

SENATE BILL 855

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By: **Senator Raskin**

Introduced and read first time: February 3, 2012

Assigned to: Judicial Proceedings

A BILL ENTITLED

1 AN ACT concerning

2 **Corporations and Associations – Limited Liability Act – Revisions**

3 FOR the purpose of establishing that certain statutory provisions relating to limited
4 liability companies apply unless otherwise agreed on in the limited liability
5 company's articles of organization, in the operating agreement, or by unanimous
6 consent; repealing the requirement that the purposes for which a limited
7 liability company is formed be set forth in the articles of organization; altering
8 the requirements for a certain resident agent; authorizing the conversion of a
9 partnership to a limited liability company to be abandoned by a certain vote or
10 agreement; repealing provisions relating to a member's authority regarding
11 abandoning the business; authorizing an operating agreement to contain
12 procedures related to meetings and voting; prohibiting a member from taking
13 certain actions without the consent of certain members holding at least a
14 certain amount of the interest in profits of a limited liability company;
15 prohibiting a member from taking certain actions without the unanimous
16 consent of the members; authorizing a meeting of the members to be called by
17 written request of certain members holding a certain amount of the interests in
18 the profits of a limited liability company; authorizing members of a limited
19 liability company to participate in a meeting by certain means of
20 communication if certain requirements are met; authorizing electronic
21 transmission of certain required notices, consents, or communications;
22 authorizing a member to use certain means to authorize a certain person to act
23 as a proxy; providing that a certain proxy is revocable under certain
24 circumstances; clarifying certain standards governing the right to inspect and
25 copy certain records; authorizing a limited liability company to keep certain
26 information confidential for a certain time period, unless a certain agreement is
27 executed; requiring a demand for certain protected information to be in writing
28 and state the purpose of the demand; clarifying that only a certain economic
29 interest may be assigned; clarifying that a certain assignment of an economic
30 interest does not include the exercise of certain noneconomic interests;
31 providing that assignment of all of a certain economic interest in a limited

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



liability company forfeits certain noneconomic interests; providing that the pledge or grant of a security interest, lien, or encumbrance in or against a member's economic interest does not affect a member's noneconomic interest; authorizing a member to withdraw from a limited liability company prior to the dissolution and winding up of the limited liability company by giving a certain notice; authorizing the operating agreement to provide that a member may not withdraw or place certain limits on the ability of a member to withdraw; providing that assignment of all of a certain economic interest in a limited liability company causes a person to no longer be a member of the limited liability company; providing that a charging order applies to a certain economic interest of a certain debtor and only requires the limited liability company to pay to a certain creditor certain distributions; providing that a certain noneconomic interest of a certain debtor is not subject to a charging order; altering the circumstances under which a foreclosure of certain economic interests may be ordered; authorizing certain members to consent to the redemption of an economic interest with certain property before a foreclosure; repealing the requirement of unanimous consent for abandoning a certain proposed merger; providing that abandonment of a proposed merger requires the consent of certain members; making certain technical, stylistic, clarifying, and conforming changes; defining certain terms; and generally relating to limited liability companies.

BY repealing and reenacting, with amendments,

Article – Corporations and Associations

Section 1–101(t), 4A–101, 4A–102, 4A–203, 4A–204, 4A–209, 4A–210(a) and (c), 4A–211, 4A–401 through 4A–403, 4A–405, 4A–406, 4A–502 through 4A–505, 4A–601 through 4A–601.1, 4A–607, 4A–701, 4A–702, 4A–704 through 4A–706, 4A–709(c), 4A–801, 4A–902, 4A–904, 4A–906, 4A–918, 4A–1103, and 4A–1104

Annotated Code of Maryland

(2007 Replacement Volume and 2011 Supplement)

BY repealing and reenacting, without amendments,

Article – Corporations and Associations

Section 4A–802

Annotated Code of Maryland

(2007 Replacement Volume and 2011 Supplement)

BY adding to

Article – Corporations and Associations

Section 4A–403.1 and 4A–403.2

Annotated Code of Maryland

(2007 Replacement Volume and 2011 Supplement)

SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF MARYLAND, That the Laws of Maryland read as follows:

1 **Article – Corporations and Associations**

2 1–101.

3 (t) “Resident agent” means an individual residing in this State or a
4 Maryland corporation **OR LIMITED LIABILITY COMPANY** whose name, address, and
5 designation as a resident agent are filed or recorded with the Department in
6 accordance with the provisions of this article.

7 4A–101.

8 (a) In this title the following terms have the meanings indicated.

9 (b) “Articles of organization” means the articles of organization filed with the
10 Department [for the purpose of forming a limited liability company] as specified in §
11 4A–204 of this title and includes all amendments and restatements of them.

12 (c) “Authorized person” means any person, whether or not a member, who is
13 authorized by the articles of organization, by an operating agreement, or [otherwise,]
14 **BY UNANIMOUS CONSENT OF THE MEMBERS AND ANY OTHER PERSON WHOSE**
15 **CONSENT IS REQUIRED BY THE OPERATING AGREEMENT**, to execute or file a
16 document required or permitted to be executed or filed on behalf of a limited liability
17 company or foreign limited liability company under this title, or to otherwise act as an
18 agent of the limited liability company.

19 (d) “Bankrupt” means [bankrupt] **A DEBTOR** under the federal Bankruptcy
20 Code as amended or [insolvent] **A DEBTOR** under any state insolvency act.

21 (e) “Capital contribution” means anything of value that a person contributes
22 as capital to the limited liability company in that person’s capacity as a member,
23 including cash, property, services rendered or a promissory note or other binding
24 obligation to contribute cash or property or to perform services.

25 (f) “Capital [interest] **CONTRIBUTION VALUE**” means the fair market
26 value, as of the date contributed, of a member’s capital contribution, whether or not
27 returned to the member.

28 (g) “Corporation” means a Maryland corporation or a foreign corporation.

29 (h) “Court” includes every court having jurisdiction in the case.

30 (i) “**ECONOMIC INTEREST**” **MEANS A MEMBER’S SHARE OF THE**
31 **PROFITS AND LOSSES OF A LIMITED LIABILITY COMPANY AND THE RIGHT TO**
32 **RECEIVE DISTRIBUTIONS FROM A LIMITED LIABILITY COMPANY.**

1 [(i)] **(J)** “Foreign limited liability company” means a limited liability
2 company formed under the laws of a state other than [the] **THIS** State [of Maryland].

3 [(j)] “Interest” means a member’s share of the profits and losses of the limited
4 liability company and the right to receive distributions from the limited liability
5 company.]

6 (k) “Limited liability company” or “domestic limited liability company”
7 means a permitted form of unincorporated business organization which is organized
8 and existing under this title.

9 (l) “Limited partnership” means a Maryland limited partnership or foreign
10 limited partnership as defined in § 10–101 of this article.

11 (m) [(1)] “Member” means a person [with an interest in] **WHO HAS BEEN**
12 **ADMITTED AS A MEMBER OF** a limited liability company [with the rights and
13 obligations specified] under **§ 4A–601 OF** this title[.

