exercise all powers necessary or convenient to effect any or all of the purposes for which the limited liability company is formed. In addition, subject to such standards and restrictions, if any, as are set forth in the articles of organization or operating agreement, every limited liability company may indemnify and hold harmless any member, agent, manager, or employee from and against any and all claims and demands, except in the case of action or failure to act by the member, agent, manager, or employee which constitutes willful misconduct or recklessness.

New
Section
29-1303

Sec. 5. Name.

(a) A limited liability company name shall contain the words "limited liability company" or the abbreviation "L.L.C." A professional limited liability company name shall contain the words "professional limited liability company" or the abbreviation "P.L.L.C."

New
Section
29-1304

(b) A limited liability company name shall not contain:

(1) The words "Corporation", "Incorporated", "Limited Partnership", or the abbreviations "Corp.", "Inc.", or "L.P.";

(2) Any word or phrase the use of which is prohibited by law for such company; or

(3) Any word or phrase which indicates or implies that it is organized for any purpose other than 1 or more of the purposes contained in its articles of organization.

(c) Except as authorized by subsection (d) of this section, a limited liability company name shall not be the same as, or deceptively similar to:

(1) The name of a domestic limited liability company, domestic corporation, domestic limited partnership, foreign limited liability company, foreign corporation, or foreign limited partnership registered to transact business in the District;

(2) A limited liability company name reserved under section 6; or

(3) The fictitious name adopted by a foreign limited liability company, foreign limited partnership, or foreign corporation because its real name is unavailable for use in the District.

(d) A domestic limited liability company may apply to the Mayor for authorization to use a name that is the same as, or deceptively similar to, one or more of the names described in subsection (c) of this section. The Mayor shall authorize use of the name applied for if the other entity consents to the use in writing and submits an undertaking in a form satisfactory to the Mayor to change its name to a name that is not the same as, or deceptively similar to, the name of the applying limited liability company.

(e) A foreign limited liability company which has a name that is the same as, or deceptively similar to, one or more of the names described

in subsection (c) of this section may adopt a fictitious name for use in transacting business in the District, which fictitious name is not the same as, or deceptively similar to, the names described in subsection (c) of this section, by filing with the Mayor a statement, which shall be executed by an authorized person, which execution may be by facsimile signature, setting forth the fictitious name which will be used in transacting business in the District; provided, however, that a foreign limited liability company may not adopt a fictitious name for use in transacting business in the District if that foreign limited liability company has a name that is the same as, or deceptively similar to, the name of a domestic limited liability company, domestic corporation, domestic limited partnership, foreign limited liability company, foreign corporation, or foreign limited partnership registered to transact business in the District which engages in the same business as the foreign limited liability company.

Sec. 6. Reserved name.

- (a) The exclusive right to the use of a name may be reserved by:
- (1) Any person intending to organize a domestic limited liability company under this act and to adopt that name;
 - (2) Any domestic limited liability company proposing to change its name;
 - (3) Any foreign limited liability company intending to register in the District and adopt that name;
 - (4) Any foreign limited liability company proposing to change its name; or
 - (5) Any person intending to organize a foreign limited liability company under this act and intending to have it register in the District and adopt that name.

(b) The reservation shall be made by filing with the Mayor an application to reserve a specified name, executed by the applicant, which execution may be by facsimile signature. If the Mayor finds that the limited liability company name applied for is available, he or she shall reserve the name for the applicant's exclusive use for a 60-day period.

(c) The owner of a reserved limited liability company name may renew the reservation for successive periods of 60 days each.

(d) The owner of a reserved limited liability company name may transfer the reservation to another person by filing with the Mayor a notice of the transfer, executed by the applicant for whom the name was reserved, which execution may be by facsimile signature, and specifying the name to be transferred and the name and address of the transferee.

Sec. 7. Articles of organization.

- (a) The articles of organization shall set forth:
- (1) The name of the limited liability company;
 - (2) The latest date on which the limited liability company is to be dissolved; and
 - (3) The address, including street and number, if any, of the limited liability company's initial registered office, the name of its initial registered agent at that office, and evidence of the registered agent's consent pursuant to section 11.

New
Section
29-1305

New
Section
29-1306

Enrolled Original

(b) The articles of organization may set forth any other matter that under this act is permitted to be set forth in an operating agreement of a limited liability company.

(c) The articles of organization need not set forth any of the powers enumerated in this act.

(d) A limited liability company shall file with the Mayor duplicate originals of the articles of organization, which shall be executed by an authorized person, which execution may be by facsimile signature. If the Mayor finds that the articles of organization conform to law, he or she shall, when all fees have been paid as in this act prescribed:

- (1) Endorse on each of such duplicate originals the word "Filed" and the month, day, and year of the filing thereof;
- (2) File 1 of such duplicate originals in his or her office;
- (3) Issue a certificate of organization to the limited liability company to which he or she shall affix the other duplicate original; and
- (4) Deliver the certificate of organization, together with the duplicate original of the articles of organization affixed thereto, to the person forming the limited liability company or such person's representative.

(e) If, at the time the articles of organization are delivered for filing, the Mayor is unable to make the determination required for filing by subsection (d) of this section, the articles of organization are deemed to have been filed at the time of delivery if the Mayor subsequently determines that:

- (1) The articles of organization as delivered conform to the filing provisions of this act; or
- (2) The articles of organization have been brought into conformance within 20 days after notification of nonconformance is given by the Mayor to the person who delivered the articles of organization for filing or the person's representative.

(f) If the filing and determination requirements of this act are not satisfied within the time prescribed in subsection (e)(2) of this section, the documents shall not be deemed to be filed.

(g) A limited liability company is formed as of the later of (1) the time established in the articles of organization, or (2) when the articles of organization are delivered to the Mayor for filing, even if the Mayor is unable at the time of delivery to make the determination required for filing by subsection (d) of this section. If the articles of organization, as delivered to the Mayor, do not conform to the filing provisions of this act and are not brought into conformance within the period prescribed by subsection (e)(2) of this section, the limited liability company shall be deemed to have never been formed. Each copy of the articles of organization stamped "Filed" and marked with the month, day, and year of the filing thereof is conclusive evidence that all conditions precedent required to be performed by the organizers have been complied with and that the limited liability company has been legally organized and formed under this act.

Sec. 8. Amendment of articles of organization.

(a) A limited liability company may amend its articles of organization at any time to add or change a provision that is required or permitted in the articles or to delete a provision not required in the articles. For an amendment to the articles of organization of a limited liability company

NewNew
Section
29-1307

to be adopted, the amendment shall be approved, unless the articles of organization or an operating agreement of that limited liability company provide otherwise, by those members with voting rights holding at least a majority of the interests in profits of the limited liability company.

(b) A limited liability company shall amend its articles of organization on authorization of a change in (1) the name of the limited liability company, or (2) the latest date on which the limited liability company is to be dissolved.

(c) To amend its articles of organization, a limited liability company shall file with the Mayor duplicate originals of the articles of amendment, which shall be executed by an authorized person, which execution may be by facsimile signature, setting forth:

- (1) The name of the limited liability company;
- (2) The text of each amendment adopted;
- (3) The date of each amendment's adoption; and

(4) A statement that the amendment was adopted by a vote of the members in accordance with the limited liability company's articles of organization and applicable law.

(d) If the articles of organization contain any typographical errors, error of transcription, or other technical errors or have been defectively executed, the articles of organization may be corrected by the filing of articles of correction. Articles of correction may not make any other change or amendment that would not have complied in all respects with the requirements of this act at the time the articles of organization were filed. Articles of correction may not change the effective date of the articles of organization.

(e) To correct its articles of organization, a limited liability company shall file with the Mayor duplicate originals of the articles of correction, which shall be executed by an authorized person, which execution may be by facsimile signature, setting forth:

- (1) The name of the limited liability company;
- (2) The date the articles of organization were filed; and
- (3) The provision in the articles of organization as previously

filed and as corrected, and if execution of the articles of organization was defective, the manner in which it was defective.

(f) If the Mayor finds that the articles of amendment or articles of correction conform to law, he or she shall, when all fees have been paid as in this act prescribed:

- (1) Endorse on each of such duplicate originals the word "Filed" and the month, day, and year of the filing thereof;
- (2) File 1 of such duplicate originals in his or her office;
- (3) Issue a certificate of amendment or certificate of correction, as appropriate, to the limited liability company to which he or she shall affix the other duplicate original; and

(4) Deliver the certificate of amendment or certificate of correction, with the duplicate original of the articles of amendment or articles of correction, as appropriate, attached thereto, to the limited liability company or its representatives.

(g) If, at the time the articles of amendment or articles of correction are delivered for filing, the Mayor is unable to make the determination required for filing by subsection (f) of this section, the articles of amendment or articles of correction are deemed to have been filed at the time of delivery if the Mayor subsequently determines that:

Enrolled Original

(1) The articles of amendment or articles of correction as delivered conform to the filing provisions of this act; or

(2) The articles of amendment or articles of correction have been brought into conformance within 20 days after notification of nonconformance is given by the Mayor to the person who delivered the articles of amendment or articles of correction for filing or the person's representative.

(h) If the filing and determination requirements of this act are not satisfied within the time prescribed in subsection (g)(2) of this section, the documents shall not be deemed to be filed.

(i) The amendment or correction shall become effective and the articles of organization shall be deemed to be amended or corrected accordingly as of the later of (1) the time established in the articles of amendment or articles of correction, or (2) when the articles of amendment or articles of correction are delivered to the Mayor for filing, even if the Mayor is unable at the time of delivery to make the determination required for filing by subsection (f) of this section. If the articles of amendment or articles of correction, as filed with the Mayor, do not conform to the filing provisions of this act and are not brought into conformance within the period prescribed by subsection (g)(2) of this section, the amendment or correction shall be deemed to have never been made.

(j) No amendment shall affect any existing cause of action in favor of or against the limited liability company, or any pending suit to which such limited liability company shall be a party, or the existing rights of persons other than members of the limited liability company, and, in the event the name of the limited liability company shall be changed by amendment, no suit brought by or against such limited liability company under its former name shall abate for that reason. No correction shall affect any right or liability accrued or incurred before its filing, except that any right or liability incurred by reason of the error or defect being corrected shall be extinguished by the filing if the person having the right has not detrimentally relied on the original document.

Sec. 9. Restated articles of organization.

(a) A limited liability company may, whenever desired, integrate into a single instrument all of the provisions of its articles of organization that are then in effect and operative as a result of there having been filed previously with the Mayor 1 or more articles or other instruments, and it may at the same time also further amend its articles of organization by adopting restated articles of organization.

(b) If the restated articles of organization merely restate and integrate but do not further amend the articles of organization, as previously amended or supplemented by any instrument that was filed, the restated articles of organization may be adopted by an authorized person without a vote of the members. If the restated articles of organization restate and integrate and also further amend in any respect the articles of organization, as previously amended or supplemented, the restated articles of organization shall be approved, unless the articles of organization or an operating agreement of the limited liability company provide otherwise, by those members with voting rights holding at least a majority of the interests in profits of the limited liability company.

