

BUSINESS ORGANIZATIONS CODE
TITLE 3. LIMITED LIABILITY COMPANIES
CHAPTER 101. LIMITED LIABILITY COMPANIES

SUBCHAPTER A. GENERAL PROVISIONS

Sec. 101.001. DEFINITIONS. In this title:

(1) "Company agreement" means any agreement, written or oral, of the members concerning the affairs or the conduct of the business of a limited liability company. A company agreement of a limited liability company having only one member is not unenforceable because only one person is a party to the company agreement.

(2) "Foreign limited liability company" or "foreign company" means a limited liability company formed under the laws of a jurisdiction other than this state.

(3) "Limited liability company" or "company" means a domestic limited liability company subject to this title.

Acts 2003, 78th Leg., ch. 182, Sec. 1, eff. Jan. 1, 2006.

Sec. 101.002. APPLICABILITY OF OTHER LAWS. (a) Subject to Section 101.114, Sections 21.223, 21.224, 21.225, and 21.226 apply to a limited liability company and the company's members, owners, assignees, affiliates, and subscribers.

(b) For purposes of the application of Subsection (a):

(1) a reference to "shares" includes "membership interests";

(2) a reference to "holder," "owner," or "shareholder" includes a "member" and an "assignee";

(3) a reference to "corporation" or "corporate" includes a "limited liability company";

(4) a reference to "directors" includes "managers" of a manager-managed limited liability company and "members" of a member-managed limited liability company;

(5) a reference to "bylaws" includes "company agreement"; and

(6) the reference to "Sections 21.157-21.162" in

Section [21.223](#)(a)(1) refers to the provisions of Subchapter D of this chapter.

Added by Acts 2011, 82nd Leg., R.S., Ch. 25 (S.B. [323](#)), Sec. 1, eff. September 1, 2011.

SUBCHAPTER B. FORMATION AND GOVERNING DOCUMENTS

Sec. 101.051. CERTAIN PROVISIONS CONTAINED IN CERTIFICATE OF FORMATION. (a) A provision that may be contained in the company agreement of a limited liability company may alternatively be included in the certificate of formation of the company as provided by Section [3.005](#)(b).

(b) A reference in this title to the company agreement of a limited liability company includes any provision contained in the company's certificate of formation instead of the company agreement as provided by Subsection (a).

Acts 2003, 78th Leg., ch. 182, Sec. 1, eff. Jan. 1, 2006.

Sec. 101.0515. EXECUTION OF FILINGS. (a) Unless otherwise provided by this title, a filing instrument of a limited liability company must be signed by an authorized officer, manager, or member of the limited liability company.

(b) Unless otherwise provided by this title, a filing instrument of a registered series of a domestic limited liability company must be signed by an authorized officer, manager, or member of the registered series.

Added by Acts 2007, 80th Leg., R.S., Ch. 688 (H.B. [1737](#)), Sec. 96, eff. September 1, 2007.

Amended by:

Acts 2021, 87th Leg., R.S., Ch. 43 (S.B. [1523](#)), Sec. 23, eff. June 1, 2022.

Sec. 101.052. COMPANY AGREEMENT. (a) Except as provided by Section [101.054](#), the company agreement of a limited liability company governs:

(1) the relations among members, managers, and officers of the company, assignees of membership interests in the

company, and the company itself; and

(2) other internal affairs of the company.

(b) To the extent that the company agreement of a limited liability company does not otherwise provide, this title and the provisions of Title 1 applicable to a limited liability company govern the internal affairs of the company.

(c) Except as provided by Section [101.054](#), a provision of this title or Title 1 that is applicable to a limited liability company may be waived or modified in the company agreement of a limited liability company.

(d) The company agreement may contain any provisions for the regulation and management of the affairs of the limited liability company not inconsistent with law.

(e) A company agreement may provide rights to any person, including a person who is not a party to the company agreement, to the extent provided by the company agreement.

(f) A company agreement is enforceable by or against the limited liability company, regardless of whether the company has signed or otherwise expressly adopted the agreement.

Acts 2003, 78th Leg., ch. 182, Sec. 1, eff. Jan. 1, 2006.

Amended by:

Acts 2013, 83rd Leg., R.S., Ch. 9 (S.B. [847](#)), Sec. 5, eff. September 1, 2013.

Acts 2017, 85th Leg., R.S., Ch. 74 (S.B. [1517](#)), Sec. 8, eff. September 1, 2017.

Acts 2021, 87th Leg., R.S., Ch. 39 (S.B. [1203](#)), Sec. 26, eff. September 1, 2021.

Sec. 101.053. AMENDMENT OF COMPANY AGREEMENT. The company agreement of a limited liability company may be amended only if each member of the company consents to the amendment.

Acts 2003, 78th Leg., ch. 182, Sec. 1, eff. Jan. 1, 2006.

Sec. 101.054. WAIVER OR MODIFICATION OF CERTAIN STATUTORY PROVISIONS PROHIBITED; EXCEPTIONS. (a) Except as provided by this section, the following provisions may not be waived or modified in the company agreement of a limited liability company:

(1) this section;

(2) Section 101.101, 101.151, 101.206, 101.501, or Subchapter M of Chapter 101, except that Sections 101.601(d), 101.610, 101.611, 101.613(a), 101.616(2)(A) through (D), 101.618, or 101.619(b) may be waived or modified in the company agreement;

(3) Chapter 1, if the provision is used to interpret a provision or define a word or phrase contained in a section listed in this subsection;

(4) Chapter 2, except that Section 2.104(c)(2), 2.104(c)(3), or 2.113 may be waived or modified in the company agreement;

(5) Chapter 3, except that Subchapters C and E may be waived or modified in the company agreement; or

(6) Chapter 4, 5, 10, 11, or 12, other than Section 11.056.

