

LAWS OF DELAWARE
VOLUME 81
CHAPTER 357
149th GENERAL ASSEMBLY
FORMERLY
SENATE BILL NO. 183

AN ACT TO AMEND CHAPTER 18, TITLE 6 OF THE DELAWARE CODE RELATING TO THE CREATION, REGULATION, OPERATION AND DISSOLUTION OF DOMESTIC LIMITED LIABILITY COMPANIES AND THE REGISTRATION AND REGULATION OF FOREIGN LIMITED LIABILITY COMPANIES.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF DELAWARE (Three-fifths of all members elected to each house thereof concurring therein):

Section 1. Amend § 18-101, Chapter 18, Title 6 of the Delaware Code by making deletions as shown by strike through and insertions as shown by underline as follows:

§ 18-101 Definitions.

(14) "Protected series" means a designated series of members, managers, limited liability company interests or assets that is established in accordance with § 18-215(b) of this title.

(15) "Registered series" means a designated series of members, managers, limited liability company interests or assets that is formed in accordance with § 18-218 of this title.

(16) "Series" means a designated series of members, managers, limited liability company interests or assets that is a protected series or a registered series, or that is neither a protected series nor a registered series.

(1417) "State" means the District of Columbia or the Commonwealth of Puerto Rico or any state, territory, possession or other jurisdiction of the United States other than the State of Delaware.

Section 2. Amend § 18-102(3), Chapter 18, Title 6 of the Delaware Code by making deletions as shown by strike through and insertions as shown by underline as follows:

(3) Must be such as to distinguish it upon the records in the office of the Secretary of State from the name on such records of any corporation, partnership, limited partnership, statutory trust ~~or~~, limited liability company or registered series reserved, registered, formed or organized under the laws of the State of Delaware or qualified to do business or registered as a foreign corporation, foreign limited partnership, foreign statutory trust, foreign partnership, or foreign limited liability company in the State of Delaware; provided however, that a limited liability company may register under any name which is not such as to distinguish it upon the records in the office of the Secretary of State from the name on such records of any domestic or foreign corporation, partnership, limited partnership, ~~or~~ statutory trust, registered series or foreign limited liability company reserved, registered, formed or organized under the laws of the State of Delaware with the written consent of the other corporation, partnership, limited partnership, statutory trust, registered series or foreign limited liability company, which written consent shall be filed with the Secretary of State; provided further, that, if on July 31, 2011, a limited liability company is registered (with the consent of another limited liability company) under a name which is not such as to distinguish it upon the records in the office of the Secretary of State from the name on such records of such other domestic limited liability company, it shall not be necessary for any such limited liability company to amend its certificate of formation to comply with this subsection;

Section 3. Amend § 18-102(4), Chapter 18, Title 6 of the Delaware Code by making deletions as shown by strike through and insertions as shown by underline as follows:

(4) May contain the following words: "Company," "Association," "Club," "Foundation," "Fund," "Institute," "Society," "Union," "Syndicate," "Limited," "Public Benefit" or "Trust" (or abbreviations of like import); and

Section 4. Amend § 18-103(a), Chapter 18, Title 6 of the Delaware Code by making deletions as shown by strike through and insertions as shown by underline as follows:

(a) The exclusive right to the use of a name may be reserved by:

(1) Any person intending to organize a limited liability company under this chapter and to adopt that name;

(2) Any person intending to form a registered series of a limited liability company under this chapter and to adopt that name in accordance with § 18-218(e);

(23) Any domestic limited liability company or any foreign limited liability company registered in the State of Delaware which, in either case, proposes to change its name;

(34) Any foreign limited liability company intending to register in the State of Delaware and adopt that name; and

(45) Any person intending to organize a foreign limited liability company and intending to have it register in the State of Delaware and adopt that name.

Section 5. Amend § 18-104, Chapter 18, Title 6 of the Delaware Code by making deletions as shown by strike through and insertions as shown by underline as follows:

§ 18-104 Registered office; registered agent.

(d) The registered agent of 1 or more limited liability companies may resign without appointing a successor registered agent by paying a fee as set forth in § 18-1105(a)(2) of this title and filing a certificate of resignation with the Secretary of State, but such resignation shall not become effective until 30 days after the certificate is filed. The certificate shall contain a statement that written notice of resignation was given to each affected limited liability company at least 30 days prior to the filing of the certificate by mailing or delivering such notice to the limited liability company at its address last known to the registered agent and shall set forth the date of such notice. After receipt of the notice of the resignation of its registered agent, the limited liability company for which such registered agent was acting shall obtain and designate a new registered agent, to take the place of the registered agent so resigning. If such limited liability company fails to obtain and designate a new registered agent as aforesaid prior to the expiration of the period of 30 days after the filing by the registered agent of the certificate of resignation, the certificate of formation of such limited liability company shall be canceled. After the resignation of the registered agent shall have become effective as provided in this section and if no new registered agent shall have been obtained and designated in the time and manner aforesaid, service of legal process against each limited liability company (and each protected series and each registered series thereof) for which the resigned registered agent had been acting shall thereafter be upon the Secretary of State in accordance with § 18-105 of this title.

(e) Every registered agent shall:

(1) If an entity, maintain a business office in the State of Delaware which is generally open, or if an individual, be generally present at a designated location in the State of Delaware, at sufficiently frequent times to accept service of process and otherwise perform the functions of a registered agent;

(2) If a foreign entity, be authorized to transact business in the State of Delaware;

(3) Accept service of process and other communications directed to the limited liability companies (and any protected series or registered series thereof) and foreign limited liability companies for which it serves as registered agent and forward same to the limited liability company or foreign limited liability company to which the service or communication is directed; and

(4) Forward to the limited liability companies and foreign limited liability companies for which it serves as registered agent the statement for the annual tax for such limited liability company (and each registered series thereof) or such foreign limited liability company, as applicable, as described in § 18-1107 of this title or an electronic notification of same in a form satisfactory to the Secretary of State.

Section 6. Amend § 18-104(g), Chapter 18, Title 6 of the Delaware Code by making deletions as shown by strike through and insertions as shown by underline as follows:

(g) Every domestic limited liability company and every foreign limited liability company qualified to do business in the State of Delaware shall provide to its registered agent and update from time to time as necessary the name, business address and business telephone number of a natural person who is a member, manager, officer, employee or designated agent of the domestic or foreign limited liability company who is then authorized to receive communications from the registered agent. Such person shall be deemed the communications contact for the domestic or foreign limited liability company. A domestic limited liability company, upon receipt of a request by the communications contact delivered in writing or by electronic transmission, shall provide the communications contact with the name, business address and business telephone number of a natural person who has access to the record required to be maintained pursuant to § 18-305(h) of this title. Every registered agent shall retain (in paper or electronic form) the above information concerning the current communications contact for each domestic limited liability company and each foreign limited liability company for which that registered agent serves as registered agent. If the domestic or foreign limited liability company fails to provide the registered agent with a current communications contact, the registered agent may resign as the registered agent for such domestic or foreign limited liability company pursuant to this section. For purposes of this subsection, the term "electronic transmission" means any form of communication not directly involving the physical transmission of paper, including the use of, or participation in, 1 or more electronic networks or databases (including 1 or more distributed electronic networks or databases), that creates a record that may be retained, retrieved and reviewed by a recipient thereof and that may be directly reproduced in paper form by such a recipient through an automated process.

Section 7. Amend § 18-105, Chapter 18, Title 6 of the Delaware Code by making deletions as shown by strike through and insertions as shown by underline as follows:

§ 18-105. Service of process on domestic limited liability companies and protected series or registered series thereof.

(a) Service of legal process upon any domestic limited liability company or any protected series or registered series thereof ~~established pursuant to § 18-215(b) of this title~~ shall be made by delivering a copy personally to any manager of the limited liability company in the State of Delaware, or the registered agent of the limited liability company in the State of Delaware, or by leaving it at the dwelling house or usual place of abode in the State of Delaware of any such manager or registered agent (if the registered agent be an individual), or at the registered office or other place of business of the limited liability company in the State of Delaware. If service of legal process is made upon the registered agent of the limited liability company in the State of Delaware on behalf of any such protected series or registered series, such process shall include the name of the limited liability company and the name of such protected series or registered series. If the registered agent be a corporation, service of process upon it as such may be made by serving, in the State of Delaware, a copy thereof on the president, vice-president, secretary, assistant secretary or any director of the corporate registered agent. Service by copy left at the dwelling house or usual place of abode of a manager or registered agent, or at the registered office or other place of business of the limited liability company in the State of Delaware, to be effective, must be delivered thereat at least 6 days before the return date of the process, and in the presence of an adult person, and the officer serving the process shall distinctly state the manner of service in the officer's return thereto. Process returnable forthwith must be delivered personally to the manager or registered agent.

(b) In case the officer whose duty it is to serve legal process cannot by due diligence serve the process in any manner provided for by subsection (a) of this section, it shall be lawful to serve the process against the limited liability company or any protected series or registered series thereof ~~established pursuant to § 18-215(b) of this title~~ upon the Secretary of State, and such service shall be as effectual for all intents and purposes as if made in any of the ways provided for in subsection (a) of this section. If service of legal process is made upon the Secretary of State on behalf of any such protected series or registered series, such process shall include the name of the limited liability company and the name of such protected series or registered series. Process may be served upon the Secretary of State under this subsection by means of electronic transmission but only as prescribed by the Secretary of State. The Secretary of State is authorized to issue such rules and regulations with respect to such service as the Secretary of State deems necessary or appropriate. In the event that service is effected through the Secretary of State in accordance with this subsection, the Secretary of State shall forthwith notify the limited liability company by letter, directed to the limited liability company at its address as it appears on the records relating to such limited liability company on file with the Secretary of State or, if no such address appears, at its last registered office. Such letter shall be sent by a mail or courier service that includes a record of mailing or deposit with the courier and a record of delivery evidenced by the signature of the recipient. Such letter shall enclose a copy of the process and any other papers served on the Secretary of State pursuant to this subsection. It shall be the duty of the plaintiff in the event of such service to serve process and any other papers in duplicate, to notify the Secretary of State that service is being effected pursuant to this subsection, and to pay the Secretary of State the sum of \$50 for the use of the State of Delaware, which sum shall be taxed as part of the costs in the proceeding if the plaintiff shall prevail therein. The Secretary of State shall maintain an alphabetical record of any such service setting forth the name of the plaintiff and defendant, the title, docket number and nature of the proceeding in which process has been served upon the Secretary, the fact that service has been effected pursuant to this subsection, the return date thereof, and the day and hour when the service was made. The Secretary of State shall not be required to retain such information for a period longer than 5 years from the Secretary's receipt of the service of process.

Section 8. Amend Chapter 18, Title 6 of the Delaware Code to add a new § 18-112 as shown by underline as follows:

§ 18-112 Judicial cancellation of certificate of formation; proceedings.

(a) Upon motion by the Attorney General, the Court of Chancery shall have jurisdiction to cancel the certificate of formation of any domestic limited liability company for abuse or misuse of its limited liability company powers, privileges or existence. The Attorney General shall proceed for this purpose in the Court of Chancery.

(b) The Court of Chancery shall have power, by appointment of trustees, receivers or otherwise, to administer and wind up the affairs of any domestic limited liability company whose certificate of formation shall be canceled by the Court of Chancery under this section, and to make such orders and decrees with respect thereto as shall be just and equitable respecting its affairs and assets and the rights of its members and creditors.

Section 9. Amend § 18-203(a), Chapter 18, Title 6 of the Delaware Code by making deletions as shown by strike through and insertions as shown by underline as follows:

(a) A certificate of formation shall be canceled upon the dissolution and the completion of winding up of a limited liability company, or as provided in § 18-104(d), ~~or § 18-104(i)(4), § 18-112 or § 18-1108 of this title, or upon the filing of a certificate of merger or consolidation or a certificate of ownership and merger if the limited liability company is not the surviving or resulting entity in a merger or consolidation or upon the future effective date or time of a certificate of merger or consolidation or a certificate of ownership and merger if the limited liability company is not the surviving or resulting entity in a merger or consolidation, or upon the filing of a certificate of transfer or upon the future effective date or time of a certificate of transfer, or upon the filing of a certificate of conversion to non-Delaware entity or upon the future effective date or time of a certificate of conversion to non-Delaware entity~~ or upon the filing of a certificate of division if the limited liability company is a dividing company that is not a surviving company or upon the future effective date or time of a certificate of division if the limited liability company is a dividing company that is not a surviving company. A certificate of cancellation shall be filed in the office of the Secretary of State to accomplish the cancellation of a certificate of formation upon the dissolution and the completion of winding up of a limited liability company and shall set forth:

- (1) The name of the limited liability company;
- (2) The date of filing of its certificate of formation;
- (3) The future effective date or time (which shall be a date or time certain) of cancellation if it is not to be effective upon the filing of the certificate; and
- (4) Any other information the person filing the certificate of cancellation determines.

Section 10. Amend § 18-203, Chapter 18, Title 6 of the Delaware Code by making deletions as shown by strike through and insertions as shown by underline as follows:

§ 18-203 Cancellation of certificate.

(a) A certificate of formation shall be canceled upon the dissolution and the completion of winding up of a limited liability company, or as provided in § 18-104(d), § 18-104(i)(4), § 18-112 or § 18-1108 of this title, or upon the filing of a certificate of merger or consolidation or a certificate of ownership and merger if the limited liability company is not the surviving or resulting entity in a merger or consolidation or upon the future effective date or time of a certificate of merger or consolidation or a certificate of ownership and merger if the limited liability company is not the surviving or resulting entity in a merger or consolidation, or upon the filing of a certificate of transfer or upon the future effective date or time of a certificate of transfer, or upon the filing of a certificate of conversion to non-Delaware entity or upon the future effective date or time of a certificate of conversion to non-Delaware entity or upon the filing of a certificate of division if the limited liability company is a dividing company that is not a surviving company or upon the future effective date or time of a certificate of division if the limited liability company is a dividing company that is not a surviving company. A certificate of cancellation shall be filed in the office of the Secretary of State to accomplish the cancellation of a certificate of formation upon the dissolution and the completion of winding up of a limited liability company and shall set forth:

- (1) The name of the limited liability company;
- (2) The date of filing of its certificate of formation;
- (3) If the limited liability company has formed one or more registered series whose certificate of registered series has not been canceled prior to the filing of the certificate of cancellation, the name of each such registered series;

(34) The future effective date or time (which shall be a date or time certain) of cancellation if it is not to be effective upon the filing of the certificate; and

- (45) Any other information the person filing the certificate of cancellation determines.

(c) The Secretary of State shall not issue a certificate of good standing with respect to a limited liability company (or any registered series thereof) if its certificate of formation is canceled.

Section 11. Amend § 18-206, Chapter 18, Title 6 of the Delaware Code by making deletions as shown by strike through and insertions as shown by underline as follows:

§ 18-206 Filing.

