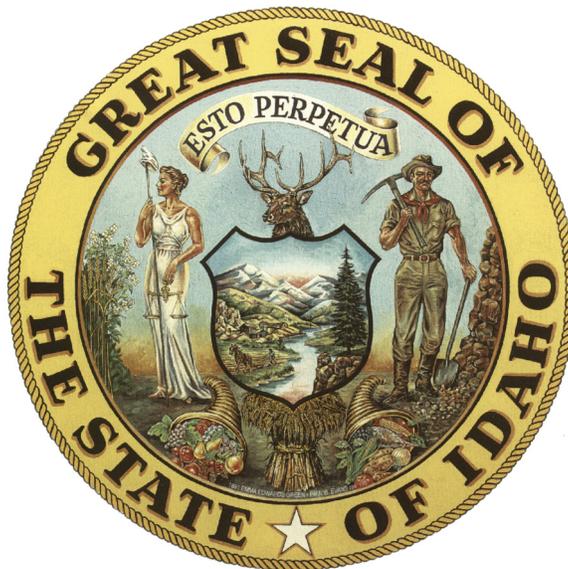


**IDAHO UNIFORM BUSINESS
ORGANIZATIONS CODE
(IUBOC)**

**PRELIMINARY PROVISIONS
AND
IDAHO UNIFORM LIMITED LIABILITY COMPANY ACT**



**Compiled under the authority of
Lawrence Denney
Secretary of State**

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PART 1. DEFINITIONS, DELIVERY, AND ADMINISTRATIVE RULES

30-21-101.SHORT TITLES. (a) This act may be cited as the “Idaho Uniform Business Organizations Code.”

(b) This chapter may be cited as the “Idaho Uniform Business Organizations Code -- Preliminary Provisions.”

(c) Part 4 of this chapter may be cited as the “Idaho Registered Agent of Entity Act.”

(d) Part 8 of this chapter may be cited as the “Idaho Assumed Business Names Act.”

30-21-102.DEFINITIONS. In this act, except as otherwise provided in definitions of the same terms in other articles of this act:

(1) “Act” means the Idaho uniform business organizations code.

(2) “Annual report” means the report required by section 30-21-213, Idaho Code.

(3) “Business corporation” means a domestic business corporation incorporated under or subject to chapter 29, title 30, Idaho Code, or a foreign business corporation.

(4) “Business trust” means a trust formed under the statutory law of another state that is not a foreign statutory trust and does not have a predominately donative purpose.

(5) “Commercial registered agent” means a person listed under section 30-21-405, Idaho Code.

(6) “Common-law business trust” means a common-law trust that does not have a predominately donative purpose.

(7) “Debtor in bankruptcy” means a person that is the subject of:

(A) An order for relief under 11 U.S.C. or a comparable order under a successor statute of general application; or

(B) A comparable order under federal, state or foreign law governing insolvency.

(8) “Distributional interest” means the right under an unincorporated entity’s organic law and organic rules to receive distributions from the entity.

(9) “Domestic,” with respect to an entity, means governed as to its internal affairs by the law of this state.

(10) “Effective date,” when referring to a record filed by the secretary of state, means the time and date determined in accordance with section 30-21-203, Idaho Code.

(11) “Entity”:

(A) Means:

(i) A business corporation;

(ii) A nonprofit corporation;

(iii) A general partnership, including a limited liability partnership;

(iv) A limited partnership, including a limited liability limited partnership;

(v) A limited liability company;

(vi) A general cooperative association;

(vii) A limited cooperative association;

(viii) An unincorporated nonprofit association;

(ix) A statutory trust, business trust, or common-law business trust; or

(x) Any other person that has:

(I) A legal existence separate from any interest holder of that person; or

(II) The power to acquire an interest in real property in its own name; and

(B) Does not include:

(i) An individual;

(ii) A trust with a predominately donative purpose or a charitable trust;

(iii) An association or relationship that is not listed in paragraph (A) of this subsection and is not a partnership under the rules stated in section 30-23-202(c), Idaho Code, or a similar provision of the law of another jurisdiction;

(iv) A decedent’s estate; or

(v) A government or a governmental subdivision, agency or instrumentality.

(12) “Entity filing” means a record delivered to the secretary of state for filing pursuant to this act.

(13) “Filed record” means a record filed by the secretary of state pursuant to this act.

(14) “Filing entity” means an entity whose formation requires the filing of a public organic record. The term does not include a limited liability partnership.

(15) “Foreign,” with respect to an entity, means governed as to its internal affairs by the law of a jurisdiction other

than this state.

(16) "General cooperative association" means a foreign general cooperative association.

(17) "General partnership" means a domestic general partnership formed under or subject to chapter 23 of this act or a foreign general partnership. The term includes a limited liability partnership.

(18) "Governance interest" means a right under the organic law or organic rules of an unincorporated entity, other than as a governor, agent, assignee or proxy, to:

(A) Receive or demand access to information concerning, or the books and records of, the entity;

(B) Vote for or consent to the election of the governors of the entity; or

(C) Receive notice of or vote on or consent to an issue involving the internal affairs of the entity.

(19) "Governor" means:

(A) A director of a business corporation;

(B) A director or trustee of a nonprofit corporation;

(C) A general partner of a general partnership;

(D) A general partner of a limited partnership;

(E) A manager of a manager-managed limited liability company;

(F) A member of a member-managed limited liability company;

(G) A director of a general cooperative association;

(H) A director of a limited cooperative association;

(I) A manager of an unincorporated nonprofit association;

(J) A trustee of a statutory trust, business trust or common-law business trust; or

(K) Any other person under whose authority the powers of an entity are exercised and under whose direction the activities and affairs of the entity are managed pursuant to the organic law and organic rules of the entity.

(20) "Interest" means:

(A) A share in a business corporation;

(B) A membership in a nonprofit corporation;

(C) A governance interest in a general partnership;

(D) A governance interest in a limited partnership;

(E) A governance interest in a limited liability company;

(F) A share in a general cooperative association;

(G) A member's interest in a limited cooperative association;

(H) A membership in an unincorporated nonprofit association;

(I) A beneficial interest in a statutory trust, business trust or common-law business trust; or

(J) A governance interest or distributional interest in any other type of unincorporated entity.

(21) "Interest holder" means:

(A) A shareholder of a business corporation;

(B) A member of a nonprofit corporation;

(C) A general partner of a general partnership;

(D) A general partner of a limited partnership;

(E) A limited partner of a limited partnership;

(F) A member of a limited liability company;

(G) A shareholder of a general cooperative association;

(H) A member of a limited cooperative association;

(I) A member of an unincorporated nonprofit association;

(J) A beneficiary or beneficial owner of a statutory trust, business trust or common-law business trust; or

(K) Any other direct holder of an interest.

(22) "Jurisdiction," used to refer to a political entity, means the United States, a state, a foreign country, or a political subdivision of a foreign country.

(23) "Jurisdiction of formation" means the jurisdiction whose law includes the organic law of an entity.

(24) "Limited cooperative association" means a foreign limited cooperative association.

(25) "Limited liability company" means a domestic limited liability company formed under or subject to chapter 25, title 30, Idaho Code, or a foreign limited liability company.

(26) "Limited liability limited partnership" means a domestic limited liability limited partnership formed under or subject to chapter 24, title 30, Idaho Code, or a foreign limited liability limited partnership.

- (27) "Limited liability partnership" means a domestic limited liability partnership registered under or subject to chapter 23, title 30, Idaho Code, or a foreign limited liability partnership.
- (28) "Limited partnership" means a domestic limited partnership formed under or subject to chapter 24, title 30, Idaho Code, or a foreign limited partnership. The term includes a limited liability limited partnership.
- (29) "Noncommercial registered agent" means a person that is not a commercial registered agent and is:
- (A) An individual or domestic or foreign entity that serves in this state as the registered agent of an entity; or
 - (B) An individual who holds the office or other position in an entity which is designated as the registered agent pursuant to section 30-21-404(a)(2)(B), Idaho Code.
- (30) "Nonfiling entity" means an entity whose foundation does not require the filing of a public organic record.
- (31) "Nonprofit corporation" means a domestic nonprofit corporation incorporated under or subject to chapter 30, title 30, Idaho Code, or a foreign nonprofit corporation.
- (32) "Nonregistered foreign entity" means a foreign entity that is not registered to do business in this state pursuant to a statement of registration filed by the secretary of state.
- (33) "Organic law" means the law of an entity's jurisdiction of formation governing the internal affairs of the entity.
- (34) "Organic rules" means the public organic record and private organic rules of an entity.
- (35) "Person" means an individual, business corporation, nonprofit corporation, partnership, limited partnership, limited liability company, general cooperative association, limited cooperative association, unincorporated nonprofit association, statutory trust, business trust, common-law business trust, estate trust, association, joint venture, public corporation, government or governmental subdivision, agency, or instrumentality, or any other legal or commercial entity.
- (36) "Principal office" means the principal executive office of an entity, whether or not the office is located in this state.
- (37) "Private organic rules" means the rules, whether or not in a record, that govern the internal affairs of an entity, are binding on all its interest holders, and are not part of its public organic record, if any. The term includes:
- (A) The bylaws of a business corporation;
 - (B) The bylaws of a nonprofit corporation;
 - (C) The partnership agreement of a general partnership;
 - (D) The partnership agreement of a limited partnership;
 - (E) The operating agreement of a limited liability company;
 - (F) The bylaws of a general cooperative association;
 - (G) The bylaws of a limited cooperative association;
 - (H) The governing principles of an unincorporated nonprofit association; and
 - (I) The trust instrument of a statutory trust or similar rules of a business trust or common-law business trust.
- (38) "Proceeding" includes a civil action, arbitration, mediation, administrative proceeding, criminal prosecution and investigatory action.
- (39) "Professional entity" means an entity formed for the sole and specific purpose of rendering professional services, allied professional services, and services ancillary to the professional services and that has as its interest holders only:
- (A) Natural persons who themselves are duly licensed or otherwise legally authorized to render one (1) or more of the same professional services as the professional entity; and
 - (B) Other professional entities.
- (40) "Professional service" means any type of service to the public that can be rendered by a member of any profession within the purview of the member's profession.
- (41) "Property" means all property, whether real, personal, or mixed or tangible or intangible, or any right or interest therein.
- (42) "Public organic record" means the record, the filing of which by the secretary of state is required to form an entity, and any amendment to or restatement of that record. The term includes:
- (A) The articles of incorporation of a business corporation;
 - (B) The articles of incorporation of a nonprofit corporation;
 - (C) The certificate of limited partnership of a limited partnership;
 - (D) The certificate of organization of a limited liability company;
 - (E) The articles of incorporation of a general cooperative association;

- (F) The articles of organization of a limited cooperative association; and
- (G) The certificate of trust of a statutory trust or similar record of a business trust.
- (43) “Receipt,” as used in this chapter, means actual receipt. “Receive” has a corresponding meaning.
- (44) “Record,” used as a noun, means information that is inscribed on a tangible medium or that is stored in an electronic or other medium and is retrievable in perceivable form.
- (45) “Registered agent” means an agent of an entity that is authorized to receive service of any process, notice, or demand required or permitted by law to be served on the entity. The term includes a commercial registered agent and a noncommercial registered agent.
- (46) “Registered foreign entity” means a foreign entity that is registered to do business in this state pursuant to a statement of registration filed by the secretary of state.
- (47) “Sign” means with present intent to authenticate or adopt a record:
 - (A) To execute or adopt a tangible symbol; or
 - (B) To attach to or logically associate with the record an electronic symbol, sound or process.
- (48) “State” means a state of the United States, the District of Columbia, Puerto Rico, the United States Virgin Islands, or any territory or insular possession subject to the jurisdiction of the United States.
- (49) “Statutory trust” means a trust formed under the statutory law of a jurisdiction other than this state.
- (50) “Transfer” includes:
 - (A) An assignment;
 - (B) A conveyance;
 - (C) A sale;
 - (D) A lease;
 - (E) An encumbrance, including a mortgage or security interest;
 - (F) A gift; and
 - (G) A transfer by operation of law.
- (51) “Type of entity” means a generic form of entity:
 - (A) Recognized at common law; or
 - (B) Formed under an organic law, whether or not some entities formed under that law are subject to provisions of that law that create different categories of the form of entity.
- (52) “Unincorporated nonprofit association” means a domestic unincorporated nonprofit association formed under or subject to chapter 27, title 30, Idaho Code, or a nonprofit association formed under or subject to the law of a jurisdiction other than this state that would be an unincorporated nonprofit association if formed under or subject to the law of this state.
- (53) “Written” means inscribed on a tangible medium. “Writing” has a corresponding meaning.

30-21-103.APPLICABILITY OF PART. This part applies to an entity formed under or subject to this act.

30-21-104.DELIVERY OF RECORD. (a) Except as otherwise provided in this act, permissible means of delivery of a record includes delivery by hand, mail, conventional commercial practice, and electronic transmission.

(b) Delivery to the secretary of state is effective only when a record is received by the secretary of state.

30-21-105.RULES AND PROCEDURES. The secretary of state may:

- (1) Adopt rules to administer this act in accordance with the administrative procedure act; and
- (2) Prescribe procedures that are reasonably necessary to perform the duties required of the secretary of state under this act and are not required by the administrative procedure act to be adopted as rules.

PART 2. FILING REQUIREMENTS AND FEES

30-21-201.ENTITY FILING REQUIREMENTS. (a) To be filed by the secretary of state pursuant to this act, an entity filing must be received by the secretary of state, comply with this act, and satisfy the following:

- (1) The entity filing must be required or permitted by this act.
- (2) The entity filing must be physically delivered in written form unless and to the extent the secretary of state permits electronic delivery of entity filings.
- (3) The words in the entity filing must be in English, and numbers must be in Arabic or Roman numerals, but the name of the entity need not be in English if written in English letters or Arabic or Roman numerals.

- (4) The entity filing must be signed by or on behalf of a person authorized or required under this chapter to sign the filing.
- (5) The entity filing must state the name and capacity, if any, of each individual who signed it, either on behalf of the individual or the person authorized or required to sign the filing, but need not contain a seal, attestation, acknowledgment or verification.
- (b) If law other than this chapter prohibits the disclosure by the secretary of state of information contained in an entity filing, the secretary of state shall file the entity filing if the filing otherwise complies with this chapter but may redact the information.
- (c) When an entity filing is delivered to the secretary of state for filing, any fee required under this part and any fee, tax, interest, or penalty required to be paid under this part or law other than this act must be paid in a manner permitted by the secretary of state.
- (d) The secretary of state may require that an entity filing delivered in written form be accompanied by an identical or conformed copy.

30-21-202.FORMS. (a) The secretary of state may provide forms for entity filings required or permitted to be made by this act, but, except as otherwise provided in subsection (b) of this section, their use is not required.

(b) The secretary of state may require that a cover sheet for an entity filing and an annual report be on forms prescribed by the secretary of state.

30-21-203.EFFECTIVE DATES AND TIMES. Except as otherwise provided in this act and subject to section 30-21-205(d), Idaho Code, an entity filing is effective:

- (1) On the date and at the time of its filing by the secretary of state as provided in section 30-21-206, Idaho Code;
- (2) On the date of filing and at the time specified in the entity filing as its effective time, if later than the time under subsection (1) of this section;
- (3) If permitted by this act, at a specified delayed effective date and time, which may not be more than ninety (90) days after the date of filing; or
- (4) If a delayed effective date as permitted by this act is specified, but no time is specified, at 12:01 a.m. on the date specified, which may not be more than ninety (90) days after the date of filing.

