ENROLLED SENATE
BILL NO. 456

BY: DOUGLASS and HENDRICK of the SENATE

and

STEIDLEY of the HOUSE

AN ACT RELATING TO BUSINESS ENTITIES; CREATING THE OKLAHOMA LIMITED LIABILITY COMPANY ACT; PROVIDING SHORT TITLE; DEFINING TERMS; STATING PURPOSES FOR FORMATION OF A LIMITED LIABILITY COMPANY; STATING POWERS; PROVIDING PROCEDURES FOR FORMATION OF A LIMITED LIABILITY COMPANY; SPECIFYING CONTENTS OF ARTICLES OF ORGANIZATION; PROVIDING FOR THE EXECUTION OF CERTAIN ARTICLES; REQUIRING FILING WITH THE OFFICE OF THE SECRETARY OF STATE; PROVIDING FOR COMPANY NAME AND SETTING CERTAIN RESTRICTIONS; PROVIDING PROCEDURES FOR THE RESERVATION AND TRANSFER OF A COMPANY NAME; PROVIDING FOR THE PRINCIPAL OFFICE AND REGISTERED AGENT OF A COMPANY; REQUIRING THE AMENDMENT OF THE ARTICLES OF ORGANIZATION UNDER CERTAIN CIRCUMSTANCES; PROVIDING FOR ARTICLES OF CORRECTION; REQUIRING COMPANIES TO BE MANAGED BY MANAGERS UNLESS OTHERWISE PROVIDED; PROVIDING FOR QUALIFICATIONS AND NUMBER OF MANAGERS; PROVIDING FOR THE ELECTION AND REMOVAL OF MANAGERS; AUTHORIZING MANAGEMENT BY MEMBERS; STATING DUTIES OF MANAGERS; PROVIDING FOR THE LIMITATION OF LIABILITY AND INDEMNIFICATION OF MANAGERS; PROVIDING VOTING RULES FOR MANAGERS; STATING AGENCY POWER OF MANAGERS; ESTABLISHING VOTING RIGHTS OF MEMBERS; REQUIRING MAINTENANCE OF CERTAIN RECORDS; PROVIDING FOR ACCESS TO CERTAIN INFORMATION; STATING RULE GOVERNING THE LIABILITY OF MEMBERS AND MANAGERS TO THIRD PARTIES; PROVIDING FOR CONTRIBUTIONS TO CAPITAL; ESTABLISHING LIABILITY FOR CONTRIBUTIONS; PROVIDING FOR SHARING OF PROFITS AND LOSSES; PROVIDING FOR DISTRIBUTIONS TO MEMBERS; PROVIDING FOR INTERIM DISTRIBUTIONS; PROVIDING FOR DISTRIBUTIONS UPON WITHDRAWAL; PROVIDING FOR DISTRIBUTION IN KIND; STATING RIGHT TO DISTRIBUTION; RESTRICTING DISTRIBUTIONS IN CERTAIN INSTANCES; IMPOSING LIABILITY FOR WRONGFUL DISTRIBUTIONS; ESTABLISHING A LIMITATIONS PERIOD; STATING NATURE OF MEMBERSHIP INTERESTS; PROVIDING FOR THE ASSIGNMENT OF MEMBERSHIP INTERESTS; STATING RIGHTS OF JUDGMENT CREDITORS; PROVIDING FOR THE RIGHT OF AN ASSIGNEE TO BECOME A MEMBER; STATING POWERS OF THE ESTATE OF A DECEASED OR INCOMPETENT MEMBER; PROVIDING FOR THE DISSOLUTION OF A COMPANY; PROVIDING FOR JUDICIAL DISSOLUTION; PROVIDING FOR WINDING UP THE AFFAIRS OF A LIMITED

LIABILITY COMPANY; PROVIDING FOR THE DISTRIBUTION OF ASSETS; PROVIDING FOR ARTICLES OF DISSOLUTION; STATING LAW GOVERNING FOREIGN LIMITED LIABILITY COMPANIES; REQUIRING REGISTRATION WITH THE OFFICE OF THE SECRETARY OF STATE AND PROVIDING PROCEDURES RELATED THERETO; PROVIDING FOR THE ISSUANCE OF A CERTIFICATE OF REGISTRATION; STATING RULES GOVERNING THE USE OF A NAME BY A FOREIGN LIMITED LIABILITY COMPANY; REQUIRING A CERTIFICATE OF AMENDMENT IN CERTAIN INSTANCES; PROVIDING FOR CERTIFICATES OF WITHDRAWAL; PROVIDING RULES GOVERNING THE TRANSACTION OF BUSINESS WITHOUT REGISTRATION; SPECIFYING TRANSACTIONS NOT CONSTITUTING TRANSACTING BUSINESS; PROVIDING FOR CERTAIN ACTIONS BY THE ATTORNEY GENERAL; AUTHORIZING DERIVATIVE ACTIONS BY MEMBERS; SPECIFYING CONTENTS OF CERTAIN COMPLAINTS; PROVIDING FOR EXPENSES IN A DERIVATIVE ACTION; PROVIDING PROCEDURES REGARDING MERGERS OR CONSOLIDATIONS; IDENTIFYING CERTAIN FEES; PROVIDING FOR THE EXECUTION AND FILING OF CERTAIN INSTRUMENTS BY JUDICIAL ACT; STATING APPLICABILITY OF PROVISIONS TO FOREIGN AND INTERSTATE COMMERCE; STATING RULES OF CONSTRUCTION; ESTABLISHING THE JURISDICTION OF THE DISTRICT COURT; PROVIDING RULES FOR CASES NOT COVERED BY THE OKLAHOMA LIMITED LIABILITY COMPANY ACT; PROVIDING FOR CODIFICATION; AND PROVIDING AN EFFECTIVE DATE.

BE IT ENACTED BY THE PEOPLE OF THE STATE OF OKLAHOMA:

SECTION 1. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 2000 of Title 18, unless there is created a duplication in numbering, reads as follows:

This act shall be known and may be cited as the "Oklahoma Limited Liability Company Act".

