

CHAPTER 34 OF THE CONSOLIDATED LAWS

LIMITED LIABILITY COMPANY LAW

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ARTICLE I

SHORT TITLE AND DEFINITIONS

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§ 101. Short title. This chapter shall be known as the "New York Limited Liability Company Law."

§ 102. Definitions. (a) "Articles of organization" means the articles of organization filed with the department of state for the purpose of forming a limited liability company pursuant to section two hundred

three of this chapter, as amended or restated pursuant to section two hundred eleven or section two hundred fourteen of this chapter.

(a-1) "Affidavit of publication" means the affidavit of the printer or publisher of a newspaper in which a publication pursuant to sections two hundred six, eight hundred two, one thousand two hundred three, and one thousand three hundred six of this chapter has been made. The affidavit of publication shall be in a form substantially as follows:

"Affidavit of Publication Under Section _____ (specify applicable section) of the Limited Liability Company Law
State of New York,
County of _____, ss.:

The undersigned is the printer (or publisher) of _____ (name of newspaper), a _____ (daily or weekly) newspaper published in _____, New York. A notice regarding _____ (name of limited liability company) was published in said newspaper once in each week for six successive weeks, commencing on _____ and ending on _____. The text of the notice as published in said newspaper is as set forth below, or in the annexed exhibit. This newspaper has been designated by the Clerk of _____ County for this purpose.

_____ (signature)
_____(printed name),
(jurat)"

The text of the notice set forth in or annexed to each affidavit of publication shall: (i) include only the text of the published notice, (ii) be free of extraneous marks, and (iii) if submitted in paper form, be printed on paper of such size, weight and color, and in ink of such color, and in such font, and be in such other qualities and form not inconsistent with any other provision of law as, in the judgment of the secretary of state, will not impair the ability of the department of state to include a legible and permanent copy thereof in its official records. Nothing in this subdivision shall be construed as requiring the department of state to accept for filing a document submitted in electronic form.

(b) "Authorized foreign limited liability company" means a foreign limited liability company authorized to do business in this state

pursuant to article eight of this chapter.

(c) "Authorized person" means a person, whether or not a member, who is authorized by the operating agreement, or otherwise, to act on behalf of a limited liability company or foreign limited liability company.

(d) "Bankruptcy" means bankruptcy under the United States Bankruptcy Code, as amended, or insolvency under any state insolvency act.

(e) "Business" means every trade, occupation, profession or commercial activity.

(e-1) "Certificate of publication" means a certificate presented on behalf of the applicable limited liability company to the department of state together with the affidavits of publication pursuant to section two hundred six, eight hundred two, one thousand two hundred three, or one thousand three hundred six of this chapter. The certificate of publication shall be in a form substantially as follows:

"Certificate of Publication of _____ (name of limited liability company) Under Section _____ (specify applicable section) of the Limited Liability Company Law

The undersigned is the _____ (title) of _____ (name of limited liability company). The published notices described in the annexed affidavits of publication contain all of the information required by the above-mentioned section of the Limited Liability Company Law. The newspapers described in such affidavits of publication satisfy the requirements set forth in the Limited Liability Company Law and the designation made by the county clerk. I certify the foregoing statements to be true under penalties of perjury.

Date

Signature

Printed Name"

(f) "Contribution" means any cash, property, services rendered, or a promissory note or other binding obligation to contribute cash or property or to render services that a member contributes to a limited liability company in his or her capacity as a member.

(g) "Corporation" means a corporation formed under the laws of this state or a foreign corporation as defined in subdivision (j) of this section.

(h) "Court" means every court and judge of competent jurisdiction with

respect to a particular matter, action or case.

(i) "Distribution" means the transfer of property by a limited liability company to one or more of its members in his or her capacity as a member.

(j) "Foreign corporation" means a corporation formed under the laws of any jurisdiction, including any foreign country, other than the laws of this state.

(k) "Foreign limited liability company" means an unincorporated organization formed under the laws of any jurisdiction, including any foreign country, other than the laws of this state (i) that is not authorized to do business in this state under any other law of this state and (ii) of which some or all of the persons who are entitled (A) to receive a distribution of the assets thereof upon the dissolution of the organization or otherwise or (B) to exercise voting rights with respect to an interest in the organization have, or are entitled or authorized to have, under the laws of such other jurisdiction, limited liability for the contractual obligations or other liabilities of the organization.

(l) "Foreign limited partnership" means a partnership that is formed under the laws of any jurisdiction, including any foreign country, other than the laws of this state and that has as partners one or more general partners and one or more limited partners.

(m) "Limited liability company" and "domestic limited liability company" mean, unless the context otherwise requires, an unincorporated organization of one or more persons having limited liability for the contractual obligations and other liabilities of the business (except as authorized or provided in section six hundred nine or twelve hundred five of this chapter), other than a partnership or trust, formed and existing under this chapter and the laws of this state.

(n) "Limited partnership" means a limited partnership formed under the laws of this state or a foreign limited partnership as defined in subdivision (l) of this section.

(o) "Majority in interest of the members" means, unless otherwise provided in the operating agreement, the members whose aggregate share of the current profits of the limited liability company constitutes more than one-half of the aggregate of such shares of all members.

(p) "Manager" means, subject to section four hundred one of this

chapter, a person designated by the members to manage the limited liability company as provided in the operating agreement.

(q) "Member" means a person who has been admitted as a member of a limited liability company in accordance with the terms and provisions of this chapter and the operating agreement and has a membership interest in a limited liability company with the rights, obligations, preferences and limitations specified under this chapter and the operating agreement.

(r) "Membership interest" means a member's aggregate rights in a limited liability company, including, without limitation: (i) the member's right to a share of the profits and losses of the limited liability company; (ii) the member's right to receive distributions from the limited liability company; and (iii) the member's right to vote and participate in the management of the limited liability company.

(s) "Office of the limited liability company" means the office of the limited liability company, the location of which is stated in the articles of organization of a domestic limited liability company, or in the application for authority of a foreign limited liability company. Such office need not be a place where business activities are conducted by such limited liability company.

(t) "One-third in interest of the members" means, unless otherwise provided in the operating agreement, the members whose aggregate share of the current profits of the limited liability company constitutes one-third of the aggregate of such shares of all members.

(u) "Operating agreement" means any written agreement of the members concerning the business of a limited liability company and the conduct of its affairs and complying with section four hundred seventeen of this chapter.

(v) "Other business entity" means any person other than a natural person or domestic limited liability company.

(w) "Person" means any association, corporation, joint stock company, estate, general partnership (including any registered limited liability partnership or foreign limited liability partnership), limited association, limited liability company (including a professional service limited liability company), foreign limited liability company (including a foreign professional service limited liability company), joint venture, limited partnership, natural person, real estate investment

trust, business trust or other trust, custodian, nominee or any other individual or entity in its own or any representative capacity.

(x) "Process" means judicial process and all orders, demands, notices or other papers required or permitted by law to be personally served on a limited liability company or foreign limited liability company, for the purpose of acquiring jurisdiction of such limited liability company in any action or proceeding, civil or criminal, whether judicial, administrative, arbitratative or otherwise, in this state or in the federal courts sitting in or for this state.

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

(z) "Two-thirds in interest of the members" means, unless otherwise provided in the operating agreement, the members whose aggregate share of the current profits of the limited liability company constitutes two-thirds of the aggregate of such shares of all members.

(aa) "Foreign related limited liability partnership" has the meaning given to it in section two of the partnership law.

(bb) "Profession" has the meaning given to it in subdivision (b) of section twelve hundred one of this chapter.

(cc) "Registered limited liability partnership" has the meaning given to it in section two of the partnership law.

(dd) "Foreign limited liability partnership" has the meaning given to it in section two of the partnership law.

(ee) "Professional service limited liability company" has the meaning given to it in subdivision (f) of section twelve hundred one of this chapter.

(ff) "Foreign professional service limited liability company" has the meaning given to it in subdivision (a) of section thirteen hundred one of this chapter.

(gg) "Professional service corporation" has the meaning given to it in subdivision (e) of section twelve hundred one of this chapter.

(hh) "Foreign professional service corporation" has the meaning given to it in subdivision (d) of section fifteen hundred twenty-five of the business corporation law.

ARTICLE II

FORMATION

- Section 201. Purpose.
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209. Filing with the department of state.
210. Liability for false statement in articles or certificates.
211. Amendment of articles of organization.
- 211-A. Certificate of change.
212. Certificate of correction.
213. Authorization of amendment of articles of organization.
214. Restated articles of organization.

§ 201. Purpose. A limited liability company may be formed under this chapter for any lawful business purpose or purposes except to do in this state any business for which another statute specifically requires some other business entity or natural person to be formed or used for such business.

§ 202. Powers. Unless the articles of organization provide otherwise and subject to any limitations provided in this chapter or any other law of this state, a limited liability company may:

(a) sue or be sued, or institute, participate in or defend any action or proceeding, whether judicial, arbitrative, administrative or otherwise, in its name;

(b) purchase, take, receive, lease or otherwise acquire, own, hold, improve, use or otherwise deal in or with real or personal property or an interest in real or personal property, wherever situated;

(c) sell, convey, assign, encumber, mortgage, pledge, lease, exchange, transfer, create a security interest in or otherwise dispose of all or

part of its property or assets;

(d) purchase, take, receive, subscribe for or otherwise acquire, own, hold, vote, employ, sell, mortgage, lend, pledge or otherwise dispose of and otherwise use and deal in and with shares or other interests in, securities issued by and direct or indirect obligations of:

(1) other persons; or

(2) any government, state, territory, governmental district or municipality or of any instrumentality or subdivision of any of them;

(e) make contracts, including, but not limited to, contracts of guaranty and suretyship, incur liabilities, borrow money at such rates of interest as the limited liability company may determine, issue its notes, bonds or other obligations, secure any of its obligations by mortgage, pledge or other encumbrance of all or any part of its property, franchises and income, make contracts of guaranty and suretyship that are necessary or convenient to the conduct, promotion or attainment of the business of (i) a limited liability company or other person at least a majority of the outstanding membership or other ownership interests of which are owned, directly or indirectly, by the contracting limited liability company, (ii) a limited liability company or other person that owns, directly or indirectly, at least a majority of the outstanding membership interests of the contracting limited liability company or (iii) a limited liability company or other person at least a majority of the outstanding membership or other ownership interests of which are owned, directly or indirectly, by a limited liability company or other person that owns, directly or indirectly, at least a majority of the outstanding membership interests of the contracting limited liability company, which contracts of guaranty and suretyship shall be deemed to be necessary or convenient to the conduct, promotion or attainment of the business of the contracting limited liability company and make other contracts of guaranty and suretyship that are necessary or convenient to the conduct, promotion or attainment of the business of the contracting limited liability company. A limited liability company may make any contracts of guaranty and suretyship that are not necessary or convenient to the conduct, promotion or attainment of the business of the contracting limited liability company upon the vote of the percentage in interest of the members or class or classes of members provided in the operating agreement, or if no such percentage is

so stated, upon the vote of a majority in interest of the members entitled to vote thereon; provided, however, that the operating agreement may provide that no such vote is required;

(f) lend money for any lawful purpose, invest or reinvest its funds, or take and hold real or personal property as security for the payment of funds so loaned or invested;

(g) conduct its business, carry on its operations, maintain offices and exercise the powers granted by this chapter in any state, foreign country or other jurisdiction;

(h) elect or appoint managers, employees and agents of the limited liability company, define their duties and fix their compensation;

(i) assist, lend money to and transact other business with a member, manager, agent or employee of such limited liability company;

(j) make and alter its operating agreement, not inconsistent with its articles of organization or with the laws of this state, concerning the business of the limited liability company and the conduct of its affairs;

(k) indemnify a member or manager or any other person;

(l) pay pensions and establish pension plans, pension trusts, profit-sharing plans, profit-sharing trusts, equity bonus plans, equity option plans and other incentive plans for any of its members, managers, employees, agents or consultants or any of the directors, officers, managers, employees, agents or consultants of its affiliates;

(m) make donations for the public welfare or for charitable, scientific, religious, civic, educational or similar purposes;

(n) transact any lawful business in aid of governmental policy;

(o) be a promoter, shareholder, general partner, limited partner, member, associate or manager of any association, corporation, partnership, limited partnership, limited liability company, joint venture, trust or other entity or enterprise;

(p) cease its activities, cancel its articles of organization or dissolve; and

(q) have and exercise all powers, in addition to those set forth in subdivisions (a) through (p) of this section, not inconsistent with law, necessary or convenient to effect any or all of the purposes for which the limited liability company is formed. In order for a limited liability company to exercise the powers enumerated in this chapter, it

is not necessary to set forth such powers in the articles of organization.

§ 203. Formation. (a) One or more persons may act as an organizer or organizers to form a limited liability company by (i) preparing the articles of organization of such limited liability company in accordance with subdivision (e) of this section, (ii) executing such articles of organization in accordance with section two hundred seven of this article and (iii) filing such articles, entitled "Articles of organization of... (name of limited liability company) under section two hundred three of the Limited Liability Company Law," in accordance with section two hundred nine of this article.

(b) An organizer may, but need not be, a member of the limited liability company that he or she forms.

(c) At the time of its formation, a limited liability company must have at least one member.

(d) A limited liability company is formed at the time of the filing of the initial articles of organization with the department of state or at any later time specified in the articles of organization, not to exceed sixty days from the date of such filing. The filing of the articles of organization shall, in the absence of actual fraud, be conclusive evidence of the formation of the limited liability company as of the time of filing or effective date if later, except in an action or special proceeding brought by the attorney general. A limited liability company formed under this chapter shall be a separate legal entity, the existence of which as a separate legal entity shall continue until the cancellation of the limited liability company's articles of organization.

(e) The articles of organization of a limited liability company shall set forth:

(1) the name of the limited liability company;

(2) the county within this state in which the office of the limited liability company is to be located or if the limited liability company shall maintain more than one office in this state, the county in which the principal office of the limited liability company is to be located;

(3) if the limited liability company is to have a specific date of

dissolution in addition to the events of dissolution set forth in section seven hundred one of this chapter, the latest date on which the limited liability company is to dissolve;

(4) a designation of the secretary of state as agent of the limited liability company upon whom process against it may be served and the post office address within or without this state to which the secretary of state shall mail a copy of any process against the limited liability company served upon him or her. The limited liability company may include an email address to which the secretary of state shall email a notice of the fact that process against it has been electronically served upon him or her;

(5) if the limited liability company is to have a registered agent, its name and address within this state and a statement that the registered agent is to be the agent of the limited liability company upon whom process against it may be served;

(6) if all or specified members are to be liable in their capacity as members for all or specified debts, obligations or liabilities of the limited liability company as authorized pursuant to section six hundred nine of this chapter, a statement that all or specified members are so liable for such debts, obligations or liabilities in their capacity as members of the limited liability company as authorized pursuant to section six hundred nine of this chapter; and

(7) any other provisions, not inconsistent with law, that the members elect to include in the articles of organization for the regulation of the internal affairs of the limited liability company, including, but not limited to, (A) the business purpose for which the limited liability company is formed, (B) a statement of whether there are limitations on the authority of members or managers or a class or classes thereof to bind the limited liability company and (C) any provisions that are required or permitted to be included in the operating agreement of the limited liability company pursuant to section four hundred seventeen of this chapter.

§ 204. Limited liability company name. The name of each limited liability company as set forth in its articles of organization:

(a) shall contain without abbreviation the words "Limited Liability

Company" or the abbreviation "L.L.C." or "LLC";

(b) (1) shall be such as to distinguish it from the name of (i) any domestic limited liability company, (ii) any authorized foreign limited liability company or (iii) a fictitious name of an authorized foreign limited liability company filed pursuant to section eight hundred two of this chapter, in each case, as such names appear on the index of names of existing domestic and authorized foreign limited liability companies of any type or kind, including fictitious names of authorized foreign limited liability companies filed pursuant to section eight hundred two of this chapter, in the department of state, or names the right to which are reserved;

(2) shall be such as to distinguish it from (i) the names of domestic business corporations, domestic not-for-profit corporations and other domestic corporations of any type or kind that are formed by a filing in the department of state, (ii) the names of authorized foreign business corporations, authorized foreign not-for-profit corporations and other authorized foreign corporations of any type or kind that are authorized to do business or conduct activities in this state by reason of a filing in the department of state, (iii) the fictitious names of authorized foreign business corporations, authorized foreign not-for-profit corporations and other authorized foreign corporations of any type or kind that are authorized to do business or conduct activities in this state by reason of a filing in the department of state, (iv) the names of domestic limited partnerships, (v) the names of authorized foreign limited partnerships, or (vi) the fictitious names of authorized foreign limited partnerships, in each case, as such names appear on the index of names of existing domestic and authorized foreign corporations of any type or kind, including fictitious names of authorized foreign corporations of any type or kind, in the department of state, or on the index of names of existing domestic or authorized foreign limited partnerships, including fictitious names of authorized foreign limited partnerships, in the department of state, or names the rights to which are reserved; provided, however, that no limited liability company that was formed prior to the effective date of this paragraph and no foreign limited liability company that was qualified to do business in this state prior to such effective date shall be required to change the name or fictitious name it had on such effective date solely by reason of

such name or fictitious name being indistinguishable from the name or fictitious name of any domestic or authorized foreign corporation or limited partnership or from any name the right to which is reserved by or on behalf of any domestic or foreign corporation or limited partnership;

(c) shall, unless the limited liability company or foreign limited liability company shall have complied with the provisions of section one hundred thirty of the general business law, be the name used by the limited liability company in its conduct of business;

(d) shall not contain any word or phrase, or any abbreviation or derivative thereof, the use of which is prohibited or restricted by any other statute of this state, unless in the latter case the restrictions have been complied with;

(e) shall not contain the following phrases or any abbreviation or derivative thereof:

board of trade	state police
chamber of commerce	state trooper
community renewal	tenant relocation
corporation	urban development
incorporated	urban relocation
partnership	

(f) shall not contain the following words, or any abbreviation or derivative thereof:

acceptance	guaranty
annuity	indemnity
assurance	insurance
attorney	investment
bank	lawyer
benefit	loan
bond	mortgage
casualty	savings
doctor	surety
endowment	title
fidelity	trust
finance	underwriter

unless the approval of the superintendent of financial services is attached to the articles of organization or unless the word "doctor" or

"lawyer" or an abbreviation or derivative thereof is used in a context that clearly denotes a purpose other than the practice of law or medicine;

(g) shall not, unless the approval of the state department of social services is attached to the articles of organization or application for authority, contain the word "blind" or "handicapped." Such approval shall be granted by the state department of social services if in its opinion the word "blind" or "handicapped" as used in the limited liability company's proposed name will not tend to mislead or confuse the public into believing that the limited liability company is organized for charitable or nonprofit purposes related to the blind or the handicapped; and

(h) shall not, unless the approval of the attorney general is attached to the articles of organization or application for authority, contain the word "exchange" or any abbreviation or derivative thereof. Such approval shall not be granted by the attorney general if in his or her opinion the use of the word "exchange" in the limited liability company's proposed name would falsely imply that the limited liability company conducts its business at a place where trade is carried on in securities or commodities by brokers, dealers or merchants.

(i) shall not contain the following terms: "school," "education," "elementary," "secondary," "kindergarten," "prekindergarten," "preschool," "nursery school," "museum," "history," "historical," "historical society," "arboretum," "library," "college," "university" or other term restricted by section two hundred twenty-four of the education law; "conservatory," "academy," or "institute" or any abbreviation or derivative of such terms, shall have endorsed thereon or annexed thereto the consent of the commissioner of education.

§ 205. Reservation of name. (a) Subject to section two hundred four of this article, the exclusive right to the use of a name may be reserved by:

(1) any person intending to form or cause the formation of a domestic limited liability company under this chapter;

(2) any domestic limited liability company or any authorized foreign limited liability company intending to change its name;

(3) any foreign limited liability company intending to apply for authority to do business in this state and to adopt that name; and

(4) any person intending to form a foreign limited liability company and intending to have it apply for authority to do business in this state.

(b) A fictitious name for use pursuant to section eight hundred two of this chapter may be reserved by:

(1) any foreign limited liability company intending to apply for authority to do business in this state pursuant to section eight hundred two of this chapter;

(2) any authorized foreign limited liability company intending to change the fictitious name under which it does business in this state; and

(3) any authorized foreign limited liability company that has changed its name in its jurisdiction, such new name not being available in this state.

(c) Application to reserve a limited liability company name shall be delivered to the department of state. It shall set forth the name and address of the applicant, the name to be reserved and a statement of the basis for the application under subdivision (a) or (b) of this section. The secretary of state may require that there be included in the application a statement as to the nature of the business to be conducted by the limited liability company it being sufficient to state, either alone, or with other purposes, that the limited liability company intends to conduct any lawful act or activity for which limited liability companies may be formed under this chapter, provided that it also state that it is not intended to be formed to engage in any act or activity requiring the consent or approval of any state official, department, board or agency or other body without such consent or approval first being obtained. If the name is available for use by the applicant for a limited liability company, the department of state shall reserve the name for the use of the applicant for a period of sixty days and issue a certificate of reservation. The restrictions and qualifications set forth in section two hundred four of this article are not waived by the issuance of a certificate of reservation. The certificate of reservation shall include the name of the applicant, the name reserved and the date of reservation. The certificate of

reservation (or in lieu thereof an affidavit by the applicant or by his or her agent or attorney that the certificate of reservation has been lost or destroyed) shall accompany the articles of organization or the application for authority when either is delivered to the department of state. The secretary of state may extend the reservation for additional periods of not more than sixty days each, upon the written request of the applicant or his or her attorney in fact or agent delivered to the department of state and filed before expiration of the reservation period then in effect. Such request shall have attached to it the certificate of reservation. No more than two such extensions shall be granted.

(d) Upon request of the applicant, delivered to the department of state before the expiration of the reserved period, the department shall cancel the reservation.

(e) Upon the receipt of an application to reserve a limited liability company name by the department of state pursuant to this section, the department shall confirm such receipt by mail or email to the applicant at the address or email address set forth in such application. In addition, the department shall include, but not be limited to including, the following information in such mailing or email:

(1) contact information, including, but not limited to website, address and telephone number, of the New York state small business development center serving their region;

(2) contact information, including, but not limited to website, address and telephone number, of the New York state entrepreneurship assistance center serving their region;

(3) contact information, including, but not limited to the website, address and telephone number of business mentor NY; and

(4) contact information, including, but not limited to website, address and telephone number, of empire state development. Information regarding empire state development shall include direction to resources available on such website to support and assist new businesses.

§ 206. Affidavits of publication. (a) Within one hundred twenty days after the effectiveness of the initial articles of organization as determined pursuant to subdivision (d) of section two hundred three of

this article, a copy of the same or a notice containing the substance thereof shall be published once in each week for six successive weeks, in two newspapers of the county in which the office of the limited liability company is located, one newspaper to be printed weekly and one newspaper to be printed daily, to be designated by the county clerk. When such county is located within a city with a population of one million or more, such designation shall be as though the copy or notice were a notice or advertisement of judicial proceedings. Proof of the publication required by this subdivision, consisting of the certificate of publication of the limited liability company with the affidavits of publication of such newspapers annexed thereto, must be filed with the department of state. Notwithstanding any other provision of law, if the office of the limited liability company is located in a county wherein a weekly or daily newspaper of the county, or both, has not been so designated by the county clerk, then the publication herein required shall be made in a weekly or daily newspaper of any county, or both, as the case may be, which is contiguous to, such county, provided that any such newspaper meets all the other requirements of this subdivision. A copy or notice published in a newspaper other than the newspaper or newspapers designated by the county clerk shall not be deemed to be one of the publications required by this subdivision. The notice shall include: (1) the name of the limited liability company; (2) the date of filing of the articles of organization with the department of state and, if the date of formation is not the date of filing of the articles of organization, the date of the formation of the limited liability company; (3) the county within this state, in which the office of the limited liability company is located; (3-a) the street address of the principal business location, if any; (4) a statement that the secretary of state has been designated as agent of the limited liability company upon whom process against it may be served and the post office address within or without this state to which the secretary of state shall mail a copy of any process against it served upon him or her; (5) if the limited liability company is to have a registered agent, his or her name and address within this state and a statement that the registered agent is to be the agent of the limited liability company upon whom process against it may be served; (6) if the limited liability company is to have a specific date of dissolution in addition to the events of

dissolution set forth in section seven hundred one of this chapter, the latest date upon which the limited liability company is to dissolve; and (7) the character or purpose of the business of such limited liability company. Where, at any time after completion of the first of the six weekly publications required by this subdivision and prior to the completion of the sixth such weekly publication, there is a change in any of the information contained in the copy or notice as published, the limited liability company may complete the remaining publications of the original copy or notice, and the limited liability company shall not be required to publish any further or amended copy or notice. Where, at any time after completion of the six weekly publications required by this subdivision, there is a change to any of the information contained in the copy or notice as published, no further or amended publication or republication shall be required to be made. If within one hundred twenty days after its formation, proof of such publication, consisting of the certificate of publication of the limited liability company with the affidavits of publication of the newspapers annexed thereto has not been filed with the department of state, the authority of such limited liability company to carry on, conduct or transact any business in this state shall be suspended, effective as of the expiration of such one hundred twenty day period. The failure of a limited liability company to cause such copy or notice to be published and such certificate of publication and affidavits of publication to be filed with the department of state within such one hundred twenty day period or the suspension of such limited liability company's authority to carry on, conduct or transact business in this state pursuant to this subdivision shall not limit or impair the validity of any contract or act of such limited liability company, or any right or remedy of any other party under or by virtue of any contract, act or omission of such limited liability company, or the right of any other party to maintain any action or special proceeding on any such contract, act or omission, or right of such limited liability company to defend any action or special proceeding in this state, or result in any member, manager or agent of such limited liability company becoming liable for the contractual obligations or other liabilities of the limited liability company. If, at any time following the suspension of a limited liability company's authority to carry on, conduct or transact business in this state

pursuant to this subdivision, such limited liability company shall cause proof of publication in substantial compliance with the provisions (other than the one hundred twenty day period) of this subdivision, consisting of the certificate of publication of the limited liability company with the affidavits of publication of the newspapers annexed thereto, to be filed with the department of state, such suspension of such limited liability company's authority to carry on, conduct or transact business shall be annulled.

(b)(1) A limited liability company which was formed prior to the effective date of this subdivision and which complied with the publication and filing requirements of this section as in effect prior to such effective date shall not be required to make any publication or republication or any filing under subdivision (a) of this section, and shall not be subject to suspension pursuant to this section.

(2) Within twelve months after the effective date of this subdivision, a limited liability company, which was formed prior to such effective date, and which did not comply with the publication and filing requirements of this section as in effect prior to such effective date, shall publish a copy of its articles of organization or a notice containing the substance thereof in the manner required (other than the one hundred twenty day period) by this section as in effect prior to such effective date and file proof of such publication, consisting of the certificate of publication of the limited liability company with the affidavits of publication of the newspapers annexed thereto, with the department of state.

