

DISTRICT OF COLUMBIA
OFFICIAL CODE

TITLE 29.
BUSINESS ORGANIZATIONS.

CHAPTER 8.
LIMITED LIABILITY COMPANIES.

2001 Edition

DISTRICT OF COLUMBIA OFFICIAL CODE

CHAPTER 8. LIMITED LIABILITY COMPANIES.

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CHAPTER 8. LIMITED LIABILITY COMPANIES.

Refs & Annos

Jurisdiction	Laws	Effective Date	Statutory Citation
District of Columbia	2011, 18-378	7-2-2011	D.C. Official Code, 2001 Ed., §§ 29-801.01 to 29-810.01.
Idaho	2008, c. 176	7-1-2008	I.C. §§ 30-6-101 to 30-6-1104.
Iowa	2008, H.F. 2633	1-1-2009	I.C.A. §§ 489.101 to 489.1304.
Nebraska	2010, L.B. 888	1-1-2011	R.R.S. 1943, §§ 21-101 to 21-197.
Utah	2011, c. 353	7-1-2012	UCA §§ 48-3-101 to 48-3-1405.
Wyoming	2010, c. 94	7-1-2010	Wyo.Stat.Ann. §§ 17-29-101 to 17-29-1105.

SUBCHAPTER I. GENERAL PROVISIONS.

§ 29-801.01. SHORT TITLE.

This chapter may be cited as the "Uniform Limited Liability Company Act of 2010".
(July 2, 2011, D.C. Law 18-378, § 2, 58 DCR 1720.)

HISTORICAL AND STATUTORY NOTES

Legislative History of Laws

For history of Law 18-378, see notes under § 29-101.01.

Uniform Law

This section is based on § 101 of the Uniform Limited Company Act (2006 Act). See Vol. 6B , Uniform Laws Annotated, Master Edition or ULA Database on Westlaw.

§ 29-801.02. DEFINITIONS.

For the purposes of this chapter, the term:

- (1) "Certificate of organization" means the certificate required by § 29- 802.01. The term "certificate of organization" shall include the certificate as amended or restated.
- (2) "Contribution" means any benefit provided by a person to a limited liability company:
 - (A) To become a member upon formation of the company and in accordance with an agreement between or among the persons that have agreed to become the initial members of the company;
 - (B) To become a member after formation of the company and in accordance with an agreement between the person and the company; or
 - (C) In the person's capacity as a member and in accordance with the operating agreement or an agreement between the member and the company.
- (3) "Distribution", except as otherwise provided in § 29-804.05(g), means a transfer of money or other property from a limited liability company to another person on account of a transferable interest.
- (4) "Effective", with respect to a record required or permitted to be delivered to the Mayor for filing under this chapter, means effective under § 29- 102.03.
- (5) "Foreign limited liability company" means an unincorporated entity formed under the law of a

jurisdiction other than the District and denominated by that law as a limited liability company.

(6) "Manager" means a person that under the operating agreement of a manager-managed limited liability company is responsible, alone or in concert with others, for performing the management functions stated in § 29-804.07(c).

(7) "Manager-managed limited liability company" means a limited liability company that qualifies under § 29-804.07(a).

(8) "Member" means a person that has become a member of a limited liability company under § 29-804.01 and has not dissociated under § 29-806.02.

(9) "Member-managed limited liability company" means a limited liability company that is not a manager-managed limited liability company.

(10) "Operating agreement" means the agreement, whether or not referred to as an operating agreement and whether oral, in a record, implied, or in any combination thereof, of all the members of a limited liability company, including a sole member, concerning the matters described in § 29-801.07. The term includes the agreement as amended or restated.

(11) "Organizer" means a person that acts under § 29-802.01 to form a limited liability company.

(12) "Transferee" means a person to which all or part of a transferable interest has been transferred, whether or not the transferor is a member.

(July 2, 2011, D.C. Law 18-378, § 2, 58 DCR 1720.)

HISTORICAL AND STATUTORY NOTES

Legislative History of Laws

For history of Law 18-378, see notes under § 29-101.01.

Uniform Law

This section is based on § 102 of the Uniform Limited Company Act (2006 Act). See Vol. 6B , Uniform Laws Annotated, Master Edition or ULA Database on Westlaw.

§ 29-801.03. KNOWLEDGE; NOTICE.

(a) A person knows a fact when the person:

- (1) Has actual knowledge of it; or
- (2) Is deemed to know it under subsection (d)(1) of this section or law other than this chapter.

(b) A person has notice of a fact when the person:

- (1) Has reason to know the fact from all of the facts known to the person at the time in question; or
- (2) Is deemed to have notice of the fact under subsection (d)(2) of this section;

(c) A person notifies another of a fact by taking steps reasonably required to inform the other person in ordinary course, whether or not the other person knows the fact.

(d) A person that is not a member shall be deemed to:

- (1) Know of a limitation on authority to transfer real property as provided in § 29-803.02(g); and
- (2) Have notice of a limited liability company's:
 - (A) Dissolution, 90 days after a statement of dissolution under § 29-807.02(b)(2)(A) becomes effective;
 - (B) Termination, 90 days after a statement of termination § 29-807.02(b)(2)(F) becomes effective; and
 - (C) Merger or domestication, 90 days after articles of merger or domestication under subchapter IX of this chapter becomes effective.

(July 2, 2011, D.C. Law 18-378, § 2, 58 DCR 1720.)

HISTORICAL AND STATUTORY NOTES

Legislative History of Laws

For history of Law 18-378, see notes under § 29-101.01.

Uniform Law

This section is based on § 103 of the Uniform Limited Company Act (2006 Act). See Vol. 6B , Uniform Laws Annotated, Master Edition or ULA Database on Westlaw.

§ 29-801.04. NATURE, PURPOSE, AND DURATION OF LIMITED LIABILITY COMPANY.

- (a) A limited liability company is an entity distinct from its members.
- (b) A limited liability company may have any lawful purpose, regardless of whether for profit.
- (c) A limited liability company shall have perpetual duration.

(July 2, 2011, D.C. Law 18-378, § 2, 58 DCR 1720.)

HISTORICAL AND STATUTORY NOTES

Legislative History of Laws

For history of Law 18-378, see notes under § 29-101.01.

Uniform Law

This section is based on § 104 of the Uniform Limited Company Act (2006 Act). See Vol. 6B , Uniform Laws Annotated, Master Edition or ULA Database on Westlaw.

§ 29-801.05. POWERS.

A limited liability company shall have the capacity to sue and be sued in its own name and the power to do all things necessary or convenient to carry on its activities.

(July 2, 2011, D.C. Law 18-378, § 2, 58 DCR 1720.)

HISTORICAL AND STATUTORY NOTES

Legislative History of Laws

For history of Law 18-378, see notes under § 29-101.01.

Uniform Law

This section is based on § 105 of the Uniform Limited Company Act (2006 Act). See Vol. 6B , Uniform Laws Annotated, Master Edition or ULA Database on Westlaw.

§ 29-801.06. GOVERNING LAW.

The law of the District shall govern:

- (1) The internal affairs of a limited liability company; and
- (2) The liability of a member as member and a manager as manager for the debts, obligations, or other liabilities of a limited liability company.

(July 2, 2011, D.C. Law 18-378, § 2, 58 DCR 1720.)

HISTORICAL AND STATUTORY NOTES

Legislative History of Laws

For history of Law 18-378, see notes under § 29-101.01.

Uniform Law

This section is based on § 106 of the Uniform Limited Company Act (2006 Act). See Vol. 6B , Uniform Laws Annotated, Master Edition or ULA Database on Westlaw.

§ 29-801.07. OPERATING AGREEMENT; SCOPE, FUNCTION, AND LIMITATIONS.

(a) Except as otherwise provided in subsections (b) and (c) of this section, the operating agreement shall govern:

- (1) Relations among the members as members and between the members and the limited liability company;
- (2) The rights and duties under this chapter of a person in the capacity of manager;
- (3) The activities of the company and the conduct of those activities; and

- (4) The means and conditions for amending the operating agreement.
- (b) To the extent the operating agreement does not otherwise provide for a matter described in subsection (a) of this section, this chapter shall govern the matter.
- (c) An operating agreement shall not:
- (1) Vary a limited liability company's capacity under § 29-801.05 to sue and be sued in its own name;
 - (2) Vary the law applicable under § 29-801.06;
 - (3) Vary the power of the court under § 29-802.04;
 - (4) Subject to subsections (d) through (g) of this section, eliminate the duty of loyalty, the duty of care, or any other fiduciary duty;
 - (5) Subject to subsections (d) through (g) of this section, eliminate the contractual obligation of good faith and fair dealing under § 29-804.09(d);
 - (6) Unreasonably restrict the duties and rights stated in § 29-804.10;
 - (7) Vary the power of a court to decree dissolution in the circumstances specified in § 29-807.01(a)(4) and (5);
 - (8) Vary the requirement to wind up a limited liability company's business as specified in § 29-807.02(a) and (b)(1);
 - (9) Unreasonably restrict the right of a member to maintain an action under Subchapter 8 of this chapter;
 - (10) Restrict the right to approve a merger or domestication under § 29-809.10 or Chapter 2 of this title of a member that will have personal liability with respect to a surviving, converted, or domesticated organization; or
 - (11) Except as otherwise provided in § 29-801.09(b), restrict the rights under this chapter of a person other than a member or manager.
- (d) If not manifestly unreasonable, the operating agreement may:
- (1) Restrict or eliminate the duty:
 - (A) As required in § 29-804.09(b)(1) and (g), to account to the limited liability company and to hold as trustee for it any property, profit, or benefit derived by the member in the conduct or winding up of the company's business, from a use by the member of the company's property, or from the appropriation of a limited liability company opportunity;
 - (B) As required in § 29-804.09(b)(2) and (g), to refrain from dealing with the company in the conduct or winding up of the company's business as or on behalf of a party having an interest adverse to the company; and
 - (C) As required by § 29-804.09(b)(3) and (g), to refrain from competing with the company in the conduct of the company's business before the dissolution of the company;
 - (2) Identify specific types or categories of activities that do not violate the duty of loyalty;
 - (3) Alter the duty of care, except to authorize intentional misconduct or knowing violation of law;
 - (4) Alter any other fiduciary duty, including eliminating particular aspects of that duty; and
 - (5) Prescribe the standards by which to measure the performance of the contractual obligation of good faith and fair dealing under § 29-804.09(d).
- (e) The operating agreement may specify the method by which a specific act or transaction that would otherwise violate the duty of loyalty may be authorized or ratified by one or more disinterested and independent persons after full disclosure of all material facts.
- (f) To the extent the operating agreement of a member-managed limited liability company expressly relieves a member of a responsibility that the member would otherwise have under this chapter and imposes the responsibility on one or more other members, the operating agreement may, to the benefit of the member that the operating agreement relieves of the responsibility, also eliminate or limit any fiduciary duty that would have pertained to the responsibility.
- (g) The operating agreement may alter or eliminate the indemnification for a member or manager provided by § 29-804.08(a) and may eliminate or limit a member or manager's liability to the limited liability company and members for money damages, except for:
- (1) Breach of the duty of loyalty;
 - (2) A financial benefit received by the member or manager to which the member or manager is not entitled;
 - (3) A breach of a duty under § 29-804.06;
 - (4) Intentional infliction of harm on the company or a member; or

(5) An intentional violation of criminal law.

(h) The Superior Court shall decide any claim under subsection (d) of this section that a term of an operating agreement is manifestly unreasonable. The court:

(1) Shall make its determination as of the time the challenged term became part of the operating agreement and by considering only circumstances existing at that time; and

(2) May invalidate the term only if, in light of the purposes and activities of the limited liability company, it is readily apparent that:

(A) The objective of the term is unreasonable; or

(B) The term is an unreasonable means to achieve the provision's objective.

(July 2, 2011, D.C. Law 18-378, § 2, 58 DCR 1720.)

HISTORICAL AND STATUTORY NOTES

Legislative History of Laws

For history of Law 18-378, see notes under § 29-101.01.

Uniform Law

This section is based on § 110 of the Uniform Limited Company Act (2006 Act). See Vol. 6B , Uniform Laws Annotated, Master Edition or ULA Database on Westlaw.