New
Section
29-1308

Enrolled Original

(c) Restated articles of organization shall be specifically designated as such in the heading. The restated articles shall state, either in the heading or in an introductory paragraph, the limited liability company's present name, and, if it has been changed, the name under which it was organized, and the date of filing of its original articles of organization with the Mayor. The restated articles shall also state that they were duly adopted in accordance with the provisions of this section. If the restated articles were adopted by a designated person without a vote of the members, they shall state that they only restate and integrate and do not further amend the provisions of the limited liability company's articles of organization as previously amended or supplemented, and that there is no discrepancy between those provisions and the provisions of the restated articles.

(d) Restated articles of organization shall be executed in duplicate by an authorized person, which execution may be by facsimile signature. Duplicate originals of the restated articles of amendment shall be delivered to the Mayor. If the Mayor finds that the restated articles of organization conform to law, he or she shall, when all fees have been paid as in this act prescribed:

- (1) Endorse on each of such duplicate originals the word "Filed" and the month, day, and year of the filing thereof;
- (2) File 1 of such duplicate originals in his or her office;
- (3) Issue restated articles to the limited liability company to which he or she shall affix the other duplicate original; and
- (4) Deliver the restated articles, with the duplicate original of the restated articles of organization attached thereto, to the limited liability company or its representatives.

(e) If, at the time the restated articles of organization are delivered for filing, the Mayor is unable to make the determination required for filing by subsection (d) of this section, the restated articles of organization are deemed to have been filed at the time of delivery if the Mayor subsequently determines that:

- (1) The restated articles of organization as delivered conform to the filing provisions of this act; or
- (2) The restated articles of organization have been brought into conformance within 20 days after notification of nonconformance is given by the Mayor to the person who delivered the restated articles of organization for filing or the person's representative.

(f) If the filing and determination requirements of this act are not satisfied within the time prescribed in subsection (e)(2) of this section, the documents shall not be deemed to be filed.

(g) The restated articles of organization shall become effective as of the later of (1) the time established in the restated articles of organization, or (2) when the restated articles of organization are delivered to the Mayor for filing, even if the Mayor is unable at the time of delivery to make the determination required for filing by subsection (d) of this section. If the restated articles of organization, as filed with the Mayor, do not conform to the filing provisions of this act and are not brought into conformance within the period prescribed by subsection (e)(2) of this section, the restated articles of organization shall be deemed to have never become effective.

Sec. 10. Registered office and registered agent.
Each domestic limited liability company and each foreign limited liability company registered pursuant to this act shall have and continuously maintain in the District:

New
Section
29-1309

(1) A registered office, which office may be, but need not be, the same place as its place of business; and

(2) A registered agent, which agent may be either an individual resident in the District or a corporation, authorized by its articles of organization to act as agent and authorized to transact business in the District, having a business office identical with the registered office. An individual or corporation shall not be named by a domestic or foreign limited liability company as its registered agent without the individual's or corporation's consent. This consent shall be evidenced by a written document executed by the registered agent, which execution may be by facsimile signature, which shall be filed with the Mayor.

Sec. 11. Change of registered office or registered agent.

New
Section
29-1310

(a) A domestic limited liability company or a foreign limited liability company registered pursuant to this act may change its registered office or registered agent, or both, upon filing with the Mayor a statement setting forth:

(1) The name of the domestic limited liability company or foreign limited liability company;

(2) The address, including street and number, if any, of its then registered office;

(3) If the address of its registered office is changed, the address, including the street and number, if any, to which the registered office is to be changed;

(4) The name of its then registered agent; and

(5) If its registered agent is changed, the name of its successor registered agent and a written statement executed by the successor registered agent consenting to be named as the domestic or foreign limited liability company's registered agent.

(b) The registered agent of 1 or more domestic or foreign limited liability companies may change the address of the registered office of such domestic or foreign limited liability companies by filing with the Mayor a statement setting forth:

(1) The name of the registered agent;

(2) The present address, including street and number, if any, of such registered agent;

(3) The names of the domestic and foreign limited liability companies represented by such registered agent at such address;

(4) The address, including the street and number, if any, to which the office of the registered agent is to be changed; and

(5) The date on which such change will take place.

(c) A statement by a domestic or foreign limited liability company changing its registered office or registered agent, or both, shall be executed in duplicate by the domestic or foreign limited liability company by an authorized person, which execution may be by facsimile signature, and delivered to the Mayor. The statement of a registered agent of 1 or more domestic or foreign limited liability companies changing the address of the registered office shall be executed in duplicate by the registered agent in the agent's individual name, but if the agent is a

Enrolled Original

corporation, domestic or foreign, the statement shall be executed by the corporation, by its president or a vice-president, which execution, in either event, may be by facsimile signature, and delivered to the Mayor. If the Mayor finds that a statement by a domestic or foreign limited liability company changing its registered office or registered agent, or both, or the statement of a registered agent changing the address of the registered office conforms to law, he or she shall, when all fees have been paid as in this act prescribed:

- (1) Endorse on each of such duplicate originals the word "Filed" and the month, day, and year of the filing thereof;
- (2) File 1 of such duplicate originals in his or her office; and
- (3) Return the other duplicate original to the domestic or foreign limited liability company, in the case of a statement filed by a domestic or foreign limited liability company changing its registered office or registered agent, or both, and to the registered agent, in the case of a statement of a registered agent changing the address of the registered office.

(d) If, at the time a statement is delivered for filing, the Mayor is unable to make the determination required for filing by subsection (c) of this section, the statement is deemed to have been filed at the time of delivery if the Mayor subsequently determines that:

- (1) The statement as delivered conforms to the filing provisions of this act; or
- (2) The statement has been brought into conformance within 20 days after notification of nonconformance is given by the Mayor to the person who delivered the statement for filing or the person's representative.

(e) If the filing and determination requirements of this act are not satisfied within the time prescribed in subsection (d)(2) of this section, the documents shall not be deemed to be filed.

(f) The change of the registered office, the change of registered agent or the change of address of a registered agent, as the case may be, shall become effective as of the later of (1) the time established in the statement, or (2) when the statement is delivered to the Mayor for filing, even if the Mayor is unable at the time of delivery to make the determination required for filing by subsection (c) of this section. If the statement, as delivered to the Mayor, does not conform to the filing provisions of this act and is not brought into conformance within the period prescribed by subsection (d)(2) of this section, the statement shall be deemed to have never been made.

Sec. 12. Resignation of registered agent.

Any registered agent of a domestic or foreign limited liability company may resign as the agent upon executing and delivering written notice to the Mayor, the domestic or foreign limited liability company at its registered office, and the domestic or foreign limited liability company at its principal office. The appointment of such an agent shall terminate upon the expiration of 30 days after receipt of the notice by the Mayor or upon the appointment of a successor agent, whichever occurs first.

New
Section
29-1311

Sec. 13. Registered agent as agent for service; service when no registered agent.

New
Section
29-1312

Enrolled Original

(a) The registered agent so appointed by a domestic or foreign limited liability company shall be an agent of such limited liability company upon whom process against the limited liability company may be served, and upon whom any notice or demand required or permitted by law to be served upon the domestic or foreign limited liability company may be served. Service of any process, notice, or demand upon a corporate registered agent, as such agent, may be had by delivering a copy of such process, notice, or demand to the president, vice-president, secretary, or an assistant secretary of such corporate registered agent.

(b) Whenever a domestic or foreign limited liability company shall fail to appoint or maintain a registered agent in the District, or whenever the registered agent cannot with reasonable diligence be found at the registered office, the Mayor shall be an agent of the limited liability company upon whom any process against the domestic or foreign limited liability company may be served and upon whom any notice or demand required or permitted by law to be served upon the limited liability company may be served. Service on the Mayor of any process, notice, or demand shall be made by delivering to and leaving with the Mayor, or with any clerk having charge of the Mayor's office, duplicate copies of the process, notice, or demand and a fee of \$10. If any process, notice, or demand is so served, the Mayor shall immediately cause 1 of the copies to be forwarded by registered or certified mail to the limited liability company at its principal office or at its last known address.

(c) The Mayor shall keep a record of all processes, notices, and demands served upon him or her under this section, and shall record therein the time of such service and his or her action with respect thereto.

(d) Nothing herein contained shall limit or affect the right to serve any process, notice, or demand, required or permitted by law to be served upon a domestic or foreign limited liability company, in any manner now or hereafter permitted by law.

Sec. 14. Partnership conversion to a limited liability company.

(a) A general partnership organized in the District or any state and a domestic or foreign limited partnership may be converted to a limited liability company pursuant to this section.

(b) The terms and conditions of a conversion of a general partnership or a limited partnership to a limited liability company must be approved by (1) all the general partners and, in the case of a limited partnership, by a majority in interest of the limited partners, or (2) by a number or percentage of partners specified for conversion in the applicable partnership agreement.

(c) After the conversion is approved under subsection (b) of this section, the general partnership or limited partnership shall prepare articles of organization which, in addition to setting forth those items set forth in section 7, shall set forth:

(1) A statement that the general partnership or limited partnership was converted to a limited liability company from a general partnership or a limited partnership, as the case may be; and

(2) The general partnership's or limited partnership's former name.

(d) A general partnership or limited partnership shall file with the Mayor duplicate originals of the articles of organization, which shall be

New
Section
29-1313

executed by an authorized person, which execution may be by facsimile signature. If the Mayor finds that the articles of organization conform to law, he or she shall, when all fees have been paid as in this act prescribed:

- (1) Endorse on each of such duplicate originals the word "Filed" and the month, day, and year of the filing thereof;
- (2) File 1 of such duplicate originals in his or her office;
- (3) Issue a certificate of organization to the limited liability company to which he or she shall affix the other duplicate original; and
- (4) Deliver the certificate of organization, together with the duplicate original of the articles of organization affixed thereto, to the person or persons forming the limited liability company or such person's representatives.

(e) If, at the time the articles of organization are delivered for filing, the Mayor is unable to make the determination required for filing by subsection (d) of this section, the articles of organization are deemed to have been filed at the time of delivery if the Mayor subsequently determines that:

- (1) The articles of organization as delivered conform to the filing provisions of this act; or
- (2) The articles of organization have been brought into conformance within 20 days after notification of nonconformance is given by the Mayor to the person who delivered the articles of organization for filing or the person's representative.

(f) If the filing and determination requirements of this act are not satisfied within the time prescribed in subsection (e)(2) of this section, the documents shall not be deemed to be filed.

(g) The conversion of the limited liability company takes effect as of the later of (1) the time established in the articles of organization, or (2) when the articles of organization are delivered to the Mayor for filing, even if the Mayor is unable at the time of delivery to make the determination required for filing by subsection (d) of this section. If the articles of organization, as delivered to the Mayor, do not conform to the filing provisions of this act and are not brought into conformance within the period prescribed by subsection (e)(2) of this section, the limited liability company shall be deemed to have never been formed. Each copy of the articles of organization stamped "Filed" and marked with the month, day, and year of the filing thereof is conclusive evidence that all conditions precedent required to be performed by the general partnership or limited partnership have been complied with and that the limited liability company has been legally organized and formed under this act.

(h) A general partner who becomes a member of a limited liability company as a result of the conversion remains liable as a general partner for any obligation incurred by the general partnership or limited partnership before the conversion takes effect. The liability of a limited partner for obligations incurred by a limited partnership which has been converted to a limited liability company is determined by the law of the state in which the limited partnership was organized.

(i) A general partnership or limited partnership that has been converted pursuant to this section is for all purposes the same entity that existed before the conversion, modified by the provisions of this act which are controlling.