(3) If a limited liability company that is subject to the provisions of paragraph two of this subdivision fails to file the required proof of publication with the department of state within twelve months after the effective date of this subdivision, its authority to carry on, conduct or transact any business in this state shall be suspended, effective as of the expiration of such twelve month period.

(4) The failure of a limited liability company that is subject to the provisions of paragraph two of this subdivision to fully comply with the provisions of said paragraph two or the suspension of such limited liability company's authority to carry on, conduct or transact any business in this state pursuant to paragraph three of this subdivision shall not impair or limit the validity of any contract or act of such

limited liability company, or any right or remedy of any other party under or by virtue of any contract, act or omission of such limited liability company, or the right of any other party to maintain any action or special proceeding on any such contract, act or omission, or right of such limited liability company to defend any action or special proceeding in this state, or result in any member, manager or agent of such limited liability company becoming liable for the contractual obligations or other liabilities of the limited liability company.

(5) If, at any time following the suspension of a limited liability company's authority to carry on, conduct or transact business in this state, pursuant to paragraph three of this subdivision, such limited liability company shall cause proof of publication in substantial compliance with the provisions (other than the one hundred twenty day period) of subdivision (a) of this section, consisting of the certificate of publication of the limited liability company with the affidavits of publication of the newspapers annexed thereto, to be filed with the department of state, such suspension of such limited liability company's authority to carry on, conduct or transact business shall be annulled.

(6) For the purposes of this subdivision, a limited liability company which was formed prior to the effective date of this subdivision shall be deemed to have complied with the publication and filing requirements of this section as in effect prior to such effective date if (i) the limited liability company was formed on or after January first, nineteen hundred ninety-nine and prior to such effective date and the limited liability company filed at least one affidavit of the printer or publisher of a newspaper with the department of state at any time prior to such effective date, or (ii) the limited liability company was formed prior to January first, nineteen hundred ninety-nine, without regard to whether the limited liability company did or did not file any affidavit of the printer or publisher of a newspaper with the secretary of state.

(c) The information in a notice published pursuant to this section shall be presumed to be in compliance with and satisfaction of the requirements of this section.

§ 207. Execution of articles or certificates. (a) Each article or

certificate required by this chapter to be filed with the department of state shall be executed in the following manner:

(1) the initial articles of organization must be signed by an organizer or organizers of the limited liability company;

(2) a certificate of amendment must be signed by at least one member, manager or authorized person of the limited liability company;

(3) restated articles of organization or amended and restated articles of organization must be signed by at least one member, manager or authorized person of the limited liability company;

(4) a certificate of correction must be signed by at least one member, manager or authorized person of the limited liability company;

(5) a certificate of cancellation must be signed by at least one member, manager or authorized person of the limited liability company; and

(6) all other certificates must be signed by at least one member, manager or authorized person of the limited liability company.

(b) Any person may sign any articles or certificate by an attorney in fact. Powers of attorney relating to the signing of articles or a certificate by an attorney in fact need not be filed with the department of state or provided as evidence of authority by the person filing but must be retained in the records of the limited liability company.

(c) Each article or certificate must be signed.

(d) Each article or certificate must include the name and capacity of each signer.

§ 208. Execution, amendment or cancellation by judicial act. If a person required by section two hundred seven of this article to execute articles or a certificate fails or refuses to do so, any member or any permitted assignee of a membership interest who is adversely affected by such failure or refusal may petition the supreme court in the judicial district in which the office of the limited liability company is or is to be located to direct the execution of such articles or certificate. If the court finds that such articles or certificate should be executed and that such person has failed or refused to execute such articles or certificate, it shall order such person to file the appropriate articles or certificate.

§ 209. Filing with the department of state. A signed articles of organization and any signed certificate of amendment or other certificates filed pursuant to this chapter or of any judicial decree of amendment or cancellation shall be delivered to the department of state. If the instrument that is delivered to the department of state for filing complies as to form with the requirements of law and the filing fee required by any statute of this state in connection therewith has been paid, the instrument shall be filed and indexed by the department of state. The department of state shall not review such articles or certificates for legal sufficiency; its review shall be limited to determining that the form has been completed.

§ 210. Liability for false statement in articles or certificates. (a) If any articles of organization, certificate of amendment or other certificate filed pursuant to this chapter contains a materially false statement, one who suffers loss by reasonable reliance on the statement may recover damages for the loss from:

(1) any person who executes the articles of organization or certificate, or caused another to execute it on his or her behalf, and knew, and any manager who knew of the filing of such articles or certificate and who knew or should have known with the exercise of reasonable care and diligence, the statement to be false in any material respect at the time the articles or certificate was executed; and

(2) any manager who thereafter knows of the filing of such articles or certificate and who knows or should have known with the exercise of reasonable care and diligence that any arrangement or other fact described in such articles or certificate has changed, making the statement false in any material respect.

(b) Notwithstanding paragraph two of subdivision (a) of this section, no person shall have any liability for failing to cause the amendment or cancellation of the articles of organization or a certificate to be filed or failing to file a petition for its amendment or cancellation, if the articles of organization, certificate or petition is filed within ninety days of the time when that person knew or should have known that

the statement in the articles of organization or certificate was false in any material respect.

§ 211. Amendment of articles of organization. (a) A limited liability company may amend its articles of organization, from time to time, in any and as many respects as may be desired by (i) preparing a certificate of amendment, entitled "Certificate of amendment of the articles of organization of... (name of limited liability company) under section two hundred eleven of the Limited Liability Company Law," in accordance with this section, (ii) executing such certificate of amendment in accordance with section two hundred seven of this article and (iii) filing such certificate of amendment in accordance with section two hundred nine of this article.

(b) The certificate of amendment may set forth only such provisions as might be lawfully contained in the initial articles of organization filed at the time of making such amendment.

(c) The certificate of amendment shall set forth:

(1) the name of the limited liability company and, if it has been changed, the name under which it was formed;

(2) the date of filing its initial articles of organization; and

(3) each amendment effected thereby, setting forth the subject matter of each provision of the articles of organization that is to be amended or eliminated and the full text of the provision or provisions, if any, which are to be substituted or added.

(d) In particular, but without limiting the general power of amendment as stated in subdivision (b) of this section, a limited liability company shall amend its articles of organization no later than ninety days after the happening of any of the following events:

(1) a change in the name of the limited liability company;

(2) a change in the county within this state in which the office of the limited liability company is to be located;

(3) a change in the latest date, if any, on which the limited liability company is to dissolve;

(4) the continuation of the limited liability company under section seven hundred one of this chapter after an event of dissolution;

(5) a change in the name or street address of its registered agent in

the state if such change is made other than pursuant to section three hundred two of this chapter;

(6) a change in the post office address to which the secretary of state shall mail a copy of any process against the limited liability company served upon him or her if such change is made other than pursuant to section three hundred one of this chapter;

(7) a change in whether the limited liability company is to be managed by one or more members of a class or classes of members or by one or more managers or a class or classes of managers;

(8) the discovery of a materially false or inaccurate statement in the articles of organization;

(9) the decision to change any other statement in the articles of organization; and

(10) to specify, change or delete the email address to which the secretary of state shall email a notice of the fact that process against the limited liability company has been electronically served upon him or her.

(e) Unless otherwise provided in this chapter, a certificate of amendment shall be effective at the time of its filing with the department of state.

§ 211-A. Certificate of change. (a) A limited liability company may amend its articles of organization from time to time to (i) specify or change the location of the limited liability company's office; (ii) specify or change the post office address to which the secretary of state shall mail a copy of any process against the limited liability company served upon him or her; (iii) specify, change or delete the email address to which the secretary of state shall email a notice of the fact that process against the limited liability company has been electronically served upon him or her; and (iv) make, revoke or change the designation of a registered agent, or specify or change the address of the registered agent. Any one or more such changes may be accomplished by filing a certificate of change which shall be entitled "Certificate of Change of (name of limited liability company) under section 211-A of the Limited Liability Company Law" and shall be signed and delivered to the department of state. It shall set forth:

(1) the name of the limited liability company, and if it has been changed, the name under which it was formed;

(2) the date the articles of organization were filed by the department of state; and

(3) each change effected thereby.

(b) A certificate of change which changes only the post office address to which the secretary of state shall mail a copy of any process against a limited liability company served upon him or her, and/or the email address to which the secretary of state shall email a notice of the fact that process against it has been electronically served upon the secretary of state and/or the address of the registered agent, provided such address being changed, and/or the email address being changed is the email address of a person, partnership or other corporation whose email address, as agent, is the email address to be changed, is the address of a person, partnership or corporation whose address, as agent, is the address to be changed or who has been designated as registered agent for such limited liability company may be signed and delivered to the department of state by such agent. The certificate of change shall set forth the statements required under subdivision (a) of this section; that a notice of the proposed change was mailed to the domestic limited liability company by the party signing the certificate not less than thirty days prior to the date of delivery to the department of state and that such domestic limited liability company has not objected thereto; and that the party signing the certificate is the agent of such limited liability company to whose address the secretary of state is required to mail copies of process, and/or the agent of the limited liability company to whose email address of the secretary of state is required to email a notice of the fact that process against it has been electronically served upon the secretary of state, or the registered agent, if such be the case. A certificate signed and delivered under this subdivision shall not be deemed to effect a change of location of the office of the limited liability company in whose behalf such certificate is filed.

§ 212. Certificate of correction. The articles of organization, any certificate or any other instrument relating to a domestic or foreign

limited liability company filed with the department of state under this chapter may be corrected with respect to any informality or error apparent on the face, incorrect statement or defect in the execution thereof, including the deletion of any matter not permitted to be stated therein. A certificate, entitled "Certificate of correction of... (title of articles or certificate and name of limited liability company) under section two hundred twelve of the Limited Liability Company Law," shall be signed and delivered to the department of state. It shall set forth the name of the limited liability company, the date the articles or certificate to be corrected was filed by the department of state, a statement as to the nature of the informality, error, incorrect statement or defect, the provision in the articles or certificate as corrected or eliminated and, if the execution was defective, the proper execution. The filing of the certificate of correction with the department of state shall not alter the effective date of the instrument being corrected and shall not affect any right or liability accrued or incurred before such filing. A name of a limited liability company may not be changed or corrected pursuant to this section.

§ 213. Authorization of amendment of articles of organization. (a) Except as provided in the operating agreement, an amendment of the articles of organization shall be authorized by at least a majority in interest of the members entitled to vote thereon.

(b) Notwithstanding subdivision (a) of this section, unless the operating agreement provides otherwise (including, but not limited to, by restricting or enlarging the management powers or responsibilities of one or more managers or classes of managers), if the limited liability company is managed by one or more managers then any of the following amendments may be authorized by a majority of such managers:

(1) to change the name or street address of the registered agent, if any, of the limited liability company in the state;

(2) to change the post office address to which the secretary of state shall mail a copy of any process against the limited liability company served upon him or her; and

(3) to correct any error in the articles of organization pursuant to section two hundred twelve of this article.

§ 214. Restated articles of organization. (a) A limited liability company may at any time, and from time to time, restate in a single instrument entitled "Restated Articles of Organization of(name of limited liability company) under section two hundred fourteen of the Limited Liability Company Law", the text of its articles of organization, without making any amendment thereby. Alternatively, a limited liability company may restate in a single instrument the text of its articles of organization and as amended thereby to effect any one or more of the amendments authorized by this article.

(b) The restated or amended and restated articles of organization, as the case may be, shall be executed in accordance with section two hundred seven of this article.

(c) The restated articles of organization shall be filed with the department of state in accordance with section two hundred nine of this article and shall set forth:

(1) the name of the limited liability company and, if it has been changed, the name under which it was formed;

(2) the date of filing of its articles of organization; and

(3) if the restated articles of organization restate the text of the articles of organization without making any amendments, then a statement that the text of the articles of organization is thereby restated without amendment to read as therein set forth in full; or

(4) if the restated articles restate the text of the articles of organization, and is amended thereby, then a statement that the articles of organization is amended to effect one or more of the amendments authorized by this chapter, specifying each such amendment and that the text of the articles of organization is thereby restated as amended to read as therein set forth in full.

(d) Any amendments effected in connection with the restatement of the articles of organization shall be subject to any other provisions of this chapter, including, but not limited to, section two hundred thirteen of this article, that would apply if a separate certificate of amendment were filed to effect such amendment.

(e) Unless otherwise provided in this chapter, the restated or amended and restated articles of organization, as the case may be, shall be

effective at the time of its filing with the department of state.

*** § 215. Beneficial ownership disclosure.** (a) When filing the articles of organization pursuant to section two hundred three of this article or filing an amendment of the articles of organization pursuant to section two hundred eleven of this article, the reporting company shall file with the department of state a beneficial ownership disclosure, and any updates to such information, as may be applicable, identifying each beneficial owner by: (1) full legal name; (2) date of birth; (3) current business street address; and (4) a unique identifying number from an acceptable identification document defined in 31 U.S.C. § 5336 (a)(1). Provided, however, that where an initial report contains the information required herein, a reporting company may submit a copy of the initial report, submitted to the federal government pursuant to 31 U.S.C. § 5336, to satisfy the requirements of this section.

(b) All personal or identifying information of beneficial owners provided to the department of state under this section not required to be included in the business entity database pursuant to section one hundred-b of the executive law, shall be deemed confidential except for the purposes of law enforcement, or as otherwise required to be disclosed pursuant to a court order. If confidential information associated with a beneficial owner is held electronically, such records shall be encrypted or protected in a substantially similar manner. The department of state shall, upon the filing of each beneficial ownership disclosure, assign each beneficial owner of a limited liability company an anonymized unique identifying number, which shall not be based on any personally identifying number including but not limited to a social security or tax identification number assigned to or associated with such beneficial owner.

(c) (1) Each reporting company formed on or before the effective date of this section shall file the information required under subdivision (a) of this section; and each exempt company formed on or before the effective date of this section shall file a statement signed by a member or manager indicating the provision or provisions of 31 U.S.C. § 5336(a)(11)(B), excluding such company from the definition of a reporting company, with the department of state no later than January

first, two thousand twenty-five.

(2) A reporting company which has failed to file the beneficial ownership disclosure as required by this section for a period exceeding thirty days shall be shown to be past due on the records of the department of state until an up-to-date beneficial ownership disclosure is filed with the department.

(3) A reporting company which has failed to file the beneficial ownership disclosure as required by this section for a period exceeding two years shall be shown to be delinquent on the records of the department of state after a notice of delinquency has been mailed to the last known business address of such reporting company, and such company has failed to file such information within sixty days of the mailing of such notice. Such delinquency shall be removed from the records of the department of state upon the filing of an up-to-date beneficial ownership disclosure, and the payment of a civil penalty of two hundred fifty dollars.

* NB Effective and Repealed January 1, 2026

ARTICLE III

SERVICE OF PROCESS

Section 301. Statutory designation of secretary of state as agent for service of process.

301-A. Resignation for receipt of process.

301-b. Electronic service of process.

302. Registered agent for service of process.

303. Service of process on limited liability companies.

304. Service of process on unauthorized foreign limited liability companies.

305. Records of process served on the secretary of state.

§ 301. Statutory designation of secretary of state as agent for service of process. (a) The secretary of state shall be the agent of every domestic limited liability company that has filed with the department of state articles of organization making such designation and every foreign limited liability company upon which process may be served

pursuant to this chapter.

(b) No domestic or foreign limited liability company may be formed or authorized to do business in this state under this chapter unless its articles of organization or application for authority designates the secretary of state as such agent.

(c) Any designated post office address to which the secretary of state shall mail a copy of process served upon him or her as agent of a domestic limited liability company or a foreign limited liability company shall continue until the filing of a certificate or other instrument under this chapter directing the mailing to a different post office address and any designated email address to which the secretary of state shall email a notice of the fact that process has been electronically served upon him or her as agent of a domestic limited liability company or foreign limited liability company, shall continue until the filing of a certificate or other instrument under this chapter changing or deleting such email address.

(e) (1) Except as otherwise provided in this subdivision, every limited liability company to which this chapter applies, shall biennially in the calendar month during which its articles of organization or application for authority were filed, or effective date thereof if stated, file on forms prescribed by the secretary of state, a statement setting forth the post office address within or without this state to which the secretary of state shall mail a copy of any process accepted against it served upon him or her. Such address shall supersede any previous address on file with the department of state for this purpose.

(2) The commissioner of taxation and finance and the secretary of state may agree to allow limited liability companies to include the statement specified in paragraph one of this subdivision on tax reports filed with the department of taxation and finance in lieu of biennial statements and in a manner prescribed by the commissioner of taxation and finance. If this agreement is made, starting with taxable years beginning on or after January first, two thousand sixteen, each limited liability company required to file the statement specified in paragraph one of this subdivision that is subject to the filing fee imposed by paragraph three of subsection (c) of section six hundred fifty-eight of the tax law shall provide such statement annually on its filing fee

payment form filed with the department of taxation and finance in lieu of filing a statement under this section with the department of state. However, each limited liability company required to file a statement under this section must continue to file the biennial statement required by this section with the department of state until the limited liability company in fact has filed a filing fee payment form with the department of taxation and finance that includes all required information. After that time, the limited liability company shall continue to provide annually the statement specified in paragraph one of this subdivision on its filing fee payment form in lieu of the biennial statement required by this subdivision.

(3) If the agreement described in paragraph two of this subdivision is made, the department of taxation and finance shall deliver to the department of state the statement specified in paragraph one of this subdivision contained on filing fee payment forms. The department of taxation and finance must, to the extent feasible, also include the current name of the limited liability company, department of state identification number for such limited liability company, the name, signature and capacity of the signer of the statement, name and street address of the filer of the statement, and the email address, if any, of the filer of the statement.

301-A. Resignation for receipt of process. (a) The party (or his/her legal representative) whose post office address has been supplied by a domestic limited liability company or foreign limited liability company as its address for process may resign. A certificate entitled "Certificate of Resignation for Receipt of Process under section 301-A of the Limited Liability Company Law" shall be signed by such party and delivered to the department of state. It shall set forth:

(1) the name of the limited liability company and the date that its articles of organization or application for authority was filed by the department of state.

(2) that the address of the party has been designated by the limited liability company as the post office address to which the secretary of state shall mail a copy of any process served on the secretary of state as agent for such limited liability company, and that such party wishes

to resign.

(3) that sixty days prior to the filing of the certificate of resignation with the department of state the party has sent a copy of the certificate of resignation for receipt of process by registered or certified mail to the address of the registered agent of the designated limited liability company, if other than the party filing the certificate of resignation, for receipt of process, or if the resigning limited liability company has no registered agent, then to the last address of the designated limited liability company known to the party, specifying the address to which the copy was sent. If there is no registered agent and no known address of the designating limited liability company, the party shall attach an affidavit to the certificate stating that a diligent but unsuccessful search was made by the party to locate the limited liability company, specifying what efforts were made.

(4) that the designated limited liability company is required to deliver to the department of state a certificate of amendment or change providing for the designation by the limited liability company of a new address, and that upon its failure to file such certificate its authority to do business in this state shall be suspended.

(b) Upon the failure of the designating limited liability company to file a certificate of amendment or certificate of change providing for the designation by the limited liability company of the new address after the filing of a certificate of resignation for receipt of process with the secretary of state, its authority to do business in this state shall be suspended.

(c) The filing by the department of state of a certificate of amendment or certificate of change or the filing of a statement under section three hundred one of this article providing for a new address by a designating limited liability company shall annul the suspension and its authority to do business in this state shall be restored and continued as if no suspension had occurred.

(d) The resignation for receipt of process shall become effective upon the filing by the department of state of a certificate of resignation for receipt of process.

(e)(1) In any case in which a limited liability company suspended pursuant to this section would be subject to the personal or other

jurisdiction of the courts of this state under article three of the civil practice law and rules, process against such limited liability company may be served upon the secretary of state as its agent pursuant to this section. Such process may be issued in any court in this state having jurisdiction of the subject matter.

(2) Service of such process upon the secretary of state shall be made by personally delivering to and leaving with him or his deputy, or with any person authorized by the secretary of state to receive such service, at the office of the department of state in the city of Albany, a copy of such process together with the statutory fee, which fee shall be a taxable disbursement. Such service shall be sufficient if notice thereof and a copy of the process are:

(i) delivered personally within or without that state to such limited liability company by a person and in the manner authorized to serve process by law of the jurisdiction in which service is made, or

(ii) sent by or on behalf of the plaintiff to such limited company by registered or certified mail with return receipt requested to the last address of such limited liability company known to the plaintiff.

(3)(i) Where service of a copy of process was effected by personal service, proof of service shall be by affidavit of compliance with the section filed, together with the process, within thirty days after such service, with the clerk of the court in which the action or special proceeding is pending. Service of process shall be complete ten days after such papers are filed with the clerk of the court.

(ii) Where service of a copy of process was effected by mailing in accordance with this section, proof of service shall be by affidavit of compliance with this section filed, together with the process, within thirty days after receipt of the return receipt signed by the limited liability company or other official proof of delivery or of the original envelope mailed. If a copy of the process is mailed in accordance with this section, there shall be filed with the affidavit of compliance either the return receipt signed by such limited company or other official proof of delivery, if acceptance was refused by it, the original envelope with a notation by the postal authorities that acceptance was refused. If acceptance was refused a copy of the notice and process together with notice of the mailing by registered or certified mail and refusal to accept shall be promptly sent to such

limited liability company at the same address by ordinary mail and the affidavit of compliance shall so state. Service of process shall be complete ten days after such papers are filed with the clerk of the court. The refusal to accept delivery of the registered or certified mail or to sign the return receipt shall not affect the validity of the service and such limited liability company refusing to accept such registered or certified mail shall be charged with knowledge of the contents thereof.

(4) Service made as provided in this section without the state shall have the same force as personal service made within this state.

(5) Nothing in this section shall affect the right to serve process in any other manner permitted by law.

§ 301-b. Electronic service of process. The secretary of state shall advise any limited liability company subject to the laws of this chapter in prominent written form as follows: (a) electronic service of process authorized by the provisions of this chapter is an optional program at no additional cost to the user; (b) any limited liability company subject to the laws of this chapter will continue to receive service of process by mail unless such limited liability company notifies the secretary of an affirmative choice to receive service of process by way of the program through electronic means, in which case digital copies will be made accessible but paper documents will not be mailed; and (c) such choice may be reversed by the limited liability company at any time and, thereafter, service by mail will resume.

§ 302. Registered agent for service of process. (a) In addition to the designation of the secretary of state, each domestic limited liability company or authorized foreign limited liability company may designate a registered agent upon whom process against the limited liability company may be served.

(b) The agent must be either:

(1) a natural person who is a resident of this state or has a business address in this state;

(2) a domestic limited liability company or an authorized foreign

limited liability company; or

(3) a domestic corporation or a foreign corporation authorized to do business in this state.

(d) The registered agent of a limited liability company may resign as such agent. The registered agent shall file a certificate with the department of state entitled "Certificate of resignation of registered agent of... (name of limited liability company) under subdivision (d) of section three hundred two of the Limited Liability Company Law" and executed by such registered agent. Such certificate shall set forth:

(1) the name of the limited liability company, and if it has been changed, the name under which it was formed. With respect to a foreign limited liability company, there shall be set forth its name and, if applicable, the fictitious name the foreign limited liability company has agreed to use in this state pursuant to section eight hundred two of this chapter;

(2) the date the articles of organization or application for authority was filed by the department of state;

(3) that he or she resigns as registered agent of the limited liability company; and

(4) that he or she has sent a copy of the certificate of resignation by registered mail to the limited liability company at the post office address on file with the department of state specified for the mailing of process or, if such address is the address of the registered agent, to the office of the limited liability company in the jurisdiction of its formation.

(e) The designation of a registered agent shall terminate thirty days after the filing with the department of state of the certificate of resignation. A certificate designating a new registered agent may be delivered to the department of state by the limited liability company within the thirty days or thereafter.

§ 303. Service of process on limited liability companies. (a)

* Service of process on the secretary of state as agent of a domestic limited liability company or authorized foreign limited liability company shall be made in the manner provided by paragraph one or two of this subdivision. Either option of service authorized pursuant to this

subdivision shall be available at no extra cost to the consumer.

* NB Effective until February 24, 2027

* Service of process on the secretary of state as agent of a domestic limited liability company or authorized foreign limited liability company shall be made in the manner provided by paragraph one, two or three of this subdivision. Each option of service authorized pursuant to this subdivision shall be available at no extra cost to the consumer.

* NB Effective February 24, 2027

(1) Personally delivering to and leaving with the secretary of state or his or her deputy, or with any person authorized by the secretary of state to receive such service, at the office of the department of state in the city of Albany, duplicate copies of such process together with the statutory fee, which fee shall be a taxable disbursement. Service of process on such limited liability company shall be complete when the secretary of state is so served. The secretary of state shall promptly send one of such copies by certified mail, return receipt requested, to such limited liability company at the post office address on file in the department of state specified for that purpose. (2) Electronically submitting a copy of the process to the department of state together with the statutory fee, which fee shall be a taxable disbursement, through an electronic system operated by the department of state, provided the domestic or authorized foreign limited liability company has an email address on file in the department of state to which the secretary of state shall email a notice of the fact that process has been served electronically on the secretary of state. Service of process on such limited liability company shall be complete when the secretary of state has reviewed and accepted service of such process. The secretary of state shall promptly send a notice of the fact that process against such limited liability company has been served electronically on him or her to such limited liability company at the email address on file in the department of state, specified for the purpose and shall make a copy of the process available to such limited liability company.

* (3) Provided process is served by or on behalf of the state or a city, town, village or other political subdivision of the state, by electronically submitting a copy of the process to the department of state, through an electronic system operated by and with capabilities determined by the department of state, together with the statutory fee,

if required, which fee shall be a taxable disbursement. Service of process on such limited liability company shall be complete when the secretary of state has reviewed and accepted service of such process. The secretary of state shall promptly either: (A) send a copy of such process by certified mail, return receipt requested, to such limited liability company, at the post office address, on file in the department of state, specified for the purpose; or (B) email a notice of the fact that process against the limited liability company has been served electronically on the secretary of state to the email address on file in the department of state, specified for the purpose and shall make a copy of the process available to such limited liability company.

* NB Effective February 24, 2027

(b) Nothing in this section shall limit or affect the right to serve any process required or permitted by law to be served upon a limited liability company in any other manner now or hereafter permitted by law or applicable rules of procedure.

§ 304. Service of process on unauthorized foreign limited liability companies. (a) In any case in which a non-domiciliary would be subject to the personal or other jurisdiction of the courts of this state under article three of the civil practice law and rules, a foreign limited liability company not authorized to do business in this state is subject to a like jurisdiction. In any such case, process against such foreign limited liability company may be served upon the secretary of state as its agent. Such process may issue in any court in this state having jurisdiction of the subject matter.