(b) A provision listed in Subsection (a) may be waived or modified in the company agreement if the provision that is waived or modified authorizes the limited liability company to waive or modify the provision in the company's governing documents.

(c) A provision listed in Subsection (a) may be modified in the company agreement if the provision that is modified specifies:

(1) the person or group of persons entitled to approve a modification; or

(2) the vote or other method by which a modification is required to be approved.

(d) A provision in this title or in that part of Title 1 applicable to a limited liability company that grants a right to a person, other than a member, manager, officer, or assignee of a membership interest in a limited liability company, may be waived or modified in the company agreement of the company only if the person consents to the waiver or modification.

(e) The company agreement may not unreasonably restrict a person's right of access to records and information under Section 101.502.

Acts 2003, 78th Leg., ch. 182, Sec. 1, eff. Jan. 1, 2006.

Amended by:

Acts 2007, 80th Leg., R.S., Ch. 688 (H.B. 1737), Sec. 97, eff.

September 1, 2007.

Acts 2009, 81st Leg., R.S., Ch. 84 (S.B. 1442), Sec. 38, eff.

September 1, 2009.

Acts 2011, 82nd Leg., R.S., Ch. 139 (S.B. 748), Sec. 34, eff.

September 1, 2011.

Acts 2017, 85th Leg., R.S., Ch. 74 (S.B. 1517), Sec. 9, eff.

September 1, 2017.

Acts 2021, 87th Leg., R.S., Ch. 43 (S.B. 1523), Sec. 24, eff.

June 1, 2022.

Sec. 101.055. IRREVOCABLE POWER OF ATTORNEY. (a) This section applies only to:

(1) a power of attorney with respect to matters relating to the organization, internal affairs, or termination of a limited liability company; or

(2) a power of attorney granted by:

(A) a person as a member of or assignee of a membership interest in a limited liability company; or

(B) a person seeking to become a member of or assignee of a membership interest in a limited liability company.

(b) A power of attorney is irrevocable for all purposes if the power of attorney:

(1) is coupled with an interest sufficient in law to support an irrevocable power; and

(2) states that it is irrevocable.

(c) Unless otherwise provided in the power of attorney, an irrevocable power of attorney created under this section is not affected by the subsequent death, disability, incapacity, winding up, dissolution, termination of existence, or bankruptcy of, or any other event concerning, the principal.

(d) A power of attorney granted to the limited liability company, a member of the company, or any of their respective officers, directors, managers, members, partners, trustees, employees, or agents is conclusively presumed to be coupled with an interest sufficient in law to support an irrevocable power.

Added by Acts 2015, 84th Leg., R.S., Ch. 23 (S.B. 859), Sec. 2, eff. September 1, 2015.

SUBCHAPTER C. MEMBERSHIP

Sec. 101.101. MEMBERS REQUIRED. (a) A limited liability company may have one or more members. Except as provided by this section, a limited liability company must have at least one member.

(b) A limited liability company that has managers is not required to have any members during a reasonable period between the date the company is formed and the date the first member is admitted to the company.

(c) A limited liability company is not required to have any members during the period between the date the continued membership of the last remaining member of the company is terminated and the date the agreement to continue the company described by Section [11.056](#) is executed.

Acts 2003, 78th Leg., ch. 182, Sec. 1, eff. Jan. 1, 2006.

Sec. 101.102. QUALIFICATION FOR MEMBERSHIP. (a) A person may be a member of or acquire a membership interest in a limited liability company unless the person lacks capacity apart from this code.

(b) A person is not required, as a condition to becoming a member of or acquiring a membership interest in a limited liability company, to:

(1) make a contribution to the company;

(2) otherwise pay cash or transfer property to the company; or

(3) assume an obligation to make a contribution or otherwise pay cash or transfer property to the company.

(c) If one or more persons own a membership interest in a limited liability company, the company agreement may provide for a person to be admitted to the company as a member without acquiring a membership interest in the company.

Acts 2003, 78th Leg., ch. 182, Sec. 1, eff. Jan. 1, 2006.

Amended by:

Acts 2005, 79th Leg., Ch. 64 (H.B. [1319](#)), Sec. 71, eff. January 1, 2006.

Sec. 101.103. EFFECTIVE DATE OF MEMBERSHIP. (a) In connection with the formation of a company, a person becomes a member of the company on the date the company is formed if the person is named as an initial member in the company's certificate of formation.

(b) In connection with the formation of a company, a person being admitted as a member of the company but not named as an initial member in the company's certificate of formation becomes a member of the company on the latest of:

(1) the date the company is formed;

(2) the date stated in the company's records as the date the person becomes a member of the company; or

(3) if the company's records do not state a date described by Subdivision (2), the date the person's admission to the company is first reflected in the company's records.

(c) A person who, after the formation of a limited liability company, acquires directly or is assigned a membership interest in the company or is admitted as a member of the company without acquiring a membership interest becomes a member of the company on approval or consent of all of the company's members.

Acts 2003, 78th Leg., ch. 182, Sec. 1, eff. Jan. 1, 2006.

Amended by:

Acts 2005, 79th Leg., Ch. 64 (H.B. [1319](#)), Sec. 72, eff. January 1, 2006.