(j) When a conversion takes effect:

(1) The title to all real estate and other property owned by the converting general partnership under section 8 of the Uniform Partnership Act, approved September 27, 1962 (76 Stat. 637; D.C. Code § 41-107), (or by the general partners by tenancy in partnership) or by the limited partnership remains vested in the converted entity without reversion or impairment;

(2) All liabilities of the converting general partnership or limited partnership continue as liabilities of the converted entity; and

(3) Any proceeding pending by or against the converting general partnership or limited partnership may be continued as if the conversion had not occurred.

Sec. 15. Liability to third parties.

(a) Nothing in this section shall affect the liability of limited liability companies.

(b) Except as otherwise provided by this act or as expressly provided in the articles of organization, no member, manager, employee, or other agent of a limited liability company shall have any personal obligation for any debts, obligations, or liabilities of a limited liability company, whether such debts, obligations, or liabilities arise in contract, tort, or otherwise, solely by reason of being a member, manager, employee, or agent of a limited liability company.

(c) With respect to members of professional limited liability companies, a member shall be personally liable and accountable only for any negligent or wrongful acts or misconduct committed by such member, or by any individual under such member's supervision and control in the rendering of professional service on behalf of a professional limited liability company organized under this act. No member of a professional limited liability company shall be so personally liable and accountable merely because of such member's membership interest in the professional limited liability company.

New
Section
29-1314

Sec. 16 Parties to actions.

A member of a limited liability company is not a proper party to a proceeding by or against a limited liability company, except where (1) the object of the proceeding is to enforce a member's right against or liability to the limited liability company, or (2) as provided in sections 44 through 48.

New
Section
29-1315

Sec. 17. Limited liability company property.

Any estate or interest in property may be acquired in the name of the limited liability company, and title to any estate or interest so acquired vests in the limited liability company.

New
Section
29-1316

Sec. 18. Management of limited liability company.

(a) Except to the extent that the articles of organization provide for management of a limited liability company by a manager or managers, management of a limited liability company shall be vested in its members.

(b) The articles of organization or operating agreement of a limited liability company may provide for classes or groups of members having such relative rights, powers, and duties as the articles of organization or operating agreement may provide, and may make provision for the

New
Section
29-1317

future creation, in the manner provided in the articles of organization or operating agreement, of additional classes or groups of members having such relative rights, powers, and duties as may from time to time be established, including rights, powers, and duties senior to existing classes and groups of members. The articles of organization or operating agreement of a limited liability company may provide for the taking of an action, including the amendment of the articles of organization or operating agreement, without the vote or approval of any member of class or group of members, including an action to create under the provisions of the articles of organization or operating agreement a class or group of limited liability company interests that was not previously outstanding.

(c) The articles of organization or operating agreement of a limited liability company may grant to all or certain identified members of a specified class or group of the members the right to vote separately or with all or any class or group of the members or managers, on any matter. Voting by members may be on a per capita, number, financial interest, class, group, or any other basis.

(d) Unless otherwise provided in the articles of organization or an operating agreement (1) the members of a limited liability company shall vote in proportion to their respective interests in the profits of the limited liability company, and (2) decisions concerning the affairs of the limited liability company shall require the consent of those members with voting rights holding at least a majority of the interests in profits of the limited liability company.

(e) Articles of organization or operating agreements which grant members a right to vote may set forth provisions relating to notice of the time, place, or purpose of any meeting at which any matter is to be voted on by any members, waiver of any such notice, action by consent without a meeting, the establishment of a record date, quorum requirements, voting in person or by proxy, or any other matter with respect to the exercise of any such right to vote.

Sec. 19. Operating agreement.

(a) The members of a limited liability company may enter into an operating agreement to regulate or establish the affairs of the limited liability company, the conduct of its business and the relations of its members. An operating agreement may contain any provisions regarding the affairs of a limited liability company and the conduct of its business to the extent that such provisions are not inconsistent with the laws of the District or the articles of organization.

(b) An operating agreement may provide that:

(1) A member or manager who fails to perform in accordance with, or to comply with the terms and conditions of, the operating agreement shall be subject to specified penalties or specified consequences; and

(2) At the time or upon the happening of events specified in the operating agreement, a member or manager shall be subject to specified penalties or specified consequences.

(c) An initial operating agreement must be agreed to by all of the then members of the limited liability company.

(d) Unless otherwise provided in the articles of organization or an operating agreement, those members with voting rights holding at least

New
Section
29-1318

a majority of the interests in profits of the limited liability company must agree to any amendment of an operating agreement.

Sec. 20. Management of a limited liability company by a manager.

New
Section
29-1319

(a) The articles of organization or an operating agreement of a limited liability company may delegate full or partial responsibility for managing a limited liability company to or among 1 or more managers.

(b) Unless otherwise provided in the articles of organization or an operating agreement, managers need not be residents of the District or members of the limited liability company. The articles of organization or an operating agreement may prescribe other qualifications for managers.

(c) The number of managers shall be fixed by or in the manner provided in the articles of organization or an operating agreement. The number of managers may be increased or decreased by amendment to, or in the manner provided in, the articles of organization or an operating agreement.

(d) Managers shall be designated, appointed, elected, removed, or replaced by the members.

(e) Unless otherwise provided in the articles of organization or an operating agreement, any vacancy occurring in the office of manager shall be filled by those members with voting rights holding at least a majority of the interests in profits of the limited liability company.

(f) Any or all managers may be removed in the manner provided in the articles of organization or an operating agreement. Unless otherwise provided in the articles of organization or an operating agreement, all managers or any lesser number may be removed with or without cause by those members with voting rights holding at least a majority of the interests in profits of the limited liability company.

(g) Unless otherwise provided in the articles of organization or an operating agreement, any action required or permitted to be taken by the managers of a limited liability company may be taken upon a majority vote of the managers.

Sec. 21. Limitation of liability of members and managers; exception.

New
Section
29-1320

(a) The liability of a manager or member in any proceeding brought by or in the right of a limited liability company or brought by or on behalf of members of the limited liability company may be limited or eliminated in the articles of organization or an operating agreement, except if the manager or member engaged in willful misconduct.

(b) No limitation on or elimination of liability adopted pursuant to this section may be affected by any amendment of the articles of organization or operating agreement with respect to any act or omission occurring before such amendment.

Sec. 22. Business transactions of members or managers with the limited liability company.

New
Section
29-1321

Unless otherwise provided in the articles of organization or an operating agreement, a member or manager may transact business with the limited liability company and, subject to other applicable law, has the same rights and obligations with respect thereto as a person who is not a member or manager.

Sec. 23. Information and records.

(a) Each limited liability company shall keep at its principal office the following:

(1) A current list, in alphabetical order, of the full name and last known business, residence, or mailing address of each member;

(2) A copy of the articles of organization and the certificate of organization, and all articles of amendment and certificates of amendment thereto;

(3) Copies of the limited liability company's federal, state, and local income tax returns and reports, if any, for the 3 most recent years;

(4) Copies of any effective operating agreement; and

(5) Unless contained in an operating agreement, a writing setting out:

(A) The amount of cash, if any, and a description and statement of the agreed value of the other property or services, if any, contributed by each member and which each member has agreed to contribute;

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

(C) Any right of a member to receive, or of the limited liability company to make, distributions to a member which include a return of all or any part of the member's contribution; and

(D) Any events upon the happening of which the limited liability company is to be dissolved and its affairs wound up.

(b) Each member of a limited liability company has the right, upon reasonable request and subject to such reasonable standards as may be set forth in the articles of organization or an operating agreement, to inspect and copy, at the member's own expense, any of the limited liability company records required to be maintained by this section.

(c) Failure of the limited liability company to keep or maintain any of the records or information required pursuant to this section shall not affect the status of the limited liability company under this act.

Sec. 24. Contributions.

(a) The contributions of a member to a limited liability company may consist of anything of value, including cash, property, services rendered, or a written promissory note or other written binding obligation to contribute cash or property or to perform services.

(b) Unless otherwise provided in the articles of organization or an operating agreement, a member is obligated to the limited liability company to perform any enforceable promise to contribute cash or property or to perform services. If a member does not make the required contribution of property or services, such member is obligated at the option of the limited liability company to contribute cash equal to that portion of the value of the stated contribution that has not been made.

(c) Unless otherwise provided in the articles of organization or an operating agreement, if a member is unable to perform any enforceable promise to perform services because of death or disability, such member or such member's successor or assign shall have the option of either:

(1) Contributing cash equal to that portion of the value of a stated contribution that the member had promised to make in services, but had failed to make; or

(2) Forfeiting the member's interest in the limited liability company.

(d) Unless otherwise provided in the articles of organization or an operating agreement, the obligation of a member to make a contribution may be compromised only by consent of all the members.

Sec. 25. Sharing of profits and losses.

The profits and losses of a limited liability company shall be allocated among the members, and among classes of members, in the manner provided in the articles of organization or an operating agreement. Unless otherwise provided in the articles of organization or an operating agreement, profits and losses shall be allocated on the basis of the value, as stated in the limited liability company records, of the contributions made by each member to the extent they have been received by the limited liability company and have not been returned.

New
Section
29-1324

Sec. 26. Sharing of distributions.

Distributions of cash or other assets of a limited liability company shall be made among the members, and among classes of members, in the manner provided in the articles of organization or an operating agreement. Unless otherwise provided in the articles of organization or an operating agreement, distributions shall be made on the basis of the value, as stated in the limited liability company records, of the contributions made by each member to the extent they have been received by the limited liability company and have not been returned.

New
Section
29-1325

Sec. 27. Interim distributions.

Except as provided in this act, a member is entitled to receive distributions from a limited liability company before such member's resignation from the limited liability company and before the dissolution and winding up thereof to the extent and at the times or upon the happening of the events specified in the articles of organization or an operating agreement.

New
Section
29-1326

Sec. 28. Distribution upon resignation.

(a) Except as otherwise provided in this act, upon resignation, any resigning member is entitled to receive any distribution to which such member is entitled under the articles of organization or an operating agreement, and, if not otherwise provided in the articles of organization or an operating agreement, such member is entitled to receive, within a reasonable time after resignation, the fair value of such member's membership interest as of the date of resignation.

(b) If the resignation of the member is a breach of an operating agreement, or the resignation occurs as a result of otherwise wrongful conduct of the member, the limited liability company may recover from the resigning member damages for breach of the operating agreement or as a result of the wrongful conduct, including the reasonable costs of obtaining replacement of the services that the resigning member was obligated to perform, and may offset the damages against the amount otherwise distributable to the resigning member, in addition to pursuing

New
Section
29-1327

any remedies provided for in an operating agreement or otherwise available under applicable law.

Sec. 29. Distribution in kind.

New
Section
29-1328

Unless otherwise provided in the articles of organization or an operating agreement, a member, regardless of the nature of such member's contribution, has no right to demand and receive any distribution from a limited liability company in any form other than cash. Unless otherwise provided in the articles of organization or an operating agreement, a member shall not be compelled to accept (in lieu of the member's share of a pro rata cash distribution) a distribution of any asset in kind from a limited liability company to the extent that the percentage of the asset that would otherwise be distributed to such member would exceed the percentage that such member's membership interest bears to all membership interests in the limited liability company.

Sec. 30. Restrictions on making distribution.