(b) Service of such process upon the secretary of state shall be made in the manner provided by paragraph one or two of this subdivision. Either option of service authorized pursuant to this subdivision shall be available at no extra cost to the consumer.

(1) Personally delivering to and leaving with the secretary of state or his or her deputy, or with any person authorized by the secretary of state to receive such service, at the office of the department of state in the city of Albany, a copy of such process together with the statutory fee, which fee shall be a taxable disbursement.

(2) Electronically submitting a copy of the process to the department

of state together with the statutory fee, which fee shall be a taxable disbursement, through an electronic system operated by the department of state.

(c) Such service shall be sufficient if notice thereof and a copy of the process are:

(1) delivered personally outside this state to such foreign limited liability company by a person and in the manner authorized to serve process by law of the jurisdiction in which service is made; or

(2) sent by or on behalf of the plaintiff to such foreign limited liability company by registered mail, return receipt requested, at the post office address specified for the purpose of mailing process, on file in the department of state, or with any official or body performing the equivalent function, in the jurisdiction of its formation, or if no such address is specified, to its registered or other office specified, or if no such office is specified, to the last address of such foreign limited liability company known to the plaintiff.

(d) Where service of a copy of process was effected by personal service, proof of service shall be by affidavit of compliance with this section filed, together with the process, within thirty days after such service, with the clerk of the court in which the action or special proceeding is pending. Service of process shall be complete ten days after such papers are filed with the clerk of the court.

(e) Where service of a copy of process was effected by mailing in accordance with this section, proof of service shall be by affidavit of compliance with this section filed, together with the process, within thirty days after receipt of the return receipt signed by the foreign limited liability company or other official proof of delivery or of the original envelope mailed. If a copy of the process is mailed in accordance with this section, there shall be filed with the affidavit of compliance either the return receipt signed by such foreign limited liability company or other official proof of delivery or, if acceptance was refused by it, the original envelope with a notation by the postal authorities that acceptance was refused. If acceptance was refused, a copy of the notice and process together with notice of the mailing by registered mail and refusal to accept shall be promptly sent to such foreign limited liability company at the same address by ordinary mail and the affidavit of compliance shall so state. Service of process shall

be complete ten days after such papers are filed with the clerk of the court. The refusal to accept delivery of the registered mail or to sign the return receipt shall not affect the validity of the service and such foreign limited liability company refusing to accept such registered mail shall be charged with knowledge of the contents thereof.

(f) Service made as provided in this section shall have the same force as personal service made within this state.

(g) Nothing in this section shall limit or affect the right to serve any process required or permitted by law to be served upon a foreign limited liability company in any other manner now or hereafter permitted by law or applicable rules of procedure.

§ 305. Records of process served on the secretary of state. The secretary of state shall keep a record of each process served upon the secretary of state under this chapter, including the date of such service and the action of the secretary of state with reference thereto.

ARTICLE IV

MANAGEMENT BY MEMBERS OR MANAGERS

- Section 401. Management of the limited liability company by members.
402. Voting rights of members.
403. Meetings of members.
404. Quorum of members.
405. Notice of meetings of members.
406. Waiver of notice.
407. Action by members without a meeting.
408. Management by managers.
409. Duties of managers.
410. Qualification of managers.
411. Interested managers.
412. Agency of members or managers.
413. Election and term of managers.
414. Removal or replacement of managers.
415. Resignation of managers.
416. Vacancies.

- 417. Operating agreement.
- 418. Classes and voting of members.
- 419. Classes and voting of managers.
- 420. Indemnification.

§ 401. Management of the limited liability company by members. (a)

Unless the articles of organization provides for management of the limited liability company by a manager or managers or a class or classes of managers, management of the limited liability company shall be vested in its members who shall manage the limited liability company in accordance with this chapter, subject to any provisions in the articles of organization or the operating agreement and section four hundred eighteen of this article granting or withholding the management powers or responsibilities of one or more members or classes of members.

(b) If management of a limited liability company is vested in its members, then (i) any such member exercising such management powers or responsibilities shall be deemed to be a manager for purposes of applying the provisions of this chapter, unless the context otherwise requires, and (ii) any such member shall have and be subject to all of the duties and liabilities of a manager provided in this chapter.

§ 402. Voting rights of members. (a) Except as provided in the operating agreement, in managing the affairs of the limited liability company, electing managers or voting on any other matter that requires the vote at a meeting of the members pursuant to this chapter, the articles of organization or the operating agreement, each member of a limited liability company shall vote in proportion to such member's share of the current profits of the limited liability company in accordance with section five hundred three of this chapter.

(b) Except as provided in the operating agreement, any member may vote in person or by proxy.

(c) Except as provided in the operating agreement, whether or not a limited liability company is managed by the members or by one or more managers, the vote of a majority in interest of the members entitled to vote thereon shall be required to:

(1) admit a person as a member and issue such person a membership interest in the limited liability company;

(2) approve the incurrence of indebtedness by the limited liability company other than in the ordinary course of its business; or

(3) adopt, amend, restate or revoke the articles of organization or operating agreement, subject to the provisions in subdivision (e) of this section, subdivision (b) of section six hundred nine of this chapter and subdivision (b) of section four hundred seventeen of this article.

(d) Except as provided in the operating agreement, whether or not a limited liability company is managed by the members or by one or more managers, the vote of at least a majority in interest of the members entitled to vote thereon shall be required to:

(1) approve the dissolution of the limited liability company in accordance with section seven hundred one of this chapter;

(2) approve the sale, exchange, lease, mortgage, pledge or other transfer of all or substantially all of the assets of the limited liability company; or

(3) approve a merger or consolidation of the limited liability company with or into another limited liability company or foreign limited liability company.

(e) Notwithstanding anything to the contrary in this section or section four hundred seventeen of this article, no applicable provision in either this chapter, the articles of organization or operating agreement, as the case may be, that provides for the vote or consent of a percentage in interest of the members or class of members shall be amended without the vote or consent of at least such percentage in interest of the members or such class of members.

(f) Whenever any action is to be taken under this chapter by the members or a class of members, it shall, except as otherwise required or specified by this chapter or the articles of organization or the operating agreement as permitted by this chapter, be authorized by a majority in interest of the members' votes cast at a meeting of members by members or such class of members entitled to vote thereon.

(g) A limited liability company whose original articles of organization were filed with the secretary of state and effective prior to the effective date of this subdivision shall continue to be governed

by this section as in effect on such date and shall not be governed by this section, unless otherwise provided in the operating agreement.

§ 403. Meetings of members. Except as provided in the operating agreement, a limited liability company shall hold meetings of members annually. Meetings of members may be held at a place, either within or outside this state, as may be fixed by or in accordance with the operating agreement, or if not so fixed, at the office of the limited liability company. Except as provided in the operating agreement, members of a limited liability company may participate in a meeting by means of conference telephone or similar communications equipment by means of which all persons participating in the meeting can hear each other. Such participation shall constitute presence in person at the meeting.

§ 404. Quorum of members. (a) Except as provided in the operating agreement, a majority in interest of the members entitled to vote shall constitute a quorum at a meeting of members for the transaction of any business, provided that when a specified item of business is required to be voted on by a class of members voting as a class, a majority in interest of the members of such class shall constitute a quorum for the transaction of such specified item of business.

(b) The operating agreement may provide for a greater quorum or a lesser quorum, provided that such lesser quorum shall not be less than one-third in interest of the members entitled to vote.

(c) When a quorum is once present to organize a meeting, it is not broken by the subsequent withdrawal of any members.

(d) The members present may adjourn the meeting despite the absence of a quorum.

§ 405. Notice of meetings of members. (a) Except as provided in the operating agreement, whenever under the provisions of this chapter members are required or permitted to take any action by vote at a meeting, written notice shall be given stating the place, date and hour

of the meeting, indicating that it is being issued by or at the direction of the person or persons calling the meeting and, in the case of a special meeting, stating the purpose or purposes for which the meeting is called.

(b) Except as provided in the operating agreement, a copy of the notice of any meeting shall be given, personally or by first class mail, not less than ten or more than sixty days before the date of the meeting, provided, however, that a copy of such notice may be given by third class mail not less than twenty-four nor more than sixty days before the date of the meeting, to each member entitled to vote at such meeting. If mailed, such notice is given when deposited in the United States mail, with postage thereon prepaid, directed to the member at his or her address as it appears in the records of the limited liability company. An affidavit of a manager, if any, or other person giving the notice that the notice required by this section has been given shall, in the absence of fraud, be prima facie evidence of the facts therein stated.

(c) Except as provided in the operating agreement, when a meeting is adjourned to another time or place, it shall not be necessary to give any notice of the adjourned meeting if the time and place to which the meeting is adjourned are announced at the meeting at which the adjournment is taken, and at the adjourned meeting any business may be transacted that might have been transacted at the original date of the meeting.

§ 406. Waiver of notice. Except as provided in the operating agreement, notice of meeting need not be given to any member who submits a signed waiver of notice, in person or by proxy, whether before or after the meeting. The attendance of any member at a meeting, in person or by proxy, without protesting prior to the conclusion of the meeting the lack of notice of such meeting, shall constitute a waiver of notice by him or her.

§ 407. Action by members without a meeting. (a) Whenever under this chapter members of a limited liability company are required or permitted

to take any action by vote, except as provided in the operating agreement, such action may be taken without a meeting, without prior notice and without a vote, if a consent or consents in writing, setting forth the action so taken shall be signed by the members who hold the voting interests having not less than the minimum number of votes that would be necessary to authorize or take such action at a meeting at which all of the members entitled to vote therein were present and voted and shall be delivered to the office of the limited liability company, its principal place of business or a manager, employee or agent of the limited liability company having custody of the records of the limited liability company. Delivery made to the office of the limited liability company shall be by hand or by certified or registered mail, return receipt requested.

(b) Every written consent shall bear the date of signature of each member who signs the consent, and, except as provided in the operating agreement, no written consent shall be effective to take the action referred to therein unless, within sixty days of the earliest dated consent delivered in the manner required by this section to the limited liability company, written consents signed by a sufficient number of members to take the action are delivered to the office of the limited liability company, its principal place of business or a manager, employee or agent of the limited liability company having custody of the records of the limited liability company. Delivery made to such office, principal place of business or manager, employee or agent shall be by hand or by certified or registered mail, return receipt requested.

(c) Prompt notice of the taking of the action without a meeting by less than unanimous written consent shall be given to those members who have not consented in writing but who would have been entitled to vote thereon had such action been taken at a meeting. In the event that the action that is consented to is such as would have required the filing of articles or a certificate under any other section of this chapter, if such action had been voted on by members at a meeting thereof, such articles or certificate filed under such other section shall state, in lieu of any statement required by such section concerning any vote of members, that written consent has been given in accordance with this section and that written notice has been given as provided in this section.

§ 408. Management by managers. (a) If the articles of organization provides that the management of the limited liability company shall be vested in a manager or managers or class or classes of managers, then the management of the limited liability company shall be vested in one or more managers or classes of managers in accordance with this chapter, subject to any provisions in the articles of organization or the operating agreement and section four hundred nineteen of this article granting or withholding the management powers or responsibilities of one or more managers or class or classes of managers. A manager shall hold such offices and have such responsibilities accorded to him or her by the members as provided in the operating agreement.

(b) Except as provided in the operating agreement and in accordance with section four hundred nineteen of this article, the managers shall manage the limited liability company by the affirmative vote of a majority of the managers.

(c) Except as provided in the operating agreement, any action required or permitted to be taken by a vote of the managers or a class of managers may be taken without a vote if all of the managers or all of the managers in such class, as the case may be, consent thereto in writing, and the writing is filed with the records of the limited liability company.

(d) Except as otherwise provided in the operating agreement, managers of a limited liability company may participate in a meeting by means of conference telephone or similar communications equipment by means of which all persons participating in the meeting can hear each other. Such participation shall constitute presence in person at the meeting.

§ 409. Duties of managers. (a) A manager shall perform his or her duties as a manager, including his or her duties as a member of any class of managers, in good faith and with that degree of care that an ordinarily prudent person in a like position would use under similar circumstances.

(b) In performing his or her duties, a manager shall be entitled to rely on information, opinions, reports or statements, including

financial statements and other financial data, in each case prepared or presented by:

(1) one or more agents or employees of the limited liability company;

(2) counsel, public accountants or other persons as to matters that the manager believes to be within such person's professional or expert competence; or

(3) a class of managers of which he or she is not a member, duly designated in accordance with the operating agreement of the limited liability company, as to matters within its designated authority, which class the manager believes to merit confidence, so long as in so relying he or she shall be acting in good faith and with such degree of care, but he or she shall not be considered to be acting in good faith if he or she has knowledge concerning the matter in question that would cause such reliance to be unwarranted.

(c) A person who so performs his or her duties in accordance with this section shall have no liability by reason of being or having been a manager of the limited liability company.

§ 410. Qualification of managers. (a) Unless otherwise provided in the operating agreement, a manager may, but need not, be a member of the limited liability company.

(b) The operating agreement may prescribe qualifications for managers.

§ 411. Interested managers. (a) No contract or other transaction between a limited liability company and one or more of its managers, or between a limited liability company and any other limited liability company or other business entity in which one or more of its managers are managers, directors or officers, or have a substantial financial interest, shall be either void or voidable for this reason alone or by reason alone that such manager or managers are present at the meeting of the managers, or of a class thereof, which approves such contract or transaction, or that his or her or their votes are counted for such purpose:

(1) if the material facts as to such manager's interest in such contract or transaction and as to any such common managership,

directorship, officership or financial interest are disclosed in good faith or known to the other managers or class of managers, and the managers or such class approve such contract or transaction by a vote sufficient for such purpose without counting the vote of such interested manager or, if the votes of the disinterested managers are insufficient to constitute an act of the managers pursuant to section four hundred eight of this article, by unanimous vote of the disinterested managers; or

(2) if the material facts as to such manager's interest in such contract or transaction and as to any such common managership, directorship, officership or financial interest are disclosed in good faith or known to the members entitled to vote thereon, and such contract or transaction is approved by vote of such members.

(b) If such good faith disclosure of the material facts as to the manager's interest in the contract or transaction and as to any such common managership, directorship, officership or financial interest is made to the managers or members, or known to the managers or class of managers or members approving such contract or transaction, as provided in subdivision (a) of this section, the contract or transaction may not be avoided by the limited liability company for the reasons set forth in subdivision (a) of this section. If there was no such disclosure or knowledge, or if the vote of such interested manager was necessary for the approval of such contract or transaction at a meeting of the managers or class of managers at which it was approved, the limited liability company may avoid the contract or transaction unless the party or parties thereto shall establish affirmatively that the contract or transaction was fair and reasonable as to the limited liability company at the time it was approved by the managers, a class of managers or the members.

(c) Common or interested managers may be counted in determining the presence of a quorum at a meeting of the managers or of a class of managers that approves such contract or transaction.

(d) The operating agreement may contain additional restrictions on contracts or transactions between a limited liability company and its managers and may provide that contracts or transactions in violation of such restrictions shall be void or voidable by the limited liability company.

(e) Unless otherwise provided in the operating agreement, the managers shall have authority to fix the compensation of managers for services in any capacity.

§ 412. Agency of members or managers. (a) Unless the articles of organization of a limited liability company provide that management shall be vested in a manager or managers, every member is an agent of the limited liability company for the purpose of its business, and the act of every member, including the execution in the name of the limited liability company of any instrument, for apparently carrying on in the usual way the business of the limited liability company, binds the limited liability company, unless (i) the member so acting has in fact no authority to act for the limited liability company in the particular matter and (ii) the person with whom he or she is dealing has knowledge of the fact that the member has no such authority.

(b) If the articles of organization of a limited liability company provide that management shall be vested in one or more managers:

(1) no member, solely by reason of being a member, is an agent of the limited liability company for the purpose of its business except to the extent that authority has been delegated to such member by the manager or managers or by the provisions of the operating agreement; and

(2) every manager is an agent of the limited liability company for the purpose of its business, and the act of every manager, including the execution in the name of the limited liability company of any instrument, for apparently carrying on in the usual way the business of the limited liability company binds the limited liability company, unless (A) the manager acting has in fact no authority to act for the limited liability company in the particular matter and (B) the person with whom he or she is dealing has knowledge of the fact that the manager has no such authority.

(c) An act of a member or manager that is not apparently for the carrying on of the business of the limited liability company in the usual way does not bind the limited liability company unless authorized in fact by the limited liability company in the particular matter.

(d) No act of a member, manager or other agent of a limited liability company in contravention of a restriction on authority shall bind the

limited liability company to persons having knowledge of the restriction.

§ 413. Election and term of managers. (a) Except as provided in the operating agreement, if the articles of organization provides that management shall be vested in one or more managers, the members shall vote in accordance with section four hundred two of this article to designate or elect annually the manager or managers of the limited liability company.

(b) Each manager shall hold the office and have the terms (which may be unlimited) and responsibilities accorded to him or her by the members and set out in the operating agreement until his or her successor has been elected and qualified or until his or her earlier resignation or removal.

(c) Except as provided in the operating agreement, the initial managers shall hold office until the first annual meeting of members and until their successors have been elected and qualified.

(d) The number of managers may be increased or decreased by amendment to and in the manner provided in the operating agreement.

§ 414. Removal or replacement of managers. Except as provided in the operating agreement, any or all managers of a limited liability company may be removed or replaced with or without cause by a vote of a majority in interest of the members entitled to vote thereon.

§ 415. Resignation of managers. Except as provided in the operating agreement, a manager may resign at any time by giving written notice to the limited liability company; provided, however, that if the resignation violates any provision contained in the operating agreement or the provision of any contractual agreement between the manager and the limited liability company, the limited liability company may recover from such manager damages for such breach as provided by such operating agreement or contract or by law. The election of a manager shall not of itself create contract rights.

§ 416. Vacancies. (a) Except as provided in the operating agreement, if management of the limited liability company is vested in a group of managers, any vacancies occurring in such group may be filled by the vote of a majority in interest of the members entitled to vote thereon.

(b) Except as provided in the operating agreement, a manager chosen to fill a vacancy shall serve the unexpired term of his or her predecessor.

(c) Except as provided in the operating agreement, any manager's position filled by reason of an increase in the number of managers shall be filled by the vote of a majority in interest of the members entitled to vote thereon.

(d) Except as provided in the operating agreement, a manager chosen to fill a position resulting from an increase in the number of managers shall hold office until the next annual meeting of members or until a successor has been elected and qualified.

§ 417. Operating agreement. (a) Subject to the provisions of this chapter, the members of a limited liability company shall adopt a written operating agreement that contains any provisions not inconsistent with law or its articles of organization relating to (i) the business of the limited liability company, (ii) the conduct of its affairs and (iii) the rights, powers, preferences, limitations or responsibilities of its members, managers, employees or agents, as the case may be.

The operating agreement may set forth a provision eliminating or limiting the personal liability of managers to the limited liability company or its members for damages for any breach of duty in such capacity, provided that no such provision shall eliminate or limit:

(1) the liability of any manager if a judgment or other final adjudication adverse to him or her establishes that his or her acts or omissions were in bad faith or involved intentional misconduct or a knowing violation of law or that he or she personally gained in fact a financial profit or other advantage to which he or she was not legally entitled or that with respect to a distribution the subject of

subdivision (a) of section five hundred eight of this chapter his or her acts were not performed in accordance with section four hundred nine of this article; or

(2) the liability of any manager for any act or omission prior to the adoption of a provision authorized by this subdivision.

(b) The operating agreement of a limited liability company may be amended from time to time as provided therein; provided, however, that, except as otherwise provided in the operating agreement or the articles of organization, without the written consent of each member adversely affected thereby, (i) no amendment of the operating agreement or (ii) to the extent any provision concerning (A) the obligations of any member to make contributions, (B) the allocation for tax purposes of any items of income, gain, loss, deduction or credit, (C) the manner of computing the distributions of any member or (D) the compromise of an obligation of a member to make a contribution is contained in the articles of organization, no amendment of such provision in the articles of organization, shall be made that (i) increases the obligations of any member to make contributions, (ii) alters the allocation for tax purposes of any items of income, gain, loss, deduction or credit, (iii) alters the manner of computing the distributions of any member or (iv) allows the obligation of a member to make a contribution to be compromised by consent of less than all the members.

(c) An operating agreement may be entered into before, at the time of or within ninety days after the filing of the articles of organization. Regardless of whether such agreement was entered into before, at the time of or after such filing, such agreement, may be effective upon the formation of the limited liability company or at such later time or date as provided in the operating agreement; provided, however, under no circumstances shall an operating agreement become effective prior to the formation of such company.

§ 418. Classes and voting of members. (a) The articles of organization of a limited liability company may provide for classes or groups of members having such relative rights, powers, preferences and limitations as the operating agreement of such limited liability company may provide. The articles of organization may make provision for the future

creation, in the manner provided in the operating agreement, of additional classes of members having such relative rights, powers, preferences and limitations as may from time to time be established pursuant to the operating agreement, including rights, powers, preferences, limitations and duties senior to existing classes of members. The operating agreement may grant to or withhold from all or one or more classes of members the right to vote upon any matter on the basis of capital contributions, capital commitments or capital accounts or on a per capita, class or other basis.

(b) The operating agreement may set forth provisions relating to notice of the time, place or purpose of any meeting at which any matter is to be voted on by any members, waiver of any such notice, action by consent without a meeting, the establishment of a record date, quorum requirements, voting in person or by proxy or any other matter with respect to the exercise of any such right to vote.

§ 419. Classes and voting of managers. (a) The articles of organization of a limited liability company may provide for classes or groups of managers having such relative rights, powers, preferences and limitations as the operating agreement may provide. The articles of organization may make provision for the future creation, in the manner provided in the operating agreement, of additional classes of managers having such relative rights, powers, preferences and limitations as may from time to time be established pursuant to the operating agreement, including rights, powers, preferences, limitations and duties senior to existing classes of managers. The operating agreement may provide for the classification of managers within classes of managers for the purpose of determining the terms of office of such managers and may grant to all or to one or more classes of managers the right to vote upon any matter on a per capita, class or other basis.

(b) The operating agreement may set forth provisions relating to notice of the time, place or purpose of any meeting at which any matter is to be voted on by any managers, waiver of any such notice, action by consent without a meeting, the establishment of a record date, quorum requirements, voting in person or by proxy or any other matter with respect to the exercise of any such right to vote.

§ 420. Indemnification. Subject to the standards and restrictions, if any, set forth in its operating agreement, a limited liability company may, and shall have the power to, indemnify and hold harmless, and advance expenses to, any member, manager or other person, or any testator or intestate of such member, manager or other person, from and against any and all claims and demands whatsoever; provided, however, that no indemnification may be made to or on behalf of any member, manager or other person if a judgment or other final adjudication adverse to such member, manager or other person establishes (a) that his or her acts were committed in bad faith or were the result of active and deliberate dishonesty and were material to the cause of action so adjudicated or (b) that he or she personally gained in fact a financial profit or other advantage to which he or she was not legally entitled.

ARTICLE V

CONTRIBUTIONS AND DISTRIBUTIONS

- Section 501. Form of capital contributions.
- 502. Liability for contributions.
 - 503. Sharing of profits and losses.
 - 504. Sharing of distributions.
 - 505. Distributions in kind.
 - 506. Right to distribution.
 - 507. Interim distributions.
 - 508. Limitations on distributions.
 - 509. Distribution upon withdrawal.

§ 501. Form of capital contributions. The contribution of a member to the capital of a limited liability company may be in cash, property or services rendered or a promissory note or other obligation to contribute cash or property or to render services, or any combination of the foregoing.

§ 502. Liability for contributions. (a) Except as provided in the operating agreement, a member is obligated to the limited liability company to perform any promise to contribute cash or property or to perform services that is otherwise enforceable in accordance with applicable law, even if he or she is unable to perform because of death, disability or any other reason. Except as provided in the operating agreement, if a member does not make any required contribution of property or services, he or she is obligated at the option of the limited liability company to contribute cash equal to that portion of the value, as stated in the records of the limited liability company, if so stated, of the contribution that he or she has not made. The foregoing option shall be in addition to, and not in lieu of, any other rights, including the right to specific performance, that the limited liability company may have against such member under the operating agreement or applicable law.

(b) Unless otherwise provided in the operating agreement and except as provided in section six hundred five of this chapter, the obligation of a member to make a contribution or to return money or other property paid or distributed in violation of this chapter may be compromised only by consent of all the members. Notwithstanding the compromise, a creditor of a limited liability company who extends credit in reliance on the obligation of any member may enforce the original obligation to the extent he or she reasonably relied on such obligation after the member signed a writing which reflects the obligation and the creditor extended credit before the compromise. A conditional obligation of a member to make a contribution or return money or other property to a limited liability company may not be enforced unless the conditions to the obligation have been satisfied or waived as to or by such member. Conditional obligations include contributions payable upon a discretionary call of a limited liability company or a member prior to the time the call occurs.

(c) The operating agreement may provide that the membership interest of any member who fails to make any required contribution shall be subject to specified consequences of such failure. Such consequences may include, but are not limited to, reduction or elimination of the defaulting member's interest, subordination of the defaulting member's interest to that of nondefaulting members, a forced sale of the

defaulting member's interest, forfeiture of the defaulting member's interest, the lending by the other members of the amount necessary to meet the defaulting member's commitment, a fixing of the value of the defaulting member's interest by appraisal or by formula and redemption or sale of such member's interest at such value, or other consequences.

§ 503. Sharing of profits and losses. The profits and losses of a limited liability company shall be allocated among the members, and among the classes of members, if any, in the manner provided in the operating agreement. If the operating agreement does not so provide, profits and losses shall be allocated on the basis of the value, as stated in the records of the limited liability company if so stated, of the contributions of each member, but not including defaulted obligations to make contributions, to the extent they have been received by or promised to the limited liability company and have not been returned to any such member.

§ 504. Sharing of distributions. Distributions of cash or other assets of a limited liability company shall be allocated among the members, and among classes of members, if any, in the manner provided in the operating agreement, which may, among other things, establish record dates for distributions. If the operating agreement does not so provide, distributions shall be allocated on the basis of the value, as stated in the records of the limited liability company, if so stated, of the contributions of each member, but not including defaulted obligations to make contributions, to the extent they have been received by or promised to the limited liability company and have not been returned to any such member.

§ 505. Distributions in kind. (a) Except as provided in the operating agreement, a member, regardless of the nature of his or her contribution, has no right to demand and receive any distribution from the limited liability company in any form other than cash.