Sec. 101.104. CLASSES OR GROUPS OF MEMBERS OR MEMBERSHIP INTERESTS. (a) The company agreement of a limited liability company may:

(1) establish within the company classes or groups of one or more members or membership interests each of which has certain expressed relative rights, powers, and duties, including voting rights; and

(2) provide for the manner of establishing within the company additional classes or groups of one or more members or membership interests each of which has certain expressed relative rights, powers, and duties, including voting rights.

(b) The rights, powers, and duties of a class or group of members or membership interests described by Subsection (a)(2) may be stated in the company agreement or stated at the time the class or group is established.

(c) If the company agreement of a limited liability company does not provide for the manner of establishing classes or groups of members or membership interests under Subsection (a)(2), additional classes or groups of members or membership interests may be established only by the adoption of an amendment to the company agreement.

(d) The rights, powers, or duties of any class or group of members or membership interests of a limited liability company may be senior to the rights, powers, or duties of any other class or group of members or membership interests in the company, including a previously established class or group.

Acts 2003, 78th Leg., ch. 182, Sec. 1, eff. Jan. 1, 2006.

Sec. 101.105. ISSUANCE OF MEMBERSHIP INTERESTS AFTER FORMATION OF COMPANY. A limited liability company, after the formation of the company, may:

(1) issue membership interests in the company to any person with the approval of all of the members of the company; and

(2) if the issuance of a membership interest requires the establishment of a new class or group of members or membership interests, establish a new class or group as provided by Sections [101.104\(a\)\(2\)](#), (b), and (c).

Acts 2003, 78th Leg., ch. 182, Sec. 1, eff. Jan. 1, 2006.

Sec. 101.106. NATURE OF MEMBERSHIP INTEREST. (a) A membership interest in a limited liability company is personal property.

(a-1) A membership interest may be community property under applicable law.

(a-2) A member's right to participate in the management and conduct of the business of the limited liability company is not community property.

(b) A member of a limited liability company or an assignee

of a membership interest in a limited liability company does not have an interest in any specific property of the company.

(c) Sections 9.406 and 9.408, Business & Commerce Code, do not apply to a membership interest in a limited liability company, including the rights, powers, and interests arising under the company's certificate of formation or company agreement or under this code. To the extent of any conflict between this subsection and Section 9.406 or 9.408, Business & Commerce Code, this subsection controls. It is the express intent of this subsection to permit the enforcement, as a contract among the members of a limited liability company, of any provision of a company agreement that would otherwise be ineffective under Section 9.406 or 9.408, Business & Commerce Code.

Acts 2003, 78th Leg., ch. 182, Sec. 1, eff. Jan. 1, 2006.

Amended by:

Acts 2009, 81st Leg., R.S., Ch. 84 (S.B. 1442), Sec. 39, eff. September 1, 2009.

Acts 2011, 82nd Leg., R.S., Ch. 139 (S.B. 748), Sec. 35, eff. September 1, 2011.

Sec. 101.107. WITHDRAWAL OR EXPULSION OF MEMBER PROHIBITED. A member of a limited liability company may not withdraw or be expelled from the company.

Acts 2003, 78th Leg., ch. 182, Sec. 1, eff. Jan. 1, 2006.

Sec. 101.108. ASSIGNMENT OF MEMBERSHIP INTEREST. (a) A membership interest in a limited liability company may be wholly or partly assigned.

(b) An assignment of a membership interest in a limited liability company:

(1) is not an event requiring the winding up of the company; and

(2) does not entitle the assignee to:

(A) participate in the management and affairs of the company;

(B) become a member of the company; or

(C) exercise any rights of a member of the

company.

Acts 2003, 78th Leg., ch. 182, Sec. 1, eff. Jan. 1, 2006.

Sec. 101.109. RIGHTS AND DUTIES OF ASSIGNEE OF MEMBERSHIP INTEREST BEFORE MEMBERSHIP. (a) A person who is assigned a membership interest in a limited liability company is entitled to:

(1) receive any allocation of income, gain, loss, deduction, credit, or a similar item that the assignor is entitled to receive to the extent the allocation of the item is assigned;

(2) receive any distribution the assignor is entitled to receive to the extent the distribution is assigned;

(3) require, for any proper purpose, reasonable information or a reasonable account of the transactions of the company; and

(4) make, for any proper purpose, reasonable inspections of the books and records of the company.

(b) An assignee of a membership interest in a limited liability company is entitled to become a member of the company on the approval of all of the company's members.

(c) An assignee of a membership interest in a limited liability company is not liable as a member of the company until the assignee becomes a member of the company.

Acts 2003, 78th Leg., ch. 182, Sec. 1, eff. Jan. 1, 2006.

Sec. 101.110. RIGHTS AND LIABILITIES OF ASSIGNEE OF MEMBERSHIP INTEREST AFTER BECOMING MEMBER. (a) An assignee of a membership interest in a limited liability company, after becoming a member of the company, is:

(1) entitled, to the extent assigned, to the same rights and powers granted or provided to a member of the company by the company agreement or this code;

(2) subject to the same restrictions and liabilities placed or imposed on a member of the company by the company agreement or this code; and

(3) except as provided by Subsection (b), liable for the assignor's obligation to make contributions to the company.

(b) An assignee of a membership interest in a limited

liability company, after becoming a member of the company, is not obligated for a liability of the assignor that:

(1) the assignee did not have knowledge of on the date the assignee became a member of the company; and

(2) could not be ascertained from the company agreement.

Acts 2003, 78th Leg., ch. 182, Sec. 1, eff. Jan. 1, 2006.

Sec. 101.111. RIGHTS AND DUTIES OF ASSIGNOR OF MEMBERSHIP INTEREST. (a) An assignor of a membership interest in a limited liability company continues to be a member of the company and is entitled to exercise any unassigned rights or powers of a member of the company until the assignee becomes a member of the company.