30-21-204.WITHDRAWAL OF FILED RECORD BEFORE EFFECTIVENESS. (a) Except as otherwise provided in this act, a record delivered to the secretary of state for filing may be withdrawn before it takes effect by delivering to the secretary of state for filing a statement of withdrawal.

(b) A statement of withdrawal must:

- (1) Be signed by each person that signed the record being withdrawn, except as otherwise agreed by those persons;
- (2) Identify the record to be withdrawn; and
- (3) If signed by fewer than all the persons that signed the record being withdrawn, state that the record is withdrawn in accordance with the agreement of all the persons that signed the record.

(c) On filing by the secretary of state of a statement of withdrawal, the action or transaction evidenced by the original filed record does not take effect.

30-21-205.CORRECTING FILED RECORD. (a) A person on whose behalf a filed record was delivered to the secretary of state for filing may correct the record if:

- (1) The record at the time of filing was inaccurate;
- (2) The record was defectively signed; or
- (3) The electronic transmission of the record to the secretary of state was defective.

(b) To correct a filed record, a person on whose behalf the record was delivered to the secretary of state must deliver to the secretary of state for filing a statement of correction.

(c) A statement of correction:

- (1) May not state a delayed effective date;
- (2) Must be signed by the person correcting the filed record;
- (3) Must identify the filed record to be corrected;
- (4) Must specify the inaccuracy or defect to be corrected; and
- (5) Must correct the inaccuracy or defect.

(d) A statement of correction is effective as of the effective date of the filed record that it corrects except as to persons relying on the uncorrected filed record and adversely affected by the correction. As to those persons, the statement of correction is effective when filed.

30-21-206.DUTY OF SECRETARY OF STATE TO FILE -- REVIEW OF REFUSAL TO FILE. (a) The secretary of state shall file an entity filing delivered to the secretary of state for filing that satisfies this act. The duty of the secretary of state under this section is ministerial.

(b) When the secretary of state files an entity filing, the secretary of state shall record it as filed on the date and at the time of its delivery. After filing an entity filing, the secretary of state shall deliver to the person that submitted the filing a copy of the filing with an acknowledgment of the date and time of filing.

(c) If the secretary of state refuses to file an entity filing, the secretary of state, not later than five (5) business days after the filing is delivered, shall:

(1) Return the entity filing or notify the person that submitted the filing of the refusal; and

(2) Provide a brief explanation in a record of the reason for the refusal.

(d) If the secretary of state refuses to file an entity filing, the person that submitted the filing may petition the district court to compel its filing. The filing and the explanation of the secretary of state of the refusal to file must be attached to the petition. The court may decide the matter in a summary proceeding.

(e) The filing of or refusal to file an entity filing does not:

(1) Affect the validity or invalidity of the filing in whole or in part; or

(2) Create a presumption that the information contained in the filing is correct or incorrect.

30-21-207.EVIDENTIARY EFFECT OF COPY OF FILED RECORD. A certification from the secretary of state accompanying a copy of a filed record is conclusive evidence that the copy is an accurate representation of the original record on file with the secretary of state.

30-21-208.CERTIFICATE OF GOOD STANDING OR REGISTRATION. (a) On request of any person, the secretary of state shall issue a certificate of good standing for a domestic filing entity or a certificate of registration for a registered foreign entity.

(b) A certificate under subsection (a) of this section must state:

(1) The domestic filing entity's name or the registered foreign entity's name used in this state;

(2) In the case of a domestic filing entity:

(A) That its public organic record has been filed and has taken effect;

(B) The date the public organic record became effective;

(C) That the records of the secretary of state do not reflect that the entity has been dissolved;

(3) In the case of a registered foreign entity, that it is registered to do business in this state.

(c) Subject to any qualification stated in the certificate, a certificate issued by the secretary of state under subsection (a) of this section may be relied upon as conclusive evidence of the facts stated in the certificate.

30-21-209.SIGNING OF ENTITY FILING. (a) Signing an entity filing is an affirmation under the penalties of perjury that the facts stated in the filing are true in all material respects.

(b) A record filed under this act may be signed by an agent. Whenever this act requires a particular individual to sign an entity filing and the individual is deceased or incompetent, the filing may be signed by a legal representative of the individual.

(c) A person that signs a record as an agent or legal representative affirms as a fact that the person is authorized to sign the record.

30-21-210.SIGNING AND FILING PURSUANT TO JUDICIAL ORDER. (a) If a person required by this act to sign or deliver a record to the secretary of state for filing under this act does not do so, any other person that is aggrieved may petition the district court to order:

(1) The person to sign the record;

(2) The person to deliver the record to the secretary of state for filing; or

(3) The secretary of state to file the record unsigned.

(b) If the petitioner under subsection (a) of this section is not the entity to which the record pertains, the

petitioner shall make the entity a party to the action.

(c) A record filed under subsection (a)(3) of this section is effective without being signed.

30-21-211.LIABILITY FOR INACCURATE INFORMATION IN FILED RECORD. If a record delivered to the secretary of state for filing under this act and filed by the secretary of state contains inaccurate information, a person that suffers a loss by reliance on the information may recover damages for the loss from a person that signed the record or caused another to sign it on the person's behalf and knew at the time the record was signed that the information was inaccurate.

30-21-212.DELIVERY BY SECRETARY OF STATE. Except as otherwise provided by section 30-21-412, Idaho Code, or by law of this state other than this chapter, the secretary of state may deliver a record to a person by delivering it:

- (1) In person to the person that submitted it for filing;
- (2) To the principal office address of the person;
- (3) To another address the person provides to the secretary of state for delivery; or
- (4) To the address of the person's registered agent.

30-21-213.ANNUAL REPORT FOR SECRETARY OF STATE. (a) A domestic filing entity, domestic limited liability partnership, or registered foreign entity shall deliver to the secretary of state for filing an annual report that states:

- (1) The name of the entity and its jurisdiction of formation;
 - (2) The information required by section 30-21-404(a), Idaho Code;
 - (3) The street and mailing addresses of the entity's principal office; and
 - (4) The name of at least one (1) governor.
- (b) Information in an annual report must be current as of the date the report is signed by the entity.
- (c) The annual report must be delivered to the secretary of state for filing each year before the end of the month during which the public organic record of a domestic filing entity became effective, the statement of qualification of a domestic limited liability partnership became effective, or a foreign filing entity registered to do business in this state. Beginning one (1) year after the public organic record of a domestic filing entity became effective, the statement of qualification of a domestic limited liability partnership became effective, or a foreign filing entity registered to do business in this state, and each year thereafter, the annual report must be received in the office of the secretary of state not later than the close of business on the final day of the applicable month. If the secretary of state finds that such report conforms to the requirements of this chapter, he shall file the same.
- (d) If an annual report does not contain the information required by this section, the secretary of state shall promptly notify the reporting entity in a record and return the report for correction.
- (e) If an annual report contains the name or address of a registered agent that differs from the information shown in the records of the secretary of state immediately before the report becomes effective, the differing information is considered a statement of change under section 30-21-407, Idaho Code.

30-21-214.FEES. (a) The secretary of state shall collect the following fees for copying and certifying the copy of any filed record:

- (1) Twenty-five cents (25¢) per page for copying; and
 - (2) Ten dollars (\$10.00) for the certification.
- (b) The secretary of state shall collect the following fees when an entity filing is delivered for filing:
- (1) Statement of merger \$30.00
 - (2) Statement of withdrawal \$30.00
 - (3) Statement of interest exchange \$30.00
 - (4) Statement of abandonment \$30.00
 - (5) Statement of conversion \$30.00
 - (6) Statement of domestication \$30.00
 - (7) Annual report No fee
 - (8) Articles of incorporation of a business corporation \$100.00
 - (9) Articles of incorporation of a nonprofit corporation \$30.00

- (10) Statement of qualification of a limited liability partnership
\$100.00
- (11) Certificate of amendment to certificate of assumed business name
\$10.00
- (12) Certificate of amendment to certificate of assumed business name with only an address change No fee
- (13) Certificate of assumed business name \$25.00
- (14) Certificate of cancellation of a certificate of assumed business name No fee
- (15) Certificate of limited partnership of a limited partnership
\$100.00
- (16) Certificate of organization of a limited liability company
\$100.00
- (17) Other public organic documents or a statement not otherwise specified herein \$30.00
- (18) Commercial registered agent listing statement \$100.00
- (19) Commercial registered agent termination statement \$20.00
- (20) Commercial registered agent statement of change \$30.00
- (21) Registered agent statement of resignation No fee
- (22) Statement designating a registered agent \$20.00
- (23) Foreign entity registration statement \$100.00
- (24) Amendment of foreign entity registration statement \$30.00
- (25) Notice of cancellation of foreign entity registration statement
No fee
- (26) Statement of withdrawal of foreign entity registration statement
\$20.00
- (27) Statement of correction \$30.00
- (28) Application for reinstatement following administrative dissolution \$30.00
- (29) Statement of dissolution of a limited liability company No fee
- (30) Statement of authority \$100.00
- (31) Combined statement of partnership authority and qualification of limited liability partnership \$100.00
- (32) Certificate of existence \$10.00
- (33) Application for use of deceptively similar name \$20.00
- (34) Application for reserved name \$20.00
- (35) Notice of transfer of reserved name \$20.00
- (36) Application for registered name \$60.00
- (37) Application for renewal of registered name \$60.00
- (38) Amendment of articles of incorporation \$30.00
- (39) Restatement of articles of incorporation with amendment of articles \$30.00
- (40) Articles of dissolution \$30.00
- (41) Articles of revocation of dissolution \$30.00
- (42) Certificate of administrative dissolution No fee
- (43) Certificate of reinstatement No fee
- (44) Certificate of judicial dissolution No fee
- (45) Statement of termination \$30.00
- (c) The withdrawal under section 30-21-204, Idaho Code, of a filed record before it is effective or the correction of a filed record under section 30-21-205, Idaho Code, does not entitle the person on whose behalf the record was filed to a refund of the filing fee.
- (d) The secretary of state shall collect a surcharge of twenty dollars (\$20.00) for providing evidence of filing an entity filing within eight (8) working hours after the entity filing is delivered for filing.
- (e) The secretary of state shall collect a surcharge of twenty dollars (\$20.00) for filing any non-typed record or any record that is not on a standard form proscribed by the secretary of state, except no surcharge will be collected for a non-typed certificate of assumed business name or a certificate of amendment to certificate of assumed business name.

PART 3. ENTITY NAMES

30-21-301.PERMITTED NAMES. (a) Except as otherwise provided in subsection (d) or (f) of this section, the name of a domestic filing entity or domestic limited liability partnership, and the name under which a foreign entity may register to do business in this state, must be distinguishable on the records of the secretary of state from any:

- (1) Name of an existing domestic filing entity which at the time is not administratively dissolved for more than six (6) months;
- (2) Name of a limited liability partnership whose statement of qualification is in effect;
- (3) Name under which a foreign entity registered to do business in this state under part 5 of this chapter;
- (4) Name reserved under section 30-21-303, Idaho Code; or
- (5) Name registered under section 30-21-304, Idaho Code.

(b) If an entity consents in a record to the use of its name and submits an undertaking in a form satisfactory to the secretary of state to change its name to a name that is distinguishable on the records of the secretary of state from any name in any category of names in subsection (a) of this section, the name of the consenting entity may be used by the person to which the consent was given.

(c) Except as otherwise provided in subsection (d) of this section, in determining whether a name is the same as or not distinguishable on the records of the secretary of state from the name of another entity, words, phrases, or abbreviations indicating the type of entity, such as "corporation," "corp.," "incorporated," "Inc.," "professional corporation," "PC," "P.C.," "professional association," "PA," "P.A.," "Limited," "Ltd.," "limited partnership," "LP," "L.P.," "limited liability partnership," "LLP," "L.L.P.," "registered limited liability partnership," "RLLP," "R.L.L.P.," "limited liability limited partnership," "LLL," "L.L.L.P.," "registered limited liability limited partnership," "RLLL," "R.L.L.L.P.," "limited liability company," "LLC" or "L.L.C." may not be taken into account.

(d) An entity may consent in a record to the use of a name that is not distinguishable on the records of the secretary of state from its name except for the addition of a word, phrase, or abbreviation indicating the type of entity or as provided in subsection (c) of this section. In such a case, the entity need not change its name pursuant to subsection (b) of this section.

(e) An entity name may not contain language falsely stating or implying government affiliation or stating or implying that the entity is organized for a purpose other than that permitted by this act.

(f) An entity may use a name that is not distinguishable from a name described in subsection (a)(1) through (5) of this section if the entity delivers to the secretary of state a certified copy of a final judgment of a court of competent jurisdiction establishing the right of the entity to use the name in this state.

(g) Nothing in this section shall abrogate or limit the law as to unfair competition or unfair practice in the use of trade names, nor derogate from the common law, the principles of equity, or the statutes of this state or of the United States with respect to the right to acquire and protect trade names.

(h) The use of a name in violation of this part shall not affect or vitiate the entity existence, but the courts of this state, having equity jurisdiction, may, upon the application of the state, or of any person interested or affected, enjoin such entity in violation from doing business under any name assumed in violation of this part.

30-21-302.NAME REQUIREMENTS FOR CERTAIN TYPES OF ENTITIES. (a) The name of a business corporation must contain the word "corporation," "incorporated," "company," or "limited," or the abbreviation "Corp.," "Inc.," "Co.," or "Ltd.," or words or abbreviations of similar import in another language; provided however, that if the word "company" or its abbreviation is used it shall not be immediately preceded by the word "and" or by an abbreviation of or symbol representing the word "and." If the business corporation is a professional entity, the name may alternatively contain the word "chartered," "professional association," or "professional corporation," or the abbreviation "P.A.," "P.C.," or "CHTD" or words or abbreviations of similar import in another language.

(b) The name of a limited partnership may contain the name of any partner. The name of a limited partnership that is not a limited liability limited partnership must contain the phrase "limited partnership" or the abbreviation "L.P." or "LP" and may not contain the phrase "limited liability limited partnership" or "registered limited liability limited partnership" or the abbreviation "L.L.L.P.," "LLL," "R.L.L.L.P.," or "RLLL." If the limited partnership is a limited liability limited partnership, the name must contain the phrase "limited liability limited partnership" or the abbreviation "L.L.L.P.," "LLL," "R.L.L.L.P.," or "RLLL" and may not contain the abbreviation "L.P." or "LP."

If the limited partnership is a professional entity, the name may include the word “professional” before the word “limited” or the letter “P” at the beginning of any of the permitted abbreviations.

(c) The name of a limited liability partnership must contain the words “limited liability partnership” or “registered limited liability partnership” or the abbreviation “L.L.P.,” “R.L.L.P.,” “LLP,” or “RLLP.” If the limited liability partnership is a professional entity, the name may include the word “professional” before the word “limited” or the letter “P” at the beginning of any of the permitted abbreviations.

(d) The name of a limited liability company must contain the phrase “limited liability company” or “limited company” or the abbreviation “L.L.C.,” “LLC,” “L.C.,” or “LC.” “Limited” may be abbreviated as “Ltd.,” and “company” may be abbreviated as “Co.” If the limited liability company is a professional entity, the name may include the word “professional” before the word “limited” or the letter “P” at the beginning of any of the permitted abbreviations.