(a) The signed copy of ~~the certificate of formation and of any certificates of amendment, correction, amendment of a certificate with a future effective date or time, termination of a certificate with a future effective date or time or cancellation (or of any judicial decree of amendment or cancellation), and of any certificate of merger or consolidation, any certificate of ownership~~

~~and merger, any restated certificate, any corrected certificate, any certificate of conversion to limited liability company, any certificate of conversion to a non-Delaware entity, any certificate of transfer, any certificate of transfer and domestic continuance, any certificate of limited liability company domestication, and of any certificate of revival~~ any certificate authorized to be filed under this chapter shall be delivered to the Secretary of State. A person who executes a certificate as an agent or fiduciary need not exhibit evidence of that person's authority as a prerequisite to filing. Any signature on any certificate authorized to be filed with the Secretary of State under any provision of this chapter may be a facsimile, a conformed signature or an electronically transmitted signature. Upon delivery of any certificate, the Secretary of State shall record the date and time of its delivery. Unless the Secretary of State finds that any certificate does not conform to law, upon receipt of all filing fees required by law the Secretary of State shall:

(1) Certify that ~~the any certificate of formation, the certificate of amendment, the certificate of correction, the certificate of amendment of a certificate with a future effective date or time, the certificate of termination of a certificate with a future effective date or time, the certificate of cancellation (or of any judicial decree of amendment or cancellation), the certificate of merger or consolidation, the certificate of ownership and merger, the restated certificate, the corrected certificate, the certificate of conversion to limited liability company, the certificate of conversion to a non-Delaware entity, the certificate of transfer, the certificate of transfer and domestic continuance, the certificate of limited liability company domestication or the certificate of revival~~ authorized to be filed under this chapter has been filed in the Secretary of State's office by endorsing upon the signed certificate the word "Filed," and the date and time of the filing. This endorsement is conclusive of the date and time of its filing in the absence of actual fraud. Except as provided in paragraph (a)(5) or (a)(6) of this section, such date and time of filing of a certificate shall be the date and time of delivery of the certificate;

(2) File and index the endorsed certificate;

(3) Prepare and return to the person who filed it or that person's representative a copy of the signed certificate, similarly endorsed, and shall certify such copy as a true copy of the signed certificate; and

(4) Cause to be entered such information from the certificate as the Secretary of State deems appropriate into the Delaware Corporation Information System or any system which is a successor thereto in the office of the Secretary of State, and such information and a copy of such certificate shall be permanently maintained as a public record on a suitable medium. The Secretary of State is authorized to grant direct access to such system to registered agents subject to the execution of an operating agreement between the Secretary of State and such registered agent. Any registered agent granted such access shall demonstrate the existence of policies to ensure that information entered into the system accurately reflects the content of certificates in the possession of the registered agent at the time of entry.

(5) Upon request made upon or prior to delivery, the Secretary of State may, to the extent deemed practicable, establish as the date and time of filing of a certificate a date and time after its delivery. If the Secretary of State refuses to file any certificate due to an error, omission or other imperfection, the Secretary of State may hold such certificate in suspension, and in such event, upon delivery of a replacement certificate in proper form for filing and tender of the required fees within 5 business days after notice of such suspension is given to the filer, the Secretary of State shall establish as the date and time of filing of such certificate the date and time that would have been the date and time of filing of the rejected certificate had it been accepted for filing. The Secretary of State shall not issue a certificate of good standing with respect to any limited liability company with a certificate held in suspension pursuant to this subsection. The Secretary of State may establish as the date and time of filing of a certificate the date and time at which information from such certificate is entered pursuant to paragraph (a)(4) of this section if such certificate is delivered on the same date and within 4 hours after such information is entered.

(6) If:

a. Together with the actual delivery of a certificate and tender of the required fees, there is delivered to the Secretary of State a separate affidavit (which in its heading shall be designated as an affidavit of extraordinary condition) attesting, on the basis of personal knowledge of the affiant or a reliable source of knowledge identified in the affidavit, that an earlier effort to deliver such certificate and tender such fees was made in good faith, specifying the nature, date and time of such good faith effort and requesting that the Secretary of State establish such date and time as the date and time of filing of such certificate; or

b. Upon the actual delivery of a certificate and tender of the required fees, the Secretary of State in the Secretary of State's own discretion provides a written waiver of the requirement for such an affidavit stating that it appears to the

Secretary of State that an earlier effort to deliver such certificate and tender such fees was made in good faith and specifying the date and time of such effort; and

c. The Secretary of State determines that an extraordinary condition existed at such date and time, that such earlier effort was unsuccessful as a result of the existence of such extraordinary condition, and that such actual delivery and tender were made within a reasonable period (not to exceed 2 business days) after the cessation of such extraordinary condition, then the Secretary of State may establish such date and time as the date and time of filing of such certificate. No fee shall be paid to the Secretary of State for receiving an affidavit of extraordinary condition. For purposes of this subsection, an extraordinary condition means: any emergency resulting from an attack on, invasion or occupation by foreign military forces of, or disaster, catastrophe, war or other armed conflict, revolution or insurrection or rioting or civil commotion in, the United States or a locality in which the Secretary of State conducts its business or in which the good faith effort to deliver the certificate and tender the required fees is made, or the immediate threat of any of the foregoing; or any malfunction or outage of the electrical or telephone service to the Secretary of State's office, or weather or other condition in or about a locality in which the Secretary of State conducts its business, as a result of which the Secretary of State's office is not open for the purpose of the filing of certificates under this chapter or such filing cannot be effected without extraordinary effort. The Secretary of State may require such proof as it deems necessary to make the determination required under this paragraph (a)(6)c., and any such determination shall be conclusive in the absence of actual fraud. If the Secretary of State establishes the date and time of filing of a certificate pursuant to this subsection, the date and time of delivery of the affidavit of extraordinary condition or the date and time of the Secretary of State's written waiver of such affidavit shall be endorsed on such affidavit or waiver and such affidavit or waiver, so endorsed, shall be attached to the filed certificate to which it relates. Such filed certificate shall be effective as of the date and time established as the date and time of filing by the Secretary of State pursuant to this subsection, except as to those persons who are substantially and adversely affected by such establishment and, as to those persons, the certificate shall be effective from the date and time endorsed on the affidavit of extraordinary condition or written waiver attached thereto.

(b) Notwithstanding any other provision of this chapter, any certificate filed under this chapter shall be effective at the time of its filing with the Secretary of State or at any later date or time (not later than a time on the one hundred and eightieth day after the date of its filing if such date of filing is on or after January 1, 2012) specified in the certificate. Upon the filing of a certificate of amendment (or judicial decree of amendment), certificate of correction, corrected certificate or restated certificate in the office of the Secretary of State, or upon the future effective date or time of a certificate of amendment (or judicial decree thereof) or restated certificate, as provided for therein, the certificate of formation shall be amended, corrected or restated as set forth therein. Upon the filing of a certificate of cancellation (or a judicial decree thereof), ~~or a certificate of merger or consolidation or certificate of ownership and merger~~ or a certificate of division which acts as a certificate of cancellation or a certificate of transfer, ~~or a certificate of conversion to a non-Delaware entity, or upon the future effective date or time of a certificate of cancellation (or a judicial decree thereof), or of a certificate of merger or consolidation or certificate of ownership and merger~~ or a certificate of division which acts as a certificate of cancellation or a certificate of transfer, or a certificate of conversion to a non-Delaware entity, as provided for therein, or as specified in § 18-104(d), § 18-104(i)(4), § 18-112 or § 18-1108(a) of this title, the certificate of formation is canceled. Upon the filing of a certificate of limited liability company domestication or upon the future effective date or time of a certificate of limited liability company domestication, the entity filing the certificate of limited liability company domestication is domesticated as a limited liability company with the effect provided in § 18-212 of this title. Upon the filing of a certificate of conversion to limited liability company or upon the future effective date or time of a certificate of conversion to limited liability company, the entity filing the certificate of conversion to limited liability company is converted to a limited liability company with the effect provided in § 18-214 of this title. Upon the filing of a certificate of revival, the limited liability company is revived with the effect provided in § 18-1109 of this title. Upon the filing of a certificate of transfer and domestic continuance, or upon the future effective date or time of a certificate of transfer and domestic continuance, as provided for therein, the limited liability company filing the certificate of transfer and domestic continuance shall continue to exist as a limited liability company of the State of Delaware with the effect provided in § 18-213 of this title.

(d) A fee as set forth in § 18-1105(a)(3) of this title shall be paid at the time of the filing of a certificate of formation, a certificate of amendment, a certificate of correction, a certificate of amendment of a certificate with a future effective date or time, a certificate of termination of a certificate with a future effective date or time, a certificate of cancellation, a certificate of

merger or consolidation, a certificate of ownership and merger, a restated certificate, a corrected certificate, a certificate of conversion to limited liability company, a certificate of conversion to a non-Delaware entity, a certificate of transfer, a certificate of transfer and domestic continuance, a certificate of limited liability company domestication, a certificate of division or a certificate of revival.

Section 12. Amend § 18-206, Chapter 18, Title 6 of the Delaware Code by making deletions as shown by strike through and insertions as shown by underline as follows:

§ 18-206 Filing.

(a) The signed copy of any certificate authorized to be filed under this chapter shall be delivered to the Secretary of State. A person who executes a certificate as an agent or fiduciary need not exhibit evidence of that person's authority as a prerequisite to filing. Any signature on any certificate authorized to be filed with the Secretary of State under any provision of this chapter may be a facsimile, a conformed signature or an electronically transmitted signature. Upon delivery of any certificate, the Secretary of State shall record the date and time of its delivery. Unless the Secretary of State finds that any certificate does not conform to law, upon receipt of all filing fees required by law the Secretary of State shall:

(1) Certify that any certificate authorized to be filed under this chapter has been filed in the Secretary of State's office by endorsing upon the signed certificate the word "Filed," and the date and time of the filing. This endorsement is conclusive of the date and time of its filing in the absence of actual fraud. Except as provided in paragraph (a)(5) or (a)(6) of this section, such date and time of filing of a certificate shall be the date and time of delivery of the certificate;

(2) File and index the endorsed certificate;

(3) Prepare and return to the person who filed it or that person's representative a copy of the signed certificate, similarly endorsed, and shall certify such copy as a true copy of the signed certificate; and

(4) Cause to be entered such information from the certificate as the Secretary of State deems appropriate into the Delaware Corporation Information System or any system which is a successor thereto in the office of the Secretary of State, and such information and a copy of such certificate shall be permanently maintained as a public record on a suitable medium. The Secretary of State is authorized to grant direct access to such system to registered agents subject to the execution of an operating agreement between the Secretary of State and such registered agent. Any registered agent granted such access shall demonstrate the existence of policies to ensure that information entered into the system accurately reflects the content of certificates in the possession of the registered agent at the time of entry.

(5) Upon request made upon or prior to delivery, the Secretary of State may, to the extent deemed practicable, establish as the date and time of filing of a certificate a date and time after its delivery. If the Secretary of State refuses to file any certificate due to an error, omission or other imperfection, the Secretary of State may hold such certificate in suspension, and in such event, upon delivery of a replacement certificate in proper form for filing and tender of the required fees within 5 business days after notice of such suspension is given to the filer, the Secretary of State shall establish as the date and time of filing of such certificate the date and time that would have been the date and time of filing of the rejected certificate had it been accepted for filing. The Secretary of State shall not issue a certificate of good standing with respect to any limited liability company or registered series with a certificate held in suspension pursuant to this subsection. The Secretary of State may establish as the date and time of filing of a certificate the date and time at which information from such certificate is entered pursuant to paragraph (a)(4) of this section if such certificate is delivered on the same date and within 4 hours after such information is entered.

(6) If:

a. Together with the actual delivery of a certificate and tender of the required fees, there is delivered to the Secretary of State a separate affidavit (which in its heading shall be designated as an affidavit of extraordinary condition) attesting, on the basis of personal knowledge of the affiant or a reliable source of knowledge identified in the affidavit, that an earlier effort to deliver such certificate and tender such fees was made in good faith, specifying the nature, date and time of such good faith effort and requesting that the Secretary of State establish such date and time as the date and time of filing of such certificate; or

b. Upon the actual delivery of a certificate and tender of the required fees, the Secretary of State in the Secretary of State's own discretion provides a written waiver of the requirement for such an affidavit stating that it appears to the Secretary of State that an earlier effort to deliver such certificate and tender such fees was made in good faith and specifying the date and time of such effort; and

c. The Secretary of State determines that an extraordinary condition existed at such date and time, that such earlier effort was unsuccessful as a result of the existence of such extraordinary condition, and that such actual delivery and tender were made within a reasonable period (not to exceed 2 business days) after the cessation of such extraordinary condition, then the Secretary of State may establish such date and time as the date and time of filing of such certificate. No fee shall be paid to the Secretary of State for receiving an affidavit of extraordinary condition. For purposes of this subsection, an extraordinary condition means: any emergency resulting from an attack on, invasion or occupation by foreign military forces of, or disaster, catastrophe, war or other armed conflict, revolution or insurrection or rioting or civil commotion in, the United States or a locality in which the Secretary of State conducts its business or in which the good faith effort to deliver the certificate and tender the required fees is made, or the immediate threat of any of the foregoing; or any malfunction or outage of the electrical or telephone service to the Secretary of State's office, or weather or other condition in or about a locality in which the Secretary of State conducts its business, as a result of which the Secretary of State's office is not open for the purpose of the filing of certificates under this chapter or such filing cannot be effected without extraordinary effort. The Secretary of State may require such proof as it deems necessary to make the determination required under this paragraph (a)(6)c., and any such determination shall be conclusive in the absence of actual fraud. If the Secretary of State establishes the date and time of filing of a certificate pursuant to this subsection, the date and time of delivery of the affidavit of extraordinary condition or the date and time of the Secretary of State's written waiver of such affidavit shall be endorsed on such affidavit or waiver and such affidavit or waiver, so endorsed, shall be attached to the filed certificate to which it relates. Such filed certificate shall be effective as of the date and time established as the date and time of filing by the Secretary of State pursuant to this subsection, except as to those persons who are substantially and adversely affected by such establishment and, as to those persons, the certificate shall be effective from the date and time endorsed on the affidavit of extraordinary condition or written waiver attached thereto.

(b) Notwithstanding any other provision of this chapter, any certificate filed under this chapter shall be effective at the time of its filing with the Secretary of State or at any later date or time (not later than a time on the one hundred and eightieth day after the date of its filing if such date of filing is on or after January 1, 2012) specified in the certificate. Upon the filing of a certificate of amendment (or judicial decree of amendment), certificate of correction, corrected certificate or restated certificate in the office of the Secretary of State, or upon the future effective date or time of a certificate of amendment (or judicial decree thereof) or restated certificate, as provided for therein, the certificate of formation or certificate of registered series shall be amended, corrected or restated as set forth therein. Upon the filing of a certificate of cancellation (or a judicial decree thereof), a certificate of merger or consolidation or certificate of ownership and merger or a certificate of division which acts as a certificate of cancellation or a certificate of transfer, a certificate of conversion to a non-Delaware entity, or a certificate of conversion of registered series to protected series, or upon the future effective date or time of a certificate of cancellation (or a judicial decree thereof), a certificate of merger or consolidation or certificate of ownership and merger or a certificate of division which acts as a certificate of cancellation or a certificate of transfer, or a certificate of conversion to a non-Delaware entity, as provided for therein, or as specified in § 18-104(d), § 18-104(i)(4), § 18-112 or § 18-1108(a) of this title, the certificate of formation or certificate of registered series, as applicable, is canceled. Upon the filing of a certificate of limited liability company domestication or upon the future effective date or time of a certificate of limited liability company domestication, the entity filing the certificate of limited liability company domestication is domesticated as a limited liability company with the effect provided in § 18-212 of this title. Upon the filing of a certificate of conversion to limited liability company or upon the future effective date or time of a certificate of conversion to limited liability company, the entity filing the certificate of conversion to limited liability company is converted to a limited liability company with the effect provided in § 18-214 of this title. Upon the filing of a certificate of conversion of protected series to registered series, or upon the future effective date or time of a certificate of conversion of protected series to registered series, the protected series with respect to which such filing is made is converted to a registered series with the effect provided in § 18-219. Upon the filing of a certificate of conversion of registered series to protected series, or upon the future effective date or time of a certificate of conversion of registered series to protected series, the registered series filing such certificate is converted to a protected series with the effect provided in § 18-220. Upon the filing of a certificate of revival, ~~the~~ a limited liability company or a registered series is revived with the effect provided in § 18-1109 or § 18-1110 of this title. Upon the filing of a certificate of transfer and domestic continuance, or upon the future effective date or time of a certificate of transfer and domestic continuance, as provided for therein, the limited liability company filing the certificate of

transfer and domestic continuance shall continue to exist as a limited liability company of the State of Delaware with the effect provided in § 18-213 of this title.

(d) A fee as set forth in § 18-1105(a)(3) of this title shall be paid at the time of the filing of a certificate of formation, a certificate of registered series, a certificate of amendment, a certificate of correction, a certificate of amendment of a certificate with a future effective date or time, a certificate of termination of a certificate with a future effective date or time, a certificate of cancellation, a certificate of merger or consolidation, a certificate of ownership and merger, a restated certificate, a corrected certificate, a certificate of conversion to limited liability company, a certificate of conversion to a non-Delaware entity, a certificate of conversion of protected series to registered series, a certificate of conversion of registered series to protected series, a certificate of transfer, a certificate of transfer and domestic continuance, a certificate of limited liability company domestication, a certificate of division or a certificate of revival.