14 (2) “Member” includes a person who has been admitted] **OR** as a
15 member of a [limited liability company organized in the State or a] foreign limited
16 liability company, **AND WHO HAS NOT CEASED TO BE A MEMBER.**

17 **(N) “MEMBERSHIP INTEREST” MEANS A MEMBER’S ECONOMIC**
18 **INTEREST AND NONECONOMIC INTEREST IN A LIMITED LIABILITY COMPANY.**

19 **(O) “NONECONOMIC INTEREST” MEANS ALL OF THE RIGHTS OF A**
20 **MEMBER IN A LIMITED LIABILITY COMPANY OTHER THAN THE MEMBER’S**
21 **ECONOMIC INTEREST, INCLUDING, UNLESS OTHERWISE AGREED, THE**
22 **MEMBER’S RIGHT TO:**

23 **(1) INSPECT THE BOOKS AND RECORDS OF THE LIMITED**
24 **LIABILITY COMPANY;**

25 **(2) PARTICIPATE IN THE MANAGEMENT OF AND VOTE ON**
26 **MATTERS COMING BEFORE THE LIMITED LIABILITY COMPANY; AND**

27 **(3) ACT AS AN AGENT OF THE LIMITED LIABILITY COMPANY.**

28 [(n)] **(P)** “Operating agreement” means the agreement **OF THE MEMBERS**
29 and any amendments thereto, [of the members] as to the affairs of a limited liability
30 company and the conduct of its business.

31 [(o)] **(Q)** “Partnership” means a partnership formed under the laws of this
32 State, any other state, or under the laws of a foreign country.

1 **[(p)] (R)** (1) “Professional service” has the meaning stated in § 5–101 of
2 this article.

3 (2) “Professional service” includes a service provided by:

4 (i) An architect;

5 (ii) An attorney;

6 (iii) A certified public accountant;

7 (iv) A chiropractor;

8 (v) A dentist;

9 (vi) An osteopath;

10 (vii) A physician;

11 (viii) A podiatrist;

12 (ix) A professional engineer;

13 (x) A psychologist;

14 (xi) A licensed real estate broker, licensed associate real estate
15 broker, or licensed real estate salesperson; or

16 (xii) A veterinarian.

17 **[(q)] (S)** “State” means a state, territory, or possession of the United States, the
18 District of Columbia, or the Commonwealth of Puerto Rico.

19 **(T) “UNLESS OTHERWISE AGREED” MEANS UNLESS OTHERWISE**
20 **STATED:**

21 **(1) IN THE ARTICLES OF ORGANIZATION;**

22 **(2) IN THE OPERATING AGREEMENT; OR**

23 **(3) BY UNANIMOUS CONSENT OF THE MEMBERS AND ANY OTHER**
24 **PERSON WHOSE CONSENT IS REQUIRED BY THE OPERATING AGREEMENT.**

25 4A–102.

1 (a) Unless otherwise provided **IN THIS TITLE**, the policy of this title is to
2 give the maximum effect to the principles of freedom of contract and to the
3 enforceability of operating agreements.

4 (b) A provision of this title that may be changed by the terms of an operating
5 agreement also may be changed by the terms of the articles of organization.

6 4A-203.

7 Unless otherwise provided by law or [its articles of organization] **UNLESS**
8 **OTHERWISE AGREED**, a limited liability company has the general powers, whether or
9 not set forth in its articles of organization **OR OPERATING AGREEMENT**, to:

10 (1) Have perpetual existence, although existence may be limited to a
11 specified period of time if the limitation is set forth in its articles of organization;

12 (2) Sue, be sued, complain, and defend in all courts;

13 (3) Transact its business, carry on its operations, and have and
14 exercise the powers granted by this article in any state and in any foreign country;

15 (4) Make contracts and guarantees, incur liabilities, and borrow
16 money;

17 (5) Sell, lease, exchange, transfer, convey, mortgage, pledge, and
18 otherwise dispose of any of its assets;

19 (6) Acquire by purchase or in any other manner, take, receive, own,
20 hold, improve, and otherwise deal with any interest in real or personal property,
21 wherever located;

22 (7) Issue notes, bonds, and other obligations and secure any of them by
23 mortgage or deed of trust or security interest of any or all of its assets;

24 (8) Purchase, take, receive, subscribe for or otherwise acquire, own,
25 hold, vote, use, employ, sell, mortgage, loan, pledge, or otherwise dispose of and
26 otherwise use and deal in and with stock or other interests in and obligations of other
27 corporations, associations, general or limited partnerships, limited liability companies,
28 foreign limited liability companies, business trusts, and individuals;

29 (9) Invest its surplus funds, lend money in any manner which may be
30 appropriate to enable it to carry on the operations or fulfill the purposes [set forth in
31 its articles of organization] **OF THE LIMITED LIABILITY COMPANY**, and take and
32 hold real property and personal property as security for the payment of funds so
33 loaned or invested;

(10) Render professional services within or without this State;

(11) Elect or appoint agents and define their duties and fix their compensation;

(12) Sell, convey, mortgage, pledge, lease, exchange, transfer, and otherwise dispose of all or any part of its property and assets;

(13) Be a promoter, stockholder, partner, member, associate, or agent of any corporation, partnership, limited liability company, foreign limited liability company, joint venture, trust, or other enterprise;

(14) Indemnify and hold harmless any member, agent, or employee from and against any and all claims and demands, except in the case of action or failure to act by the member, agent, or employee which constitutes willful misconduct or recklessness, and subject to the standards and restrictions, if any, set forth in the articles of organization or operating agreement;

(15) Make and alter operating agreements, not inconsistent with its articles of organization or with the laws of [the] **THIS** State, for the administration and regulation of the affairs of the limited liability company;

(16) Cease its activities and dissolve; and

(17) Do every other act not inconsistent with law which is appropriate to promote and attain the purposes [set forth in its articles of organization] **OF THE LIMITED LIABILITY COMPANY.**

4A-204.

(a) The articles of organization shall set forth:

(1) The name of the limited liability company;

(2) [The purpose for which the limited liability company is formed;

(3)] The address of its principal office in this State and the name and address of its resident agent; and

[(4)] (3) Any other provision, not inconsistent with law, which the members elect to set out in the articles, including, but not limited to, a statement that the authority of members to act for the limited liability company solely by virtue of their being members is limited.

(b) It is not necessary to set out in the articles of organization any of the powers enumerated in this title.

(c) An amendment to the articles of organization shall be:

(1) In writing;

(2) **[Approved] UNLESS OTHERWISE AGREED, APPROVED** by unanimous consent of the members;

(3) Executed under the provisions of § 4A–206 of this subtitle; and

(4) Filed for record with the Department.

4A–209.

(a) The exclusive right to use a specified name for a domestic or foreign limited liability company may be reserved by:

(1) A person who intends to organize a domestic limited liability company;

(2) A domestic limited liability company that proposes to change its name;

(3) A foreign limited liability company that intends to register to do business in **[the] THIS State [of Maryland]**; or

(4) A foreign limited liability company registered to do business in **[the] THIS State [of Maryland]** that proposes to change its name.

(b) (1) A person may reserve a specified name by filing a signed application with the Department.

(2) If the Department finds that the name is available for use by a limited liability company, the Department shall reserve the name for 30 days for the exclusive use of the applicant.

(c) The exclusive right to use a reserved name may be transferred to another person by filing with the Department a notice of the transfer which specifies the name and address of the transferee and is signed by the applicant for whom the name was reserved.

4A–210.