New
Section
29-1329

(a) No distribution shall be made by a limited liability company if, after giving effect to the distribution:

(1) The limited liability company would not be able to pay its debts as they become due in the usual course of business; or

(2) Unless otherwise provided in the articles of organization or an operating agreement, the limited liability company's total assets would be less than the sum of its total liabilities plus the amount that would be needed, if the limited liability company were to be dissolved at the time of the distribution, to satisfy the preferential rights upon dissolution of members whose preferential rights are superior to the rights of members receiving the distribution.

(b) The limited liability company may base a determination that a distribution is not prohibited under subsection (a) of this section either on:

(1) Financial statements prepared on the basis of accounting practices and principles that are reasonable in the circumstances; or

(2) A fair valuation or other method that is reasonable in the circumstances.

(c) The effect of a distribution under subsection (a) of this section is measured as of (1) the date the distribution is authorized if the payment occurs within 120 days after the date of authorization, or (2) the date the payment is made if it occurs more than 120 days after the date of authorization.

Sec. 31. Liability upon wrongful distribution.

New
Section
29-1330

If a member has received a distribution in violation of the articles of organization or an operating agreement of a limited liability company or in violation of section 30, then such member is liable to the limited liability company for a period of 2 years thereafter for the amount of the distribution wrongfully made.

Sec. 32. Right to distribution.

New
Section
29-1331

Unless otherwise provided in the articles of organization or an operating agreement, at the time a member becomes entitled to receive a distribution, such member has the status of, and is entitled to all

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

Sec. 33. Admission of members.

New
Section
29-1332

(a) A person becomes a member of a limited liability company:

- (1) At the time the limited liability company is formed; or
- (2) At any later time specified in the articles of organization

or operating agreement.

(b) Unless otherwise provided in the articles of organization or an operating agreement, after the formation of a limited liability company, a person may be admitted as a member:

(1) In the case of a person acquiring a membership interest directly from the limited liability company, upon the unanimous consent of the members; or

(2) In the case of an assignee of financial rights or governance rights coupled with financial rights of a member as provided in sections 37 and 38, when the assignee's name, address, and the nature and extent of the assignment are reflected in the records of the limited liability company.

Sec. 34. Nature of interest in limited liability company.

New
Section
29-1333

A membership interest in a limited liability company is personal property.

Sec. 35. Resignation of member.

New
Section
29-1334

A member may resign from a limited liability company at the time or upon the happening of events specified in the articles of organization or an operating agreement. Unless otherwise provided in the articles of organization or an operating agreement, a member may resign upon not less than 6 months' prior written notice to the limited liability company or to each member at such member's address on the books of the limited liability company.

Sec. 36. Assignment of financial rights.

New
Section
29-1335

(a) Except as provided in section 38, a member's financial rights are assignable in whole or in part.

(b) An assignment of a member's financial rights entitles the assignee to receive, to the extent assigned, only the share of profits and losses and the distributions to which the assignor would otherwise be entitled.

(c) Unless otherwise provided in the articles of organization or an operating agreement, an assignment of a member's financial rights does not dissolve the limited liability company and does not entitle or empower the assignee to become a member, to exercise any governance rights, to receive any notices from the limited liability company, or to cause dissolution.

Sec. 37. Assignment of governance rights.

New
Section
29-1336

(a) A member may assign the member's full membership interest only by assigning all of the member's governance rights coupled with a simultaneous assignment to the same assignee of all of the member's financial rights. A member's governance rights are assignable, in whole or in part, only as provided in this section.

(b) Subject to section 38, a member may, without the consent of any other member, assign governance rights, in whole or in part, to another person already a member at the time of the assignment. Subject to section 38, any other assignment of any governance rights is effective only if those members with voting rights holding at least a majority of the interests in profits of the limited liability company, other than the member seeking to make the assignment, consent to the assignment.

(c) When an assignment of governance rights is effective under this section:

- (1) The assignee becomes a member, if not already a member;
- (2) If the assignor does not retain any governance rights:
 - (A) The assignor ceases to be a member; and
 - (B) The majority in interest consent required in this

section shall also constitute the dissolution avoidance consent necessary under section 48(3) to avoid dissolution that would otherwise ensue under section 48 on account of the assignor ceasing to be a member;

(3) The assignee is liable for any obligations of the assignor under sections 24 (including liability for unperformed promises which have been reflected as contributions in the records of the limited liability company) and 31 existing at the time of assignment, except to the extent that, at the time the assignee became a member, the liability:

- (A) Was unknown to the assignee; and
- (B) Could not be ascertained from the records of the

limited liability company; and

(4) Unless otherwise provided in the articles of organization or an operating agreement, the assignor is not released from liability to the limited liability company for obligations of the assignor existing at the time of assignment under sections 24 and 31.

(d) If any purported or attempted assignment of governance rights is ineffective for failure to obtain the consent required by this section:

(1) The purported or attempted assignment is ineffective in its entirety; and

(2) Any assignment of financial rights that accompanied the purported or attempted assignment of governance rights is void.

Sec. 38. Restrictions on assignment of financial and governance rights.

(a) A restriction on the assignment of financial or governance rights may be imposed in the articles of organization or in the operating agreement. A restriction is not binding with respect to financial or governance rights reflected in the records of the limited liability company prior to the adoption of the restriction, unless the owners of those financial or governance rights are parties to the agreement or voted in favor of the restriction.

(b) A written restriction on the assignment of financial or governance rights that is not manifestly unreasonable under the circumstances and is noted conspicuously in the records of the limited liability company may be enforced against the owner of the restricted financial or governance rights or a successor or transferee of the owner, including a pledgee or a legal representative. Unless noted conspicuously in the records, a restriction, even though permitted by this section, is ineffective against a person without knowledge of the restriction.

New
Section
29-1337

Sec. 39. Rights of creditor.

New
Section
29-1338

On application to a court of competent jurisdiction by any judgment creditor of a member, the court may charge the interest of the member in the limited liability company with payment of the unsatisfied amount of the judgment with interest. To the extent so charged, the judgment creditor has only the rights of an assignee of the financial interest in the limited liability company. This act does not deprive any member of the benefit of any exemption laws applicable to such member's interest in the limited liability company.

Sec. 40. Powers of estate of a deceased or incompetent member.

New
Section
29-1339

Unless otherwise provided in the articles of organization or an operating agreement, if a member who is an individual dies or a court of competent jurisdiction adjudges the member to be incompetent to manage such member's person or property, the member's executor, administrator, guardian, conservator, or other legal representative may exercise all the member's rights for the purpose of settling such member's estate or administering such member's property, including any power the member had to transfer a membership interest. Unless otherwise provided in the articles of organization or an operating agreement, if a member is a corporation, trust, or other entity and is dissolved or terminated, the powers of that member may be exercised by its legal representative or successor.

Sec. 41. Approval of merger or consolidation.

New
Section
29-1340

(a) As used in this section and in sections 42 and 43, the term "other business entity" means a corporation, a business trust or association, a real estate investment trust, a common-law trust or any other unincorporated business, including a partnership (whether general or limited), or a foreign limited liability company, but excluding a domestic limited liability company.

(b) Pursuant to an agreement of merger or consolidation, a domestic limited liability company may merge or consolidate with or into 1 or more domestic limited liability companies or other business entities formed or organized under the laws of the District or any state, with such domestic limited liability company or other business entity as the agreement shall provide being the surviving or resulting domestic limited liability company or other business entity.

(c) Unless otherwise provided in the articles of organization or an operating agreement, a merger or consolidation shall be approved by each domestic limited liability company which is to merge or consolidate by the members with voting rights holding at least a majority of the interests in profits of the limited liability company; provided, however, that if a domestic limited liability company is not to be the surviving or resulting entity in a proposed merger or consolidation, and as a result of such merger or consolidation the members of such domestic limited liability company shall not be afforded limited liability with respect to any other person or entity, the merger or consolidation shall be approved by the unanimous consent of all of the members, voting and nonvoting, of such domestic limited liability company.

(d) In connection with a merger or consolidation hereunder, rights or securities of, or interests in, a domestic limited liability company or other business entity which is a constituent part to the merger or

consolidation may be exchanged for or converted into cash, property, rights or securities of, or interests in, the surviving or resulting domestic limited liability company or other business entity, or, in addition to or in lieu thereof, may be exchanged for or converted into cash, property, rights or securities of, or interests in, a domestic limited liability company or other business entity which is not the surviving or resulting limited liability company or other business entity in the merger or consolidation.

(e) Notwithstanding prior approval, an agreement of merger or consolidation may be terminated or amended pursuant to a provision for such termination or amendment contained in the agreement of merger or consolidation.

Sec. 42. Articles of merger or consolidation.

(a) If a domestic limited liability company is merging or consolidating under this act, the domestic limited liability company or other business entity surviving or resulting in or from the merger or consolidation shall file articles of merger or consolidation with the Mayor. The articles of merger or consolidation shall state:

(1) The name and jurisdiction of formation or organization of each of the domestic limited liability companies or other business entities which is to merge or consolidate;

(2) That an agreement of merger or consolidation has been approved and executed by each of the domestic limited liability companies or other business entities which is to merge or consolidate;

(3) The name of the surviving or resulting domestic limited liability company or other business entity and the address, including street and number, if any, of its principal office under the laws of the jurisdiction in which it was organized, formed, or incorporated;

(4) If the merger or consolidation is not to be effective upon delivery of articles of merger or consolidation to the Mayor for filing, the future effective date or time of the merger or consolidation;

(5) That the agreement of merger or consolidation is on file at a place of business of the surviving or resulting domestic limited liability company or other business entity, and shall state the address thereof; and

(6) That a copy of the agreement of merger or consolidation will be furnished by the surviving or resulting domestic limited liability company or other business entity, on request and without cost, to any member of any domestic limited liability company or any person holding an interest in any other business entity which is to merge or consolidate.

(b) An agreement of merger or consolidation approved in accordance with section 41 may:

(1) Effect any amendment to the articles of organization or operating agreement; or

(2) Effect the adoption of new articles of organization or operating agreement for a limited liability company if it is the surviving or resulting limited liability company in the merger or consolidation.

(c) Any amendment to the articles of organization or operating agreement or adoption of new articles of organization or operating agreement made pursuant to subsection (b)(2) of this section shall be effective at the effective time or date of the merger or consolidation. The provisions of subsection (b) of this section shall not be construed

New
Section
29-1341

to limit the accomplishment of a merger or of any of the matters referred to herein by any other means provided for in articles of organization, an operating agreement, or other agreement, or as otherwise permitted by law, including that the articles of organization and operating agreement of any constituent limited liability company to the merger or consolidation (including a limited liability company formed for the purpose of consummating a merger or consolidation) shall be the articles of organization and operating agreement of the surviving or resulting limited liability company.

(d) The articles of merger or consolidation shall be executed in duplicate by the authorized person of the domestic limited liability company or other business entity surviving or resulting in or from the merger or consolidation, which execution may be by facsimile signature, and delivered to the Mayor. If the Mayor finds that such articles of merger or consolidation conform to law, he or she shall, when all fees have been paid as in this act prescribed:

- (1) Endorse on each of such duplicate originals the word "Filed" and the month, day, and year of the filing thereof;
- (2) File 1 of such duplicate originals in his or her office; and
- (3) Issue a certificate of merger or consolidation to which he or she shall attach the other duplicate original.