(b) Except as provided in the operating agreement, a member may not be

compelled to accept a distribution of any asset in kind from a limited liability company to the extent that the percentage of the asset distributed to him or her exceeds a percentage of that asset that is equal to the percentage in which he or she shares in distributions from the limited liability company.

§ 506. Right to distribution. Subject to sections five hundred eight and seven hundred four of this chapter, at the time a member becomes entitled to receive a distribution, such member has the status of, and is entitled to all remedies available to, a creditor of the limited liability company with respect to the distribution.

§ 507. Interim distributions. Except as provided in this chapter, to the extent and at the times or upon the happening of events specified in the operating agreement, a member is entitled to receive distributions from a limited liability company before his or her withdrawal from the limited liability company and before the dissolution and winding up of the limited liability company.

§ 508. Limitations on distributions. (a) A limited liability company shall not make a distribution to a member to the extent that, at the time of the distribution, after giving effect to the distribution, all liabilities of the limited liability company, other than liabilities to members on account of their membership interests and liabilities for which recourse of creditors is limited to specified property of the limited liability company, exceed the fair market value of the assets of the limited liability company, except that the fair market value of property that is subject to a liability for which the recourse of creditors is limited shall be included in the assets of the limited liability company only to the extent that the fair value of such property exceeds such liability.

(b) A member who receives a distribution in violation of subdivision (a) of this section, and who knew at the time of distribution that the distribution violated subdivision (a) of this section, shall be liable

to the limited liability company for the amount of the distribution. A member who receives a distribution in violation of subdivision (a) of this section, and who did not know at the time of the distribution that the distribution violated subdivision (a) of this section, shall not be liable for the amount of the distribution. Subject to subdivision (c) of this section, this subdivision shall not affect any obligation or liability of a member under the operating agreement or other applicable law for the amount of a distribution.

(c) Unless otherwise agreed, a member who receives a wrongful distribution from a limited liability company shall have no liability under this article or other applicable law for the amount of the distribution after the expiration of three years from the date of the distribution.

§ 509. Distribution upon withdrawal. Except as provided in this chapter, upon withdrawal as a member of the limited liability company, any withdrawing member is entitled to receive any distribution to which he or she is entitled under the operating agreement and, if not otherwise provided in the operating agreement, he or she is entitled to receive, within a reasonable time after withdrawal, the fair value of his or her membership interest in the limited liability company as of the date of withdrawal based upon his or her right to share in distributions from the limited liability company.

ARTICLE VI

MEMBERS AND MEMBERSHIP

- Section 601. Nature of membership interest.
602. Admission of members.
603. Assignment of membership interest.
604. Rights of assignee to become a member.
605. Liability upon assignment.
606. Withdrawal of a member.
607. Rights of creditors of members.
608. Powers of estate of a deceased or incompetent member.
609. Liability of members, managers and agents.

610. Parties to actions.

611. Business transactions of a member with the limited liability company.

§ 601. Nature of membership interest. A membership interest in the limited liability company is personal property. A member has no interest in specific property of the limited liability company.

§ 602. Admission of members. (a) A person becomes a member of a limited liability company on the later of:

(1) the effective date of the initial articles of organization; or

(2) the date as of which the person becomes a member pursuant to this section or the operating agreement; provided, however, that if such date is not ascertainable, the date stated in the records of the limited liability company.

(b) After the effective date of a limited liability company's initial articles of organization, a person may be admitted as a member:

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

(2) in the case of an assignee of a membership interest of a member who has the power, as provided in the operating agreement, to grant the assignee the right to become a member, upon the exercise of that power and compliance with any conditions limiting the grant or exercise of the power; or

(3) unless otherwise provided in an agreement of merger or consolidation or the operating agreement, in the case of a person acquiring a membership interest in a surviving or resulting limited liability company pursuant to a merger or consolidation approved in accordance with subdivision (b) of section one thousand one of this chapter, at the time provided in and upon compliance with the operating agreement of the surviving or resulting limited liability company.

§ 603. Assignment of membership interest. (a) Except as provided in the operating agreement,

(1) a membership interest is assignable in whole or in part;

(2) an assignment of a membership interest does not dissolve a limited liability company or entitle the assignee to participate in the management and affairs of the limited liability company or to become or to exercise any rights or powers of a member;

(3) the only effect of an assignment of a membership interest is to entitle the assignee to receive, to the extent assigned, the distributions and allocations of profits and losses to which the assignor would be entitled; and

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

(b) The operating agreement may provide that a member's interest may be evidenced by a certificate issued by the limited liability company and may also provide for the assignment or transfer of any of the interest represented by such a certificate. A member's interest may be a certificated security or an uncertificated security within the meaning of section 8--102 of the uniform commercial code if the requirements of section 8--103(c) are met, and if the requirements are not met such interest shall, for purposes of the uniform commercial code, be deemed to be a general intangible asset. The existence of the restrictions on the sale or transfer of a membership interest, as contained in this chapter and, if applicable, in the operating agreement, shall be noted conspicuously on the face or back of every certificate representing a membership interest issued by a limited liability company. Any sale or transfer in violation of such restrictions shall be void.

(c) Unless otherwise provided in an operating agreement and except to the extent assumed by agreement, until the time, if any, that an assignee of a membership interest becomes a member, the assignee shall have no liability as a member solely as a result of the assignment.

§ 604. Rights of assignee to become a member. (a) Except as provided in the operating agreement, an assignee of a membership interest may not become a member without the vote or written consent of at least a majority in interest of the members, other than the member who assigned or proposes to assign such membership interest.

(b) An assignee who has become a member has, to the extent assigned, the rights, powers, preferences and limitations and is subject to the restrictions and liabilities, of a member under the articles of organization, the operating agreement and this chapter. Notwithstanding the foregoing, unless otherwise provided in the operating agreement, an assignee who becomes a member is liable for the obligations of his or her assignor to make contributions as provided in section five hundred two of this chapter, but shall not be liable for the obligations of his or her assignor under sections six hundred six and five hundred eight of this chapter. However, the assignee is not obligated for (i) liabilities, including the obligations of his or her assignor to make contributions as provided in section five hundred two of this chapter, unknown to the assignee at the time he or she becomes a member and that could not be ascertained from the operating agreement or (ii) any accrued liabilities of the assignor at the time of assignment unless the assignee specifically assumes such liabilities.

§ 605. Liability upon assignment. Whether or not an assignee of a membership interest becomes a member, the assignor of a membership interest is not released from any liability under this chapter or the operating agreement, except liabilities that arise after the effectiveness of the assignment and are pursuant to section two hundred ten of this chapter, section five hundred eight of this chapter or, in the event the assignee becomes a member, unless otherwise provided in the operating agreement, section five hundred two of this chapter.

§ 606. Withdrawal of a member. (a) A member may withdraw as a member of a limited liability company only at the time or upon the happening of

events specified in the operating agreement and in accordance with the operating agreement. Notwithstanding anything to the contrary under applicable law, unless an operating agreement provides otherwise, a member may not withdraw from a limited liability company prior to the dissolution and winding up of the limited liability company.

Notwithstanding anything to the contrary under applicable law, an operating agreement may provide that a membership interest may not be assigned prior to the dissolution and winding up of the limited liability company.

(b) A limited liability company whose original article of organization were filed with the secretary of state and effective prior to the effective date of this subdivision shall continue to be governed by this section as in effect on such date and shall not be governed by this section, unless otherwise provided in the operating agreement.

§ 607. Rights of creditors of members. (a) On application to a court of competent jurisdiction by any judgment creditor of a member, the court may charge the membership interest of the member with payment of the unsatisfied amount of the judgment with interest. To the extent so charged, the judgment creditor has only the rights of an assignee of the membership interest. This chapter does not deprive any member of the benefit of any exemption laws applicable to his or her membership interest.

(b) No creditor of a member shall have any right to obtain possession of, or otherwise exercise legal or equitable remedies with respect to, the property of the limited liability company.

§ 608. Powers of estate of a deceased or incompetent member. If a member who is a natural person dies or a court of competent jurisdiction adjudges him or her to be incompetent to manage his or her person or his or her property, the member's executor, administrator, guardian, conservator or other legal representative may exercise all of the member's rights for the purpose of settling his or her estate or administering his or her property, including any power under the operating agreement of an assignee to become a member. If a member is a

corporation, trust or other entity and is dissolved or terminated, the powers of that member may be exercised by its legal representative or successor.

§ 609. Liability of members, managers and agents. (a) Neither a member of a limited liability company, a manager of a limited liability company managed by a manager or managers nor an agent of a limited liability company (including a person having more than one such capacity) is liable for any debts, obligations or liabilities of the limited liability company or each other, whether arising in tort, contract or otherwise, solely by reason of being such member, manager or agent or acting (or omitting to act) in such capacities or participating (as an employee, consultant, contractor or otherwise) in the conduct of the business of the limited liability company.

(b) Notwithstanding the provisions of subdivision (a) of this section, all or specified members of a limited liability company may be liable in their capacity as members for all or specified debts, obligations or liabilities of a limited liability company if (1) a statement to such effect is specifically contained in the articles of organization of the limited liability company and (2) any such member so liable shall have (i) specifically consented in writing (A) to the adoption of such provisions or (B) to be bound by such provision or (ii) specifically voted for the adoption of such provision. The absence of either such statement in the articles of organization or such consent or vote of any such member shall in no way affect or impair the ability of a member to act as a guarantor or a surety for, provide collateral for or otherwise be liable for, the debts, obligations or liabilities of a limited liability company as authorized pursuant to section six hundred eleven of this article.

(c) Notwithstanding the provisions of subdivisions (a) and (b) of this section, the ten members with the largest percentage ownership interest, as determined as of the beginning of the period during which the unpaid services referred to in this section are performed, of every domestic limited liability company, or of any foreign limited liability company, when the unpaid services were performed in the state, shall jointly and severally be personally liable for all debts, wages or salaries due and

owing to any of its laborers, servants or employees, for services performed by them for such limited liability company. Before such laborer, servant or employee shall charge such member for such services, he or she shall give notice in writing to such member that he or she intends to hold such member liable under this section. Such notice shall be given within one hundred eighty days after termination of such services. An action to enforce such liability shall be commenced within ninety days after the return of an execution unsatisfied against the limited liability company upon a judgment recovered against it for such services. A member who has paid more than his or her pro rata share under this section shall be entitled to contribution pro rata from the other members liable under this section with respect to the excess so paid, over and above his or her pro rata share, and may sue them jointly or severally or any number of them to recover the amount due from them. Such recovery may be had in a separate action. As used in this subdivision, "pro rata" means in proportion to percentage ownership interest. Before a member may claim contribution from other members under this section, he or she shall give them notice in writing that he or she intends to hold them so liable to him or her.

(d) For the purposes of this section, wages or salaries shall mean all compensation and benefits payable by an employer to or for the account of the employee, servant or laborer, for services performed by them for such limited liability company. These shall specifically include but not be limited to salaries, overtime, vacation, holiday and severance pay; employer contributions to or payments of insurance or welfare benefits; employer contributions to pension or annuity funds; and any other moneys properly due or payable for services rendered by such employee, servant or laborer, including any concomitant liquidated damages, penalties, interest, attorneys' fees or costs.

§ 610. Parties to actions. A member of a limited liability company is not a proper party to proceedings by or against a limited liability company, except where the object is to enforce a member's right against or liability to the limited liability company.

§ 611. Business transactions of a member with the limited liability company. Except as may be provided in the operating agreement, a member may lend money to, borrow money from, act as a guarantor or surety for, provide collateral for the obligations of and transact other business with the limited liability company and, subject to other applicable law, has the same rights and obligations with respect thereto as a person who is not a member.

ARTICLE VII DISSOLUTION

Section 701. Dissolution.

702. Judicial dissolution.

703. Winding up.

704. Distribution of assets.

705. Articles of dissolution.

§ 701. Dissolution. (a) A limited liability company is dissolved and its affairs shall be wound up upon the first to occur of the following:

(1) the latest date on which the limited liability company is to dissolve, if any, provided in the articles of organization, or the time specified in the operating agreement, but if no such date is provided in the articles of organization and if no such time is specified in the operating agreement, then the limited liability company shall have a perpetual existence;

(2) the happening of events specified in the operating agreement;

(3) subject to any requirement in the operating agreement requiring approval by any greater or lesser percentage in interest of the members or class or classes or group or groups of members, the vote or written consent of at least a majority in interest of the members or, if there is more than one class or group of members, then by at least a majority in interest of each class or group of members;

(4) at any time there are no members, provided that, unless otherwise provided in the operating agreement, the limited liability company is not dissolved and is not required to be wound up if, within one hundred eighty days or such other period as is provided for in the operating

agreement after the occurrence of the event that terminated the continued membership of the last remaining member, the legal representative of the last remaining member agrees in writing to continue the limited liability company and to the admission of the legal representative of such member or its assignee to the limited liability company as a member, effective as of the occurrence of the event that terminated the continued membership of the last remaining member; or

(5) the entry of a decree of judicial dissolution under section seven hundred two of this article.

(b) Unless otherwise provided in the operating agreement, the death, retirement, resignation, expulsion, bankruptcy or dissolution of any member or the occurrence of any other event that terminates the continued membership of any member shall not cause the limited liability company to be dissolved or its affairs to be wound up, and upon the occurrence of any such event, the limited liability company shall be continued without dissolution, unless within one hundred eighty days following the occurrence of such event, a majority in interest of all of the remaining members of the limited liability company or, if there is more than one class or group of members, then by a majority in interest of all the remaining members of each class or group of members, vote or agree in writing to dissolve the limited liability company.

(c) A limited liability company whose original articles of organization were filed with the secretary of state and effective prior to the effective date of this subdivision shall continue to be governed by this section as in effect on such date and shall not be governed by this section, unless otherwise provided in the operating agreement.

§ 702. Judicial dissolution. On application by or for a member, the supreme court in the judicial district in which the office of the limited liability company is located may decree dissolution of a limited liability company whenever it is not reasonably practicable to carry on the business in conformity with the articles of organization or operating agreement. A certified copy of the order of dissolution shall be filed by the applicant with the department of state within thirty days of its issuance.

§ 703. Winding up. (a) In the event of a dissolution of a limited liability company, except for a dissolution pursuant to section seven hundred two of this article, unless otherwise provided in the operating agreement, the members may wind up the limited liability company's affairs. Upon cause shown, the supreme court in the judicial district in which the office of the limited liability company is located may wind up the limited liability company's affairs upon application of any member, or his or her legal representative or assignee, and in connection therewith may appoint a receiver or liquidating trustee.

(b) Upon dissolution of a limited liability company, the persons winding up the limited liability company's affairs may, in the name of and for and on behalf of the limited liability company, prosecute and defend suits, whether civil, criminal or administrative, settle and close the limited liability company's business, dispose of and convey the limited liability company's property, discharge the limited liability company's liabilities and distribute to the members any remaining assets of the limited liability company, all without affecting the liability of members including members participating in the winding up of the limited liability company's affairs.

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

(a) to creditors, including members who are creditors, to the extent permitted by law, in satisfaction of liabilities of the limited liability company, whether by payment or by establishment of adequate reserves, other than liabilities for distributions to members and former members under section five hundred seven or section five hundred nine of this chapter;

(b) except as provided in the operating agreement, to members and former members in satisfaction of liabilities for distributions under section five hundred seven or section five hundred nine of this chapter; and

(c) except as provided in the operating agreement, to members first for the return of their contributions, to the extent not previously returned, and second respecting their membership interests, in the

proportions in which the members share in distributions in accordance with section five hundred four of this chapter.

§ 705. Articles of dissolution. (a) Within ninety days following the dissolution and the commencement of winding up of the limited liability company, or at any other time after the expiration of the time period for continuation of the limited liability company without the agreement in writing to continue by the legal representative of the last remaining member under paragraph four of subdivision (a) of section seven hundred one of this article has expired, articles of dissolution shall be filed with the department of state entitled "Articles of dissolution of... (name of limited liability company) under section seven hundred five of the Limited Liability Company Law" and executed in accordance with section two hundred seven of this chapter. The articles of dissolution shall set forth:

(1) the name of the limited liability company; and if it has been changed, the name under which it was formed;

(2) the date of filing of its articles of organization;

(3) the event giving rise to the filing of the articles of dissolution; and

(4) any other information the persons filing the articles determine.

(b) The cancellation of the articles of organization is effective at the time of filing of the articles of dissolution.

(c) The cancellation of the articles of organization shall not affect the liability of the members during the period of winding up and termination of the limited liability company.

ARTICLE VIII

FOREIGN LIMITED LIABILITY COMPANIES

Section 801. Governing law.

802. Application for authority.

803. Activities not constituting doing business.

804. Amendments to application for authority.

804-A. Certificate of change.

805. Issuance of certificate of authority; effect.

- 806. Surrender of certificate of authority.
- 807. Termination of existence.
- 808. Doing business without certificate of authority.
- 809. Action by attorney general.

§ 801. Governing law. Subject to the constitution of this state:

(a) the laws of the jurisdiction under which a foreign limited liability company is formed govern its organization and internal affairs and the liability of its members and managers; and

(b) a foreign limited liability company may not be denied a certificate of authority by reason of any difference between such laws and the laws of this state.

§ 802. Application for authority. (a) Before doing business in this state, a foreign limited liability company shall apply for authority to do business in this state by submitting to the department of state (i) a certificate of existence or, if no such certificate is issued by the jurisdiction of formation, a certified copy of the articles of organization of the limited liability company and all subsequent amendments thereto or, if no articles of organization have been filed, a certified copy of the certificate filed as its organizational basis and all amendments thereto (if such certificate or certified copy is in a foreign language, a translation in English thereof under oath of the translator shall be attached thereto) and (ii) an application for authority as a foreign limited liability company entitled "Application for authority of... (name of foreign limited liability company) under section eight hundred two of the Limited Liability Company Law," signed and setting forth:

(1) the name of the foreign limited liability company and, if a foreign liability company's name is not acceptable for authorization pursuant to section two hundred four of this chapter, the fictitious name under which it proposes to apply for authority and do business in this state, which name shall be in compliance with section two hundred four of this chapter and shall be used by the foreign limited liability company in all its dealings with the department of state and in the

conduct of its business in this state. The provisions of section one hundred thirty of the general business law shall not apply to any fictitious name filed by a foreign limited liability company pursuant to this section, and a filing under section one hundred thirty of the general business law shall not constitute the adoption of a fictitious name;

(2) the jurisdiction and date of its organization;

(3) the county within this state in which the office of the foreign limited liability company is to be located or if the foreign limited liability company shall maintain more than one office in this state, the county within the state in which the principal office of the foreign limited liability company is to be located;

(4) a designation of the secretary of state as its agent upon whom process against it may be served and the post office address within or without this state to which the secretary of state shall mail a copy of any process against it served upon him or her. The limited liability company may include an email address to which the secretary of state shall email a notice of the fact that process against it has been electronically served upon him or her;

(5) if it is to have a registered agent, his or her name and address within the state and a statement that the registered agent is to be its agent upon whom process may be served;

(6) the address of the office required to be maintained in the jurisdiction of its formation by the laws of that jurisdiction or, if not so required, of the principal office of the foreign limited liability company;

(7) a statement that the foreign limited liability company is in existence in the jurisdiction of its formation at the time of the filing of such application; and

(8) the name and address of the authorized officer in the jurisdiction of its formation where a copy of its articles of organization is filed or, if no public filing of its articles of organization is required by the law of the jurisdiction of formation, a statement that the foreign limited liability company shall provide, on request, a copy thereof with all amendments thereto (if such documents are in a foreign language, a translation in English thereof under oath of the translator shall be attached thereto), and the name and post office address of the person

responsible for providing such copies.

(b) (i) Within one hundred twenty days after the filing of the application for authority with the department of state, a copy of the same or a notice containing the substance thereof shall be published once in each week for six successive weeks, in two newspapers of the county within this state in which the office of the foreign limited liability company is located, one newspaper to be printed weekly and one newspaper to be printed daily, to be designated by the county clerk. When such county is located within a city with a population of one million or more, such designation shall be as though the copy or notice were a notice or advertisement of judicial proceedings. Proof of the publication required by this paragraph, consisting of the certificate of publication of the foreign limited liability company with the affidavits of publication of such newspapers annexed thereto, must be filed with the department of state. Notwithstanding any other provision of law, if the office of the foreign limited liability company is located in a county wherein a weekly or daily newspaper of the county, or both, has not been so designated by the county clerk, then the publication herein required shall be made in a weekly or daily newspaper of any county, or both, as the case may be, which is contiguous to, such county, provided that any such newspaper meets all the other requirements of this paragraph. A copy or notice published in a newspaper other than the newspaper or newspapers designated by the county clerk shall not be deemed to be one of the publications required by this subdivision. The notice shall include: (1) the name of the foreign limited liability company; (2) the date of filing of the application for authority with the department of state; (3) the jurisdiction and date of its organization; (4) the county within this state, in which the office of the foreign limited liability company is located; (4-a) the street address of the principal business location, if any; (5) a statement that the secretary of state has been designated as agent of the foreign limited liability company upon whom process against it may be served and the post office address within or without this state to which the secretary of state shall mail a copy of any process against it served upon him or her; (6) if the foreign limited liability company is to have a registered agent, his or her name and address within this state and a statement that the registered agent is to be the agent of the foreign

limited liability company upon whom process against it may be served; (7) the address of the office required to be maintained in the jurisdiction of its organization by the laws of that jurisdiction or, if not so required, of the principal office of the foreign limited liability company; (8) the name and address of the authorized officer in its jurisdiction of organization where a copy of its certificate of organization is filed or, if no public filing of its certificate of organization is required by the law of its jurisdiction of organization, a statement that the foreign limited liability company shall provide, on request, a copy thereof with all amendments thereto (if such documents are in a foreign language, a translation thereof under oath of the translator shall be attached thereto), and the name and post office address of the person responsible for providing such copies; and (9) the character or purpose of the business of such foreign limited liability company. Where, at any time after completion of the first of the six weekly publications required by this paragraph and prior to the completion of the sixth such weekly publication, there is a change in any of the information contained in the copy or notice as published, the foreign limited liability company may complete the remaining publications of the original copy or notice, and the foreign limited liability company shall not be required to publish any further or amended copy or notice. Where, at any time after completion of the six weekly publications required by this paragraph, there is a change to any of the information contained in the copy or notice as published, no further or amended publication or republication shall be required to be made. If within one hundred twenty days after the filing of its application for authority with the department of state, proof of such publication, consisting of the certificate of publication of the foreign limited liability company with the affidavits of publication of the newspapers annexed thereto has not been filed with the department of state, the authority of such foreign limited liability company to carry on, conduct or transact any business in this state shall be suspended, effective as of the expiration of such one hundred twenty day period. The failure of a foreign limited liability company to cause such copy or notice to be published and such certificate of publication and affidavits of publication to be filed with the department of state within such one hundred twenty day period or the suspension of such

foreign limited liability company's authority to carry on, conduct or transact business in this state pursuant to this paragraph shall not limit or impair the validity of any contract or act of such foreign limited liability company, or any right or remedy of any other party under or by virtue of any contract, act or omission of such foreign limited liability company, or the right of any other party to maintain any action or special proceeding on any such contract, act or omission, or right of such foreign limited liability company to defend any action or special proceeding in this state, or result in any member, manager or agent of such foreign limited liability company becoming liable for the contractual obligations or other liabilities of the foreign limited liability company. If, at any time following the suspension of a foreign limited liability company's authority to carry on, conduct or transact business in this state pursuant to this paragraph, such foreign limited liability company shall cause proof of publication in substantial compliance with the provisions (other than the one hundred twenty day period) of this paragraph, consisting of the certificate of publication of the foreign limited liability company with the affidavits of publication of the newspapers annexed thereto, to be filed with the department of state, such suspension of such foreign limited liability company's authority to carry on, conduct or transact business shall be annulled.

(ii)(1) A foreign limited liability company which was formed and filed its application for authority with the department of state prior to the effective date of this paragraph and complied with the publication and filing requirements of this subdivision as in effect prior to such effective date shall not be required to make any publication or republication or any filing under paragraph (i) of this subdivision, and shall not be subject to suspension pursuant to this subdivision.

(2) Within twelve months after the effective date of this paragraph, a foreign limited liability company which was formed and filed its application for authority with the department of state prior to such effective date and which did not comply with the publication and filing requirements of this subdivision as in effect prior to such effective date shall publish a copy of its application for authority or a notice containing the substance thereof in the manner required (other than the one hundred twenty day period) by this subdivision as in effect prior to

such effective date and file proof of such publication, consisting of the certificate of publication of the foreign limited liability company with the affidavits of publication of the newspapers annexed thereto, with the department of state.

(3) If a foreign limited liability company that is subject to the provisions of subparagraph two of this paragraph fails to file the required proof of publication with the department of state within twelve months after the effective date of this paragraph, its authority to carry on, conduct or transact any business in this state shall be suspended, effective as of the expiration of such twelve month period.

(4) The failure of a foreign limited liability company that is subject to the provisions of subparagraph two of this paragraph to fully comply with the provisions of said subparagraph two or the suspension of such foreign limited liability company's authority to carry on, conduct or transact any business in this state pursuant to subparagraph three of this paragraph shall not impair or limit the validity of any contract or act of such foreign limited liability company, or any right or remedy of any other party under or by virtue of any contract, act or omission of such foreign limited liability company, or the right of any other party to maintain any action or special proceeding on any such contract, act or omission, or right of such foreign limited liability company to defend any action or special proceeding in this state, or result in any member, manager or agent of such foreign limited liability company becoming liable for the contractual obligations or other liabilities of the foreign limited liability company.

(5) If, at any time following the suspension of a foreign limited liability company's authority to carry on, conduct or transact business in this state, pursuant to subparagraph three of this paragraph, such foreign limited liability company shall cause proof of publication in substantial compliance with the provisions (other than the one hundred twenty day period) of paragraph (i) of this subdivision, consisting of the certificate of publication of the foreign limited liability company with the affidavits of publication of the newspapers annexed thereto, to be filed with the department of state, such suspension of such foreign limited liability company's authority to carry on, conduct or transact business shall be annulled.

(6) For the purposes of this paragraph, a foreign limited liability

company which was formed and filed its application for authority with the department of state prior to the effective date of this paragraph shall be deemed to have complied with the publication and filing requirements of this subdivision as in effect prior to such effective date if (i) the foreign limited liability company was formed and filed its application for authority with the department of state on or after January first, nineteen hundred ninety-nine and prior to such effective date and the foreign limited liability company filed at least one affidavit of the printer or publisher of a newspaper with the department of state at any time prior to such effective date, or (ii) the foreign limited liability company was formed and filed its application for authority with the department of state prior to January first, nineteen hundred ninety-nine, without regard to whether the foreign limited liability company did or did not file any affidavit of the printer or publisher of a newspaper with the secretary of state.

(iii) The information in a notice published pursuant to this subdivision shall be presumed to be in compliance with and satisfaction of the requirements of this subdivision.