(a) Each limited liability company shall have:

(1) A principal office in **[the] THIS State**; and

(2) [At least 1] A resident agent [who shall be:

(i) A citizen of the State who resides in the State;

(ii) A Maryland corporation; or

(iii) A Maryland limited liability company].

(c) (1) A resident agent who changes addresses in [the] **THIS** State may notify the Department of the change by filing for record with the Department a statement of the change signed by or on behalf of the resident agent.

(2) The statement shall include:

(i) The name of the limited liability company for which the change is effective;

(ii) The old and new addresses of the resident agent; and

(iii) The date on which the change is effective.

(3) If the old and new addresses of the resident agent are the same as the old and new addresses of the principal office of the limited liability company, the statement may include a change of address of the principal office if:

(i) The resident agent notifies the limited liability company in writing; and

(ii) The statement recites that notice has been sent.

(4) The change of address of the resident agent or principal office is effective when the Department accepts the statement for record.

4A-211.

(a) A partnership may convert to a limited liability company by filing articles of organization that meet the requirements of § 4A-204 of this subtitle and include the following:

(1) The name of the former general partnership or limited partnership; and

(2) The date of formation of the partnership and place of filing of the initial statement of partnership, if any, or certificate of limited partnership of the former general partnership or limited partnership.

1 (b) **(1)** The terms and conditions of a conversion of a general or limited
2 partnership to a limited liability company shall be approved by the partners in the
3 manner provided in the partnership's partnership agreement for amendments to the
4 partnership agreement or, if no such provision is made in a partnership agreement, by
5 unanimous agreement of the partners.

6 **(2) A CONVERSION MAY BE ABANDONED BY:**

7 **(i) A VOTE OF THE PARTNERS IN THE MANNER PROVIDED**
8 **IN THE PARTNERSHIP'S PARTNERSHIP AGREEMENT FOR AMENDMENTS TO THE**
9 **PARTNERSHIP AGREEMENT; OR**

10 **(ii) UNANIMOUS AGREEMENT OF THE PARTNERS, IF NO**
11 **SUCH PROVISION IS MADE IN THE PARTNERSHIP AGREEMENT.**

12 (c) **(1)** A general partner of a limited partnership or a partner of a general
13 partnership who becomes a member of a limited liability company as a result of the
14 conversion remains liable as a general partner of a limited partnership or a partner of
15 a general partnership for any obligation or liability of the partnership incurred or
16 arising before the conversion takes effect, to the extent that the partner or general
17 partner would have been obligated or liable if the conversion had not occurred.

18 **(2)** The partner's or general partner's liability for all obligations or
19 liabilities of the limited liability company incurred or arising after the conversion
20 takes effect is that of a member of a limited liability company, as provided in this title.

21 4A-401.

22 (a) **(1)** Except as provided in paragraph (3) of this subsection or in the
23 operating agreement, each member is an agent of the limited liability company for the
24 purpose of its business.

25 **(2)** Except as provided in paragraph (3) of this subsection, the act of
26 each member, including the execution in the name of the limited liability company of
27 any instrument, for apparently carrying on in the usual way the business of the
28 limited liability company of which the person is a member, binds the limited liability
29 company, unless:

30 **(i)** The member so acting has in fact no authority to act for the
31 limited liability company in the particular matter; and

32 **(ii)** The person with whom the member is dealing has actual
33 knowledge of the fact that the member has no such authority.

(3) If the articles of organization contain a statement that the authority of members to act for the limited liability company solely by virtue of their being members is limited:

(i) No member of the limited liability company is an agent of the limited liability company solely by virtue of being a member, and no member has authority to act for the limited liability company solely by virtue of being a member; and

(ii) Each person dealing with a member is presumed to have knowledge that the member has no authority to act for the limited liability company solely by virtue of being a member.

(b) Notwithstanding a [provision] **STATEMENT** in the articles of organization or **THE** operating agreement that the authority of a member to act for the limited liability company solely by virtue of being a member is limited, a person dealing with a member may establish:

(1) That the member is an agent of the limited liability company; or

(2) That the limited liability company should be estopped from denying that the member was its agent.

(c) Unless the act of a member is authorized by the limited liability company, the act of a member that is not apparently for the carrying on of the business of the limited liability company in the usual way does not bind the limited liability company.

[(d) Unless the members unanimously consent or unless all other members have abandoned the business, no member has authority to:

(1) Assign the property of the limited liability company in trust for creditors or on the assignee's promise to pay the debts of the limited liability company;

(2) Dispose of the goodwill of the business; or

(3) Do any other act which would make it impossible to carry on the ordinary business of the limited liability company.]

4A-402.

(a) Except for the requirement set forth in § 4A-404 of this subtitle that certain consents be in writing, members may enter into an operating agreement to regulate or establish any aspect of the affairs of the limited liability company or the relations of its members, including provisions establishing:

1 (1) The manner in which the business and affairs of the limited
2 liability company shall be managed, controlled, and operated, which may include the
3 granting of exclusive authority to manage, control, and operate the limited liability
4 company to persons who are not members;

5 (2) The manner in which the members will share the assets and
6 earnings of the limited liability company;

7 (3) The rights of the members to assign all or a portion of their
8 [interests in the limited liability company] **MEMBERSHIP INTEREST**;

9 (4) The circumstances in which [any assignee of a member's interest]
10 **A PERSON** may be admitted as a member of the limited liability company;

11 (5) (i) The right to have and a procedure for having a member's
12 **MEMBERSHIP** interest [in the limited liability company] evidenced by a certificate
13 issued by the limited liability company, which may be issued in bearer form only if
14 specifically allowed by the operating agreement;

15 (ii) The procedure for assignment, pledge, or transfer of any
16 **MEMBERSHIP** interest represented by the certificate; and

17 (iii) Any other provisions dealing with the certificate;

18 (6) The method by which the operating agreement may from time to
19 time be amended, which may include a requirement that an amendment be approved:

20 (i) By a person who is not a party to the operating agreement or
21 who is not a member of the limited liability company; or

22 (ii) On the satisfaction of other conditions specified in the
23 operating agreement; [and]

24 (7) The rights of any person, including a person who is not a party to
25 the operating agreement or who is not a member of the limited liability company, to
26 the extent set forth in the operating agreement; **OR**

27 **(8) PROCEDURES RELATING TO:**

28 **(I) NOTICE OF THE TIME, PLACE, OR PURPOSE OF ANY**
29 **MEETING AT WHICH ANY MATTER IS TO BE VOTED ON BY MEMBERS;**

30 **(II) WAIVER OF NOTICE OF MEETINGS;**

31 **(III) ACTION BY CONSENT WITHOUT A MEETING;**

1 (IV) THE ESTABLISHMENT OF A RECORD DATE;

2 (V) QUORUM REQUIREMENTS;

3 (VI) VOTING IN PERSON OR BY PROXY;

4 (VII) VOTING RIGHTS OF VARIOUS CLASSES OF MEMBERS; OR

5 (VIII) ANY OTHER MATTER WITH RESPECT TO THE EXERCISE
6 OF VOTING RIGHTS BY MEMBERS.

7 (b) (1) The initial operating agreement shall be agreed to by all persons
8 who are then members.

9 (2) Unless the articles of organization specifically require otherwise,
10 the operating agreement need not be in writing.