§ 29-801.08. OPERATING AGREEMENT; EFFECT ON LIMITED LIABILITY COMPANY AND PERSONS BECOMING MEMBERS; PREFORMATION AGREEMENT.

(a) A limited liability company shall be bound by, and may enforce, the operating agreement, whether or not the company has itself manifested assent to the operating agreement.

(b) A person that becomes a member of a limited liability company shall be deemed to assent to the operating agreement.

(c) Two or more persons intending to become the initial members of a limited liability company may make an agreement providing that upon the formation of the company the agreement will become the operating agreement. One person intending to become the initial member of a limited liability company may assent to terms providing that, upon the formation of the company, the terms will become the operating agreement.

(July 2, 2011, D.C. Law 18-378, § 2, 58 DCR 1720.)

HISTORICAL AND STATUTORY NOTES

Legislative History of Laws

For history of Law 18-378, see notes under § 29-101.01.

Uniform Law

This section is based on § 111 of the Uniform Limited Company Act (2006 Act). See Vol. 6B , Uniform Laws Annotated, Master Edition or ULA Database on Westlaw.

§ 29-801.09. OPERATING AGREEMENT; EFFECT ON THIRD PARTIES AND RELATIONSHIP TO RECORDS EFFECTIVE ON BEHALF OF LIMITED LIABILITY COMPANY.

(a) An operating agreement may specify that its amendment requires the approval of a person that is not a party to the operating agreement or the satisfaction of a condition. An amendment shall be ineffective if its adoption does not include the required approval or satisfy the specified condition.

(b) The obligations of a limited liability company and its members to a person in the person's capacity as a transferee or dissociated member shall be governed by the operating agreement. Subject only to any court order issued under § 29-805.03(b)(2) to effectuate a charging order, an amendment to the operating agreement made after a person becomes a transferee or dissociated member shall be effective with regard to any debt, obligation, or other liability of the limited liability company or its members to the person in the person's capacity as a transferee or dissociated member.

(c) If a record that has been delivered by a limited liability company to the Mayor for filing and has become effective under this chapter contains a provision that would be ineffective under § 29-801.07(c) if contained in the operating agreement, the provision shall likewise be ineffective in the record.

(d) Subject to subsection (c) of this section, if a record that has been delivered by a limited liability company to the Mayor for filing and has become effective under this chapter conflicts with a provision of the operating agreement:

(1) The operating agreement shall prevail as to members, dissociated members, transferees, and managers; and

(2) The record shall prevail as to other persons to the extent they reasonably rely on the record.

(July 2, 2011, D.C. Law 18-378, § 2, 58 DCR 1720.)

HISTORICAL AND STATUTORY NOTES

Legislative History of Laws

For history of Law 18-378, see notes under § 29-101.01.

Uniform Law

This section is based on § 112 of the Uniform Limited Company Act (2006 Act). See Vol. 6B , Uniform Laws Annotated, Master Edition or ULA Database on Westlaw.

SUBCHAPTER II. FORMATION; CERTIFICATE OF ORGANIZATION, AND OTHER FILINGS.

§ 29-802.01. FORMATION OF LIMITED LIABILITY COMPANY; CERTIFICATE OF ORGANIZATION.

(a) One or more persons may act as organizers to form a limited liability company by signing and delivering to the Mayor for filing a certificate of organization.

(b) A certificate of organization shall state:

(1) The name of the limited liability company, which shall comply with §§ 29-103.01 and 29-103.02(f);

(2) The street and mailing addresses of the initial principal office and the name and street and information required by § 29-104.04; and

(3) If the company will have one or more series that is treated as a separate entity which limits the debts, obligations, and other liabilities to the assets of a particular series as provided in the operating agreement as authorized by § 29-802.06, a statement to that effect.

(c) Subject to § 29-801.09(c), a certificate of organization may also contain statements as to matters other than those required by subsection (b) of this subsection. However, a statement in a certificate of organization shall not be effective as a statement of authority.

(d) Unless the filed certificate of organization contains the statement as provided in subsection (b)(3) of this subsection, the following rules shall apply:

(1) A limited liability company shall be formed when the Mayor has filed the certificate of organization and the company has at least one member, unless the certificate states a delayed effective date pursuant to § 29-102.03.

(2) If the certificate states a delayed effective date, a limited liability company shall not be formed if, before the certificate takes effect, a statement of cancellation is signed and delivered to the Mayor for filing and the Mayor files the certificate.

(3) Subject to any delayed effective date and except in a proceeding by the District to dissolve a limited liability company, the filing of the certificate of organization by the Mayor shall be conclusive proof that the organizer satisfied all conditions to the formation of a limited liability company.

(e) If a filed certificate of organization contains a statement as provided in subsection (b)(3) of this section, the following rules shall apply:

(1) The certificate shall lapse and be void unless, within 90 days from the date the Mayor files the certificate, an organizer signs and delivers to the Mayor for filing a notice stating:

(A) That the limited liability company has at least one member; and

(B) The date on which a person or persons became the company's initial member or members.

(2) If an organizer complies with paragraph (1) of this subsection, a limited liability company shall be deemed formed as of the date of initial membership stated in the notice delivered pursuant to paragraph (1) of this subsection.

(3) Except in a proceeding by the District to dissolve a limited liability company, the filing of the notice described in paragraph (1) of this subsection by the Mayor shall be conclusive proof that the organizer

satisfied all conditions to the formation of a limited liability company.

(July 2, 2011, D.C. Law 18-378, § 2, 58 DCR 1720.)

HISTORICAL AND STATUTORY NOTES

Legislative History of Laws

For history of Law 18-378, see notes under § 29-101.01.

Uniform Law

This section is based on § 201 of the Uniform Limited Company Act (2006 Act). See Vol. 6B , Uniform Laws Annotated, Master Edition or ULA Database on Westlaw.

§ 29-802.02. AMENDMENT OR RESTATEMENT OF CERTIFICATE OF ORGANIZATION.

- (a) A certificate of organization may be amended or restated at any time.
- (b) To amend its certificate of organization, a limited liability company shall deliver to the Mayor for filing an amendment stating:
 - (1) The name of the company;
 - (2) The date of filing of its certificate of organization; and
 - (3) The changes the amendment makes to the certificate as most recently amended or restated.
- (c) To restate its certificate of organization, a limited liability company shall deliver to the Mayor for filing a restatement, designated as such in its heading, stating:
 - (1) In the heading or an introductory paragraph, the company's present name and the date of the filing of the company's initial certificate of organization;
 - (2) If the company's name has been changed at any time since the company's formation, each of the company's former names; and
 - (3) The changes the restatement makes to the certificate as most recently amended or restated.
- (d) Subject to §§ 29-801.09(c) and 29-802.05(c), an amendment to or restatement of a certificate of organization shall be effective when filed by the Mayor.
- (e) If a member of a member-managed limited liability company, or a manager of a manager-managed limited liability company, knows that any information in a filed certificate of organization was inaccurate when the certificate was filed or has become inaccurate owing to changed circumstances, the member or manager shall promptly:
 - (1) Cause the certificate to be amended; or
 - (2) If appropriate, deliver to the Mayor for filing a statement of change under §§ 29-104.07 through 29-104.10 or a statement of correction under § 29-102.05.
- (f) A limited liability company may amend its certificate of organization to delete the information required by § 29-802.01(b)(2) at any time after it has filed its first biennial report under § 29-102.11.

(July 2, 2011, D.C. Law 18-378, § 2, 58 DCR 1720.)

HISTORICAL AND STATUTORY NOTES

Legislative History of Laws

For history of Law 18-378, see notes under § 29-101.01.

Uniform Law

This section is based on § 202 of the Uniform Limited Company Act (2006 Act). See Vol. 6B , Uniform Laws Annotated, Master Edition or ULA Database on Westlaw.

§ 29-802.03. SIGNING OF RECORDS TO BE DELIVERED FOR FILING TO MAYOR.

- (a) A record delivered to the Mayor for filing pursuant to this chapter must be signed as follows:
 - (1) Except as otherwise provided in paragraphs (2) through (4) of this subsection, a record signed on behalf of a limited liability company shall be signed by a person authorized by the company.
 - (2) A limited liability company's initial certificate of organization shall be signed by at least one person acting as an organizer.

(3) A notice under § 29-802.01(e)(1) shall be signed by an organizer.

(4) A record filed on behalf of a dissolved limited liability company that has no members shall be signed by the person winding up the company's activities under § 29-807.02(c) or a person appointed under § 29-807.02(d) to wind up those activities.

(5) A statement of cancellation under § 29-802.01(d)(2) shall be signed by each organizer that signed the initial certificate of organization, but a personal representative of a deceased or incompetent organizer may sign in the place of the decedent or incompetent.

(6) A statement of denial by a person under § 29-803.03 shall be signed by that person.

(7) Any other record shall be signed by the person on whose behalf the record is delivered to the Mayor.

(b) Any record filed under this chapter may be signed by an agent.

(July 2, 2011, D.C. Law 18-378, § 2, 58 DCR 1720.)

HISTORICAL AND STATUTORY NOTES

Legislative History of Laws

For history of Law 18-378, see notes under § 29-101.01.

Uniform Law

This section is based on § 203 of the Uniform Limited Company Act (2006 Act). See Vol. 6B , Uniform Laws Annotated, Master Edition or ULA Database on Westlaw.

§ 29-802.04. SIGNING AND FILING PURSUANT TO JUDICIAL ORDER.

(a) If a person required by this chapter to sign a record or deliver a record to the Mayor for filing under this chapter does not do so, any other person that is aggrieved may petition the Superior Court to order:

(1) The person to sign the record;

(2) The person to deliver the record to the Mayor for filing; or

(3) The Mayor to file the record unsigned.

(b) If a petitioner under subsection (a) of this section is not the limited liability company or foreign limited liability company to which the record pertains, the petitioner shall make the company a party to the action.

(July 2, 2011, D.C. Law 18-378, § 2, 58 DCR 1720.)

HISTORICAL AND STATUTORY NOTES

Legislative History of Laws

For history of Law 18-378, see notes under § 29-101.01.

Uniform Law

This section is based on § 204 of the Uniform Limited Company Act (2006 Act). See Vol. 6B , Uniform Laws Annotated, Master Edition or ULA Database on Westlaw.

§ 29-802.05. LIABILITY FOR INACCURATE INFORMATION IN FILED RECORD.

(a) If a record delivered to the Mayor for filing under this chapter and filed by the Mayor contains inaccurate information, a person that suffers a loss by reliance on the information may recover damages for the loss from:

(1) A person that signed the record, or caused another to sign it on the person's behalf, and knew the information to be inaccurate at the time the record was signed; and

(2) Subject to subsection (b) of this section, a member of a member-managed limited liability company or the manager of a manager-managed limited liability company, if:

(A) The record was delivered for filing on behalf of the company; and

(B) The member or manager had notice of the inaccuracy for a reasonably sufficient time before the information was relied upon so that, before the reliance, the member or manager reasonably could have:

(i) Effected an amendment under § 29-802.02;

(ii) Filed a petition under § 29-802.04; or

(iii) Delivered to the Mayor for filing a statement of change under §§ 29- 104.07 through 29-104.10 or a statement of correction under § 29-102.05.

(b) To the extent that the operating agreement of a member-managed limited liability company expressly relieves a member of responsibility for maintaining the accuracy of information contained in records delivered on behalf of the company to the Mayor for filing under this chapter and imposes that responsibility on one or more other members, the liability stated in subsection (a)(2) of this section shall apply to those other members and not to the member that the operating agreement relieves of the responsibility.

(c) An individual who signs a record authorized or required to be filed under this chapter affirms under penalty of perjury that the information stated in the record is accurate.

(July 2, 2011, D.C. Law 18-378, § 2, 58 DCR 1720.)

HISTORICAL AND STATUTORY NOTES

Legislative History of Laws

For history of Law 18-378, see notes under § 29-101.01.

Uniform Law

This section is based on § 207 of the Uniform Limited Company Act (2006 Act). See Vol. 6B , Uniform Laws Annotated, Master Edition or ULA Database on Westlaw.

§ 29-802.06. SERIES OF MEMBERS, MANAGERS, OR INTERESTS OF LIMITED LIABILITY COMPANY.

(a) The operating agreement may establish one or more designated series of members, managers, or interests of a limited liability company, in which the members, managers, or interest holders have separate rights, powers, or duties with respect to specified property or obligations of the limited liability company.