(e) The certificate of merger or consolidation, together with the duplicate original affixed thereto, shall be delivered to the surviving entity or its representative.

(f) If, at the time the articles of merger or consolidation are delivered for filing, the Mayor is unable to make the determination required for filing by subsection (d) of this section, the articles of merger or consolidation are deemed to have been filed at the time of delivery if the Mayor subsequently determines that:

- (1) The articles of merger or consolidation as delivered conform to the filing provisions of this act; or
- (2) The articles of merger or consolidation have been brought into conformance within 20 days after notification of nonconformance is given by the Mayor to the person who delivered the articles of merger or consolidation for filing or the person's representative.

(g) If the filing and determination requirements of this act are not satisfied within the time prescribed in subsection (e)(2) of this section, the documents shall not be deemed to be filed.

(h) The merger or consolidation shall become effective as of the later of (1) the time established in the articles of merger or consolidation, or (2) when the articles of merger or consolidation are delivered to the Mayor for filing, even if the Mayor is unable at the time of delivery to make the determination required for filing by subsection (d) of this section. If the articles of merger or consolidation, as delivered to the Mayor, do not conform to the filing provisions of this act and are not brought into conformance within the period prescribed by subsection (e)(2) of this section, the merger or consolidation shall be deemed to have never occurred.

Sec. 43. Effect of merger or consolidation.

(a) When any merger or consolidation shall have become effective, for all purposes of the law of the District, all of the rights, privileges, and powers of each of the domestic limited liability companies and other

New
Section
29-1342

business entities that have merged or consolidated, and all property, real, personal, and mixed, and all debts due to any of said domestic limited liability companies and other business entities, as well as all other things and causes of action belonging to each of such domestic limited liability companies and other business entities, shall be vested in the surviving or resulting domestic limited liability company or other business entity, and shall thereafter be the property of the surviving or resulting domestic limited liability company or other business entity, and the title to any real property vested by deed or otherwise, under the laws of the District, in any of such domestic limited liability companies and other business entities that have merged or consolidated shall not revert or be in any way impaired by reason of this act.

(b) All rights of creditors and all liens upon any property of any domestic limited liability companies and other business entities that have merged or consolidated shall be preserved unimpaired, and all debts, liabilities, and duties of each of the said domestic limited liability companies and other business entities that have merged or consolidated shall thenceforth attach to the surviving or resulting domestic limited liability company or other business entity, and may be enforced against it to the same extent as if said debts, liabilities, and duties had been incurred or contracted by it.

(c) Unless otherwise agreed, a merger or consolidation of a domestic limited liability company, including a domestic limited liability company which is not the surviving or resulting entity in the merger or consolidation, shall not require such domestic limited liability company to wind up its affairs or pay its liabilities and distribute its assets.

(d) No member of a domestic limited liability company that is a party to a merger or consolidation will, as a result of the merger or consolidation, become personally liable for the liabilities or obligations of any other person or entity unless that member approves the agreement of merger or consolidation or otherwise consents to becoming personally liable.

(e) No member, partner, owner, or other interest holder in any other business entity that is a party to a merger or consolidation shall be relieved of personal liability with respect to liabilities or obligations incurred prior to the effective date of the merger or consolidation.

Sec. 44. Right of action.

A member may bring an action in the right of a limited liability company to recover a judgment in its favor to the same extent that a shareholder may bring an action for a derivative suit under the laws of the District. Such action may be brought if members or managers with authority to do so have refused to bring the action or if an effort to cause those members or managers to bring the action is not likely to succeed. The derivative action may not be maintained if it appears that the plaintiff does not fairly and adequately represent the interests of the members and the limited liability company in enforcing the right of the limited liability company.

New
Section
29-1343

Sec. 45. Proper plaintiff.

In a derivative action, the plaintiff shall be a member at the time of bringing the action and (1) shall have been a member at the time of the transaction of which such member complains, or (2) such member's

New
Section
29-1344

status as a member shall have devolved upon such member by operation of law or pursuant to the terms of the articles of organization or an operating agreement from a person who was a member at the time of the transaction.

Sec. 46. Pleading.

In a derivative action, the complaint shall set forth with particularity the effort, if any, of the plaintiff to secure commencement of the action by a member or manager with the authority to do so or the reasons for not making the effort.

New
Section
29-1345

Sec. 47. Expenses.

If a derivative action is successful, in whole or in part, or if anything is received by the plaintiff as a result of a judgment, compromise, or settlement of an action or claim, except as hereinafter provided, the court may award the plaintiff reasonable expenses, including reasonable attorney's fees, and shall direct the plaintiff to remit to the limited liability company the remainder of those proceeds received by such plaintiff. On termination of the derivative action, the court may require the plaintiff to pay any defendant's reasonable expenses, including reasonable attorney's fees, incurred in defending the action if it finds that the action was commenced without reasonable cause or the plaintiff did not fairly and adequately represent the interests of the members and the limited liability company in enforcing the right of the limited liability company.

New
Section
29-1346

Sec. 48. Dissolution; generally.

A limited liability company organized under this act is dissolved and its affairs shall be wound up upon the happening of the first to occur of the following events:

- (1) At the time or on the happening of the events specified in the articles of organization or an operating agreement;
- (2) Upon the unanimous consent of the members with voting rights;
- (3) Upon the death, retirement, resignation, expulsion, bankruptcy, or dissolution of a member or occurrence of any other event that terminates the continued membership of a member in the limited liability company, but the limited liability company is not dissolved and is not required to be wound up if there are (A) at least 2 remaining members or at least 1 remaining member and a new member is admitted, and (B) either (i) within 90 days after the death, retirement, resignation, expulsion, bankruptcy, or dissolution of a member or occurrence of any other event that terminates the continued membership of a member in the limited liability company, the remaining members with voting rights, unanimously consent to the continuation of the legal existence and business of the limited liability company, or (ii) there is compliance with the procedures set forth in the articles of organization or operating agreement for continuing the legal existence and business of the limited liability company; or
- (4) The entry of a decree of judicial dissolution under section 49.

New
Section
29-1347

Sec. 49. Judicial dissolution.

New
Section
29-1348

On application by or for a member, the Superior Court of the District of Columbia may decree dissolution of a limited liability company if it is not reasonably practicable to carry on the business in conformity with the articles of organization or any operating agreement.

Sec. 50. Articles of dissolution.

New
Section
29-1349

(a) Within 90 days of dissolution, duplicate originals of articles of dissolution, which shall be executed by an authorized person, which execution may be by facsimile signature, shall be delivered to the Mayor. Articles of dissolution shall set forth:

- (1) The name of the limited liability company;
- (2) The date of filing of the articles of organization and each amendment thereto;
- (3) The reason for filing the articles of dissolution;
- (4) The date of dissolution;
- (5) A statement that notice of the dissolution was sent by registered mail, postage prepaid, return receipt requested to all known creditors of the limited liability company and the date of the mailing, or a statement that the limited liability company has no known creditors; and
- (6) Any other information the members determine to include therein.

(b) If the Mayor finds that the articles of dissolution conform to law, he or she shall, when all fees have been paid as in this act prescribed:

- (1) Endorse on each of such duplicate originals the word "Filed" and the month, day, and year of the filing thereof;
- (2) File 1 of such duplicate originals in his or her office; and
- (3) Issue a certificate of dissolution to the representative of the dissolved limited liability company to which he or she shall affix the other duplicate original.

(c) If, at the time the articles of dissolution are delivered for filing, the Mayor is unable to make the determination required for filing by subsection (b) of this section, the articles of dissolution are deemed to have been filed at the time of delivery if the Mayor subsequently determines that:

- (1) The articles of dissolution as delivered conform to the filing provisions of this act; or
- (2) The articles of dissolution have been brought into conformance within 20 days after notification of nonconformance is given by the Mayor to the person who delivered the articles of dissolution for filing or the person's representative.

(d) If the filing and determination requirements of this act are not satisfied within the time prescribed in subsection (c)(2) of this section, the documents shall not be deemed to be filed.

Sec. 51. Winding up.

(a) Unless otherwise provided in the articles of organization or an operating agreement, or unless the business or affairs of the limited liability company are continued under section 48, the members who have not wrongfully dissolved a limited liability company may wind up the limited liability company's affairs, but the Superior Court of the District of Columbia, on cause shown, may wind up the limited liability company's

New
Section
29-1350

affairs on application of any member or such member's legal representative or assign.

(b) The persons winding up the limited liability company's affairs may, in the name of, and for and on behalf of, the limited liability company, prosecute and defend suits, whether civil, criminal, or administrative, gradually settle and close the limited liability company's business, dispose of and convey the limited liability company's property, discharge or make reasonable provision for the limited liability company's liabilities, and distribute to the members any remaining assets of the limited liability company.

Sec. 52. Distribution of assets upon dissolution.

Upon the winding up of a limited liability company, the assets of the limited liability company shall be distributed as follows:

(1) To creditors, including members who are creditors, to the extent permitted by law, in satisfaction of liabilities of the limited liability company other than liabilities for distributions to members under section 27 or 28;

(2) Unless otherwise provided in the articles of organization or operating agreement, to members and former members in satisfaction of liabilities for distributions under section 27 or 28; and

(3) Unless otherwise provided in the articles of organization or an operating agreement, to members first for the return of their contributions and second with respect to their interests in the limited liability company, in the proportions in which the members share in distributions.

New
Section
29-1351

Sec. 53. Law governing.

Subject to District law, the laws of the state or other jurisdiction under which a foreign limited liability company is formed govern its formation and internal affairs and the liability of its members and managers, and a foreign limited liability company may not be denied registration by reason of any difference between those laws and the laws of the District.

New
Section
29-1352

Sec. 54. Registration.

Before transacting business in the District, a foreign limited liability company shall register with the Mayor. In order to register, a foreign limited liability company shall deliver to the Mayor an application for registration as a foreign limited liability company setting forth:

(1) The name of the foreign limited liability company and, if different, the name under which it proposes to register and transact business in the District;

(2) The state or other jurisdiction under which it was formed and date of its formation, including its period of duration;

(3) The address, including the street and number, if any, of the registered office of the foreign limited liability company in the District, the name of the registered agent at such office, and evidence of the registered agent's consent pursuant to section 10;

(4) A statement that the Mayor is irrevocably appointed the agent of the foreign limited liability company for service of process if no registered agent has been appointed under paragraph (3) of this section, or, if appointed, the registered agent's authority has been

New
Section
29-1353

revoked or if the registered agent either has resigned or cannot be found or served with the exercise of reasonable diligence; and

(5) The address of the office required to be maintained in the state or other jurisdiction of its formation by the laws of that state or jurisdiction or, if not so required, of the principal office of the foreign limited liability company.

Sec. 55. Issuance of registration.

Duplicate originals of such application for registration, which shall be executed by an authorized person, which execution may be by facsimile signature, shall be delivered to the Mayor. If the Mayor finds that the application for registration conforms to law, he or she shall, when all fees have been paid as in this act prescribed:

- (1) Endorse on each of such duplicate originals the word "Filed" and the month, day, and year of the filing thereof;
- (2) File 1 of such duplicate originals in his or her office; and
- (3) Issue a certificate of registration to transact business in the District and return the certificate of registration to the person who filed the application or such person's representative.

New
Section
29-1354

Sec. 56. Name.