11 (c) (1) If the operating agreement does not provide for the method by
12 which the operating agreement may be amended, then all of the members must agree
13 to any amendment of the operating agreement.

14 (2) To the extent that an operating agreement provides for the manner
15 in which the operating agreement may be amended, the operating agreement may be
16 amended only in that manner, provided that the approval of a person may be waived
17 by the person and that conditions may be waived by a person for whose benefit the
18 conditions were intended.

19 (3) (i) Except as provided in subparagraph (ii) of this paragraph, or
20 unless [the operating agreement specifically requires] otherwise **AGREED**, an
21 amendment to an operating agreement is not required to be in writing.

22 (ii) An amendment to an operating agreement must be
23 evidenced by a writing signed by an authorized person of the limited liability company
24 if:

25 1. The amendment was adopted without the unanimous
26 consent of the members; or

27 2. An **ECONOMIC** interest in the limited liability
28 company has been assigned to a person who has not been admitted as a member.

29 (4) A copy of any written amendment to the operating agreement shall
30 be delivered to each member who did not consent to the amendment and to each
31 assignee who has not been admitted as a member.

(d) (1) A court may enforce an operating agreement by injunction or by granting such other relief which the court in its discretion determines to be fair and appropriate in the circumstances.

(2) As an alternative to injunctive or other equitable relief, when the provisions of § 4A-903 of this title are applicable, the court may order dissolution of the limited liability company.

(3) An operating agreement of a limited liability company with one member is not unenforceable on the grounds that there is only one person who is party to the operating agreement.

(4) A limited liability company:

(i) Is not required to execute its operating agreement; and

(ii) Is bound by its operating agreement, regardless of whether the limited liability company has executed the operating agreement.

(5) An operating agreement that is duly adopted or amended is binding on each person who is or becomes a member of the limited liability company and each person who is or becomes an assignee of a member of the limited liability company, regardless of whether the person has executed the operating agreement or amendment.

4A-403.

(A) [Unless] THE PROVISIONS OF THIS SECTION APPLY UNLESS otherwise provided in this title or [in the operating agreement] UNLESS OTHERWISE AGREED[:].

(B) (1) Members shall vote in proportion to their respective interests in profits of the limited liability company[; and], AS DETERMINED UNDER § 4A-503 OF THIS TITLE.

(2) Decisions concerning the affairs of the limited liability company shall require the consent of members holding at least a majority of the interests in profits of the limited liability company AS DETERMINED UNDER §4A-503 OF THIS TITLE.

(C) (1) A MEETING OF THE MEMBERS MAY BE CALLED BY THE WRITTEN REQUEST OF MEMBERS HOLDING AT LEAST 25% OF THE INTERESTS IN PROFITS OF THE LIMITED LIABILITY COMPANY AS DETERMINED UNDER § 4A-503 OF THIS TITLE.

1 **(2) (I) MEMBERS OF A LIMITED LIABILITY COMPANY MAY**
2 **PARTICIPATE IN A MEETING BY MEANS OF CONFERENCE TELEPHONE OR OTHER**
3 **COMMUNICATIONS EQUIPMENT OR BY MEANS OF REMOTE COMMUNICATION, IF**
4 **ALL PERSONS PARTICIPATING IN THE MEETING:**

5 **1. CAN EITHER HEAR OR READ THE PROCEEDINGS**
6 **OF THE MEETING SUBSTANTIALLY CONCURRENT WITH THE PROCEEDINGS; AND**

7 **2. HAVE THE OPPORTUNITY TO PARTICIPATE IN THE**
8 **MEETING AND VOTE ON MATTERS SUBMITTED TO THE MEMBERS.**

9 **(II) PARTICIPATION IN A MEETING BY THE MEANS**
10 **AUTHORIZED BY SUBPARAGRAPH (I) OF THIS PARAGRAPH CONSTITUTES**
11 **PRESENCE IN PERSON AT THE MEETING.**

12 **(D) (1) A MEMBER MAY NOT TAKE ANY OF THE FOLLOWING ACTIONS**
13 **WITHOUT THE CONSENT OF MEMBERS HOLDING AT LEAST TWO-THIRDS OF THE**
14 **INTEREST IN PROFITS OF THE LIMITED LIABILITY COMPANY AS DETERMINED**
15 **UNDER § 4A-503 OF THIS TITLE:**

16 **(I) DISPOSE OF ALL OR SUBSTANTIALLY ALL OF THE**
17 **BUSINESS OR PROPERTY OF THE LIMITED LIABILITY COMPANY; OR**

18 **(II) APPROVE A MERGER AS PROVIDED IN § 4A-702 OF THIS**
19 **TITLE.**

20 **(2) A MEMBER MAY NOT TAKE ANY OF THE FOLLOWING ACTIONS**
21 **WITHOUT THE UNANIMOUS CONSENT OF THE MEMBERS:**

22 **(I) INSTITUTE A VOLUNTARY PROCEEDING UNDER THE**
23 **FEDERAL BANKRUPTCY CODE;**

24 **(II) ASSIGN THE PROPERTY OF THE LIMITED LIABILITY**
25 **COMPANY IN TRUST FOR CREDITORS OR ON THE ASSIGNEE'S PROMISE TO PAY**
26 **THE DEBTS OF THE LIMITED LIABILITY COMPANY;**

27 **(III) ALTER THE ALLOCATION OF PROFIT OR LOSS TO**
28 **MEMBERS OF THE LIMITED LIABILITY COMPANY;**

29 **(IV) ALTER THE ALLOCATION OF OR THE MANNER OF**
30 **COMPUTING DISTRIBUTIONS PAYABLE TO MEMBERS OF THE LIMITED LIABILITY**
31 **COMPANY; OR**

(V) DO ANY OTHER ACT THAT WOULD MAKE IT IMPOSSIBLE TO CARRY ON THE ORDINARY BUSINESS OF THE LIMITED LIABILITY COMPANY.

4A-403.1.

ANY NOTICE, CONSENT, OR OTHER COMMUNICATION REQUIRED OR AUTHORIZED BY THIS TITLE MAY BE DELIVERED BY ELECTRONIC TRANSMISSION.

4A-403.2.

(A) (1) A MEMBER MAY AUTHORIZE ANOTHER PERSON TO ACT AS PROXY FOR THE MEMBER AS PROVIDED IN THIS SECTION.

(2) (I) A MEMBER MAY SIGN A WRITING AUTHORIZING ANOTHER PERSON TO ACT AS PROXY.

(II) SIGNING MAY BE ACCOMPLISHED BY THE MEMBER OR THE MEMBER'S AUTHORIZED AGENT SIGNING THE WRITING OR CAUSING THE MEMBER'S SIGNATURE TO BE AFFIXED TO THE WRITING BY ANY REASONABLE MEANS, INCLUDING FACSIMILE SIGNATURE.

(3) (I) SUBJECT TO SUBPARAGRAPH (II) OF THIS PARAGRAPH, A MEMBER MAY AUTHORIZE ANOTHER PERSON TO ACT AS PROXY BY TRANSMITTING, OR AUTHORIZING THE TRANSMISSION OF, AN AUTHORIZATION FOR THE PERSON TO ACT AS PROXY TO:

1. THE PERSON AUTHORIZED TO ACT AS PROXY; OR

2. ANY OTHER PERSON AUTHORIZED TO RECEIVE THE PROXY AUTHORIZATION ON BEHALF OF THE PERSON AUTHORIZED TO ACT AS THE PROXY, INCLUDING A PROXY SOLICITATION FIRM OR PROXY SUPPORT SERVICE ORGANIZATION.