Section 13. Amend § 18-207, Chapter 18, Title 6 of the Delaware Code by making deletions as shown by strike through and insertions as shown by underline as follows:

§ 18-207 Notice.

The fact that a certificate of formation is on file in the office of the Secretary of State is notice that the entity formed in connection with the filing of the certificate of formation is a limited liability company formed under the laws of the State of Delaware and is notice of all other facts set forth therein which are required to be set forth in a certificate of formation by § 18-201(a)(1) and (2) or § 18-1202 of this title and which are permitted to be set forth in a certificate of formation by § 18-215(b) of this title.

Section 14. Amend § 18-207, Chapter 18, Title 6 of the Delaware Code by making deletions as shown by strike through and insertions as shown by underline as follows:

§ 18-207 Notice.

The fact that a certificate of formation is on file in the office of the Secretary of State is notice that the entity formed in connection with the filing of the certificate of formation is a limited liability company formed under the laws of the State of Delaware and is notice of all other facts set forth therein which are required to be set forth in a certificate of formation by § 18-201(a)(1) and (2) or § 18-1202 of this title and which are permitted to be set forth in a certificate of formation by § 18-215(b) or § 18-218(b) of this title. The fact that a certificate of registered series is on file in the office of the Secretary of State is notice that the registered series named in such certificate of registered series has been formed pursuant to § 18-218 of this title and is notice of all other facts set forth therein which are required to be set forth in a certificate of registered series by § 18-218(d) of this title.

Section 15. Amend § 18-208, Chapter 18, Title 6 of the Delaware Code by making deletions as shown by strike through and insertions as shown by underline as follows:

§ 18-208 Restated certificate.

(a) Restated certificate of formation.

(a1) A limited liability company may, whenever desired, integrate into a single instrument all of the provisions of its certificate of formation which are then in effect and operative as a result of there having theretofore been filed with the Secretary of State 1 or more certificates or other instruments pursuant to any of the sections referred to in this subchapter, and it may at the same time also further amend its certificate of formation by adopting a restated certificate of formation.

(b2) If a restated certificate of formation merely restates and integrates but does not further amend the initial certificate of formation, as theretofore amended or supplemented by any instrument that was executed and filed pursuant to any of the sections in this subchapter, it shall be specifically designated in its heading as a "Restated Certificate of Formation" together with such other words as the limited liability company may deem appropriate and shall be executed by an authorized person and filed as provided in § 18-206 of this title in the office of the Secretary of State. If a restated certificate restates and integrates and also further amends in any respect the certificate of formation, as theretofore amended or supplemented, it shall be specifically designated in its heading as an "Amended and Restated Certificate of Formation" together with such other words as the limited liability company may deem appropriate and shall be executed by at least 1 authorized person, and filed as provided in § 18-206 of this title in the office of the Secretary of State.

(c3) A restated certificate of formation shall state, either in its heading or in an introductory paragraph, the limited liability company's present name, and, if it has been changed, the name under which it was originally filed, and the date of filing of its original certificate of formation with the Secretary of State, and the future effective date or time (which shall be a date or

time certain) of the restated certificate if it is not to be effective upon the filing of the restated certificate. A restated certificate shall also state that it was duly executed and is being filed in accordance with this section. If a restated certificate only restates and integrates and does not further amend a limited liability company's certificate of formation, as theretofore amended or supplemented and there is no discrepancy between those provisions and the restated certificate, it shall state that fact as well.

(d4) Upon the filing of a restated certificate of formation with the Secretary of State, or upon the future effective date or time of a restated certificate of formation as provided for therein, the initial certificate of formation, as theretofore amended or supplemented, shall be superseded; thenceforth, the restated certificate of formation, including any further amendment or changes made thereby, shall be the certificate of formation of the limited liability company, but the original effective date of formation shall remain unchanged.

(e5) Any amendment or change effected in connection with the restatement and integration of the certificate of formation shall be subject to any other provision of this chapter, not inconsistent with this section, which would apply if a separate certificate of amendment were filed to effect such amendment or change.

(b) Restated certificate of registered series.

(1) A registered series of a limited liability company may, whenever desired, integrate into a single instrument all of the provisions of its certificate of registered series which are then in effect and operative as a result of there having theretofore been filed with the Secretary of State 1 or more certificates or other instruments pursuant to any of the sections referred to in this subchapter, and it may at the same time also further amend its certificate of registered series by adopting a restated certificate of registered series.

(2) If a restated certificate of registered series merely restates and integrates but does not further amend the initial certificate of registered series, as theretofore amended or supplemented by any instrument that was executed and filed pursuant to any of the sections in this subchapter, it shall be specifically designated in its heading as a "Restated Certificate of Registered Series" together with such other words as the registered series may deem appropriate and shall be executed by an authorized person and filed as provided in § 18-206 of this title in the office of the Secretary of State. If a restated certificate restates and integrates and also further amends in any respect the certificate of registered series as theretofore amended or supplemented, it shall be specifically designated in its heading as an "Amended and Restated Certificate of Registered Series" together with such other words as the registered series may deem appropriate and shall be executed by at least 1 authorized person, and filed as provided in § 18-206 of this title in the office of the Secretary of State.

(3) A restated certificate of registered series shall state, either in its heading or in an introductory paragraph, the name of the limited liability company, the present name of the registered series, and, if the name of the registered series has been changed, the name under which it was originally filed, and the date of filing of its original certificate of registered series with the Secretary of State, and the future effective date or time (which shall be a date or time certain) of the restated certificate of registered series if it is not to be effective upon the filing of the restated certificate of registered series. A restated certificate shall also state that it was duly executed and is being filed in accordance with this section. If a restated certificate only restates and integrates and does not further amend a certificate of registered series, as theretofore amended or supplemented and there is no discrepancy between those provisions and the restated certificate, it shall state that fact as well.

(4) Upon the filing of a restated certificate of registered series with the Secretary of State, or upon the future effective date or time of a restated certificate of registered series as provided for therein, the initial certificate of registered series, as theretofore amended or supplemented, shall be superseded; thenceforth, the restated certificate of registered series, including any further amendment or changes made thereby, shall be the certificate of registered series of such registered series, but the original effective date of formation of the registered series, as applicable, shall remain unchanged.

(5) Any amendment or change effected in connection with the restatement and integration of a certificate of registered series shall be subject to any other provision of this chapter, not inconsistent with this section, which would apply if a separate certificate of amendment were filed to effect such amendment or change.

Section 16. Amend § 18-209(a), Chapter 18, Title 6 of the Delaware Code by making deletions as shown by strike through and insertions as shown by underline as follows:

(a) As used in this section and in §§ 18-204 and 18-217 of this title, "other business entity" means a corporation, a statutory trust, a business trust, an association, a real estate investment trust, a common-law trust, or any other incorporated or unincorporated business or entity, including a partnership (whether general (including a limited liability partnership) or limited (including a limited liability limited partnership)), and a foreign limited liability company, but excluding a domestic limited

liability company. As used in this section and in §§ 18-210 and 18-301 of this title, "plan of merger" means a writing approved by a domestic limited liability company, in the form of resolutions or otherwise, that states the terms and conditions of a merger under subsection (i) of this section.

Section 17. Amend § 18-209(a), Chapter 18, Title 6 of the Delaware Code by making deletions as shown by strike through and insertions as shown by underline as follows:

(a) As used in this section and in §§ 18-204, ~~and 18-217, 18-219, 18-220 and 18-221~~ of this title, "other business entity" means a corporation, a statutory trust, a business trust, an association, a real estate investment trust, a common-law trust, or any other incorporated or unincorporated business or entity, including a partnership (whether general (including a limited liability partnership) or limited (including a limited liability limited partnership)), and a foreign limited liability company, but excluding a domestic limited liability company. As used in this section and in §§ 18-210 and 18-301 of this title, "plan of merger" means a writing approved by a domestic limited liability company, in the form of resolutions or otherwise, that states the terms and conditions of a merger under subsection (i) of this section.

Section 18. Amend § 18-211(b), Chapter 18, Title 6 of the Delaware Code by making deletions as shown by strike through and insertions as shown by underline as follows:

(b) In lieu of filing a certificate of correction, a certificate may be corrected by filing with the Secretary of State a corrected certificate which shall be executed and filed as if the corrected certificate were the certificate being corrected, and a fee equal to the fee payable to the Secretary of State ~~if the certificate being corrected were then being filed~~ for a certificate of correction as prescribed by § 18-1105 of this title shall be paid and collected by the Secretary of State for the use of the State of Delaware in connection with the filing of the corrected certificate. The corrected certificate shall be specifically designated as such in its heading, shall specify the inaccuracy or defect to be corrected and shall set forth the entire certificate in corrected form. A certificate corrected in accordance with this section shall be effective as of the date the original certificate was filed, except as to those persons who are substantially and adversely affected by the correction and as to those persons the certificate as corrected shall be effective from the filing date.

Section 19. Amend § 18-215, Chapter 18, Title 6 of the Delaware Code by making deletions as shown by strike through and insertions as shown by underline as follows:

§ 18-215 Series of members, managers, limited liability company interests or assets.

(a) A limited liability company agreement may establish or provide for the establishment of 1 or more designated series of members, managers, limited liability company interests or assets. Any such series may have separate rights, powers or duties with respect to specified property or obligations of the limited liability company or profits and losses associated with specified property or obligations, and any such series may have a separate business purpose or investment objective. No provision of subsection (b) of this section or § 18-218 of this title shall be construed to limit the application of the principle of freedom of contract to a series that is not a protected series or a registered series. Other than pursuant to §§ 18-219, 18-220 and 18-221, a series may not merge, convert or consolidate pursuant to any section of this title or any other statute of this State.

(b) A series established in accordance with the following sentence is a protected series. Notwithstanding anything to the contrary set forth in this chapter or under other applicable law, in the event that a limited liability company agreement establishes or provides for the establishment of 1 or more series, and ~~if~~ to the extent the records maintained for any such series account for the assets associated with such series separately from the other assets of the limited liability company, or any other series thereof, and if the limited liability company agreement so provides, and if notice of the limitation on liabilities of a series as referenced in this subsection is set forth in the certificate of formation of the limited liability company, then the debts, liabilities, obligations and expenses incurred, contracted for or otherwise existing with respect to ~~a particular~~ such series shall be enforceable against the assets of such series only, and not against the assets of the limited liability company generally or any other series thereof, and, unless otherwise provided in the limited liability company agreement, none of the debts, liabilities, obligations and expenses incurred, contracted for or otherwise existing with respect to the limited liability company generally or any other series thereof shall be enforceable against the assets of such series. Neither the preceding sentence nor any provision pursuant thereto in a limited liability company agreement or certificate of formation shall (i) restrict a protected series or limited liability company on behalf of a protected series from agreeing in the limited liability company agreement or otherwise that any or all of the debts, liabilities, obligations and expenses incurred, contracted for or otherwise existing with respect to the limited liability company generally or any other series thereof shall be enforceable against the assets of such protected series or (ii) restrict a limited liability company from agreeing in the limited liability company agreement or otherwise that any or all of the debts, liabilities,

obligations and expenses incurred, contracted for or otherwise existing with respect to a protected series shall be enforceable against the assets of the limited liability company generally. Assets associated with a protected series may be held directly or indirectly, including in the name of such series, in the name of the limited liability company, through a nominee or otherwise. Records maintained for a protected series that reasonably identify its assets, including by specific listing, category, type, quantity, computational or allocational formula or procedure (including a percentage or share of any asset or assets) or by any other method where the identity of such assets is objectively determinable, will be deemed to account for the assets associated with such series separately from the other assets of the limited liability company, or any other series thereof. Notice in a certificate of formation of the limitation on liabilities of a protected series as referenced in this subsection shall be sufficient for all purposes of this subsection whether or not the limited liability company has established any protected series when such notice is included in the certificate of formation, and there shall be no requirement that any specific protected series of the limited liability company be referenced in such notice. The fact that a certificate of formation that contains the foregoing notice of the limitation on liabilities of a protected series is on file in the office of the Secretary of State shall constitute notice of such limitation on liabilities of a protected series. As used in this chapter, a reference to assets of a protected series includes assets associated with ~~a such series and~~, a reference to assets associated with a protected series includes assets of ~~a series such series~~, a reference to members or managers of a protected series includes members or managers associated with such series, and a reference to members or managers associated with a protected series includes members or managers of such series. The following shall apply to a protected series:

(e1) ~~A series established in accordance with subsection (b) of this section~~ protected series may carry on any lawful business, purpose or activity, whether or not for profit, with the exception of the business of banking as defined in § 126 of Title 8. Unless otherwise provided in a limited liability company agreement, ~~a series established in accordance with subsection (b) of this section~~ protected series shall have the power and capacity to, in its own name, contract, hold title to assets (including real, personal and intangible property), grant liens and security interests, and sue and be sued.

(d2) Except as otherwise provided by this chapter, no member or manager of a protected series shall be obligated personally for any debt, obligation or liability of such series, whether arising in contract, tort or otherwise, solely by reason of being a member or acting as manager of such series. Notwithstanding ~~§ 18-303(a) of this title~~ the preceding sentence, under a limited liability company agreement or under another agreement, a member or manager may agree to be obligated personally for any or all of the debts, obligations and liabilities of one or more protected series.

(e3) A limited liability company agreement may provide for classes or groups of members or managers associated with a protected series having such relative rights, powers and duties as the limited liability company agreement may provide, and may make provision for the future creation in the manner provided in the limited liability company agreement of additional classes or groups of members or managers associated with ~~the such~~ series having such relative rights, powers and duties as may from time to time be established, including rights, powers and duties senior to existing classes and groups of members or managers associated with ~~the such~~ series. A limited liability company agreement may provide for the taking of an action, including the amendment of the limited liability company agreement, without the vote or approval of any member or manager or class or group of members or managers, including an action to create under the provisions of the limited liability company agreement a class or group of ~~the a~~ protected series of limited liability company interests that was not previously outstanding. A limited liability company agreement may provide that any member or class or group of members associated with a protected series shall have no voting rights.

(f4) A limited liability company agreement may grant to all or certain identified members or managers or a specified class or group of the members or managers associated with a protected series the right to vote separately or with all or any class or group of the members or managers associated with ~~the such~~ series, on any matter. Voting by members or managers associated with a protected series may be on a per capita, number, financial interest, class, group or any other basis.

(g5) Unless otherwise provided in a limited liability company agreement, the management of a protected series shall be vested in the members associated with such series in proportion to the then current percentage or other interest of members in the profits of ~~the such~~ series owned by all of the members associated with such series, the decision of members owning more than 50 percent of the said percentage or other interest in the profits controlling; provided, however, that if a limited liability company agreement provides for the management of ~~the a~~ protected series, in whole or in part, by a manager, the management of ~~the such~~ series, to the extent so provided, shall be vested in the manager who shall be chosen in the manner provided in the limited liability company agreement. The manager of ~~the a~~ protected series shall also hold the offices and have the responsibilities

accorded to the manager as set forth in a limited liability company agreement. A protected series may have more than 1 manager. Subject to § 18-602 of this title, a manager shall cease to be a manager with respect to a protected series as provided in a limited liability company agreement. Except as otherwise provided in a limited liability company agreement, any event under this chapter or in a limited liability company agreement that causes a manager to cease to be a manager with respect to a protected series shall not, in itself, cause such manager to cease to be a manager of the limited liability company or with respect to any other series thereof.

(h6) Notwithstanding § 18-606 of this title, but subject to subsections (ib)(7) and (hb)(10) of this section, and unless otherwise provided in a limited liability company agreement, at the time a member ~~associated with a series that has been established in accordance with subsection (b) of this section~~ of a protected series becomes entitled to receive a distribution with respect to such series, the member has the status of, and is entitled to all remedies available to, a creditor of ~~the~~ such series, with respect to the distribution. A limited liability company agreement may provide for the establishment of a record date with respect to allocations and distributions with respect to a protected series.