(b) The debts, obligations, and other liabilities of a series of a limited liability company, whether arising in contract, tort, or otherwise, shall be solely the debts, obligations, and liabilities of the series and not of the limited liability company generally or any other series thereof; provided, that:

(1) Separate and distinct records are maintained for the limited liability company and each series;

(2) Assets associated with the limited liability company and each series are held, directly or indirectly, including through a nominee or otherwise, and accounted for separately in the separate and distinct records;

(3) The certificate of organization states that the debts, obligations, and other liabilities of the series are limited as provided in this subsection; and

(4) The limited liability company has filed with the Mayor, and paid the requisite fee for, a certificate of series designation as provided in subsection (e) of this section for each series so designated whose debts, obligations, and other liabilities are limited under this subsection.

(c) A statement in the certificate of organization in compliance with subsection (b)(3) of this section shall be notice of the limitation on liabilities of a series of a limited liability company and shall be sufficient for all purposes of subsection (b) of this section regardless of whether the limited liability company has established any series when such notice is included in the certificate or whether a series has any members.

(d) A certificate of series designation of a series of a limited liability company shall state:

(1) A different name for each series that contains the entire name of the limited liability company but otherwise complies with §§ 29-103.01 and 29-103.02(f); and

(2) A street and mailing address of the principal office and name and mailing address of a registered agent, if either is different from that specified for the limited liability company.

(e) A series of a limited liability company shall be formed when the Mayor files the certificate of series designation, unless the certificate states a delayed effective date, in which case it is formed as provided in § 29- 802.01(d). The filing of the certificate by the Mayor is conclusive proof that a series has been formed.

(f) Upon the filing by the limited liability company of the report required by § 29-102.11, the Mayor shall furnish a certificate of good standing for a series of a limited liability company or a certificate of registration for a series of a foreign limited liability company.

(g) A series of a limited liability company shall be in good standing as long as the limited liability company is in good standing.

(h) The articles of organization may provide that a series be treated as a separate entity distinct from the

limited liability company, other series of the limited liability company, or the members of the limited liability company.

(i) A series of a limited liability company may have any lawful purpose, regardless of whether for profit, or whether the purpose is different from that of the limited liability company or another series thereof.

(j) A series of a limited liability company shall have the capacity to sue and be sued in its own name and the power to do all things necessary or convenient to carry on its activities.

(k) The law of the District shall govern:

(1) The internal affairs of a series of a limited liability company; and

(2) The liability of a member or manager of a series as a member or manager of that series.

(l) Subject to § 29-804.07, the management of a series of a limited liability company shall be vested in the members collectively.

(m) The events causing dissociation of a member specified in § 29-806.02 shall be applied separately to a person that is a member in more than one series of a limited liability company or a member in the series and the limited liability company.

(n) Except as otherwise provided in § 29-807.01, a series of a limited liability company may be dissolved and wound up without causing the dissolution of the limited liability company or any other series thereof.

(o) A series of a limited liability company shall not engage in a transaction under subchapter IX of this chapter or Chapter 2 of this title independently of the limited liability company.

(p) The registered agent for the limited liability company shall be the registered agent for each series of the company.

(q) The management of a series of a limited liability company shall be governed by § 29-804.07.

(r) In all matters not otherwise specifically addressed in this section, this chapter shall govern a series as if the series of the limited liability company were a separate limited liability company formed under this chapter.

(July 2, 2011, D.C. Law 18-378, § 2, 58 DCR 1720.)

HISTORICAL AND STATUTORY NOTES

Legislative History of Laws

For history of Law 18-378, see notes under § 29-101.01.

SUBCHAPTER III. RELATIONS OF MEMBERS AND MANAGERS TO PERSONS DEALING WITH LIMITED LIABILITY COMPANY.

§ 29-803.01. NO AGENCY POWER OF MEMBER AS MEMBER.

(a) A member shall not be an agent of a limited liability company solely by reason of being a member.

(b) A person's status as a member shall not prevent or restrict law other than this chapter from imposing liability on a limited liability company because of the person's conduct.

(July 2, 2011, D.C. Law 18-378, § 2, 58 DCR 1720.)

HISTORICAL AND STATUTORY NOTES

Legislative History of Laws

For history of Law 18-378, see notes under § 29-101.01.

Uniform Law

This section is based on § 301 of the Uniform Limited Company Act (2006 Act). See Vol. 6B , Uniform Laws Annotated, Master Edition or ULA Database on Westlaw.

§ 29-803.02. STATEMENT OF AUTHORITY.

(a) A limited liability company may deliver to the Mayor for filing a statement of authority. The statement:

(1) Shall include the name of the company and the street and mailing addresses of its principal office;

(2) With respect to any position that exists in or with respect to the company, may state the authority, or

limitations on the authority, of all persons holding the position to:

- (A) Execute an instrument transferring real property held in the name of the company; or
 - (B) Enter into other transactions on behalf of, or otherwise act for or bind, the company; and
- (3) May state the authority, or limitations on the authority, of a specific person to:
- (A) Execute an instrument transferring real property held in the name of the company; or
 - (B) Enter into other transactions on behalf of, or otherwise act for or bind, the company.

(b) To amend or cancel a statement of authority filed by the Mayor under § 29-802.05(a), a limited liability company shall deliver to the Mayor for filing an amendment or cancellation stating:

- (1) The name of the company;
- (2) The street and mailing addresses of the company's principal office;
- (3) The caption of the statement being amended or canceled and the date the statement being affected became effective; and
- (4) The contents of the amendment or a declaration that the statement being affected is canceled.

(c) A statement of authority shall affect only the power of a person to bind a limited liability company to persons that are not members.

(d) Subject to subsection (c) of this section and § 29-801.03(d) and except as otherwise provided in subsections (f), (g), and (h) of this section, a limitation on the authority of a person or a position contained in an effective statement of authority shall not by itself evidence of knowledge or notice of the limitation by any person.

(e) Subject to subsection (c), a grant of authority not pertaining to transfers of real property and contained in an effective statement of authority shall be conclusive in favor of a person that gives value in reliance on the grant, except to the extent that when the person gives value:

- (1) The person has knowledge to the contrary;
- (2) The statement has been canceled or restrictively amended under subsection (b) of this section; or
- (3) A limitation on the grant is contained in another statement of authority that became effective after the statement containing the grant became effective.

(f) Subject to subsection (c) of this section, an effective statement of authority that grants authority to transfer real property held in the name of the limited liability company and that is recorded by certified copy in the office for recording transfers of the real property shall be conclusive in favor of a person that gives value in reliance on the grant without knowledge to the contrary, except to the extent that when the person gives value:

- (1) The statement has been canceled or restrictively amended under subsection (b) of this section and a certified copy of the cancellation or restrictive amendment has been recorded in the office for recording transfers of the real property; or
- (2) A limitation on the grant is contained in another statement of authority that became effective after the statement containing the grant became effective and a certified copy of the later-effective statement is recorded in the office for recording transfers of the real property.

(g) Subject to subsection (c) of this section, if a certified copy of an effective statement containing a limitation on the authority to transfer real property held in the name of a limited liability company is recorded in the office for recording transfers of that real property, all persons shall be deemed to know of the limitation.

(h) Subject to subsection (i) of this section, an effective statement of dissolution or termination shall be a cancellation of any filed statement of authority for the purposes of subsection (f) of this section and shall be a limitation on authority for the purposes of subsection (g) of this section.

(i) After a statement of dissolution becomes effective, a limited liability company may deliver to the Mayor for filing and, if appropriate, may record a statement of authority that is designated as a post-dissolution statement of authority. The statement shall operate as provided in subsections (f) and (g) of this section.

(j) Unless earlier canceled, an effective statement of authority shall be canceled by operation of law 5 years after the date on which the statement, or its most recent amendment, becomes effective. This cancellation shall operate without need for any recording under subsection (f) or (g) of this section.

(k) An effective statement of denial shall operate as a restrictive amendment under this section and may be recorded by certified copy for the purposes of subsection (f)(1) of this section.

(July 2, 2011, D.C. Law 18-378, § 2, 58 DCR 1720.)

HISTORICAL AND STATUTORY NOTES

Legislative History of Laws

For history of Law 18-378, see notes under § 29-101.01.

Uniform Law

This section is based on § 302 of the Uniform Limited Company Act (2006 Act). See Vol. 6B , Uniform Laws Annotated, Master Edition or ULA Database on Westlaw.

§ 29-803.03. STATEMENT OF DENIAL.

A person named in a filed statement of authority granting that person authority may deliver to the Mayor for filing a statement of denial that:

- (1) Provides the name of the limited liability company and the caption of the statement of authority to which the statement of denial pertains; and
- (2) Denies the grant of authority.

(July 2, 2011, D.C. Law 18-378, § 2, 58 DCR 1720.)

HISTORICAL AND STATUTORY NOTES

Legislative History of Laws

For history of Law 18-378, see notes under § 29-101.01.

Uniform Law

This section is based on § 303 of the Uniform Limited Company Act (2006 Act). See Vol. 6B , Uniform Laws Annotated, Master Edition or ULA Database on Westlaw.

§ 29-803.04. LIABILITY OF MEMBERS AND MANAGERS.

(a) The debts, obligations, or other liabilities of a limited liability company, whether arising in contract, tort, or otherwise shall:

- (1) Be solely the debts, obligations, or other liabilities of the company; and
- (2) Not become the debts, obligations, or other liabilities of a member or manager solely by reason of the member acting as a member or manager acting as a manager.

(b) The failure of a limited liability company to observe any particular formalities relating to the exercise of its powers or management of its activities shall not be a ground for imposing liability on the members or managers for the debts, obligations, or other liabilities of the 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 the member, or by any individual under the member's supervision and control in the rendering of professional service on behalf of a professional limited liability company organized under this chapter. A member of a professional limited liability company shall not be personally liable and accountable merely because of the member's membership interest in the professional limited liability company.

(July 2, 2011, D.C. Law 18-378, § 2, 58 DCR 1720.)

HISTORICAL AND STATUTORY NOTES

Legislative History of Laws

For history of Law 18-378, see notes under § 29-101.01.

Uniform Law

This section is based on § 304 of the Uniform Limited Company Act (2006 Act). See Vol. 6B , Uniform Laws Annotated, Master Edition or ULA Database on Westlaw.

SUBCHAPTER IV. RELATIONS OF MEMBERS TO EACH OTHER AND TO LIMITED LIABILITY COMPANY.

§ 29-804.01. BECOMING MEMBER.

(a) If a limited liability company is to have only one member upon formation, the person shall become a member as agreed by that person and the organizer of the company. That person and the organizer may

be, but need not be, different persons. If different, the organizer shall act on behalf of the initial member.

(b) If a limited liability company is to have more than one member upon formation, those persons shall become members as agreed by the persons before the formation of the company. The organizer act on behalf of the persons in forming the company and may be, but need not be, one of the persons.

(c) After formation of a limited liability company, a person becomes a member:

(1) As provided in the operating agreement;

(2) As the result of a transaction effective under subchapter IX of this chapter or Chapter 2 of this title;

(3) With the consent of all the members; or

(4) If, within 90 consecutive days after the company ceases to have any members:

(A) The last person to have been a member, or the legal representative of that person, designates a person to become a member; and

(B) The designated person consents to become a member.

(d) A person may become a member without acquiring a transferable interest and without making or being obligated to make a contribution to the limited liability company.

(July 2, 2011, D.C. Law 18-378, § 2, 58 DCR 1720.)

HISTORICAL AND STATUTORY NOTES

Legislative History of Laws

For history of Law 18-378, see notes under § 29-101.01.

Uniform Law

This section is based on § 401 of the Uniform Limited Company Act (2006 Act). See Vol. 6B , Uniform Laws Annotated, Master Edition or ULA Database on Westlaw.

§ 29-804.02. FORM OF CONTRIBUTION.

A contribution may consist of tangible or intangible property or other benefit to a limited liability company, including money, services performed, promissory notes, other agreements to contribute money or property, and contracts for services to be performed.

(July 2, 2011, D.C. Law 18-378, § 2, 58 DCR 1720.)

HISTORICAL AND STATUTORY NOTES

Legislative History of Laws

For history of Law 18-378, see notes under § 29-101.01.