(b) An assignor of a membership interest in a limited liability company is not released from the assignor's liability to the company, regardless of whether the assignee of the membership interest becomes a member of the company.

Acts 2003, 78th Leg., ch. 182, Sec. 1, eff. Jan. 1, 2006.

Sec. 101.1115. EFFECT OF DEATH OR DIVORCE ON MEMBERSHIP INTEREST. (a) For purposes of this code:

(1) on the divorce of a member, the member's spouse, to the extent of the spouse's membership interest, if any, is an assignee of the membership interest;

(2) on the death of a member, the member's surviving spouse, if any, and an heir, devisee, personal representative, or other successor of the member, to the extent of their respective membership interest, are assignees of the membership interest; and

(3) on the death of a member's spouse, an heir, devisee, personal representative, or other successor of the spouse, other than the member, to the extent of their respective membership interest, if any, is an assignee of the membership interest.

(b) This chapter does not impair an agreement for the purchase or sale of a membership interest at any time, including on the death or divorce of an owner of the membership interest.

Added by Acts 2011, 82nd Leg., R.S., Ch. 139 (S.B. 748), Sec. 36, eff. September 1, 2011.

Sec. 101.112. MEMBER'S MEMBERSHIP INTEREST SUBJECT TO CHARGING ORDER. (a) On application by a judgment creditor of a member of a limited liability company or of any other owner of a membership interest in a limited liability company, a court having jurisdiction may charge the membership interest of the judgment debtor to satisfy the judgment.

(b) If a court charges a membership interest with payment of a judgment as provided by Subsection (a), the judgment creditor has only the right to receive any distribution to which the judgment debtor would otherwise be entitled in respect of the membership interest.

(c) A charging order constitutes a lien on the judgment debtor's membership interest. The charging order lien may not be foreclosed on under this code or any other law.

(d) The entry of a charging order is the exclusive remedy by which a judgment creditor of a member or of any other owner of a membership interest may satisfy a judgment out of the judgment debtor's membership interest.

(e) This section may not be construed to deprive a member of a limited liability company or any other owner of a membership interest in a limited liability company of the benefit of any exemption laws applicable to the membership interest of the member or owner.

(f) A creditor of a member or of any other owner of a membership interest does not have the right to obtain possession of, or otherwise exercise legal or equitable remedies with respect to, the property of the limited liability company.

Acts 2003, 78th Leg., ch. 182, Sec. 1, eff. Jan. 1, 2006.

Amended by:

Acts 2007, 80th Leg., R.S., Ch. 688 (H.B. [1737](#)), Sec. 98, eff. September 1, 2007.

Acts 2009, 81st Leg., R.S., Ch. 84 (S.B. [1442](#)), Sec. 40, eff. September 1, 2009.

Sec. 101.113. PARTIES TO ACTIONS. A member of a limited liability company may be named as a party in an action by or against

the limited liability company only if the action is brought to enforce the member's right against or liability to the company.

Acts 2003, 78th Leg., ch. 182, Sec. 1, eff. Jan. 1, 2006.

Sec. 101.114. LIABILITY FOR OBLIGATIONS. Except as and to the extent the company agreement specifically provides otherwise, a member or manager is not liable for a debt, obligation, or liability of a limited liability company, including a debt, obligation, or liability under a judgment, decree, or order of a court.

Acts 2003, 78th Leg., ch. 182, Sec. 1, eff. Jan. 1, 2006.

SUBCHAPTER D. CONTRIBUTIONS

Sec. 101.151. REQUIREMENTS FOR ENFORCEABLE PROMISE. A promise to make a contribution or otherwise pay cash or transfer property to a limited liability company is enforceable only if the promise is:

- (1) in writing; and
- (2) signed by the person making the promise.

Acts 2003, 78th Leg., ch. 182, Sec. 1, eff. Jan. 1, 2006.

Sec. 101.152. ENFORCEABLE PROMISE NOT AFFECTED BY CHANGE IN CIRCUMSTANCES. A member of a limited liability company is obligated to perform an enforceable promise to make a contribution or otherwise pay cash or transfer property to the company without regard to the death, disability, or other change in circumstances of the member.

Acts 2003, 78th Leg., ch. 182, Sec. 1, eff. Jan. 1, 2006.

Sec. 101.153. FAILURE TO PERFORM ENFORCEABLE PROMISE; CONSEQUENCES. (a) A member of a limited liability company, or the member's legal representative or successor, who does not perform an enforceable promise to make a contribution, including a previously made contribution, or to otherwise pay cash or transfer property to the company, is obligated, at the request of the company, to pay in cash the agreed value of the contribution, as stated in the company agreement or the company's records required under Sections [3.151](#)

and 101.501, less:

- (1) any amount already paid for the contribution; and
- (2) the value of any property already transferred.

(b) The company agreement of a limited liability company may provide that the membership interest of a member who fails to perform an enforceable promise to make a payment of cash or transfer property to the company, whether as a contribution or in connection with a contribution already made, may be:

- (1) reduced;
- (2) subordinated to other membership interests of nondefaulting members;
- (3) redeemed or sold at a value determined by appraisal or other formula; or
- (4) made the subject of:
 - (A) a forced sale;
 - (B) forfeiture;
 - (C) a loan from other members of the company in an amount necessary to satisfy the enforceable promise; or
 - (D) another penalty or consequence.

Acts 2003, 78th Leg., ch. 182, Sec. 1, eff. Jan. 1, 2006.