(i7) Notwithstanding § 18-607(a) of this title, a limited liability company may make a distribution with respect to a ~~series that has been established in accordance with subsection (b) of this section~~ protected series. A limited liability company shall not make a distribution with respect to a ~~series that has been established in accordance with subsection (b) of this section~~ protected series to a member to the extent that at the time of the distribution, after giving effect to the distribution, all liabilities of such series, other than liabilities to members on account of their limited liability company interests with respect to such series and liabilities for which the recourse of creditors is limited to specified property of such series, exceed the fair value of the assets associated with such series, except that the fair value of property of ~~the~~ such series that is subject to a liability for which the recourse of creditors is limited shall be included in the assets associated with such series only to the extent that the fair value of that property exceeds that liability. For purposes of the immediately preceding sentence, 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 pursuant to a bona fide retirement plan or other benefits program. A member who receives a distribution in violation of this subsection, and who knew at the time of the distribution that the distribution violated this subsection, shall be liable to a the protected series for the amount of the distribution. A member who receives a distribution in violation of this subsection, and who did not know at the time of the distribution that the distribution violated this subsection, shall not be liable for the amount of the distribution. Subject to § 18-607(c) of this title, which shall apply to any distribution made with respect to a protected series under this subsection, this subsection shall not affect any obligation or liability of a member under an agreement or other applicable law for the amount of a distribution.

(j8) Unless otherwise provided in the limited liability company agreement, a member shall cease to be associated with a protected series and to have the power to exercise any rights or powers of a member with respect to such series upon the assignment of all of the member's limited liability company interest with respect to such series. Except as otherwise provided in a limited liability company agreement, any event under this chapter or a limited liability company agreement that causes a member to cease to be associated with a protected series shall not, in itself, cause such member to cease to be associated with any other series or terminate the continued membership of a member in the limited liability company or cause the termination of the protected series, regardless of whether such member was the last remaining member associated with such series.

(k9) Subject to § 18-801 of this title, except to the extent otherwise provided in the limited liability company agreement, a protected series may be terminated and its affairs wound up without causing the dissolution of the limited liability company. The termination of a ~~series established in accordance with subsection (b) of this section~~ protected series shall not affect the limitation on liabilities of such series provided by ~~this subsection (b) of this section~~. A protected series is terminated and its affairs shall be wound up upon the dissolution of the limited liability company under § 18-801 of this title or otherwise upon the first to occur of the following:

- (1a.) At the time specified in the limited liability company agreement;
- (2b.) Upon the happening of events specified in the limited liability company agreement;
- (3c.) Unless otherwise provided in the limited liability company agreement, upon the vote or consent of members associated with such series who own more than 2/3 of the then-current percentage or other interest in the profits of ~~the~~ such series of the limited liability company owned by all of the members associated with such series; or
- (4d.) The termination of such series under subsection (mb)(11) of this section.

Unless otherwise provided in a limited liability company agreement, a limited liability company whose original certificate of formation was filed with the Secretary of State and effective on or prior to July 31, 2015, shall continue to be governed by paragraph (k)(3) of this section as in effect on July 31, 2015 (except that "affirmative" and "written" shall be deleted from such paragraph (k)(3) of this section).

(10) Notwithstanding § 18-803(a) of this title, unless otherwise provided in the limited liability company agreement, a manager associated with a protected series who has not wrongfully terminated ~~the such~~ series or, if none, the members associated with ~~the such~~ series or a person approved by the members associated with ~~the such~~ series, in either case, by members who own more than 50 percent of the then current percentage or other interest in the profits of ~~the such~~ series owned by all of the members associated with ~~the such~~ series, may wind up the affairs of ~~the such~~ series; ~~but, if the series has been established in accordance with subsection (b) of this section,~~ the Court of Chancery, upon cause shown, may wind up the affairs of ~~the a~~ protected series upon application of any member or manager associated with ~~the such~~ series, or the member's personal representative or assignee, and in connection therewith, may appoint a liquidating trustee. The persons winding up the affairs of a protected series may, in the name of the limited liability company and for and on behalf of the limited liability company and such series, take all actions with respect to ~~the such~~ series as are permitted under § 18-803(b) of this title. The persons winding up the affairs of a protected series shall provide for the claims and obligations of ~~the such~~ series and distribute the assets of ~~the such~~ series as provided in § 18-804 of this title, which section shall apply to the winding up and distribution of assets of a protected series. Actions taken in accordance with this subsection shall not affect the liability of members and shall not impose liability on a liquidating trustee. Unless otherwise provided in a limited liability company agreement, a limited liability company whose original certificate of formation was filed with the Secretary of State and effective on or prior to July 31, 2015, shall continue to be governed by the first sentence of this subsection as in effect on July 31, 2015.

(11) On application by or for a member or manager associated with a ~~series established in accordance with subsection (b) of this section~~ protected series, the Court of Chancery may decree termination of such series whenever it is not reasonably practicable to carry on the business of ~~the such~~ series in conformity with a limited liability company agreement.

(12) For all purposes of the laws of the State of Delaware, a protected series is an association, regardless of the number of members or managers, if any, of such series.

(c) If a foreign limited liability company that is registering to do business in the State of Delaware in accordance with § 18-902 of this title is governed by a limited liability company agreement that establishes or provides for the establishment of designated series of members, managers, limited liability company interests or assets having separate rights, powers or duties with respect to specified property or obligations of the foreign limited liability company or profits and losses associated with specified property or obligations, that fact shall be so stated on the application for registration as a foreign limited liability company. In addition, the foreign limited liability company shall state on such application whether the debts, liabilities and obligations incurred, contracted for or otherwise existing with respect to a particular series, if any, shall be enforceable against the assets of such series only, and not against the assets of the foreign limited liability company generally or any other series thereof, and whether any of the debts, liabilities, obligations and expenses incurred, contracted for or otherwise existing with respect to the foreign limited liability company generally or any other series thereof shall be enforceable against the assets of such series.

Section 20. Amend Chapter 18, Title 6 of the Delaware Code to add a new § 18-217 as shown by underline as follows:

§ 18-217. Division of a limited liability company.

(a) As used in this section and §§ 18-203 and 18-1203:

(1) "Dividing company" means the domestic limited liability company that is effecting a division in the manner provided in this section.

(2) "Division" means the division of a dividing company into two or more domestic limited liability companies in accordance with this section.

(3) "Division company" means a surviving company, if any, and each resulting company.

(4) "Division contact" means, in connection with any division, a natural person who is a Delaware resident, any division company in such division or any other domestic limited liability company or other business entity as defined in § 18-209 of this title formed or organized under the laws of the State of Delaware, which division contact shall maintain a copy of the plan of division for a period of six (6) years from the effective date of the division and shall comply with subsection (g)(3) of this section.

(5) "Organizational documents" means the certificate of formation and limited liability company agreement of a domestic limited liability company.

(6) "Resulting company" means a domestic limited liability company formed as a consequence of a division.

(7) "Surviving company" means a dividing company that survives the division.

(b) Pursuant to a plan of division, any domestic limited liability company may, in the manner provided in this section, be divided into two or more domestic limited liability companies. The division of a domestic limited liability company in accordance with this section and, if applicable, the resulting cessation of the existence of the dividing company pursuant to a certificate of division shall not be deemed to affect the personal liability of any person incurred prior to such division with respect to matters arising prior to such division, nor shall it be deemed to affect the validity or enforceability of any obligations or liabilities of the dividing company incurred prior to such division; provided, that such obligations and liabilities shall be allocated to and vested in, and valid and enforceable obligations of, such division company or companies to which such obligations and liabilities have been allocated pursuant to the plan of division, as provided in subsection (l) of this section. Each resulting company in a division shall be formed in compliance with the requirements of this chapter and subsection (i) of this section.

(c) If the limited liability company agreement of the dividing company specifies the manner of adopting a plan of division, the plan of division shall be adopted as specified in the limited liability company agreement. If the limited liability company agreement of the dividing company does not specify the manner of adopting a plan of division and does not prohibit a division of the limited liability company, the plan of division shall be adopted in the same manner as is specified in the limited liability company agreement for authorizing a merger or consolidation that involves the limited liability company as a constituent party to the merger or consolidation. If the limited liability company agreement of the dividing company does not specify the manner of adopting a plan of division or authorizing a merger or consolidation that involves the limited liability company as a constituent party and does not prohibit a division of the limited liability company, the adoption of a plan of division shall be authorized by the approval by members who own more than 50 percent of the then current percentage or other interest in the profits of the dividing company owned by all of the members. Notwithstanding prior approval, a plan of division may be terminated or amended pursuant to a provision for such termination or amendment contained in the plan of division.

(d) Unless otherwise provided in a plan of division, the division of a domestic limited liability company pursuant to this section shall not require such limited liability company to wind up its affairs under § 18-803 of this title or pay its liabilities and distribute its assets under § 18-804 of this title, and the division shall not constitute a dissolution of such limited liability company.

(e) In connection with a division under this section, rights or securities of, or interests in, the dividing company may be exchanged for or converted into cash, property, rights or securities of, or interests in, the surviving company or any resulting company or, in addition to or in lieu thereof, may be exchanged for or converted into cash, property, rights or securities of, or interests in, a domestic limited liability company or any other business entity which is not a division company or may be canceled or remain outstanding (if the dividing company is a surviving company).

(f) A plan of division adopted in accordance with subsection (c) of this section:

(1) May effect any amendment to the limited liability company agreement of the dividing company if it is a surviving company in the division; or

(2) May effect the adoption of a new limited liability company agreement for the dividing company if it is a surviving company in the division; and

(3) Shall effect the adoption of a new limited liability company agreement for each resulting company.

Any amendment to a limited liability company agreement or adoption of a new limited liability company agreement for the dividing company, if it is a surviving company in the division, or adoption of a new limited liability company agreement for each resulting company made pursuant to the foregoing sentence shall be effective at the effective time or date of the division. Any amendment to a limited liability company agreement or adoption of a limited liability company agreement for the dividing company, if it is a surviving company in the division, shall be effective notwithstanding any provision in the limited liability company agreement of the dividing company relating to amendment or adoption of a new limited liability company agreement, other than a provision that by its terms applies to an amendment to the limited liability company agreement or the adoption of a new limited liability company agreement, in either case, in connection with a division, merger or consolidation.

(g) If a domestic limited liability company is dividing under this section, the dividing company shall adopt a plan of division which shall set forth:

(1) The terms and conditions of the division, including:

(i) Any conversion or exchange of the limited liability company interests of the dividing company into or for limited liability company interests or other securities or obligations of any division company or cash, property or rights or securities or obligations of or interests in any other business entity or domestic limited liability company which is not a division company, or that the limited liability company interests of the dividing company shall remain outstanding or be canceled, or any combination of the foregoing; and

(ii) The allocation of assets, property, rights, series, debts, liabilities and duties of the dividing company among the division companies;

(2) The name of each resulting company and, if the dividing company will survive the division, the name of the surviving company;

(3) The name and business address of a division contact which shall have custody of a copy of the plan of division. The division contact, or any successor division contact, shall serve for a period of six (6) years following the effective date of the division. During such six (6) year period the division contact shall provide, without cost, to any creditor of the dividing company, within thirty (30) days following the division contact's receipt of a written request from any creditor of the dividing company, the name and business address of the division company to which the claim of such creditor was allocated pursuant to the plan of division; and

(4) Any other matters that the dividing company determines to include therein.

(h) If a domestic limited liability company divides under this section, the surviving company, if there be one, or any other division company shall file a certificate of division executed by 1 or more authorized persons on behalf of such division company in the office of the Secretary of State in accordance with § 18-204 of this title and a certificate of formation that complies with § 18-201 of this title for each resulting company executed by one or more authorized persons in accordance with § 18-204 of this title. The certificate of division shall state:

(1) The name of the dividing company and, if it has been changed, the name under which its certificate of formation was originally filed and whether the dividing company is a surviving company;

(2) The date of filing of the dividing company's original certificate of formation with the Secretary of State;

(3) The name of each division company;

(4) The name and business address of the division contact required by subsection (g)(3) of this section;

(5) The future effective date or time (which shall be a date or time certain) of the division if it is not to be effective upon the filing of the certificate of division;

(6) That the division has been approved in accordance with this section;

(7) That the plan of division is on file at a place of business of such division company as is specified therein, and shall state the address thereof; and

(8) That a copy of the plan of division will be furnished by such division company as is specified therein, on request and without cost, to any member of the dividing company.

(i) The certificate of division and each certificate of formation for each resulting company required by subsection (h) of this section shall be filed simultaneously in the office of the Secretary of State and, if such certificates are not to become effective upon their filing as permitted by § 18-206(b) of this title, then each such certificate shall provide for the same effective date or time in accordance with § 18-206(b) of this title. Concurrently with the effective date or time of a division, the limited liability company agreement of each resulting company shall become effective.

(j) A certificate of division shall act as a certificate of cancellation for a dividing company which is not a surviving company.

(k) A limited liability company agreement may provide that a domestic limited liability company shall not have the power to divide as set forth in this section.

(l) Upon the division of a domestic limited liability company becoming effective:

(1) The dividing company shall be subdivided into the distinct and independent resulting companies named in the plan of division, and, if the dividing company is not a surviving company, the existence of the dividing company shall cease.

(2) For all purposes of the laws of the State of Delaware, all of the rights, privileges and powers, and all the property, real, personal and mixed, of the dividing company and all debts due on whatever account to it, as well as all other things and other causes of action belonging to it, shall without further action be allocated to and vested in the applicable division

company in such a manner and basis and with such effect as is specified in the plan of division, and the title to any real property or interest therein allocated to and vested in any division company shall not revert or be in any way impaired by reason of the division.

(3) Each division company shall, from and after effectiveness of the certificate of division, be liable as a separate and distinct domestic limited liability company for such debts, liabilities and duties of the dividing company as are allocated to such division company pursuant to the plan of division in the manner and on the basis provided in subsection (g)(1)(ii) of this section.

(4) Each of the debts, liabilities and duties of the dividing company shall without further action be allocated to and be the debts, liabilities and duties of such division company as is specified in the plan of division as having such debts, liabilities and duties allocated to it, in such a manner and basis and with such effect as is specified in the plan of division, and no other division company shall be liable therefor, so long as the plan of division does not constitute a fraudulent transfer under applicable law, and all liens upon any property of the dividing company shall be preserved unimpaired, and all debts, liabilities and duties of the dividing company shall remain attached to the division company to which such debts, liabilities and duties have been allocated in the plan of division, and may be enforced against such division company to the same extent as if said debts, liabilities and duties had originally been incurred or contracted by it in its capacity as a domestic limited liability company.

(5) In the event that any allocation of assets, debts, liabilities and duties to division companies in accordance with a plan of division is determined by a court of competent jurisdiction to constitute a fraudulent transfer, each division company shall be jointly and severally liable on account of such fraudulent transfer notwithstanding the allocations made in the plan of division; provided, however, the validity and effectiveness of the division are not otherwise affected thereby.

(6) Debts and liabilities of the dividing company that are not allocated by the plan of division shall be the joint and several debts and liabilities of all of the division companies.

(7) It shall not be necessary for a plan of division to list each individual asset, property, right, series, debt, liability or duty of the dividing company to be allocated to a division company so long as the assets, property, rights, series, debts, liabilities or duties so allocated are reasonably identified by any method where the identity of such assets, property, rights, series, debts, liabilities or duties is objectively determinable.

(8) The rights, privileges, powers and interests in property of the dividing company that have been allocated to a division company, as well as the debts, liabilities and duties of the dividing company that have been allocated to such division company pursuant to a plan of division, shall remain vested in each such division company and shall not be deemed, as a result of the division, to have been assigned or transferred to such division company for any purpose of the laws of the State of Delaware.

(9) Any action or proceeding pending against a dividing company may be continued against the surviving company as if the division did not occur and against any resulting company to which the asset, property, right, series, debt, liability or duty associated with such action or proceeding was allocated pursuant to the plan of division by adding or substituting such resulting company as a party in the action or proceeding.

(m) In applying the provisions of this chapter on distributions, a direct or indirect allocation of property or liabilities in a division is not deemed a distribution for purposes of this chapter.