Uniform Law

This section is based on § 402 of the Uniform Limited Company Act (2006 Act). See Vol. 6B , Uniform Laws Annotated, Master Edition or ULA Database on Westlaw.

§ 29-804.03. LIABILITY FOR CONTRIBUTIONS.

(a) A person's obligation to make a contribution to a limited liability company shall not be excused by the person's death, disability, or other inability to perform personally. If a person does not make a required contribution, the person or the person's estate shall be obligated to contribute money equal to the value of the part of the contribution which has not been made, at the option of the company.

(b) A creditor of a limited liability company which extends credit or otherwise acts in reliance on an obligation described in subsection (a) of this section may enforce the obligation.

(July 2, 2011, D.C. Law 18-378, § 2, 58 DCR 1720.)

HISTORICAL AND STATUTORY NOTES

Legislative History of Laws

For history of Law 18-378, see notes under § 29-101.01.

Uniform Law

This section is based on § 403 of the Uniform Limited Company Act (2006 Act). See Vol. 6B , Uniform Laws Annotated, Master Edition or ULA Database on Westlaw.

§ 29-804.04. SHARING OF AND RIGHT TO DISTRIBUTIONS BEFORE DISSOLUTION.

(a) Any distributions made by a limited liability company before its dissolution and winding up shall be in equal shares among members and dissociated members, except to the extent necessary to comply with any transfer effective under § 29-805.02 and any charging order in effect under § 29- 805.03.

(b) A person shall have a right to a distribution before the dissolution and winding up of a limited liability company only if the company decides to make an interim distribution. A person's dissociation shall not entitle the person to a distribution.

(c) A person shall not have a right to demand or receive a distribution from a limited liability company in any form other than money. Except as otherwise provided in § 29-807.05(c), a limited liability company may distribute an asset in kind if each part of the asset is fungible with each other part and each person receives a percentage of the asset equal in value to the person's share of distributions.

(d) If a member or transferee becomes entitled to receive a distribution, the member or transferee shall have the status of, and shall be entitled to all remedies available to, a creditor of the limited liability company with respect to the distribution.

(July 2, 2011, D.C. Law 18-378, § 2, 58 DCR 1720.)

HISTORICAL AND STATUTORY NOTES

Legislative History of Laws

For history of Law 18-378, see notes under § 29-101.01.

Uniform Law

This section is based on § 404 of the Uniform Limited Company Act (2006 Act). See Vol. 6B , Uniform Laws Annotated, Master Edition or ULA Database on Westlaw.

§ 29-804.05. LIMITATIONS ON DISTRIBUTION.

(a) A limited liability company shall not make a distribution if after the distribution:

(1) The company would not be able to pay its debts as they become due in the ordinary course of the company's activities; or

(2) The company's total assets would be less than the sum of its total liabilities plus the amount that would be needed, if the company were to be dissolved, wound up, and terminated at the time of the distribution, to satisfy the preferential rights upon dissolution, winding up, and termination of members whose preferential rights are superior to those of persons receiving the distribution.

(b) A limited liability company may base a determination that a distribution is not prohibited under subsection (a) of this section on financial statements prepared on the basis of accounting practices and principles that are reasonable in the circumstances or on a fair valuation or other method that is reasonable under the circumstances.

(c) Except as otherwise provided in subsection (f) of this section, the effect of a distribution under subsection (a) of this section shall be measured:

(1) In the case of a distribution by purchase, redemption, or other acquisition of a transferable interest in the company, as of the date money or other property is transferred or debt incurred by the company; and

(2) In all other cases, as of the date:

(A) The distribution is authorized, if the payment occurs within 120 days after that date; or

(B) The payment is made, if the payment occurs more than 120 days after the distribution is authorized.

(d) A limited liability company's indebtedness to a member incurred by reason of a distribution made in accordance with this section shall be at parity with the company's indebtedness to its general, unsecured creditors.

(e) A limited liability company's indebtedness, including indebtedness issued in connection with or as part of a distribution, shall not be a liability for purposes of subsection (a) of this section if the terms of the indebtedness provide that payment of principal and interest are made only to the extent that a distribution could be made to members under this section.

(f) If indebtedness is issued as a distribution, each payment of principal or interest on the indebtedness shall be treated as a distribution, the effect of which is measured on the date the payment is made.

(g) For the purposes of subsection (a) of this section, the term "distribution" shall not include amounts

constituting reasonable compensation for present or past services or reasonable payments made in the ordinary course of business under a bona fide retirement plan or other benefits program.

(July 2, 2011, D.C. Law 18-378, § 2, 58 DCR 1720.)

HISTORICAL AND STATUTORY NOTES

Legislative History of Laws

For history of Law 18-378, see notes under § 29-101.01.

Uniform Law

This section is based on § 405 of the Uniform Limited Company Act (2006 Act). See Vol. 6B , Uniform Laws Annotated, Master Edition or ULA Database on Westlaw.

§ 29-804.06. LIABILITY FOR IMPROPER DISTRIBUTIONS.

(a) Except as otherwise provided in subsection (b) of this section, if a member of a member-managed limited liability company or manager of a manager-managed limited liability company consents to a distribution made in violation of § 29-804.05 and, in consenting to the distribution, fails to comply with § 29-804.09, the member or manager shall be personally liable to the company for the amount of the distribution that exceeds the amount that could have been distributed without the violation of § 29-804.05.

(b) To the extent the operating agreement of a member-managed limited liability company expressly relieves a member of the authority and responsibility to consent to distributions and imposes that authority and responsibility on one or more other members, the liability stated in subsection (a) of this section shall apply to the other members and not the member that the operating agreement relieves of authority and responsibility.

(c) A person that receives a distribution knowing that the distribution to that person was made in violation of § 29-804.05 shall be personally liable to the limited liability company but only to the extent that the distribution received by the person exceeded the amount that could have been properly paid under § 29-804.05.

(d) A person against which an action is commenced because the person is liable under subsection (a) of this section may implead any:

(1) Other person that is subject to liability under subsection (a) of this section and seek to compel contribution from the person; and

(2) Person that received a distribution in violation of subsection (c) of this section and seek to compel contribution from the person in the amount the person received in violation of subsection (c) of this section.

(e) An action under this section shall be barred if not commenced within 2 years after the distribution.

(July 2, 2011, D.C. Law 18-378, § 2, 58 DCR 1720.)

HISTORICAL AND STATUTORY NOTES

Legislative History of Laws

For history of Law 18-378, see notes under § 29-101.01.

Uniform Law

This section is based on § 406 of the Uniform Limited Company Act (2006 Act). See Vol. 6B , Uniform Laws Annotated, Master Edition or ULA Database on Westlaw.

§ 29-804.07. MANAGEMENT OF LIMITED LIABILITY COMPANY.

(a) A limited liability company shall be a member-managed limited liability company unless the operating agreement:

(1) Expressly provides that:

(A) The company is or will be "manager-managed";

(B) The company is or will be "managed by managers"; or

(C) Management of the company is or will be "vested in managers"; or

(2) Includes words of similar import.

(b) In a member-managed limited liability company, the following rules shall apply:

(1) The management and conduct of the company shall be vested in the members.

- (2) Each member shall have equal rights in the management and conduct of the company's activities.
- (3) A difference arising among members as to a matter in the ordinary course of the activities of the company may be decided by a majority of the members.
- (4) An act outside the ordinary course of the activities of the company shall be undertaken only with the consent of all members.
- (5) The operating agreement shall be amended only with the consent of all members.
- (c) In a manager-managed limited liability company, the following rules apply:
 - (1) Except as otherwise expressly provided in this chapter, any matter relating to the activities of the company shall be decided exclusively by the managers.
 - (2) Each manager shall have equal rights in the management and conduct of the activities of the company.
 - (3) A difference arising among managers as to a matter in the ordinary course of the activities of the company may be decided by a majority of the managers.
 - (4) The consent of all members shall be required to:
 - (A) Sell, lease, exchange, or otherwise dispose of all, or substantially all, of the company's property, with or without the good will, outside the ordinary course of the company's activities;
 - (B) Approve a merger or domestication under subchapter IX of this chapter or transaction under Chapter 2 of this title;
 - (C) Undertake any other act outside the ordinary course of the company's activities; and
 - (D) Amend the operating agreement.
 - (5) A manager may be chosen at any time by the consent of a majority of the members and shall remain a manager until a successor has been chosen, unless the manager at an earlier time resigns, is removed, or dies, or, in the case of a manager that is not an individual, terminates. A manager may be removed at any time by the consent of a majority of the members without notice or cause.
 - (6) A person need not be a member to be a manager, but the dissociation of a member that is also a manager shall remove the person as a manager. If a person that is both a manager and a member ceases to be a manager, that cessation shall not by itself dissociate the person as a member.
 - (7) A person's ceasing to be a manager shall not discharge any debt, obligation, or other liability to the limited liability company or members which the person incurred while a manager.
- (d) An action requiring the consent of members under this chapter may be taken without a meeting, and a member may appoint a proxy or other agent to consent or otherwise act for the member by signing an appointing record, personally or by the member's agent.
- (e) The dissolution of a limited liability company shall not affect the applicability of this section. However, a person that wrongfully causes dissolution of the company loses the right to participate in management as a member and a manager.
- (f) This chapter shall not entitle a member to remuneration for services performed for a member-managed limited liability company, except for reasonable compensation for services rendered in winding up the activities of the company.

(July 2, 2011, D.C. Law 18-378, § 2, 58 DCR 1720.)

HISTORICAL AND STATUTORY NOTES

Legislative History of Laws

For history of Law 18-378, see notes under § 29-101.01.

Uniform Law

This section is based on § 407 of the Uniform Limited Company Act (2006 Act). See Vol. 6B , Uniform Laws Annotated, Master Edition or ULA Database on Westlaw.

§ 29-804.08. INDEMNIFICATION AND INSURANCE.

- (a) A limited liability company shall reimburse for any payment made, and indemnify for any debt, obligation, or other liability incurred, by a member of a member-managed company or the manager of a manager-managed company in the course of the member's or manager's activities on behalf of the company, if, in making the payment or incurring the debt, obligation, or other liability, the member or manager complied with the duties stated in §§ 29-804.05 and 29- 804.09.
- (b) A limited liability company may purchase insurance on behalf of a member or manager of the company against liability asserted against or incurred by the member or manager in that capacity or arising from

that status even if, under § 29-801.07(g), the operating agreement could not eliminate or limit the person's liability to the company for the conduct giving rise to the liability.

(July 2, 2011, D.C. Law 18-378, § 2, 58 DCR 1720.)

HISTORICAL AND STATUTORY NOTES

Legislative History of Laws

For history of Law 18-378, see notes under § 29-101.01.

Uniform Law

This section is based on § 408 of the Uniform Limited Company Act (2006 Act). See Vol. 6B , Uniform Laws Annotated, Master Edition or ULA Database on Westlaw.

§ 29-804.09. STANDARDS OF CONDUCT FOR MEMBERS AND MANAGERS.

(a) A member of a member-managed limited liability company owes to the company and, subject to § 29-808.01(b), the other members the fiduciary duties of loyalty and care stated in subsections (b) and (c) of this section.

(b) The duty of loyalty of a member in a member-managed limited liability company shall include the duties to:

(1) Account to the company and to hold as trustee for it any property, profit, or benefit derived by the member:

- (A) In the conduct or winding up of the company's activities;
- (B) From a use by the member of the company's property; or
- (C) From the appropriation of a limited liability company opportunity;

(2) Refrain from dealing with the company in the conduct or winding up of the company's activities as or on behalf of a person having an interest adverse to the company; and

(3) Refrain from competing with the company in the conduct of the company's activities before the dissolution of the company.

(c) Subject to the business judgment rule, the duty of care of a member of a member-managed limited liability company in the conduct and winding up of the company's activities shall be to act with the care that a person in a like position would reasonably exercise under similar circumstances and in a manner the member reasonably believes to be in the best interests of the company. In discharging this duty, a member may rely in good faith upon opinions, reports, statements, or other information provided by another person that the member reasonably believes is a competent and reliable source for the information.

(d) A member in a member-managed limited liability company or a manager-managed limited liability company shall discharge the duties under this chapter or under the operating agreement and exercise any rights consistently with the contractual obligation of good faith and fair dealing.