SECTION 2. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 2001 of Title 18, unless there is created a duplication in numbering, reads as follows:

As used in this act, unless the context otherwise requires:

1. "Articles of organization" means documents filed under Section 5 of this act for the purpose of forming a limited liability company;

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

3. "Business" means any trade, occupation, profession or other activity regardless of whether engaged in for gain, profit or livelihood;

4. "Capital contribution" means anything of value that a person contributes to the limited liability company as a prerequisite for, or in connection with, membership, including cash, property, services rendered, or a promissory note or other binding obligation to contribute cash or property or to perform services;

5. "Capital interest" means the fair market value as of the date contributed of a member's capital contribution, other than a contribution of services or a binding obligation to perform services, whether or not returned to the member;

6. "Corporation" means a corporation formed under the laws of this state or a foreign corporation as defined in this section;

7. "Court" includes every court and judge having jurisdiction in the case;

8. "Foreign corporation" means a corporation formed under the laws of any state other than this state, or under the laws of the District of Columbia or any foreign country;

9. "Foreign limited liability company" means a limited liability company formed under the laws of any state other than this state;

10. "Foreign limited partnership" means a limited partnership formed under the laws of any state other than this state, or under the laws of the District of Columbia or any foreign country;

11. "Limited liability company" or "domestic limited liability company" means an entity that is an unincorporated association having two or more members that is organized and existing under the laws of this state;

12. "Limited partnership" means a limited partnership formed under the laws of this state or a foreign limited partnership as defined in this section;

13. "Manager" or "managers" means a person or persons designated by the members of a limited liability company to manage the limited liability company as provided in the articles of organization or an operating agreement;

14. "Member" means a person with an ownership interest in a limited liability company, with the rights and obligations specified under this act;

15. "Membership interest" or "interest" means a member's rights in the limited liability company, collectively, including the member's share of the profits and losses of the limited liability company, the right to receive distributions of the limited liability company's assets, and any right to vote or participate in management;

16. "Operating agreement" means any agreement of the members as to the affairs of a limited liability company and the conduct of its business;

17. "Person" means a natural person, partnership, domestic or foreign limited partnership, domestic or foreign limited liability company, trust, estate, association or corporation; and

18. "State" means a state, territory or possession of the United States, the District of Columbia, or the Commonwealth of Puerto Rico.

SECTION 3. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 2002 of Title 18, unless there is created a duplication in numbering, reads as follows:

A limited liability company may be organized under this act and may conduct business in any state for any lawful purpose, except the business of banking and insurance.

SECTION 4. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 2003 of Title 18, unless there is created a duplication in numbering, reads as follows:

Each limited liability company may:

1. Sue, be sued, complain and defend in all courts;

2. Transact its business, carry on its operations and have and exercise the powers granted by this section in any state, territory, district or possession of the United States, and in any foreign country;

3. Make contracts and guarantees, incur liabilities, and borrow money;

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

5. Acquire by purchase or in any other manner, take, receive, own, hold, improve, and otherwise deal with any interest in real or personal property, wherever located;

6. Issue notes, bonds and other obligations and secure any of them by mortgage or deed of trust or security interest of any or all of its assets;

7. Purchase, take, receive, subscribe for or otherwise acquire, own, hold, vote, use, employ, sell, mortgage, loan, pledge or otherwise dispose of and otherwise use and deal in and with stock or other interests in and obligations of domestic and foreign corporations, associations, general or limited partnerships, limited liability companies, business trusts, and individuals;

8. Invest its surplus funds, lend money from time to time in any manner which may be appropriate to enable it to carry on the operations or fulfill the purposes set forth in its articles of organization, and take and hold real property and personal property as security for the payment of funds so loaned or invested;

9. Elect or appoint agents and define their duties and fix their compensation;

10. Be a promoter, stockholder, partner, member, associate, or agent of any corporation, partnership, limited liability company, joint venture, trust or other enterprise;

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

12. Make and alter operating agreements, not inconsistent with its articles of organization or with the laws of this state, for the administration and regulation of the affairs of the limited liability company;

13. Cease its activities and dissolve; and

14. Do every other act not inconsistent with law which is appropriate to promote and attain the purposes set forth in its articles of organization.

SECTION 5. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 2004 of Title 18, unless there is created a duplication in numbering, reads as follows:

A. Two or more persons may form a limited liability company upon the filing of executed articles of organization with the Office of the Secretary of State.

B. 1. When the Office of the Secretary of State files the articles of organization, the proposed organization becomes a limited liability company under the name and subject to the purposes, conditions, and provisions stated in the articles.

2. Filing of the articles by the Office of the Secretary of State is conclusive evidence of the formation of the limited liability company.

SECTION 6. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 2005 of Title 18, unless there is created a duplication in numbering, reads as follows:

A. The articles of organization shall set forth:

1. The name of the limited liability company;

2. The latest date on which the limited liability company is to dissolve;

3. The purposes for which the limited liability company is formed;

4. The street address of its principal place of business in this state and the name and address of its resident agent in this state; and

5. Any other provision, not inconsistent with law, which the members elect to set out in the articles, including, but not limited to, a statement of whether there are limitations on the authority of members to bind the limited liability company.

B. It is not necessary to set out in the articles of organization any of the powers enumerated in this act.

SECTION 7. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 2006 of Title 18, unless there is created a duplication in numbering, reads as follows:

A. Articles required by this act to be filed with the Office of the Secretary of State shall be executed in the following manner:

1. Articles of organization must be signed by at least one person who need not be a member of the limited liability company; and

2. Articles of amendment, correction or dissolution must be signed by a manager.

B. Any person may sign any articles by an attorney in fact. Powers of attorney relating to the signing of articles by an attorney in fact need not be sworn to, verified or acknowledged, and need not be filed with the Office of the Secretary of State.

C. The execution of any articles under this act constitutes an affirmation under the penalties of perjury that the facts stated therein are true.

SECTION 8. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 2007 of Title 18, unless there is created a duplication in numbering, reads as follows:

A. Two signed copies of the articles of organization or any articles of amendment or dissolution or of any decree of judicial amendment or dissolution shall be delivered to the Secretary of State. A person who executes articles as an agent or fiduciary need not exhibit evidence of his authority as a prerequisite to filing. Unless the Secretary of State finds that any articles do not conform to law, upon receipt of all filing fees required by law he shall:

1. Endorse on each copy the word "filed" and the day, month and year of the filing thereof;

2. File one copy in his office; and

3. Return the other copy to the person who filed it or his representative.

B. Upon the filing of articles of amendment or a decree of judicial amendment in the Office of the Secretary of State, the articles of organization shall be amended as set forth therein and upon the effective date of articles of dissolution or a decree of judicial dissolution, the articles of organization are cancelled.