(n) The provisions of this section shall not be construed to limit the means of accomplishing a division by any other means provided for in a limited liability company agreement or other agreement or as otherwise permitted by this chapter or as otherwise permitted by law.

(o) All limited liability companies formed on or after August 1, 2018 shall be governed by this section. All limited liability companies formed prior to August 1, 2018 shall be governed by this section; provided, that if the dividing company is a party to any written contract, indenture or other agreement entered into prior to August 1, 2018 that, by its terms, restricts, conditions or prohibits the consummation of a merger or consolidation by the dividing company with or into another party, or the transfer of assets by the dividing company to another party, then such restriction, condition or prohibition shall be deemed to apply to a division as if it were a merger, consolidation or transfer of assets, as applicable.

Section 21. Amend Chapter 18, Title 6 of the Delaware Code to add a new § 18-218 as shown by underline as follows:

§ 18-218. Registered series of members, managers, limited liability company interests or assets.

(a) If a limited liability company agreement provides for the establishment or formation of 1 or more series, then a registered series may be formed by complying with this § 18-218. A limited liability company agreement does not need to use the term registered when referencing series or refer to this § 18-218, and a reference in a limited liability company agreement for

a registered series, including a registered series resulting from the conversion of a protected series to a registered series, may continue to refer to § 18-215 of this title, which reference shall be deemed a reference to this § 18-218 with respect to such registered series. A registered series is formed by the filing of a certificate of registered series in the office of the Secretary of State.

(b) Notice of the limitation on liabilities of a registered series as referenced in § 18-218(c) shall be set forth in the certificate of formation of the limited liability company. Notice in a certificate of formation of the limitation on liabilities of a registered series as referenced in § 18-218(c) shall be sufficient for all purposes of this subsection whether or not the limited liability company has formed any registered series when such notice is included in the certificate of formation, and there shall be no requirement that (i) any specific registered series of the limited liability company be referenced in such notice, (ii) such notice use the term registered when referencing series or include a reference to this § 18-218, or (iii) the certificate of formation be amended if it includes a reference to § 18-215 of this title. Any reference to § 18-215 of this title in a certificate of formation of a limited liability company that has one or more registered series shall be deemed a reference to this § 18-218 with respect to such registered series. The fact that a certificate of formation that contains the foregoing notice of the limitation on liabilities of a series is on file in the office of the Secretary of State shall constitute notice of such limitation on liabilities of a registered series.

(c) Notwithstanding anything to the contrary set forth in this chapter or under other applicable law, to the extent the records maintained for a registered series account for the assets associated with such series separately from the other assets of the limited liability company, or any other series thereof, then the debts, liabilities, obligations and expenses incurred, contracted for or otherwise existing with respect to such series shall be enforceable against the assets of such series only, and not against the assets of the limited liability company generally or any other series thereof, and, unless otherwise provided in the limited liability company agreement, none of the debts, liabilities, obligations and expenses incurred, contracted for or otherwise existing with respect to the limited liability company generally or any other series thereof shall be enforceable against the assets of such series. Neither the preceding sentences nor any provision pursuant thereto in a limited liability company agreement, certificate of formation or certificate of registered series shall (i) restrict a registered series or limited liability company on behalf of a registered series from agreeing in the limited liability company agreement or otherwise that any or all of the debts, liabilities, obligations and expenses incurred, contracted for or otherwise existing with respect to the limited liability company generally or any other series thereof shall be enforceable against the assets of such registered series or (ii) restrict a limited liability company from agreeing in the limited liability company agreement or otherwise that any or all of the debts, liabilities, obligations and expenses incurred, contracted for or otherwise existing with respect to a registered series shall be enforceable against the assets of the limited liability company generally. Assets associated with a registered series may be held directly or indirectly, including in the name of such series, in the name of the limited liability company, through a nominee or otherwise. Records maintained for a registered series that reasonably identify its assets, including by specific listing, category, type, quantity, computational or allocational formula or procedure (including a percentage or share of any asset or assets) or by any other method where the identity of such assets is objectively determinable, will be deemed to account for the assets associated with such series separately from the other assets of the limited liability company, or any other series thereof. As used in this chapter, a reference to assets of a registered series includes assets associated with such series, a reference to assets associated with a registered series includes assets of such series, a reference to members or managers of a registered series includes members or managers associated with such series, and a reference to members or managers associated with a registered series includes members or managers of such series. The following shall apply to a registered series:

(1) A registered series may carry on any lawful business, purpose or activity, whether or not for profit, with the exception of the business of banking as defined in § 126 of Title 8. Unless otherwise provided in a limited liability company agreement, a registered series shall have the power and capacity to, in its own name, contract, hold title to assets (including real, personal and intangible property), grant liens and security interests, and sue and be sued.

(2) Except as otherwise provided by this chapter, no member or manager of a registered series shall be obligated personally for any debt, obligation or liability of such series, whether arising in contract, tort or otherwise, solely by reason of being a member or acting as manager of such series. Notwithstanding the preceding sentence, under a limited liability company agreement or under another agreement, a member or manager may agree to be obligated personally for any or all of the debts, obligations and liabilities of one or more registered series.

(3) A limited liability company agreement may provide for classes or groups of members or managers associated with a registered series having such relative rights, powers and duties as the limited liability company agreement may provide, and may

make provision for the future creation in the manner provided in the limited liability company agreement of additional classes or groups of members or managers associated with such series having such relative rights, powers and duties as may from time to time be established, including rights, powers and duties senior to existing classes and groups of members or managers associated with such series. A limited liability company agreement may provide for the taking of an action, including the amendment of the limited liability company agreement, without the vote or approval of any member or manager or class or group of members or managers, including an action to create under the provisions of the limited liability company agreement a class or group of a registered series of limited liability company interests that was not previously outstanding. A limited liability company agreement may provide that any member or class or group of members associated with a registered series shall have no voting rights.

(4) A limited liability company agreement may grant to all or certain identified members or managers or a specified class or group of the members or managers associated with a registered series the right to vote separately or with all or any class or group of the members or managers associated with such series, on any matter. Voting by members or managers associated with a registered series may be on a per capita, number, financial interest, class, group or any other basis.

(5) Unless otherwise provided in a limited liability company agreement, the management of a registered series shall be vested in the members associated with such series in proportion to the then current percentage or other interest of members in the profits of such series owned by all of the members associated with such series, the decision of members owning more than 50 percent of the said percentage or other interest in the profits controlling; provided, however, that if a limited liability company agreement provides for the management of a registered series, in whole or in part, by a manager, the management of such series, to the extent so provided, shall be vested in the manager who shall be chosen in the manner provided in the limited liability company agreement. The manager of a registered series shall also hold the offices and have the responsibilities accorded to the manager as set forth in a limited liability company agreement. A registered series may have more than 1 manager. Subject to § 18-602 of this title, a manager shall cease to be a manager with respect to a registered series as provided in a limited liability company agreement. Except as otherwise provided in a limited liability company agreement, any event under this chapter or in a limited liability company agreement that causes a manager to cease to be a manager with respect to a registered series shall not, in itself, cause such manager to cease to be a manager of the limited liability company or with respect to any other series thereof.

(6) Notwithstanding § 18-606 of this title, but subject to subsections (b)(7) and (b)(10) of this section, and unless otherwise provided in a limited liability company agreement, at the time a member of a registered series becomes entitled to receive a distribution with respect to such series, the member has the status of, and is entitled to all remedies available to, a creditor of such series, with respect to the distribution. A limited liability company agreement may provide for the establishment of a record date with respect to allocations and distributions with respect to a registered series.

(7) Notwithstanding § 18-607(a) of this title, a limited liability company may make a distribution with respect to a registered series. A limited liability company shall not make a distribution with respect to a registered series to a member to the extent that at the time of the distribution, after giving effect to the distribution, all liabilities of such series, other than liabilities to members on account of their limited liability company interests with respect to such series and liabilities for which the recourse of creditors is limited to specified property of such series, exceed the fair value of the assets associated with such series, except that the fair value of property of such series that is subject to a liability for which the recourse of creditors is limited shall be included in the assets associated with such series only to the extent that the fair value of that property exceeds that liability. For purposes of the immediately preceding sentence, 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 pursuant to a bona fide retirement plan or other benefits program. A member who receives a distribution in violation of this subsection, and who knew at the time of the distribution that the distribution violated this subsection, shall be liable to the registered series for the amount of the distribution. A member who receives a distribution in violation of this subsection, and who did not know at the time of the distribution that the distribution violated this subsection, shall not be liable for the amount of the distribution. Subject to § 18-607(c) of this title, which shall apply to any distribution made with respect to a registered series under this subsection, this subsection shall not affect any obligation or liability of a member under an agreement or other applicable law for the amount of a distribution.

(8) Unless otherwise provided in the limited liability company agreement, a member shall cease to be associated with a registered series and to have the power to exercise any rights or powers of a member with respect to such series upon the assignment of all of the member's limited liability company interest with respect to such series. Except as otherwise provided in a limited liability company agreement, any event under this chapter or a limited liability company agreement that causes a member

to cease to be associated with a registered series shall not, in itself, cause such member to cease to be associated with any other series or terminate the continued membership of a member in the limited liability company or cause the dissolution of the registered series, regardless of whether such member was the last remaining member associated with such series.

(9) Subject to § 18-801 of this title, except to the extent otherwise provided in the limited liability company agreement, a registered series may be dissolved and its affairs wound up without causing the dissolution of the limited liability company. The dissolution of a registered series shall not affect the limitation on liabilities of such series provided by this subsection (c). A registered series is dissolved and its affairs shall be wound up upon the dissolution of the limited liability company under § 18-801 of this title or otherwise upon the first to occur of the following:

- a. At the time specified in the limited liability company agreement;
- b. Upon the happening of events specified in the limited liability company agreement;
- c. Unless otherwise provided in the limited liability company agreement, upon the vote or consent of members associated with such series who own more than 2/3 of the then-current percentage or other interest in the profits of such series of the limited liability company owned by all of the members associated with such series; or
- d. The dissolution of such series under subsection (b)(11) of this section.

(10) Notwithstanding § 18-803(a) of this title, unless otherwise provided in the limited liability company agreement, a manager associated with a registered series who has not wrongfully dissolved such series or, if none, the members associated with such series or a person approved by the members associated with such series, in either case, by members who own more than 50 percent of the then current percentage or other interest in the profits of such series owned by all of the members associated with such series, may wind up the affairs of such series; but the Court of Chancery, upon cause shown, may wind up the affairs of a registered series upon application of any member or manager associated with such series, or the member's personal representative or assignee, and in connection therewith, may appoint a liquidating trustee. The persons winding up the affairs of a registered series may, in the name of the limited liability company and for and on behalf of the limited liability company and such series, take all actions with respect to such series as are permitted under § 18-803(b) of this title. The persons winding up the affairs of a registered series shall provide for the claims and obligations of such series and distribute the assets of such series as provided in § 18-804 of this title, which section shall apply to the winding up and distribution of assets of a registered series. Actions taken in accordance with this subsection shall not affect the liability of members and shall not impose liability on a liquidating trustee.

(11) On application by or for a member or manager associated with a registered series, the Court of Chancery may decree dissolution of such series whenever it is not reasonably practicable to carry on the business of such series in conformity with a limited liability company agreement.

(12) For all purposes of the laws of the State of Delaware, a registered series is an association, regardless of the number of members or managers, if any, of such series.

(d) In order to form a registered series of a limited liability company, a certificate of registered series must be filed in accordance with this § 18-218(d).

(1) A certificate of registered series:

a. Shall set forth:

- (i) The name of the limited liability company; and
- (ii) The name of the registered series.

b. May include any other matter that the members of such registered series determine to include therein.

(2) A certificate of registered series shall be executed in accordance with § 18-204 of this title and shall be filed in the office of the Secretary of State in accordance with § 18-206 of this title. A certificate of registered series shall be effective as of the effective time of such filing unless a later effective date or time (which shall be a date or time certain) is provided for in the certificate of registered series. A certificate of registered series is not an amendment to the certificate of formation of the limited liability company. The filing of a certificate of registered series in the office of the Secretary of State shall make it unnecessary to file any other documents under Chapter 31 of this title.

(3) A certificate of registered series is amended by filing a certificate of amendment thereto in the office of the Secretary of State. The certificate of amendment shall set forth:

- a. The name of the limited liability company;
- b. The name of the registered series; and
- c. The amendment to the certificate of registered series.

(4) A manager of a registered series or, if there is no manager, then any member of a registered series who becomes aware that any statement in a certificate of registered series filed with respect to such registered series was false when made, or that any matter described therein has changed making the certificate of registered series false in any material respect, shall promptly amend the certificate of registered series.

(5) A certificate of registered series may be amended at any time for any other proper purpose.

(6) Unless otherwise provided in this chapter or unless a later effective date or time (which shall be a date or time certain) is provided for in the certificate of amendment, a certificate of amendment shall be effective at the time of its filing with the Secretary of State.

(7) A certificate of registered series shall be canceled upon the cancellation of the certificate of formation of the limited liability company named in the certificate of registered series, or upon the filing of a certificate of cancellation of the certificate of registered series or upon the future effective date or time of a certificate of cancellation of the certificate of registered series, or as provided in § 18-1108(b), or upon the filing of a certificate of merger or consolidation if the registered series is not the surviving or resulting registered series in a merger or consolidation or upon the future effective date or time of a certificate of merger or consolidation if the registered series is not the surviving or resulting registered series in a merger or consolidation, or upon the filing of a certificate of conversion to protected series or upon the future effective date or time of a certificate of conversion to a protected series. A certificate of cancellation of the certificate of registered series may be filed at any time, and shall be filed, in the office of the Secretary of State to accomplish the cancellation of a certificate of registered series upon the dissolution of a registered series for which a certificate of registered series was filed and completion of the winding up of such registered series. A certificate of cancellation of the certificate of registered series shall set forth:

- a. The name of the limited liability company;
- b. The name of the registered series;
- c. The date of filing of the certificate of registered series;
- d. The future effective date or time (which shall be a date or time certain) of cancellation if it is not to be effective upon the filing of the certificate of cancellation; and
- e. Any other information the person filing the certificate of cancellation of the certificate of registered series determines.

(8) A certificate of cancellation of the certificate of registered series that is filed in the office of the Secretary of State prior to the dissolution or the completion of winding up of a registered series may be corrected as an erroneously executed certificate of cancellation of the certificate of registered series by filing with the office of the Secretary of State a certificate of correction of such certificate of cancellation of the certificate of registered series in accordance with § 18-211.

(9) The Secretary of State shall not issue a certificate of good standing with respect to a registered series if its certificate of registered series is canceled or the limited liability company has ceased to be in good standing.

(e) The name of each registered series as set forth in its certificate of registered series:

(1) Shall begin with the name of the limited liability company, including any word, abbreviation or designation required by § 18-102;

(2) May contain the name of a member or manager;

(3) Must be such as to distinguish it upon the records in the office of the Secretary of State from the name on such records of any corporation, partnership, limited partnership, statutory trust, limited liability company or registered series reserved, registered, formed or organized under the laws of the State of Delaware or qualified to do business or registered as a foreign corporation, foreign limited partnership, foreign statutory trust, foreign partnership or foreign limited liability company in the State of Delaware; provided, however, that a registered series may register under any name which is not such as to distinguish it upon the records in the office of the Secretary of State from the name on such records of any domestic or foreign corporation, partnership, limited partnership, statutory trust, registered series or foreign limited liability company reserved, registered, formed or organized under the laws of the State of Delaware with the written consent of the other corporation, partnership, limited partnership, statutory trust, registered series or foreign limited liability company, which written consent shall be filed with the Secretary of State;

(4) May contain the following words: "Company," "Association," "Club," "Foundation," "Fund," "Institute," "Society," "Union," "Syndicate," "Limited," "Public Benefit" or "Trust" (or abbreviations of like import); and

(5) Shall not contain the word "bank," or any variation thereof, except for the name of a bank reporting to and under the supervision of the State Bank Commissioner of this State or a subsidiary of a bank or savings association (as those terms are

defined in the Federal Deposit Insurance Act, as amended, at 12 U.S.C. § 1813), or a limited liability company regulated under the Bank Holding Company Act of 1956, as amended, 12 U.S.C. § 1841 et seq., or the Home Owners' Loan Act, as amended, 12 U.S.C. § 1461 et seq.; provided, however, that this section shall not be construed to prevent the use of the word "bank," or any variation thereof, in a context clearly not purporting to refer to a banking business or otherwise likely to mislead the public about the nature of the business of the limited liability company or the registered series, or to lead to a pattern and practice of abuse that might cause harm to the interests of the public or this State as determined by the Division of Corporations in the Department of State.