§ 803. Activities not constituting doing business. (a) Without excluding other activities that may not constitute doing business in this state, a foreign limited liability company shall not be considered to be doing business in this state for the purposes of this chapter, by reason of carrying on in this state any one or more of the following activities:

(1) maintaining or defending any action or proceeding, whether judicial, administrative, arbitratative or otherwise or effecting settlement thereof or the settlement of claims or disputes;

(2) holding meetings of its members or managers;

(3) maintaining bank accounts; or

(4) maintaining offices or agencies only for the transfer, exchange and registration of its membership interests or appointing and maintaining depositaries with relation to its membership interests.

(b) The specification in subdivision (a) of this section does not establish a standard of activities that may subject a foreign limited liability company to service of process under this chapter or any other

statute of this state.

§ 804. Amendments to application for authority. (a) A foreign limited liability company may amend its application for authority from time to time if the amendments contain only such provisions as might be lawfully contained in an application for authority at the time of making such amendment. To accomplish such amendment, a certificate, entitled "Certificate of amendment of ... (name of foreign limited liability company) under section eight hundred four of the Limited Liability Company Law," shall be signed by an authorized person and delivered to the department of state. The certificate shall set forth:

(1) the name of the foreign limited liability company as it appears on the index of names of existing domestic and authorized foreign limited liability companies of any type or kind in the department of state, and the fictitious name, if any, the foreign limited liability company has agreed to use in this state pursuant to section eight hundred two of this article;

(2) the jurisdiction of its organization;

(3) the date it was authorized to do business in this state;

(4) each amendment effected thereby; and

(5) if the true name of the foreign limited liability company is to be changed, a statement that the change of name has been effected under the laws of the jurisdiction of its formation and the date the change was so effected.

(b) Every foreign limited liability company that has received a filing receipt entitled "Certificate of authority of... (name of foreign limited liability company) under section eight hundred five of the Limited Liability Company Law," evidencing authority as provided herein, shall, within ninety days after it has changed its name in the jurisdiction of its formation, file an amendment to its application with the department of state under subdivision (a) of this section.

§ 804-A. Certificate of change. (a) A foreign limited liability company may amend its application for authority from time to time to (i) specify or change the location of the limited liability company's

office; (ii) specify or change the post office address to which the secretary of state shall mail a copy of any process against the limited liability company served upon him or her; (iii) specify, change or delete the email address to which the secretary of state shall email a notice of the fact that process against the limited liability company has been electronically served upon him or her; and (iv) to make, revoke or change the designation of a registered agent, or to specify or change the address of a registered agent. Any one or more such changes may be accomplished by filing a certificate of change which shall be entitled "Certificate of Change of (name of limited liability company) under section 804-A of the Limited Liability Company Law" and shall be signed and delivered to the department of state. It shall set forth:

(1) the name of the foreign limited liability company and, if applicable, the fictitious name the limited liability company has agreed to use in this state pursuant to section eight hundred two of this article;

(2) the date its application for authority was filed by the department of state; and

(3) each change effected thereby,

(b) A certificate of change which changes only the post office address to which the secretary of state shall mail a copy of any process against a foreign limited liability company served upon him or her, and/or the email address to which the secretary of state shall email a notice of the fact that process against it has been electronically served upon the secretary of state, and/or the address of the registered agent, provided such address being changed is the address of a person, partnership or corporation whose address, as agent, is the address to be changed, and/or the email address being changed is the email address of a person, partnership or other corporation whose email address, as agent, is the email address to be changed, or who has been designated as registered agent for such limited liability company may be signed and delivered to the department of state by such agent. The certificate of change shall set forth the statements required under subdivision (a) of this section; that a notice of the proposed change was mailed to the foreign limited liability company by the party signing the certificate not less than thirty days prior to the date of delivery to the department of state and that such foreign limited liability company has not objected thereto;

and that the party signing the certificate is the agent of such foreign limited liability company to whose address the secretary of state is required to mail copies of process, and/or the agent of such foreign limited liability company to whose email address the secretary of state is required to email a notice of the fact that process against it has been electronically served upon the secretary of state, or the registered agent, if such be the case. A certificate signed and delivered under this subdivision shall not be deemed to effect a change of location of the office of the foreign limited liability company in whose behalf such certificate is filed.

§ 805. Issuance of certificate of authority; effect. (a) Upon filing with the department of state of the application for authority, the department of state shall issue a filing receipt entitled "Certificate of authority of... (name of foreign limited liability company) under section eight hundred five of the Limited Liability Company Law," and the foreign limited liability company shall be authorized to do business in this state. Such authority shall continue so long as the foreign limited liability company retains its authority to do business in the jurisdiction of its formation and its authority to do business has not been surrendered, suspended or annulled in accordance with the law.

(b) A foreign limited liability company that has received a certificate of authority shall have such powers to conduct business in this state as are permitted by the laws of the jurisdiction in which it was organized but no greater than those of a domestic limited liability company; provided, that this subdivision shall not affect the powers of the foreign limited liability company outside this state; and provided, further, that a foreign related limited liability partnership (i) shall have such powers to conduct business in this state as are permitted by the laws of the jurisdiction whose laws govern the agreement under which such foreign related limited liability partnership operates but no greater than those of a partnership without limited partners operating under an agreement governed by the laws of this state and provided that such foreign related limited liability partnership shall not engage in any profession or professions and (ii) shall be deemed to be a foreign limited liability partnership for purposes of subdivisions (l) and (m)

of section 121-1502 of the partnership law which subdivisions shall be applicable to foreign related limited liability partnerships.

§ 806. Surrender of certificate of authority. (a) A foreign limited liability company may surrender its certificate of authority by filing with the department of state a certificate entitled "Certificate of surrender of authority of... (name of foreign limited liability company) under section eight hundred six of the Limited Liability Company Law" signed by an authorized person, or by a trustee, receiver or other person authorized by law to wind up such limited liability company. The authority of the foreign limited liability company to do business in this state shall terminate on such filing of the certificate of surrender of authority. A surrender shall not terminate the authority of the secretary of state to accept service of process on the foreign limited liability company with respect to causes of action arising out of doing business in this state.

(b) The certificate of surrender of authority shall set forth:

(1) the name of the foreign limited liability company as it appears on the index of names of existing domestic and authorized foreign limited liability companies of any type or kind in the department of state, and the fictitious name the foreign limited liability company has agreed to use in this state pursuant to section eight hundred two of this article;

(2) the jurisdiction where it was organized;

(3) the date on which its certificate of authority to do business in this state was filed with the department of state;

(4) that it surrenders its authority to do business in this state;

(5) that it revokes the authority of its registered agent, if any, previously designated, and that it consents that process against it in any action or special proceeding based upon any liability or obligation incurred by it within this state before the filing of the certificate of surrender may be served on the secretary of state in the manner set forth in article three of this chapter; and

(6) a post office address within or without this state to which the secretary of state shall mail a copy of any process against it served upon him or her. The limited liability company may include an email address to which the secretary of state shall email a notice of the fact

that process against it has been electronically served upon him or her.

§ 807. Termination of existence. When a foreign limited liability company that has received a certificate of authority is dissolved or its authority to conduct its business or existence is otherwise terminated or canceled in the jurisdiction of its formation or when such foreign limited liability company is merged into or consolidated with another foreign limited liability company, (a) a certificate of the secretary of state or official performing the equivalent function as to limited liability company records in the jurisdiction of organization of such limited liability company attesting to the occurrence of any such event or (b) a certified copy of an order or decree of a court of such jurisdiction directing the dissolution of such foreign limited liability company, the termination of its existence or the surrender of its authority shall be delivered to the department of state. The filing of the certificate, order or decree shall have the same effect as the filing of a certificate of surrender of authority under section eight hundred six of this article. The secretary of state shall continue as agent of the foreign limited liability company upon whom process against it may be served in the manner set forth in article three of this chapter, in any action or proceeding based upon any liability or obligation incurred by the foreign limited liability company within this state prior to the filing of such certificate, order or decree. The post office address and/or email address may be changed by filing with the department of state a certificate of amendment under section eight hundred four of this article.

§ 808. Doing business without certificate of authority. (a) A foreign limited liability company doing business in this state without having received a certificate of authority to do business in this state may not maintain any action, suit or special proceeding in any court of this state unless and until such limited liability company shall have received a certificate of authority in this state.

(b) The failure of a foreign limited liability company that is doing business in this state to comply with the provisions of this chapter

does not impair the validity of any contract or act of the foreign limited liability company or prevent the foreign limited liability company from defending any action or special proceeding in any court of this state.

(c) A member, manager or agent of a foreign limited liability company is not liable for the contractual obligations or other liabilities of the foreign limited liability company solely by reason of the limited liability company's doing or having done business in this state without having received a certificate of authority.

(d) By doing business in this state without authority, a foreign limited liability company appoints the secretary of state as its agent for service of process with respect to causes of action arising out of doing business in this state. In any such case, process against such foreign limited liability company may be served upon the secretary of state in the manner set forth in article three of this chapter.

§ 809. Action by attorney general. The attorney general shall, upon his or her own motion or upon the motion of proper parties, bring an action to restrain a foreign limited liability company without a certificate of authority from doing any business in this state in violation of this chapter or from doing any business in this state that is prohibited under the laws of this state. The attorney general may bring an action or special proceeding to annul the authority of a foreign limited liability company that is doing any business in this state that is prohibited under the laws of this state. The attorney general shall deliver a certified copy of the order of annulment to the department of state. Upon the filing thereof by the department of state, the certificate of authority of the foreign limited liability company to do business in this state shall be annulled, and the provisions of section eight hundred seven of this article shall thereafter be applicable. The secretary of state shall continue as agent of the foreign limited liability company upon whom process against it may be served in any action, suit or special proceeding based upon any liability or obligation incurred by the foregoing foreign limited liability company within the state prior to the filing of the certified copy of the order of annulment by the department of state.

*** § 810. Beneficial ownership disclosure.** (a) When filing the application for authority pursuant to section eight hundred two of this article or filing any amendments to an application for authority pursuant to section eight hundred four of this article, a reporting company shall file with the department of state a beneficial ownership disclosure, or any updates to such information, as may be applicable, identifying each beneficial owner by: (1) full legal name; (2) date of birth; (3) current business street address; and (4) a unique identifying number from an acceptable identification document defined in 31 U.S.C. § 5336(a)(1). Provided, however, that where an initial report contains the information required herein, such foreign limited liability company shall submit a copy of the initial report such company submitted to the federal government pursuant to 31 U.S.C. § 5336 in order to satisfy the requirements of this section.

(b) All personal or identifying information of beneficial owners provided to the department of state under this section not required to be included in the business entity database pursuant to section one hundred-b of the executive law, shall be deemed confidential except for the purposes of law enforcement, or as otherwise required to be disclosed pursuant to a court order. If confidential information associated with a beneficial owner is held electronically, such records shall be encrypted or protected in a substantially similar manner. The department of state shall, upon the filing of each beneficial ownership disclosure, assign each beneficial owner of a foreign limited liability company an anonymized unique identifying number, which shall not be based on any personally identifying number including but not limited to a social security or tax identification number assigned to or associated with such beneficial owner.

(c) (1) Each reporting company formed pursuant to section eight hundred two of this chapter, on or before the effective date of this section shall file the information required under subdivision (a) of this section; and each exempt company shall file a statement signed by a member or manager indicating the provision or provisions of 31 U.S.C. § 5336(a)(11)(B) excluding such company from the definition of a reporting company, with the department of state no later than January first, two

thousand twenty-five.

(2) A reporting company which has failed to file its beneficial ownership disclosure as required by this section, for a period exceeding thirty days, shall be shown to be past due on the records of the department of state until an up-to-date beneficial ownership disclosure is filed with the department.

(3) A reporting company which has failed to file its beneficial ownership disclosure as required by this section for a period exceeding two years shall be shown to be delinquent on the records of the department of state after a notice of delinquency has been mailed to the last known business address of such company and such company has failed to file such information within sixty days of the mailing of such notice. Such delinquency shall be removed from the records of the department of state upon the filing of an up-to-date beneficial ownership disclosure required by this section, and the payment of a civil penalty of two hundred fifty dollars.

* NB Effective and Repealed January 1, 2026

ARTICLE X

MERGERS

- Section 1001. Merger or consolidation.
1002. Procedures for merger or consolidation.
1003. Certificate of merger or consolidation; contents.
1004. Effect of merger or consolidation.
1005. Payment of interest of dissenting members.
1006. Conversion of partnership or limited partnership to
limited liability company.
1007. Effect of conversion.

§ 1001. Merger or consolidation. (a) As used in this article, "merger" means a procedure in which two or more limited liability companies or other business entities merge into a single limited liability company or other business entity that shall be one of the constituent limited liability companies or other business entities, and "consolidation" means a procedure in which two or more limited liability companies or

other business entities consolidate into a single limited liability company or other business entity that shall be a new limited liability company or other business entity to be formed pursuant to the consolidation.

(b) Pursuant to an agreement of merger or consolidation and to the extent not expressly prohibited by law, a domestic limited liability company may merge or consolidate with or into one or more domestic limited liability companies or other business entities formed or organized under the laws of this state or any other state or the United States or any foreign country or other foreign jurisdiction, with such domestic limited liability company or other business entity as the agreement shall provide being the surviving or resulting domestic limited liability company or other business entity.

§ 1002. Procedures for merger or consolidation. (a) In connection with a merger or consolidation under this chapter, rights or securities of, or interests in, a limited liability company or other business entity that is a constituent party to the merger or consolidation may be exchanged for or converted into cash, property, rights or securities of, or interests in, the surviving or resulting limited liability company or other business entity or, in addition to or in lieu thereof, may be exchanged for or converted into cash, property, rights or securities of, or interests in, a limited liability company or other business entity that is not the surviving or resulting limited liability company or other business entity in the merger or consolidation.

(b) The members of each domestic limited liability company or other business entity shall adopt (with respect to a domestic limited liability company, in the manner provided in subdivision (c) of this section) an agreement of merger or consolidation, setting forth the terms and conditions of the conversion of the membership interests of the members of the domestic limited liability company into interests in the surviving or resulting limited liability company or other business entity or the cash or other consideration to be paid or delivered in exchange for membership interests in each domestic limited liability company, or a combination thereof.

(c) The agreement of merger or consolidation shall be submitted to the

members of each domestic limited liability company who are entitled to vote with respect to a merger or consolidation at a meeting called on twenty days' notice or such greater notice as the operating agreement may provide. Subject to any requirement in the operating agreement requiring approval by any greater or lesser percentage in interest of the members who are entitled to vote with respect to a merger or consolidation, which shall not be less than a majority in interest of those members who are so entitled to vote, the agreement shall be approved on behalf of each domestic limited liability company (i) by such voting interests of the members as shall be required by the operating agreement, or (ii) if no provision is made, by the members representing at least a majority in interest of the members.

(d) Notwithstanding authorization by the members, the agreement of merger or consolidation may be terminated or amended pursuant to a provision for such termination or amendment, if any, contained in the agreement of merger or consolidation.

(e) Any member that is a party to a proposed merger or consolidation who is entitled to vote with respect to such proposed merger or consolidation may, prior to that time of the meeting at which such merger or consolidation is to be voted on, file with the domestic limited liability company written notice of dissent from the proposed merger or consolidation. Such notice of dissent may be withdrawn by the dissenting member at any time prior to the effective date of the merger or consolidation and shall be deemed to be withdrawn if the member casts a vote in favor of the proposed merger or consolidation.

(f) Upon the effectiveness of the merger or consolidation, the dissenting member (referred to in subdivision (e) of this section) of any domestic limited liability company shall not become or continue to be a member of or hold an interest in the surviving or resulting limited liability company or other business entity but shall be entitled to receive in cash from the surviving or resulting domestic limited liability company or other business entity the fair value of his or her membership interest in the domestic limited liability company as of the close of business of the day prior to the effective date of the merger or consolidation in accordance with section five hundred nine of this chapter but without taking account of the effect of the merger or consolidation.

(g) A member of a domestic limited liability company who has a right under this chapter to demand payment for his or her membership interest shall not have any right at law or in equity under this chapter to attack the validity of the merger or consolidation or to have the merger or consolidation set aside or rescinded, except in an action or contest with respect to compliance with the provisions of the operating agreement or subdivision (c) of this section.

(h) A limited liability company whose original articles of organization were filed with the secretary of state and effective prior to the effective date of this subdivision shall continue to be governed by this section as in effect on such date and shall not be governed by this section, unless otherwise provided in the operating agreement.

§ 1003. Certificate of merger or consolidation; contents. (a) After approval of the agreement of merger or consolidation by each domestic limited liability company or other business entity merging or consolidating under this article, unless the merger or consolidation is terminated in accordance with subdivision (d) of section ten hundred two of this article, paragraph (b) of section nine hundred three of the business corporation law, or other applicable statute, and the surviving or resulting entity is a limited liability company, foreign limited liability company or other business entity for which the laws of this state do not provide for the filing of a certificate of merger or consolidation with the department of state, a certificate of merger or consolidation, entitled "Certificate of merger (or consolidation) of and into (names of domestic limited liability companies or other business entities) under section one thousand three of the Limited Liability Company Law," shall be signed on behalf of each domestic limited liability company and other business entity and delivered to the department of state. The certificate of merger or consolidation shall set forth:

(1) the name and jurisdiction of formation or organization of each of the domestic limited liability companies or other business entities that are to merge or consolidate, and if the name of any of them has been changed, the name under which it was formed;

(2) for each domestic limited liability company and domestic other

business entity that is to merge or consolidate, the date when its initial articles of organization or formation document, if any, were filed with the department of state;

(3) that an agreement of merger or consolidation has been approved and executed by each of the domestic limited liability companies or other business entities that are to merge or consolidate;

(4) the name of the surviving or resulting limited liability company, foreign limited liability company or other business entity;

(5) the future effective date (which shall be a date certain) of the merger or consolidation in accordance with subdivision (b) of this section, if it is not to be effective upon the filing of the certificate of merger or consolidation;

(6) if a domestic limited liability company is the surviving limited liability company, such changes in its articles of organization as shall be necessary by reason of the merger;

(7) if a domestic limited liability company is the resulting limited liability company in a consolidation, the matters required to be set forth under subdivision (e) of section two hundred three of this chapter;

(8) if a constituent entity is a foreign limited liability company or foreign other business entity, the jurisdiction and date of filing of its initial articles of organization or formation document, if any, and the date when its application for authority was filed by the department of state or if no such application has been filed, a statement to such effect and (if the constituent foreign limited liability company is the surviving entity) that it is not to do business in this state until an application for such authority shall have been filed with the department of state;

(9) if the surviving or resulting entity is a foreign limited liability company or other business entity, an agreement that the foreign limited liability company or other business entity may be served with process in this state in any action or special proceeding for the enforcement of any liability or obligation of any domestic limited liability company, domestic business corporation or domestic other business entity previously amenable to suit in this state that is to merge or consolidate, and for the enforcement as provided in this chapter, of the right of members of any domestic limited liability

company, shareholders of any domestic business corporation or owners of any domestic other business entity to receive payment for their interests against the surviving or consolidated foreign limited liability company;

(10) if the surviving or resulting entity is a foreign limited liability company or other business entity, an agreement that, subject to the provisions of section six hundred twenty-three of the business corporation law, section one thousand five of this article, or any applicable statute, the surviving or resulting foreign limited liability company or other business entity will promptly pay to the shareholders of each constituent domestic business corporation, the members of each domestic limited liability company or owners of any constituent other business entity the amount, if any, to which they shall be entitled under the provisions of the business corporation law, any applicable statute and this chapter relating to the right of shareholders, members and owners to receive payment for their interests;

(11) a designation of the secretary of state as its agent upon whom process against it may be served in the manner set forth in article three of this chapter in any action or special proceeding, and a post office address, within or without this state, to which the secretary of state shall mail a copy of any process served upon him or her. The limited liability company may include an email address to which the secretary of state shall email a notice of the fact that process against it has been electronically served upon him or her. Such post office address or email address shall supersede any prior address designated as the address to which process shall be mailed or a notice emailed;

(12) for each foreign limited liability company and foreign other business entity, a statement that such merger or consolidation is permitted by the jurisdiction of organization or formation and is in compliance therewith;

(13) that the agreement of merger or consolidation is on file at a place of business of the surviving or resulting limited liability company or other business entity and shall state the address thereof; and

(14) that a copy of the agreement of merger or consolidation will be furnished by the surviving or resulting limited liability company or other business entity on request and without cost, to any member of any

domestic limited liability company or any person holding an interest in any other business entity that is to merge or consolidate.

(b) The merger or consolidation shall be effective upon the filing by the department of state of the certificate, or at such later date not more than thirty days after the date of such filing as the certificate filed may provide.

(c) The surviving or resulting limited liability company or other business entity shall thereafter cause a copy of such certificate, certified by the department of state, to be filed in the office of the clerk of each county in which each office of a constituent corporation is located, and in the office of the official who is the recording officer of each county in this state in which real property of a constituent corporation is situated.

§ 1004. Effect of merger or consolidation. (a) When any merger or consolidation shall have become effective under this chapter, for all purposes of the laws of this state, all of the rights, privileges, immunities, powers and purposes of each of the domestic limited liability companies and other business entities that have merged or consolidated, and all property, real, personal and mixed, tangible and intangible, and all debts, obligations, liabilities, penalties and duties of such domestic limited liability companies and other business entities, as well as all other things belonging to each of such domestic limited liability companies and other business entities, shall be vested in the surviving or resulting domestic limited liability company or other business entity, and shall thereafter be the property of the surviving or resulting domestic limited liability company or other business entity as they were of each of the domestic limited liability companies and other business entities that have merged or consolidated, and the title to any real property vested by deed or otherwise, under the laws of this state, in any of such domestic limited liability companies and other business entities, shall not revert or be in any way impaired by reason of this chapter; but all rights of creditors and all liens upon any property of any of such domestic limited liability companies and other business entities shall be preserved unimpaired, and all debts, obligations, liabilities, penalties and duties of each of

such domestic limited liability companies and other business entities that have merged or consolidated shall thenceforth attach to the surviving or resulting domestic limited liability company or other business entity and may be enforced against it to the same extent as if such debts, obligations, liabilities, penalties and duties had been incurred or contracted by it.

(b) When any merger or consolidation shall have become effective under this chapter, no action, suit or proceeding, civil or criminal, then pending by or against any constituent limited liability company or other business entity in its common name shall abate or be discontinued by reason of such merger or consolidation, but may be prosecuted by or may proceed against such surviving or resulting domestic limited liability company or other business entity.

(c) Unless otherwise agreed, a merger or consolidation of a domestic limited liability company, including a domestic limited liability company that is not the surviving or resulting entity in the merger or consolidation, shall not require such domestic limited liability company to wind up its affairs under section seven hundred three of this chapter or pay its liabilities and distribute its assets under section seven hundred four of this chapter.

(d) A certificate of merger or consolidation shall act as articles of dissolution for a domestic limited liability company that is not the surviving or resulting entity in the merger or consolidation.

(e) Notwithstanding anything to the contrary contained in an operating agreement, an operating agreement containing a specific reference to this subdivision may provide that an agreement of merger or consolidation approved in accordance with subdivision (c) of section ten hundred two of this article may (i) effect any amendment to the operating agreement or (ii) effect the adoption of a new operating agreement for a domestic limited liability company if it is the surviving or resulting domestic limited liability company in the merger or consolidation. Any amendment to an operating agreement or adoption of a new operating agreement made pursuant to the foregoing sentence shall be effective at the effective time or date of the merger or consolidation. The provisions of this subdivision shall not be construed to limit the accomplishment of a merger or of any of the matters referred to herein by any other means provided for in an operating

agreement or other agreement or as otherwise permitted by law, including that the operating agreement of any domestic limited liability company to the merger or consolidation (including a domestic limited liability company formed for the purpose of consummating a merger or consolidation) shall be the operating agreement of the surviving or resulting domestic limited liability company.

§ 1005. Payment of interest of dissenting members. (a) Within ten days after the occurrence of an event described in section ten hundred two of this article, the surviving or resulting domestic limited liability company or other business entity shall send to each dissenting former member a written offer to pay in cash the fair value of such former member's membership interest. Payment in cash shall be made to each former member accepting such offer within ten days after notice of such acceptance is received by the surviving or resulting domestic limited liability company or other business entity.

(b) If a former member and the surviving or resulting limited liability company or other business entity fail to agree on the price to be paid for the former member's membership interest within ninety days after the surviving or resulting domestic limited liability company or other business entity shall have made the offer provided for in subdivision (a) of this section, or if the domestic limited liability company or surviving domestic limited liability company or other business entity shall fail to make such an offer within the period provided for in subdivision (a) of this section, the procedure provided for in paragraphs (h), (i), (j) and (k) of section six hundred twenty-three of the business corporation law (or any successor provisions or statute) shall apply, as such paragraphs may be amended from time to time.

(c) A payment under this section shall constitute a return of a member's contribution for the purposes of section five hundred eight of this chapter.

§ 1006. Conversion of partnership or limited partnership to limited liability company. (a) As used in this article, unless the context

otherwise requires, the term, "limited partnership" means a limited partnership formed under the laws of this state; and the terms "general partner," "limited partner" and "majority in interest of the limited partners" shall have the meanings assigned to such terms in article eight-A of the partnership law; and the term "partnership" shall have the meaning assigned to such term in article two of the partnership law.

(b) A partnership or limited partnership may be converted to a limited liability company pursuant to this section.

(c) Subject to any requirements in the partnership agreement requiring approval by any lesser percentage in interest of partners, an agreement of conversion setting forth the terms and conditions of a conversion of a partnership to a limited liability company must be approved by all of the partners of the partnership. Subject to any requirement in the partnership agreement requiring approval by any greater or lesser percentage in interest of limited partners, which shall not be less than a majority in interest, the terms and conditions of a conversion of a limited partnership to a limited liability company must be approved (i) by such a vote of general partners as shall be required by the partnership agreement, or, if no provision is made, by all general partners, and (ii) by limited partners representing at least a majority in interest of each class of limited partners. The agreement of conversion shall be submitted to the general partners and limited partners of a limited partnership at a regular or special meeting called on twenty days notice or such other notice as the partnership agreement may provide. A dissenting limited partner shall have the rights provided in article eight-A of the partnership law and shall not be a member of the converted limited liability company. Notwithstanding authorization by the partners of a partnership or general partners or limited partners of a limited partnership, the conversion to a limited liability company may be abandoned pursuant to a provision for such abandonment, if any, contained in the agreement of conversion.

(d) The agreement of conversion shall set forth the terms and conditions of the conversion of the interests of partners of a partnership or general partners and limited partners of a limited partnership, as the case may be, into membership interests in the converted limited liability company or the cash or other consideration to be paid or delivered as a result of the conversion of the interests

of such partners, or a combination thereof.