No certificate of registration shall be issued to a foreign limited liability company unless the name of such limited liability company satisfies the requirements of section 5. If the name of a limited liability company does not satisfy the requirements of section 5, to obtain or maintain a certificate of registration:

- (1) The foreign limited liability company may add the words "limited liability company," or the abbreviations "L.L.C.," to its name for use in the District; or
- (2) If its real name is unavailable, the foreign limited liability company may use a fictitious name that is available, and which satisfies the requirements of section 5, if it informs the Mayor of the fictitious name.

New
Section
29-1355

Sec. 57. Changes and amendment.

If any statement in the application for registration of a foreign limited liability company was false when made or any arrangements or other facts described have changed, making the application inaccurate in any respect, the foreign limited liability company shall promptly file with the Mayor a certificate correcting such statement accompanied by a copy of the document, if any, affecting the correction or change duly authenticated by the proper officer of the state or other jurisdiction of its formation.

New
Section
29-1356

Sec. 58. Cancellation of certificate of registration.

(a) A foreign limited liability company may cancel its certificate of registration by delivering to the Mayor articles of cancellation which shall set forth:

- (1) The name of the foreign limited liability company and the name of the state or other jurisdiction under whose jurisdiction it was formed;

New
Section
29-1357

Enrolled Original

(2) That the foreign limited liability company is not transacting business in the District and that it surrenders its registration to transact business in the District;

(3) That the foreign limited liability company revokes the authority of its registered agent to accept service on its behalf and appoints the Mayor as its agent for service of process in any proceeding based on a cause of action arising during the time it was authorized to transact business in the District;

(4) A mailing address to which the Mayor may mail a copy of any process served on him or her under paragraph (3) of this subsection; and

(5) A commitment to notify the Mayor in the future of any change in the mailing address of the limited liability company.

(b) Duplicate originals of such application for cancellation, which shall be executed by an authorized person, which execution may be by facsimile signature, shall be delivered to the Mayor. If the Mayor finds that the application for cancellation conforms to law, he or she shall, when all fees have been paid as in this act prescribed:

(1) Endorse on each of such duplicate originals the word "Filed" and the month, day, and year of the filing thereof;

(2) File 1 of such duplicate originals in his or her office;

(3) Issue a certificate of cancellation to transact business in the District; and

(4) Deliver the certificate of cancellation, with the duplicate original of the articles of cancellation attached thereto, to the representative of the cancelled limited liability company.

Sec. 59. Transaction of business without registration.

(a) A foreign limited liability company transacting business in the District may not maintain any action at law or equity in any court of the District until it has obtained a certificate of registration. Nor shall any action at law or in equity be maintained in any court of the District by any successor or assignee of such limited liability company on any right, claim, or demand arising out of the transaction of business by such limited liability company in the District until a certificate of registration shall have been obtained by such limited liability company or by a limited liability company which has acquired all or substantially all of its assets.

(b) The failure of a foreign limited liability company to register in the District shall not impair the validity of any contract or act of the foreign limited liability company or prevent the foreign limited liability company from defending any action at law or in equity in any court of the District.

(c) A foreign limited liability company which transacts business in the District without a certificate of registration shall be liable to the District, for the years or parts thereof during which it transacted business in the District without a certificate of registration, in an amount equal to all fees and other charges which would have been imposed by this act upon such limited liability company had it duly applied for and received a certificate of registration to transact business in the District as required by this act and thereafter filed all reports required by this act; and in addition thereto it shall be liable for a penalty not in excess of \$1000. The Mayor shall bring proceedings to recover all amounts due the District under the provisions of this section. Such charges and

New
Section
29-1358

penalties shall be paid to the District before any certificate of registration is issued to such foreign corporation.

(d) A foreign limited liability company, by transacting business in the District without registration, appoints the Mayor as its agent for service of process with respect to causes of action arising out of the transaction of business in the District.

(e) A member or manager of a foreign limited liability company is not liable for the debts and obligations of the limited liability company solely by reason of the limited liability company's having transacted business in the District without registration.

Sec. 60. Actions by Corporation Counsel.

The Corporation Counsel may bring an action to restrain a foreign limited liability company from transacting business in the District in violation of this act.

New
Section
29-1359

Sec. 61. Transactions not constituting doing business.

(a) The following activities of a foreign limited liability company, among others, do not constitute transacting business within the meaning of this act:

New
Section
29-1360

- (1) Maintaining, defending, or settling any proceedings;
- (2) Holding meetings of its members or carrying on any other activities concerning its internal affairs;
- (3) Maintaining bank accounts;
- (4) Maintaining offices or agencies for the transfer, exchange, and registration of the foreign limited liability company's securities or maintaining trustees or depositories with respect to those securities;
- (5) Selling through independent contractors;
- (6) Soliciting or obtaining orders, whether by mail or through employees or agents or otherwise, if the orders require acceptance outside the District before they become contracts;
- (7) Creating or acquiring indebtedness, deeds of trust, and security interests in real or personal property;
- (8) Securing or collecting debts or enforcing deeds of trust and security interests in property securing the debts;
- (9) Owning, without more, real or personal property; or
- (10) Conducting an isolated transaction that is completed within 30 days and that is not one in the course of repeated transactions of a like nature.

(b) The list of activities in subsection (a) of this section is not exhaustive. This section does not apply in determining the contracts or activities that may subject a foreign limited liability company to service of process or taxation in the District or to regulation under any other law of the District.

Sec. 62. Assent to District laws.

Except as provided in section 53, by doing business in the District, a foreign limited liability company assents to the laws of the District.

New
Section
29-1361

Sec. 63. Merger of foreign limited liability company authorized to transact business in the District.

(a) Whenever a foreign limited liability company authorized to transact business in the District is a party to a merger permitted by the

New
Section
29-1362

laws of the state under the laws of which it is organized, and that limited liability company is not the surviving entity of the merger, the surviving limited liability company, limited partnership or corporation shall, if not continuing to transact business in the District, within 30 days after such merger becomes effective, deliver to the Mayor a copy of the instrument of merger duly authenticated by the secretary of state or other official having custody of limited liability company records in the state under whose laws the merger was effected, and comply, on behalf of the predecessor limited liability company, with section 58.

(b) If the surviving limited liability company, limited partnership, or corporation is to continue to transact business in the District and has not registered as a foreign limited liability company or limited partnership, or received a certificate of authority to transact business in the District as a foreign corporation, as the case may be, it shall, within 30 days after the merger becomes effective, deliver to the Mayor an application, if a foreign limited liability company, for registration as a foreign limited liability company, if a foreign limited partnership, for registration as a foreign limited partnership, or, if a foreign corporation, for a certificate of authority to transact business in the District, together with a duly authenticated copy of the instrument of merger and also a copy of its articles of organization, certificate of limited partnership, or articles of incorporation and all amendments thereto, duly authenticated by the secretary of state or other official having custody of the limited liability company, limited partnership, or corporate records in the state under whose laws it is organized, formed, or incorporated.

(c) Upon the merger of a foreign limited liability company with 1 or more foreign limited liability companies, limited partnerships, or corporations, all property in the District owned by any of the limited liability companies, limited partnerships, or corporations shall pass to the surviving limited liability company, limited partnership, or corporation, except as otherwise provided by the laws of the state by which it is governed, but only from and after the time when a duly authenticated copy of the instrument of merger is filed with the Mayor.

Sec. 64. Fees.

- (a) The Mayor shall charge and collect the following fees:
- (1) For filing an application for registration as a foreign limited liability company, the fee shall be \$150.
 - (2) For filing any one of the following, the fee shall be \$100:
 - (A) Articles of organization or articles of merger;
 - (B) Articles of amendment;
 - (C) Articles of correction;
 - (D) Articles of dissolution;
 - (E) Articles of cancellation;
 - (F) A certificate of correction referred to in section 58;
 - (G) A copy of the document effecting a merger referred to in section 63; and
 - (H) Petition for reinstatement.
 - (3) For filing any one of the following, the fee shall be \$25:
 - (A) A statement of change of registered agent or change of the address of the registered office, or both;
 - (B) An application to reserve or to renew the reservation of a name for use by a domestic or foreign limited liability company;

New
Section
29-1363

Enrolled Original

(C) A notice of the transfer of a name reserved for use by a domestic or a foreign limited liability company; or

(D) A statement of fictitious name by a foreign limited liability company.

(4) For furnishing a certified copy of any document filed under this act with the Mayor, the fee shall be \$25.

(b) The Mayor may amend the fees set forth in subsection (a) of this section and propose new fees by rulemaking which shall be submitted to the Council for a 45-day period of review, excluding Saturdays, Sundays, legal holidays, and days of Council recess. If Council does not approve or disapprove the proposed rules, in whole or in part, by resolution within the 45-day review period, the proposed rules shall be deemed approved. Nothing in this section shall affect any requirements imposed upon the Mayor by title 1 of the District of Columbia Administrative Procedure Act, approved October 21, 1968 (82 Stat. 1204; D.C. Code § 1-1501 et seq.).

Sec. 65. Annual reports of domestic and foreign limited liability companies.

New
Section
29-1364

(a) Each domestic and foreign limited liability company shall file with the Mayor, before June 16th of each year, an annual report setting forth:

(1) The name of the limited liability company;

(2) The address, including street and number, if any, of its registered office, and the name of its registered agent at that office;

(3) The address, including street and number, if any, of its principal office in the District, if such office is other than its registered office; and

(4) The names and respective addresses, including street and number, if any, of its managers, if any.

(b) Such annual report shall be made on forms prescribed and furnished by the Mayor, the information therein contained shall be given as of the date of the execution of the report, and the report shall be executed by an authorized person, which execution may be by facsimile signature.

Sec. 66. Annual registration fees to be paid by domestic and foreign limited liability companies.

New
Section
29-1365

Every domestic limited liability company and every foreign limited liability company registered to transact business in the District shall pay to the Mayor an annual registration fee of \$50, which sum shall be paid at the time of the filing of the annual report required of such limited liability companies pursuant to this act.

Sec. 67. Penalty for failure to timely pay annual registration fees or file annual reports.

New
Section
29-1366

If any domestic or any foreign limited liability company shall for 2 consecutive years fail or refuse to pay its annual registration fee or file its annual report, then, in the case of a domestic limited liability company, the articles of organization shall be void and all powers conferred upon such limited liability company are declared inoperative, and, in the case of a foreign limited liability company, the certificate of

registration shall be revoked and all powers conferred thereunder shall be inoperative.

Sec. 68. Proclamation of revocation; effect of publication; extension of term of existence.

New
Section
29-1367

(a) On the second Monday in November of each year, the Mayor shall issue a proclamation listing the names of all domestic and foreign limited liability companies which have failed or refused to pay any annual registration fee or fees or failed or refused to file any annual report as required by this act for 2 consecutive years immediately preceding August 30 in the year in which such proclamation is issued. Upon the issuance of such proclamation the articles of organization or the certificates of registration, as the case may be, shall be void and all powers thereunder inoperative without further proceedings of any kind.

(b) The proclamation of the Mayor shall be filed in his or her office and shall be published once during the month of November in each of 2 general circulation newspapers published in the District once every 2 weeks or more frequently.