SECTION 9. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 2008 of Title 18, unless there is created a duplication in numbering, reads as follows:

The name of each limited liability company as set forth in its articles of organization:

1. Shall contain either the words "limited liability company" or the abbreviation "L.L.C." or the abbreviation "L.C.";

2. May not contain any word or phrase which indicates or implies that it is organized for any purpose not stated in its articles of organization; and

3. a. may not be the same as or indistinguishable from:

(1) names upon the records in the Office of the Secretary of State of then existing limited liability companies whether organized pursuant to

the laws of this state or licensed or registered as foreign limited liability companies, or

(2) names upon the records in the Office of the Secretary of State of corporations organized under the laws of this state or of foreign corporations registered in accordance with the laws of this state then existing or which existed at any time during the preceding three (3) years, or

(3) names upon the records in the Office of the Secretary of State of limited partnerships formed under the laws of this state or of foreign limited partnerships registered in accordance with the laws of this state, or

(4) trade names, fictitious names, or other names reserved with the Secretary of State.

b. the provisions of subparagraph a of this paragraph shall not apply if one of the following is filed with the Secretary of State:

(1) the written consent of the other limited liability company, corporation, limited partnership, or holder of the trade name, fictitious name or other reserved name to use the same or indistinguishable name with the addition of one or more words, numerals, numbers or letters to make that name distinguishable upon the records of the Secretary of State, except that the addition of words, numerals, numbers or letters to make the name distinguishable shall not be required where such written consent states that the consenting entity is about to change its name, cease to do business, withdraw from the state or be wound up, or

(2) a certified copy of a final decree of a court of competent jurisdiction establishing the prior right of such limited liability company or holder of a limited liability company name to the use of such name in this state.

SECTION 10. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 2009 of Title 18, unless there is created a duplication in numbering, reads as follows:

A. The exclusive right to use a specified name for a domestic or foreign limited liability company, in good faith, may be reserved by:

1. A person who intends to organize a domestic limited liability company or a foreign limited liability company to be registered in this state and to adopt that name;

2. A domestic limited liability company or a foreign limited liability company registered in this state which proposes to adopt that name; or

3. A foreign limited liability company which intends to register in this state and adopt that name.

B. A person seeking to reserve a specified name shall file an application executed by the applicant with the Secretary of State and pay the filing fee required by law. If the Secretary of State finds that the name is available for use by a domestic or foreign limited liability company, he shall reserve the name for the exclusive use of the applicant for a period of sixty (60) days.

C. The right to the exclusive use of a reserved name may be transferred to any other person by filing in the Office of the

Secretary of State a notice of the transfer, executed by the applicant for whom the name was reserved and specifying the name and address of the transferee.

SECTION 11. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 2010 of Title 18, unless there is created a duplication in numbering, reads as follows:

A. Each limited liability company shall continuously maintain in this state:

1. A principal office; and

2. At least one resident agent for service of process who shall be an individual resident of this state, a domestic corporation, a domestic limited liability company, a foreign corporation authorized to do business in this state, or a foreign limited liability company authorized to do business in this state.

B. 1. A limited liability company may designate or change its resident agent or principal office by filing with the Office of the Secretary of State a statement signed by any manager which authorizes the designation or change.

2. A limited liability company may change the address of its resident agent by filing with the Office of the Secretary of State a statement of the change signed by any manager.

3. A designation or change of a principal office or resident agent or address of the resident agent for a limited liability company under this subsection is effective when the Office of the Secretary of State files the statement.

C. 1. A resident agent who changes his address in the state may notify the Office of the Secretary of State of the change by filing with the Office of the Secretary of State a statement of the change signed by him or on his behalf.

2. The statement shall include:

a. the name of the limited liability company for which the change is effective,

b. the new address of the resident agent, and

c. the date on which the change is effective, if to be effective after the filing date.

3. If the new address of the resident agent is the same as the new address of the principal office of the limited liability company, the statement may include a change of address of the principal office if:

a. the resident agent notifies the limited liability company of the change in writing, and

b. the statement recites that the resident agent has done so.

4. Unless otherwise provided in the statement, the change of address of the resident agent or principal office is effective when the Office of the Secretary of State files the statement.

D. 1. A resident agent may resign by filing with the Office of the Secretary of State a counterpart or photocopy of the signed resignation.

2. Unless a later time is specified in the resignation, it is effective thirty (30) days after it is filed.

SECTION 12. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 2011 of Title 18, unless there is created a duplication in numbering, reads as follows:

A. The articles of organization shall be amended when:

1. There is a change in the name of the limited liability company;

2. There is a false or erroneous statement in the articles of organization;

3. There is a change in the time as stated in the articles of organization for the cancellation of the limited liability company; or

4. The members desire to restate the articles of organization in their entirety or to make a change in any other statement or to add a statement in the articles of organization in order to accurately represent their agreement.

B. An amendment to the articles of organization of a limited liability company shall set forth:

1. The name of the limited liability company;

2. The date of filing the articles of organization; and

3. The amendment to the articles of organization.

SECTION 13. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 2012 of Title 18, unless there is created a duplication in numbering, reads as follows:

A. If any document filed with the Office of the Secretary of State under this act contains any typographical error, error of transcription, or other technical error or has been defectively executed, the document may be corrected by the filing of articles of correction.

B. Articles of correction shall set forth:

1. The title of the document being corrected;

2. The name of each party to the document being corrected;

3. The date that the document being corrected was filed; and

4. The provision in the document as previously filed and as corrected and, if execution of the document was defective, the manner in which it was defective.

C. Articles of correction may not make any other change or amendment which would not have complied in all respects with the requirements of this act at the time the document being corrected was filed.

D. Articles of correction shall be executed in the same manner in which the document being corrected was required to be executed.

E. Articles of correction may not:

1. Change the effective date of the document being corrected; or

2. Affect any right or liability accrued or incurred before its filing, except that any right or liability accrued or incurred by reason of the error or defect being corrected shall be extinguished by the filing if the person having the right has not detrimentally relied on the original document.

F. Notwithstanding that any instrument authorized to be filed with the Secretary of State pursuant to the provisions of this act is, when filed inaccurately, defectively, or erroneously executed, sealed or acknowledged, or otherwise defective in any respect, the Secretary of State shall not be liable to any person for the preclearance for filing, or the filing and indexing of the instrument by the Secretary of State.

SECTION 14. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 2013 of Title 18, unless there is created a duplication in numbering, reads as follows:

A. Except as otherwise provided in the articles of organization, operating agreement, or this act, a limited liability company shall be managed by or under the authority of one or more managers who may but need not be members.

B. The articles of organization or operating agreement may prescribe qualifications for managers.

C. The number of managers shall be specified in or fixed in accordance with the articles of organization or operating agreement.

SECTION 15. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 2014 of Title 18, unless there is created a duplication in numbering, reads as follows:

Unless otherwise provided in the articles of organization or operating agreement:

1. The election of managers shall be by majority vote of the members; and

2. Any or all managers may be removed, with or without cause, at a meeting called expressly for that purpose by a majority of the members or by the written consent of a majority of the members.