(e) The name of a limited cooperative association must contain the words “limited cooperative association” or “limited cooperative” or the abbreviation “L.C.A.” or “LCA.” “Limited” may be abbreviated as “Ltd.” “Cooperative” may be abbreviated as “Co-op.,” “Coop.,” “Co op.,” or “Coop.” “Association” may be abbreviated as “Assoc.,” “Assoc.,” “Assn.,” or “Assn.”

(f) The name of a statutory trust may contain the words “company,” “association,” “club,” “foundation,” “fund,” “institute,” “society,” “union,” “syndicate,” “limited,” or “trust,” or words or abbreviations of similar import, and may contain the name of a beneficial owner, a trustee, or any other person.

30-21-303.RESERVATION OF NAME. (a) A person may reserve the exclusive use of an entity name by delivering an application to the secretary of state for filing. The application must state the name and address of the applicant and the name to be reserved. If the secretary of state finds that the entity name is available, the secretary of state shall reserve the name for the applicant’s exclusive use for one hundred twenty (120) days.

(b) The owner of a reserved entity name may transfer the reservation to another person by delivering to the secretary of state a signed notice in a record of the transfer that states the name and address of the transferee.

30-21-304.REGISTRATION OF NAME. (a) A foreign filing entity or foreign limited liability partnership not registered to do business in this state under part 5 of this chapter may register its name, or an alternate name adopted pursuant to section 30-21-506, Idaho Code, if the name is distinguishable on the records of the secretary of state from the names that are not available under section 30-21-301, Idaho Code.

(b) To register its name or an alternate name adopted pursuant to section 30-21-506, Idaho Code, a foreign filing entity or foreign limited liability partnership must deliver to the secretary of state for filing an application stating the entity’s name, the jurisdiction and date of its formation, and any alternate name adopted pursuant to section 30-21-506, Idaho Code. If the secretary of state finds that the name applied for is available, the secretary of state shall register the name for the applicant’s exclusive use.

(c) The registration of a name under this section is effective for one (1) year after the date of registration.

(d) A foreign filing entity or foreign limited liability partnership whose name registration is effective may renew the registration for successive one (1) year periods by delivering, not earlier than three (3) months before the expiration of the registration, to the secretary of state for filing a renewal application that complies with this section. When filed, the renewal application renews the registration for a succeeding one (1) year period.

(e) A foreign filing entity or foreign limited liability partnership whose name registration is effective may register as a foreign filing entity or foreign limited liability partnership under the registered name or consent in a signed record to the use of that name by another entity.

PART 4. IDAHO REGISTERED AGENT OF ENTITY ACT

30-21-401.DEFINITIONS. In this part:

(1) “Designation of agent” means a statement designating a registered agent delivered to the secretary of state for filing under:

- (A) Section 30-27-129, Idaho Code, the “Uniform Unincorporated Nonprofit Association Act”; or
- (B) Section 30-21-411, Idaho Code, by a nonregistered foreign entity or domestic nonfiling entity.

(2) “Registered agent filing” means:

- (A) The public organic record of a domestic filing entity;

- (B) A statement of qualification of a domestic limited liability partnership;
- (C) A registration statement filed pursuant to section 30-21-503, Idaho Code; or
- (D) A designation of agent.

(3) "Represented entity" means:

- (A) A domestic filing entity;
- (B) A domestic limited liability partnership;
- (C) A registered foreign entity;
- (D) A domestic or foreign unincorporated nonprofit association for which a designation of agent is in effect;
- (E) A domestic nonfiling entity for which a designation of agent is in effect; or
- (F) A nonregistered foreign entity for which a designation of agent is in effect.

30-21-402.ENTITIES REQUIRED TO DESIGNATE AND MAINTAIN REGISTERED AGENT. The following shall designate and maintain a registered agent in this state:

- (1) A domestic filing entity;
- (2) A domestic limited liability partnership; and
- (3) A registered foreign entity.

30-21-403.ADDRESSES IN FILING. If a provision of this part other than section 30-21-410(a)(4), Idaho Code, requires that a record state an address, the record must state:

- (1) A street address in this state; and
- (2) A mailing address in this state if different from the address described in subsection (1) of this section.

30-21-404.DESIGNATION OF REGISTERED AGENT. (a) A registered agent filing must be signed by the represented entity and state:

- (1) The name of the entity's commercial registered agent; or
- (2) If the entity does not have a commercial registered agent:
 - (A) The name and address of the entity's noncommercial registered agent; or
 - (B) The title of an office or other position with the entity, if service of process, notices, and demands are to be sent to whichever individual is holding that office or position, and the address to which process, notices or demands are to be sent.
- (b) The designation of a registered agent pursuant to subsection (a)(1) or (2)(A) of this section is an affirmation of fact by the represented entity that the agent has consented to serve.
- (c) The secretary of state shall make available in a record as soon as practicable a daily list of filings that contain the name of a registered agent. The list must:
 - (1) Be available for at least fourteen (14) calendar days;
 - (2) List in alphabetical order the names of the registered agents; and
 - (3) State the type of filing and name of the represented entity making the filing.

30-21-405.LISTING OF COMMERCIAL REGISTERED AGENT. (a) A person may become listed as a commercial registered agent by delivering to the secretary of state for filing a commercial registered agent listing statement signed by the person which states:

- (1) The name of the individual or the name of the entity, type of entity, and jurisdiction of formation of the entity;
- (2) That the person is in the business of serving as a commercial registered agent in this state; and
- (3) The address of a place of business of the person in this state to which service of process, notices, and demands being served on or sent to entities represented by the person may be delivered.
- (b) A commercial registered agent listing statement may include the information regarding acceptance by the agent of service of process, notices, and demands in a form other than a written record as provided in section 30-21-412(d), Idaho Code.
- (c) If the name of a person delivering to the secretary of state for filing a commercial registered agent listing statement is not distinguishable on the records of the secretary of state from the name of another commercial registered agent listed under this section, the person shall adopt a fictitious name that is distinguishable and use that name in its statement and when it does business in this state as a commercial registered agent.
- (d) The secretary of state shall note the filing of a commercial registered agent listing statement in the index of

filings maintained by the secretary of state for each entity represented by the agent at the time of the filing. The statement has the effect of amending the registered agent filing for each of those entities to:

- (1) Designate the person becoming listed as a commercial registered agent as the commercial registered agent of each of those entities; and
- (2) Delete the name and address of the former agent from the registered agent filing of each of those entities.

30-21-406.TERMINATION OF LISTING OF COMMERCIAL REGISTERED AGENT. (a) A commercial registered agent may terminate its listing as a commercial registered agent by delivering to the secretary of state for filing a commercial registered agent termination statement signed by the agent that states:

- (1) The name of the agent as listed under section 30-21-405, Idaho Code; and
 - (2) That the agent is no longer in the business of serving as a commercial registered agent in this state.
- (b) A commercial registered agent termination statement takes effect at 12:01 a.m. on the thirty-first day after the day on which it is filed by the secretary of state.
- (c) The commercial registered agent promptly shall furnish each entity represented by the agent notice in a record of the filing of the commercial registered agent termination statement.
- (d) When a commercial registered agent termination statement takes effect, the commercial registered agent ceases to be the registered agent for each entity formerly represented by it. Until an entity formerly represented by a terminated commercial registered agent designates a new registered agent, service of process may be made on the entity pursuant to section 30-21-412, Idaho Code. Termination of the listing of a commercial registered agent under this section does not affect any contractual rights a represented entity has against the agent or that the agent has against the entity.

30-21-407.CHANGE OF REGISTERED AGENT BY ENTITY. (a) A represented entity may change the information on file under section 30-21-404(a), Idaho Code, by delivering to the secretary of state for filing a statement of change signed by the entity which states:

- (1) The name of the entity; and
 - (2) The information that is to be in effect as a result of the filing of the statement of change.
- (b) The interest holders or governors of a domestic entity need not approve the filing of:
- (1) A statement of change under this section; or
 - (2) A similar filing changing the registered agent or registered office, if any, of the entity in any other jurisdiction.
- (c) A statement of change under this section designating a new registered agent is an affirmation of fact by the represented entity that the agent has consented to serve.
- (d) As an alternative to using the procedure in this section, a represented entity may change the information on file under section 30-21-404(a), Idaho Code, by amending its most recent registered agent filing in a manner provided by the law of this state other than this act for amending the filing.

30-21-408.CHANGE OF NAME OR ADDRESS BY NONCOMMERCIAL REGISTERED AGENT. (a) If a noncommercial registered agent changes its name or its address in effect with respect to a represented entity under section 30-21-404(a), Idaho Code, the agent shall deliver to the secretary of state for filing, with respect to each entity represented by the agent, a statement of change signed by the agent which states:

- (1) The name of the entity;
 - (2) The name and address of the agent in effect with respect to the entity;
 - (3) If the name of the agent has changed, the new name;
 - (4) If the address of the agent has changed, the new address; and
- (b) A noncommercial registered agent promptly shall furnish the represented entity with notice in a record of the delivery to the secretary of state for filing of a statement of change and the changes made in the statement.

30-21-409.CHANGE OF NAME, ADDRESS, TYPE OF ENTITY, OR JURISDICTION OF FORMATION BY COMMERCIAL REGISTERED AGENT. (a) If a commercial registered agent changes its name, its address as listed under section 30-21-405(a), Idaho Code, its type of entity, or its jurisdiction of formation, the agent shall deliver to the secretary of state for filing a statement of change signed by the agent which states:

- (1) The name of the agent as listed under section 30-21-405(a), Idaho Code;
- (2) If the name of the agent has changed, the new name;

- (3) If the address of the agent has changed, the new address; and
- (4) If the agent is an entity:
 - (i) If the type of entity of the agent has changed, the new type of entity; and
 - (ii) If the jurisdiction of formation of the agent has changed, the new jurisdiction of formation.
- (b) The filing by the secretary of state of a statement of change under subsection (a) of this section is effective to change the information regarding the agent with respect to each entity represented by the agent.
- (c) A commercial registered agent shall promptly furnish to each entity represented by it a notice in a record of the filing by the secretary of state of a statement of change relating to the name or address of the agent and the changes made in the statement.
- (d) If a commercial registered agent changes its address without delivering for filing a statement of change as required by this section, the secretary of state may cancel the listing of the agent under section 30-21-405, Idaho Code. A cancellation under this subsection has the same effect as a termination under section 30-21-406, Idaho Code. Promptly after canceling the listing of an agent, the secretary of state shall serve notice in a record in the manner provided in section 30-21-412(b) or (c), Idaho Code, on:
 - (1) Each entity represented by the agent, stating that the agent has ceased to be the registered agent for the entity and that, until the entity designates a new registered agent, service of process may be made on the entity as provided in section 30-21-412, Idaho Code; and
 - (2) The agent stating that the listing of the agent has been canceled under this section.

30-21-410.RESIGNATION OF REGISTERED AGENT. (a) A registered agent may resign as agent for a represented entity by delivering to the secretary of state for filing a statement of resignation signed by the agent which states:

- (1) The name of the entity;
- (2) The name of the agent;
- (3) That the agent resigns from serving as registered agent for the entity; and
- (4) The address of the entity to which the agent will send the notice required by subsection (c) of this section.
- (b) A statement of resignation takes effect on the earlier of:
 - (1) 12:01 a.m. on the thirty-first day after the day on which it is filed by the secretary of state; or
 - (2) The designation of a new registered agent for the represented entity.
- (c) A registered agent shall promptly furnish to the represented entity notice in a record of the date on which a statement of resignation was filed.
- (d) When a statement of resignation takes effect, the person that resigned ceases to have responsibility under this part for any matter thereafter tendered to it as agent for the represented entity. The resignation does not affect any contractual rights the entity has against the agent or that the agent has against the entity.
- (e) A registered agent may resign with respect to a represented entity whether or not the entity is in good standing.

30-21-411.DESIGNATION OF REGISTERED AGENT BY NONREGISTERED FOREIGN ENTITY OR NONFILING DOMESTIC ENTITY. (a) A nonregistered foreign entity or domestic nonfiling entity may deliver to the secretary of state for filing a statement designating a registered agent signed by the entity that states:

- (1) The name, type of entity, and jurisdiction of formation of the entity; and
- (2) The information required by section 30-21-404(a), Idaho Code.
- (b) A statement under subsection (a) of this section is effective for five (5) years after the date of filing unless canceled or terminated earlier.
- (c) A statement under subsection (a) of this section must be signed by a person authorized to manage the affairs of the nonregistered foreign entity or domestic nonfiling entity. The signing of the statement is an affirmation of fact that the person is authorized to manage the affairs of the entity and that the agent has consented to serve.
- (d) Designation of a registered agent under subsection (a) of this section does not register a nonregistered foreign entity to do business in this state.
- (e) A statement under subsection (a) of this section may not be rejected for filing because the name of the entity signing the statement is not distinguishable on the records of the secretary of state from the name of another entity appearing on those records. The filing of such a statement does not make the name of the entity signing the statement unavailable for use by another entity.
- (f) An entity that delivers to the secretary of state for filing a statement under subsection (a) of this section designating a registered agent may cancel the statement by delivering to the secretary of state for filing a statement

of cancellation that states the name of the entity and that the entity is canceling its designation of a registered agent in this state.

(g) A statement under subsection (a) of this section for a nonregistered foreign entity terminates on the date the entity becomes a registered foreign entity.

30-21-412.SERVICE OF PROCESS, NOTICE OR DEMAND ON ENTITY. (a) A represented entity may be served with any process, notice or demand required or permitted by law by serving its registered agent.

(b) If a represented entity ceases to have a registered agent, or if its registered agent cannot with reasonable diligence be served, the entity may be served by registered or certified mail, return receipt requested, or by similar commercial delivery service, addressed to the entity at the entity's principal office. The address of the principal office of a domestic filing entity, domestic limited liability partnership, or registered foreign entity must be as shown in the entity's most recent annual report filed by the secretary of state. Service is effected under this subsection on the earliest of:

(1) The date the entity receives the mail or delivery by the commercial delivery service;

(2) The date shown on the return receipt, if signed by the entity; or

(3) Five (5) days after its deposit with the United States postal service or commercial delivery service, if correctly addressed and with sufficient postage or payment.

(c) If process, notice or demand cannot be served on an entity pursuant to subsection (a) or (b) of this section, service may be made by handing a copy to the individual in charge of any regular place of business or activity of the entity if the individual served is not a plaintiff in the action.

(d) Service of process, notice, or demand on a registered agent must be in a written record, but service may be made on a commercial registered agent in other forms and subject to such requirements as the agent has stated in its listing under section 30-21-405, Idaho Code, that it will accept.

(e) Service of process, notice or demand may be made by other means under law other than this act.

30-21-413.DUTIES OF REGISTERED AGENT. The only duties under this part of a registered agent that has complied with this part are:

(1) To forward to the represented entity at the address most recently supplied to the agent by the entity any process, notice or demand pertaining to the entity which is served on or received by the agent;

(2) To provide the notices required by this act to the entity at the address most recently supplied to the agent by the entity;

(3) If the agent is a noncommercial registered agent, to keep current the information required by section 30-21-404(a), Idaho Code, in the most recent registered agent filing for the entity; and

(4) If the agent is a commercial registered agent, to keep current the information listed for it under section 30-21-405(a), Idaho Code.

30-21-414.JURISDICTION AND VENUE. The designation or maintenance in this state of a registered agent does not by itself create the basis for personal jurisdiction over the represented entity in this state. The address of the agent does not determine venue in an action or a proceeding involving the entity.