(c) Upon publication of the proclamation of revocation as provided in this act, each domestic limited liability company listed in such proclamation shall be deemed to have been dissolved without further legal proceedings and each such limited liability company shall cease to carry on its business and shall proceed to collect its assets, convey and dispose of such of its properties as are not to be distributed in kind to its members, pay, satisfy, and discharge its liabilities and obligations, and do all other acts required to liquidate its business and affairs, and, after paying or adequately providing for the payment of all of its obligations, distribute the remainder of its assets, either in cash or in kind, among its members according to their respective rights and interest.

(d) All domestic limited liability companies, the articles of organization of which are revoked by proclamation, shall nevertheless be continued for the term of 3 years from the date of such revocation for the purpose of prosecuting and defending suits by or against them, and of enabling them gradually to collect their assets, convey and dispose of such of their properties as are not to be distributed in kind to their members, pay, satisfy, and discharge their liabilities and obligations, and do all other acts required to liquidate their business and affairs, and, after paying or adequately providing for the payment of all their obligations, to distribute the remainder of their assets, either in cash or in kind, among their members according to their respective rights and interests, but not for the purpose of continuing the business for which such limited liability company shall have been organized; provided, however, that with respect to any action, suit, or proceeding begun or commenced by or against a limited liability company prior to such revocation or expiration and with respect to any action, suit, or proceeding begun or commenced by or against such limited liability company within 3 years after the date of such revocation or expiration, such limited liability company shall only for the purpose of such actions, suits, or proceedings so begun or commenced be continued beyond said 3-year period and until any judgments, orders, or decrees therein shall be fully executed.

(e) A member or manager of a domestic or foreign limited liability company is not liable for the debts, obligations, or liabilities of such

domestic or foreign limited liability company solely by reason of the neglect, refusal, or failure of such domestic or foreign limited liability company to pay an annual registration fee or by reason of such domestic or foreign limited liability company becoming a proclaimed limited liability company.

Sec. 69. Carrying on business after issuance of proclamation.

Any limited liability company, person, or persons who shall exercise or attempt to exercise any powers under articles or organization of a domestic limited liability company or under a certificate of registration of a foreign limited liability company which has been revoked shall be deemed guilty of a misdemeanor and shall be punished by a fine not exceeding \$1000 or by imprisonment not exceeding 1 year, or both, in the discretion of the court. Civil fines, penalties, and fees may be imposed as alternative sanctions on any person who, or limited liability company that, commits an infraction of any provisions of this act or fails to comply with any provisions thereof, for which infraction or failure no penalty is provided therein or elsewhere in the laws of the District, pursuant to titles I through III of the Department of Consumer and Regulatory Affairs Civil Infractions Act of 1985, effective October 5, 1985 (D.C. Law 6-42; D.C. Code § 6-2701 *et seq.*) ("Civil Infractions Act"). Adjudication of any infraction or failure shall be pursuant to titles I through III of the Civil Infractions Act.

New
Section
29-1368

Sec. 70. Correction of error in proclamation.

Whenever it is established to the satisfaction of the Mayor that any limited liability company named in said proclamation has not failed or refused to pay any annual registration fee or file any annual report for 2 consecutive years, or has been inadvertently included in the list of limited liability companies as so failing or refusing to pay annual registration fees or file reports, the Mayor is authorized to correct such mistake by issuing a proclamation to that effect and restoring the articles of organization or certificate of registration, as the case may be, into good standing with like effect as if such proclamation of revocation, as to such limited liability company, had not been issued.

New
Section
29-1369

Sec. 71. Limited liability companies included in a proclamation; reservation of name.

The Mayor shall reserve the names of all domestic limited liability companies the articles of organization of which have been revoked and of all foreign limited liability companies the certificates of registration of which have been revoked until December 31st of the year in which the proclamation of revocation was issued, and no domestic limited liability companies shall be formed nor the name of any such domestic limited liability companies changed to a name the same as or deceptively similar to such reserved name nor shall any foreign limited liability company be authorized to do business under the name the same as or deceptively similar to such reserved name.

New
Section
29-1370

Sec. 72. Same -- procedure for reinstatement.

(a) A limited liability company, the articles of organization or certificate of registration of which have been revoked by proclamation, may at any time after the date of the issuance of the proclamation of

New
Section
29-1371

revocation deliver to the Mayor a petition for reinstatement, in duplicate, accompanied by the delinquent annual report or reports, or payment of delinquent annual registration fee or fees in full, or both, as the case may be, plus interest thereon as provided by this act, together with any penalties imposed by this act.

(b) If the petition for reinstatement of a proclaimed limited liability company is delivered to the Mayor after the period for reservation of the name has expired and if he or she finds that the name is not available for use pursuant to the provisions of this act, then, in addition to complying with the provisions of subsection (a) of this section, the proclaimed limited liability company shall set forth in its petition for reinstatement its name at the time of issuance of the proclamation of revocation and its new name, which shall be a name available for limited liability company use pursuant to the provisions of this act.

(c) If the Mayor finds that all such documents conform to law, and that the period for reservation of the name has not expired, or if such period has expired, that the name is available for limited liability company use pursuant to the provisions of this act, he or she shall, when all fees, charges, interest, and penalties have been paid as in this act prescribed:

(1) Endorse on each of such duplicate originals and any such annual report or reports the work "Filed" and the month, day, and year of the filing thereof;

(2) File 1 of such duplicate originals and any such annual report or reports in his or her office;

(3) Issue a certificate of reinstatement to which he or she shall affix the other duplicate original; and

(4) Deliver such certificate of reinstatement and other duplicate original to the limited liability company or its representative.

(d) If, at the time the petition for reinstatement is delivered for filing, the Mayor is unable to make the determination required for filing by subsection (c) of this section, the petition for reinstatement is deemed to have been filed at the time of delivery if the Mayor subsequently determines that:

(1) The petition for reinstatement as delivered conforms to the filing provisions of this act; or

(2) The petition for reinstatement has been brought into conformance within 20 days after notification of nonconformance is given by the Mayor to the person who delivered the petition for reinstatement for filing or the person's representative.

(e) If the filing and determination requirements of this act are not satisfied within the time prescribed in subsection (d)(2) of this section, the documents shall not be deemed to be filed.

(f) Upon delivery of the petition for reinstatement to the Mayor for filing, the revocation proceedings theretofore taken as to such limited liability company by proclamation shall be deemed to be annulled, and such limited liability company shall have such powers, rights, duties, and obligations as it had just prior to the time of the issuance of the proclamation with the same force and effect as to such limited liability company as if the proclamation had not been issued, even if the Mayor is unable at the time of delivery to make the determination required for filing by subsection (d) of this section. If the petition for reinstatement, as delivered to the Mayor, does not conform to the filing provisions of this act and is not brought into conformance within the period prescribed

by subsection (d)(2) of this section, the petition for reinstatement shall be deemed to have never been filed.

Sec. 73. Penalties for failure to file annual report on time.

New
Section
29-1372

Any limited liability company organized under this act or any foreign limited liability company having a certificate of registration under this act which fails or refuses to file the annual report required by this act to be filed before June 16th of each year shall pay a penalty of \$25.

Sec. 74. Transaction of business outside the state.

New
Section
29-1373

(a) It is the intention of the Council of the District of Columbia by the enactment of this act that the legal existence of a limited liability company formed under this act be recognized beyond the limits of the District, and that, subject to any reasonable registration requirements, any such limited liability company transacting business outside the District be granted the protection of full faith and credit under section 1 of Article IV of the Constitution of the United States.

(b) The provisions of this act shall determine the rights and obligations of a domestic limited liability company, organized under this act, in commerce with any state, except as prohibited by law.

Sec. 75. Taxation of limited liability companies.

New
Section
29-1374

For purposes of District taxation, a limited liability company formed under this act or qualified to do business in the District as a foreign limited liability company shall be classified as a partnership unless classified otherwise for federal income tax purposes, in which case the limited liability company shall be classified in the same manner as it is classified for federal income tax purposes. For purposes of District taxation, a member or an assignee of a member of a limited liability company formed under this act or qualified to do business in the District as a foreign limited liability company shall be treated as either a resident or nonresident partner unless classified otherwise for federal income tax purposes, in which case the member or assignee of a member shall have the same status as such member or assignee of a member has for federal income tax purposes.

Sec. 76. Regulatory body authority.

New
Section
29-1375

Except for section 15, nothing in this act is intended to restrict or limit in any manner the authority and duty of any regulatory body to license individuals rendering professional services within the District or to regulate the practice of any profession within the jurisdiction of such regulatory body.

Sec. 77. The District of Columbia Business Corporation Act, approved June 8, 1954 (68 Stat. 179; D.C. Code § 29-301 *et seq.*), is amended by adding a new section 72b to read as follows:

New
Section
29-372.1

"Sec. 72b. Same - domestic corporation and limited liability company.

"(a) Any 1 or more domestic corporations may merge or consolidate with 1 or more domestic limited liability companies or limited liability companies of any state or states of the United States, and 1 or more domestic limited liability companies or limited liability companies of any state or states of the United States may merge with or consolidate into

it, unless the laws of the state or states forbid such a merger or consolidation. The corporation or corporations and the 1 or more limited liability companies may merge with or into a corporation, which may be any 1 of the corporations, or they may merge with or into a limited liability company, which may be any 1 of the limited liability companies, or they may consolidate into a new corporation or limited liability company formed by the consolidation, which shall be a corporation or limited liability company of the District or any state of the United States which permits such a merger or consolidation, pursuant to an agreement of merger or consolidation, as the case may be, complying and approved in accordance with this section.

"(b) Each corporation and limited liability company shall enter into a written plan of merger or consolidation. The plan shall state (i) the terms and conditions of the merger or consolidation; (ii) the mode of carrying the same into effect; (iii) the manner of converting the shares of stock of each corporation and the interests of each limited liability company into shares, limited liability company interests, or other securities of the entity surviving or resulting from the merger or consolidation, and if any shares of any corporation or any interests of any limited liability company are not to be converted solely into shares, limited liability company interests, or other securities of the entity surviving or resulting from such a merger or consolidation, the cash, property rights, or securities of any other corporation or entity which the holders of the shares or limited liability company interests are to receive in exchange for, or upon conversion of the shares or limited liability company interests and the surrender of any certificates evidencing them, which cash, property rights, or securities of any other corporation or entity may be in addition to or in lieu of shares, limited liability company interests, or other securities of the entity surviving or resulting from such a merger or consolidation; and (iv) any details or provisions deemed desirable, including, without limiting the generality of the foregoing, a provision for the payment of cash in lieu of the issuance of fractional shares or interests of the surviving or resulting corporation or limited liability company. Any of the terms of the plan of merger or consolidation may be made dependent upon facts ascertainable outside of the plan, provided that the manner in which the facts shall operate upon the terms of the plan is clearly and expressly set forth in the plan of merger or consolidation.

"(c) The plan required by subsection (b) of this section shall be adopted and approved by each of the corporations in the same manner as is provided in sections 64 through 67 and, in the case of the limited liability companies, in accordance with their articles of organization or operating agreements and in accordance with the laws of the jurisdiction under which they are formed, as the case may be.

"(d) Upon approval, articles of merger or consolidation shall be executed by each corporation, by its president or a vice-president, and by each limited liability company and shall set forth:

"(1) The plan of merger or consolidation; and

"(2) As to each party to the merger or consolidation, a statement that the plan of merger or consolidation was approved in accordance with the articles of incorporation, articles of organization or operating agreement, and applicable law.