Section 22. Amend Chapter 18, Title 6 of the Delaware Code to add a new § 18-219 as shown by underline as follows:

§ 18-219. Approval of conversion of a protected series of a domestic limited liability company to a registered series of such domestic limited liability company.

(a) A protected series of a domestic limited liability company may convert to a registered series of such domestic limited liability company by complying with this section and filing in the office of the Secretary of State in accordance with § 18-206 of this title:

(1) A certificate of conversion of protected series to registered series that has been executed in accordance with § 18-204 of this title; and

(2) A certificate of registered series that complies with §18-218(d) of this title and has been executed by 1 or more authorized persons in accordance with §18-204 of this title.

Each of the certificates required by this subsection (a) shall be filed simultaneously in the office of the Secretary of State and, if such certificates are not to become effective upon their filing as permitted by § 18-206(b) of this title, then each such certificate shall provide for the same effective date or time in accordance with §18-206(b) of this title.

An existing series may not become a registered series other than pursuant to this § 18-219 of this title.

(b) If the limited liability company agreement specifies the manner of authorizing a conversion of a protected series of such limited liability company to a registered series of such limited liability company, the conversion of a protected series to a registered series shall be authorized as specified in the limited liability company agreement. If the limited liability company agreement does not specify the manner of authorizing a conversion of a protected series of such limited liability company to a registered series of such limited liability company and does not prohibit a conversion of a protected series to a registered series, the conversion shall be authorized by members of such protected series who own more than 50 percent of the then current percentage or other interest in the profits of such protected series owned by all of the members of such protected series.

(c) Unless otherwise agreed, the conversion of a protected series of a limited liability company to a registered series of such limited liability company pursuant to this section shall not require such limited liability company or such protected series of such limited liability company to wind up its affairs under § 18-803 or § 18-215 of this title or pay its liabilities and distribute its assets under § 18-804 or § 18-215 of this title, and the conversion of a protected series of a limited liability company to a registered series of such limited liability company shall not constitute a dissolution of such limited liability company or a termination of such protected series. When a protected series of a limited liability company has converted to a registered series of such limited liability company pursuant to this section, for all purposes of the laws of the State of Delaware, the registered series shall be deemed to be the same series as the converting protected series and the conversion shall constitute a continuation of the existence of the protected series in the form of such registered series.

(d) In connection with a conversion of a protected series of a limited liability company to a registered series of such limited liability company pursuant to this section, rights or securities of or interests in the protected series which is to be converted may be exchanged for or converted into cash, property, rights or securities of or interests in the registered series into which the protected series is being converted or, in addition to or in lieu thereof, may be exchanged for or converted into cash, property, rights or securities of or interests in any other business entity, may remain outstanding or may be canceled.

(e) If a protected series shall convert to a registered series in accordance with this section, a certificate of conversion executed in accordance with § 18-204 of this title shall be filed in the office of the Secretary of State in accordance with § 18-206 of this title. The certificate of conversion to a registered series shall state:

(1) The name of the limited liability company and, if it has been changed, the name under which its certificate of formation was originally filed;

(2) The name of the protected series and, if it has been changed, the name of the protected series as originally established;

(3) The name of the registered series as set forth in its certificate of registered series filed in accordance with subsection (a) of this section;

(4) The date of filing of the original certificate of formation of the limited liability company with the Secretary of State;

(5) The date on which the protected series was established;

(6) The future effective date or time (which shall be a date or time certain) of the conversion if it is not to be effective upon the filing of the certificate of conversion to a registered series; and

(7) That the conversion has been approved in accordance with this section.

(f) A copy of the certificate of conversion to a registered series certified by the Secretary of State shall be prima facie evidence of the conversion by such protected series to a registered series of such limited liability company.

(g) When any conversion shall have become effective under this section, for all purposes of the laws of the State of Delaware, all of the rights, privileges and powers of the protected series that has converted, and all property, real, personal and mixed, and all debts due to such protected series, as well as all other things and causes of action belonging to such protected series, shall remain vested in the registered series to which such protected series has converted and shall be the property of such registered series, and the title to any real property vested by deed or otherwise in such protected series shall not revert or be in any way impaired by reason of this chapter; but all rights of creditors and all liens upon any property of such protected series shall be preserved unimpaired, and all debts, liabilities and duties of the protected series that has converted shall remain attached to the registered series to which such protected series has converted, and may be enforced against it to the same extent as if said debts, liabilities and duties had originally been incurred or contracted by it in its capacity as such registered series. The rights, privileges, powers and interests in property of the protected series that has converted, as well as the debts, liabilities and duties of such protected series, shall not be deemed, as a consequence of the conversion, to have been transferred to the registered series to which such protected series of such limited liability company has converted for any purpose of the laws of the State of Delaware.

(h) A limited liability company agreement may provide that a protected series of a limited liability company shall not have the power to convert to a registered series of such limited liability company as set forth in this section.

Section 23. Amend Chapter 18, Title 6 of the Delaware Code to add a new § 18-220 as shown by underline as follows:

§ 18-220. Approval of conversion of a registered series of a domestic limited liability company to a protected series of such domestic limited liability company.

(a) Upon compliance with this section, a registered series of a domestic limited liability company may convert to a protected series of such domestic limited liability company. An existing registered series may not become a protected series other than pursuant to this § 18-220.

(b) If the limited liability company agreement specifies the manner of authorizing a conversion of a registered series of such limited liability company to a protected series of such limited liability company, the conversion of a registered series to a protected series shall be authorized as specified in the limited liability company agreement. If the limited liability company agreement does not specify the manner of authorizing a conversion of a registered series of such limited liability company to a protected series of such limited liability company and does not prohibit a conversion of a registered series to a protected series, the conversion shall be authorized by members of such registered series who own more than 50 percent of the then current percentage or other interest in the profits of such registered series owned by all of the members of such registered series.

(c) Unless otherwise agreed, the conversion of a registered series of a limited liability company to a protected series of such limited liability company pursuant to this section shall not require such limited liability company or such registered series of such limited liability company to wind up its affairs under § 18-803 or § 18-218 of this title or pay its liabilities and distribute its assets under § 18-804 or § 18-218 of this title, and the conversion of a registered series of a limited liability company to a protected series of such limited liability company shall not constitute a dissolution of such limited liability company or of such registered series. When a registered series of a limited liability company has converted to a protected series of such limited liability company pursuant to this section, for all purposes of the laws of the State of Delaware, the protected series shall be deemed to be the same series as the converting registered series and the conversion shall constitute a continuation of the existence of the registered series in the form of such protected series.

(d) In connection with a conversion of a registered series of a limited liability company to protected series of such limited liability company pursuant to this section, rights or securities of or interests in the registered series which is to be converted may be exchanged for or converted into cash, property, rights or securities of or interests in the protected series into

which the registered series is being converted or, in addition to or in lieu thereof, may be exchanged for or converted into cash, property, rights or securities of or interests in any other business entity, may remain outstanding or may be canceled.

(e) If a registered series shall convert to a protected series in accordance with this section, a certificate of conversion executed in accordance with § 18-204 of this title shall be filed in the office of the Secretary of State in accordance with § 18-206 of this title. The certificate of conversion to a protected series shall state:

(1) The name of the limited liability company and, if it has been changed, the name under which its certificate of formation was originally filed;

(2) The date of filing of the original certificate of formation of the limited liability company with the Secretary of State;

(3) The name of the registered series and, if it has been changed, the name under which its certificate of registered series was originally filed;

(4) The date of filing of its original certificate of registered series with the Secretary of State;

(5) The future effective date or time (which shall be a date or time certain) of the conversion if it is not to be effective upon the filing of the certificate of conversion to a registered series; and

(6) That the conversion has been approved in accordance with this section.

(f) Upon the filing in the office of the Secretary of State of the certificate of conversion to a protected series or upon the future effective date or time of the certificate of conversion to a protected series and payment to the Secretary of State of all fees prescribed in this chapter, the Secretary of State shall certify that the registered series has filed all documents and paid all fees required by this chapter. Such certificate of the Secretary of State shall be prima facie evidence of the conversion by such registered series to a protected series of such limited liability company.

(g) When any conversion shall have become effective under this section, for all purposes of the laws of the State of Delaware, all of the rights, privileges and powers of the registered series that has converted, and all property, real, personal and mixed, and all debts due to such registered series, as well as all other things and causes of action belonging to such registered series, shall remain vested in the protected series to which such registered series has converted and shall be the property of such protected series, and the title to any real property vested by deed or otherwise in such registered series shall not revert or be in any way impaired by reason of this chapter; but all rights of creditors and all liens upon any property of such registered series shall be preserved unimpaired, and all debts, liabilities and duties of the registered series that has converted shall remain attached to the protected series to which such registered series has converted, and may be enforced against it to the same extent as if said debts, liabilities and duties had originally been incurred or contracted by it in its capacity as such protected series. The rights, privileges, powers and interests in property of the registered series that has converted, as well as the debts, liabilities and duties of such registered series, shall not be deemed, as a consequence of the conversion, to have been transferred to the protected series to which such registered series of such limited liability company has converted for any purpose of the laws of the State of Delaware.

(h) A limited liability company agreement may provide that a registered series of a limited liability company shall not have the power to convert to a protected series of such limited liability company as set forth in this section.

Section 24. Amend Chapter 18, Title 6 of the Delaware Code to add a new § 18-221 as shown by underline as follows:

§ 18-221 Merger and consolidation of registered series.

(a) Pursuant to an agreement of merger or consolidation, 1 or more registered series may merge or consolidate with or into 1 or more other registered series of the same limited liability company with such registered series as the agreement shall provide being the surviving or resulting registered series. Unless otherwise provided in the limited liability company agreement, an agreement of merger or consolidation shall be approved by each registered series which is to merge or consolidate by members of such registered series who own more than 50 percent of the then current percentage or other interest in the profits of such registered series owned by all of the members of such registered series. In connection with a merger or consolidation hereunder, rights or securities of, or interests in, a registered series which is a constituent party to the merger or consolidation may be exchanged for or converted into cash, property, rights or securities of, or interests in, the surviving or resulting registered series or, in addition to or in lieu thereof, may be exchanged for or converted into cash, property, rights or securities of, or interests in, a domestic limited liability company or other business entity which is not the surviving or resulting registered series in the merger or consolidation, may remain outstanding or may be canceled. Notwithstanding prior approval, an agreement of merger or consolidation may be terminated or amended pursuant to a provision for such termination or amendment contained in the agreement of merger or consolidation.

(b) If a registered series is merging or consolidating under this section, the registered series surviving or resulting in or from the merger or consolidation shall file a certificate of merger or consolidation executed by 1 or more authorized persons on behalf of the registered series when it is the surviving or resulting registered series in the office of the Secretary of State. The certificate of merger or consolidation shall state:

(i) The name of each registered series which is to merge or consolidate and the name of the limited liability company that formed such registered series;

(ii) That an agreement of merger or consolidation has been approved and executed by or on behalf of each registered series which is to merge or consolidate;

(iii) The name of the surviving or resulting registered series;

(iv) Such amendment, if any, to the certificate of registered series of the registered series that is the surviving or resulting registered series to change the name of the surviving registered series, as is desired to be effected by the merger;

(v) The future effective date or time (which shall be a date or time certain) of the merger or consolidation if it is not to be effective upon the filing of the certificate of merger or consolidation;

(vi) That the agreement of merger or consolidation is on file at a place of business of the surviving or resulting registered series or the limited liability company that formed such registered series, and shall state the address thereof; and

(vii) That a copy of the agreement of merger or consolidation will be furnished by the surviving or resulting registered series, on request and without cost, to any member of any registered series which is to merge or consolidate.

(c) Unless a future effective date or time is provided in a certificate of merger or consolidation, a merger or consolidation pursuant to this section shall be effective upon the filing in the office of the Secretary of State of a certificate of merger or consolidation.

(d) A certificate of merger or consolidation shall act as a certificate of cancellation of the certificate of registered series of the registered series which is not the surviving or resulting registered series in the merger or consolidation. A certificate of merger or consolidation that sets forth any amendment in accordance with paragraph (b)(iv) of this section shall be deemed to be an amendment to the certificate of registered series of the surviving or resulting registered series, and no further action shall be required to amend the certificate of registered series of the surviving or resulting registered series under § 18-218 of this title with respect to such amendments set forth in the certificate of merger or consolidation. Whenever this section requires the filing of a certificate of merger or consolidation, such requirement shall be deemed satisfied by the filing of an agreement of merger or consolidation containing the information required by this section to be set forth in the certificate of merger or consolidation.

(e) An agreement of merger or consolidation approved in accordance with paragraph (a) of this section may effect any amendment to the limited liability company agreement relating solely to the registered series that are constituent parties to the merger or consolidation.

Any amendment to a limited liability company agreement relating solely to the registered series that are constituent parties to the merger or consolidation made pursuant to the foregoing sentence shall be effective at the effective time or date of the merger or consolidation and shall be effective notwithstanding any provision of the limited liability company agreement relating to amendment of the limited liability company agreement, other than a provision that by its terms applies to an amendment to the limited liability company agreement in connection with a merger or consolidation. The provisions of this subsection shall not be construed to limit the accomplishment of a merger or of any of the matters referred to herein by any other means provided for in a limited liability company agreement or other agreement or as otherwise permitted by law, including that the limited liability company agreement relating to any constituent registered series to the merger or consolidation (including a registered series formed for the purpose of consummating a merger or consolidation) shall be the limited liability company agreement of the surviving or resulting registered series.

(f) When any merger or consolidation shall have become effective under this section, for all purposes of the laws of the State of Delaware, all of the rights, privileges and powers of each of the registered series that have merged or consolidated, and all property, real, personal and mixed, and all debts due to any of said registered series, as well as all other things and causes of action belonging to each of such registered series, shall be vested in the surviving or resulting registered series, and shall thereafter be the property of the surviving or resulting registered series as they were of each of the registered series that have merged or consolidated, and the title to any real property vested by deed or otherwise, under the laws of the State of Delaware, in any of such registered series, shall not revert or be in any way impaired by reason of this chapter; but all rights of creditors and all liens upon any property of any of said registered series shall be preserved unimpaired, and all debts, liabilities and duties of each

of the said registered series that have merged or consolidated shall thenceforth attach to the surviving or resulting registered series, and may be enforced against it to the same extent as if said debts, liabilities and duties had been incurred or contracted by it. Unless otherwise agreed, a merger or consolidation of a registered series of a limited liability company, including a registered series which is not the surviving or resulting registered series in the merger or consolidation, shall not require such registered series to wind up its affairs under § 18-218, or pay its liabilities and distribute its assets under § 18-218 and the merger or consolidation shall not constitute a dissolution of such registered series.

(g) A limited liability company agreement may provide that a registered series of such limited liability company shall not have the power to merge or consolidate as set forth in this section.