SECTION 16. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 2015 of Title 18, unless there is created a duplication in numbering, reads as follows:

The articles of organization may provide that the business of the limited liability company shall be managed without designated managers. So long as such provision continues in effect:

1. The members shall be deemed to be managers for purposes of applying provisions of this act, unless the context clearly requires otherwise; and

2. The members shall have and be subject to all duties and liabilities of managers.

SECTION 17. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 2016 of Title 18, unless there is created a duplication in numbering, reads as follows:

Subject to the provisions of Section 18 of this act:

1. A manager shall discharge his duties as a manager in good faith, with the care an ordinary prudent person in a like position could exercise under similar circumstances, and in the manner he reasonably believes to be in the best interests of the limited liability company;

2. In discharging his duties, a manager may rely on information, opinions, reports or statements, including financial statements and other financial data, if prepared or presented by:

a. one or more employees of the limited liability company whom the manager reasonably believes to be reliable and competent in the matters presented,

b. legal counsel, public accountants, or other persons as to matters the manager reasonably believes are within the person's professional or expert competence, or

c. a committee of managers of which he is not a member if the manager reasonably believes the committee merits confidence;

3. A manager is not acting in good faith if he has knowledge concerning the matter in question that makes reliance otherwise permitted by paragraph 2 of this section unwarranted;

4. A manager is not liable for any action taken as a manager, or any failure to take any action, if he performed the duties of his office in compliance with this section; and

5. Except as otherwise provided in the articles of organization or operating agreement, every manager must account to the limited liability company and hold as trustee for it any profit or benefit derived by the manager without the informed consent of the members from any transaction connected with the conduct or winding up of the limited liability company or from any personal use by him of its property.

SECTION 18. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 2017 of Title 18, unless there is created a duplication in numbering, reads as follows:

A. Subject to subsection B of this section, the articles of organization or operating agreement may:

1. Eliminate or limit the personal liability of a manager for monetary damages for breach of any duty provided for in Section 17 of this act; and

2. Provide for indemnification of the manager for judgments, settlements, penalties, fines or expenses incurred in any proceeding because he is or was a manager.

B. No provision permitted under subsection A of this section shall limit or eliminate the liability of a manager for:

1. Any breach of the manager's duty of loyalty to the limited liability company or its members; or

2. Acts or omissions not in good faith or which involve intentional misconduct or a knowing violation of law; or

3. Any transaction from which the manager derived an improper personal benefit.

SECTION 19. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 2018 of Title 18, unless there is created a duplication in numbering, reads as follows:

Except as otherwise provided in the articles of organization or operating agreement, if the limited liability company has more than one manager, all decisions of the managers shall be made by majority vote of the managers.

SECTION 20. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 2019 of Title 18, unless there is created a duplication in numbering, reads as follows:

A. Every manager is an agent of the limited liability company for the purpose of its business, and the act of every manager, including the execution in the limited liability company name of any instrument for apparently carrying on in the usual way the business of the limited liability company of which he is a manager, binds the limited liability company, unless such act is in contravention of the articles of organization, the operating agreement, or this act, or unless the manager so acting otherwise lacks the authority to act for the limited liability company and the person with whom he is dealing has knowledge of the fact that he has no authority.

B. Subject to the provisions of subsection A of this section, instruments and documents providing for the acquisition, mortgage, or disposition of real or personal property of the limited liability company shall be valid and binding upon the limited liability company if executed by one or more of its managers.

C. Persons dealing with members or managers of the limited liability company shall be deemed to have knowledge of restrictions on the authority of members or managers contained in a written operating agreement if the articles of organization of the limited liability company contain a statement that such restrictions exist.

SECTION 21. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 2020 of Title 18, unless there is created a duplication in numbering, reads as follows:

A. Unless otherwise provided in the articles of organization or operating agreement, the members of a limited liability company shall vote in proportion to their contributions to the capital of the limited liability company, as adjusted for any additional contributions or withdrawals.

B. Unless otherwise provided in the articles of organization or operating agreement, a majority vote shall be required to approve the following matters:

1. The dissolution and winding up of the limited liability company;

2. The sale, exchange, lease, mortgage, pledge or other transfer of all or substantially all of the assets of the limited liability company;

3. Merger of the limited liability company with another domestic limited liability company or other business entity; and

4. An amendment to the articles of organization or operating agreement.

C. The articles of organization or operating agreement may provide for any other voting rights of members.

SECTION 22. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 2021 of Title 18, unless there is created a duplication in numbering, reads as follows:

A. Each limited liability company shall keep at its principal office:

1. A current list of the full name and last-known business address of each member and manager;

2. Copies of records that would enable a member to determine the relative voting rights of the members;

3. A copy of the articles of organization, together with any amendments thereto;

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

5. A copy of any operating agreement that is in writing; and

6. Copies of any financial statements of the limited liability company for the three most recent years.

B. A member, for any purpose reasonably related to the member's interest, may:

1. At the member's own expense, inspect and copy any limited liability company record upon reasonable request during ordinary business hours;

2. Obtain from time to time upon reasonable demand:

a. true and complete information regarding the state of the business and financial condition of the limited liability company,

b. promptly after becoming available, a copy of the limited liability company's state and local income tax returns for each year, and

c. other information regarding the affairs of the limited liability company as is just and reasonable; and

3. Have a formal accounting of the limited liability company's affairs whenever circumstances render it just and reasonable.

C. A manager, for any purpose reasonably related to his position, may inspect and copy any limited liability company records upon reasonable request during ordinary business hours.

SECTION 23. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 2022 of Title 18, unless there is created a duplication in numbering, reads as follows:

A person who is a member or manager, or both, of a limited liability company is not liable for the obligations of a limited liability company solely by reason of being such member or manager or both.

SECTION 24. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 2023 of Title 18, unless there is created a duplication in numbering, reads as follows:

The contribution of a member to a limited liability company may be in cash, property, services rendered, or a promissory note or other binding obligation to contribute cash or property or to perform services.

SECTION 25. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 2024 of Title 18, unless there is created a duplication in numbering, reads as follows:

A. 1. Except as otherwise provided in the articles of organization or the operating agreement, a member is obligated to the limited liability company to perform any written promises set forth in the articles of organization, operating agreement, or other agreement to contribute cash or property or to perform services, even if he is unable to perform because of death, disability or other reason.

2. If a member does not make the required contribution of property or services, he is obligated, at the option of the limited liability company, to contribute cash equal to that portion of value, as stated in the operating agreement, of the stated contribution that has not been made.

B. 1. The obligation of a member to make a contribution or return money or other property paid or distributed in violation of this act may be compromised only upon compliance with the operating agreement, or, if the operating agreement does not so provide, with the unanimous consent of the members.