"(e) The articles of merger or consolidation shall be filed with the Mayor as provided in section 67 and shall become effective for all purposes of the laws of the District when and as provided in section 68 with respect to the merger or consolidation of domestic corporations.

"(f) If the surviving or new entity is to be governed by the laws of any jurisdiction other than the District and intends to do business in the District, it shall comply with the provisions of District law with respect to foreign limited liability companies or foreign corporations, and in every case it shall file with the Mayor:

"(1) An agreement that it may be served with process in the District in any proceeding for the enforcement of any obligation of any corporation or limited liability company that is a party to the merger or consolidation and in any proceeding for the enforcement of the rights of a dissenting shareholder of any District corporation against the surviving or new entity;

"(2) An irrevocable appointment of the Mayor of the District as its agent to accept service of process in any proceeding pursuant to paragraph (1) of this subsection;

"(3) An agreement that it will promptly pay to the dissenting shareholders of any District corporation the amount, if any, to which they shall be entitled under the provisions of this Act with respect to the rights of dissenting shareholders; and

"(4) The address of the registered agent to which the Mayor may mail a copy of any process against the surviving or new entity that may be served on the surviving or new entity.

"(g) The effect of such a merger or consolidation shall be as provided in section 69 if the surviving or new entity is a corporation governed by the laws of the District. If the surviving or new entity is to be governed by the laws of any jurisdiction other than the District, the effect of such a merger or consolidation shall be as provided in section 69, except insofar as the laws of another jurisdiction provide otherwise.

"(h) No member of a domestic limited liability company that is a party to a merger or consolidation will, as a result of the merger or consolidation, become personally liable for the liabilities or obligations of any other person or entity unless that member approves the agreement of merger or consolidation or otherwise consents to becoming personally liable."

Sec. 78. Section 13 of the District of Columbia Professional Corporation Act, approved December 10, 1971 (85 Stat. 576; D.C. Code § 29-613), is amended to read as follows:

Section
29-613

"(a) A professional corporation may merge or consolidate only with another domestic professional corporation or a domestic limited liability company, as defined in the District of Columbia Limited Liability Company Act of 1994, and only if both entities are organized to render the same professional services, which, although not the same, could otherwise be rendered by a single professional corporation or limited liability company.

"(b) No member of a domestic limited liability company that is a party to a merger or consolidation will, as a result of the merger or consolidation, become personally liable for the liabilities or obligations of any other person or entity unless that member approves the agreement

of merger or consolidation or otherwise consents to becoming personally liable."

Sec. 79. Section 208 of the District of Columbia Uniform Limited Partnership Act of 1987, effective December 10, 1987 (D.C. Law 7-49; D.C. Code § 41-428), is amended as follows:

Section
41-428

(a) Subsection (a) is amended to read as follows:

"(a) For the purposes of this section, the term "business entity" shall include a corporation, a limited liability company, an unincorporated business, a business trust or association, a real estate investment trust, a common law trust, or a Massachusetts trust."

(b) A new subsection (n) is added to read as follows:

"(n) No member of a domestic limited liability company that is a party to a merger or consolidation will, as a result of the merger or consolidation, become personally liable for the liabilities or obligations of any other person or entity unless that member approves the agreement of merger or consolidation or otherwise consents to becoming personally liable."

Sec. 80. The District of Columbia Public Accounting of 1977, effective March 16, 1978 (D.C. Law 2-59; D.C. Code § 2-101 *et seq.*), is amended as follows:

(a) Section 3 (D.C. Code § 2-102) is amended by adding new subsections (c-1) and (d-1) to read as follows:

Section
2-102

"(c-1) The term "firm" means a proprietorship, partnership, corporation, company, organization, association, enterprise, or other commercial, business, or professional corporation.

"(d-1) The term "member" means any person who holds ownership interest in a firm and also engages in the practice of public accounting through that firm."

(b) Section 6 (D.C. Code § 2-105) is amended by striking the phrases "partnership or corporation" and "partnership or corporate" wherever they appear and inserting the word "firm" in their place.

Section
2-105

(c) Section 7 (D.C. Code § 2-106) is amended by striking the phrase "partnership or corporation" and inserting the word "firm" in its place.

Section
2-106

(d) Section 12 (D.C. Code § 2-111) is amended as follows:

Section
2-111

(1) By striking the phrase "partnership or corporation" wherever it appears and inserting the word "firm" in its place;

(2) By striking the phrase "partnership or corporate" and inserting the word "firm" in its place;

(3) By striking the phrase "partnerships and corporations" and inserting the word "firms" in its place;

(4) By striking the word "partnership" and inserting the word "firm" in its place;

(5) By striking the word "partner" wherever it appears and inserting the word "member" in its place;

(6) By striking the phrase "general partner" and inserting the word "member" in its place; and

(7) By amending subsection (b) to read as follows:

"(b) A firm that is a corporation organized for the practice of public accounting shall also comply with the provisions of the District of Columbia Professional Corporation Act, approved December 10, 1971 (85

Stat. 576; D.C. Code § 29-601 *et seq.*), governing the issuance, ownership, and transferability of shares and be in compliance with such regulations as may be issued for such corporations."

(e) Section 13 (D.C. Code § 2-112) is amended as follows:

Section
2-112

(1) By striking the phrase "partnership or corporation" wherever it appears and inserting the word "firm" in its place;

(2) By striking the phrase "partnership or corporate" and inserting the word "firm" in its place;

(3) By striking the phrase "partnerships and corporations" and inserting the word "firms" in its place;

(4) By striking the word "partnership" wherever it appears and inserting the word "firm" in its place;

(5) By striking the word "partner" wherever it appears and inserting the word "member" in its place;

(6) By striking the phrase "general partner" and inserting the word "member" in its place;

(7) By striking the phrase "partner or shareholder" and inserting the word "member" in its place;

(8) By striking the phrase "general partner or shareholder" and inserting the word "member" in its place; and

(9) By amending subsection (b) to read as follows:

"(b) A firm that is a corporation organized for the practice of public accounting shall also comply with the provisions of the District of Columbia Professional Corporation Act, approved December 10, 1971 (85 Stat. 576; D.C. Code § 29-601 *et seq.*), governing the issuance, ownership, and transferability of shares and be in compliance with such regulations as may be prescribed for such corporations."

(f) Section 14 (D.C. Code § 2-113) is amended as follows:

Section
2-113

(1) By striking the phrase "partnership or corporation" wherever it appears and inserting the word "firm" in its place;

(2) By striking the word "partner" wherever it appears and inserting the word "member" in its place; and

(3) By striking the phrase "a shareholder" and inserting the phrase "a member" in its place.

(g) Section 15 (D.C. Code § 2-114) is amended by striking the phrase ", partnerships and corporations" and inserting the phrase "or firms" in its place.

Section
2-114

(h) Section 17 (D.C. Code § 2-116) is amended as follows:

Section
2-116

(1) By striking the phrase "partnership or corporation" wherever it appears and inserting the word "firm" in its place;

(2) By striking the phrase "partnership's or corporation's" wherever it appears and inserting the word "firm's" in its place; and

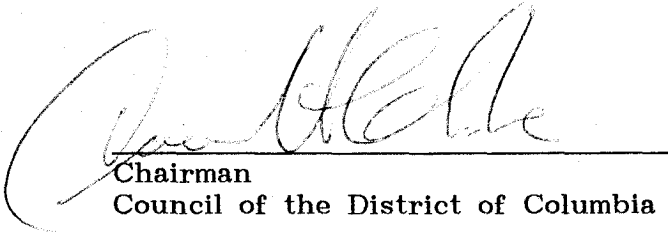
(3) By striking the phrase "partner or shareholder" wherever it appears and insert the word "member" in its place.

(i) Section 23 (D.C. Code § 2-122) is amended by striking the phrase "partners of the accountant or to the accountant's corporation" and inserting the phrase "number of the accountant's firm" in its place.

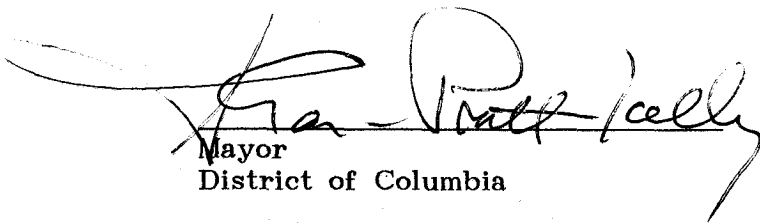
Section
2-122

Sec. 81. This act shall take effect after a 30-day period of Congressional review following approval by the Mayor (or in the event of veto by the Mayor, action by the Council of the District of Columbia to override the veto) as provided in section 602(c)(1) of the District of Columbia Self-Government and Governmental Reorganization Act,

approved December 23, 1973 (87 Stat. 813; D.C. Code § 1-233(c)(1)), and publication in either the District of Columbia Register, the District of Columbia Statutes-at-Large or the District of Columbia Municipal Regulations.



Chairman
Council of the District of Columbia



Mayor
District of Columbia

APPROVED: May 18, 1994



COUNCIL OF THE DISTRICT OF COLUMBIA

Council Period Ten

RECORD OF OFFICIAL COUNCIL VOTE

DOCKET NO: B10-277

[X] Item on Consent Calendar

[X] ACTION & DATE: Adopted First Reading, 4-12-94

[X] VOICE VOTE: Approved

Recorded vote on request

Absent: Barry

[] ROLL CALL VOTE: - RESULT

Table with 15 columns: COUNCIL MEMBER, AYE, NAY, N.V., A.B. and 15 rows of member names (CHMN. CLARKE, BARRY, BRAZIL, CHAVOUS, CROPP, EVANS, JARVIS, LIGHTFOOT, MASON, NATHANSON, RAY, SMITH, JR., THOMAS, SR.)

X - Indicates Vote A.B. - Absent N.V. - Present, not voting

CERTIFICATION RECORD

[Signature] Secretary to the Council

May 4, 1994 Date

[X] Item on Consent Calendar

[X] ACTION & DATE: Adopted Final Reading, 5-3-94

[X] VOICE VOTE: Approved

Recorded vote on request

Absent: Jarvis

[] ROLL CALL VOTE: - RESULT

Table with 15 columns: COUNCIL MEMBER, AYE, NAY, N.V., A.B. and 15 rows of member names (CHMN. CLARKE, BARRY, BRAZIL, CHAVOUS, CROPP, EVANS, JARVIS, LIGHTFOOT, MASON, NATHANSON, RAY, SMITH, JR., THOMAS, SR.)

X - Indicates Vote A.B. - Absent N.V. - Present, not voting

CERTIFICATION RECORD

[Signature] Secretary to the Council

May 4, 1994 Date

[] Item on Consent Calendar

[] ACTION & DATE:

[] VOICE VOTE:

Recorded vote on request

Absent:

[] ROLL CALL VOTE: - RESULT

Table with 15 columns: COUNCIL MEMBER, AYE, NAY, N.V., A.B. and 15 rows of member names (CHMN. CLARKE, BARRY, BRAZIL, CHAVOUS, CROPP, EVANS, JARVIS, LIGHTFOOT, MASON, NATHANSON, RAY, SMITH, JR., THOMAS, SR.)

X - Indicates Vote A.B. - Absent N.V. - Present, not voting

CERTIFICATION RECORD

Secretary to the Council

Date