(e) It shall be a defense to a claim under subsection (b)(2) of this section and any comparable claim in equity or at common law that the transaction was fair to the limited liability company.

(f) All of the members of a member-managed limited liability company or a manager-managed limited liability company may authorize or ratify, after full disclosure of all material facts, a specific act or transaction that otherwise would violate the duty of loyalty.

(g) In a manager-managed limited liability company, the following rules apply:

(1) Subsections (a), (b), (c), and (e) of this section shall apply to the managers and not the members.

(2) The duty stated under subsection (b)(3) of this section shall continue until winding up is completed.

(3) Subsection (d) of this section shall apply to the members and managers.

(4) Subsection (f) of this section shall apply only to the members.

(5) A member shall not have any fiduciary duty to the company or to any other member solely by reason of being a member.

(July 2, 2011, D.C. Law 18-378, § 2, 58 DCR 1720.)

HISTORICAL AND STATUTORY NOTES

Legislative History of Laws

For history of Law 18-378, see notes under § 29-101.01.

Uniform Law

§ 29-804.10. RIGHT OF MEMBERS, MANAGERS, AND DISSOCIATED MEMBERS TO INFORMATION.

(a) In a member-managed limited liability company, the following rules shall apply:

(1) On reasonable notice, a member may inspect and copy during regular business hours, at a reasonable location specified by the company, any record maintained by the company regarding the company's activities, financial condition, and other circumstances, to the extent the information is material to the member's rights and duties under the operating agreement or this chapter.

(2) The company shall furnish to each member:

(A) Without demand, any information concerning the company's activities, financial condition, and other circumstances which the company knows and is material to the proper exercise of the member's rights and duties under the operating agreement or this chapter, except to the extent the company can establish that it reasonably believes the member already knows the information; and

(B) On demand, any other information concerning the company's activities, financial condition, and other circumstances, except to the extent the demand or information demanded is unreasonable or otherwise improper under the circumstances.

(3) The duty to furnish information under paragraph (2) of this subsection shall also apply to each member to the extent the member knows any of the information described in paragraph (2) of this subsection.

(b) In a manager-managed limited liability company, the following rules shall apply:

(1) The informational rights stated in subsection (a) of this section and the duty stated in subsection (a)(3) of this section apply to the managers and not the members.

(2) During regular business hours and at a reasonable location specified by the company, a member may obtain from the company, and inspect and copy, full information regarding the activities, financial condition, and other circumstances of the company as is just and reasonable if:

(A) The member seeks the information for a purpose material to the member's interest as a member;

(B) The member makes a demand in a record received by the company, describing with reasonable particularity the information sought and the purpose for seeking the information; and

(C) The information sought is directly connected to the member's purpose.

(3) Within 10 days after receiving a demand pursuant to paragraph (2)(B) of this subsection, the company shall in a record inform the member that made the demand:

(A) Of the information that the company will provide in response to the demand and when and where the company will provide the information; and

(B) If the company declines to provide any demanded information, the company's reasons for declining.

(4) Whenever this chapter or an operating agreement provides for a member to give or withhold consent to a matter, before the consent is given or withheld, the company shall, without demand, provide the member with all information that is known to the company and is material to the member's decision.

(c) On 10 days' demand made in a record received by a limited liability company, a dissociated member shall have access to information to which the person was entitled while a member if the information pertains to the period during which the person was a member, the person seeks the information in good faith, and the person satisfies the requirements imposed on a member by subsection (b)(2) of this section. The company shall respond to a demand made pursuant to this subsection in the manner provided in subsection (b)(3) of this section.

(d) A limited liability company may charge a person that makes a demand under this section the reasonable costs of copying, limited to the costs of labor and material.

(e) A member or dissociated member may exercise rights under this section through an agent or, in the case of an individual under legal disability, a legal representative. Any restriction or condition imposed by the operating agreement or under subsection (g) of this section shall apply both to the agent or legal representative and the member or dissociated member.

(f) The rights under this section shall not extend to a person as transferee.

(g) In addition to any restriction or condition stated in its operating agreement, a limited liability company, as a matter within the ordinary course of its activities, may impose reasonable restrictions and conditions

on access to and use of information to be furnished under this section, including designating information confidential and imposing nondisclosure and safeguarding obligations on the recipient. In a dispute concerning the reasonableness of a restriction under this subsection, the company shall have the burden of proving reasonableness.

(July 2, 2011, D.C. Law 18-378, § 2, 58 DCR 1720.)

HISTORICAL AND STATUTORY NOTES

Legislative History of Laws

For history of Law 18-378, see notes under § 29-101.01.

Uniform Law

This section is based on § 410 of the Uniform Limited Company Act (2006 Act). See Vol. 6B , Uniform Laws Annotated, Master Edition or ULA Database on Westlaw.

SUBCHAPTER V. TRANSFERABLE INTERESTS AND RIGHTS OF TRANSFEREES AND CREDITORS.

§ 29-805.01. NATURE OF TRANSFERABLE INTEREST.

A transferable interest shall be personal property.

(July 2, 2011, D.C. Law 18-378, § 2, 58 DCR 1720.)

HISTORICAL AND STATUTORY NOTES

Legislative History of Laws

For history of Law 18-378, see notes under § 29-101.01.

Uniform Law

This section is based on § 501 of the Uniform Limited Company Act (2006 Act). See Vol. 6B , Uniform Laws Annotated, Master Edition or ULA Database on Westlaw.

§ 29-805.02. TRANSFER OF TRANSFERABLE INTEREST.

(a) A transfer, in whole or in part, of a transferable interest:

(1) Is permissible;

(2) Shall not by itself cause a member's dissociation or a dissolution and winding up of the limited liability company's activities; and

(3) Subject to § 29-805.04, shall not entitle the transferee to:

(A) Participate in the management or conduct of the company's activities; or

(B) Except as otherwise provided in subsection (c) of this section, have access to records or other information concerning the company's activities.

(b) A transferee shall have the right to receive, in accordance with the transfer, distributions to which the transferor would otherwise be entitled.

(c) In a dissolution and winding up of a limited liability company, a transferee shall be entitled to an account of the company's transactions only from the date of dissolution.

(d) A transferable interest may be evidenced by a certificate of the interest issued by the limited liability company in a record, and, subject to this section, the interest represented by the certificate may be transferred by a transfer of the certificate.

(e) A limited liability company need not give effect to a transferee's rights under this section until the company has notice of the transfer.

(f) A transfer of a transferable interest in violation of a restriction on transfer contained in the operating agreement shall be ineffective as to a person having notice of the restriction at the time of transfer.

(g) Except as otherwise provided in § 29-806.02(4)(B), when a member transfers a transferable interest, the transferor shall retain the rights of a member other than the interest in distributions transferred and shall retain all duties and obligations of a member.

(h) When a member transfers a transferable interest to a person that becomes a member with respect to the transferred interest, the transferee shall be liable for the member's obligations under §§ 29-804.03 and

29-804.06(c) known to the transferee when the transferee becomes a member.

(July 2, 2011, D.C. Law 18-378, § 2, 58 DCR 1720.)

HISTORICAL AND STATUTORY NOTES

Legislative History of Laws

For history of Law 18-378, see notes under § 29-101.01.

Uniform Law

This section is based on § 502 of the Uniform Limited Company Act (2006 Act). See Vol. 6B , Uniform Laws Annotated, Master Edition or ULA Database on Westlaw.

§ 29-805.03. CHARGING ORDER.

(a) On application by a judgment creditor of a member or transferee, the Superior Court may enter a charging order against the transferable interest of the judgment debtor for the unsatisfied amount of the judgment. A charging order shall constitute a lien on a judgment debtor's transferable interest and requires the limited liability company to pay over to the person to which the charging order was issued any distribution that would otherwise be paid to the judgment debtor.

(b) To the extent necessary to effectuate the collection of distributions pursuant to a charging order in effect under subsection (a) of this section, the Superior Court may:

(1) Appoint a receiver of the distributions subject to the charging order, with the power to make all inquiries the judgment debtor might have made; and

(2) Make all other orders necessary to give effect to the charging order.

(c) Upon a showing that distributions under a charging order will not pay the judgment debt within a reasonable time, the Superior Court may foreclose the lien and order the sale of the transferable interest. The purchaser at the foreclosure sale shall obtain the transferable interest, shall not thereby become a member, and shall be subject to § 29-805.02.

(d) At any time before foreclosure under subsection (c) of this section, the member or transferee whose transferable interest is subject to a charging order under subsection (a) of this section may extinguish the charging order by satisfying the judgment and filing a certified copy of the satisfaction with the Superior Court.

(e) At any time before foreclosure under subsection (c) of this section, a limited liability company or one or more members whose transferable interests are not subject to the charging order may pay to the judgment creditor the full amount due under the judgment and thereby succeed to the rights of the judgment creditor, including the charging order.

(f) This chapter shall not deprive any member or transferee of the benefit of any exemption laws applicable to the member's or transferee's transferable interest.

(g) This section provides the exclusive remedy by which a person seeking to enforce a judgment against a member or transferee may, in the capacity of judgment creditor, satisfy the judgment from the judgment debtor's transferable interest.

(July 2, 2011, D.C. Law 18-378, § 2, 58 DCR 1720.)

HISTORICAL AND STATUTORY NOTES

Legislative History of Laws

For history of Law 18-378, see notes under § 29-101.01.

Uniform Law

This section is based on § 503 of the Uniform Limited Company Act (2006 Act). See Vol. 6B , Uniform Laws Annotated, Master Edition or ULA Database on Westlaw.

§ 29-805.04. POWER OF PERSONAL REPRESENTATIVE OF DECEASED MEMBER.

If a member dies, the deceased member's personal representative or other legal representative may exercise the rights of a transferee provided in § 29- 805.02(c) and, for the purposes of settling the estate, the rights of a current member under § 29-804.10.

(July 2, 2011, D.C. Law 18-378, § 2, 58 DCR 1720.)

HISTORICAL AND STATUTORY NOTES

For history of Law 18-378, see notes under § 29-101.01.

Uniform Law

This section is based on § 504 of the Uniform Limited Company Act (2006 Act). See Vol. 6B , Uniform Laws Annotated, Master Edition or ULA Database on Westlaw.

SUBCHAPTER VI. MEMBER'S DISSOCIATION.

§ 29-806.01. MEMBER'S POWER TO DISSOCIATE; WRONGFUL DISSOCIATION.

(a) A person may dissociate as a member at any time, rightfully or wrongfully, by withdrawing as a member by express will under § 29-806.02(1).

(b) A person's dissociation from a limited liability company shall be wrongful only if the dissociation:

(1) Is in breach of an express provision of the operating agreement; or

(2) Occurs before the termination of the company and:

(A) The person withdraws as a member by express will;

(B) The person is expelled as a member by judicial order under § 29-80.602(5);

(C) The person is dissociated under § 29-806.02(7)(A) by becoming a debtor in bankruptcy; or

(D) In the case of a person that is not a trust (other than a business trust), an estate, or an individual, the person is expelled or otherwise dissociated as a member because it willfully dissolved or terminated.

(c) A person that wrongfully dissociates as a member shall be liable to the limited liability company and, subject to § 29-808.01, to the other members for damages caused by the dissociation. The liability shall be in addition to any other debt, obligation, or other liability of the member to the company or the other members.

(July 2, 2011, D.C. Law 18-378, § 2, 58 DCR 1720.)

HISTORICAL AND STATUTORY NOTES

Legislative History of Laws

For history of Law 18-378, see notes under § 29-101.01.

Uniform Law

This section is based on § 601 of the Uniform Limited Company Act (2006 Act). See Vol. 6B , Uniform Laws Annotated, Master Edition or ULA Database on Westlaw.

§ 29-806.02. EVENTS CAUSING DISSOCIATION.