2. A compromise shall not impair the right of any creditor to enforce the obligation or to require the obligation to be enforced if:

a. such creditor relied upon the obligation and the absence in the operating agreement of the limited liability company's authority to compromise the obligation, or

b. a duty to the creditor was breached in the making of the compromise.

C. An operating agreement may provide that the interest of a member who fails to make any contribution or other payment that the member is required to make shall be subject to specified remedies for, or specified consequences of, the failure. The remedy or consequence may take the form of reducing the defaulting member's interest in the limited liability company, subordinating the defaulting member's interest in the limited liability company to that of the nondefaulting members, a forced sale of the interest in the limited liability company, forfeiture of the interest in the limited liability company, the lending by the nondefaulting members of the amount necessary to meet the commitment, a fixing of the value of the member's interest in the limited liability company by appraisal or by formula and redemption and sale of the member's interest in the limited liability company at that value, or other remedy or consequences.

SECTION 26. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 2025 of Title 18, unless there is created a duplication in numbering, reads as follows:

Except as otherwise provided in the operating agreement:

1. The profits and losses of a limited liability company shall be allocated among the members in proportion to their respective capital interests; and

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

SECTION 27. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 2026 of Title 18, unless there is created a duplication in numbering, reads as follows:

Except as otherwise provided in this act, a member is entitled to receive distributions from a limited liability company before the withdrawal of the member from the limited liability company and before the dissolution and winding up of the limited liability company to the extent and at the times upon which the members unanimously agree or as provided in the operating agreement.

SECTION 28. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 2027 of Title 18, unless there is created a duplication in numbering, reads as follows:

Except as otherwise provided in this act or in the operating agreement, a member who withdraws is entitled to receive, within a reasonable time after the member's withdrawal, the fair value of the member's interest in the limited liability company as of the date of the member's withdrawal.

SECTION 29. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 2028 of Title 18, unless there is created a duplication in numbering, reads as follows:

Except as otherwise provided in the operating agreement:

1. A member, regardless of the nature of the member's contribution, has no right to demand and receive any distribution from a limited liability company in any form other than cash; and

2. No member may be compelled to accept from a limited liability company a distribution of any asset in kind to the extent that the percentage of the asset distributed to the member exceeds the percentage which the member's interest in the limited liability company is of all of the interests in the limited liability company.

SECTION 30. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 2029 of Title 18, unless there is created a duplication in numbering, reads as follows:

At the time a member becomes entitled to receive a distribution, the member has the status of and is entitled to all remedies available to a creditor of the limited liability company with respect to the distribution.

SECTION 31. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 2030 of Title 18, unless there is created a duplication in numbering, reads as follows:

A. A distribution may not be made if, after giving effect to the distribution:

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

2. The limited liability company's total assets would be less than the sum of its total liabilities plus, unless the operating agreement permits otherwise, the amount that would be needed, if the limited liability company were to be dissolved at the time of the distribution, to satisfy the preferential rights upon dissolution of members whose preferential rights are superior to the rights of members receiving the distribution.

B. The limited liability company may base a determination that a distribution is not prohibited under subsection A of this section on:

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

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

C. Except as provided in subsection E of this section, the effect of a distribution under subsection A of this section is measured as of:

1. The date the distribution is authorized, if the payment occurs within one hundred twenty (120) days after the date of authorization; or

2. The date the payment is made if it occurs more than one hundred twenty (120) days after the date of authorization.

D. A limited liability company's indebtedness to a member, incurred by reason of a distribution made in accordance with this section, is at parity with the limited liability company's

indebtedness to its general, unsecured creditors, except to the extent subordinated by agreement.

E. 1. If the terms of the indebtedness provide that payment of principal and interest is to be made only if, and to the extent that, payment of a distribution to members could then be made under this section, indebtedness of a limited liability company, including indebtedness issued as a distribution, is not a liability for purposes of determinations made under subsection B of this section; and

2. If the indebtedness is issued as a distribution, each payment of principal or interest on the indebtedness is treated as a distribution, the effect of which is measured on the date the payment is actually made.

SECTION 32. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 2031 of Title 18, unless there is created a duplication in numbering, reads as follows:

If a member has received a distribution in violation of the operating agreement or Section 31 of this act, the member shall be liable to the limited liability company for the amount of the distribution wrongfully made. An action for the recovery of any wrongful distribution to a member must be brought within three (3) years from the date of the distribution.

SECTION 33. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 2032 of Title 18, unless there is created a duplication in numbering, reads as follows:

A membership interest is personal property. A member has no interest in specific limited liability company property.

SECTION 34. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 2033 of Title 18, unless there is created a duplication in numbering, reads as follows:

A. Unless otherwise provided in the articles of organization or an operating agreement:

1. A membership interest is assignable in whole or in part;

2. An assignment of a membership interest does not dissolve a limited liability company or entitle the assignee to become or to exercise any rights or powers of a member;

3. An assignment entitles the assignee to receive such distribution or distributions to which the assignor was entitled to the extent assigned; and

4. A member ceases to be a member and to have the power to exercise any rights or powers of a member upon assignment of all of his membership interest. Unless otherwise provided in the articles of organization or an operating agreement, the granting of a security interest, lien or other encumbrance in or against or the pledge of any or all of the membership interest of a member shall not cause the member to cease to be a member or to have the power to exercise any rights or powers of a member.

B. The articles of organization or an operating agreement may provide that a member's interest in a limited liability company may be evidenced by a certificate of membership interest issued by the limited liability company and also may provide for the assignment or transfer of any membership interest represented by such a certificate and make other provisions with respect to such certificates.

C. Unless otherwise provided in the articles of organization or an operating agreement and except to the extent assumed by agreement, until an assignee of a membership interest becomes a member, the assignee shall have no liability as a member solely as a result of the assignment.

SECTION 35. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 2034 of Title 18, unless there is created a duplication in numbering, reads as follows:

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

SECTION 36. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 2035 of Title 18, unless there is created a duplication in numbering, reads as follows:

A. An assignee of a membership interest may become a member if and to the extent that:

1. The articles of organization or an operating agreement provides; or

2. Members holding a majority of membership interests consent. The consent of a member may be evidenced in any manner specified in the articles of organization or an operating agreement for the limited liability company, but in the absence of such specification, consent shall be evidenced by a written instrument, dated and signed by the member, or evidenced by a vote taken at a meeting of members; or

3. The assignment is caused by operation of law, is ordered by a court of competent jurisdiction, or is made pursuant to a court approved settlement, including a settlement in connection with a dissolution of marriage or a bankruptcy proceeding.