Sec. 101.154. CONSENT REQUIRED TO RELEASE ENFORCEABLE OBLIGATION. The obligation of a member of a limited liability company, or of the member's legal representative or successor, to make a contribution or otherwise pay cash or transfer property to the company, or to return cash or property to the company paid or distributed to the member in violation of this code or the company agreement, may be released or settled only by consent of each member of the company.

Acts 2003, 78th Leg., ch. 182, Sec. 1, eff. Jan. 1, 2006.

Sec. 101.155. CREDITOR'S RIGHT TO ENFORCE CERTAIN OBLIGATIONS. A creditor of a limited liability company who extends credit or otherwise acts in reasonable reliance on an enforceable obligation of a member of the company that is released or settled as provided by Section 101.154 may enforce the original obligation if the obligation is stated in a document that is:

(1) signed by the member; and

(2) not amended or canceled to evidence the release or settlement of the obligation.

Acts 2003, 78th Leg., ch. 182, Sec. 1, eff. Jan. 1, 2006.

Sec. 101.156. REQUIREMENTS TO ENFORCE CONDITIONAL OBLIGATION. (a) An obligation of a member of a limited liability company that is subject to a condition may be enforced by the company or a creditor described by Section 101.155 only if the condition is satisfied or waived by or with respect to the member.

(b) A conditional obligation of a member of a limited liability company under this section includes a contribution payable on a discretionary call of the limited liability company before the time the call occurs.

Acts 2003, 78th Leg., ch. 182, Sec. 1, eff. Jan. 1, 2006.

SUBCHAPTER E. ALLOCATIONS AND DISTRIBUTIONS

Sec. 101.201. ALLOCATION OF PROFITS AND LOSSES. The profits and losses of a limited liability company shall be allocated to each member of the company on the basis of the agreed value of the contributions made by each member, as stated in the company's records required under Section 101.501.

Acts 2003, 78th Leg., ch. 182, Sec. 1, eff. Jan. 1, 2006.

Amended by:

Acts 2005, 79th Leg., Ch. 64 (H.B. 1319), Sec. 73, eff. January 1, 2006.

Sec. 101.202. DISTRIBUTION IN KIND. A member of a limited liability company is entitled to receive or demand a distribution from the company only in the form of cash, regardless of the form of the member's contribution to the company.

Acts 2003, 78th Leg., ch. 182, Sec. 1, eff. Jan. 1, 2006.

Sec. 101.203. SHARING OF DISTRIBUTIONS. Distributions of cash and other assets of a limited liability company shall be made to each member of the company according to the agreed value of the

member's contribution to the company as stated in the company's records required under Sections 3.151 and 101.501.

Acts 2003, 78th Leg., ch. 182, Sec. 1, eff. Jan. 1, 2006.

Sec. 101.204. INTERIM DISTRIBUTIONS. A member of a limited liability company, before the winding up of the company, is not entitled to receive and may not demand a distribution from the company until the company's governing authority declares a distribution to:

(1) each member of the company; or

(2) a class or group of members that includes the member.

Acts 2003, 78th Leg., ch. 182, Sec. 1, eff. Jan. 1, 2006.

Sec. 101.205. DISTRIBUTION ON WITHDRAWAL. A member of a limited liability company who validly exercises the member's right to withdraw from the company granted under the company agreement is entitled to receive, within a reasonable time after the date of withdrawal, the fair value of the member's interest in the company as determined as of the date of withdrawal.

Acts 2003, 78th Leg., ch. 182, Sec. 1, eff. Jan. 1, 2006.

Sec. 101.206. PROHIBITED DISTRIBUTION; DUTY TO RETURN.

(a) Unless the distribution is made in compliance with Chapter 11, a limited liability company may not make a distribution to a member of the company if, immediately after making the distribution, the company's total liabilities, other than liabilities described by Subsection (b), exceed the fair value of the company's total assets.

(b) For purposes of Subsection (a), the liabilities of a limited liability company do not include:

(1) a liability related to the member's membership interest; or

(2) except as provided by Subsection (c), a liability for which the recourse of creditors is limited to specified property of the company.

(c) For purposes of Subsection (a), the assets of a limited

liability company include the fair value of property subject to a liability for which recourse of creditors is limited to specified property of the company only if the fair value of that property exceeds the liability.

(c-1) For purposes of this section, the determination of the amount of a limited liability company's liabilities or the value of a company's assets may be based on:

(1) financial statements of the company, which may include the financial statements of subsidiary entities or other entities accounted for on a consolidated basis or on the equity method of accounting, that:

(A) present the financial condition of the company and any subsidiary or other entities included in those financial statements, in accordance with generally accepted accounting principles or international financial reporting standards; or

(B) have been prepared using the method of accounting used to file the company's federal income tax return or using any other accounting practices and principles that are reasonable under the circumstances;

(2) financial information, including condensed or summary financial statements, that is prepared on the same basis as financial statements described by Subdivision (1);

(3) projections, forecasts, or other forward-looking information relating to the future economic performance, financial condition, or liquidity of the company that is reasonable under the circumstances;

(4) a fair valuation or information from any other method that is reasonable under the circumstances; or

(5) a combination of a statement, valuation, or information authorized by this subsection.

(c-2) Subsection (c-1) does not apply to the computation of the franchise tax or any other tax imposed on a limited liability company under the laws of this state.

(d) A member of a limited liability company who receives a distribution from the company in violation of this section is not required to return the distribution to the company unless the

member had knowledge of the violation.

(e) This section may not be construed to affect the obligation of a member of a limited liability company to return a distribution to the company under the company agreement or other state or federal law.