(II) THE AUTHORIZATION MAY BE TRANSMITTED BY A TELEGRAM, CABLEGRAM, DATAGRAM, ELECTRONIC MAIL, OR ANY OTHER ELECTRONIC OR TELEPHONIC MEANS.

(4) A COPY, FACSIMILE TELECOMMUNICATION, OR OTHER RELIABLE REPRODUCTION OF THE WRITING OR TRANSMISSION AUTHORIZED UNDER PARAGRAPHS (2) AND (3) OF THIS SUBSECTION MAY BE SUBSTITUTED FOR THE ORIGINAL WRITING OR TRANSMISSION FOR ANY PURPOSE FOR WHICH THE ORIGINAL WRITING OR TRANSMISSION COULD BE USED.

1 **(B) (1) A PROXY IS REVOCABLE BY A MEMBER AT ANY TIME WITHOUT**
2 **CONDITION OR QUALIFICATION UNLESS:**

3 **(I) THE PROXY STATES THAT IT IS IRREVOCABLE; AND**

4 **(II) THE PROXY IS COUPLED WITH AN INTEREST.**

5 **(2) A PROXY MAY BE MADE IRREVOCABLE FOR AS LONG AS IT IS**
6 **COUPLED WITH AN INTEREST.**

7 **(3) AN INTEREST WITH WHICH A PROXY MAY BE COUPLED**
8 **INCLUDES AN INTEREST IN THE MEMBERSHIP INTEREST TO BE VOTED UNDER**
9 **THE PROXY OR ANOTHER GENERAL INTEREST IN THE LIMITED LIABILITY**
10 **COMPANY OR ITS ASSETS OR LIABILITIES.**

11 4A-405.

12 [Except as provided in the operating agreement] **UNLESS OTHERWISE**
13 **AGREED**, a member may lend money to and transact other business with the limited
14 liability company and[, subject to other applicable law,] has the same rights and
15 obligations with respect to the transaction as a person who is not a member.

16 4A-406.

17 (a) A member may inspect and copy, in person or by agent, from time to time
18 on reasonable written demand, **FOR ANY PURPOSE REASONABLY RELATED TO THE**
19 **MEMBER'S MEMBERSHIP INTEREST:**

20 (1) True and full information regarding the state of the business and
21 financial condition of the limited liability company;

22 (2) A copy of the [certificate] **ARTICLES** of organization and operating
23 agreement and all amendments to the [certificate] **ARTICLES OF ORGANIZATION** and
24 operating agreement;

25 (3) A current list of the names and last known business, residence, or
26 mailing addresses of all members; and

27 (4) Other information regarding the affairs of the limited liability
28 company as is just and reasonable for any purpose reasonably related to the member's
29 **MEMBERSHIP** interest [as a member].

30 (b) Any member may inspect and copy, in person or by agent, a copy of the
31 limited liability company's federal, [State,] **STATE**, or local income tax returns.

(c) The rights to inspect and copy records of a limited liability company may be subject to reasonable standards that may be set forth in the articles of organization or the operating agreement, **INCLUDING STANDARDS GOVERNING WHAT INFORMATION AND DOCUMENTS ARE TO BE FURNISHED, AT WHAT TIME AND LOCATION, AND AT WHOSE EXPENSE.**

(D) UNLESS A MEMBER SEEKING INFORMATION EXECUTES A CONFIDENTIALITY OR NONDISCLOSURE AGREEMENT REASONABLY ACCEPTABLE TO THE LIMITED LIABILITY COMPANY RESTRICTING THE USE AND DISCLOSURE OF THE INFORMATION, A LIMITED LIABILITY COMPANY SHALL HAVE THE RIGHT TO KEEP CONFIDENTIAL FROM MEMBERS, FOR A REASONABLE PERIOD OF TIME:

(1) ANY INFORMATION THAT THE LIMITED LIABILITY COMPANY REASONABLY BELIEVES TO BE IN THE NATURE OF TRADE SECRETS;

(2) INFORMATION THE DISCLOSURE OF WHICH THE LIMITED LIABILITY IN GOOD FAITH BELIEVES:

(I) IS NOT IN THE BEST INTEREST OF THE LIMITED LIABILITY COMPANY; OR

(II) COULD DAMAGE THE LIMITED LIABILITY COMPANY OR ITS BUSINESS; OR

(3) INFORMATION THE LIMITED LIABILITY COMPANY IS REQUIRED BY LAW OR BY AGREEMENT WITH A THIRD PARTY TO KEEP CONFIDENTIAL.

(E) ANY DEMAND BY A MEMBER UNDER THIS SECTION SHALL BE IN WRITING AND SHALL STATE THE PURPOSE OF THE DEMAND.

4A-502.

(a) (1) [Except as provided in the operating agreement] **UNLESS OTHERWISE AGREED**, a member is obligated to the limited liability company to perform any promises set forth in the articles of organization or operating agreement to contribute cash or property or to perform services, even if the member is unable to perform because of death, disability, or other reason.

(2) If a member does not make the required contribution of property or services, the member is obligated, at the option of the limited liability company, to contribute cash equal to the value of that portion of the capital contribution that has not been made.

(b) (1) The obligation of a member to make a capital contribution or return money or other property paid or distributed in violation of this title may be compromised only:

(i) In compliance with the operating agreement; or

(ii) If the operating agreement does not so provide, with the unanimous consent of the members.

(2) Any compromise does not affect the rights, if any, of any creditor of a limited liability company to enforce the obligation or to require the obligation to be enforced.

(c) (1) An operating agreement may provide that a member who fails to make any capital contribution or other payment that the member is required to make shall be subject to specified remedies for, or specified consequences of, the failure.

(2) The remedy or consequence may take the form of:

(i) Reduction of the defaulting member's **MEMBERSHIP** interest in the limited liability company;

(ii) Subordination of the defaulting member's **MEMBERSHIP** interest in the limited liability company to that of the nondefaulting members;

(iii) A forced sale of the defaulting member's **MEMBERSHIP** interest in the limited liability company;

(iv) Forfeiture of the defaulting member's **MEMBERSHIP** interest in the limited liability company;

(v) A loan by the nondefaulting members of the amount necessary to meet the commitment;

(vi) A determination of the value of the member's **MEMBERSHIP** interest in the limited liability company by appraisal or by formula and redemption and sale of the defaulting member's **MEMBERSHIP** interest in the limited liability company at that value; or

(vii) Any other remedy or consequences.

4A-503.

[Except as otherwise provided in the operating agreement] **UNLESS OTHERWISE AGREED:**

(1) The profits and losses of a limited liability company shall be allocated among the members in proportion to their respective capital [interests] **CONTRIBUTION VALUES**; and

(2) Distributions by the limited liability company shall be made to the members in proportion to their right to share in the profits of the limited liability company.

4A-504.

Unless otherwise [provided in the operating agreement] **AGREED**, a member, regardless of the nature of the member's contribution, has no right to demand and receive any distribution from a limited liability company in a form other than cash.

4A-505.