PART 5. FOREIGN ENTITIES

30-21-501.GOVERNING LAW. (a) The law of the jurisdiction of formation of an entity governs:

(1) The internal affairs of the entity;

(2) The liability that a person has as an interest holder or governor for a debt, obligation, or other liability of the entity;

(3) The liability of a series of a limited liability company, a statutory trust, or any other unincorporated entity.

(b) A foreign entity is not precluded from registering to do business in this state because of any difference between the law of the entity's jurisdiction of formation and the law of this state.

(c) Registration of a foreign entity to do business in this state does not authorize the foreign entity to engage in any activities or affairs or exercise any power that the domestic entity of the type to which it most closely corresponds may not engage in or exercise in this state.

(d) A foreign professional entity rendering services in this state shall be subject to the laws of this state and the

code of ethics or professional responsibility that are applicable to the profession in which such professional entity is rendering services in this state.

30-21-502.REGISTRATION TO DO BUSINESS IN THIS STATE. (a) A foreign filing entity or foreign limited liability partnership may not do business in this state until it registers with the secretary of state under this chapter.

(b) A foreign filing entity or foreign limited liability partnership doing business in this state may not maintain an action or proceeding in this state unless it is registered to do business in this state.

(c) The failure of a foreign filing entity or foreign limited liability partnership to register to do business in this state does not impair the validity of a contract or act of the foreign filing entity or foreign limited liability partnership or preclude it from defending an action or proceeding in this state.

(d) A limitation on the liability of a series of foreign unincorporated entity or an interest holder or governor of a foreign filing entity or of a partner of a foreign limited liability partnership is not waived solely because the foreign unincorporated entity or any series thereof, foreign filing entity or foreign limited liability partnership does business in this state without registering.

(e) Section 30-21-501(a) and (b), Idaho Code, applies even if a foreign entity fails to register under this chapter.

30-21-503.FOREIGN REGISTRATION STATEMENT. (a) To register to do business in this state, a foreign filing entity or foreign limited liability partnership must deliver a foreign registration statement to the secretary of state for filing. The statement must be signed by the entity and state:

(1) The name of the foreign filing entity or foreign limited liability partnership and, if the name does not comply with section 30-21-301, Idaho Code, an alternate name adopted pursuant to section 30-21-506(a), Idaho Code;

(2) The type of entity and, if it is a foreign limited partnership, whether it is a foreign limited liability limited partnership;

(3) The entity's jurisdiction of formation;

(4) The street and mailing addresses of the entity's principal office and, if the law of the entity's jurisdiction of formation requires the entity to maintain an office in that jurisdiction, the street and mailing addresses of the office;

(5) The information required by section 30-21-404(a), Idaho Code; and

(6) The name and mailing address of at least one (1) governor.

(b) A foreign filing entity or foreign limited liability partnership must deliver to the secretary of state with a foreign registration statement a certificate of existence or a record of similar import signed by the secretary of state or other official having custody of the entity's public organic record in the entity's jurisdiction of formation.

30-21-504.AMENDMENT OF FOREIGN REGISTRATION STATEMENT. (a) A registered foreign entity shall sign and deliver to the secretary of state for filing an amendment to its foreign registration statement if there is a change in:

(1) The name of the entity;

(2) The type of entity, including, if it is a foreign limited partnership, whether the entity became or ceased to be a foreign limited liability limited partnership;

(3) The entity's jurisdiction of formation;

(4) An address required by section 30-21-503(4), Idaho Code; or

(5) The information required by section 30-21-404(a), Idaho Code.

(b) A registered foreign entity must deliver to the secretary of state with an amendment to its foreign registration statement for a change under subsection (a)(1), (2) or (3) of this section, a certificate of existence or a record of similar import signed by the secretary of state or other official having custody of the entity's public organic record in the entity's jurisdiction of formation.

30-21-505.ACTIVITIES NOT CONSTITUTING DOING BUSINESS. (a) Activities of a foreign filing entity or foreign limited liability partnership that do not constitute doing business in this state under this chapter include:

(1) Maintaining, defending, mediating, arbitrating, or settling an action or proceeding;

(2) Carrying on any activity concerning its internal affairs, including holding meetings of its interest holders or governors;

(3) Maintaining accounts in financial institutions;

- (4) Maintaining offices or agencies for the transfer, exchange and registration of securities of the entity or maintaining trustees or depositories with respect to those securities;
 - (5) Selling through independent contractors;
 - (6) Soliciting or obtaining orders by any means if the orders require acceptance outside this state before they become contracts;
 - (7) Creating or acquiring indebtedness, mortgages or security interests in property;
 - (8) Securing or collecting debts or enforcing mortgages or security interests in property securing the debts, and holding, protecting or maintaining property so acquired;
 - (9) Conducting an isolated transaction that is not in the course of similar transactions;
 - (10) Owning, without more, property; and
 - (11) Doing business in interstate commerce.
- (b) A person does not do business in this state solely by being an interest holder or governor of a foreign entity that does business in this state.
- (c) This section does not apply in determining the contacts or activities that may subject a foreign filing entity or foreign limited liability partnership to service of process, taxation or regulation under the law of this state other than this act.

30-21-506. NONCOMPLYING NAME OF FOREIGN ENTITY. (a) A foreign filing entity or foreign limited liability partnership whose name does not comply with section 30-21-301, Idaho Code, for an entity of its type may not register to do business in this state until it adopts, for the purpose of doing business in this state, an alternate name that complies with section 30-21-301, Idaho Code. A foreign entity that registers under an alternate name under this subsection need not comply with this state's assumed or fictitious name statute. After registering to do business in this state with an alternate name, a foreign entity shall do business in this state under:

- (1) The alternate name;
 - (2) The foreign entity's name with the addition of its jurisdiction of formation; or
 - (3) Name the foreign entity is authorized to use under this state's assumed or fictitious name statute.
- (b) If a registered foreign entity changes its name to one that does not comply with section 30-21-301, Idaho Code, it may not do business in this state until it complies with subsection (a) of this section by amending its registration to adopt an alternate name that complies with section 30-21-301, Idaho Code.

30-21-507. WITHDRAWAL OF REGISTRATION OF REGISTERED FOREIGN ENTITY. (a) A registered foreign entity may withdraw its registration by delivering a statement of withdrawal to the secretary of state for filing. The statement of withdrawal must be signed by the entity and state:

- (1) The name of the entity and its jurisdiction of formation;
 - (2) That the entity is not doing business in this state and that it withdraws its registration to do business in this state;
 - (3) That the entity revokes the authority of its registered agent to accept service on its behalf in this state; and
 - (4) An address to which service of process may be made under subsection (b) of this section.
- (b) After the withdrawal of the registration of an entity, service of process in any action or proceeding based on a cause of action arising during the time the entity was registered to do business in this state may be made pursuant to section 30-21-412, Idaho Code.

30-21-508. WITHDRAWAL DEEMED ON CONVERSION OR DOMESTICATION TO DOMESTIC FILING ENTITY OR DOMESTIC LIMITED LIABILITY PARTNERSHIP. A registered foreign entity that converts or domesticates to any type of domestic filing entity or to a domestic limited liability partnership is deemed to have withdrawn its registration on the effective date of the conversion or domestication.

30-21-509. WITHDRAWAL ON DISSOLUTION OR CONVERSION TO NONFILING ENTITY OTHER THAN LIMITED LIABILITY PARTNERSHIP. (a) A registered foreign entity that has dissolved and completed winding up or has converted to a domestic or foreign nonfiling entity other than a limited liability partnership shall deliver a statement of withdrawal to the secretary of state for filing. The statement must be signed by the dissolved or converted entity and state:

- (1) In the case of a foreign entity that has completed winding up:

- (A) Its name and jurisdiction of formation; and
- (B) That the foreign entity surrenders its registration to do business in this state; and
- (2) In the case of a foreign entity that has converted to a domestic or foreign nonfiling entity other than a limited liability partnership:
 - (A) The name of the converting foreign entity and its jurisdiction of formation;
 - (B) The type of nonfiling entity to which it has converted and its jurisdiction of formation;
 - (C) That it withdraws its registration to do business in this state and revokes the authority of its registered agent to accept service on its behalf; and
 - (D) A mailing address to which service of process may be made under subsection (b) of this section.
- (b) After a withdrawal under this section is effective, service of process in any action or proceeding based on a cause of action arising during the time the foreign filing entity was registered to do business in this state may be made pursuant to section 30-21-412, Idaho Code.

30-21-510. TRANSFER OF REGISTRATION. (a) If a registered foreign entity merges into a nonregistered foreign entity or converts to a foreign entity required to register with the secretary of state to do business in this state, the foreign entity shall deliver to the secretary of state for filing an application for transfer of registration. The application must be signed by the surviving or converted entity and state:

- (1) The name of the registered foreign entity before the merger or conversion;
- (2) The type of entity it was before the merger or conversion;
- (3) The name of the applicant entity and, if the name does not comply with section 30-21-301, Idaho Code, an alternate name adopted pursuant to section 30-21-506(a), Idaho Code;
- (4) The type of entity of the applicant entity and its jurisdiction of formation; and
- (5) The following information regarding the applicant entity, if different than the information for the foreign entity before the merger or conversion:
 - (A) The street and mailing addresses of the principal office of the entity and, if the law of the entity's jurisdiction of formation requires it to maintain an office in that jurisdiction, the street and mailing addresses of that office; and
 - (B) The information required pursuant to section 30-21-404(a), Idaho Code.
- (b) When an application for transfer of registration takes effect, the registration of the registered foreign entity to do business in this state is transferred without interruption to the entity into which it has merged or to which it has been converted.

30-21-511. TERMINATION OF REGISTRATION. (a) The secretary of state may terminate the registration of a registered foreign entity in the manner provided in subsections (b) and (c) of this section if the entity does not:

- (1) Deliver its annual report to the secretary of state for filing not later than the date it is due;
- (2) Have a registered agent as required by section 30-21-402, Idaho Code; or
- (3) Deliver to the secretary of state for filing a statement of change under section 30-21-407, Idaho Code, not later than thirty (30) days after a change occurs in the name or address of the entity's registered agent.
- (b) The secretary of state may terminate the registration of a registered foreign entity by:
 - (1) Filing a notice of termination or noting the termination in the records of the secretary of state; and
 - (2) Delivering a copy of the notice or the information in the notation to the entity's registered agent or, if the entity does not have a registered agent, to the entity's principal office.
- (c) The notice must state or the information in the notation under subsection (b) of this section must include:
 - (1) The effective date of the termination, which must be at least sixty (60) days after the date the secretary of state delivers the copy; and
 - (2) The grounds for termination under subsection (a) of this section.
- (d) The registration of a registered foreign entity to do business in this state ceases on the effective date of the notice of termination or notation under subsection (b) of this section, unless before that date the entity cures each ground for termination stated in the notice or notation. If the entity cures each ground, the secretary of state shall file a record so stating.

30-21-512. ACTION BY ATTORNEY GENERAL. The attorney general may maintain an action to enjoin a foreign filing entity or foreign limited liability partnership from doing business in this state in violation of this act.

PART 6. ADMINISTRATIVE DISSOLUTION AND REINSTATEMENT

30-21-601.GROUNDS. The secretary of state may commence a proceeding under section 30-21-602, Idaho Code, to dissolve a domestic filing entity administratively if the entity does not:

- (1) Deliver an annual report to the secretary of state by the date it is due;
- (2) Have a registered agent in this state for sixty (60) consecutive days; or
- (3) The secretary of state has credible information that the domestic filing entity has failed to notify the secretary of state within sixty (60) days after the occurrence that its registered agent has been changed or that its registered agent has resigned.

30-21-602.PROCEDURE AND EFFECT. (a) If the secretary of state determines that one (1) or more grounds exist under section 30-21-601, Idaho Code, for administratively dissolving a domestic filing entity, the secretary of state shall serve the entity pursuant to section 30-21-212, Idaho Code, with notice in a record of the secretary of state's determination.

(b) If a domestic filing entity, not later than sixty (60) days after service of the notice required by subsection (a) of this section, does not cure or demonstrate to the satisfaction of the secretary of state the nonexistence of each ground determined by the secretary of state, the secretary of state shall administratively dissolve the entity by signing a statement of administrative dissolution that recites the grounds for dissolution and the effective date of dissolution. The secretary of state shall file the statement and serve a copy on the entity pursuant to section 30-21-212, Idaho Code.

(c) A domestic filing entity that is dissolved administratively continues its existence as the same type of entity but may not carry on any activities except as necessary to wind up its activities and affairs and liquidate its assets in the manner provided in its organic law or to apply for reinstatement under section 30-21-603, Idaho Code.

(d) The administrative dissolution of a domestic filing entity does not terminate the authority of its registered agent.

30-21-603.REINSTATEMENT. (a) A domestic filing entity that is dissolved administratively under section 30-21-602, Idaho Code, may apply to the secretary of state for reinstatement not later than ten (10) years after the effective date of dissolution. The application must be signed by the entity and state:

- (1) The name of the entity at the time of its administrative dissolution and, if needed, a different name that satisfies section 30-21-301, Idaho Code;
- (2) The address of the principal office of the entity and the information required by section 30-21-404(a), Idaho Code;
- (3) The effective date of the entity's administrative dissolution; and
- (4) That the grounds for dissolution did not exist or have been cured.

(b) To be reinstated, an entity must pay all fees, taxes, interest, and penalties that were due to the secretary of state at the time of the entity's administrative dissolution and all fees, taxes, interest, and penalties that would have been due to the secretary of state while the entity was dissolved administratively.

(c) If the secretary of state determines that an application under subsection (a) of this section contains the required information, is satisfied that the information is correct, and determines that all payments required to be made to the secretary of state by subsection (b) of this section have been made, the secretary of state shall:

- (1) Cancel the statement of administrative dissolution and prepare a statement of reinstatement that states the secretary of state's determination and the effective date of reinstatement;
- (2) File the statement of reinstatement; and
- (3) Serve a copy on the entity.

(d) When reinstatement under this section is effective the following rules apply:

- (1) The reinstatement relates back to and takes effect as of the effective date of the administrative dissolution.
- (2) The domestic filing entity resumes carrying on its activities and affairs as if the administrative dissolution had never occurred.
- (3) The rights of a person arising out of an act or omission in reliance on the dissolution before the person knew or had notice of the reinstatement are not affected.

30-21-604.JUDICIAL REVIEW OF DENIAL OF REINSTATEMENT. (a) If the secretary of state denies a domestic filing entity's application for reinstatement following administrative dissolution, the secretary of state shall serve the entity with a notice in a record that explains the reasons for denial.

(b) Within thirty (30) days after service of a notice of denial of reinstatement under subsection (a) of this section, an entity may appeal from the denial by petitioning the district court of Ada county to set aside the dissolution. The petition must be served on the secretary of state and contain a copy of the secretary of state's notice of dissolution, the company's application for reinstatement, and the secretary of state's notice of denial.

(c) The district court may, if grounds exist, order the secretary of state to reinstate a dissolved entity or take other action the court considers appropriate.

PART 7. TRANSITION PROVISIONS

30-21-701.RESERVATION OF POWER TO AMEND OR REPEAL. The legislature of this state has power to amend or repeal all or part of this act at any time, and all domestic and foreign entities subject to this act are governed by the amendment or repeal.

30-21-702.SUPPLEMENTAL PRINCIPLES OF LAW. Unless displaced by particular provisions of this act, the principles of law and equity supplement this act.

30-21-703.UNIFORMITY OR CONSISTENCY OF APPLICATION AND CONSTRUCTION. In applying and construing the chapters of this act based on uniform or model acts, consideration must be given to the need to promote uniformity or consistency of the law with respect to its subject matter among states that enact it.