Section 25. Amend § 18-302(d), Chapter 18, Title 6 of the Delaware Code by making deletions as shown by strike through and insertions as shown by underline as follows:

(d) Unless otherwise provided in a limited liability company agreement, meetings of members may be held by means of conference telephone or other communications equipment by means of which all persons participating in the meeting can hear each other, and participation in a meeting pursuant to this subsection shall constitute presence in person at the meeting. Unless otherwise provided in a limited liability company agreement, on any matter that is to be voted on, consented to or approved by members, the members may take such action without a meeting, without prior notice and without a vote if consented to or approved, in writing, by electronic transmission or by any other means permitted by law, by members having not less than the minimum number of votes that would be necessary to authorize or take such action at a meeting at which all members entitled to vote thereon were present and voted. Unless otherwise provided in a limited liability company agreement, if a person (whether or not then a member) consenting as a member to any matter provides that such consent will be effective at a future time (including a time determined upon the happening of an event), then such person shall be deemed to have consented as a member at such future time so long as such person is then a member. Unless otherwise provided in a limited liability company agreement, on any matter that is to be voted on by members, the members may vote in person or by proxy, and such proxy may be granted in writing, by means of electronic transmission or as otherwise permitted by applicable law. Unless otherwise provided in a limited liability company agreement, a consent transmitted by electronic transmission by a member or by a person or persons authorized to act for a member shall be deemed to be written and signed for purposes of this subsection. For purposes of this subsection, the term "electronic transmission" means any form of communication not directly involving the physical transmission of paper, including the use of, or participation in, 1 or more electronic networks or databases (including 1 or more distributed electronic networks or databases), that creates a record that may be retained, retrieved and reviewed by a recipient thereof and that may be directly reproduced in paper form by such a recipient through an automated process.

Section 26. Amend § 18-305(d), Chapter 18, Title 6 of the Delaware Code by making deletions as shown by strike through and insertions as shown by underline as follows:

(d) A limited liability company may maintain its records in other than a written form, including on, by means of, or in the form of any information storage device, method, or 1 or more electronic networks or databases (including 1 or more distributed electronic networks or databases), if such form is capable of conversion into written form within a reasonable time.

Section 27. Amend § 18-404(d), Chapter 18, Title 6 of the Delaware Code by making deletions as shown by strike through and insertions as shown by underline as follows:

(d) Unless otherwise provided in a limited liability company agreement, meetings of managers may be held by means of conference telephone or other communications equipment by means of which all persons participating in the meeting can hear each other, and participation in a meeting pursuant to this subsection shall constitute presence in person at the meeting. Unless otherwise provided in a limited liability company agreement, on any matter that is to be voted on, consented to or approved by managers, the managers may take such action without a meeting, without prior notice and without a vote if consented to or approved, in writing, by electronic transmission or by any other means permitted by law, by managers having not less than the minimum number of votes that would be necessary to authorize or take such action at a meeting at which all managers entitled to vote thereon were present and voted. Unless otherwise provided in a limited liability company agreement, if a person (whether or not then a manager) consenting as a manager to any matter provides that such consent will be effective at a future time (including a time determined upon the happening of an event), then such person shall be deemed to have consented as a manager at such future time so long as such person is then a manager. Unless otherwise provided in a limited liability company agreement, on any matter that is to be voted on by managers, the managers may vote in person or by proxy, and such proxy may be granted in writing, by means of electronic transmission or as otherwise permitted by applicable law. Unless otherwise provided in a limited

liability company agreement, a consent transmitted by electronic transmission by a manager or by a person or persons authorized to act for a manager shall be deemed to be written and signed for purposes of this subsection. For purposes of this subsection, the term "electronic transmission" means any form of communication not directly involving the physical transmission of paper, including the use of, or participation in, 1 or more electronic networks or databases (including 1 or more distributed electronic networks or databases), that creates a record that may be retained, retrieved and reviewed by a recipient thereof and that may be directly reproduced in paper form by such a recipient through an automated process.

Section 28. Amend § 18-1105(a), Chapter 18, Title 6 of the Delaware Code by making deletions as shown by strike through and insertions as shown by underline as follows:

(a) No document required to be filed under this chapter shall be effective until the applicable fee required by this section is paid. The following fees shall be paid to and collected by the Secretary of State for the use of the State of Delaware:

(1) Upon the receipt for filing of an application for reservation of name, an application for renewal of reservation or a notice of transfer or cancellation of reservation pursuant to § 18-103(b) of this title, a fee in the amount of \$75.

(2) Upon the receipt for filing of a certificate under § 18-104(b) of this title, a fee in the amount of \$200, upon the receipt for filing of a certificate under § 18-104(c) of this title, a fee in the amount of \$200, and upon the receipt for filing of a certificate under § 18-104(d) of this title, a fee in the amount of \$2.00 for each limited liability company whose registered agent has resigned by such certificate.

(3) Upon the receipt for filing of a certificate of formation under § 18-201 of this title, a fee in the amount of \$70 and upon the receipt for filing of a certificate of limited liability company domestication under § 18-212 of this title, a certificate of transfer or a certificate of transfer and domestic continuance under § 18-213 of this title, a certificate of conversion to limited liability company under § 18-214 of this title, a certificate of conversion to a non-Delaware entity under § 18-216 of this title, a certificate of amendment under § 18-202 of this title (except as otherwise provided in paragraph (a)(11) of this section), a certificate of cancellation under § 18-203 of this title, a certificate of merger or consolidation or a certificate of ownership and merger under § 18-209 of this title, a restated certificate of formation under § 18-208 of this title, a certificate of amendment of a certificate with a future effective date or time under § 18-206(c) of this title, a certificate of termination of a certificate with a future effective date or time under § 18-206(c) of this title, a certificate of correction under § 18-211 of this title, a certificate of division under § 18-217 of this title, or a certificate of revival under § 18-1109 of this title, a fee in the amount of \$180.

(4) For certifying copies of any paper on file as provided for by this chapter, a fee in the amount of \$50 for each copy certified.

(5) The Secretary of State may issue photocopies or electronic image copies of instruments on file, as well as instruments, documents and other papers not on file, and for all such photocopies or electronic image copies, whether certified or not, a fee of \$10 shall be paid for the first page and \$2.00 for each additional page. Notwithstanding Delaware's Freedom of Information Act (Chapter 100 of Title 29) or other provision of law granting access to public records, the Secretary of State upon request shall issue only photocopies or electronic image copies of public records in exchange for the fees described in this section, and in no case shall the Secretary of State be required to provide copies (or access to copies) of such public records (including without limitation bulk data, digital copies of instruments, documents and other papers, databases or other information) in an electronic medium or in any form other than photocopies or electronic image copies of such public records in exchange, as applicable, for the fees described in this section or § 2318 of Title 29 for each such record associated with a file number.

(6) Upon the receipt for filing of an application for registration as a foreign limited liability company under § 18-902 of this title, a certificate under § 18-905 of this title or a certificate of cancellation under § 18-906 of this title, a fee in the amount of \$200.

(7) Upon the receipt for filing of a certificate under § 18-904(c) of this title, a fee in the amount of \$200, upon the receipt for filing of a certificate under § 18-904(d) of this title, a fee in the amount of \$200, and upon the receipt for filing of a certificate under § 18-904(e) of this title, a fee in the amount of \$2.00 for each foreign limited liability company whose registered agent has resigned by such certificate.

(8) For preclearance of any document for filing, a fee in the amount of \$250.

(9) For preparing and providing a written report of a record search, a fee in the amount of \$50.

(10) For issuing any certificate of the Secretary of State, including but not limited to a certificate of good standing, other than a certification of a copy under paragraph (a)(4) of this section, a fee in the amount of \$50, except that for issuing any

certificate of the Secretary of State that recites all of a limited liability company's filings with the Secretary of State, a fee of \$175 shall be paid for each such certificate.

(11) For receiving and filing and/or indexing any certificate, affidavit, agreement or any other paper provided for by this chapter, for which no different fee is specifically prescribed, a fee in the amount of \$200. For filing any instrument submitted by a limited liability company or foreign limited liability company that only changes the registered office or registered agent and is specifically captioned as a certificate of amendment changing only the registered office or registered agent, a fee in the amount of \$50 provided that no fee shall be charged pursuant to § 18-206(e) of this title.

(12) The Secretary of State may in the Secretary of State's own discretion charge a fee of \$60 for each check received for payment of any fee that is returned due to insufficient funds or the result of a stop payment order.

Section 29. Amend § 18-1105(a), Chapter 18, Title 6 of the Delaware Code by making deletions as shown by strike through and insertions as shown by underline as follows:

(a) No document required to be filed under this chapter shall be effective until the applicable fee required by this section is paid. The following fees shall be paid to and collected by the Secretary of State for the use of the State of Delaware:

(1) Upon the receipt for filing of an application for reservation of name, an application for renewal of reservation or a notice of transfer or cancellation of reservation pursuant to § 18-103(b) of this title, a fee in the amount of \$75.

(2) Upon the receipt for filing of a certificate under § 18-104(b) of this title, a fee in the amount of \$200, upon the receipt for filing of a certificate under § 18-104(c) of this title, a fee in the amount of \$200, and upon the receipt for filing of a certificate under § 18-104(d) of this title, a fee in the amount of \$2.00 for each limited liability company whose registered agent has resigned by such certificate.

(3) Upon the receipt for filing of a certificate of formation under § 18-201 of this title or a certificate of registered series under § 18-218 of this title, a fee in the amount of \$70 and upon the receipt for filing of a certificate of limited liability company domestication under § 18-212 of this title, a certificate of transfer or a certificate of transfer and domestic continuance under § 18-213 of this title, a certificate of conversion to limited liability company under § 18-214 of this title, a certificate of conversion to a non-Delaware entity under § 18-216 of this title, a certificate of amendment under § 18-202 or § 18-218(d)(3) of this title (except as otherwise provided in paragraph (a)(11) of this section), a certificate of cancellation under § 18-203 or § 18-218(d)(7) of this title, a certificate of merger or consolidation or a certificate of ownership and merger under § 18-209 of this title, a restated certificate of formation or a restated certificate of registered series under § 18-208 of this title, a certificate of amendment of a certificate with a future effective date or time under § 18-206(c) of this title, a certificate of termination of a certificate with a future effective date or time under § 18-206(c) of this title, a certificate of correction under § 18-211 of this title, a certificate of division under § 18-217 of this title, a certificate of conversion of protected series to registered series under § 18-219 of this title, a certificate of conversion of registered series to protected series under § 18-220 of this title, a certificate of merger or consolidation under § 18-221 of this title or a certificate of revival under § 18-1109 or § 18-1110 of this title, a fee in the amount of \$180, plus, in the case of a certificate of cancellation under § 18-203 of this title, a fee in the amount of \$50 for each registered series of the limited liability company named in the certificate of cancellation.

(4) For certifying copies of any paper on file as provided for by this chapter, a fee in the amount of \$50 for each copy certified.

(5) The Secretary of State may issue photocopies or electronic image copies of instruments on file, as well as instruments, documents and other papers not on file, and for all such photocopies or electronic image copies, whether certified or not, a fee of \$10 shall be paid for the first page and \$2.00 for each additional page. Notwithstanding Delaware's Freedom of Information Act (Chapter 100 of Title 29) or other provision of law granting access to public records, the Secretary of State upon request shall issue only photocopies or electronic image copies of public records in exchange for the fees described in this section, and in no case shall the Secretary of State be required to provide copies (or access to copies) of such public records (including without limitation bulk data, digital copies of instruments, documents and other papers, databases or other information) in an electronic medium or in any form other than photocopies or electronic image copies of such public records in exchange, as applicable, for the fees described in this section or § 2318 of Title 29 for each such record associated with a file number.

(6) Upon the receipt for filing of an application for registration as a foreign limited liability company under § 18-902 of this title, a certificate under § 18-905 of this title or a certificate of cancellation under § 18-906 of this title, a fee in the amount of \$200.

(7) Upon the receipt for filing of a certificate under § 18-904(c) of this title, a fee in the amount of \$200, upon the receipt for filing of a certificate under § 18-904(d) of this title, a fee in the amount of \$200, and upon the receipt for filing of a certificate under § 18-904(e) of this title, a fee in the amount of \$2.00 for each foreign limited liability company whose registered agent has resigned by such certificate.

(8) For preclearance of any document for filing, a fee in the amount of \$250.

(9) For preparing and providing a written report of a record search, a fee in the amount of \$50.

(10) For issuing any certificate of the Secretary of State, including but not limited to a certificate of good standing with respect to a limited liability company or a registered series thereof, other than a certification of a copy under paragraph (a)(4) of this section, a fee in the amount of \$50, except that for issuing any certificate of the Secretary of State that recites all of ~~a limited liability company's~~ the filings with the Secretary of State of a limited liability company or all of the filings of any registered series or that lists all of the registered series formed by a limited liability company, a fee of \$175 shall be paid for each such certificate.

(11) For receiving and filing and/or indexing any certificate, affidavit, agreement or any other paper provided for by this chapter, for which no different fee is specifically prescribed, a fee in the amount of \$200. For filing any instrument submitted by a limited liability company or foreign limited liability company that only changes the registered office or registered agent and is specifically captioned as a certificate of amendment changing only the registered office or registered agent, a fee in the amount of \$50 provided that no fee shall be charged pursuant to § 18-206(e) of this title.

(12) The Secretary of State may in the Secretary of State's own discretion charge a fee of \$60 for each check received for payment of any fee that is returned due to insufficient funds or the result of a stop payment order.

Section 30. Amend § 18-1107, Chapter 18, Title 6 of the Delaware Code by making deletions as shown by strike through and insertions as shown by underline as follows:

§ 18-1107 Taxation of limited liability companies and registered series.

(b) Every domestic limited liability company and every foreign limited liability company registered to do business in the State of Delaware shall pay an annual tax, for the use of the State of Delaware, in the amount of \$300. There shall be paid by or on behalf of each registered series of a domestic limited liability company an annual tax, for use of the State of Delaware, in the amount of \$75 per registered series.

(c) The annual tax for a domestic limited liability company shall be due and payable on the first day of June following the close of the calendar year or upon the cancellation of a certificate of formation. The annual tax for a registered series shall be due and payable on the first day of June following the close of the calendar year or upon the cancellation of a certificate of registered series. The annual tax for a foreign limited liability company shall be due and payable on the first day of June following the close of the calendar year or upon the cancellation of the certificate of registration. The Secretary of State shall receive the annual tax and pay over all taxes collected to the Department of Finance of the State of Delaware. If the annual tax remains unpaid after the due date, the tax shall bear interest at the rate of 1 and one-half percent for each month or portion thereof until fully paid.

(d) The Secretary of State shall, at least 60 days prior to June 1 of each year, cause to be mailed to each domestic limited liability company and each registered series thereof and each foreign limited liability company required to comply with the provisions of this section in care of its registered agent in the State of Delaware an annual statement for the tax to be paid hereunder.

(e) In the event of neglect, refusal or failure on the part of any domestic limited liability company, registered series or foreign limited liability company to pay the annual tax to be paid hereunder on or before June 1 in any year, such domestic limited liability company or foreign limited liability company shall pay the sum of \$200, and such registered series shall pay the sum of \$50, to be recovered by adding that amount to the annual tax and such additional sum shall become a part of the tax and shall be collected in the same manner and subject to the same penalties.

(f) In case any domestic limited liability company, registered series or foreign limited liability company shall fail to pay the annual tax due within the time required by this section, and in case the agent in charge of the registered office of any domestic limited liability company or foreign limited liability company upon whom process against such domestic limited liability company or any protected series or registered series thereof or foreign limited liability company may be served shall die, resign, refuse to act as such, remove from the State of Delaware or cannot with due diligence be found, it shall be lawful while default continues to serve process against such domestic limited liability company or any protected series or registered series thereof or

foreign limited liability company upon the Secretary of State. Such service upon the Secretary of State shall be made in the manner and shall have the effect stated in § 18-105 of this title in the case of a domestic limited liability company or any protected series or registered series thereof and § 18-910 of this title in the case of a foreign limited liability company and shall be governed in all respects by said sections.

(g) The annual tax shall be a debt due from a domestic limited liability company, registered series or foreign limited liability company to the State of Delaware, for which an action at law may be maintained after the same shall have been in arrears for a period of 1 month. The tax shall also be a preferred debt in the case of insolvency.

(h) A domestic limited liability company ~~or foreign limited liability company~~ that neglects, refuses or fails to pay the annual tax when due shall cease to be in good standing as a domestic limited liability company ~~or~~ and all registered series thereof shall also cease to be in good standing. A registered series that neglects, refuses or fails to pay the annual tax when due shall cease to be in good standing as a registered series. A foreign limited liability company that neglects, refuses or fails to pay the annual tax when due shall cease to be registered as a foreign limited liability company in the State of Delaware.