B. An assignee who has become a member, to the extent assigned, has the rights and powers, and is subject to the restrictions and liabilities, of a member under the articles of organization, any operating agreement and this act. However, unless otherwise provided in the articles of organization, an operating agreement or other written agreement, an assignee who becomes a member is liable for the obligations of his assignor to make contributions as provided in Section 25 of this act, but shall not be liable for the obligations of his assignor under Section 32 of this act. However, the assignee is not obligated for liabilities, including the obligations of his assignor to make contributions, unknown to the assignee at the time he became a member.

C. Regardless of whether an assignee of a membership interest becomes a member, the assignor is not released from his liability to the limited liability company under Sections 25 and 32 of this act.

SECTION 37. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 2036 of Title 18, unless there is created a duplication in numbering, reads as follows:

If a member who is an individual dies or a court of competent jurisdiction adjudges him to be incompetent to manage his person or his property, the member's executor, administrator, guardian, conservator, or other legal representative may exercise all of the member's rights for the purpose of settling his estate or administering his property, including any power granted under the articles of organization or an operating agreement permitting an assignee to become a member. If a member is a corporation, trust or other entity and is dissolved or terminated, the powers of that member may be exercised by its legal representative or successor.

SECTION 38. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 2037 of Title 18, unless there is created a duplication in numbering, reads as follows:

A limited liability company is dissolved and its affairs shall be wound up upon the earlier of:

1. The time specified in the articles of organization or operating agreement;

2. The happening of events specified in writing in the articles of organization or operating agreement;

3. The unanimous written consent of all members;

4. The death, resignation, expulsion, bankruptcy, or dissolution of a member, or the occurrence of any other event which terminates the continued membership of a member in the limited liability company, unless the limited liability company is continued by the unanimous consent of the remaining members; provided, however, no limited liability company may be continued unless there are at least two remaining members; or

5. Entry of a decree of judicial dissolution under Section 39 of this act.

SECTION 39. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 2038 of Title 18, unless there is created a duplication in numbering, reads as follows:

On application by or for a member, the district court may decree dissolution of a limited liability company whenever it is not reasonably practicable to carry on the business in conformity with the articles of organization or operating agreement.

SECTION 40. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 2039 of Title 18, unless there is created a duplication in numbering, reads as follows:

Except as otherwise provided in the articles of organization or operating agreement, the members who have not wrongfully dissolved a limited liability company may wind up the limited liability company's affairs; provided, however, the district court may wind up the limited liability company's affairs on application of any member, his legal representative, or assignee.

SECTION 41. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 2040 of Title 18, unless there is created a duplication in numbering, reads as follows:

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

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

2. Except as otherwise provided in the articles of organization or written operating agreement, to members or former members in satisfaction of liabilities for distributions under Sections 27 and 28 of this act; and

3. Except as otherwise provided in the articles of organization or operating agreement, to members and former members first for the return of their contributions and secondly respecting their membership interests, in proportions in which the members share in distributions.

SECTION 42. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 2041 of Title 18, unless there is created a duplication in numbering, reads as follows:

Upon the dissolution and the commencement of winding up of the limited liability company, articles of dissolution shall be filed in the Office of the Secretary of State upon payment of the filing fee required by Section 56 of this act and shall set forth:

1. The name of the limited liability company;

2. The date of filing of its articles of organization;

3. The reason for filing the articles of dissolution;

4. The effective date, which shall be a date certain, of the articles of dissolution if they are not to be effective upon the filing; and

5. Any other information the members or managers filing the certificate determine.

SECTION 43. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 2042 of Title 18, unless there is created a duplication in numbering, reads as follows:

A. Subject to the Constitution of this state:

1. The laws of the state or other jurisdiction under which a foreign limited liability company is organized shall govern its organization and internal affairs and the liability of its managers and members; and

2. A foreign limited liability company may not be denied registration by reason of any difference between those laws and the laws of this state.

B. A foreign limited liability company holding a valid registration in this state shall have no greater rights and privileges than a domestic limited liability company. The registration shall not be deemed to authorize the foreign limited liability company to exercise any of its powers or purposes that a domestic limited liability company is forbidden by law to exercise in this state.

SECTION 44. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 2043 of Title 18, unless there is created a duplication in numbering, reads as follows:

Before transacting business in this state, a foreign limited liability company shall register with the Office of the Secretary of State. In order to register, a foreign limited liability company shall:

1. Pay to the Secretary of State a registration fee required by Section 56 of this act;

2. Provide the Secretary of State with an original certificate from the certifying officer of the jurisdiction of the foreign limited liability company's organization attesting to the foreign limited liability company's organization under the laws of such jurisdiction; and

3. Submit to the Office of the Secretary of State an application in duplicate for registration as a foreign limited liability company, signed by a manager, member, or other person, and setting forth:

a. the name of the foreign limited liability company and, if different, the name under which it proposes to transact business in this state,

b. the state or other jurisdiction and date of its organization,

c. the name and street address of a registered agent in this state which agent shall be an individual resident of this state, a domestic corporation, a foreign corporation having a place of business and authorized to do business in this state, a domestic limited liability company, or a foreign limited liability company having a place of business and authorized to do business in this state,

d. a statement that the Office of the Secretary of State is appointed the agent of the foreign limited liability company for service of process if no agent has been appointed under subparagraph c of this paragraph, or if appointed, the agent's authority has

been revoked or if the agent cannot be found or served with the exercise of reasonable diligence,

e. the address of the office required to be maintained in the state of its organization by the laws of that state or, if not so required, of the principal office of the foreign limited liability company, and

f. such additional information as may be necessary or appropriate in order to enable the Office of the Secretary of State to determine whether such limited liability company is entitled to transact business in this state.

SECTION 45. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 2044 of Title 18, unless there is created a duplication in numbering, reads as follows:

If the Office of the Secretary of State finds that an application for registration conforms to the provisions of this act and all requisite fees have been paid, it shall:

1. Endorse on the applications the word "filed", and the month, day, and year of the filing;

2. File in its office one copy of the application;

3. Issue a certificate of registration to transact business in this state; and

4. Return the certificate of registration, together with a copy of the application to the person who filed the application or his representative.

SECTION 46. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 2045 of Title 18, unless there is created a duplication in numbering, reads as follows:

No certificate of registration shall be issued to a foreign limited liability company unless the name of such company satisfies the requirements of Section 9 of this act. If the name of a foreign limited liability company does not satisfy the requirements of Section 9 of this act, to obtain or maintain a certificate of registration, the foreign limited liability company may use a designated name that is available, and which satisfies the requirements of Section 9 of this act, if it informs the Office of the Secretary of State of the designated name.