30-21-704.RELATION TO ELECTRONIC SIGNATURES IN GLOBAL AND NATIONAL COMMERCE ACT. This act modifies, limits, and supersedes the electronic signatures in global and national commerce act, 15 U.S.C. 7001 et seq., but does not modify, limit, or supersede section 101(c) of that act, 15 U.S.C. 7001(c), or authorize electronic delivery of any of the notices described in section 103(b) of that act, 15 U.S.C. 7003(b).

30-21-705.SAVINGS CLAUSE. The repeal of a statute by this act does not affect:

- (1) The operation of the statute or any action taken under it before its repeal;
- (2) Any ratification, right, remedy, privilege, obligation or liability acquired, accrued or incurred under the statute before its repeal;
- (3) Any violation of the statute or any penalty, forfeiture or punishment incurred because of the violation before its repeal; or
- (4) Any proceeding, reorganization or dissolution commenced under the statute before its repeal, and the proceeding, reorganization or dissolution may be completed in accordance with the statute as if it had not been repealed.

30-21-706.SEVERABILITY CLAUSE. If any provision of this act or its application to any person or circumstance is held invalid, the invalidity does not affect other provisions or applications of this act which can be given effect without the invalid provision or application, and to this end the provisions of this act are severable.

30-21-708.EFFECTIVE DATE. This act takes effect July 1, 2015, except as otherwise provided.

END OF PRELIMINARY PROVISIONS

CHAPTER 22. IDAHO UNIFORM LIMITED LIABILITY COMPANY ACT

PART 1. GENERAL PROVISIONS

30-25-101.SHORT TITLE. This chapter may be cited as the “Idaho Uniform Limited Liability Company Act.”

30-25-102.DEFINITIONS. (a) In this chapter:

- (1) “Certificate of organization” means the certificate required by section 30-25-201, Idaho Code. The term includes the certificate as amended or restated.
 - (2) “Contribution,” except in the phrase “right of contribution,” means property or a benefit described in section 30-25-402, Idaho Code, that is provided by a person to a limited liability company to become a member or in the person’s capacity as a member.
 - (3) “Distribution” means a transfer of money or other property from a limited liability company to a person on account of a transferable interest or in the person’s capacity as a member. The term:
 - (A) Includes:
 - (i) A redemption or other purchase by a limited liability company of a transferable interest; and
 - (ii) A transfer to a member in return for the member’s relinquishment of any right to participate as a member in the management or conduct of the company’s activities and affairs or to have access to records or other information concerning the company’s activities and affairs; and
 - (B) Does not include amounts constituting reasonable compensation for present or past service or payments made in the ordinary course of business under a bona fide retirement plan or other bona fide benefits program.
 - (4) “Limited liability company” means an entity formed under this chapter or that becomes subject to this chapter under chapter 22, title 30, Idaho Code, or section 30-25-110, Idaho Code.
 - (5) “Manager” means a person that under the operating agreement of a manager-managed limited liability company is responsible, alone or in concert with others, for performing the management functions stated in section 30-25-407(c), Idaho Code.
 - (6) “Manager-managed limited liability company” means a limited liability company that qualifies under section 30-25-407(a), Idaho Code.
 - (7) “Member” means a person that:
 - (A) Has become a member of a limited liability company under section 30-25-401, Idaho Code, or was a member in a company when the company became subject to this chapter under section 30-25-110, Idaho Code; and
 - (B) Has not dissociated under section 30-25-602, Idaho Code.
 - (8) “Member-managed limited liability company” means a limited liability company that is not a manager-managed limited liability company.
 - (9) “Operating agreement” means the agreement, whether or not referred to as an operating agreement and whether oral, implied, in a record, or in any combination thereof, of all the members of a limited liability company, including a sole member, concerning the matters described in section 30-25-105(a), Idaho Code. The term includes the agreement as amended or restated.
 - (10) “Organizer” means a person that acts under section 30-25-201, Idaho Code, to form a limited liability company.
 - (11) “Transferable interest” means the right, as initially owned by a person in the person’s capacity as a member, to receive distributions from a limited liability company, whether or not the person remains a member or continues to own any part of the right. The term applies to any fraction of the interest, by whomever owned.
 - (12) “Transferee” means a person to which all or part of a transferable interest has been transferred, whether or not the transferor is a member. The term includes a person that owns a transferable interest under section 30-25-603(a)(3), Idaho Code.
- (b) The following definitions outside this chapter apply to this chapter:
- (1) “Debtor in bankruptcy” - section 30-21-102(7), Idaho Code.
 - (2) “Foreign” - section 30-21-102(15), Idaho Code.
 - (3) “Jurisdiction” - section 30-21-102(22), Idaho Code.
 - (4) “Jurisdiction of formation” - section 30-21-102(23), Idaho Code.
 - (5) “Person” - section 30-21-102(35), Idaho Code.
 - (6) “Principal office” - section 30-21-102(36), Idaho Code.

- (7) "Property" - section 30-21-102(41), Idaho Code.
- (8) "Record" - section 30-21-102(44), Idaho Code.
- (9) "Registered agent" - section 30-21-102(45), Idaho Code.
- (10) "Sign" - section 30-21-102(47), Idaho Code.
- (11) "State" - section 30-21-102(48), Idaho Code.
- (12) "Transfer" - section 30-21-102(50), Idaho Code.

30-25-103.KNOWLEDGE -- NOTICE. (a) A person knows a fact if the person:

- (1) Has actual knowledge of it; or
- (2) Is deemed to know it under subsection (d)(1) of this section or law other than this act.
- (b) A person has notice of a fact if the person:
 - (1) Has reason to know the fact from all the facts known to the person at the time in question; or
 - (2) Is deemed to have notice of the fact under subsection (d)(2) of this section.
- (c) Subject to section 30-25-210(f), Idaho Code, a person notifies another person of a fact by taking steps reasonably required to inform the other person in ordinary course, whether or not those steps cause the other person to know the fact.
- (d) A person not a member is deemed:
 - (1) To know of a limitation on authority to transfer real property as provided in section 30-25-302(g), Idaho Code; and
 - (2) To have notice of a limited liability company's:
 - (A) Dissolution ninety (90) days after a statement of dissolution under section 30-25-702(b)(2)(A), Idaho Code, becomes effective;
 - (B) Termination ninety (90) days after a statement of termination under section 30-25-702(b)(2)(F), Idaho Code, becomes effective; and
 - (C) Participation in a merger, interest exchange, conversion, or domestication, ninety (90) days after articles of merger, interest exchange, conversion, or domestication under chapter 22, title 30, Idaho Code, become effective.

30-25-104.GOVERNING LAW. The law of this state governs:

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

30-25-105.OPERATING AGREEMENT -- SCOPE -- FUNCTION -- LIMITATIONS. (a) Except as otherwise provided in subsections (c) and (d) of this section, the operating agreement governs:

- (1) Relations among the members as members and between the members and the limited liability company;
- (2) The rights and duties under this act of a person in the capacity of manager;
- (3) The activities and affairs of the company and the conduct of those activities and affairs; and
- (4) The means and conditions for amending the operating agreement.
- (b) To the extent the operating agreement does not provide for a matter described in subsection (a) of this section, this chapter governs the matter.
- (c) An operating agreement may not:
 - (1) Vary the law applicable under section 30-25-104, Idaho Code;
 - (2) Vary a limited liability company's capacity under section 30-25-109, Idaho Code, to sue and be sued in its own name;
 - (3) Vary any requirement, procedure, or other provision of this act pertaining to:
 - (A) Registered agents; or
 - (B) The secretary of state, including provisions pertaining to records authorized or required to be delivered to the secretary of state for filing under this act;
 - (4) Vary the provisions of section 30-25-204, Idaho Code;
 - (5) Alter or eliminate the duty of loyalty or the duty of care, except as otherwise provided in subsection (d) of this section;
 - (6) Eliminate the contractual obligation of good faith and fair dealing under section 30-25-409(d), Idaho Code, but the operating agreement may prescribe the standards, if not manifestly unreasonable, by which the perfor-

mance of the obligation is to be measured;

- (7) Relieve or exonerate a person from liability for conduct involving bad faith, willful or intentional misconduct, or knowing violation of law;
 - (8) Unreasonably restrict the duties and rights under section 30-25-410, Idaho Code, but the operating agreement may impose reasonable restrictions on the availability and use of information obtained under that section and may define appropriate remedies, including liquidated damages, for a breach of any reasonable restriction on use;
 - (9) Vary the causes of dissolution specified in section 30-25-701(a)(4), Idaho Code;
 - (10) Vary the requirement to wind up the company's activities and affairs as specified in section 30-25-702(a), (b) (1) and (e), Idaho Code;
 - (11) Unreasonably restrict the right of a member to maintain an action under part 8 of this chapter;
 - (12) Vary the provisions of section 30-25-805, Idaho Code, but the operating agreement may provide that the company may not have a special litigation committee;
 - (13) Vary the right of a member to approve a merger, interest exchange, conversion, or domestication under section 30-22-203(a)(2), 30-22-303(a)(2), 30-22-403(a)(2) or 30-22-503(a)(2), Idaho Code; or
 - (14) Vary the required contents of a plan of merger under section 30-22-202(a), Idaho Code, plan of interest exchange under section 30-22-302(a), Idaho Code, plan of conversion under section 30-22-402(a), Idaho Code, or plan of domestication under section 30-22-502(a), Idaho Code; or
 - (15) Except as otherwise provided in sections 30-25-106 and 30-25-107(b), Idaho Code, restrict the rights under this chapter of a person other than a member or manager.
- (d) Subject to subsection (c)(7) of this section, without limiting other terms that may be included in an operating agreement, the following rules apply:
- (1) The operating agreement may:
 - (A) Specify the method by which a specific act or transaction that would otherwise violate the duty of loyalty may be authorized or ratified by one (1) or more disinterested and independent persons after full disclosure of all material facts; and
 - (B) Alter the prohibition in section 30-25-405(a)(2), Idaho Code, so that the prohibition requires only that the company's total assets not be less than the sum of its total liabilities.
 - (2) To the extent the operating agreement of a member-managed limited liability company expressly relieves a member of a responsibility that the member otherwise would have under this chapter and imposes the responsibility on one (1) or more other members, the agreement also may eliminate or limit any fiduciary duty of the member relieved of the responsibility that would have pertained to the responsibility.
 - (3) If not manifestly unreasonable, the operating agreement may:
 - (A) Alter or eliminate the aspects of the duty of loyalty stated in section 30-25-409(b) and (i), Idaho Code;
 - (B) Identify specific types or categories of activities that do not violate the duty of loyalty;
 - (C) Alter the duty of care, but may not authorize conduct involving bad faith, willful or intentional misconduct, or knowing violation of law; and
 - (D) Alter or eliminate any other fiduciary duty.
 - (e) The court shall decide as a matter of law whether a term of an operating agreement is manifestly unreasonable under subsection (c)(6) or (d)(3) of this section. The court:
 - (1) Shall make its determination as of the time the challenged term became part of the operating agreement and by considering only circumstances existing at that time; and
 - (2) May invalidate the term only if, in light of the purposes, activities, and affairs of the limited liability company, it is readily apparent that:
 - (A) The objective of the term is unreasonable; or
 - (B) The term is an unreasonable means to achieve the provision's objective.

30-25-106. OPERATING AGREEMENT -- EFFECT ON LIMITED LIABILITY COMPANY AND PERSON BECOMING MEMBER -- PREFORMATION AGREEMENT. (a) A limited liability company is bound by and may enforce the operating agreement, whether or not the company has itself manifested assent to the operating agreement.

(b) A person that becomes a member is deemed to assent to the operating agreement.

(c) Two (2) or more persons intending to become the initial members may make an agreement providing that upon the formation of the company the agreement will become the operating agreement. One person intending to

become the initial member of a limited liability company may assent to terms providing that upon the formation of the company the terms will become the operating agreement.

30-25-107.OPERATING AGREEMENT -- EFFECT ON THIRD PARTIES AND RELATIONSHIP TO RECORDS EFFECTIVE ON BEHALF OF LIMITED LIABILITY COMPANY. (a) An operating agreement may specify that its amendment requires the approval of a person that is not a party to the agreement or the satisfaction of a condition. An amendment is ineffective if its adoption does not include the required approval or satisfy the specified condition.

(b) The obligations of a limited liability company and its members to a person in the person's capacity as a transferee or a person dissociated as a member are governed by the operating agreement. Subject only to a court order issued under section 30-25-503(b)(2), Idaho Code, to effectuate a charging order, an amendment to the operating agreement made after a person becomes a transferee or is dissociated as a member:

- (1) Is effective with regard to any debt, obligation, or other liability of the limited liability company or its members to the person in the person's capacity as a transferee or person dissociated as a member; and
- (2) Is not effective to the extent the amendment imposes a new debt, obligation, or other liability on the transferee or person dissociated as a member.

(c) If a record delivered by a limited liability company to the secretary of state for filing becomes effective and contains a provision that would be ineffective under section 30-25-105(c) or (d)(3), Idaho Code, if contained in the operating agreement, the provision is ineffective in the record.

(d) Subject to subsection (c) of this section, if a record delivered by a limited liability company to the secretary of state for filing becomes effective and conflicts with a provision of the operating agreement:

- (1) The agreement prevails as to members, persons dissociated as members, transferees, and managers; and
- (2) The record prevails as to other persons to the extent they reasonably rely on the record.

30-25-108.NATURE, PURPOSE AND DURATION OF LIMITED LIABILITY COMPANY. (a) A limited liability company is an entity distinct from its member or members.

(b) A limited liability company may have any lawful purpose.

(c) A limited liability company has perpetual duration.

30-25-109.POWERS. A limited liability company has the capacity to sue and be sued in its own name and the power to do all things necessary or convenient to carry on its activities and affairs.

30-25-110.APPLICATION TO EXISTING RELATIONSHIPS. (a) Before July 1, 2017, this chapter governs only:

- (1) A limited liability company formed on or after July 1, 2015; and
- (2) Except as otherwise provided in subsection (c) of this section, a limited liability company formed before July 1, 2015, that elects, in the manner provided in its operating agreement or by law for amending the operating agreement, to be subject to this chapter.

(b) Except as otherwise provided in subsection (c) of this section, on and after July 1, 2017, this chapter governs all limited liability companies.

(c) For purposes of applying this chapter to a limited liability company formed before July 1, 2008:

- (1) The company's articles of organization are deemed to be the company's certificate of organization; and
- (2) For purposes of applying section 30-25-102(10), Idaho Code, and subject to section 30-25-107(d), Idaho Code, language in the company's articles of organization designating the company's management structure operates as if that language were in the operating agreement.

30-25-111.SUBJECTS COVERED OUTSIDE CHAPTER. The following subjects are covered outside this chapter:

- (1) Delivery of record - section 30-21-104, Idaho Code.
- (2) Permitted names - section 30-21-301, Idaho Code.
- (3) Reservation of name - section 30-21-303, Idaho Code.
- (4) Registration of name - section 30-21-304, Idaho Code.
- (5) Registered agent - section 30-21-404, Idaho Code.
- (6) Change of registered agent or address for registered agent by limited liability company - section 30-21-407, Idaho Code.

- (7) Resignation of registered agent - section 30-21-410, Idaho Code.
- (8) Change of name or address by registered agent - sections 30-21-408 and 30-21-409, Idaho Code.
- (9) Service of process, notice or demand - section 30-21-412, Idaho Code.
- (10) Reservation of power to amend or repeal - section 30-21-701, Idaho Code.
- (11) Supplemental principles of law - section 30-21-702, Idaho Code.