A person shall be dissociated as a member from a limited liability company when:

(1) The company has notice of the person's express will to withdraw as a member, but, if the person specified a withdrawal date later than the date the company had notice, on that later date;

(2) An event stated in the operating agreement as causing the person's dissociation occurs;

(3) The person is expelled as a member pursuant to the operating agreement;

(4) The person is expelled as a member by the unanimous consent of the other members if:

(A) It is unlawful to carry on the company's activities with the person as a member;

(B) There has been a transfer of all of the person's transferable interest in the company, other than:

(i) A transfer for security purposes; or

(ii) A charging order in effect under § 29-805.03 which has not been foreclosed;

(C) The person is a corporation and, within 90 days after the company notifies the person that it will be expelled as a member because the person has filed a certificate of dissolution or the equivalent, its charter has been revoked, or its right to conduct business has been suspended by the jurisdiction of its incorporation, the certificate of dissolution has not been revoked or its charter or right to conduct business has not been reinstated; or

- (D) The person is a limited liability company or partnership that has been dissolved and whose business is being wound up;
- (5) On application by the company, the person is expelled as a member by judicial order because the person has:
 - (A) Engaged, or is engaging, in wrongful conduct that has adversely and materially affected, or will adversely and materially affect, the company's activities;
 - (B) Willfully or persistently committed, or is willfully and persistently committing, a material breach of the operating agreement or the person's duties or obligations under § 29-804.09; or
 - (C) Engaged in, or is engaging, in conduct relating to the company's activities which makes it not reasonably practicable to carry on the activities with the person as a member;
- (6) In the case of a person who is an individual:
 - (A) The person dies; or
 - (B) In a member-managed limited liability company:
 - (i) A guardian or general conservator for the person is appointed; or
 - (ii) There is a judicial order that the person has otherwise become incapable of performing the person's duties as a member under this chapter or the operating agreement;
- (7) In a member-managed limited liability company, the person:
 - (A) Becomes a debtor in bankruptcy;
 - (B) Executes an assignment for the benefit of creditors; or
 - (C) Seeks, consents to, or acquiesces in the appointment of a trustee, receiver, or liquidator of the person or of all or substantially all of the person's property;
- (8) In the case of a person that is a trust or is acting as a member by virtue of being a trustee of a trust, the trust's entire transferable interest in the company is distributed;
- (9) In the case of a person that is an estate or is acting as a member by virtue of being a personal representative of an estate, the estate's entire transferable interest in the company is distributed;
- (10) In the case of a member that is not an individual, partnership, limited liability company, corporation, trust, or estate, the termination of the member;
- (11) The company participates in a merger under subchapter IX of this chapter or transaction under Chapter 2 of this title, if:
 - (A) The company is not the surviving entity; or,
 - (B) Otherwise as a result of the merger, the person ceases to be a member;
- (12) The company participates in a domestication under subchapter IX of this chapter, if, as a result of the domestication, the person ceases to be a member; or
- (13) The company terminates.

(July 2, 2011, D.C. Law 18-378, § 2, 58 DCR 1720.)

HISTORICAL AND STATUTORY NOTES

Legislative History of Laws

For history of Law 18-378, see notes under § 29-101.01.

Uniform Law

This section is based on § 602 of the Uniform Limited Company Act (2006 Act). See Vol. 6B , Uniform Laws Annotated, Master Edition or ULA Database on Westlaw.

§ 29-806.03. EFFECT OF PERSON'S DISSOCIATION AS MEMBER.

- (a) When a person is dissociated as a member of a limited liability company:
 - (1) The person's right to participate as a member in the management and conduct of the company's activities shall terminate;
 - (2) If the company is member-managed, the person's fiduciary duties as a member shall end with regard to matters arising and events occurring after the person's dissociation; and
 - (3) Subject to § 29-805.04, subchapter IX of this chapter, and Chapter 2 of this title, any transferable interest owned by the person immediately before dissociation in the person's capacity as a member is owned by the person solely as a transferee.

(b) A person's dissociation as a member of a limited liability company shall not of itself discharge the person from any debt, obligation, or other liability to the company or the other members which the person incurred while a member.

(July 2, 2011, D.C. Law 18-378, § 2, 58 DCR 1720.)

HISTORICAL AND STATUTORY NOTES

Legislative History of Laws

For history of Law 18-378, see notes under § 29-101.01.

Uniform Law

This section is based on § 603 of the Uniform Limited Company Act (2006 Act). See Vol. 6B , Uniform Laws Annotated, Master Edition or ULA Database on Westlaw.

SUBCHAPTER VII. DISSOLUTION AND WINDING UP.

§ 29-807.01. EVENTS CAUSING DISSOLUTION.

(a) A limited liability company is dissolved, and its activities shall be wound up, upon the occurrence of any of the following:

- (1) An event or circumstance that the operating agreement states causes dissolution;
- (2) The consent of all the members;
- (3) The passage of 90 consecutive days during which the company has no members;
- (4) On application by a member, the entry by Superior Court of an order dissolving the company on the grounds that:
 - (A) The conduct of all or substantially all of the company's activities is unlawful; or
 - (B) It is not reasonably practicable to carry on the company's activities in conformity with the certificate of organization and the operating agreement; or
- (5) On application by a member, the entry by Superior Court of an order dissolving the company on the grounds that the managers or those members in control of the company:
 - (A) Have acted, are acting, or will act in a manner that is illegal or fraudulent; or
 - (B) Have acted or are acting in a manner that is oppressive and was, is, or will be directly harmful to the applicant.

(b) In a proceeding brought under subsection (a)(5) of this section, the Superior Court may order a remedy other than dissolution.

(July 2, 2011, D.C. Law 18-378, § 2, 58 DCR 1720.)

HISTORICAL AND STATUTORY NOTES

Legislative History of Laws

For history of Law 18-378, see notes under § 29-101.01.

Uniform Law

This section is based on § 701 of the Uniform Limited Company Act (2006 Act). See Vol. 6B , Uniform Laws Annotated, Master Edition or ULA Database on Westlaw.

§ 29-807.02. WINDING UP.

(a) A dissolved limited liability company shall wind up its activities, and the company shall continue after dissolution only for the purpose of winding up.

(b) In winding up its activities, a limited liability company:

- (1) Shall:
 - (A) Discharge the company's debts, obligations, or other liabilities, settle and close the company's activities, and marshal and distribute the assets of the company; and
 - (B) Deliver to the Mayor for filing a statement of dissolution stating the name of the company and that the company is dissolved; and

(2) May:

- (A) Preserve the company activities and property as a going concern for a reasonable time;
- (B) Prosecute and defend actions and proceedings, whether civil, criminal, or administrative;
- (C) Transfer the company's property;
- (D) Settle disputes by mediation or arbitration;
- (E) Deliver to the Mayor for filing a statement of termination stating the name of the company and that the company is terminated; and
- (F) Perform other acts necessary or appropriate to the winding up.

(c) If a dissolved limited liability company has no members, the legal representative of the last person to have been a member may wind up the activities of the company. If the person does so, the person shall have the powers of a sole manager under § 29-804.07(c) and shall be deemed to be a manager for the purposes of § 29-803.04(a)(2).

(d) If the legal representative under subsection (c) of this section declines or fails to wind up the company's activities, a person may be appointed to do so by the consent of transferees owning a majority of the rights to receive distributions as transferees at the time the consent is to be effective. A person appointed under this subsection:

(1) Has the powers of a sole manager under § 29-804.07(c) and shall be deemed to be a manager for the purposes of § 29-803.04(a)(2); and

(2) Shall promptly deliver to the Mayor for filing an amendment to the company's certificate of organization to:

- (A) State that the company has no members;
- (B) State that the person has been appointed pursuant to this subsection to wind up the company; and
- (C) Provide the street and mailing addresses of the person.

(e) The Superior Court may order judicial supervision of the winding up of a dissolved limited liability company, including the appointment of a person to wind up the company's activities:

(1) On application of a member, if the applicant establishes good cause;

(2) On the application of a transferee, if:

- (A) The company does not have any members;
- (B) The legal representative of the last person to have been a member declines or fails to wind up the company's activities; and
- (C) Within a reasonable time following the dissolution a person has not been appointed pursuant to subsection (d) of this section; or

(3) In connection with a proceeding under § 29-807.01(a)(4) or (5).

(July 2, 2011, D.C. Law 18-378, § 2, 58 DCR 1720.)

HISTORICAL AND STATUTORY NOTES

Legislative History of Laws

For history of Law 18-378, see notes under § 29-101.01.

Uniform Law

This section is based on § 702 of the Uniform Limited Company Act (2006 Act). See Vol. 6B , Uniform Laws Annotated, Master Edition or ULA Database on Westlaw.

§ 29-807.03. KNOWN CLAIMS AGAINST DISSOLVED LIMITED LIABILITY COMPANY.

(a) Except as otherwise provided in subsection (d) of this section, a dissolved limited liability company may give notice of a known claim under subsection (b) of this section, which shall have the effect as provided in subsection (c) of this section.

(b) A dissolved limited liability company may in a record notify its known claimants of the dissolution. The notice shall:

- (1) Specify the information required to be included in a claim;
- (2) Provide a mailing address to which the claim is to be sent;

(3) State the deadline for receipt of the claim, which shall not be less than 120 days after the date the notice is received by the claimant; and

(4) State that the claim will be barred if not received by the deadline.

(c) A claim against a dissolved limited liability company shall be barred if the requirements of subsection (b) of this section are met and:

(1) The claim is not received by the specified deadline; or

(2) If the claim is timely received but rejected by the company:

(A) The company causes the claimant to receive a notice in a record stating that the claim is rejected and will be barred unless the claimant commences an action against the company to enforce the claim within 90 days after the claimant receives the notice; and

(B) The claimant does not commence the required action within the 90 days.

(d) This section shall not apply to a claim based on an event occurring after the effective date of dissolution or a liability that on that date is contingent.

(July 2, 2011, D.C. Law 18-378, § 2, 58 DCR 1720.)

HISTORICAL AND STATUTORY NOTES

Legislative History of Laws

For history of Law 18-378, see notes under § 29-101.01.

Uniform Law

This section is based on § 703 of the Uniform Limited Company Act (2006 Act). See Vol. 6B , Uniform Laws Annotated, Master Edition or ULA Database on Westlaw.

§ 29-807.04. OTHER CLAIMS AGAINST DISSOLVED LIMITED LIABILITY COMPANY.

(a) A dissolved limited liability company may publish notice of its dissolution and request persons having claims against the company to present them in accordance with the notice.

(b) The notice authorized by subsection (a) of this section shall:

(1) Be published at least once in a newspaper of general circulation in the District;

(2) Describe the information required to be contained in a claim and provide a mailing address to which the claim is to be sent; and

(3) State that a claim against the company is barred unless an action to enforce the claim is commenced within 3 years after publication of the notice.

(c) If a dissolved limited liability company publishes a notice in accordance with subsection (b) of this section, unless the claimant commences an action to enforce the claim against the company within 3 years after the publication date of the notice, the claim of each of the following claimants shall be barred:

(1) A claimant that did not receive notice in a record under § 29-807.03;

(2) A claimant whose claim was timely sent to the company but not acted on; and

(3) A claimant whose claim is contingent at, or based on an event occurring after, the effective date of dissolution.

(d) A claim not barred under this section may be enforced:

(1) Against a dissolved limited liability company, to the extent of its undistributed assets; and

(2) If assets of the company have been distributed after dissolution, against a member or transferee to the extent of that person's proportionate share of the claim or of the assets distributed to the member or transferee after dissolution, whichever is less, but a person's total liability for all claims under this paragraph shall not exceed the total amount of assets distributed to the person after dissolution.

(July 2, 2011, D.C. Law 18-378, § 2, 58 DCR 1720.)

HISTORICAL AND STATUTORY NOTES

Legislative History of Laws

For history of Law 18-378, see notes under § 29-101.01.

Uniform Law

This section is based on § 704 of the Uniform Limited Company Act (2006 Act). See Vol. 6B , Uniform Laws Annotated, Master Edition or ULA Database on Westlaw.

§ 29-807.05. DISTRIBUTION OF ASSETS IN WINDING UP LIMITED LIABILITY COMPANY'S ACTIVITIES.

(a) In winding up its activities, a limited liability company shall apply its assets to discharge its obligations to creditors, including members that are creditors.

(b) After a limited liability company complies with subsection (a) of this section, any surplus shall be distributed in the following order, subject to any charging order in effect under § 29-805.03:

(1) To each person owning a transferable interest that reflects contributions made by a member and not previously returned, an amount equal to the value of the unreturned contributions; and

(2) In equal shares among members and dissociated members, except to the extent necessary to comply with any transfer effective under § 29-805.02.

(c) If a limited liability company does not have sufficient surplus to comply with subsection (b)(1) of this section, any surplus must be distributed among the owners of transferable interests in proportion to the value of their respective unreturned contributions.