SECTION 47. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 2046 of Title 18, unless there is created a duplication in numbering, reads as follows:

A. If any statement in the application for registration of a foreign limited liability company was false when made or any arrangements or other facts described have changed, making the application inaccurate in any respect, the foreign limited liability company shall promptly file in the Office of the Secretary of State a certificate, signed by a manager, member or other person, correcting the statement and pay the fee provided for in Section 56 of this act.

B. A registered foreign limited liability company shall record any changes in its principal office, its registered agent, or the registered agent's address, by filing with the Office of the Secretary of State a statement of the change and paying the fee provided for in Section 56 of this act.

SECTION 48. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 2047 of Title 18, unless there is created a duplication in numbering, reads as follows:

A. A foreign limited liability company authorized to transact business in this state may withdraw from the state upon procuring from the Office of the Secretary of State a certificate of withdrawal. In order to procure such certificate, the foreign

limited liability company shall file with the Office of the Secretary of State an application for withdrawal and pay the fee provided for in Section 56 of this act. The application for withdrawal shall set forth:

1. The name of the foreign limited liability company and the state or other jurisdiction under the laws of which it is organized;

2. That the foreign limited liability company is not transacting business in this state;

3. That the foreign limited liability company surrenders its certificate of registration to transact business in this state;

4. That the foreign limited liability company revokes the authority of its registered agent for service of process in this state and consents that service of process in any action, suit, or proceeding based upon any cause of action arising in this state during the time the foreign limited liability company was authorized to transact business in this state may thereafter be made on such foreign limited liability company by service thereof upon the Office of the Secretary of State; and

5. An address to which a person may mail a copy of any process against the foreign limited liability company.

B. The application for withdrawal shall be executed by the foreign limited liability company by one of its managers, members, or other persons, or, if the foreign limited liability company is in the hands of a receiver or trustee, by such receiver or trustee on behalf of the foreign limited liability company.

SECTION 49. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 2048 of Title 18, unless there is created a duplication in numbering, reads as follows:

A. A foreign limited liability company transacting business in this state may not maintain an action, suit, or proceeding in a court of this state until it has registered in this state as provided in this act.

B. The failure of a foreign limited liability company to register in this state does not impair the validity of any contract or act of the foreign limited liability company or prevent the foreign limited liability company from defending any action, suit, or proceeding in any court of this state.

C. A foreign limited liability company, by transacting business in this state without registration, appoints the Office of the Secretary of State as its agent for service of process with respect to a cause of action arising out of the transaction of business in this state.

D. A member of a foreign limited liability company is not liable for the debts and obligations of the limited liability company solely by reason of such company's having transacted business in this state without a valid certificate of registration.

SECTION 50. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 2049 of Title 18, unless there is created a duplication in numbering, reads as follows:

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

1. Maintaining, defending, or settling any proceeding;

2. Holding meetings of its members or carrying on any other activities concerning its internal affairs;

3. Maintaining bank accounts;

4. Maintaining offices or agencies for the transfer, exchange and registration of the foreign limited liability company's own securities or maintaining trustees or depositaries with respect to those securities;

5. Selling through independent contractors;

6. Soliciting or obtaining orders, whether by mail or through employees or agents or otherwise, if the orders require acceptance outside this state before they become contracts;

7. Creating or acquiring indebtedness, mortgages and security interests in real or personal property;

8. Securing or collecting debts or enforcing mortgages and security interest in property securing the debts;

9. Holding, protecting, renting, maintaining and operating real or personal property in this state so acquired;

10. Selling or transferring title to property in this state to any person; or

11. Conducting an isolated transaction that is completed within thirty (30) days and that is not one in the course of repeated transactions of a like nature.

B. For the purposes of this section, any foreign limited liability company which owns income-producing real or tangible personal property in this state, other than property exempted by subsection A of this section, will be considered transacting business in this state.

C. This section does not apply in determining the contracts or activities that may subject a foreign limited liability company to service of process or taxation in this state or to regulation under any other law of this state.

SECTION 51. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 2050 of Title 18, unless there is created a duplication in numbering, reads as follows:

The Attorney General may maintain an action to restrain a foreign limited liability company from transacting business in this state in violation of this act.

SECTION 52. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 2051 of Title 18, unless there is created a duplication in numbering, reads as follows:

A member may bring an action in the right of the limited liability company to recover a judgment in its favor if all of the following conditions are met:

1. Either:

a. management of the limited liability company is vested in a manager or managers who have the sole authority to cause the limited liability company to sue in its own right, or

b. management of the limited liability company is reserved to the members but the plaintiff does not have the authority to cause the limited liability company to sue in its own right under the provisions of an operating agreement; and

2. The plaintiff has made demand on those managers or those members with such authority requesting that such managers or such members cause the limited liability company to sue in its own right; and

3. The members or managers with such authority have wrongfully refused in the exercise of their business judgment to bring the action or, after adequate time to consider the demand, have failed to respond to such demand; and

4. The plaintiff:

a. is a member of the limited liability company at the time of bringing the action, and

b. was a member of the limited liability company at the time of the transaction of which he complains, or his status as a member of the limited liability company

thereafter developed upon him pursuant to the terms of the operating agreement from a person who was a member at such time; and

5. The plaintiff fairly and adequately represents the interests of the members in enforcing the rights of the limited liability company.

SECTION 53. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 2052 of Title 18, unless there is created a duplication in numbering, reads as follows:

In a derivative action, the complaint shall set forth with particularity the effort of the plaintiff to secure initiation of the action by the managers or the members who would otherwise have the authority to cause the limited liability company to sue in its own right.

SECTION 54. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 2053 of Title 18, unless there is created a duplication in numbering, reads as follows:

A. If a derivative action is successful, in whole or in part, or if anything is received by the plaintiff as a result of a judgment, compromise or settlement of an action or claim, the court may award the plaintiff reasonable expenses, including reasonable attorneys' fees, and shall direct him to remit to the limited liability company the remainder of those proceeds received by him.

B. In any action hereafter instituted in the right of any domestic or foreign limited liability company by a member or members thereof, the court having jurisdiction, upon final judgment and a finding that the action was brought without reasonable cause, may require the plaintiff or plaintiffs to pay to the parties named as defendants the reasonable expenses, including attorneys' fees, incurred by them in the defense of such action.

SECTION 55. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 2054 of Title 18, unless there is created a duplication in numbering, reads as follows:

A. Pursuant to an agreement of merger or consolidation, a domestic limited liability company may merge or consolidate with or into one or more domestic limited liability companies or other business entities, formed or organized under the laws of this state, any other state, or the District of Columbia, with such domestic limited liability company being the surviving or resulting domestic limited liability company or other business entity. As used in this section, "other business entity" means a corporation, a business trust, a common law trust, or an unincorporated business including a partnership, whether general or limited, but excluding a domestic limited liability company.