PART 2. FORMATION – CERTIFICATE OF ORGANIZATION AND OTHER FILINGS

30-25-201.FORMATION OF LIMITED LIABILITY COMPANY -- CERTIFICATE OF ORGANIZATION. (a) One (1) or more persons may act as organizers to form a limited liability company by delivering to the secretary of state for filing a certificate of organization.

(b) A certificate of organization must state:

- (1) The name of the limited liability company that must comply with sections 30-21-301 and 30-21-302(d), Idaho Code;
- (2) The street and mailing addresses of the company's principal office;
- (3) The information required by section 30-21-404(a), Idaho Code;
- (4) The name and mailing address of at least one (1) governor of the company; and
- (5) If the company is a professional entity, a statement that the company is a professional limited liability company and the principal profession or professions for which the company's members are duly licensed or otherwise legally authorized to render professional services.

(c) A certificate of organization may contain statements as to matters other than those required by subsection (b) of this section, but may not vary or otherwise affect the provisions specified in section 30-25-105(c) and (d), Idaho Code, in a manner inconsistent with that section. However, a statement in a certificate of organization is not effective as a statement of authority. The secretary of state shall not accept operating agreements for filing.

(d) A limited liability company is formed when the certificate of organization becomes effective.

30-25-202.AMENDMENT OR RESTATEMENT OF CERTIFICATE OF ORGANIZATION. (a) A certificate of organization may be amended or restated at any time.

(b) To amend its certificate of organization, a limited liability company must deliver to the secretary of state for filing an amendment stating:

- (1) The name of the company;
- (2) The date of filing of its initial certificate of organization; and
- (3) The text of the amendment.

(c) To restate its certificate of organization, a limited liability company must deliver to the secretary of state for filing a restatement designated as such in its heading.

(d) If a member of a member-managed limited liability company, or a manager of a manager-managed limited liability company, knows that any information in a filed certificate of organization was inaccurate when the certificate was filed or has become inaccurate due to changed circumstances, the member or manager shall promptly:

- (1) Cause the certificate to be amended; or
- (2) If appropriate, deliver to the secretary of state for filing a statement of change under section 30-21-407, Idaho Code, or a statement of correction under section 30-21-205, Idaho Code.

30-25-203.SIGNING OF RECORDS TO BE DELIVERED FOR FILING TO SECRETARY OF STATE. (a) A record delivered to the secretary of state for filing pursuant to this act must be signed as follows:

- (1) Except as otherwise provided in paragraphs (2) and (3) of this subsection, a record signed by a limited liability company must be signed by a person authorized by the company.
- (2) A company's initial certificate of organization must be signed by at least one (1) person acting as an organizer.
- (3) A record delivered on behalf of a dissolved company that has no member must be signed by the person winding up the company's activities and affairs under section 30-25-702(c), Idaho Code, or a person appointed under section 30-25-702(d), Idaho Code, to wind up the activities and affairs.
- (4) A statement of denial by a person under section 30-25-303, Idaho Code, must be signed by that person.
- (5) Any other record delivered on behalf of a person to the secretary of state for filing must be signed by that per-

son.

(b) A record delivered for filing under this chapter may be signed by an agent. Whenever this chapter requires a particular individual to sign a record and the individual is deceased or incompetent, the record may be signed by a legal representative of the individual.

(c) A person that signs a record as an agent or legal representative affirms as a fact that the person is authorized to sign the record.

30-25-204.LIABILITY FOR INACCURATE INFORMATION IN FILED RECORD. (a) If a record delivered to the secretary of state for filing under this act and filed by the secretary of state contains inaccurate information, a person that suffers loss by reliance on the information may recover damages for the loss from:

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

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

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

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

(i) Effected an amendment under section 30-25-202, Idaho Code;

(ii) Filed a petition under section 30-25-204, Idaho Code; or

(iii) Delivered to the secretary of state for filing a statement of change under section 30-21-407, Idaho Code, or a statement of correction under section 30-21-205, Idaho Code.

(b) To the extent the operating agreement of a member-managed limited liability company expressly relieves a member of responsibility for maintaining the accuracy of information contained in records delivered on behalf of the company to the secretary of state for filing under this act and imposes that responsibility on one (1) or more other members, the liability stated in subsection (a)(2) of this section applies to those other members and not to the member that the operating agreement relieves of the responsibility.

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

30-25-205.SUBJECTS COVERED OUTSIDE CHAPTER. The following subjects are covered outside this chapter:

(1) Signing and filing pursuant to judicial order - section 30-21-210, Idaho Code.

(2) Filing requirements - section 30-21-201, Idaho Code.

(3) Effective date and time - section 30-21-203, Idaho Code.

(4) Withdrawal of filed record before effectiveness - section 30-21-204, Idaho Code.

(5) Correcting filed record - section 30-21-205, Idaho Code.

(6) Duty of secretary of state to file; review of refusal to file; delivery of record by secretary of state - sections 30-21-206 and 30-21-211, Idaho Code.

(7) Certificate of good standing or registration - section 30-21-208, Idaho Code.

(8) Annual report for secretary of state - section 30-21-213, Idaho Code.

PART 3. RELATIONS OF MEMBERS AND MANAGERS TO PERSONS DEALING WITH LIMITED LIABILITY COMPANY

30-25-301.NO AGENCY POWER OF MEMBER AS MEMBER. (a) A member is not an agent of a limited liability company solely by reason of being a member.

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

30-25-302.STATEMENT OF AUTHORITY. (a) A limited liability company may deliver to the secretary of state for filing a statement of authority. The statement:

(1) Must include the name of the company and the information required by section 30-21-404(a), Idaho Code;

- (2) With respect to any position that exists in or with respect to the company, may state the authority, or limitations on the authority, of all persons holding the position to:
- (A) Execute an instrument transferring real property held in the name of the company; or
 - (B) Enter into other transactions on behalf of, or otherwise act for or bind, the company; and
- (3) May state the authority, or limitations on the authority, of a specific person to:
- (A) Execute an instrument transferring real property held in the name of the company; or
 - (B) Enter into other transactions on behalf of, or otherwise act for or bind, the company.
- (b) To amend or cancel a statement of authority filed by the secretary of state, a limited liability company must deliver to the secretary of state for filing an amendment or cancellation stating:
- (1) The name of the company;
 - (2) The information required by section 30-21-404(a), Idaho Code;
 - (3) The date the statement being affected became effective; and
 - (4) The contents of the amendment or a declaration that the statement is canceled.
- (c) A statement of authority affects only the power of a person to bind a limited liability company to persons that are not members.
- (d) Subject to subsection (c) of this section and section 30-25-103(d), Idaho Code, and except as otherwise provided in subsections (f), (g) and (h) of this section, a limitation on the authority of a person or a position contained in an effective statement of authority is not by itself evidence of any person's knowledge or notice of the limitation.
- (e) Subject to subsection (c) of this section, a grant of authority not pertaining to transfers of real property and contained in an effective statement of authority is conclusive in favor of a person that gives value in reliance on the grant, except to the extent that when the person gives value:
- (1) The person has knowledge to the contrary;
 - (2) The statement has been canceled or restrictively amended under subsection (b) of this section; or
 - (3) A limitation on the grant is contained in another statement of authority that became effective after the statement containing the grant became effective.
- (f) Subject to subsection (c) of this section, an effective statement of authority that grants authority to transfer real property held in the name of the limited liability company is conclusive in favor of a person that gives value in reliance on the grant without knowledge to the contrary, except to the extent that when the person gives value:
- (1) The statement has been canceled or restrictively amended under subsection (b) of this section; or
 - (2) A limitation on the grant is contained in another statement of authority that became effective after the statement containing the grant became effective.
- (g) Subject to subsection (c) of this section, if an effective statement of authority contains a limitation on the authority to transfer real property held in the name of a limited liability company, all persons are deemed to know of the limitation.
- (h) Subject to subsection (i) of this section, an effective statement of dissolution or termination is a cancellation of any filed statement of authority for the purposes of subsection (f) of this section and is a limitation on authority for the purposes of subsection (g) of this section.
- (i) After a statement of dissolution becomes effective, a limited liability company may deliver to the secretary of state for filing a statement of authority that is designated as a post-dissolution statement of authority. The statement operates as provided in subsections (f) and (g) of this section.
- (j) Unless earlier canceled, an effective statement of authority is canceled by operation of law five (5) years after the date on which the statement, or its most recent amendment, becomes effective.
- (k) An effective statement of denial operates as a restrictive amendment under this section.

30-25-303.STATEMENT OF DENIAL. A person named in a filed statement of authority granting that person authority may deliver to the secretary of state for filing a statement of denial that:

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

30-25-304.LIABILITY OF MEMBERS AND MANAGERS. (a) A debt, obligation, or other liability of a limited liability company is solely the debt, obligation, or other liability of the company. A member or manager is not personally liable, directly or indirectly, by way of contribution or otherwise, for a debt, obligation, or other liability of the company solely by reason of being or acting as a member or manager. This subsection applies regardless of the dissolution of the company.

(b) The failure of a limited liability company to observe formalities relating to the exercise of its powers or management of its activities and affairs is not a ground for imposing liability on a member or manager for a debt, obligation, or other liability of the company.

PART 4. RELATIONS OF MEMBERS TO EACH OTHER AND TO LIMITED LIABILITY COMPANY

30-25-401.BECOMING MEMBER. (a) If a limited liability company is to have only one (1) member upon formation, the person becomes a member as agreed by that person and the organizer of the company. That person and the organizer may be, but need not be, different persons. If different, the organizer acts on behalf of the initial member.

(b) If a limited liability company is to have more than one (1) member upon formation, those persons become members as agreed by the persons before the formation of the company. The organizer acts on behalf of the persons in forming the company and may be, but need not be, one (1) of the persons.

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

- (1) As provided in the operating agreement;
- (2) As the result of a transaction effective under chapter 22, title 30, Idaho Code;
- (3) With the affirmative vote or consent of all the members; or
- (4) As provided in section 30-25-701(a)(3), Idaho Code.

(d) A person may become a member without:

- (1) Acquiring a transferable interest; or
- (2) Making or being obligated to make a contribution to the limited liability company.

30-25-402.FORM OF CONTRIBUTION. A contribution may consist of property transferred to, services performed for, or another benefit provided to the limited liability company or an agreement to transfer property to, perform services for, or provide another benefit to the company.

30-25-403.LIABILITY FOR CONTRIBUTIONS. (a) A person's obligation to make a contribution to a limited liability company is not excused by the person's death, disability, termination, or other inability to perform personally.

(b) If a person does not fulfill an obligation to make a contribution other than money, the person is obligated at the option of the limited liability company to contribute money equal to the value of the part of the contribution which has not been made.

(c) The obligation of a person to make a contribution may be compromised only by the affirmative vote of consent of all the members. If a creditor of a limited liability company extends credit or otherwise acts in reliance on an obligation described in subsection (a) of this section without knowledge or notice of a compromise under this subsection, the creditor may enforce the obligation.

30-25-404.SHARING OF AND RIGHT TO DISTRIBUTIONS BEFORE DISSOLUTION. (a) Any distributions made by a limited liability company before its dissolution and winding up must be in equal shares among members and persons dissociated as members, except to the extent necessary to comply with a transfer effective under section 30-25-502, Idaho Code, or charging order in effect under section 30-25-503, Idaho Code.

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

(c) A person does not have a right to demand or receive a distribution from a limited liability company in any form other than money. Except as otherwise provided in section 30-25-707(d), Idaho Code, a company may distribute an asset in kind only if each part of the asset is fungible with each other part and each person receives a percentage of the asset equal in value to the person's share of distributions.

(d) If a member or transferee becomes entitled to receive a distribution, the member or transferee is entitled to all remedies available to a creditor of the limited liability company with respect to the distribution. However, the company's obligation to make a distribution is subject to offset for any amount owed to the company by the member or a person dissociated as a member on whose account the distribution is made.

30-25-405.LIMITATIONS ON DISTRIBUTIONS. (a) A limited liability company may not make a distribution, including a distribution under section 30-25-707, Idaho Code, if after the distribution:

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

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

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

(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 under the circumstances.

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

(1) In the case of a distribution as defined in section 30-25-102(3)(A), Idaho Code, as of the earlier of:

(A) The date money or other property is transferred or debt is incurred by the limited liability company; or

(B) The date the person entitled to the distribution ceases to own the interest or right being acquired by the company in return for the distribution;

(2) In the case of any other distribution of indebtedness, as of the date the indebtedness is distributed; and

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

(A) The distribution is authorized, if the payment occurs not later than one hundred twenty (120) days after that date; or

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

(d) A limited liability company's indebtedness to a member or transferee incurred by reason of a distribution made in accordance with this section is at parity with the company's indebtedness to its general, unsecured creditors, except to the extent subordinated by agreement.

(e) A limited liability company's indebtedness, including indebtedness issued as a distribution, is not a liability for purposes of subsection (a) of this section if the terms of the indebtedness provide that payment of principal and interest is made only if and to the extent that payment of a distribution could then be made under this section. If the indebtedness is issued as a distribution, each payment of principal or interest is treated as a distribution, the effect of which is measured on the date the payment is made.

(f) In measuring the effect of a distribution under section 30-25-707, Idaho Code, the liabilities of a dissolved limited liability company do not include any claim that has been disposed of under section 30-25-704, 30-25-705 or 30-25-706, Idaho Code.

30-25-406.LIABILITY FOR IMPROPER DISTRIBUTIONS. (a) Except as otherwise provided in subsection (b) of this section, if a member of a member-managed limited liability company or manager of a manager-managed limited liability company consents to a distribution made in violation of section 30-25-405, Idaho Code, and in consenting to the distribution fails to comply with section 30-25-409, Idaho Code, the member or manager is personally liable to the company for the amount of the distribution which exceeds the amount that could have been distributed without the violation of section 30-25-405, Idaho Code.

(b) To the extent the operating agreement of a member-managed limited liability company expressly relieves a member of the authority and responsibility to consent to distributions and imposes that authority and responsibility on one (1) or more other members, the liability stated in subsection (a) of this section applies to the other members and not the member that the operating agreement relieves of the authority and responsibility.

(c) A person that receives a distribution knowing that the distribution violated section 30-25-405, Idaho Code, is personally liable to the limited liability company, but only to the extent that the distribution received by the person exceeded the amount that could have been properly paid under section 30-25-405, Idaho Code.

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

(1) Implead any other person that is liable under subsection (a) of this section and seek to enforce a right of contribution from the person; and

(2) Implead any person that received a distribution in violation of subsection (c) of this section and seek to enforce a right of contribution from the person in the amount the person received in violation of subsection (c) of this section.

(e) An action under this section is barred unless commenced not later than two (2) years after the distribution.

30-25-407. MANAGEMENT OF LIMITED LIABILITY COMPANY. (a) A limited liability company is a member-managed limited liability company unless the operating agreement:

(1) Expressly provides that:

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

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

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

(2) Includes words of similar import.

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

(1) Except as expressly provided in this chapter, the management and conduct of the company are vested in the members.

(2) Each member has equal rights in the management and conduct of the company’s activities and affairs.

(3) A difference arising among members as to a matter in the ordinary course of the activities and affairs of the company may be decided by a majority of the members.

(4) The affirmative vote or consent of all the members is required to:

(A) Undertake an act outside the ordinary course of the activities and affairs of the company; or

(B) Amend the operating agreement.