[A] UNLESS OTHERWISE AGREED, A member of a limited liability company who becomes entitled to receive a distribution has the status of, and is entitled to all remedies available to, a creditor of the limited liability company with respect to the distribution.

4A-601.

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

(1) The time the limited liability company is formed;

(2) A later time specified in the operating agreement; or

(3) The time specified in § 4A-902(b)(1) of this title **RELATING TO CONTINUATION OF THE LIMITED LIABILITY COMPANY AFTER THERE ARE NO REMAINING MEMBERS**.

(b) After the formation of a limited liability company, a person may be admitted as a member:

(1) In the case of a person acquiring a membership interest directly from the limited liability company, upon compliance with the operating agreement or, if the operating agreement does not so provide, upon the unanimous consent of the members;

(2) In the case of an assignee of [an] **THE ECONOMIC** interest of a member, only as provided in § 4A-604 of this subtitle; or

(3) In the case of a personal representative or successor to the last remaining member who is not an assignee of the last remaining member, as provided in § 4A-902(b)(1) of this title.

(c) Unless otherwise [provided in the articles of organization or the operating agreement of a limited liability company] **AGREED**, a person may be admitted as a member of a limited liability company and may be the sole member of a limited liability company without:

(1) Making a **CAPITAL** contribution to the limited liability company;

(2) Being obligated to make a **CAPITAL** contribution to the limited liability company; or

(3) Acquiring an **ECONOMIC** interest in the limited liability company.

4A-602.

[The] **A MEMBERSHIP** interest [of a member] in a limited liability company is personal property.

4A-603.

(a) **UNLESS OTHERWISE AGREED:**

(1) [Unless otherwise provided in the operating agreement, an interest in a limited liability company is assignable in whole or in part] **ONLY AN ECONOMIC INTEREST IN A LIMITED LIABILITY COMPANY MAY BE ASSIGNED[.]; AND**

(2) **AN ECONOMIC INTEREST IS WHOLLY OR PARTLY ASSIGNABLE.**

(b) An assignment of an **ECONOMIC** interest in a limited liability company does not:

(1) Dissolve the limited liability company; or

(2) [Unless the operating agreement provides otherwise, entitle] **ENTITLE** the assignee to:

(i) Become a member; or

(ii) Exercise any rights of a member, **INCLUDING THE NONECONOMIC INTEREST OF THE ASSIGNOR.**

(c) [Unless otherwise provided in the operating agreement, an assignment entitles the assignee to receive, to the extent assigned, only the assignor's share of profits, losses, and distributions.

(d) Unless otherwise provided in the operating agreement, if] **IF** an assignee of an **ECONOMIC** interest in a limited liability company becomes a member of the limited liability company, the assignor is not released from the assignor's liability under § 4A-502 of this title to the limited liability company.

[(e)] (D) [Unless otherwise provided in the operating agreement, on] **ON** assignment [under this section] of all of a member's **ECONOMIC** interest in a limited liability company, the member ceases to be a member of the limited liability company and [to have the power to exercise any right or power of a member] **FORFEITS THE MEMBER'S NONECONOMIC INTEREST IN THE LIMITED LIABILITY COMPANY.**

[(f)] (E) [Unless otherwise provided in the operating agreement, the] **THE** pledge or grant of a security interest, lien, or other encumbrance in or against all or a part of [an] **THE ECONOMIC** interest of a member [may] **DOES** not cause the member to cease to be a member or [to have the power to exercise any right or power of a member] **AFFECT THE MEMBER'S NONECONOMIC INTEREST IN THE LIMITED LIABILITY COMPANY.**

4A-604.

(a) An assignee of an **ECONOMIC** interest in a limited liability company may become a member of the limited liability company under any of the following circumstances:

(1) In accordance with the terms of the operating agreement providing for the admission of a member;

(2) By the unanimous consent of the members; or

(3) If there are no remaining members of the limited liability company at the time the assignee obtains the **ECONOMIC** interest, on terms that the assignee may determine in accordance with § 4A-902(b)(1) of this title.

(b) An assignee who becomes a member:

(1) Has, to the extent assigned, the rights and powers, and is subject to the restrictions and liabilities, of a member under the operating agreement and this title; and

(2) Is liable for any obligations of his assignor to make capital contributions.

1 4A-605.

2 (A) [A] **UNLESS OTHERWISE AGREED**, A member may withdraw **FROM A**
3 **LIMITED LIABILITY COMPANY PRIOR TO THE DISSOLUTION AND WINDING UP OF**
4 **THE LIMITED LIABILITY COMPANY** by giving not less than 6 months' prior written
5 notice to the other members at their respective addresses as shown on the books **AND**
6 **RECORDS** of the limited liability company[, unless:].

7 (B) [(1)] The operating agreement [provides] **MAY PROVIDE** that [the
8 member does not have the right or power] **A MEMBER MAY NOT WITHDRAW OR**
9 **OTHERWISE PLACE LIMITS ON THE ABILITY OF A MEMBER** to withdraw[; or

10 (2) The operating agreement specifies another time for or other
11 conditions of withdrawal].

12 4A-606.

13 [A] **UNLESS OTHERWISE AGREED**, A person ceases to be a member of a
14 limited liability company upon the occurrence of any of the following events:

15 (1) The person withdraws from the limited liability company as
16 [provided in] **AUTHORIZED BY § 4A-605** of this subtitle;

17 (2) The person is removed as a member in accordance with the
18 operating agreement;

19 (3) [Unless otherwise provided in the operating agreement or with the
20 consent of all other members, the] **THE** person:

21 (i) Makes an assignment for the benefit of creditors;

22 (ii) [Files a voluntary petition in bankruptcy] **INSTITUTES A**
23 **VOLUNTARY PROCEEDING WITH RESPECT TO THE PERSON UNDER THE FEDERAL**
24 **BANKRUPTCY CODE**;

25 (iii) Is adjudged bankrupt or insolvent or has entered against the
26 person an order for relief in any bankruptcy or insolvency proceeding;

27 (iv) Files a petition or answer seeking for that person any
28 reorganization, arrangement, composition, readjustment, liquidation, dissolution, or
29 similar relief under any statute, law, or regulation;

30 (v) Seeks, consents to, or acquiesces in the appointment of a
31 trustee for, receiver for, or liquidation of the member or of all or any substantial part
32 of the person's properties; or

(vi) Files an answer or other pleading admitting or failing to contest the material allegations of a petition filed against the person in any proceeding described in this subsection;

(4) [Unless otherwise provided in the operating agreement, or with the consent of all other members, the] **THE** continuation of any proceeding against the person seeking reorganization, arrangement, composition, readjustment, liquidation, dissolution, or similar relief under any statute, law, or regulation, for 120 days after the commencement thereof, or the appointment of a trustee, receiver, or liquidator for the members or all or any substantial part of the person's properties without the person's agreement or acquiescence, which appointment is not vacated or stayed for 120 days or, if the appointment is stayed, for 120 days after the expiration of the stay during which period the appointment is not vacated;

(5) [Unless otherwise provided in the operating agreement, in] **IN** the case of a member who is an individual, the individual's:

(i) Death; or

(ii) Adjudication by a court of competent jurisdiction as incompetent to manage the individual's person or property;

(6) [Unless otherwise provided in the operating agreement, in] **IN** the case of a member who is acting as a member by virtue of being a trustee of a trust, the termination of the trust;

(7) [Unless otherwise provided in the operating agreement, in] **IN** the case of a member that is a partnership or another limited liability company, the dissolution and commencement of winding up of the partnership or limited liability company;

(8) [Unless otherwise provided in the operating agreement, in] **IN** the case of a member that is a corporation, the dissolution of the corporation or the revocation of its charter; [or]

(9) [Unless otherwise provided in the operating agreement, in] **IN** the case of a member that is an estate, the distribution by the fiduciary of the estate's entire **ECONOMIC** interest in the limited liability company; **OR**

(10) ON ASSIGNMENT OF ALL OF A PERSON'S ECONOMIC INTEREST IN THE LIMITED LIABILITY COMPANY AS PROVIDED IN § 4A-603(D) OF THIS SUBTITLE.