B. Unless otherwise provided in the articles of organization or the operating agreement, a merger or consolidation shall be approved by each domestic limited liability company which is to merge or consolidate by a majority of the members or, if there is more than one class or group of members, then by a majority of each class or group. 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.

C. If a domestic limited liability company is merging or consolidating pursuant to this section, the domestic limited liability company or other business entity surviving or resulting in or from the merger or consolidation shall file articles of merger or consolidation with the Office of the Secretary of State. The articles of merger or consolidation shall state:

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

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

3. The name of the surviving or resulting domestic limited liability company or other business entity;

4. 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 articles of merger or consolidation;

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

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

7. In the case of a merger, any amendments or changes in the articles of organization of the surviving domestic limited liability company that are to be effected by the merger;

8. In the case of a consolidation, that the articles of organization of the resulting domestic limited liability company shall be as set forth in an attachment to the articles of consolidation; and

9. If the surviving or resulting entity is not a domestic limited liability company or business entity formed or organized pursuant to the laws of this state, a statement that such surviving or resulting other business entity agrees it may be served with process in this state in any action, suit or proceeding for the enforcement of any obligation of any domestic limited liability company which is to merge or consolidate; irrevocably appoints the Secretary of State as its agent to accept service of process in any such action, suit or proceeding; and specifies the address to which a copy of such process shall be mailed to the entity by the Secretary of State.

D. Any failure to file the articles of merger or consolidation in connection with a merger or consolidation which was effective prior to the effective date of this act shall not affect the validity or effectiveness of any such merger or consolidation.

E. A merger or consolidation shall be effective upon the filing with the Secretary of State of articles of merger or consolidation, unless a future effective date or time is provided in the articles of merger or consolidation.

F. Articles of merger or consolidation shall act as articles of dissolution for a domestic limited liability company which is not the surviving or resulting entity in the merger or consolidation.

G. Once any merger or consolidation is effective pursuant to this section, for all purposes of the laws of this state, all of the rights, privileges and powers of each of the domestic limited liability companies and other business entities that have merged or consolidated and all property, real, personal and mixed, and all debts due to any of said domestic limited liability companies and other business entities, as well as all other things and causes of action belonging to each of such domestic limited liability

companies and other business entities shall be vested in the surviving or resulting domestic limited liability company or other business entity, and shall thereafter be the property of the surviving or resulting domestic limited liability company or other business entity as they were of each of the domestic limited liability companies and other business entities that have merged or consolidated, and the title to any real property vested by deed or otherwise, under the laws of this state, in any of such domestic limited liability companies and other business entities shall not revert or be in any way impaired by reason of this section, but all rights of creditors and all liens upon any property of any said domestic limited liability companies and other business entities shall be preserved unimpaired. All debts, liabilities and duties of each of the domestic limited liability companies and other business entities that have merged or consolidated shall thereafter attach to the surviving or resulting domestic limited liability company or other business entity, and may be enforced against the limited liability company or other entity to the same extent as if the debts, liabilities and duties had been incurred or contracted by the limited liability company or other entity. Unless otherwise agreed, a merger or consolidation of a domestic limited liability company, including a domestic limited liability company which is not the surviving or resulting entity in the merger or consolidation, shall not require such domestic limited liability company to wind up its affairs pursuant to Section 38 of this act or pay its liabilities and distribute its assets pursuant to Section 41 of this act.

SECTION 56. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 2055 of Title 18, unless there is created a duplication in numbering, reads as follows:

The Secretary of State shall charge and collect for the benefit of the General Revenue Fund of the State Treasury the following fees:

1. For filing the original articles of organization, a fee of One Hundred Dollars ($100.00);

2. For filing amended, corrected or restated articles of organization, a fee of Fifty Dollars ($50.00);

3. For filing articles of merger or consolidation and issuing a certificate of merger or consolidation, a fee of One Hundred Dollars ($100.00);

4. For filing articles of dissolution and issuing a certificate of cancellation, a fee of Fifty Dollars ($50.00);

5. For filing a certificate of correction of statements in an application for registration of a foreign limited liability company, a fee of One Hundred Dollars ($100.00);

6. For issuing a certificate for any purpose whatsoever, a fee of Ten Dollars ($10.00);

7. For filing an application for reservation of a name, or for filing a notice of the transfer or cancellation of any name reservation, a fee of Five Dollars ($5.00);

8. For filing a statement of change of address of the principal office or resident agent, or both, or the resignation of a resident agent, a fee of Twenty-five Dollars ($25.00);

9. For filing an application for registration as a foreign limited liability company, a fee of Three Hundred Dollars ($300.00);

10. For filing an application of withdrawal as provided in Section 48 of this act, a fee of One Hundred Dollars ($100.00); and

11. For any service of notice, demand, or process upon the Secretary of State as resident agent of a limited liability company, a fee of Ten Dollars ($10.00), which amount may be recovered as

taxable costs by the party to be sued, action, or proceeding causing such service to be made if such party prevails therein.

SECTION 57. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 2056 of Title 18, unless there is created a duplication in numbering, reads as follows:

Any person who is adversely affected by the failure or refusal of any person to execute and file any articles or other document to be filed under this act may petition the district court in the county where the registered office of the limited liability company is located or, if no such address is on file with the Secretary of State, in Oklahoma County, to direct the execution and filing of the articles or other document. If the court finds that it is proper for the articles or other document to be executed and filed and that there has been failure or refusal to execute and file such document, it shall order the Secretary of State to file the appropriate articles or other document.

SECTION 58. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 2057 of Title 18, unless there is created a duplication in numbering, reads as follows:

The provisions of this act shall apply to commerce with foreign nations and among the several states only as permitted by law.

SECTION 59. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 2058 of Title 18, unless there is created a duplication in numbering, reads as follows:

A. The rules that statutes in derogation of the common law are to be strictly construed shall have no application to this act.

B. The law of estoppel shall apply to this act.

C. The law of agency shall apply under this act.

D. This act shall not be construed so as to impair the obligations of any contract existing when the act goes into effect, nor to affect any action or proceedings begun or right accrued before this act takes effect.

SECTION 60. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 2059 of Title 18, unless there is created a duplication in numbering, reads as follows:

The district court shall have jurisdiction to enforce the provisions of this act.

SECTION 61. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 2060 of Title 18, unless there is created a duplication in numbering, reads as follows:

In any case not provided for in this act, the rules of law and equity, including the law merchant, shall govern.

SECTION 62. This act shall become effective September 1, 1992.

Passed the Senate the 23d day of April, 1992.

President of the Senate

Passed the House of Representatives the 31st day of March, 1992.

Speaker of the House of Representatives