(f) For purposes of this section, "distribution" does not include an amount constituting reasonable compensation for present or past services or a reasonable payment made in the ordinary course of business under a bona fide retirement plan or other benefits program.

(g) An action alleging a distribution is made in violation of this section must be commenced not later than the second anniversary of the date of the distribution.

Acts 2003, 78th Leg., ch. 182, Sec. 1, eff. Jan. 1, 2006.

Amended by:

Acts 2009, 81st Leg., R.S., Ch. 84 (S.B. [1442](#)), Sec. 41, eff. September 1, 2009.

Acts 2021, 87th Leg., R.S., Ch. 39 (S.B. [1203](#)), Sec. 27, eff. September 1, 2021.

Sec. 101.207. CREDITOR STATUS WITH RESPECT TO DISTRIBUTION. Subject to Sections [11.053](#) and [101.206](#), when a member of a limited liability company is entitled to receive a distribution from the company, the member, with respect to the distribution, has the same status as a creditor of the company and is entitled to any remedy available to a creditor of the company.

Acts 2003, 78th Leg., ch. 182, Sec. 1, eff. Jan. 1, 2006.

Sec. 101.208. RECORD DATE. A company agreement may establish or provide for the establishment of a record date with respect to allocations and distributions.

Added by Acts 2009, 81st Leg., R.S., Ch. 84 (S.B. [1442](#)), Sec. 42, eff. September 1, 2009.

SUBCHAPTER F. MANAGEMENT

Sec. 101.251. GOVERNING AUTHORITY. (a) The governing

authority of a limited liability company consists of:

(1) the managers of the company, if the company agreement provides that the company is managed by one or more managers; or

(2) the members of the company, if the company agreement provides that the company is managed by the members.

(b) If the company agreement does not provide otherwise, the governing authority of a limited liability company consists of:

(1) the managers of the company, if the company's certificate of formation states that the company has managers; or

(2) the members of the company, if the company's certificate of formation does not state that the company has managers.

Acts 2003, 78th Leg., ch. 182, Sec. 1, eff. Jan. 1, 2006.

Amended by:

Acts 2021, 87th Leg., R.S., Ch. 39 (S.B. 1203), Sec. 28, eff. September 1, 2021.

Sec. 101.252. MANAGEMENT BY GOVERNING AUTHORITY. The governing authority of a limited liability company shall manage the business and affairs of the company as provided by:

(1) the company agreement; and

(2) this title and the provisions of Title 1 applicable to a limited liability company to the extent that the company agreement does not provide for the management of the company.

Acts 2003, 78th Leg., ch. 182, Sec. 1, eff. Jan. 1, 2006.

Sec. 101.253. DESIGNATION OF COMMITTEES; DELEGATION OF AUTHORITY. (a) The governing authority of a limited liability company by resolution may designate:

(1) one or more committees of the governing authority consisting of one or more governing persons of the company; and

(2) subject to any limitation imposed by the governing authority, a governing person to serve as an alternate member of a committee designated under Subdivision (1) at a committee meeting from which a member of the committee is absent or disqualified.

(b) A committee of the governing authority of a limited liability company may exercise the authority of the governing authority as provided by the resolution designating the committee.

(c) The designation of a committee under this section does not relieve the governing authority of any responsibility imposed by law.

Acts 2003, 78th Leg., ch. 182, Sec. 1, eff. Jan. 1, 2006.

Sec. 101.254. DESIGNATION OF AGENTS; BINDING ACTS.

(a) Except as provided by this title and Title 1, each governing person of a limited liability company and each officer of a limited liability company vested with actual or apparent authority by the governing authority of the company is an agent of the company for purposes of carrying out the company's business.

(b) An act committed by an agent of a limited liability company described by Subsection (a) for the purpose of apparently carrying out the ordinary course of business of the company, including the execution of an instrument, document, mortgage, or conveyance in the name of the company, binds the company unless:

(1) the agent does not have actual authority to act for the company; and

(2) the person with whom the agent is dealing has knowledge of the agent's lack of actual authority.

(c) An act committed by an agent of a limited liability company described by Subsection (a) that is not apparently for carrying out the ordinary course of business of the company binds the company only if the act is authorized in accordance with this title.

Acts 2003, 78th Leg., ch. 182, Sec. 1, eff. Jan. 1, 2006.

Amended by:

Acts 2011, 82nd Leg., R.S., Ch. 139 (S.B. 748), Sec. 37, eff. September 1, 2011.

Sec. 101.255. CONTRACTS OR TRANSACTIONS INVOLVING INTERESTED GOVERNING PERSONS OR OFFICERS. (a) This section applies to a contract or transaction between a limited liability company and:

(1) one or more governing persons or officers, or one or more affiliates or associates of one or more governing persons or officers, of the company; or

(2) an entity or other organization in which one or more governing persons or officers, or one or more affiliates or associates of one or more governing persons or officers, of the company:

(A) is a managerial official; or

(B) has a financial interest.

(b) An otherwise valid and enforceable contract or transaction described by Subsection (a) is valid and enforceable, and is not void or voidable, notwithstanding any relationship or interest described by Subsection (a), if any one of the following conditions is satisfied:

(1) the material facts as to the relationship or interest described by Subsection (a) and as to the contract or transaction are disclosed to or known by:

(A) the company's governing authority or a committee of the governing authority and the governing authority or committee in good faith authorizes the contract or transaction by the approval of the majority of the disinterested governing persons or committee members, regardless of whether the disinterested governing persons or committee members constitute a quorum; or

(B) the members of the company, and the members in good faith approve the contract or transaction by vote of the members; or

(2) the contract or transaction is fair to the company when the contract or transaction is authorized, approved, or ratified by the governing authority, a committee of the governing authority, or the members of the company.