(c) In a manager-managed limited liability company, as among the members and the managers, the following rules apply:

(1) Except as expressly provided in this chapter, any matter relating to the activities and affairs of the company is decided exclusively by the manager, or, if there is more than one (1) manager, by a majority of the managers.

(2) Each manager has equal rights in the management and conduct of the company’s activities and affairs.

(3) The affirmative vote or consent of all members is required to:

(A) Undertake an act outside the ordinary course of the company’s activities and affairs; or

(B) Amend the operating agreement.

(4) A manager may be chosen at any time by the consent of a majority of the members and remains a manager until a successor has been chosen, unless the manager at an earlier time resigns, is removed, or dies, or, in the case of a manager that is not an individual, terminates. A manager may be removed at any time by the consent of a majority of the members without notice or cause.

(5) A person need not be a member to be a manager, but the dissociation of a member that is also a manager removes the person as a manager. If a person that is both a manager and a member ceases to be a manager, that cessation does not by itself dissociate the person as a member.

(6) A person’s ceasing to be a manager does not discharge any debt, obligation, or other liability to the limited liability company or members which the person incurred while a manager.

(d) An action requiring the vote or consent of members under this chapter may be taken without a meeting, and a member may appoint a proxy or other agent to vote, consent, or otherwise act for the member by signing an appointing record, personally or by the member’s agent.

(e) The dissolution of a limited liability company does not affect the applicability of this section. However, a person that wrongfully causes dissolution of the company loses the right to participate in management as a member and a manager.

(f) A limited liability company shall reimburse a member for an advance to the company beyond the amount of capital the member agreed to contribute.

(g) A payment or advance made by a member which gives rise to an obligation of the limited liability company under subsection (f) of this section or section 30-25-408(a), Idaho Code, constitutes a loan to the company which accrues interest from the date of the payment or advance.

(h) A member is not entitled to remuneration for services performed for a member-managed limited liability company, except for reasonable compensation for services rendered in winding up the activities of the company.

30-25-408.REIMBURSEMENT -- INDEMNIFICATION -- ADVANCEMENT AND INSURANCE. (a) A limited liability company shall reimburse a member of a member-managed company or the manager of a manager-managed company for any payment made by the member or manager in the course of the member's or manager's activities on behalf of the company, if the member or manager complied with sections 30-25-405, 30-25-407 and 30-25-409, Idaho Code, in making the payment.

(b) A limited liability company shall indemnify and hold harmless a person with respect to any claim or demand against the person and any debt, obligation, or other liability incurred by the person by reason of the person's former or present capacity as a member or manager, if the claim, demand, debt, obligation, or other liability does not arise from the person's breach of section 30-25-405, 30-25-407 or 30-25-409, Idaho Code.

(c) In the ordinary course of its activities and affairs, a limited liability company may advance reasonable expenses, including attorney's fees and costs, incurred by a person in connection with a claim or demand against the person by reason of the person's former or present capacity as a member or manager, if the person promises to repay the company if the person ultimately is determined not to be entitled to be indemnified under subsection (b) of this section.

(d) A limited liability company may purchase and maintain insurance on behalf of a member or manager against liability asserted against or incurred by the member or manager in that capacity or arising from that status even if, under section 30-25-105(c)(7), Idaho Code, the operating agreement could not eliminate or limit the person's liability to the company for the conduct giving rise to the liability.

30-25-409.STANDARDS OF CONDUCT FOR MEMBERS AND MANAGERS. (a) A member of a member-managed limited liability company owes to the company and, subject to section 30-25-801, Idaho Code, the other members the duties of loyalty and care stated in subsections (b) and (c) of this section.

(b) The fiduciary duty of loyalty of a member in a member-managed limited liability company includes the duties:

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

(A) In the conduct or winding up of the company's activities and affairs;

(B) From a use by the member of the company's property; or

(C) From the appropriation of a company opportunity;

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

(3) To refrain from competing with the company in the conduct of the company's activities and affairs before the dissolution of the company.

(c) The duty of care of a member of a member-managed limited liability company in the conduct or winding up of the company's activities and affairs is to refrain from engaging in grossly negligent or reckless conduct, willful or intentional misconduct, or knowing violation of law.

(d) A member shall discharge the duties and obligations under this chapter or under the operating agreement and exercise any rights consistently with the contractual obligation of good faith and fair dealing.

(e) A member does not violate a duty or obligation under this chapter or under the operating agreement solely because the member's conduct furthers the member's own interest.

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

(g) It is a defense to a claim under subsection (b)(2) of this section and any comparable claim in equity or at com-

mon law that the transaction was fair to the limited liability company.

(h) If, as permitted by subsection (f) or (i)(6) of this section or the operating agreement, a member enters into a transaction with the limited liability company that otherwise would be prohibited by subsection (b)(2) of this section, the member's rights and obligations arising from the transaction are the same as those of a person that is not a member.

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

(1) Subsections (a), (b), (c) and (g) of this section apply to the manager or managers and not the members.

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

(3) Subsection (d) of this section applies to managers and members.

(4) Subsection (e) of this section applies only to members.

(5) The power to ratify under subsection (f) of this section applies only to the members.

(6) Subject to subsection (d) of this section, a member does not have any duty to the company or to any other member solely by reason of being a member.

30-25-410. RIGHTS TO INFORMATION OF MEMBER, MANAGER AND PERSON DISSOCIATED AS MEMBER. (a) In a member-managed limited liability company, the following rules apply:

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

(2) The company shall furnish to each member:

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

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

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

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

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

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

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

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

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

(3) Not later than ten (10) days after receiving a demand pursuant to paragraph (2)(B) of this subsection, the company shall inform in a record the member that made the demand of:

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

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

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

(c) Subject to subsection (h) of this section, on ten (10) days' demand made in a record received by a limited liability company, a person dissociated as a member may have access to the information to which the person was entitled while a member if:

(1) The information pertains to the period during which the person was a member;

(2) The person seeks the information in good faith; and

- (3) The person satisfies the requirements imposed on a member by subsection (b)(2) of this section.
- (d) A limited liability company shall respond to a demand made pursuant to subsection (c) of this section in the manner provided in subsection (b)(3) of this section.
- (e) A limited liability company may charge a person that makes a demand under this section the reasonable costs of copying, limited to the costs of labor and material.
- (f) A member or person dissociated as a member may exercise rights under this section through an agent or, in the case of an individual under legal disability, a legal representative. Any restriction or condition imposed by the operating agreement or under subsection (h) of this section applies both to the agent or legal representative and to the member or person dissociated as a member.
- (g) Subject to section 30-25-504, Idaho Code, the rights under this section do not extend to a person as transferee.
- (h) In addition to any restriction or condition stated in its operating agreement, a limited liability company, as a matter within the ordinary course of its activities and affairs, may impose reasonable restrictions and conditions on access to and use of information to be furnished under this section, including designating information confidential and imposing nondisclosure and safeguarding obligations on the recipient. In a dispute concerning the reasonableness of a restriction under this subsection, the company has the burden of proving reasonableness.

PART 5. TRANSFERABLE INTERESTS AND RIGHTS OF TRANSFEREES AND CREDITORS

30-25-501.NATURE OF TRANSFERABLE INTEREST. A transferable interest is personal property.

30-25-502.TRANSFER OF TRANSFERABLE INTEREST. (a) Subject to section 30-25-503(f), Idaho Code, a transfer, in whole or in part, of a transferable interest:

- (1) Is permissible, except the transfer of a transferable interest in a professional entity is not permissible without compliance with section 30-21-901(i), Idaho Code;
- (2) Does not by itself cause a member's dissociation or a dissolution and winding up of the limited liability company's activities and affairs; and
- (3) Subject to section 30-25-504, Idaho Code, does not entitle the transferee to:
 - (A) Participate in the management or conduct of the company's activities and affairs; or
 - (B) Except as otherwise provided in subsection (c) of this section, have access to records or other information concerning the company's activities and affairs.
- (b) A transferee has the right to receive, in accordance with the transfer, distributions to which the transferor would otherwise be entitled.
- (c) In a dissolution and winding up of a limited liability company, a transferee is entitled to an account of the company's transactions only from the date of dissolution.
- (d) A transferable interest may be evidenced by a certificate of the interest issued by a limited liability company in a record, and, subject to this section, the interest represented by the certificate may be transferred by a transfer of the certificate.
- (e) A limited liability company need not give effect to a transferee's rights under this section until the company knows or has notice of the transfer.
- (f) A transfer of a transferable interest in violation of a restriction on transfer contained in the operating agreement is ineffective as to a person having knowledge or notice of the restriction at the time of transfer.
- (g) Except as otherwise provided in section 30-25-602(5)(B), Idaho Code, if a member transfers a transferable interest, the transferor retains the rights of a member other than the transferable interest transferred and retains all the duties and obligations of a member.
- (h) If a member transfers a transferable interest to a person that becomes a member with respect to the transferred interest, the transferee is liable for the member's obligations under sections 30-25-403 and 30-25-406, Idaho Code, known to the transferee when the transferee becomes a member.

30-25-503.CHARGING ORDER. (a) On application by a judgment creditor of a member or transferee, a court may enter a charging order against the transferable interest of the judgment debtor for the unsatisfied amount of the judgment. Except as otherwise provided in subsection (f) of this section, a charging order constitutes a lien on a judgment debtor's transferable interest and requires the limited liability company to pay over to the person to which the charging order was issued any distribution that otherwise would be paid to the judgment debtor.

- (b) To the extent necessary to effectuate the collection of distributions pursuant to a charging order in effect under subsection (a) of this section, the court may:
- (1) Appoint a receiver of the distributions subject to the charging order, with the power to make all inquiries the judgment debtor might have made; and
 - (2) Make all other orders necessary to give effect to the charging order.
- (c) Upon a showing that distributions under a charging order will not pay the judgment debt within a reasonable time, the court may foreclose the lien and order the sale of the transferable interest. Except as otherwise provided in subsection (f) of this section, the purchaser at the foreclosure sale obtains only the transferable interest, does not thereby become a member, and is subject to section 30-25-502, Idaho Code.
- (d) At any time before foreclosure under subsection (c) of this section, the member or transferee whose transferable interest is subject to a charging order under subsection (a) of this section may extinguish the charging order by satisfying the judgment and filing a certified copy of the satisfaction with the court that issued the charging order.
- (e) At any time before foreclosure under subsection (c) of this section, a limited liability company or one (1) or more members whose transferable interests are not subject to the charging order may pay to the judgment creditor the full amount due under the judgment and thereby succeed to the rights of the judgment creditor, including the charging order.
- (f) If a court orders foreclosure of a charging order lien against the sole member of a limited liability company:
- (1) The court shall confirm the sale;
 - (2) The purchaser at the sale obtains the member's entire interest, not only the member's transferable interest;
 - (3) The purchaser thereby becomes a member; and
 - (4) The person whose interest was subject to the foreclosed charging order is dissociated as a member.
- (g) This chapter does not deprive any member or transferee of the benefit of any exemption laws applicable to the transferable interest of the member or transferee.
- (h) This section provides the exclusive remedy by which a person seeking in the capacity of judgment creditor to enforce a judgment against a member or transferee may satisfy the judgment from the judgment debtor's transferable interest.

30-25-504.POWER OF LEGAL REPRESENTATIVE OF DECEASED MEMBER. If a member dies, the deceased member's legal representative may exercise:

- (1) The rights of a transferee provided in section 30-25-502(c), Idaho Code; and
- (2) For the purposes of settling the estate, the rights the deceased member had under section 30-25-410, Idaho Code.

PART 6. MEMBER'S DISSOCIATION

30-25-601.POWER TO DISSOCIATE AS MEMBER -- WRONGFUL DISSOCIATION. (a) A person has the power to dissociate as a member at any time, rightfully or wrongfully, by withdrawing as a member by express will under section 30-25-602(1), Idaho Code.

(b) A person's dissociation as a member is wrongful only if the dissociation:

- (1) Is in breach of an express provision of the operating agreement; or
 - (2) Occurs before the completion of the winding up of the limited liability company and:
 - (A) The person withdraws as a member by express will;
 - (B) The person is expelled as a member by judicial order under section 30-25-602(6), Idaho Code;
 - (C) The person is dissociated under section 30-25-602(8), Idaho Code; or
 - (D) In the case of a person that is not a trust other than a business trust, an estate, or an individual, the person is expelled or otherwise dissociated as a member because it willfully dissolved or terminated.
- (c) A person that wrongfully dissociates as a member is liable to the limited liability company and, subject to section 30-25-801, Idaho Code, to the other members for damages caused by the dissociation. The liability is in addition to any debt, obligation, or other liability of the member to the company or the other members.

30-25-602.EVENTS CAUSING DISSOCIATION. A person is dissociated as a member when:

- (1) The limited liability company knows or has notice of the person's express will to withdraw as a member, but, if the person has specified a withdrawal date later than the date the company had known or had notice, on that later date;
- (2) An event stated in the operating agreement as causing the person's dissociation occurs;
- (3) The person's entire interest is transferred in a foreclosure sale under section 30-25-503(f), Idaho Code;
- (4) The person is expelled as a member pursuant to the operating agreement;
- (5) The person is expelled as a member by the affirmative vote or consent of all the other members if:
 - (A) It is unlawful to carry on the limited liability company's activities and affairs with the person as a member;
 - (B) There has been a transfer of all the person's transferable interest in the company, other than:
 - (i) A transfer for security purposes; or
 - (ii) A charging order in effect under section 30-25-503, Idaho Code, that has not been foreclosed;
 - (C) The person is an entity and:
 - (i) The company notifies the person that it will be expelled as a member because the person has filed a statement of dissolution or the equivalent, the person has been administratively dissolved, the person's charter or the equivalent has been revoked, or the person's right to conduct business has been suspended by the person's jurisdiction of formation; and
 - (ii) Not later than ninety (90) days after the notification, the statement of dissolution or the equivalent has not been withdrawn, rescinded, or revoked, the person has not been reinstated, or the person's charter or the equivalent or right to conduct business has not been reinstated; or
 - (D) The person is an unincorporated entity that has been dissolved and whose activities and affairs are being wound up;
- (6) On application by the limited liability company or a member in a direct action under section 30-25-801, Idaho Code, the person is expelled as a member by judicial order because the person:
 - (A) Has engaged or is engaging in wrongful conduct that has affected adversely and materially, or will affect adversely and materially, the company's activities and affairs;
 - (B) Has committed willfully or persistently, or is committing willfully or persistently, a material breach of the operating agreement or a duty or obligation under section 30-25-409, Idaho Code; or
 - (C) Has engaged or is engaging in conduct relating to the company's activities and affairs which makes it not reasonably practicable to carry on the activities and affairs with the person as a member;
- (7) In the case of an individual:
 - (A) The individual dies; or
 - (B) In a member-managed limited liability company:
 - (i) A guardian or general conservator for the individual is appointed; or
 - (ii) A court orders that the individual has otherwise become incapable of performing the individual's duties as a member under this chapter or the operating agreement;
- (8) In a member-managed limited liability company, the person:
 - (A) Becomes a debtor in bankruptcy;
 - (B) Executes an assignment for the benefit of creditors; or
 - (C) Seeks, consents to, or acquiesces in the appointment of a trustee, receiver, or liquidator of the person or of all or substantially all the person's property;
- (9) In the case of a person that is a testamentary or inter vivos trust or is acting as a member by virtue of being a trustee of such a trust, the trust's entire transferable interest in the limited liability company is distributed;
- (10) In the case of a person who is an estate or is acting as a member by virtue of being a personal representative of an estate, the estate's entire transferable interest in the limited liability company is distributed;
- (11) In the case of a person that is not an individual, the existence of the person terminates;
- (12) The limited liability company participates in a merger under chapter 22, title 30, Idaho Code, and:
 - (A) The company is not the surviving entity; or
 - (B) Otherwise as a result of the merger, the person ceases to be a member;
- (13) The limited liability company participates in an interest exchange under chapter 22, title 30, Idaho Code, and, as a result of the interest exchange, the person ceases to be a member;
- (14) The limited liability company participates in a conversion under chapter 22, title 30, Idaho Code;
- (15) The limited liability company participates in a domestication under chapter 22, title 30, Idaho Code, and, as a

result of the domestication, the person ceases to be a member;

(16) The limited liability company dissolves and completes winding up; or

(17) In the case of a professional entity, restrictions or limitations are placed upon a member's ability to continue to render professional services.