(d) All distributions made under subsections (b) and (c) of this section must be paid in money.

(July 2, 2011, D.C. Law 18-378, § 2, 58 DCR 1720.)

HISTORICAL AND STATUTORY NOTES

Legislative History of Laws

For history of Law 18-378, see notes under § 29-101.01.

Uniform Law

This section is based on § 705 of the Uniform Limited Company Act (2006 Act). See Vol. 6B , Uniform Laws Annotated, Master Edition or ULA Database on Westlaw.

SUBCHAPTER VIII. ACTIONS BY MEMBERS.

§ 29-808.01. DIRECT ACTION BY MEMBER.

(a) Subject to subsection (b) of this section, a member may maintain a direct action in the Superior Court against another member, a manager, or the limited liability company to enforce the member's rights and otherwise protect the member's interests, including rights and interests under the operating agreement or this chapter or arising independently of the membership relationship.

(b) A member maintaining a direct action under this section shall plead and prove an actual or threatened injury that is not solely the result of an injury suffered or threatened to be suffered by the limited liability company.

(July 2, 2011, D.C. Law 18-378, § 2, 58 DCR 1720.)

HISTORICAL AND STATUTORY NOTES

Legislative History of Laws

For history of Law 18-378, see notes under § 29-101.01.

Uniform Law

This section is based on § 901 of the Uniform Limited Company Act (2006 Act). See Vol. 6B , Uniform Laws Annotated, Master Edition or ULA Database on Westlaw.

§ 29-808.02. DERIVATIVE ACTION.

A member may maintain a derivative action in the Superior Court to enforce a right of a limited liability company if:

(1) The member first makes a demand on the other members in a member-managed limited liability company, or the managers of a manager-managed limited liability company, requesting that they cause the company to bring an action to enforce the right, and the managers or other members do not bring the action within a reasonable time; or

(2) A demand under paragraph (1) of this section would be futile.

(July 2, 2011, D.C. Law 18-378, § 2, 58 DCR 1720.)

HISTORICAL AND STATUTORY NOTES

Legislative History of Laws

For history of Law 18-378, see notes under § 29-101.01.

Uniform Law

This section is based on § 902 of the Uniform Limited Company Act (2006 Act). See Vol. 6B , Uniform Laws Annotated, Master Edition or ULA Database on Westlaw.

§ 29-808.03. PROPER PLAINTIFF.

(a) Except as otherwise provided in subsection (b) of this section, a derivative action under § 29-808.02 shall be maintained only by a person that is a member at the time the action is commenced and remains a member while the action continues.

(b) If the sole plaintiff in a derivative action dies while the action is pending, the Superior Court may permit another member of the limited liability company to be substituted as plaintiff.

(July 2, 2011, D.C. Law 18-378, § 2, 58 DCR 1720.)

HISTORICAL AND STATUTORY NOTES

Legislative History of Laws

For history of Law 18-378, see notes under § 29-101.01.

Uniform Law

This section is based on § 903 of the Uniform Limited Company Act (2006 Act). See Vol. 6B , Uniform Laws Annotated, Master Edition or ULA Database on Westlaw.

§ 29-808.04. PLEADING.

In a derivative action under § 29-808.02, the complaint shall state with particularity:

(1) The date and content of plaintiff's demand and the response to the demand by the managers or other members; or

(2) If a demand has not been made, the reasons a demand under § 29-808.02(1) would be futile.

(July 2, 2011, D.C. Law 18-378, § 2, 58 DCR 1720.)

HISTORICAL AND STATUTORY NOTES

Legislative History of Laws

For history of Law 18-378, see notes under § 29-101.01.

Uniform Law

This section is based on § 904 of the Uniform Limited Company Act (2006 Act). See Vol. 6B , Uniform Laws Annotated, Master Edition or ULA Database on Westlaw.

§ 29-808.05. SPECIAL LITIGATION COMMITTEE.

(a) If a limited liability company is named as or made a party in a derivative proceeding, the company may appoint a special litigation committee to investigate the claims asserted in the proceeding and determine whether pursuing the action is in the best interests of the company. If the company appoints a special litigation committee, on motion by the committee made in the name of the company, except for good cause shown, the Superior Court shall stay discovery for the time reasonably necessary to permit the committee to make its investigation. This subsection shall not prevent the court from enforcing a person's right to information under § 29-804.10 or, for good cause shown, granting extraordinary relief in the form of a temporary restraining order or preliminary injunction.

(b) A special litigation committee may be composed of one or more disinterested and independent individuals, who may be members.

(c) A special litigation committee may be appointed:

(1) In a member-managed limited liability company:

(A) By the consent of a majority of the members not named as defendants or plaintiffs in the proceeding; and

- (B) If all members are named as defendants or plaintiffs in the proceeding, by a majority of the members named as defendants; or
- (2) In a manager-managed limited liability company:
- (A) By a majority of the managers not named as defendants or plaintiffs in the proceeding; and
- (B) If all managers are named as defendants or plaintiffs in the proceeding, by a majority of the managers named as defendants.
- (d) After appropriate investigation, a special litigation committee may determine that it is in the best interests of the limited liability company that the proceeding:
- (1) Continue under the control of the plaintiff;
- (2) Continue under the control of the committee;
- (3) Be settled on terms approved by the committee; or
- (4) Be dismissed.
- (e) After making a determination under subsection (d) of this section, a special litigation committee shall file with the Superior Court a statement of its determination and its report supporting its determination, giving notice to the plaintiff. The court shall determine whether the members of the committee were disinterested and independent and whether the committee conducted its investigation and made its recommendation in good faith, independently, and with reasonable care, with the committee having the burden of proof. If the court finds that the members of the committee were disinterested and independent and that the committee acted in good faith, independently, and with reasonable care, the court shall enforce the determination of the committee. Otherwise, the court shall dissolve the stay of discovery entered under subsection (a) of this section and allow the action to proceed under the direction of the plaintiff.

(July 2, 2011, D.C. Law 18-378, § 2, 58 DCR 1720.)

HISTORICAL AND STATUTORY NOTES

Legislative History of Laws

For history of Law 18-378, see notes under § 29-101.01.

Uniform Law

This section is based on § 905 of the Uniform Limited Company Act (2006 Act). See Vol. 6B , Uniform Laws Annotated, Master Edition or ULA Database on Westlaw.

§ 29-808.06. PROCEEDS AND EXPENSES.

- (a) Except as otherwise provided in subsection (b) of this section:
- (1) Any proceeds or other benefits of a derivative action under § 29-808.02, whether by judgment, compromise, or settlement, belong to the limited liability company and not to the plaintiff; and
- (2) If the plaintiff receives any proceeds, the plaintiff shall remit them immediately to the company.
- (b) If a derivative action under § 29-808.02 is successful in whole or in part, the Superior Court may award the plaintiff reasonable expenses, including reasonable attorney's fees and costs, from the recovery of the limited liability company.

(July 2, 2011, D.C. Law 18-378, § 2, 58 DCR 1720.)

HISTORICAL AND STATUTORY NOTES

Legislative History of Laws

For history of Law 18-378, see notes under § 29-101.01.

Uniform Law

This section is based on § 906 of the Uniform Limited Company Act (2006 Act). See Vol. 6B , Uniform Laws Annotated, Master Edition or ULA Database on Westlaw.

SUBCHAPTER IX. MERGER AND DOMESTICATION.

§ 29-809.01. DEFINITIONS.

For the purposes of this subchapter, the term:

- (1) "Constituent company" means a limited liability company that is a party to a merger.
- (2) "Domesticated company" means the company that exists after a domesticating foreign limited liability company or limited liability company effects a domestication pursuant to §§ 29-809.06 through 29-809.09.
- (3) "Domesticating company" means the company that effects a domestication pursuant to §§ 29-809.06 through 29-809.09.
- (4) "Governing statute" means the statute that governs the internal affairs of a foreign limited liability company or limited liability company.
- (5) "Personal liability" means liability for a debt, obligation, or other liability of a foreign limited liability company or limited liability company which is imposed on a person that co-owns, has an interest in, or is a member of the company by the:
- (A) Governing statute solely by reason of the person co-owning, having an interest in, or being a member of the company; or
 - (B) Company's certificate or articles of organization and operating agreement, or comparable records as provided in its governing statute, under a provision of the governing statute authorizing those documents to make one or more specified persons liable for all or specified debts, obligations, or other liabilities of the company solely by reason of the person or persons co-owning, having an interest in, or being a member of the company.
- (6) "Surviving company" means a foreign limited liability company or limited liability company into which one or more other foreign limited liability companies or limited liability companies are merged whether the company preexisted the merger or was created by the merger.

(July 2, 2011, D.C. Law 18-378, § 2, 58 DCR 1720.)

HISTORICAL AND STATUTORY NOTES

Legislative History of Laws

For history of Law 18-378, see notes under § 29-101.01.

Uniform Law

This section is based on § 1001 of the Uniform Limited Company Act (2006 Act). See Vol. 6B , Uniform Laws Annotated, Master Edition or ULA Database on Westlaw.

§ 29-809.02. MERGER.

(a) A limited liability company may merge with one or more other constituent companies pursuant to this section, §§ 29-809.03 through 29-809.05, and a plan of merger, if:

- (1) The governing statute of each of the other companies authorizes the merger;
- (2) The merger is not prohibited by the law of a jurisdiction that enacted any of the governing statutes; and
- (3) Each of the other companies complies with its governing statute in effecting the merger.

(b) A plan of merger shall be in a record and shall include:

- (1) The name and form of each constituent company;
- (2) The name and form of the surviving company and, if the surviving company is to be created by the merger, a statement to that effect;
- (3) The terms and conditions of the merger, including the manner and basis for converting the interests in each constituent company into any combination of money, interests in the surviving company, and other consideration;
- (4) If the surviving company is to be created by the merger, the surviving company's organizational documents that are proposed to be in a record; and
- (5) If the surviving company is not to be created by the merger, any amendments to be made by the merger to the surviving company's certificate of organization and any amendments to its operating agreement that are, or are proposed to be, in a record.

(c) A merger in which a limited liability company and another form of entity are parties shall be governed by Chapter 2 of this title.

(July 2, 2011, D.C. Law 18-378, § 2, 58 DCR 1720.)

HISTORICAL AND STATUTORY NOTES

Legislative History of Laws

For history of Law 18-378, see notes under § 29-101.01.

Uniform Law

This section is based on § 1002 of the Uniform Limited Company Act (2006 Act). See Vol. 6B , Uniform Laws Annotated, Master Edition or ULA Database on Westlaw.

§ 29-809.03. ACTION ON PLAN OF MERGER BY CONSTITUENT COMPANY.

- (a) A plan of merger shall be consented to by all the members of a constituent company.
- (b) Subject to any contractual rights, after a merger is approved, and at any time before articles of merger are delivered to the Mayor for filing under § 29-809.04, a constituent company may amend the plan or abandon the merger:
 - (1) As provided in the plan; or
 - (2) Except as otherwise prohibited in the plan, with the same consent as was required to approve the plan.

(July 2, 2011, D.C. Law 18-378, § 2, 58 DCR 1720.)

HISTORICAL AND STATUTORY NOTES

Legislative History of Laws

For history of Law 18-378, see notes under § 29-101.01.

Uniform Law

This section is based on § 1003 of the Uniform Limited Company Act (2006 Act). See Vol. 6B , Uniform Laws Annotated, Master Edition or ULA Database on Westlaw.

§ 29-809.04. FILINGS REQUIRED FOR MERGER; EFFECTIVE DATE.

- (a) After each constituent company has approved a merger, articles of merger shall be signed on behalf of each constituent company, as provided in § 29- 802.03(a).
- (b) Articles of merger under this section shall include:
 - (1) The name of each constituent company and the jurisdiction of its governing statute;
 - (2) The name of the surviving company, the jurisdiction of its governing statute, and, if the surviving company is created by the merger, a statement to that effect;
 - (3) The date the merger is effective under the governing statute of the surviving company;
 - (4) If the surviving company is to be created by the merger, the company's certificate of organization;
 - (5) If the surviving company preexists the merger, any amendments provided for in the plan of merger for its certificate of organization;
 - (6) A statement as to each constituent company that the merger was approved as required by the company's governing statute;
 - (7) If the surviving company is a foreign limited liability company not authorized to do business in the District, the street and mailing addresses of an office that the Mayor may use for the purposes of § 29-809.05(b); and
 - (8) Any additional information required by the governing statute of any constituent company.
- (c) Each constituent company shall deliver the articles of merger for filing with the Mayor.
- (d) A merger shall be effective under this chapter upon the later of:
 - (1) Compliance with subsection (c) of this section; or
 - (2) Subject to § 29-802.05(c) and subchapter II of Chapter 2 of this title, as specified in the articles of merger.