(c) Common or interested governing persons of a limited liability company may be included in determining the presence of a quorum at a meeting of the company's governing authority or of a committee of the governing authority that authorizes the contract or transaction.

(d) A person who has the relationship or interest described by Subsection (a) may:

(1) be present at or participate in and, if the person is a governing person or committee member, may vote at a meeting of the governing authority or of a committee of the governing authority that authorizes the contract or transaction; or

(2) sign, in the person's capacity as a governing person or committee member, a written consent of the governing persons or committee members to authorize the contract or transaction.

(e) If at least one of the conditions of Subsection (b) is satisfied, neither the company nor any of the company's members will have a cause of action against any of the persons described by Subsection (a) for breach of duty with respect to the making, authorization, or performance of the contract or transaction because the person had the relationship or interest described by Subsection (a) or took any of the actions authorized by Subsection (d).

Acts 2003, 78th Leg., ch. 182, Sec. 1, eff. Jan. 1, 2006.

Amended by:

Acts 2009, 81st Leg., R.S., Ch. 84 (S.B. [1442](#)), Sec. 44, eff. September 1, 2009.

Acts 2011, 82nd Leg., R.S., Ch. 139 (S.B. [748](#)), Sec. 38, eff. September 1, 2011.

SUBCHAPTER G. MANAGERS

Sec. 101.301. APPLICABILITY OF SUBCHAPTER. This subchapter applies only to a limited liability company that has one or more managers.

Acts 2003, 78th Leg., ch. 182, Sec. 1, eff. Jan. 1, 2006.

Sec. 101.302. NUMBER AND QUALIFICATIONS. (a) The managers of a limited liability company may consist of one or more persons.

(b) Except as provided by Subsection (c), the number of managers of a limited liability company consists of the number of initial managers listed in the company's certificate of formation.

(c) The number of managers of a limited liability company may be increased or decreased by amendment to, or as provided by,

the company agreement.

(d) A manager of a limited liability company is not required to be a:

- (1) resident of this state; or
- (2) member of the company.

Acts 2003, 78th Leg., ch. 182, Sec. 1, eff. Jan. 1, 2006.

Amended by:

Acts 2019, 86th Leg., R.S., Ch. 658 (S.B. 1859), Sec. 8, eff. September 1, 2019.

Sec. 101.303. TERM. A manager of a limited liability company serves:

- (1) for the term, if any, for which the manager is elected and until the manager's successor is elected; or
- (2) until the earlier resignation, removal, or death of the manager.

Acts 2003, 78th Leg., ch. 182, Sec. 1, eff. Jan. 1, 2006.

Sec. 101.304. REMOVAL. Subject to Section 101.306(a), a manager of a limited liability company may be removed, with or without cause, at a meeting of the company's members called for that purpose.

Acts 2003, 78th Leg., ch. 182, Sec. 1, eff. Jan. 1, 2006.

Sec. 101.305. MANAGER VACANCY. (a) Subject to Section 101.306(b), a vacancy in the position of a manager of a limited liability company may be filled by:

- (1) the affirmative vote of the majority of the remaining managers of the company, without regard to whether the remaining managers constitute a quorum; or
- (2) the members at a meeting of the company's members called for that purpose.

(b) A person elected to fill a vacancy in the position of a manager serves for the unexpired term, if any, of the person's predecessor.

Acts 2003, 78th Leg., ch. 182, Sec. 1, eff. Jan. 1, 2006.

Amended by:

Acts 2017, 85th Leg., R.S., Ch. 74 (S.B. 1517), Sec. 10, eff. September 1, 2017.

Sec. 101.306. REMOVAL AND REPLACEMENT OF MANAGER ELECTED BY CLASS OR GROUP. (a) If a class or group of the members of a limited liability company is entitled by the company agreement of the company to elect one or more managers of the company, a manager may be removed from office only by the class or group that elected the manager.

(b) A vacancy in the position of a manager elected as provided by Subsection (a) may be filled only by:

(1) a majority vote of the managers serving on the date the vacancy occurs who were elected by the class or group of members; or

(2) a majority vote of the members of the class or group.

Acts 2003, 78th Leg., ch. 182, Sec. 1, eff. Jan. 1, 2006.

Sec. 101.307. METHODS OF CLASSIFYING MANAGERS. Other methods of classifying managers of a limited liability company, including providing for managers who serve for staggered terms of office or terms that are not uniform, may be established in the company agreement.

Acts 2003, 78th Leg., ch. 182, Sec. 1, eff. Jan. 1, 2006.

SUBCHAPTER H. MEETINGS AND VOTING

Sec. 101.352. GENERAL NOTICE REQUIREMENTS. (a) Except as provided by Subsection (b), notice of a regular or special meeting of the governing authority or members of a limited liability company, or a committee of the company's governing authority, shall be given in writing to each governing person, member, or committee member, as appropriate, and as provided by Section 6.051.

(b) If the members of a limited liability company do not constitute the governing authority of the company, notice of a meeting of members required by Subsection (a) shall be given by or at the direction of the governing authority not later than the 10th

day or earlier than the 60th day before the date of the meeting. Notice of a meeting required under this subsection must state the business to be transacted at the meeting or the purpose of the meeting if:

(1) the meeting is a special meeting; or

(2) a purpose of the meeting is to consider a matter described by Section [101.356](#).

Acts 2003, 78th Leg., ch. 182, Sec. 1, eff. Jan. 1, 2006.