30-25-603.EFFECT OF DISSOCIATION. (a) If a person is dissociated as a member:

(1) The person's right to participate as a member in the management and conduct of the limited liability company's activities and affairs terminates;

(2) The person's duties and obligations under section 30-25-409, Idaho Code, as a member end with regard to matters arising and events occurring after the person's dissociation; and

(3) Subject to section 30-25-504, Idaho Code, and chapter 22, title 30, Idaho Code, any transferable interest owned by the person in the person's capacity as a member immediately before dissociation is owned by the person solely as a transferee.

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

PART 7. DISSOLUTION AND WINDING UP

30-25-701.EVENTS CAUSING DISSOLUTION. (a) A limited liability company is dissolved, and its activities and affairs must be wound up, upon the occurrence of any of the following:

(1) An event or circumstance that the operating agreement states causes dissolution;

(2) The affirmative vote or consent of all the members;

(3) The passage of ninety (90) consecutive days during which the company has no members unless before the end of the period:

(A) Consent to admit at least one (1) specified person as a member is given by transferees owning the rights to receive a majority of distributions as transferees at the time the consent is to be effective; and

(B) At least one (1) person becomes a member in accordance with the consent;

(4) On application by a member, the entry by the district court of an order dissolving the company on the grounds that:

(A) The conduct of all or substantially all the company's activities and affairs is unlawful; or

(B) It is not reasonably practicable to carry on the company's activities and affairs in conformity with the certificate of organization and the operating agreement;

(i) Have acted, are acting, or will act in a manner that is illegal or fraudulent; or

(ii) Have acted or are acting in a manner that is oppressive and was, is, or will be directly harmful to the applicant;

or

(C) The managers or those members in control of the company:

(i) Have acted, are acting, or will act in a manner that is illegal or fraudulent; or

(ii) Have acted or are acting in a manner that is oppressive and was, is, or will be directly harmful to the applicant;

or

(5) The signing and filing of a statement of administrative dissolution by the secretary of state under section 30-25-708, Idaho Code.

(b) In a proceeding brought under subsection (a)(4)(B) of this section, the court may order a remedy other than dissolution.

30-25-702.WINDING UP. (a) A dissolved limited liability company shall wind up its activities and affairs and, except as otherwise provided in section 30-25-703, Idaho Code, the company continues after dissolution only for the purpose of winding up.

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

(1) Shall discharge the company's debts, obligations, and other liabilities, settle and close the company's activities and affairs, and marshal and distribute the assets of the company; and

(2) May:

(A) Deliver to the secretary of state for filing a statement of dissolution stating the name of the company and that the company is dissolved;

- (B) Preserve the company activities, affairs, and property as a going concern for a reasonable time;
 - (C) Prosecute and defend actions and proceedings, whether civil, criminal, or administrative;
 - (D) Transfer the company's property;
 - (E) Settle disputes by mediation or arbitration;
 - (F) Deliver to the secretary of state for filing a statement of termination stating the name of the company and that the company is terminated; and
 - (G) Perform other acts necessary or appropriate to the winding up.
- (c) If a dissolved limited liability company has no members, the legal representative of the last person to have been a member may wind up the activities and affairs of the company. If the person does so, the person has the powers of a sole manager under section 30-25-407(c), Idaho Code, and is deemed to be a manager for the purposes of section 30-25-304(a), Idaho Code.
- (d) If the legal representative under subsection (c) of this section declines or fails to wind up the limited liability company's activities and affairs, a person may be appointed to do so by the consent of transferees owning a majority of the rights to receive distributions as transferees at the time the consent is to be effective. A person appointed under this subsection:
- (1) Has the powers of a sole manager under section 30-25-407(c), Idaho Code, and is deemed to be a manager for the purposes of section 30-25-304(a), Idaho Code; and
 - (2) Shall deliver promptly to the secretary of state for filing an amendment to the company's certificate of organization stating:
 - (A) That the company has no members;
 - (B) The name and street and mailing addresses of the person; and
 - (C) That the person has been appointed pursuant to this subsection to wind up the company.
- (e) The district court may order judicial supervision of the winding up of a dissolved limited liability company, including the appointment of a person to wind up the company's activities and affairs:
- (1) On the application of a member, if the applicant establishes good cause;
 - (2) On the application of a transferee, if:
 - (A) The company does not have any members;
 - (B) The legal representative of the last person to have been a member declines or fails to wind up the company's activities; and
 - (C) Within a reasonable time following the dissolution, a person has not been appointed pursuant to subsection (c) of this section; or
 - (3) In connection with a proceeding under section 30-25-701(a), Idaho Code.

30-25-703.RESCINDING DISSOLUTION. (a) A limited liability company may rescind its dissolution, unless a statement of termination applicable to the company is effective, the district court has entered an order under section 30-25-701(a)(4), Idaho Code, dissolving the company, or the secretary of state has dissolved the company under section 30-25-708, Idaho Code.

- (b) Rescinding dissolution under this section requires:
- (1) The affirmative vote or consent of each member;
 - (2) If a statement of dissolution applicable to the limited liability company has been filed by the secretary of state but has not become effective, the delivery to the secretary of state for filing of a statement of withdrawal under section 30-21-208, Idaho Code, applicable to the statement of dissolution; and
 - (3) If a statement of dissolution applicable to the limited liability company is effective, the delivery to the secretary of state for filing of a statement of rescission stating the name of the company and that dissolution has been rescinded under this section.
- (c) If a limited liability company rescinds its dissolution:
- (1) The company resumes carrying on its activities and affairs as if dissolution had never occurred;
 - (2) Subject to paragraph (3) of this subsection, any liability incurred by the company after the dissolution and before the rescission is effective is determined as if dissolution had never occurred; and
 - (3) The rights of a third party arising out of conduct in reliance on the dissolution before the third party knew or had notice of the rescission may not be adversely affected.

30-25-704.KNOWN CLAIMS AGAINST DISSOLVED LIMITED LIABILITY COMPANY. (a) Except as otherwise provided in subsection (d) of this section, a dissolved limited liability company may give notice of a known claim under subsection (b) of this section, which has the effect provided in subsection (c) of this section.

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

- (1) Specify the information required to be included in a claim;
- (2) State that a claim must be in writing and provide a mailing address to which the claim is to be sent;
- (3) State the deadline for receipt of a claim, which may not be less than one hundred twenty (120) days after the date the notice is received by the claimant; and
- (4) State that the claim will be barred if not received by the deadline.

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

- (1) The claim is not received by the specified deadline; or
- (2) If the claim is timely received but rejected by the company:
 - (A) The company causes the claimant to receive a notice in a record stating that the claim is rejected and will be barred unless the claimant commences an action against the company to enforce the claim not later than ninety (90) days after the claimant receives the notice; and
 - (B) The claimant does not commence the required action not later than ninety (90) days after the claimant receives the notice.

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

30-25-705.OTHER CLAIMS AGAINST DISSOLVED LIMITED LIABILITY COMPANY. (a) A dissolved limited liability company may publish notice of its dissolution and request persons having claims against the company to present them in accordance with the notice.

(b) A notice under subsection (a) of this section must:

- (1) Be published at least once in a newspaper of general circulation in the county in this state in which the dissolved limited liability company's principal office is located or, if the principal office is not located in this state, in the county in which the office of the company's registered agent is or was last located;
- (2) Describe the information required to be contained in a claim, state that the claim must be in writing, and provide a mailing address to which the claim is to be sent; and
- (3) State that a claim against the company is barred unless an action to enforce the claim is commenced not later than three (3) years after publication of the notice.

(c) If a dissolved limited liability company publishes a notice in accordance with subsection (2) of this section, the claim of each of the following claimants is barred unless the claimant commences an action to enforce the claim against the company not later than three (3) years after the publication date of the notice:

- (1) A claimant that did not receive notice in a record under section 30-25-704, Idaho Code;
- (2) A claimant whose claim was timely sent to the company but not acted on; and
- (3) A claimant whose claim is contingent at, or based on an event occurring after, the date of dissolution.

(d) A claim not barred under this section or section 30-25-704, Idaho Code, may be enforced:

- (1) Against a dissolved limited liability company, to the extent of its undistributed assets; and
- (2) Except as otherwise provided in section 30-27-706, Idaho Code, if assets of the company have been distributed after dissolution, against a member or transferee to the extent of that person's proportionate share of the claim or of the company's assets distributed to the member or transferee after dissolution, whichever is less, but a person's total liability for all claims under this paragraph may not exceed the total amount of assets distributed to the person after dissolution.

30-25-706.COURT PROCEEDINGS. (a) A dissolved limited liability company that has published a notice under section 30-25-705, Idaho Code, may file an application with the district court in the county where the company's principal office is located or, if the principal office is not located in this state, where the office of its registered agent is or was last located, for a determination of the amount and form of security to be provided for payment of claims that are reasonably expected to arise after the date of dissolution based on facts known to the company and:

- (1) At the time of application:
 - (A) Are contingent; or
 - (B) Have not been made known to the company; or
- (2) Are based on an event occurring after the date of dissolution.
- (b) Security is not required for any claim that is or is reasonably anticipated to be barred under section 30-25-705, Idaho Code.
- (c) Not later than ten (10) days after the filing of an application under subsection (a) of this section, the dissolved limited liability company shall give notice of the proceeding to each claimant holding a contingent claim known to the company.
- (d) In a proceeding under this section, the court may appoint a guardian ad litem to represent all claimants whose identities are unknown. The reasonable fees and expenses of the guardian, including all reasonable expert witness fees, must be paid by the dissolved limited liability company.
- (e) A dissolved limited liability company that provides security in the amount and form ordered by the court under subsection (a) of this section satisfies the company's obligations with respect to claims that are contingent, have not been made known to the company, or are based on an event occurring after the date of dissolution, and such claims may not be enforced against a member or transferee on account of assets received in liquidation.

30-25-707.DISPOSITION OF ASSETS IN WINDING UP. (a) In winding up its activities and affairs, a limited liability company shall apply its assets to discharge its obligations to creditors, including members that are creditors.

(b) After a limited liability company complies with subsection (a) of this section, any surplus must be distributed in the following order, subject to any charging order in effect under section 30-25-503, Idaho Code:

- (1) To each person owning a transferable interest that reflects contributions made and not previously returned, an amount equal to the value of the unreturned contributions; and
- (2) Among members and persons dissociated as members in proportion to their respective rights to share in distributions immediately before the dissolution of the company, except to the extent necessary to comply with any transfer effective under section 30-25-502, Idaho Code.

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

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

30-25-708.SUBJECTS COVERED OUTSIDE CHAPTER. The following subjects are covered outside this chapter:

- (1) Administrative dissolution - sections 30-21-601 and 30-21-602, Idaho Code.
- (2) Reinstatement - section 30-21-603, Idaho Code.
- (3) Judicial review of denial of reinstatement - section 30-21-604, Idaho Code.

PART 8. ACTIONS BY MEMBERS

30-25-801.DIRECT ACTION BY MEMBER. (a) Subject to subsection (b) of this section, a member may maintain a direct action against another member, a manager, or the limited liability company to enforce the member's rights and protect the member's interests, including rights and interests under the operating agreement or this act or arising independently of the membership relationship.

[(b)](2) A member maintaining a direct action under this section must plead and prove an actual or threatened injury that is not solely the result of an injury suffered or threatened to be suffered by the limited liability company.

30-25-802.DERIVATIVE ACTION. A member may maintain a derivative action to enforce a right of a limited liability company if:

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

30-25-803.PROPER PLAINTIFF. A derivative action to enforce a right of a limited liability company may be maintained only by a person that is a member at the time the action is commenced and:

- (1) Was a member when the conduct giving rise to the action occurred; or
- (2) Whose status as a member devolved on the person by operation of law or pursuant to the terms of the operating agreement from a person that was a member at the time of the conduct.

30-25-804.PLEADING. In a derivative action, the complaint must state with particularity:

- (1) The date and content of plaintiff's demand and the response to the demand by the managers or other members; or
- (2) Why demand should be excused as futile.

30-25-805.SPECIAL LITIGATION COMMITTEE. (a) If a limited liability company is named as or made a party in a derivative proceeding, the company may appoint a special litigation committee to investigate the claims asserted in the proceeding and determine whether pursuing the action is in the best interests of the company. If the company appoints a special litigation committee, on motion by the committee made in the name of the company, except for good cause shown, the court shall stay discovery for the time reasonably necessary to permit the committee to make its investigation. This subsection does not prevent the court from:

- (1) Enforcing a person's right to information under section 30-25-410, Idaho Code; or
 - (2) Granting extraordinary relief in the form of a temporary restraining order or preliminary injunction.
- (b) A special litigation committee must be composed of one (1) or more disinterested and independent individuals, who may be members.
- (c) A special litigation committee may be appointed:
- (1) In a member-managed limited liability company:
 - (A) By the consent of a majority of the members not named as parties in the proceeding; or
 - (B) If all members are named as parties in the proceeding, by a majority of the members named as defendants; or
 - (2) In a manager-managed limited liability company:
 - (A) By a majority of the managers not named as parties in the proceeding; or
 - (B) If all managers are named as parties in the proceeding, by a majority of the managers named as defendants.
- (d) After appropriate investigation, a special litigation committee may determine that it is in the best interests of the limited liability company that the proceeding:
- (1) Continue under the control of the plaintiff;
 - (2) Continue under the control of the committee;
 - (3) Be settled on terms approved by the committee; or
 - (4) Be dismissed.
- (e) After making a determination under subsection (d) of this section, a special litigation committee shall file with the court a statement of its determination and its report supporting its determination and shall serve each party with a copy of the determination and report. The court shall determine whether the members of the committee were disinterested and independent and whether the committee conducted its investigation and made its recommendation in good faith, independently, and with reasonable care, with the committee having the burden of proof. If the court finds that the members of the committee were disinterested and independent and that the committee acted in good faith, independently, and with reasonable care, the court shall enforce the determination of the committee. Otherwise, the court shall dissolve the stay of discovery entered under subsection (a) of this section and allow the action to continue under the control of the plaintiff.

30-25-806.PROCEEDS AND EXPENSES. (a) Except as otherwise provided in subsection (b) of this section:

- (1) Any proceeds or other benefits of a derivative action, whether by judgment, compromise, or settlement, belong to the limited liability company and not to the plaintiff; and
 - (2) If the plaintiff receives any proceeds, the plaintiff shall remit them immediately to the company.
- (b) If a derivative action is successful in whole or in part, the court may award the plaintiff reasonable expenses, including reasonable attorney's fees and costs, from the recovery of the limited liability company.
- (c) A derivative action on behalf of a limited liability company may not be voluntarily dismissed or settled without the court's approval.