4A-606.1.

(a) Unless [the operating agreement provides otherwise, if] **OTHERWISE AGREED, IF A PERSON CEASES TO BE A MEMBER OF A LIMITED LIABILITY COMPANY UNDER § 4A-606 OF THIS SUBTITLE, AND** the limited liability company is not dissolved [after a member ceases to be a member under § 4A-606 of this subtitle:

(1) Within] **AS A RESULT, THEN, WITHIN** a reasonable time after [a] **THE** person [has] ceased to be a member, the limited liability company may elect to pay [to that] **THE** person or [that] **THE** person's successor in interest, in complete liquidation of the person's **MEMBERSHIP** interest, the fair value of [that] **THE** person's **ECONOMIC** interest in the limited liability company as of the date the person ceased to be a member, based upon the person's right to share in distributions from the limited liability company]; and

(2) Unless otherwise agreed, the members of the limited liability company continuing the business following the withdrawal of a member will be deemed to have entered into an operating agreement under § 4A-402 of this title containing the same terms and conditions as those contained in the operating agreement in effect immediately prior to the withdrawal, except that the members bound by the operating agreement shall be only those members who have not withdrawn].

(b) If a [member] **PERSON** ceases to be a member **OF A LIMITED LIABILITY COMPANY** under § 4A-606 of this subtitle and the limited liability company elects not to completely liquidate [that] **THE** person's **MEMBERSHIP** interest **UNDER § 4A-606.1(A) OF THIS SUBTITLE, [the] THAT** person will be deemed to be an assignee of the **UNREDEEMED ECONOMIC** interest under §§ 4A-603 and 4A-604 of this subtitle.

4A-607.

(a) (1) In this section the following words have the meanings indicated.

(2) "Creditor" means a person for whom a court may issue an attachment under Title 3, Subtitle 3 of the Courts Article.

(3) "Debtor" means a person whose property or credits are subject to attachment under Title 3, Subtitle 3 of the Courts Article.

(b) (1) On application by a creditor of a debtor holding an **ECONOMIC** interest in a limited liability company, a court having jurisdiction may charge the **ECONOMIC** interest of the debtor **IN THE LIMITED LIABILITY COMPANY FOR THE UNSATISFIED AMOUNT OF THE DEBT.**

(2) The court may appoint a receiver for the distributions due or to become due to the debtor with respect to the limited liability company and make all other orders, directions, accounts, and inquiries that the debtor would have been entitled to make or that the circumstances of the case may require.

(c) (1) A charging order constitutes a lien on the **ECONOMIC** interest of the debtor in the limited liability company **AND REQUIRES THE LIMITED LIABILITY COMPANY TO PAY OVER TO THE CREDITOR ONLY ANY DISTRIBUTIONS THAT WOULD OTHERWISE BE PAYABLE TO THE DEBTOR WHOSE ECONOMIC INTEREST IS CHARGED.**

(2) **SUBJECT TO PARAGRAPH (3) OF THIS SUBSECTION, THE NONECONOMIC INTEREST OF A DEBTOR WHOSE ECONOMIC INTEREST IS SUBJECT TO A CHARGING ORDER IS UNAFFECTED AND IS RETAINED BY THE DEBTOR.**

~~[(2)]~~ (3) (i) ~~[The]~~ **UNLESS OTHERWISE AGREED, ON A SHOWING THAT THE DISTRIBUTIONS UNDER A CHARGING ORDER WILL NOT PAY THE AMOUNT OWED TO THE CREDITOR WITHIN A REASONABLE TIME, THE** court may order foreclosure of the **ECONOMIC** interest subject to the charging order ~~[at any time]~~ **AND ORDER THE SALE OF THE ECONOMIC INTEREST OF THE DEBTOR.**

(ii) The purchaser **OF THE ECONOMIC INTEREST OF THE DEBTOR** at the foreclosure sale ~~[has only the rights of]~~ **IS** an assignee as provided in §§ 4A–603 and 4A–604 of this subtitle.

(d) Before a foreclosure under this section, an **ECONOMIC** interest charged may be redeemed with property:

(1) Other than property of the limited liability company, by the debtor;

(2) Other than property of the limited liability company, by one or more of the members other than the debtor; or

(3) Of the limited liability company, **WITH THE CONSENT OF THE MEMBERS AS PROVIDED IN THE OPERATING AGREEMENT OR, IF THE OPERATING AGREEMENT DOES NOT SO PROVIDE,** with the consent of all of the members whose **ECONOMIC** interests are not so charged.

(e) This title does not deprive a debtor of a right under exemption laws with respect to the **ECONOMIC** interest of the debtor in the limited liability company.

(f) This section provides the exclusive remedy by which a creditor ~~[or a person holding an interest in a limited liability company]~~ **OF A MEMBER** may attach the **MEMBERSHIP** interest ~~[or otherwise affect the rights of a member in the limited~~

liability company] **OF THE MEMBER OR OTHERWISE SATISFY THE OUTSTANDING DEBT OF THE MEMBER OUT OF THE MEMBERSHIP INTEREST OF THE MEMBER.**

4A-701.

(a) Unless [the operating agreement provides] otherwise **AGREED**, a domestic limited liability company may merge into one or more:

(1) Domestic limited liability companies;

(2) Foreign limited liability companies;

(3) Partnerships;

(4) Limited partnerships;

(5) Corporations having capital stock; or

(6) Business trusts having transferable units of beneficial interest.

(b) One or more domestic limited liability companies, foreign limited liability companies, partnerships, limited partnerships, corporations having capital stock, or business trusts having transferable units of beneficial interest may merge into a domestic limited liability company.

4A-702.

(a) The proposed merger shall be approved in the manner provided by this section.

(b) A corporation shall approve the merger under the provisions of § 3-105 of this article.

(c) A business trust shall approve the merger under the provisions of § 8-501.1 **OR § 12-602** of this article.

(d) A partnership shall approve the merger under the provisions of § 9A-902 of this article.

(e) A limited partnership shall approve the merger under the provisions of § 10-208 of this article.

(f) Unless otherwise [provided in the operating agreement] **AGREED**, a domestic limited liability company shall approve the merger by the consent of the members holding at least two-thirds of the [interests] **INTEREST** in profits of the limited liability company **AS DETERMINED UNDER § 4A-503 OF THIS SUBTITLE.**

(g) A foreign limited liability company party to the merger shall have the merger advised, authorized, and approved in the manner and by the vote required by the laws of the place where it is organized.

4A-704.