(July 2, 2011, D.C. Law 18-378, § 2, 58 DCR 1720.)

HISTORICAL AND STATUTORY NOTES

Legislative History of Laws

For history of Law 18-378, see notes under § 29-101.01.

Uniform Law

§ 29-809.05. EFFECT OF MERGER.

(a) When a merger becomes effective:

- (1) The surviving company shall continue or come into existence;
- (2) Each constituent company that merges into the surviving company shall cease to exist as a separate entity;
- (3) All property owned by each constituent company that ceases to exist shall vest in the surviving company;
- (4) All debts, obligations, or other liabilities of each constituent company that ceases to exist shall continue as debts, obligations, or other liabilities of the surviving company;
- (5) An action or proceeding pending by or against any constituent company that ceases to exist may be continued as if the merger had not occurred;
- (6) Except as prohibited by other law, all of the rights, privileges, immunities, powers, and purposes of each constituent company that ceases to exist shall vest in the surviving company;
- (7) Except as otherwise provided in the plan of merger, the terms and conditions of the plan of merger take effect; and
- (8) Except as otherwise agreed, if a constituent company ceases to exist, the merger shall not dissolve the limited liability company for the purposes of subchapter VII of this chapter;
- (9) If the surviving company is created by the merger, the certificate of organization shall become effective; and
- (10) If the surviving company preexisted the merger, any amendments provided for in the articles of merger for its certificate or organization shall become effective.

(b) A surviving company that is a foreign limited liability company consents to the jurisdiction of the Superior Court to enforce any debt, obligation, or other liability owed by a constituent company, if before the merger the constituent company was subject to suit in the District on the debt, obligation, or other liability. A surviving company that is a foreign limited liability company and not authorized to do business in the District may be served with process for the purposes of enforcing a debt, obligation, or other liability under this subsection in the same manner and with the same consequences as in § 29-104.12.

(July 2, 2011, D.C. Law 18-378, § 2, 58 DCR 1720.)

HISTORICAL AND STATUTORY NOTES

Legislative History of Laws

For history of Law 18-378, see notes under § 29-101.01.

Uniform Law

This section is based on § 1005 of the Uniform Limited Company Act (2006 Act). See Vol. 6B , Uniform Laws Annotated, Master Edition or ULA Database on Westlaw.

§ 29-809.06. DOMESTICATION.

(a) A foreign limited liability company may become a limited liability company pursuant to this section, §§ 29-809.07 through 29-809.09, and a plan of domestication, if:

- (1) The foreign limited liability company's governing statute authorizes the domestication;
- (2) The domestication is not prohibited by the law of the jurisdiction that enacted the governing statute; and
- (3) The foreign limited liability company complies with its governing statute in effecting the domestication.

(b) A limited liability company may become a foreign limited liability company pursuant to this section, §§ 29-809.07 through 29-809.09, and a plan of domestication, if:

- (1) The foreign limited liability company's governing statute authorizes the domestication;
- (2) The domestication is not prohibited by the law of the jurisdiction that enacted the governing statute; and
- (3) The foreign limited liability company complies with its governing statute in effecting the

domestication.

(c) A plan of domestication shall be in a record and shall include:

- (1) The name of the domesticating company before domestication and the jurisdiction of its governing statute;
- (2) The name of the domesticated company after domestication and the jurisdiction of its governing statute;
- (3) The terms and conditions of the domestication, including the manner and basis for converting interests in the domesticating company into any combination of money, interests in the domesticated company, and other consideration; and
- (4) The organizational documents of the domesticated company that are, or are proposed to be, in a record.

(July 2, 2011, D.C. Law 18-378, § 2, 58 DCR 1720.)

HISTORICAL AND STATUTORY NOTES

Legislative History of Laws

For history of Law 18-378, see notes under § 29-101.01.

Uniform Law

This section is based on § 1010 of the Uniform Limited Company Act (2006 Act). See Vol. 6B , Uniform Laws Annotated, Master Edition or ULA Database on Westlaw.

§ 29-809.07. ACTION ON PLAN OF DOMESTICATION BY DOMESTICATING LIMITED LIABILITY COMPANY.

(a) A plan of domestication shall be consented to:

- (1) By all the members if the domesticating company is a limited liability company; and
- (2) As provided in the domesticating company's governing statute, if the company is a foreign limited liability company.

(b) Subject to any contractual rights, after a domestication is approved, and at any time before articles of domestication are delivered to the Mayor for filing under § 29-809.08, a domesticating limited liability company may amend the plan or abandon the domestication:

- (1) As provided in the plan; or
- (2) Except as otherwise prohibited in the plan, by the same consent as was required to approve the plan.

(July 2, 2011, D.C. Law 18-378, § 2, 58 DCR 1720.)

HISTORICAL AND STATUTORY NOTES

Legislative History of Laws

For history of Law 18-378, see notes under § 29-101.01.

Uniform Law

This section is based on § 1011 of the Uniform Limited Company Act (2006 Act). See Vol. 6B , Uniform Laws Annotated, Master Edition or ULA Database on Westlaw.

§ 29-809.08. FILINGS REQUIRED FOR DOMESTICATION; EFFECTIVE DATE.

(a) After a plan of domestication is approved, a domesticating company shall deliver to the Mayor for filing articles of domestication, which shall include:

- (1) A statement, as the case may be, that the company has been domesticated from or into another jurisdiction;
- (2) The name of the domesticating company and the jurisdiction of its governing statute;
- (3) The name of the domesticated company and the jurisdiction of its governing statute;
- (4) The date the domestication is effective under the governing statute of the domesticated company;
- (5) If the domesticating company was a limited liability company, a statement that the domestication was approved as required by this chapter;

(6) If the domesticating company was a foreign limited liability company, a statement that the domestication was approved as required by the governing statute of the other jurisdiction; and

(7) If the domesticated company was a foreign limited liability company not authorized to do business in the District, the street and mailing addresses of an office that the Mayor may use for the purposes of § 29-809.09(b).

(b) A domestication shall be effective:

(1) When the certificate of organization takes effect, if the domesticated company is a limited liability company; and

(2) According to the governing statute of the domesticated company, if the domesticated organization is a foreign limited liability company.

(July 2, 2011, D.C. Law 18-378, § 2, 58 DCR 1720.)

HISTORICAL AND STATUTORY NOTES

Legislative History of Laws

For history of Law 18-378, see notes under § 29-101.01.

Uniform Law

This section is based on § 1012 of the Uniform Limited Company Act (2006 Act). See Vol. 6B , Uniform Laws Annotated, Master Edition or ULA Database on Westlaw.

§ 29-809.09. EFFECT OF DOMESTICATION.

(a) When a domestication takes effect:

(1) The domesticated company shall be for all purposes the company that existed before the domestication;

(2) All property owned by the domesticating company shall remain vested in the domesticated company;

(3) All debts, obligations, or other liabilities of the domesticating company shall continue as debts, obligations, or other liabilities of the domesticated company;

(4) An action or proceeding pending by or against a domesticating company may be continued as if the domestication had not occurred;

(5) Except as prohibited by other law, all of the rights, privileges, immunities, powers, and purposes of the domesticating company shall remain vested in the domesticated company;

(6) Except as otherwise provided in the plan of domestication, the terms and conditions of the plan of domestication shall take effect; and

(7) Except as otherwise agreed, the domestication shall not dissolve a domesticating limited liability company for the purposes of subchapter VII of this chapter.

(b) A domesticated company that is a foreign limited liability company consents to the jurisdiction of the Superior Court to enforce any debt, obligation, or other liability owed by the domesticating company, if, before the domestication, the domesticating company was subject to suit in the District on the debt, obligation, or other liability. A domesticated company that is a foreign limited liability company and not authorized to do business in the District may be served with process as provided in § 29-404.12 for purposes of enforcing a debt, obligation, or other liability under this subsection. Service on the Mayor under this subsection shall be made in the same manner and has the same consequences as in § 29-104.12.

(c) If a limited liability company has adopted and approved a plan of domestication under § 29-809.06 providing for the company to be domesticated in a foreign jurisdiction, a statement surrendering the company's certificate of organization shall be delivered to the Mayor for filing setting forth:

(1) The name of the company;

(2) A statement that the certificate of organization is being surrendered in connection with the domestication of the company in a foreign jurisdiction;

(3) A statement the domestication was approved as required by this chapter; and

(4) The jurisdiction of formation of the domesticated foreign limited liability company.

(July 2, 2011, D.C. Law 18-378, § 2, 58 DCR 1720.)

HISTORICAL AND STATUTORY NOTES

Legislative History of Laws

For history of Law 18-378, see notes under § 29-101.01.

Uniform Law

This section is based on § 1013 of the Uniform Limited Company Act (2006 Act). See Vol. 6B , Uniform Laws Annotated, Master Edition or ULA Database on Westlaw.

§ 29-809.10. RESTRICTIONS ON APPROVAL OF MERGERS AND DOMESTICATIONS.

(a) If a member of a constituent or domesticating limited liability company will have personal liability with respect to a surviving or domesticated organization, approval or amendment of a plan of merger or domestication shall be ineffective without the consent of the member, unless the:

- (1) Company's operating agreement provides for approval of a merger or domestication with the consent of fewer than all the members; and
- (2) Member has consented to the provision of the operating agreement.

(b) A member does not give the consent required by subsection (a) of this section merely by consenting to a provision of the operating agreement that permits the operating agreement to be amended with the consent of fewer than all the members.

(July 2, 2011, D.C. Law 18-378, § 2, 58 DCR 1720.)

HISTORICAL AND STATUTORY NOTES

Legislative History of Laws

For history of Law 18-378, see notes under § 29-101.01.

Uniform Law

This section is based on § 1014 of the Uniform Limited Company Act (2006 Act). See Vol. 6B , Uniform Laws Annotated, Master Edition or ULA Database on Westlaw.

§ 29-809.11. SUBCHAPTER NOT EXCLUSIVE.

This subchapter shall not preclude a limited liability company from being merged under law other than this chapter.

(July 2, 2011, D.C. Law 18-378, § 2, 58 DCR 1720.)

HISTORICAL AND STATUTORY NOTES

Legislative History of Laws

For history of Law 18-378, see notes under § 29-101.01.

Uniform Law

This section is based on § 1015 of the Uniform Limited Company Act (2006 Act). See Vol. 6B , Uniform Laws Annotated, Master Edition or ULA Database on Westlaw.

SUBCHAPTER X. TRANSITION PROVISIONS.

§ 29-810.01. APPLICATION TO EXISTING RELATIONSHIPS.

(a) This chapter shall apply to a limited liability company formed after the applicability date of this chapter and to a limited liability company that elects, as provided by subsection (c) of this section, to be governed by this chapter.

(b) Subject to subsection (d) of this section, on and after one year after the applicability date of this chapter, this chapter shall govern all limited liability companies, whenever formed.

(c) Subject to subsection (d) of this section, after the applicability date of this chapter, a limited liability company voluntarily may elect, in the manner provided in its operating agreement or by law for amending the operating agreement, to be subject to this chapter.

(d) For the purposes applying this chapter to a limited liability company formed before the applicability date of this chapter:

- (1) The company's articles of organization shall be deemed to be the company's certificate of

organization; and

(2) For the purposes of applying § 29-801.02(10) and subject to § 29-801.09(d), language in the company's articles of organization designating the company's management structure operates as if that language were in the operating agreement.

(July 2, 2011, D.C. Law 18-378, § 2, 58 DCR 1720.)

HISTORICAL AND STATUTORY NOTES

Legislative History of Laws

For history of Law 18-378, see notes under § 29-101.01.

Uniform Law

This section is based on § 1104 of the Uniform Limited Company Act (2006 Act). See Vol. 6B , Uniform Laws Annotated, Master Edition or ULA Database on Westlaw.