(i) A domestic limited liability company or registered series that has ceased to be in good standing or a foreign limited liability company that has ceased to be registered by reason of the failure by the limited liability company, registered series or foreign limited liability company to pay an annual tax shall be restored to and have the status of a domestic limited liability company or registered series in good standing or a foreign limited liability company that is registered in the State of Delaware upon the payment of the annual tax and all penalties and interest thereon for each year for which such domestic limited liability company, registered series or foreign limited liability company neglected, refused or failed to pay an annual tax.

(j) On the motion of the Attorney General or upon request of the Secretary of State, whenever any annual tax due under this chapter from any domestic limited liability company, registered series or foreign limited liability company shall have remained in arrears for a period of 3 months after the tax shall have become payable, the Attorney General may apply to the Court of Chancery, by petition in the name of the State of Delaware, on 5 days' notice to such domestic limited liability company, registered series or foreign limited liability company, which notice may be served in such manner as the Court may direct, for an injunction to restrain such domestic limited liability company, registered series or foreign limited liability company from the transaction of any business within the State of Delaware or elsewhere, until the payment of the annual tax, and all penalties and interest due thereon and the cost of the application which shall be fixed by the Court. The Court of Chancery may grant the injunction, if a proper case appears, and upon granting and service of the injunction, such domestic limited liability company, registered series or foreign limited liability company thereafter shall not transact any business until the injunction shall be dissolved.

(k) A domestic limited liability company that has ceased to be in good standing by reason of ~~its~~ the domestic limited liability company's neglect, refusal or failure to pay an annual tax shall remain a domestic limited liability company formed under this chapter, and each registered series thereof shall remain a registered series formed under this chapter, and each protected series thereof shall remain a protected series established under this chapter. A registered series that has ceased to be in good standing by reason of the registered series' neglect, refusal or failure to pay an annual tax shall remain a registered series formed under this chapter. The Secretary of State shall not accept for filing any certificate (except a certificate of resignation of a registered agent when a successor registered agent is not being appointed) required or permitted by this chapter to be filed in respect of any domestic limited liability company, registered series or foreign limited liability company ~~which~~ if such domestic limited liability company, registered series or foreign limited liability company has neglected, refused or failed to pay an annual tax, and shall not issue any certificate of good standing with respect to such domestic limited liability company, registered series or foreign limited liability company, unless or until such domestic limited liability company, registered series or foreign limited liability company shall have been restored to and have the status of a domestic limited liability company or registered series in good standing or a foreign limited liability company duly registered in the State of Delaware.

(l) A domestic limited liability company that has ceased to be in good standing (and each protected series and registered series thereof), a registered series that has ceased to be in good standing, or a foreign limited liability company that has ceased to be registered in the State of Delaware by reason of ~~its~~ the domestic limited liability company's, registered series' or foreign limited liability company's neglect, refusal or failure to pay an annual tax may not maintain any action, suit or proceeding in any court of the State of Delaware until such domestic limited liability company, registered series or foreign limited liability company has been restored to and has the status of a domestic limited liability company, registered series or foreign limited liability company in good standing or duly registered in the State of Delaware. An action, suit or proceeding may not be maintained in any

court of the State of Delaware by any successor or assignee of such domestic limited liability company (or any protected series or registered series thereof), registered series, or foreign limited liability company on any right, claim or demand arising out the transaction of business by such domestic limited liability company ~~after it~~ (or any protected series or registered series thereof) or registered series after the domestic limited liability company or registered series has ceased to be in good standing or a foreign limited liability company that has ceased to be registered in the State of Delaware until such domestic limited liability company, registered series or foreign limited liability company, or any person that has acquired all or substantially all of its assets, has paid any annual tax then due and payable, together with penalties and interest thereon.

(m) The neglect, refusal or failure of a domestic limited liability company, registered series or foreign limited liability company to pay an annual tax shall not impair the validity ~~on~~ of any contract, deed, mortgage, security interest, lien or act ~~of~~ of such domestic limited liability company or any protected series or registered series thereof or foreign limited liability company or prevent such domestic limited liability company or any protected series or registered series thereof or foreign limited liability company from defending any action, suit or proceeding with any court of the State of Delaware.

(n) A member or manager of a domestic limited liability company, registered series or foreign limited liability company is not liable for the debts, obligations or liabilities of such domestic limited liability company, registered series or foreign limited liability company solely by reason of the neglect, refusal or failure of such domestic limited liability company, registered series or foreign limited liability company to pay an annual tax or by reason of such domestic limited liability company, registered series or foreign limited liability company ceasing to be in good standing or duly registered. A protected series or registered series of a domestic limited liability company is not liable for the debts, obligations or liabilities of such domestic limited liability company or any other series thereof solely by reason of the neglect, refusal or failure of such domestic limited liability company to pay an annual tax or by reason of such domestic limited liability company ceasing to be in good standing.

Section 31. Amend § 18-1108, Chapter 18, Title 6 of the Delaware Code by making deletions as shown by strike through and insertions as shown by underline as follows:

§ 18-1108 Cancellation of certificate of formation or certificate of registered series for failure to pay taxes.

(a) The certificate of formation of a domestic limited liability company shall be canceled if the ~~domestic limited liability company shall fail to pay the~~ annual tax due under § 18-1107 of this title for the domestic limited liability company is not paid for a period of 3 years from the date it is due, such cancellation to be effective on the third anniversary of such due date.

(b) The certificate of registered series shall be canceled if the annual tax due under § 18-1107 of this title is not paid for a period of 3 years from the date it is due, such cancellation to be effective on the third anniversary of such due date.

~~(b)~~ (c) A list of those domestic limited liability companies and registered series whose certificates of formation or certificates of registered series were canceled on June 1 of such calendar year pursuant to § 18-1108(a) or § 18-1108(b) of this title shall be filed in the office of the Secretary of State. On or before October 31 of each calendar year, the Secretary of State shall publish such list on the Internet or on a similar medium for a period of 1 week and shall advertise the website or other address where such list can be accessed in at least 1 newspaper of general circulation in the State of Delaware.

Section 32. Amend § 18-1109(c), Chapter 18, Title 6 of the Delaware Code by making deletions as shown by strike through and insertions as shown by underline as follows:

§ 18-1109 Revival of domestic limited liability company.

(c) Upon the filing of a certificate of revival, a limited liability company and all registered series thereof that have been formed and whose certificate of registered series has not been canceled prior to the cancellation of the certificate of formation shall be revived with the same force and effect as if its certificate of formation had not been canceled pursuant to § 18-104(d), ~~or § 18-104(i)(4) or § 18-1108(a)~~ of this title. Such revival shall validate all contracts, acts, matters and things made, done and performed by the limited liability company, its members, managers, employees and agents during the time when its certificate of formation was canceled pursuant to § 18-104(d), ~~or § 18-104(i)(4) or § 18-1108(a)~~ of this title, with the same force and effect and to all intents and purposes as if the certificate of formation had remained in full force and effect. All real and personal property, and all rights and interests, which belonged to the limited liability company at the time its certificate of formation was canceled pursuant to § 18-104(d), ~~or § 18-104(i)(4) or § 18-1108(a)~~ of this title or which were acquired by the limited liability company following the cancellation of its certificate of formation pursuant to § 18-104(d), ~~or § 18-104(i)(4) or § 18-1108(a)~~ of this title, and which were not disposed of prior to the time of its revival, shall be vested in the limited liability company after its revival as fully as they were held by the limited liability company at, and after, as the case may be, the time its certificate of formation was canceled pursuant to § 18-104(d), ~~or § 18-104(i)(4) or § 18-1108(a)~~ of this title. After its revival, the limited liability company

shall be as exclusively liable for all contracts, acts, matters and things made, done or performed in its name and on its behalf by its members, managers, employees and agents prior to its revival as if its certificate of formation had at all times remained in full force and effect.

Section 33. Amend Chapter 18, Title 6 of the Delaware code to add a new § 18-1110 as shown by underline as follows:

§ 18-1110 Revival of a registered series.

(a) A registered series whose certificate of registered series has been canceled pursuant to § 18-1108(b) of this title may be revived by filing in the office of the Secretary of State a certificate of revival accompanied by the payment of the fee required by § 18-1105(a)(3) of this title and payment of the annual tax due under § 18-1107 of this title and all penalties and interest thereon due at the time of the cancellation of its certificate of registered series. The certificate of revival shall set forth:

(1) The name of the limited liability company at the time the certificate of registered series was canceled and, if such name has changed, the name of the limited liability company at the time of revival of the registered series;

(2) The name of the registered series at the time the certificate of registered series was canceled and, if such name is not available at the time of revival, the name under which the registered series is to be revived;

(3) The date of filing of the original certificate of registered series;

(4) A statement that the certificate of revival is filed by 1 or more persons authorized to execute and file the certificate of revival to revive the registered series; and

(5) Any other matters the persons executing the certificate of revival determine to include therein.

(b) The certificate of revival shall be deemed to be an amendment to the certificate of registered series, and no further actions shall be required to amend its certificate of registered series under § 18-218(d)(3) of this title with respect to the matters set forth in the certificate of revival.

(c) Upon the filing of a certificate of revival, a registered series shall be revived with the same force and effect as if its certificate of registered series had not been canceled pursuant to § 18-1108(b) of this title. Such revival shall validate all contracts, acts, matters and things made, done and performed by the registered series, its members, managers, employees and agents during the time when its certificate of registered series was canceled pursuant to § 18-1108(b) of this title, with the same force and effect and to all intents and purposes as if the certificate of registered series had remained in full force and effect. All real and personal property, and all rights and interests, which belonged to the registered series at the time its certificate of registered series was canceled pursuant to § 18-1108(b) of this title or which were acquired by the registered series following the cancellation of its certificate of registered series pursuant to § 18-1108(b) of this title, and which were not disposed of prior to the time of its revival, shall be vested in the registered series after its revival as fully as they were held by the registered series at, and after, as the case may be, the time its certificate of registered series was canceled pursuant to § 18-1108(b) of this title. After its revival, the registered series shall be as exclusively liable for all contracts, acts, matters and things made, done or performed in its name and on its behalf by its members, managers, employees and agents prior to its revival as if its certificate of registered series had at all times remained in full force and effect.

Section 34. Amend Chapter 18, Title 6 of the Delaware Code to add a new subchapter XII as shown by underline as follows:

Subchapter XII

Statutory Public Benefit Limited Liability Companies

§ 18-1201 Law applicable to statutory public benefit limited liability companies; how formed.

This subchapter applies to all statutory public benefit limited liability companies, as defined in § 18-1202 of this title. If a limited liability company elects to become a statutory public benefit limited liability company under this subchapter in the manner prescribed in this subchapter, it shall be subject in all respects to the provisions of this chapter, except to the extent this subchapter imposes additional or different requirements, in which case such requirements shall apply, and notwithstanding § 18-1101 or any other provision of this title, such requirements imposed by this subchapter may not be altered in the limited liability company agreement.

§ 18-1202 Statutory public benefit limited liability company defined; contents of certificate of formation and limited liability company agreement.

(a) A "statutory public benefit limited liability company" is a for-profit limited liability company formed under and subject to the requirements of this chapter that is intended to produce a public benefit or public benefits and to operate in a responsible and sustainable manner. To that end, a statutory public benefit limited liability company shall be managed in a

manner that balances the members' pecuniary interests, the best interests of those materially affected by the limited liability company's conduct, and the public benefit or public benefits set forth in its certificate of formation. A statutory public benefit limited liability company shall state in the heading of its certificate of formation that it is a statutory public benefit limited liability company and shall set forth one or more specific public benefits to be promoted by the limited liability company in its certificate of formation. The limited liability company agreement of a statutory public benefit limited liability company may not contain any provision inconsistent with this subchapter.

(b) "Public benefit" means a positive effect (or reduction of negative effects) on one or more categories of persons, entities, communities or interests (other than members in their capacities as members) including, but not limited to, effects of an artistic, charitable, cultural, economic, educational, environmental, literary, medical, religious, scientific or technological nature. "Public benefit provisions" means the provisions of a limited liability company agreement contemplated by this subchapter.

§ 18-1203 Certain amendments and mergers; votes required.

Notwithstanding any other provision of this chapter, a statutory public benefit limited liability company may not, without the approval of members who own at least 2/3 of the then-current percentage or other interest in the profits of the limited liability company owned by all members:

(1) Amend its certificate of formation to delete or amend a provision required by § 18-1202(a) of this title;

(2) Merge or consolidate with or into another entity or divide into two or more domestic limited liability companies if, as a result of such merger, consolidation or division, the limited liability company interests in such limited liability company would become, or be converted into or exchanged for the right to receive, limited liability company interests or other equity interests in a domestic or foreign limited liability company or other entity that is not a statutory public benefit limited liability company or similar entity, the certificate of formation or limited liability company agreement (or similar governing document) of which does not contain provisions identifying a public benefit or public benefits comparable in all material respects to those set forth in the certificate of formation of such limited liability company as contemplated by § 18-1202(a) of this title; or

(3) Cease to be a statutory public benefit limited liability company under the provisions of this subchapter.

§ 18-1204 Duties of members or managers.

(a) The members or managers or other persons with authority to manage or direct the business and affairs of a statutory public benefit limited liability company shall manage or direct the business and affairs of the statutory public benefit limited liability company in a manner that balances the pecuniary interests of the members, the best interests of those materially affected by the limited liability company's conduct, and the specific public benefit or public benefits set forth in its certificate of formation. Unless otherwise provided in a limited liability company agreement, no member, manager or other person with authority to manage or direct the business and affairs of the statutory public benefit limited liability company shall have any liability for monetary damages for the failure to manage or direct the business and affairs of the statutory public benefit limited liability company as provided in this subsection.

(b) A member or manager of a statutory public benefit limited liability company or any other person with authority to manage or direct the business and affairs of the statutory public benefit limited liability company shall not, by virtue of the public benefit provisions or § 18-1202(a) of this title, have any duty to any person on account of any interest of such person in the public benefit or public benefits set forth in its certificate of formation or on account of any interest materially affected by the limited liability company's conduct and, with respect to a decision implicating the balance requirement in subsection (a) of this section, will be deemed to satisfy such person's fiduciary duties to members and the limited liability company if such person's decision is both informed and disinterested and not such that no person of ordinary, sound judgment would approve.

§ 18-1205 Periodic statements and third-party certification.

A statutory public benefit limited liability company shall no less than biennially provide its members with a statement as to the limited liability company's promotion of the public benefit or public benefits set forth in its certificate of formation and as to the best interests of those materially affected by the limited liability company's conduct. The statement shall include:

(1) The objectives that have been established to promote such public benefit or public benefits and interests;

(2) The standards that have been adopted to measure the limited liability company's progress in promoting such public benefit or public benefits and interests;

(3) Objective factual information based on those standards regarding the limited liability company's success in meeting the objectives for promoting such public benefit or public benefits and interests; and

(4) An assessment of the limited liability company's success in meeting the objectives and promoting such public benefit or public benefits and interests.

§ 18-1206 Derivative suits.

Members of a statutory public benefit limited liability company or assignees of limited liability company interests in a statutory public benefit limited liability company owning individually or collectively, as of the date of instituting such derivative suit, at least 2% of the then-current percentage or other interest in the profits of the limited liability company or, in the case of a limited liability company with limited liability company interests listed on a national securities exchange, the lesser of such percentage or limited liability company interests of at least \$2,000,000 in market value, may maintain a derivative lawsuit to enforce the requirements set forth in § 18-1204(a) of this title.

§ 18-1207 No effect on other limited liability companies.

This subchapter shall not affect a statute or rule of law that is applicable to a limited liability company that is not a statutory public benefit limited liability company.

§ 18-1208 Accomplishment by other means.

The provisions of this subchapter shall not be construed to limit the accomplishment by any other means permitted by law of the formation or operation of a limited liability company that is formed or operated for a public benefit (including a limited liability company that is designated as a public benefit limited liability company) that is not a statutory public benefit limited liability company.

Section 35. Sections 3, 6, 8, 9, 11, 13, 16, 18, 20, 25 through 28 and 34 of this Act shall become effective August 1, 2018. Sections 1, 2, 4, 5, 7, 10, 12, 14, 15, 17, 19, 21 through 24 and 29 through 33 of this Act shall become effective August 1, 2019.

Approved July 23, 2018