(e) In connection with any conversion approved under subdivision (c) of this section, the partnership or limited partnership shall file with the department of state a signed certificate entitled "Certificate of Conversion of ... (name partnership or limited partnership) to ... (name of limited liability company) under section one thousand six of the Limited Liability Company Law" and shall also satisfy the publication requirements of section two hundred six of this chapter. Such certificate shall include either:

(A) (i) articles of organization for such limited liability company in the same manner as if newly formed pursuant to section two hundred three of this chapter;

(ii) a statement that the partnership or limited partnership was, in accordance with the provisions of this chapter, duly converted to a limited liability company from a partnership or limited partnership, as the case may be; and

(iii) The name of such partnership or limited partnership and in the case of a limited partnership the date its initial certificate was filed with the department of state, or:

(B) where such partnership or limited partnership is being converted into a limited liability company formed pursuant to section two hundred three of this chapter prior to the conversion,

(i) the name of such partnership or limited partnership and in the case of a limited partnership the date its initial certificate was filed with the department of state;

(ii) a statement that the partnership or limited partnership was, in accordance with the provisions of this chapter duly converted to a limited liability company from a partnership or limited partnership, as the case may be; and

(iii) the name of the limited liability company and the date its articles of organization were filed with the department of state.

(f) If the limited partnership is a domestic limited partnership, such domestic limited partnership shall cancel its certificate of limited partnership pursuant to article eight-A of the partnership law. The certificate of cancellation shall include the name of the limited liability company and a statement that the limited partnership will be converted into a limited liability company upon the filing of such

certificate.

(g) The conversion takes effect, in the case of a partnership, when the certificate of conversion is filed with the department of state or at any later date specified in the certificate of conversion or, in the case of a limited partnership, when the certificate of limited partnership is canceled.

(h) A partner or, in the case of a limited partnership, a general partner who becomes a member of a limited liability company as a result of a conversion, remains liable as a partner or general partner, as the case may be, for any debt, obligation, liability and penalty incurred by the partnership or limited partnership before the conversion takes effect. A limited partner who becomes a member as a result of a conversion remains liable only as a limited partner for a debt, obligation, liability or penalty incurred by the limited partnership before the conversion takes effect. The partner's, general partner's or limited partner's liability, if any, for a debt, obligation, liability or penalty incurred by the limited liability company after the conversion takes effect is that of a member as provided in this chapter.

(i) A limited liability company whose original articles of organization were filed with the secretary of state and effective prior to the effective date of this subdivision shall continue to be governed by this section as in effect on such date and shall not be governed by this section, unless otherwise provided in the operating agreement.

§ 1007. Effect of conversion. (a) A partnership or limited partnership that has been converted pursuant to this chapter is for all purposes the same entity that existed before the conversion.

(b) When a conversion takes effect:

(i) all property, real and personal, tangible and intangible, of the converting partnership or limited partnership remains vested in the converted limited liability company;

(ii) all debts, obligations, liabilities and penalties of the converting partnership or limited partnership continue as debts, obligations, liabilities and penalties of the converted limited liability company;

(iii) any action, suit or proceeding, civil or criminal, then pending

by or against the converting partnership or limited partnership may be continued as if the conversion had not occurred; and

(iv) to the extent provided in the agreement of conversion and in this chapter, the partners of a partnership or the general partners and limited partners of a limited partnership shall continue as members in the converted limited liability company.

ARTICLE XI MISCELLANEOUS

Section 1101. Fees.

1102. Records.

1103. Transactions of business outside the state.

1104. Limited liability companies prohibited from interposing defense of usury.

1105. Limited liability geology company.

1106. Definitions.

1107. Beneficial ownership disclosure.

1108. Violations and Penalties.

§ 1101. Fees. Except as otherwise provided, the department of state shall collect the following fees pursuant to this chapter:

(a) For the reservation of a limited liability company name pursuant to section two hundred five of this chapter, twenty dollars.

(b) For the change of address of the post office address to which the secretary of state shall mail a copy of any process against the limited liability company served upon him or her pursuant to section three hundred one of this chapter, twenty dollars.

(c) For the statement of address of the post office address to which the secretary of state shall mail a copy of any process against the limited liability company served upon him or her pursuant to section three hundred one of this chapter, nine dollars. This fee shall not apply to statements submitted through the department of taxation and finance pursuant to paragraph two of subdivision (e) of section three hundred one of this chapter.

(d) For the change of address of a registered agent for service of

process by such registered agent pursuant to section three hundred two of this chapter, twenty dollars.

(e) For the resignation of a registered agent for service of process pursuant to section three hundred two of this chapter, twenty dollars.

(f) For filing articles of organization pursuant to section two hundred nine of this chapter, two hundred dollars.

(g) For filing a certificate of amendment pursuant to section two hundred eleven of this chapter, sixty dollars.

(h) For filing articles of dissolution pursuant to section seven hundred five of this chapter, sixty dollars.

(i) For filing restated articles of organization pursuant to section two hundred fourteen of this chapter, sixty dollars.

(j) For filing a judicial dissolution pursuant to section seven hundred two of this chapter, sixty dollars.

(k) For filing an application for authority pursuant to section eight hundred two of this chapter, two hundred fifty dollars.

(l) For filing an amendment to an application for authority pursuant to section eight hundred four of this chapter, sixty dollars.

(m) For filing a certificate of surrender of authority pursuant to section eight hundred six of this chapter, sixty dollars.

(n) For filing a certificate of termination of existence pursuant to section eight hundred seven of this chapter, sixty dollars.

(o) For filing a certificate of merger or consolidation pursuant to section ten hundred three of this chapter, sixty dollars.

(p) For filing an application for cancellation of reservation of name pursuant to section two hundred five of this chapter, twenty dollars.

(q) For filing a certificate of correction pursuant to section two hundred twelve of this chapter, sixty dollars.

(r) For filing a certificate of conversion pursuant to section one thousand six of this chapter, two hundred dollars.

(s) For filing a certificate of publication with affidavits of publication annexed thereto pursuant to section two hundred six, eight hundred two, twelve hundred three or thirteen hundred six of this chapter, fifty dollars.

(t) For filing a certificate of resignation for receipt for process pursuant to section three hundred one-A of this chapter, ten dollars.

(u) For service of process on the secretary of state pursuant to

subdivision (e) of section three hundred one-A or pursuant to section three hundred three of this chapter, forty dollars. No fee shall be collected for process served on behalf of a county, city, town or village or other political subdivision of the state.

(v) For filing a certificate of change pursuant to subdivision (a) of section two hundred eleven-A or subdivision (a) of section eight hundred four-A of this chapter, thirty dollars, and for filing a certificate of change pursuant to subdivision (b) of section two hundred eleven-A or subdivision (b) of section eight hundred four-A of this chapter, five dollars.

§ 1102. Records. (a) Each domestic limited liability company shall maintain the following records, which may, but need not, be maintained in this state:

(1) if the limited liability company is managed by a manager or managers, a current list of the full name set forth in alphabetical order and last known mailing address of each such manager;

(2) a current list of the full name set forth in alphabetical order and last known mailing address of each member together with the contribution and the share of profits and losses of each member or information from which such share can be readily derived;

(3) a copy of the articles of organization and all amendments thereto or restatements thereof, together with executed copies of any powers of attorney pursuant to which any certificate or amendment has been executed;

(4) a copy of the operating agreement, any amendments thereto and any amended and restated operating agreement; and

(5) a copy of the limited liability company's federal, state and local income tax or information returns and reports, if any, for the three most recent fiscal years.

(b) Any member may, subject to reasonable standards as may be set forth in, or pursuant to, the operating agreement, inspect and copy at his or her own expense, for any purpose reasonably related to the member's interest as a member, the records referred to in subdivision (a) of this section, any financial statements maintained by the limited liability company for the three most recent fiscal years and other

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

(c) If provided in the operating agreement, certain members or managers shall have the right to keep confidential from other members for such period of time as such certain members or the managers deem reasonable, any information which such certain members or the managers reasonably believe to be in the nature of trade secrets or other information the disclosure of which such certain members or the managers in good faith believe is not in the best interest of the limited liability company or its business or which the limited liability company is required by law or by agreement with a third party to keep confidential.

(d) A limited liability company may maintain its records in other than a written form if such form is capable of conversion into written form within a reasonable time.

§ 1103. Transactions of business outside the state. (a) It is the intention of the legislature by the enactment of this chapter that the legal existence of a limited liability company formed under this chapter be recognized beyond the limits of this state and that, subject to any reasonable registration requirements, any such limited liability company transacting business outside this state shall be granted the protection of full faith and credit under section 1 of article IV of the Constitution of the United States.

(b) The provisions of this chapter shall determine the rights and obligations of a domestic limited liability company, organized under this chapter, in commerce with foreign nations and among the several states, except as prohibited by law.

§ 1104. Limited liability companies prohibited from interposing defense of usury. (a) No domestic or foreign limited liability company shall hereafter interpose the defense of usury in any action.

(b) The provisions of subdivision (a) of this section shall not apply to a domestic or foreign limited liability company, the principal asset of which is the ownership of a one or two family dwelling, where it

appears either that such limited liability company was formed, or that the controlling interest therein was acquired, within a period of six months prior to the execution by such limited liability company of a bond or note evidencing indebtedness, and a mortgage creating a lien for such indebtedness on such one or two family dwelling.

Any provision of any contract, or any separate written instrument executed prior to, simultaneously with or within sixty days after the delivery of any moneys to any borrower in connection with such indebtedness, whereby the defense of usury is waived or any such limited liability company estopped from asserting it, is hereby declared to be contrary to public policy and absolutely void.

(c) The provisions of subdivision (a) of this section shall not apply to any action in which a limited liability company interposes a defense of criminal usury as described in section 190.40 of the penal law.

§ 1105. Limited liability geology company. (a) Prior to the first day of March, two thousand nineteen, the state education department and the department of state shall allow an existing limited liability company organized under article two of this chapter to become a professional service limited liability company as defined in article twelve of this chapter for the purpose of practicing professional geology, provided the limited liability company meet all of the requirements to become a professional service limited liability company, including that the name of a professional service limited liability company shall end with the words "Professional Limited Liability Company" or "Limited Liability Company", or the abbreviations "P.L.L.C.", "PLLC", "L.L.C.", or "LLC" by amending its articles of organization so that it contains the following:

(1) the names and residence addresses of all individuals who are to be the original members and the original managers, if any;

(2) a statement that the professional limited liability company is formed pursuant to section twelve hundred three of the limited liability company law; and

(3) a statement that the amendment shall not effect a dissolution of the limited liability company, but shall be deemed a continuation of its existence, without affecting its then existing property rights or

liabilities or the liabilities of its members or officers as such, but thereafter it shall have only such rights, powers and privileges, and be subject only to such other duties and liabilities, as a professional service limited liability company created for the same purposes under this article.

(b) The certificate of amendment shall have attached thereto a certificate or certificates issued by the licensing authority certifying that each of the proposed members and managers listed:

(1) is authorized by law to practice a profession which the professional service limited liability company is organized to practice and, if applicable, that one or more of such individuals is authorized to practice each profession which the professional service limited liability company will be authorized to practice; and

(2) has been deemed to be of good moral character as may be established by the regulations of the commissioner of education.

(c) The certificate of amendment shall also have attached thereto a tax clearance issued by the department of taxation and finance certifying that the existing limited liability company is current with respect to payment of its state tax liabilities.

(d) Notwithstanding any provision of law to the contrary, any company formed under this section shall be required to comply with all applicable laws, rules, or regulations relating to the practice of a profession under title eight of the education law.

§ 1106. Definitions. For the purposes of this section and sections eleven hundred seven and eleven hundred eight of this article:

(a) "Beneficial owner" shall have the same meaning as defined in 31 U.S.C. § 5336(a)(3), as amended, and any regulations promulgated thereunder.

(b) "Reporting company" shall have the same meaning as defined in 31 U.S.C. § 5336(a)(11), as amended, and any regulations promulgated thereunder, but shall only include limited liability companies formed or authorized to do business in New York state.

(c) "Exempt company" shall mean a limited liability company or foreign limited liability company not otherwise defined as a reporting company that meets a condition for exemption enumerated in 31 U.S.C. §

5336(a)(11)(B).

(d) "Applicant" shall have the same meaning as defined in 31 U.S.C. § 5336(a)(2), as amended, and any regulations promulgated thereunder, but shall only include those relating to limited liability companies.

§ 1107. Beneficial ownership disclosure. (a) All reporting companies shall file with the department of state a beneficial ownership disclosure in such form and manner as directed by the department of state, identifying each beneficial owner of the reporting company and each applicant with respect to that reporting company, by: (1) full legal name; (2) date of birth; (3) current home or business street address; and (4) a unique identifying number from: (i) an unexpired passport; (ii) an unexpired state driver's license; or (iii) an unexpired identification card or document issued by a state or local government agency or tribal authority for the purpose of identification of that individual.

(b) All exempt companies shall electronically file, under penalty of perjury, an attestation of exemption in such form designated by the department of state, which statement shall include the specific exemption claimed and the facts on which such exemption is based. Any company filing an exemption pursuant to this subdivision shall be subject to the annual statement requirement as stated in subdivision (g) of this section in the form prescribed by the department, which statement shall be attested to under penalty of perjury.

(c) All beneficial ownership disclosures, attestations of exemption, and filing fees shall be submitted electronically as prescribed by the department of state. The beneficial ownership disclosure or attestation of exemption shall be signed electronically consistent with the provisions of article three of the state technology law.

(d) Within thirty days of an initial filing of articles of organization or an application for authority pursuant to this chapter, a reporting company shall file with the department of state a beneficial ownership disclosure that complies with subdivision (a) of this section. Within thirty days of an initial filing of articles of organization or an application for authority pursuant to this chapter, an exempt company shall file with the department of state an attestation of exemption that

complies with subdivision (b) of this section.

(e) Within one year of the effective date of this section, all previously formed or authorized reporting companies shall file with the department of state a beneficial ownership disclosure that complies with subdivision (a) of this section. Within one year of the effective date of this section, all previously formed or authorized exempt companies shall file with the department of state an attestation of exemption that complies with subdivision (b) of this section.

(f) All information relating to beneficial owners who are natural persons collected by the department of state in accordance with this section shall be maintained in a secure database and shall be deemed confidential except: (1) pursuant to the written request of or by voluntary written consent of the beneficial owner; (2) by court order; (3) to officers or employees of another federal, state or local government agency where disclosure is necessary for the agency to perform its official duties as required by statute or necessary to operate a program specifically authorized by law; or (4) for a valid law enforcement purpose including as relevant to any law enforcement investigation by the office of the attorney general. Any beneficial ownership information disclosed by department of state shall not be further disclosed by any recipient except as authorized in law or as otherwise necessary to the performance of statutory duties.

(g) Once the initial beneficial ownership disclosure has been filed, all reporting companies shall electronically file with the department of state an annual statement confirming or updating: (1) their beneficial ownership disclosure information; (2) the street address of its principal executive office; (3) status as exempt company, if applicable; and (4) such other information as may be designated by the department of state.

(h) The department of state shall establish provisions for sharing information with agencies permitted to access information relating to beneficial owners in accordance with subdivision (f) of this section.

§ 1108. Violations and Penalties. (a) (1) A reporting company which has failed to file its beneficial ownership disclosure, attestation of exemption, or annual statement as required by this article for a period

exceeding thirty days shall be shown to be past due on the records of the department of state.

(2) The attorney general may assess a fine of up to five hundred dollars for each day the company has been past due.

(3) In addition to any action brought seeking relief under paragraph two of this subdivision, such past due status shall be removed from the records of the department of state upon the filing of the current statement required by section 1107 of this article, the payment of a fine of two hundred fifty dollars, and verification from the attorney general that any penalties imposed pursuant to paragraph two of this subdivision have been paid.

(b) (1) A reporting company which has failed to file its beneficial ownership disclosure, attestation of exemption, or annual statement as required by this section for a period exceeding two years shall be shown to be delinquent on the records of the department of state.

(2) The attorney general may assess a fine of up to five hundred dollars for each day the company has been delinquent.

(3) In addition to any action brought seeking relief under paragraph two of this subdivision, such delinquency shall be removed from the records of the department of state upon the filing of the current statement required by section 1107 of this article, the payment of a fine of two hundred fifty dollars, and verification from the attorney general that any penalties imposed pursuant to paragraph two of this subdivision have been paid.

(c) It shall be unlawful for any person to knowingly provide, or attempt to provide, false or fraudulent beneficial ownership information, including a false or fraudulent identifying photograph or document, to the department of state in accordance with this article. A person shall not be in violation of this subdivision if such person voluntarily and promptly, and in no case later than ninety days after the date after the submission of beneficial ownership information, provides the corrected information in the form and manner prescribed by the department of state, unless the false or fraudulent information was willfully submitted for the purpose of evading the requirements of this article.

(d) In addition to any existing authority, the New York state attorney general may investigate any violation of subdivision (c) of this section

and any limited liability company that fails to file its beneficial ownership disclosure, annual statements, or attestation of exemption as required by section eleven hundred seven of this article. The department of state may refer, for an investigation, to the attorney general any limited liability company for any violation of the provisions of this article. The New York state attorney general may seek a fine of up to five hundred dollars for each day the company has been past due in filing its beneficial ownership disclosure or attestation of exemption.

(e) (1) The New York state attorney general may bring an action under this section to dissolve or cancel any entity that is delinquent in filing its beneficial ownership disclosure or attestation of exemption or has violated provisions of subdivision (c) of this section. If in the court's discretion it shall appear that the limited liability company should be dissolved and cancelled or the foreign limited liability company's authority to do business in this state should be annulled, it shall make a judgment or final order dissolving the limited liability company or annulling the authority of the foreign limited liability company.

(2) If the judgment or final order shall provide for a dissolution and cancellation of the limited liability company or the annulment of authority of the foreign limited liability company, the court may, in its discretion, provide therein for the distribution of the property of the limited liability company to those entitled thereto according to their respective rights.

(3) The clerk of the court or such other person as the court may direct shall transmit certified copies of the judgment or final order of dissolution to the department of state.

(4) Upon filing by the department of state, the limited liability company shall be dissolved and its articles of organization cancelled or the authority of the foreign limited liability company shall be annulled.

(f) Any penalties provided for in this section shall be in addition to and may be imposed concurrently with any other remedy or penalty otherwise provided for in law.

(g) Any reporting or exempt company that fails to file its beneficial ownership disclosure or attestation of exemption in accordance with section 1107 of this article shall be deemed suspended. Any reporting or

exempt company that fails to file its beneficial ownership disclosure or attestation of exemption in accordance with section 1107 of this article shall be given notice by the department of state of such suspension, at least thirty days prior to any change of status. A reporting company or exempt company that is suspended by operation of this subdivision shall not conduct business in New York state until its beneficial ownership disclosure or attestation of exemption has been filed, at which point the suspension shall be deemed annulled and all corporate powers, rights, privileges, immunities, duties and liabilities shall be restored retroactively. The suspension of a reporting or exempt company shall not limit or impair the validity of any contract or act of such reporting or exempt company, or any right or remedy of any other party under or by virtue of any contract, act or omission of such reporting or exempt company, or the right of any other party to maintain any action or special proceeding on any such contract, act or omission, or right of such reporting or exempt company to defend any action or special proceeding in this state, or result in any member, manager or agent of such reporting or exempt company becoming liable for the contractual obligations or other liabilities of the limited liability company.

(h) The secretary of state may promulgate regulations necessary to effectuate the provisions of this article.

ARTICLE XII

PROFESSIONAL SERVICE LIMITED LIABILITY COMPANIES

Section 1201. Definitions.

1202. Limited liability companies organized under other provisions of law.

1203. Formation.

1204. Rendering of professional service.

1205. Professional relationships and liabilities.

1206. Purposes of formation.

1207. Membership of professional service limited liability companies.

1208. (Reserved)

1209. Disqualification of members, managers and employees.

1210. Death, disqualification or dissolution of members.

- 1211. Transfer of a membership interest.
- 1212. Limited liability company name.
- 1213. Limited liability company act applicable.
- 1214. (Reserved)
- 1215. Regulation of professions.
- 1216. Mergers and consolidations.

§ 1201. Definitions. As used in this article, unless the context otherwise requires, the term:

(a) "Licensing authority" means the regents of the university of the state of New York or the state education department, as the case may be, in the case of all professions licensed under title eight of the education law, and the appropriate appellate division of the supreme court in the case of the profession of law.

(b) "Profession" includes any practice as an attorney and counselor-at-law, or as a licensed physician, and those professions designated in title eight of the education law.

(c) "Professional" means an individual duly authorized to practice a profession, a professional service corporation, a professional service limited liability company, a foreign professional service limited liability company, a registered limited liability partnership, a foreign limited liability partnership, a foreign professional service corporation or a professional partnership.

(d) "Professional service" means any type of service to the public that may be lawfully rendered by a member of a profession within the purview of his or her profession.

(e) "Professional service corporation" means (i) a corporation organized under article fifteen of the business corporation law and (ii) any other corporation organized under the business corporation law or under any other predecessor statute, which is authorized by, or holds a license, certificate, registration or permit issued by, the licensing authority pursuant to the education law to render professional services within this state.

(f) "Professional service limited liability company" means a limited liability company organized under this article.

(g) "Foreign professional service corporation" has the meaning given

to it in subdivision (d) of section fifteen hundred twenty-five of the business corporation law.

(h) "Foreign professional service limited liability company" has the meaning given to it in subdivision (a) of section thirteen hundred one of this chapter.

(i) "Professional partnership" means (1) a partnership without limited partners each of whose partners is a professional authorized by law to render a professional service within this state, (2) a partnership without limited partners each of whose partners is a professional, at least one of whom is authorized by law to render a professional service within this state or (3) a partnership without limited partners authorized by, or holding a license, certificate, registration or permit issued by the licensing authority pursuant to the education law to render a professional service within this state.

§ 1202. Limited liability companies organized under other provisions of law. The provisions of this article shall not apply to limited liability companies heretofore or hereafter duly formed under any other provision of law.

§ 1203. Formation. (a) Notwithstanding the education law or any other provision of law, one or more professionals each of whom is authorized by law to render a professional service within the state, or one or more professionals, at least one of whom is authorized by law to render a professional service within the state, may form, or cause to be formed, a professional service limited liability company for pecuniary profit under this article for the purpose of rendering the professional service or services as such professionals are authorized to practice. With respect to a professional service limited liability company formed to provide medical services as such services are defined in article 131 of the education law, each member of such limited liability company must be licensed pursuant to article 131 of the education law to practice medicine in this state. With respect to a professional service limited liability company formed to provide dental services as such services are defined in article 133 of the education law, each member of such limited

liability company must be licensed pursuant to article 133 of the education law to practice dentistry in this state. With respect to a professional service limited liability company formed to provide veterinary services as such services are defined in article 135 of the education law, each member of such limited liability company must be licensed pursuant to article 135 of the education law to practice veterinary medicine in this state. With respect to a professional service limited liability company formed to provide professional engineering, land surveying, architectural, landscape architectural and/or geological services as such services are defined in article 145, article 147 and article 148 of the education law, each member of such limited liability company must be licensed pursuant to article 145, article 147 and/or article 148 of the education law to practice one or more of such professions in this state. With respect to a professional service limited liability company formed to provide licensed clinical social work services as such services are defined in article 154 of the education law, each member of such limited liability company shall be licensed pursuant to article 154 of the education law to practice licensed clinical social work in this state. With respect to a professional service limited liability company formed to provide creative arts therapy services as such services are defined in article 163 of the education law, each member of such limited liability company must be licensed pursuant to article 163 of the education law to practice creative arts therapy in this state. With respect to a professional service limited liability company formed to provide marriage and family therapy services as such services are defined in article 163 of the education law, each member of such limited liability company must be licensed pursuant to article 163 of the education law to practice marriage and family therapy in this state. With respect to a professional service limited liability company formed to provide mental health counseling services as such services are defined in article 163 of the education law, each member of such limited liability company must be licensed pursuant to article 163 of the education law to practice mental health counseling in this state. With respect to a professional service limited liability company formed to provide psychoanalysis services as such services are defined in article 163 of the education law, each member of such limited liability company must be licensed

pursuant to article 163 of the education law to practice psychoanalysis in this state. With respect to a professional service limited liability company formed to provide applied behavior analysis services as such services are defined in article 167 of the education law, each member of such limited liability company must be licensed or certified pursuant to article 167 of the education law to practice applied behavior analysis in this state. In addition to engaging in such profession or professions, a professional service limited liability company may engage in any other business or activities as to which a limited liability company may be formed under section two hundred one of this chapter. Notwithstanding any other provision of this section, a professional service limited liability company (i) authorized to practice law may only engage in another profession or business or activities or (ii) which is engaged in a profession or other business or activities other than law may only engage in the practice of law, to the extent not prohibited by any other law of this state or any rule adopted by the appropriate appellate division of the supreme court or the court of appeals.

(b) The articles of organization of a professional service limited liability company shall meet the requirements of this chapter and (i) shall state the profession or professions to be practiced by such limited liability company and (A) the names and residence addresses of all individuals who are to be the original members and the original managers, if any, of such limited liability company, and (B) the names and residence addresses or, if none, the business address of all shareholders, directors, officers, members, managers and partners of all professional service corporations, foreign professional service corporations, professional service limited liability companies, foreign professional service limited liability companies, registered limited liability partnerships, foreign limited liability partnerships, and professional partnerships who are to be the original members or managers, if any, who are individuals of such limited liability company, (ii) shall have attached thereto a certificate or certificates issued by the licensing authority or by the comparable authority of another state certifying that each of the proposed members and managers, if any, who are individuals is authorized by law to practice a profession that such limited liability company is being formed to practice and, if

applicable, that one or more of such individuals are authorized to practice within the state each profession that such limited liability company will be authorized to practice, and (iii) if such proposed member or manager, if any, is a professional service corporation, foreign professional service corporation, professional service limited liability company, foreign professional service limited liability company, registered limited liability partnership, foreign limited liability partnership or professional partnership, (A) such certificate or certificates issued by the licensing authority or by the comparable authority of another state shall certify either (1) that each proposed member or manager is authorized by law to practice a profession that such limited liability company is being formed to practice and, if applicable, that each shareholder, member or partner of such proposed member or manager is authorized by law to render a professional service within the state or (2) that one or more of such proposed members and one or more of such proposed managers, are authorized to practice within the state each profession that such limited liability company will be authorized to practice and that one or more of the shareholders, members or partners of such proposed members or managers are authorized to practice within the state each profession that such limited liability company will be authorized to practice within the state and (B) there shall be attached to the articles of organization of the professional service limited liability company a certificate by an authorized officer of the jurisdiction of its formation that the professional service corporation, foreign professional service corporation, professional service limited liability company, foreign professional service limited liability company, registered limited liability partnership or foreign limited liability partnership is validly existing and, in the case of a foreign professional service corporation, foreign professional service limited liability company or foreign limited liability partnership, a certificate from the secretary of state that such foreign professional service corporation, foreign professional service limited liability company or foreign limited liability partnership is authorized to do business under article fifteen-A of the business corporation law, under article thirteen of this chapter or under article eight-B of the partnership law, as the case may be.