(a) Unless the articles of merger preclude the right to abandon the merger, a proposed merger may be abandoned before the effective date of the articles by:

(1) [Unanimous consent] **CONSENT** of the members of a limited liability company party to the article **REQUIRED TO APPROVE THE MERGER UNDER § 4A-702 OF THIS SUBTITLE, OR A LESSER VOTE AS MAY BE PROVIDED FOR IN THE OPERATING AGREEMENT OF THE LIMITED LIABILITY COMPANY;**

(2) A majority of the partners of a partnership;

(3) A majority vote of the general partners and a majority in interest of the limited partners, as defined in § 10-208 of this article, of any limited partnership party to the articles;

(4) A majority vote of the entire board of directors of a corporation party to the articles; and

(5) A majority vote of the entire board of trustees of a business trust party to the articles.

(b) If the articles of merger have been filed with the Department, notice of the abandonment shall be given promptly to the Department.

(c) (1) If the proposed merger is abandoned as provided in this section, no legal liability arises under the articles of merger.

(2) An abandonment does not prejudice the rights of any person under any other contract made by a limited liability company, partnership, limited partnership, **AND** corporation or business trust party to the proposed articles of merger in connection with the proposed merger.

4A-705.

(a) **[A] UNLESS OTHERWISE AGREED, A** member of a limited liability company objecting to a merger of the limited liability company has the same rights with respect to the member's **MEMBERSHIP** interest in the limited liability company as a stockholder of a Maryland corporation who objects **TO A MERGER OF THE CORPORATION** has with respect to the stockholder's stock under Title 3, Subtitle 2 of this article.

(b) The procedures under Title 3, Subtitle 2 of this article shall be applicable to the extent practicable.

4A-706.

(a) The Department shall prepare certificates of merger that specify:

(1) The name of each party to the articles of merger;

(2) The name of the successor and the location of its principal office in [the] **THIS** State or, if it has none, its principal place of business; and

(3) The time the articles of merger are accepted for record by the Department.

(b) In addition to any other provision of law with respect to recording, the Department shall send one certificate each to the clerk of the circuit court for each county where the articles of merger show that a merging limited liability company, partnership, limited partnership, corporation, or business trust other than the successor owns an interest in land.

(c) On receipt of the certificate of merger, the clerk promptly shall record it with the land records.

4A-709.

(c) The **MEMBERSHIP** interest of each member of a limited liability company party to the articles of merger that are to be converted or exchanged under the terms of the articles of merger cease to exist, subject to the rights of an objecting member under § 4A-705 of this subtitle.

4A-801.

(a) A [member] **PERSON DESCRIBED IN § 4A-802 OF THIS TITLE** may bring a derivative action to enforce a right of a limited liability company to recover a judgment in its favor to the same extent that a stockholder may bring an action for a derivative suit under the corporation law of Maryland.

(b) An action under this subtitle may be brought if members with authority to bring the action have refused to bring the action or if an effort to cause those members to bring the action is not likely to succeed.

(c) If it appears that the plaintiff does not fairly and adequately represent the interests of the members in enforcing the right of the limited liability company, the derivative action may not be maintained.

1 4A-802.

2 The plaintiff in a derivative action shall:

3 (1) Be a member at the time the action is brought; and

4 (2) (i) Have been a member at the time of the transaction of which
5 the plaintiff complains; or

6 (ii) Had membership status devolve upon the plaintiff by
7 operation of law from a person who was a member at the time of the transaction.

8 4A-902.

9 (a) A limited liability company is dissolved and shall commence the winding
10 up of its affairs on the first to occur of the following:

11 (1) At the time or on the happening of the events specified in the
12 articles of organization or the operating agreement;

13 (2) At the time specified by the unanimous consent of the members;

14 (3) At the time of the entry of a decree of judicial dissolution under §
15 4A-903 of this subtitle; or

16 (4) [Except as] **UNLESS** otherwise [provided in the operating
17 agreement] **AGREED** or as provided in subsection (b) of this section, at the time the
18 limited liability company has had no members for a period of 90 consecutive days.

19 (b) A limited liability company may not be dissolved or required to wind up
20 its affairs if within 90 days after there are no remaining members of the limited
21 liability company or within the period of time provided in the operating agreement:

22 (1) The last remaining member's personal representative, successor, or
23 assignee agrees in writing to continue the limited liability company and to be admitted
24 as a member or to appoint a designee as a member to be effective as of the time the
25 last remaining member ceased to be a member; or

26 (2) A member is admitted to the limited liability company in the
27 manner set forth in the operating agreement to be effective as of the time the last
28 remaining member ceased to be a member under a provision in the operating
29 agreement that provides for the admission of a member after there are no remaining
30 members.

31 (c) An operating agreement may provide that the last remaining member's
32 personal representative, successor, or assignee shall be obligated to agree in writing to
33 continue the limited liability company and to be admitted as a member or to appoint a

designee as a member to be effective as of the time the last remaining member ceased to be a member.

(d) [Except as] **UNLESS** otherwise [provided in the operating agreement] **AGREED** and subject to the provisions of subsection (b) of this section, the termination of a person's membership may not cause a limited liability company to be dissolved or to wind up its affairs and the limited liability company shall continue in existence following the termination of a person's membership.

4A-904.

(a) Unless otherwise [provided in the articles of organization or the operating agreement] **AGREED**, the remaining members of a limited liability company may wind up the affairs of the limited liability company.

(b) Notwithstanding the provisions of subsection (a) of this section, the circuit court of the county in which the principal office of the limited liability company is located, on cause shown after dissolution, may wind up the limited liability company's affairs on application of any member.

4A-906.

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

(1) To creditors, including members who are creditors, to the extent permitted by law, in satisfaction of the liabilities of the limited liability company; and

(2) Unless otherwise [provided by the operating agreement] **AGREED**, to the members in proportion to their respective capital [interests,] **CONTRIBUTION VALUES**, after the capital [interests] **CONTRIBUTION VALUES** are adjusted by:

(i) Adding to the members' capital [interests] **CONTRIBUTION VALUES** their respective shares of the profits of the limited liability company; and

(ii) Deducting from the members' capital [interests] **CONTRIBUTION VALUES** their respective shares of the losses of the limited liability company and all distributions previously received by the members.

4A-918.

Except in a proceeding by [the] **THIS** State or any of its political subdivisions, the acceptance of articles of reinstatement for record by the Department is conclusive evidence of:

(1) The payment of all fees, taxes, unemployment insurance contributions, and reimbursement payments required to be paid;

(2) The filing of all reports required to be filed; and

(3) The reinstatement of the right to do business in Maryland of the limited liability company.

4A-1103.

(a) A limited liability company may elect to be a benefit limited liability company under this subtitle by including in its articles of organization a statement that the limited liability company is a benefit limited liability company.

(b) The name of a domestic benefit limited liability company or a foreign benefit limited liability company authorized to transact business in [the] **THIS** State must comply with Title 1, Subtitle 5 of this article.

4A-1104.

Clear reference to the fact that a limited liability company is a benefit limited liability company shall appear prominently:

(1) At the head of the articles of organization or an amendment to the articles of organization in which the election to be a benefit limited liability company is made;

(2) At the head of each subsequent articles of organization of the benefit limited liability company; and

(3) On each certificate representing outstanding **MEMBERSHIP** interests in the benefit limited liability company.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect October 1, 2012.