(c) (1) A certified copy of the articles of organization and of each

amendment thereto and restatement thereof shall be filed by the professional service limited liability company with the licensing authority within thirty days after the filing of such certificate or amendment with the department of state.

(2) (A) Within one hundred twenty days after the filing of the articles of organization, a copy of the same or a notice containing the substance thereof shall be published once in each week for six successive weeks, in two newspapers of the county in which the office of the professional service limited liability company is located, one newspaper to be printed weekly and one newspaper to be printed daily, to be designated by the county clerk. When such county is located within a city with a population of one million or more, such designation shall be as though the copy or notice were a notice or advertisement of judicial proceedings. Proof of the publication required by this subparagraph, consisting of the certificate of publication of the professional service limited liability company with the affidavits of publication of such newspapers annexed thereto, be filed with the department of state. Notwithstanding any other provision of law, if the office of the professional service limited liability company is located in a county wherein a weekly or daily newspaper of the county, or both, has not been so designated by the county clerk, then the publication herein required shall be made in a weekly or daily newspaper of any county, or both, as the case may be, which is contiguous to, such county, provided that any such newspaper meets all the other requirements of this subparagraph. A copy or notice published in a newspaper other than the newspaper or newspapers designated by the county clerk shall not be deemed to be one of the publications required by this subparagraph. The notice shall include: (i) the name of the professional service limited liability company; (ii) the date of filing of the articles of organization with the department of state; (iii) the county within this state, in which the office of the professional service limited liability company is located; (iii-a) the street address of the principal business location, if any; (iv) a statement that the secretary of state has been designated as agent of the professional service limited liability company upon whom process against it may be served and the post office address within or without this state to which the secretary of state shall mail a copy of any process against it served upon him or her; (v) if the professional

service limited liability company is to have a registered agent, his or her name and address within this state and a statement that the registered agent is to be the agent of the professional service limited liability company upon whom process against it may be served; (vi) if the professional service limited liability company is to have a specific date of dissolution in addition to the events of dissolution set forth in section seven hundred one of this chapter, the latest date upon which the professional service limited liability company is to dissolve; and (vii) the character or purpose of the business of such professional service limited liability company. Where, at any time after completion of the first of the six weekly publications required by this subparagraph and prior to the completion of the sixth such weekly publication, there is a change in any of the information contained in the copy or notice as published, the professional service limited liability company may complete the remaining publications of the original copy or notice, and the professional service limited liability company shall not be required to publish any further or amended copy or notice. Where, at any time after completion of the six weekly publications required by this subparagraph, there is a change to any of the information contained in the copy or notice as published, no further or amended publication or republication shall be required to be made. If within one hundred twenty days after its formation, proof of such publication, consisting of the certificate of publication of the professional service limited liability company with the affidavits of publication of the newspapers annexed thereto has not been filed with the department of state, the authority of such professional service limited liability company to carry on, conduct or transact any business in this state shall be suspended, effective as of the expiration of such one hundred twenty day period. The failure of a professional service limited liability company to cause such copy or notice to be published and such certificate of publication and affidavits of publication to be filed with the department of state within such one hundred twenty day period or the suspension of such professional service limited liability company's authority to carry on, conduct or transact business in this state pursuant to this subparagraph shall not limit or impair the validity of any contract or act of such professional service limited liability company, or any right or remedy of any other party under or by

virtue of any contract, act or omission of such professional service limited liability company, or the right of any other party to maintain any action or special proceeding on any such contract, act or omission, or right of such professional service limited liability company to defend any action or special proceeding in this state, or result in any member, manager or agent of such professional service limited liability company becoming liable for the contractual obligations or other liabilities of the professional service limited liability company. If, at any time following the suspension of a professional service limited liability company's authority to carry on, conduct or transact business in this state pursuant to this subparagraph, such professional service limited liability company shall cause proof of publication in substantial compliance with the provisions (other than the one hundred twenty day period) of this subparagraph, consisting of the certificate of publication of the professional service limited liability company with the affidavits of publication of the newspapers annexed thereto, to be filed with the department of state, such suspension of such professional service limited liability company's authority to carry on, conduct or transact business shall be annulled.

(B)(i) A professional service limited liability company which was formed prior to the effective date of this subparagraph and which complied with the publication and filing requirements of this paragraph as in effect prior to such effective date shall not be required to make any publication or republication or any filing under subparagraph (A) of this paragraph, and shall not be subject to suspension pursuant to this paragraph.

(ii) Within twelve months after the effective date of this subparagraph, a professional service limited liability company which was formed prior to such effective date and which did not comply with the publication and filing requirements of this paragraph as in effect prior to such effective date shall publish a copy of its articles of organization or a notice containing the substance thereof in the manner required (other than the one hundred twenty day period) by this paragraph as in effect prior to such effective date and file proof of such publication, consisting of the certificate of publication of the professional service limited liability company with the affidavits of publication of the newspapers annexed thereto, with the department of

state.

(iii) If a professional service limited liability company that is subject to the provisions of clause (ii) of this subparagraph fails to file the required proof of publication with the department of state within twelve months after the effective date of this subparagraph, its authority to carry on, conduct or transact any business in this state shall be suspended, effective as of the expiration of such twelve month period.

(iv) The failure of a professional service limited liability company that is subject to the provisions of clause (ii) of this subparagraph to fully comply with the provisions of said clause (ii) or the suspension of such professional service limited liability company's authority to carry on, conduct or transact any business in this state pursuant to clause (iii) of this subparagraph shall not impair or limit the validity of any contract or act of such professional service limited liability company, or any right or remedy of any other party under or by virtue of any contract, act or omission of such professional service limited liability company, or the right of any other party to maintain any action or special proceeding on any such contract, act or omission, or right of such professional service limited liability company to defend any action or special proceeding in this state, or result in any member, manager or agent of such professional service limited liability company becoming liable for the contractual obligations or other liabilities of the professional service limited liability company.

(v) If, at any time following the suspension of a professional service limited liability company's authority to carry on, conduct or transact business in this state, pursuant to clause (iii) of this subparagraph, such professional service limited liability company shall cause proof of publication in substantial compliance with the provisions (other than the one hundred twenty day period) of subparagraph (A) of this paragraph, consisting of the certificate of publication of the professional service limited liability company with the affidavits of publication of the newspapers annexed thereto, to be filed with the department of state, such suspension of such professional service limited liability company's authority to carry on, conduct or transact business shall be annulled.

(vi) For the purposes of this subparagraph, a professional service

limited liability company which was formed prior to the effective date of this subparagraph shall be deemed to have complied with the publication and filing requirements of this paragraph as in effect prior to such effective date if (i) the professional service limited liability company was formed on or after January first, nineteen hundred ninety-nine and prior to such effective date and the professional service limited liability company filed at least one affidavit of the printer or publisher of a newspaper with the department of state at any time prior to such effective date, or (ii) the professional service limited liability company was formed prior to January first, nineteen hundred ninety-nine, without regard to whether the professional service limited liability company did or did not file any affidavit of the printer or publisher of a newspaper with the secretary of state.

(C) The information in a notice published pursuant to this paragraph shall be presumed to be in compliance with and satisfaction of the requirements of this paragraph.

(d) A professional service limited liability company, other than a professional service limited liability company authorized to practice law, shall be under the supervision of the regents of the university of the state of New York and be subject to disciplinary proceedings and penalties, and its articles of organization shall be subject to suspension, revocation or annulment for cause, in the same manner and to the same extent as is provided with respect to individuals and their licenses, certificates and registrations in title eight of the education law relating to the applicable profession. Notwithstanding the provisions of this subdivision, a professional service limited liability company authorized to practice medicine shall be subject to the pre-hearing procedures and hearing procedures as are provided with respect to individual physicians and their licenses in Title II-A of article two of the public health law.

(e) A professional service limited liability company authorized to practice law shall be subject to the regulation and control of, and its articles of organization shall be subject to suspension, revocation or annulment for cause by, the appellate division of the supreme court and the court of appeals in the same manner and to the same extent provided in the judiciary law with respect to individual attorneys and counselors-at-law. Such limited liability company need not qualify for

any certification under section four hundred sixty-four of the judiciary law, take an oath of office under section four hundred sixty-six of the judiciary law or register under section four hundred sixty-seven of the judiciary law.

(f) The order of suspension, revocation or annulment of the articles of organization of a professional service limited liability company pursuant to subdivisions (d) and (e) of this section shall be effective upon the filing of such order with the department of state.

§ 1204. Rendering of professional service. (a) No professional service limited liability company may render a professional service except through individuals authorized by law to render such professional service, as individuals, provided, that nothing in this chapter shall authorize a professional service limited liability company to render a professional service in this state except through individuals authorized by law to render such professional service as individuals in this state.

(b) Each final plan and report made or issued by a professional service limited liability company practicing professional engineering, architecture, landscape architecture or land surveying shall bear the name and seal of one or more professional engineers, architects, landscape architects or land surveyors, respectively, who are in responsible charge of such plan or report.

(c) Each report, diagnosis, prognosis and prescription made or issued by a professional service limited liability company practicing medicine, dentistry, podiatry, optometry, ophthalmic dispensing, veterinary medicine, pharmacy, nursing, psychology, physical therapy or chiropractic shall bear the signature of one or more physicians, dentists, podiatrists, optometrists, ophthalmic dispensers, veterinarians, pharmacists, nurses, licensed psychologists, physical therapists or chiropractors, respectively, who are in responsible charge of such report, diagnosis, prognosis or prescription.

(d) Each record, transcript, report and hearing report prepared by a professional service limited liability company practicing certified shorthand reporting shall bear the signature of one or more certified shorthand reporters who are in responsible charge of such record, transcript, report or hearing report.

(e) Each professional service limited liability company practicing public accounting or certified public accounting shall maintain records indicating the identity of each public accountant or certified public accountant, respectively, who was responsible for each report or statement that is issued, prepared or examined by such limited liability company.

(f) Each opinion prepared by a professional service limited liability company practicing law shall bear the signature of one or more attorneys and counselors-at-law who are in responsible charge of such opinion.

(g) In addition to the requirements pursuant to subdivisions (b) through (f) of this section, each document prepared by a professional service limited liability company that under the rules, regulations, laws or customs of the applicable profession is required to bear the signature of an individual in responsible charge of such document, shall be signed by one or more such individuals.

§ 1205. Professional relationships and liabilities. (a) Each member, manager, employee or agent of a professional service limited liability company shall be personally and fully liable and accountable for any negligent or wrongful act or misconduct committed by him or her or by any person under his or her direct supervision and control while rendering professional services on behalf of such limited liability company.

(b) Each shareholder, director, officer, employee, member, manager, partner and agent of a professional service corporation, foreign professional service corporation, professional service limited liability company, foreign professional service limited liability company, registered limited liability partnership, foreign limited liability partnership or professional partnership that is a member, manager, employee or agent of a professional service limited liability company shall be personally and fully liable and accountable for any negligent or wrongful act or misconduct committed by him or her or by any person under his or her direct supervision and control while rendering professional services in his or her capacity as a member, manager, employee or agent of such professional service limited liability company.

(c) The relationship of a professional to a professional service limited liability company with which such professional is associated, whether as member, manager, employee or agent, shall not modify or diminish the jurisdiction over such professional of the licensing authority and in the case of an attorney and counselor-at-law, or a professional service corporation, foreign professional service corporation, professional service limited liability company, foreign professional service limited liability company, registered limited liability partnership, foreign limited liability partnership or professional partnership engaged in the practice of law, the courts of this state.

§ 1206. Purposes of formation. No professional service limited liability company shall engage in any profession or professions other than those set forth in its articles of organization. A professional service limited liability company may only engage in a profession or professions as to which one or more of its members is authorized by law to render professional services in this state. In addition to engaging in such profession or professions, a professional service limited liability company may carry on, or conduct or transact any other business or other activities as to which a limited liability company may be formed under section two hundred one of this chapter. Notwithstanding any other provision of this section, and subject to the next succeeding sentence of this section, a professional service limited liability company (i) authorized to practice law may only engage in another profession or other business or activities or (ii) which is engaged in a profession or other business or activities other than law may only engage in the practice of law, to the extent not prohibited by any other law of this state or any rule adopted by the appropriate appellate division of the supreme court or the court of appeals. Any professional service limited liability company may invest its funds in real estate, mortgages, stocks, bonds or any other type of investments.

§ 1207. Membership of professional service limited liability companies. (a) A member of a professional service limited liability

company shall be only:

(1) A professional, other than a foreign professional service corporation, foreign professional service limited liability company or foreign limited liability partnership, authorized by law to practice in this state a profession that such limited liability company is authorized to practice and who is or has been engaged in the practice of such profession in such limited liability company or a predecessor entity, or who will engage in the practice of such profession in such limited liability company within thirty days of the date such professional becomes a member;

(2) A professional, other than a foreign professional service corporation, foreign professional service limited liability company or foreign limited liability partnership, authorized by law to practice in any foreign jurisdiction a profession that such limited liability company is authorized to practice and who is or has been engaged in the practice of such profession in such limited liability company or a predecessor entity, or who will engage in the practice of such profession in such limited liability company within thirty days of the date such professional becomes a member; or

(3) A foreign professional service corporation, foreign professional service limited liability company or foreign limited liability partnership authorized by law to practice in this state or in any foreign jurisdiction a profession that such limited liability company is authorized to practice and who is or has been engaged in the practice of such profession in such limited liability company or a predecessor entity, or who will engage in the practice of such profession in such limited liability company within thirty days of the date such professional becomes a member.

(b) With respect to a professional service limited liability company formed to provide medical services as such services are defined in article 131 of the education law, each member of such limited liability company must be licensed pursuant to article 131 of the education law to practice medicine in this state. With respect to a professional service limited liability company formed to provide dental services as such services are defined in article 133 of the education law, each member of such limited liability company must be licensed pursuant to article 133 of the education law to practice dentistry in this state. With respect

to a professional service limited liability company formed to provide veterinary services as such services are defined in article 135 of the education law, each member of such limited liability company must be licensed pursuant to article 135 of the education law to practice veterinary medicine in this state. With respect to a professional service limited liability company formed to provide professional engineering, land surveying, architectural, landscape architectural and/or geological services as such services are defined in article 145, article 147 and article 148 of the education law, each member of such limited liability company must be licensed pursuant to article 145, article 147 and/or article 148 of the education law to practice one or more of such professions in this state. With respect to a professional service limited liability company formed to provide public accountancy services as such services are defined in article 149 of the education law each member of such limited liability company whose principal place of business is in this state and who provides public accountancy services, must be licensed pursuant to article 149 of the education law to practice public accountancy in this state. With respect to a professional service limited liability company formed to provide licensed clinical social work services as such services are defined in article 154 of the education law, each member of such limited liability company shall be licensed pursuant to article 154 of the education law to practice licensed clinical social work in this state. With respect to a professional service limited liability company formed to provide creative arts therapy services as such services are defined in article 163 of the education law, each member of such limited liability company must be licensed pursuant to article 163 of the education law to practice creative arts therapy in this state. With respect to a professional service limited liability company formed to provide marriage and family therapy services as such services are defined in article 163 of the education law, each member of such limited liability company must be licensed pursuant to article 163 of the education law to practice marriage and family therapy in this state. With respect to a professional service limited liability company formed to provide mental health counseling services as such services are defined in article 163 of the education law, each member of such limited liability company must be licensed pursuant to article 163 of the education law to practice

mental health counseling in this state. With respect to a professional service limited liability company formed to provide psychoanalysis services as such services are defined in article 163 of the education law, each member of such limited liability company must be licensed pursuant to article 163 of the education law to practice psychoanalysis in this state. With respect to a professional service limited liability company formed to provide applied behavior analysis services as such services are defined in article 167 of the education law, each member of such limited liability company must be licensed or certified pursuant to article 167 of the education law to practice applied behavior analysis in this state. A professional service limited liability company formed to lawfully engage in the practice of public accountancy as a firm, as such practice is defined under article 149 of the education law shall be required to show (1) that a simple majority of the ownership of the firm, in terms of financial interests and voting rights held by the firm's owners, belongs to individuals licensed to practice public accountancy in some state, and (2) that all members of a limited professional service limited liability company, whose principal place of business is in this state, and who are engaged in the practice of public accountancy in this state, hold a valid license issued under section seventy-four hundred four of the education law. For purposes of this subdivision, "financial interest" means capital stock, capital accounts, capital contributions, capital interest, or interest in undistributed earnings of a business entity. Although firms registered with the education department may include non-licensee owners, a registered firm and its owners must comply with rules promulgated by the state board of regents. Notwithstanding the foregoing, a firm registered with the education department may not have non-licensee owners if the firm's name includes the words "certified public accountant," or "certified public accountants," or the abbreviations "CPA" or "CPAs". Each non-licensee owner of a firm that is registered under this section shall be (1) a natural person who actively participates in the business of the firm or its affiliated entities, or (2) an entity, including, but not limited to, a partnership or professional corporation, provided each beneficial owner of an equity interest in such entity is a natural person who actively participates in the business conducted by the firm or its affiliated entities. For purposes of this subdivision, "actively

participate" means to provide services to clients or to otherwise individually take part in the day-to-day business or management of the firm or an affiliated entity.

(c) No member of a professional service limited liability company shall enter into a voting trust agreement, proxy or any other type of agreement vesting in another person, other than another member of such limited liability company or professional who would be eligible to become a member of such limited liability company, the authority to exercise voting power of any or all of the membership interests of such limited liability company. All membership interests or proxies granted or agreements made in violation of this section shall be void.

§ 1208. (Reserved)

§ 1209. Disqualification of members, managers and employees. If any member, manager or employee of a professional service limited liability company who has been rendering professional service to the public becomes legally disqualified to practice his, her or its profession within this state, he, she or it shall sever all employment with and financial interests (other than interests as a creditor or vested rights under a bona fide retirement program) in such limited liability company forthwith or as otherwise provided in section twelve hundred ten of this article. All provisions of law regulating the rendering of professional services by a person elected or appointed to a public office shall be applicable to a member, manager or employee of such limited liability company in the same manner and to the same extent as if fully set forth herein. Such legal disqualification to practice such profession within this state shall be deemed to constitute an irrevocable offer by the disqualified member to sell his, her or its membership interest to the professional service limited liability company, pursuant to the provisions of section twelve hundred ten of this article or of the articles of organization or operating agreement, whichever is applicable. Compliance with the terms of such offer shall be specifically enforceable in the courts of this state. A professional service limited liability company's failure to enforce compliance with

this provision shall constitute a ground for its dissolution.

§ 1210. Death, disqualification or dissolution of members. (a) A professional service limited liability company shall purchase or redeem the membership interest of a member in case of such member's death or disqualification pursuant to the provisions of section twelve hundred nine of this article or in the case of a member that is a professional service corporation, foreign professional service corporation, professional service limited liability company, foreign professional service limited liability company, registered limited liability partnership, foreign limited liability partnership or professional partnership, dissolution or disqualification of such professional service corporation, foreign professional service corporation, professional service limited liability company, foreign professional service limited liability company, registered limited liability partnership, foreign limited liability partnership or professional partnership (in the case of registered limited liability partnership, foreign limited liability partnership and professional partnership, other than a dissolution followed by a reconstitution where at least a majority of the total interests in the current profits of a successor partnership are held by partners of the predecessor partnership that was a registered limited liability partnership, foreign limited liability partnership or professional partnership who were partners of such predecessor partnership immediately prior to the dissolution of such predecessor partnership) or the death, dissolution or disqualification of all of its shareholders, members or partners, within six months after the appointment of the executor or administrator or other legal representative of the estate of such deceased member, or within six months after such disqualification or dissolution, at the book value of such membership interest as of the end of the month immediately preceding the death, disqualification or dissolution of the member as determined from the records of such limited liability company in accordance with its regular method of accounting. The operating agreement of such limited liability company may modify this section by providing for a shorter period of purchase or redemption, or an alternate method of determining the price to be paid for the membership

interest, or both. If such limited liability company shall fail to purchase or redeem such membership interest within the required period, a successful plaintiff in an action to recover the purchase price of such membership interest shall also be awarded reasonable attorneys' fees and costs. Nothing herein contained shall prevent such limited liability company from paying pension benefits or other deferred compensation to or on behalf of a former or deceased member, manager or employee thereof, or where such member, manager or employee is a professional service corporation, foreign professional service corporation, professional service limited liability company, foreign professional service limited liability company, registered limited liability partnership, foreign limited liability partnership or professional partnership, on behalf of a former or deceased shareholder, officer, director, member, manager, partner, or employee of such professional service corporation, foreign professional service corporation, professional service limited liability company, foreign professional service limited liability company, registered limited liability partnership, foreign limited liability partnership or professional partnership, as otherwise permitted by law. The provisions of this section shall not be deemed to require the purchase of the membership interest of a disqualified member where the period of disqualification is for less than six months and the member again becomes eligible to practice his or her profession within six months from the date of disqualification (or, in the case of a disqualified member that is a professional service corporation, foreign professional service corporation, professional service limited liability company, foreign professional service limited liability company, registered limited liability partnership, foreign limited liability partnership or professional partnership, where the period of disqualification of such professional service corporation, foreign professional corporation, professional service limited liability company, foreign professional service limited liability company, registered limited liability partnership, foreign limited liability partnership or professional partnership or all shareholders, members or partners of such professional service corporation, foreign professional service corporation, professional service limited liability company, foreign professional service limited liability company, registered limited

liability partnership, foreign limited liability partnership or professional partnership is for less than six months and such professional service corporation, foreign professional service corporation, professional service limited liability company, foreign professional service limited liability company, registered limited liability partnership, foreign limited liability partnership or professional partnership or each such shareholder, member or partner becomes eligible to practice his or her profession within six months from the date of disqualification).

(b) Notwithstanding the provisions of subdivision (a) of this section, the professional service limited liability company shall not be required to purchase or redeem the membership interest of a deceased or disqualified or dissolved member if such membership interest, within the time limit prescribed by subdivision (a) of this section, is sold or transferred to another professional pursuant to the provisions of section twelve hundred eleven of this article.

§ 1211. Transfer of a membership interest. (a) No member of a professional service limited liability company may sell or assign his, her or its membership interest in such limited liability company except to another professional eligible to become a member of such limited liability company or except in trust to another professional who would be eligible to become a member if such professional were employed by such limited liability company.

(b) Nothing contained in subdivision (a) of this section shall be construed to prohibit the assignment of a membership interest by operation of law or by court decree. An assignee of a membership interest by operation of law or court decree shall have the rights of an assignee of a membership interest set forth in section six hundred three of this chapter. Such assignee shall automatically become a member of the professional service limited liability company if such assignee would be eligible to be a member of such limited liability company and, a majority in interest of the members shall fail to redeem the membership interest so transferred, pursuant to section twelve hundred ten of this article, within sixty days of receiving written notice of such transfer.

(c) Any sale or transfer, except by operation of law or court decree or except for a professional service limited liability company having only one member, may be made only after the same shall have been approved by the vote or written consent of such proportion, not less than a majority in interest of the members, exclusive of the interest of the member proposing to sell or transfer such membership interest, as may be provided in the operating agreement of such professional service limited liability company. The voting interest held by the member proposing to sell or transfer his, her or its membership interest may not be voted or counted for any purpose, unless all the members consent that such interests be voted or counted. The professional service limited liability company may provide, in lieu of or in addition to the foregoing provisions, for the alienation of membership interests and may require the redemption or purchase of such membership interests by such limited liability company at prices and in a manner specifically set forth therein. The existence of the restrictions on the sale or transfer of a membership interest, as contained in this article and, if applicable, in the operating agreement, shall be noted conspicuously on the face or back of every certificate representing a membership interest issued by a professional service limited liability company. Any sale or transfer in violation of such restrictions shall be void.

§ 1212. Limited liability company name. (a) Notwithstanding any other provision of law, the name of a professional service limited liability company may contain any word that, at the time of formation, could be used in the name of a partnership or professional service corporation practicing a profession that such limited liability company is authorized to practice and may not contain any word that could not be used by such a partnership or professional service corporation; provided, however, the name of a professional service limited liability company may not contain the name of a deceased person unless:

(1) such person's name was part of the name of such limited liability company at the time of such person's death; or

(2) such person's name was part of the name of an existing partnership or professional service corporation and at least two-thirds of such partnership's partners or corporation's shareholders, as the case may

be, become members of such limited liability company.

(b) A professional service limited liability company name shall end with the words "Professional Limited Liability Company" or "Limited Liability Company" or the abbreviation "P.L.L.C.", "PLLC", "L.L.C." or "LLC". The provisions of subdivision (a) of section two hundred four of this chapter shall not apply to a professional service limited liability company.

§ 1213. Limited liability company act applicable. This chapter, except article eight and article thirteen, shall be applicable to a professional service limited liability company except to the extent that the provisions thereof conflict with this article. A professional service limited liability company may consolidate or merge with another limited liability company formed under this article, a foreign professional service limited liability company authorized to do business under article thirteen of this chapter or other business entity, only if all of the professions practiced by such limited liability company, foreign limited liability company or other business entity could be practiced by a single limited liability company organized under this article.

§ 1214. (Reserved)

§ 1215. Regulation of professions. This article shall not repeal, modify or restrict any provision of the education law or the judiciary law or any rules or regulations adopted thereunder regulating the professions referred to in the education law or the judiciary law except to the extent in conflict herewith.

§ 1216. Mergers and consolidations. Notwithstanding any inconsistent provision of this article, a professional service limited liability company, pursuant to the provisions of article ten of this chapter, may be merged or consolidated with another limited liability company formed

pursuant to the provisions of this chapter, a foreign professional service limited liability company authorized to do business under article thirteen of this chapter or other business entity formed or recognized under the laws of this state or any other state, provided that the limited liability company or other business entity that survives or that is formed pursuant thereto is a professional service limited liability company, a foreign professional service limited liability company authorized to do business under article thirteen of this chapter or other business entity practicing the same profession or professions in this state or the state of its formation. The restrictions on the issuance, transfer or sale of membership interests of a professional service limited liability company other than the requirements of the first two sentences of subdivision (c) of section twelve hundred eleven of this chapter, shall be suspended for a period not exceeding thirty days with respect to any issuance, transfer or sale of membership interests made pursuant to such merger or consolidation, provided that (a) no person or business entity who would not be eligible to be a member in the absence of this section shall vote or receive any distribution from such limited liability company; (b) after such merger or consolidation, any professional service limited liability company that survives or that is created thereby shall be subject to all the provisions of this article; and (c) membership interests thereafter may be held only by persons or business entities who are eligible to be a member of such professional service limited liability company. Nothing herein contained shall be construed as permitting the practice of a profession in this state by a limited liability company that is not formed pursuant to the provisions of this article or authorized to do business in the state pursuant to the provisions of article thirteen of this chapter.

ARTICLE XIII

FOREIGN PROFESSIONAL SERVICE LIMITED LIABILITY COMPANIES

Section 1301. Definitions.

1302. Rendering of professional service.

1303. Professional relationships and liabilities.

1304. Foreign professional service limited liability company.

- 1305. Limited liability company act applicable.
- 1306. Filing requirements.
- 1307. (Reserved)
- 1308. Regulation of professions.
- 1309. Licensing of individuals.

§ 1301. Definitions. As used in this article, unless the context otherwise requires, the term:

(a) "Foreign professional service limited liability company" means a professional service limited liability company, whether or not denominated as such, organized under the laws of a jurisdiction other than this state, (i) each of whose members and managers, if any, is a professional authorized by law to render a professional service within this state and who is or has been engaged in the practice of such profession in such professional service limited liability company or a predecessor entity, or will engage in the practice of such profession in the professional service limited liability company within thirty days of the date such professional becomes a member, or each of whose members and managers, if any, is a professional at least one of such members is authorized by law to render a professional service within this state and who is or has been engaged in the practice of such profession in such professional service limited liability company or a predecessor entity, or will engage in the practice of such profession in the professional service limited liability company within thirty days of the date such professional becomes a member, or (ii) authorized by, or holding a license, certificate, registration or permit issued by the licensing authority pursuant to, the education law to render a professional service within this state; except that all members and managers, if any, of a foreign professional service limited liability company that provides health services in this state shall be licensed in this state. With respect to a foreign professional service limited liability company which provides veterinary services as such services are defined in article 135 of the education law, each member of such foreign professional service limited liability company shall be licensed pursuant to article 135 of the education law to practice veterinary medicine. With respect to a foreign professional service limited

liability company which provides medical services as such services are defined in article 131 of the education law, each member of such foreign professional service limited liability company must be licensed pursuant to article 131 of the education law to practice medicine in this state. With respect to a foreign professional service limited liability company which provides dental services as such services are defined in article 133 of the education law, each member of such foreign professional service limited liability company must be licensed pursuant to article 133 of the education law to practice dentistry in this state. With respect to a foreign professional service limited liability company which provides professional engineering, land surveying, geologic, architectural and/or landscape architectural services as such services are defined in article 145, article 147 and article 148 of the education law, each member of such foreign professional service limited liability company must be licensed pursuant to article 145, article 147 and/or article 148 of the education law to practice one or more of such professions in this state. With respect to a foreign professional service limited liability company which provides public accountancy services as such services are defined in article 149 of the education law, each member of such foreign professional service limited liability company whose principal place of business is in this state and who provides public accountancy services, shall be licensed pursuant to article 149 of the education law to practice public accountancy in this state. With respect to a foreign professional service limited liability company which provides licensed clinical social work services as such services are defined in article 154 of the education law, each member of such foreign professional service limited liability company shall be licensed pursuant to article 154 of the education law to practice clinical social work in this state. With respect to a foreign professional service limited liability company which provides creative arts therapy services as such services are defined in article 163 of the education law, each member of such foreign professional service limited liability company must be licensed pursuant to article 163 of the education law to practice creative arts therapy in this state. With respect to a foreign professional service limited liability company which provides marriage and family therapy services as such services are defined in article 163 of the education law, each member of such foreign

professional service limited liability company must be licensed pursuant to article 163 of the education law to practice marriage and family therapy in this state. With respect to a foreign professional service limited liability company which provides mental health counseling services as such services are defined in article 163 of the education law, each member of such foreign professional service limited liability company must be licensed pursuant to article 163 of the education law to practice mental health counseling in this state. With respect to a foreign professional service limited liability company which provides psychoanalysis services as such services are defined in article 163 of the education law, each member of such foreign professional service limited liability company must be licensed pursuant to article 163 of the education law to practice psychoanalysis in this state. With respect to a foreign professional service limited liability company which provides applied behavior analysis services as such services are defined in article 167 of the education law, each member of such foreign professional service limited liability company must be licensed or certified pursuant to article 167 of the education law to practice applied behavior analysis in this state. A foreign professional service limited liability company formed to lawfully engage in the practice of public accountancy as a firm, as such practice is defined under article 149 of the education law shall be required to show (1) that a simple majority of the ownership of the firm, in terms of financial interests and voting rights held by the firm's owners, belongs to individuals licensed to practice public accountancy in some state, and (2) that all members of a foreign limited professional service limited liability company, whose principal place of business is in this state, and who are engaged in the practice of public accountancy in this state, hold a valid license issued under section seventy-four hundred four of the education law. For purposes of this subdivision, "financial interest" means capital stock, capital accounts, capital contributions, capital interest, or interest in undistributed earnings of a business entity. Although firms registered with the education department may include non-licensee owners, a registered firm and its owners must comply with rules promulgated by the state board of regents. Notwithstanding the foregoing, a firm registered with the education department may not have non-licensee owners if the firm's name includes the words "certified

public accountant," or "certified public accountants," or the abbreviations "CPA" or "CPAs". Each non-licensee owner of a firm that is registered under this section shall be (1) a natural person who actively participates in the business of the firm or its affiliated entities, or (2) an entity, including, but not limited to, a partnership or professional corporation, provided each beneficial owner of an equity interest in such entity is a natural person who actively participates in the business conducted by the firm or its affiliated entities. For purposes of this subdivision, "actively participate" means to provide services to clients or to otherwise individually take part in the day-to-day business or management of the firm or an affiliated entity.

(b) "Licensing authority" means the regents of the university of the state of New York or the state education department, as the case may be, in the case of all professions licensed under title eight of the education law, and the appropriate appellate division of the supreme court in the case of the profession of law.

(c) "Profession" includes any practice as an attorney and counselor-at-law, or as a licensed physician, and those professions designated in title eight of the education law.

(d) "Professional" means an individual duly authorized to practice a profession, a professional service corporation, a professional service limited liability company, a foreign professional service limited liability company, a registered limited liability partnership, a foreign limited liability partnership, a foreign professional service corporation or a professional partnership.

(e) "Professional service" means any type of service to the public that may be lawfully rendered by a member of a profession within the purview of his or her profession.

(f) "Professional partnership" means (1) a partnership without limited partners each of whose partners is a professional authorized by law to render a professional service within this state, (2) a partnership without limited partners each of whose partners is a professional, at least one of whom is authorized by law to render a professional service within this state or (3) a partnership without limited partners authorized by, or holding a license, certificate, registration or permit issued by the licensing authority pursuant to the education law to render a professional service within this state; except that all

partners of a professional partnership that provides medical services in this state must be licensed pursuant to article 131 of the education law to practice medicine in this state and all partners of a professional partnership that provides dental services in this state must be licensed pursuant to article 133 of the education law to practice dentistry in this state; except that all partners of a professional partnership that provides veterinary services in this state must be licensed pursuant to article 135 of the education law to practice veterinary medicine in this state; and further except that all partners of a professional partnership that provides professional engineering, land surveying, geologic, architectural, and/or landscape architectural services in this state must be licensed pursuant to article 145, article 147 and/or article 148 of the education law to practice one or more of such professions.

(g) "Professional service corporation" means (i) a corporation organized under article fifteen of the business corporation law and (ii) any other corporation organized under the business corporation law or any predecessor statute, which is authorized by, or holds a license, certificate, registration or permit issued by, the licensing authority pursuant to the education law to render professional services within this state.

(h) "Professional service limited liability company" means a limited liability company organized under article twelve of this chapter.

(i) "Foreign professional service corporation" has the meaning given to it in paragraph (d) of section fifteen hundred twenty-five of the business corporation law.

§ 1302. Rendering of professional service. (a) No foreign professional service limited liability company may render a professional service in this state except through individuals authorized by law to render such professional service as individuals in this state.

(b) Each final plan and report made or issued by a foreign professional service limited liability company practicing professional engineering, geology, architecture, landscape architecture or land surveying shall bear the name and seal of one or more professional engineers, professional geologists, architects, landscape architects, or

land surveyors, respectively, who are in responsible charge of such plan or report.

(c) Each report, diagnosis, prognosis and prescription made or issued by a foreign professional service limited liability company practicing medicine, dentistry, podiatry, optometry, ophthalmic dispensing, veterinary medicine, pharmacy, nursing, psychology, physical therapy or chiropractic shall bear the signature of one or more physicians, dentists, podiatrists, optometrists, ophthalmic dispensers, veterinarians, pharmacists, nurses, licensed psychologists, physical therapists or chiropractors, respectively, who are in responsible charge of such report, diagnosis, prognosis or prescription.

(d) Each record, transcript, report and hearing report prepared by a foreign professional service limited liability company practicing certified shorthand reporting shall bear the signature of one or more certified shorthand reporters who are in responsible charge of such record, transcript, report or hearing report.

(e) Each report and statement prepared by a foreign professional service limited liability company practicing public accounting or certified public accounting shall bear the signature of one or more public accountants or certified public accountants, respectively, who are in responsible charge of such report or statement.

(f) Each opinion prepared by a foreign professional service limited liability company practicing law shall bear the signature of one or more attorneys and counselors-at-law who are in responsible charge of such opinion.

(g) In addition to the requirements in subdivisions (b) through (f) of this section, each document prepared by a foreign professional service limited liability company that under the rules, regulations, laws or customs of the applicable profession is required to bear the signature of an individual in responsible charge of such document, shall be signed by one or more such individuals licensed to practice in this state.

§ 1303. Professional relationships and liabilities. (a) Each member, manager, employee or agent of a foreign professional service limited liability company who performs professional services in this state on behalf of such limited liability company shall be personally and fully

liable and accountable for any negligent or wrongful act or misconduct committed by him or her or by any person under his or her direct supervision and control while rendering such professional services in this state and shall bear professional responsibility for compliance by such limited liability company with all laws, rules and regulations governing the practice of a profession in this state.

(b) Each shareholder, director, officer, employee, member, manager, partner or agent of a professional service corporation, foreign professional service corporation, professional service limited liability company, foreign professional service limited liability company, registered limited liability partnership, foreign limited liability partnership or professional partnership that is a member, manager, employee or agent of a foreign professional service limited liability company who performs professional services in this state on behalf of such foreign professional service limited liability company shall be personally and fully liable and accountable for any negligent or wrongful act or misconduct committed by him or her or by any person under his or her direct supervision and control while rendering professional services in this state in his or her capacity as a member, manager, employee or agent of such foreign professional service limited liability company and shall bear professional responsibility for compliance by such limited liability company with all laws, rules and regulations governing the practice of the profession in this state.

(c) The relationship of a professional to a foreign professional service limited liability company with which such professional is associated, whether as a member, manager, employee or agent, shall not modify or diminish the jurisdiction over such professional of the licensing authority and in the case of an attorney and counselor-at-law or a professional service corporation, foreign professional service corporation, professional service limited liability company, foreign professional service limited liability company, registered limited liability partnership, foreign limited liability partnership or professional partnership, engaged in the practice of law, the courts of this state.

§ 1304. Foreign professional service limited liability company. No

foreign professional service limited liability company shall engage in any profession or carry on, or conduct or transact any other business or activities in this state other than the rendering of the professional services or the carrying on, or conducting or transacting of any other business or activities for which it is formed and is authorized to do business in this state; provided that such limited liability company may invest its funds in real estate, mortgages, stocks, bonds or any other type of investments; provided, further, that a foreign professional service limited liability company (i) authorized to practice law may only engage in another profession or other business or activities in this state or (ii) which is engaged in a profession or other business or activities other than law, may only engage in the practice of law in this state, to the extent not prohibited by any other law of this state or any rule adopted by the appropriate appellate division of the supreme court or the court of appeals.

§ 1305. Limited liability company act applicable. Except for the provisions of sections eight hundred two and eight hundred nine of this chapter, this chapter shall be applicable to a foreign professional service limited liability company to the extent that the provisions thereof are not in conflict with the provisions of this article. A foreign professional service limited liability company may practice in this state or may consolidate or merge with another limited liability company or other business entity, only if all of the professions practiced by such limited liability company or other business entity could be practiced by a single professional service limited liability company organized in this state; and, further, only if such foreign professional service limited liability company is domiciled in a state the laws of which, at the time of application by such limited liability company under section thirteen hundred six of this article, contain a reciprocal provision under which professional service limited liability companies domiciled in this state may similarly apply for the privilege of doing business in any such state or territory.

§ 1306. Filing requirements. (a) A foreign professional service

limited liability company may apply for authority to do business in this state. An application entitled "Application for authority of... (name of limited liability company) under section thirteen hundred six of the Limited Liability Company Law," shall be signed by an authorized person for the limited liability company and delivered to the department of state. It shall set forth:

(1) the name of the foreign professional service limited liability company. If the name does not end with the words "Professional Limited Liability Company" or "Limited Liability Company" or the abbreviation "P.L.L.C.", "PLLC", "L.L.C." or "LLC", it shall in addition to the foregoing set forth the name to be used in this state, ending with the words "Professional Limited Liability Company" or "Limited Liability Company" or the abbreviation "P.L.L.C.", "PLLC", "L.L.C." or "LLC";

(2) the jurisdiction and date of its formation;

(3) a statement of the profession or professions to be practiced in this state and a statement that the foreign professional service limited liability company is authorized to practice such profession or professions in the jurisdiction of its formation;

(4) the name, address and, where applicable, license number of each professional within the foreign professional service limited liability company who is licensed to practice the profession or professions in this state;

(5) the city, incorporated village or town and the county within this state in which its office is to be located;

(6) a designation of the secretary of state as its agent upon whom process against it may be served and the post office address within or without this state to which the secretary of state shall mail a copy of any process against it served upon him or her. The limited liability company may include an email address to which the secretary of state shall email a notice of the fact that process against it has been electronically served upon him or her; and

(7) if it is to have a registered agent, his or her name and address within this state and a statement that the registered agent is to be its agent upon whom process against it may be served.

(b) Attached to the application for authority shall be:

(1) a certificate by an authorized officer of the jurisdiction of its formation that the foreign professional service limited liability

company is an existing limited liability company;

(2) a certificate or certificates issued by the licensing authority that each professional within such limited liability company who is an individual and intending to practice the profession or professions in this state is licensed to practice said profession or professions in this state and for each such professional that is a professional service corporation, foreign professional service corporation, professional service limited liability company, foreign professional service limited liability company, registered limited liability partnership, foreign limited liability partnership or professional partnership, (A) such certificate or certificates issued by the licensing authority shall certify either (i) that each such professional service corporation, foreign professional service corporation, professional service limited liability company, foreign professional service limited liability company, registered limited liability partnership, foreign limited liability partnership or professional partnership intending to practice a profession in the state is authorized by law to practice in the state the profession that such foreign limited liability company intends to practice in the state and, if applicable, that each shareholder, member or partner of such proposed member or manager is authorized by law to render the professional service that such foreign limited liability company intends to practice in this state or (ii) that one or more of such professional service corporation, foreign professional service corporation, professional service limited liability company, foreign professional service limited liability company, registered limited liability partnership, foreign limited liability partnership or professional partnership, intending to practice a profession in this state is authorized by law to practice in this state the profession that such foreign limited liability company intends to practice and that one or more of the shareholders, members or partners of such proposed members or managers are authorized to practice within this state each profession that such foreign limited liability company will be authorized to practice within this state and (B) there shall be attached to the application for authority a certificate by an authorized officer of the jurisdiction of its formation that the professional service corporation, foreign professional service corporation, professional service limited liability company, foreign professional service limited

liability company, registered limited liability partnership or foreign limited liability partnership is validly existing and, in the case of a foreign professional service corporation, foreign professional service limited liability company or foreign limited liability partnership, a certificate from the secretary of state that such foreign professional service corporation, foreign professional service limited liability company or foreign limited liability partnership is authorized to do business under article fifteen-A of the business corporation law, this article or article eight-B of the partnership law, as the case may be. In order to obtain said certificate or certificates, a copy of the articles of organization shall be furnished to the licensing authority; and

(3) a certificate or certificates, issued by the licensing authority in the case of a foreign professional service limited liability company providing health services, stating that each member or manager of the foreign professional service limited liability company is licensed to practice said profession in this state.

(c) The fee for filing the application for authority shall be two hundred dollars, payable to the department of state, and the fee for a certificate of authority issued by the state education department shall be fifty dollars.

(d) (i) Within one hundred twenty days after the filing of the application for authority with the department of state, a copy of the same or a notice containing the substance thereof shall be published once in each week for six successive weeks, in two newspapers of the county within this state in which the office of the foreign professional service limited liability company is located, one newspaper to be printed weekly and one newspaper to be printed daily, to be designated by the county clerk. When such county is located within a city with a population of one million or more, such designation shall be as though the copy or notice were a notice or advertisement of judicial proceedings. Proof of the publication required by this paragraph, consisting of the certificate of publication of the foreign professional service limited liability company with the affidavits of publication of such newspapers annexed thereto, must be filed with the department of state. Notwithstanding any other provision of law, if the office of the foreign professional service limited liability company is located in a

county wherein a weekly or daily newspaper of the county, or both, has not been so designated by the county clerk, then the publication herein required shall be made in a weekly or daily newspaper of any county, or both, as the case may be, which is contiguous to, such county, provided that any such newspaper meets all the other requirements of this paragraph. A copy or notice published in a newspaper other than the newspaper or newspapers designated by the county clerk shall not be deemed to be one of the publications required by this paragraph. The notice shall include: (1) the name of the foreign professional service limited liability company; (2) the date of filing of the application for authority with the department of state; (3) the jurisdiction and date of its organization; (4) the county within this state, in which the office of the foreign professional service limited liability company is located; (4-a) the street address of the principal business location, if any; (5) a statement that the secretary of state has been designated as agent of the foreign professional service limited liability company upon whom process against it may be served and the post office address within or without this state to which the secretary of state shall mail a copy of any process against it served upon him or her; (6) if the foreign professional service limited liability company is to have a registered agent, his or her name and address within this state and a statement that the registered agent is to be the agent of the foreign professional service limited liability company upon whom process against it may be served; (7) the address of the office required to be maintained in the jurisdiction of its organization by the laws of that jurisdiction or, if not so required, of the principal office of the foreign professional service limited liability company; (8) the name and address of the authorized officer in its jurisdiction of organization where a copy of its certificate of organization is filed or, if no public filing of its certificate of organization is required by the law of its jurisdiction of organization, a statement that the foreign professional service limited liability company shall provide, on request, a copy thereof with all amendments thereto (if such documents are in a foreign language, a translation thereof under oath of the translator shall be attached thereto), and the name and post office address of the person responsible for providing such copies; and (9) the character or purpose of the business of such foreign professional service limited liability company.

Where, at any time after completion of the first of the six weekly publications required by this paragraph and prior to the completion of the sixth such weekly publication, there is a change in any of the information contained in the copy or notice as published, the foreign professional service limited liability company may complete the remaining publications of the original copy or notice, and the foreign professional service limited liability company shall not be required to publish any further or amended copy or notice. Where, at any time after completion of the six weekly publications required by this paragraph, there is a change to any of the information contained in the copy or notice as published, no further or amended publication or republication shall be required to be made. If within one hundred twenty days after the filing of its application for authority with the department of state, proof of such publication, consisting of the certificate of publication of the foreign professional service limited liability company with the affidavits of publication of the newspapers annexed thereto has not been filed with the department of state, the authority of such foreign professional service limited liability company to carry on, conduct or transact any business in this state shall be suspended, effective as of the expiration of such one hundred twenty day period. The failure of a foreign professional service limited liability company to cause such copy or notice to be published and such certificate of publication and affidavits of publication to be filed with the department of state within such one hundred twenty day period or the suspension of such foreign professional service limited liability company's authority to carry on, conduct or transact business in this state pursuant to this paragraph shall not limit or impair the validity of any contract or act of such foreign professional service limited liability company, or any right or remedy of any other party under or by virtue of any contract, act or omission of such foreign professional service limited liability company, or the right of any other party to maintain any action or special proceeding on any such contract, act or omission, or right of such foreign professional service limited liability company to defend any action or special proceeding in this state, or result in any member, manager or agent of such foreign professional service limited liability company becoming liable for the contractual obligations or other liabilities of the foreign professional

service limited liability company. If, at any time following the suspension of a foreign professional service limited liability company's authority to carry on, conduct or transact business in this state pursuant to this paragraph, such foreign professional service limited liability company shall cause proof of publication in substantial compliance with the provisions (other than the one hundred twenty day period) of this paragraph, consisting of the certificate of publication of the foreign professional service limited liability company with the affidavits of publication of the newspapers annexed thereto, to be filed with the department of state, such suspension of such foreign professional service limited liability company's authority to carry on, conduct or transact business shall be annulled.

(ii)(1) A foreign professional service limited liability company which was formed and filed its application for authority with the department of state prior to the effective date of this paragraph and complied with the publication and filing requirements of this subdivision as in effect prior to such effective date shall not be required to make any publication or republication or any filing under paragraph (i) of this subdivision, and shall not be subject to suspension pursuant to this subdivision.

(2) Within twelve months after the effective date of this paragraph, a foreign professional service limited liability company which was formed and filed its application for authority with the department of state prior to such effective date and which did not comply with the publication and filing requirements of this subdivision as in effect prior to such effective date shall publish a copy of its application for authority or a notice containing the substance thereof in the manner required (other than the one hundred twenty day period) by this subdivision as in effect prior to such effective date and file proof of such publication, consisting of the certificate of publication of the foreign professional service limited liability company with the affidavits of publication of the newspapers annexed thereto, with the department of state.

(3) If a foreign professional service limited liability company that is subject to the provisions of subparagraph two of this paragraph fails to file the required proof of publication with the department of state within twelve months after the effective date of this paragraph, its

authority to carry on, conduct or transact any business in this state shall be suspended, effective as of the expiration of such twelve month period.

(4) The failure of a foreign professional service limited liability company that is subject to the provisions of subparagraph two of this paragraph to fully comply with the provisions of said subparagraph two of this paragraph or the suspension of such foreign professional service limited liability company's authority to carry on, conduct or transact any business in this state pursuant to subparagraph three of this paragraph shall not impair or limit the validity of any contract or act of such foreign professional service limited liability company, or any right or remedy of any other party under or by virtue of any contract, act or omission of such foreign professional service limited liability company, or the right of any other party to maintain any action or special proceeding on any such contract, act or omission, or right of such foreign professional service limited liability company to defend any action or special proceeding in this state, or result in any member, manager or agent of such foreign professional service limited liability company becoming liable for the contractual obligations or other liabilities of the foreign professional service limited liability company.

(5) If, at any time following the suspension of a foreign professional service limited liability company's authority to carry on, conduct or transact business in this state, pursuant to subparagraph three of this paragraph, such foreign professional service limited liability company shall cause proof of publication in substantial compliance with the provisions (other than the one hundred twenty day period) of paragraph (i) of this subdivision, consisting of the certificate of publication of the foreign professional service limited liability company with the affidavits of publication of the newspapers annexed thereto, to be filed with the department of state, such suspension of such foreign professional service limited liability company's authority to carry on, conduct or transact business shall be annulled.

(6) For the purposes of this paragraph, a foreign professional service limited liability company which was formed and filed its application for authority with the department of state prior to the effective date of this paragraph shall be deemed to have complied with the publication and

filing requirements of this subdivision as in effect prior to such effective date if (i) the foreign professional service limited liability company was formed and filed its application for authority with the department of state on or after January first, nineteen hundred ninety-nine and prior to such effective date and the foreign professional service limited liability company filed at least one affidavit of the printer or publisher of a newspaper with the department of state at any time prior to such effective date, or (ii) the foreign professional service limited liability company was formed and filed its application for authority with the department of state prior to January first, nineteen hundred ninety-nine, without regard to whether the foreign professional service limited liability company did or did not file any affidavit of the printer or publisher of a newspaper with the secretary of state.

(iii) The information in a notice published pursuant to this subdivision shall be presumed to be in compliance with and satisfaction of the requirements of this subdivision.

§ 1307. (Reserved)

§ 1308. Regulation of professions. (a) This article shall not repeal, modify or restrict any provision of the education law or the judiciary law or any rules or regulations adopted thereunder regulating the professions referred to in the education law or the judiciary law except to the extent in conflict herewith.

(b) A foreign professional service limited liability company, other than a foreign professional service limited liability company authorized to practice law, shall be under the supervision of the regents of the university of the state of New York and be subject to disciplinary proceedings and penalties, and its authority to do business shall be subject to suspension, revocation or annulment for cause, in the same manner and to the same extent as is provided with respect to individuals and their licenses, certificates and registrations in title eight of the education law relating to the applicable profession. Notwithstanding the provisions of this subdivision, a foreign professional service

limited liability company authorized to practice medicine shall be subject to the pre-hearing procedures and hearing procedures as are provided with respect to individual physicians and their licenses in Title II-A of article two of the public health law.

(c) A foreign professional service limited liability company authorized to practice law shall be subject to the regulation and control of, and its authority to do business shall be subject to suspension, revocation or annulment for cause by, the appellate division of the supreme court and the court of appeals in the same manner and to the same extent provided in the judiciary law with respect to individual attorneys and counselors-at-law. Such limited liability company need not qualify for any certification under section four hundred sixty-four of the judiciary law, take an oath of office under section four hundred sixty-six of the judiciary law or register under section four hundred sixty-seven of the judiciary law.

§ 1309. Licensing of individuals. No member, manager or employee of a foreign professional service limited liability company who is an individual shall practice his or her profession in this state unless such individual is duly licensed to practice such profession in this state.

ARTICLE XIV

SAVINGS CLAUSES; EFFECTIVE DATES

Section 1401. Severability.

1402. Statutory construction; references.

1403. Effective date.

§ 1401. Severability. If any provision of this chapter or application thereof to any person or circumstances is held invalid, such invalidity shall not affect other provisions or applications of this chapter that can be given effect without the invalid provision or application, and to this end the provisions of this chapter are declared severable.

§ 1402. Statutory construction; references. (a) Unless otherwise stated, all references in this chapter to articles or sections refer to the articles or sections of this chapter, and all references in any section of this chapter to a lettered or numbered subdivision refer to the subdivision so lettered or numbered in such section.

(b) Headings to sections are supplied in this chapter for the purpose of convenient reference and do not constitute part of the law.

(c) As used in this chapter all pronouns and any variations thereof refer to the masculine, feminine or neuter, singular or plural, as the context may require.

§ 1403. Effective date. This chapter shall take effect on the ninetieth day after it shall have become a law.