Amended by:

Acts 2007, 80th Leg., R.S., Ch. 688 (H.B. [1737](#)), Sec. 99, eff. September 1, 2007.

Sec. 101.353. QUORUM. A majority of all of the governing persons, members, or committee members of a limited liability company constitutes a quorum for the purpose of transacting business at a meeting of the governing authority, members, or committee of the company, as appropriate.

Acts 2003, 78th Leg., ch. 182, Sec. 1, eff. Jan. 1, 2006.

Sec. 101.354. EQUAL VOTING RIGHTS. Each governing person, member, or committee member of a limited liability company has an equal vote at a meeting of the governing authority, members, or committee of the company, as appropriate.

Acts 2003, 78th Leg., ch. 182, Sec. 1, eff. Jan. 1, 2006.

Sec. 101.355. ACT OF GOVERNING AUTHORITY, MEMBERS, OR COMMITTEE. Except as provided by this title or Title 1, the affirmative vote of the majority of the governing persons, members, or committee members of a limited liability company present at a meeting at which a quorum is present constitutes an act of the governing authority, members, or committee of the company, as appropriate.

Acts 2003, 78th Leg., ch. 182, Sec. 1, eff. Jan. 1, 2006.

Sec. 101.356. VOTES REQUIRED TO APPROVE CERTAIN ACTIONS.

(a) Except as provided in this section or any other section in this title, an action of a limited liability company may be approved by

the company's governing authority as provided by Section [101.355](#).

(b) Except as provided by Subsection (c), (d), or (e) or any other section in this title, an action of a limited liability company not apparently for carrying out the ordinary course of business of the company must be approved by the affirmative vote of the majority of all of the company's governing persons.

(c) Except as provided by Subsection (d) or (e) or any other section in this title, a fundamental business transaction of a limited liability company, or an action that would make it impossible for a limited liability company to carry out the ordinary business of the company, must be approved by the affirmative vote of the majority of all of the company's members.

(d) Except as provided by Subsection (e) or any other section of this title, the company's members must approve by an affirmative vote of all the members:

(1) an amendment to the certificate of formation of a limited liability company; or

(2) a restated certificate of formation that contains an amendment to the certificate of formation of a limited liability company.

(e) A requirement that an action of a limited liability company must be approved by the company's members does not apply during the period prescribed by Section [101.101\(b\)](#).

(f) Approval of a restated certificate of formation by a limited liability company's members is required only if the restated certificate contains an amendment.

Acts 2003, 78th Leg., ch. 182, Sec. 1, eff. Jan. 1, 2006.

Amended by:

Acts 2005, 79th Leg., Ch. 64 (H.B. [1319](#)), Sec. 74, eff. January 1, 2006.

Sec. 101.357. MANNER OF VOTING. (a) A member of a limited liability company may vote:

(1) in person; or

(2) by a proxy executed in writing by the member.

(b) A manager or committee member of a limited liability company may vote:

(1) in person; or

(2) if authorized by the company agreement, by a proxy executed in writing by the manager or committee member, as appropriate.

Acts 2003, 78th Leg., ch. 182, Sec. 1, eff. Jan. 1, 2006.

Amended by:

Acts 2011, 82nd Leg., R.S., Ch. 139 (S.B. 748), Sec. 39, eff. September 1, 2011.

Sec. 101.358. ACTION BY LESS THAN UNANIMOUS WRITTEN CONSENT. (a) This section applies only to an action required or authorized to be taken at an annual or special meeting of the governing authority, the members, or a committee of the governing authority of a limited liability company under this title, Title 1, or the governing documents of the company.

(b) Notwithstanding Sections 6.201 and 6.202, an action may be taken without holding a meeting, providing notice, or taking a vote if a written consent or consents stating the action to be taken is signed by the number of governing persons, members, or committee members of a limited liability company, as appropriate, necessary to have at least the minimum number of votes that would be necessary to take the action at a meeting at which each governing person, member, or committee member, as appropriate, entitled to vote on the action is present and votes.

Acts 2003, 78th Leg., ch. 182, Sec. 1, eff. Jan. 1, 2006.

Sec. 101.359. EFFECTIVE ACTION BY MEMBERS OR MANAGERS WITH OR WITHOUT MEETING. Members or managers of a limited liability company may take action at a meeting of the members or managers or without a meeting in any manner permitted by this title, Title 1, or the governing documents of the company. Unless otherwise provided by the governing documents, an action is effective if it is taken:

(1) by an affirmative vote of those persons having at least the minimum number of votes that would be necessary to take the action at a meeting at which each member or manager, as appropriate, entitled to vote on the action is present and votes; or

(2) with the consent of each member of the limited

liability company, which may be established by:

- (A) the member's failure to object to the action in a timely manner, if the member has full knowledge of the action;
- (B) consent to the action in writing signed by the member; or
- (C) any other means reasonably evidencing consent.

Added by Acts 2005, 79th Leg., Ch. 64 (H.B. 1319), Sec. 75, eff. January 1, 2006.

SUBCHAPTER I. MODIFICATION OF DUTIES; INDEMNIFICATION

Sec. 101.401. EXPANSION OR RESTRICTION OF DUTIES AND LIABILITIES. The company agreement of a limited liability company may expand or restrict any duties, including fiduciary duties, and related liabilities that a member, manager, officer, or other person has to the company or to a member or manager of the company. Acts 2003, 78th Leg., ch. 182, Sec. 1, eff. Jan. 1, 2006.

Sec. 101.402. PERMISSIVE INDEMNIFICATION, ADVANCEMENT OF EXPENSES, AND INSURANCE OR OTHER ARRANGEMENTS. (a) A limited liability company may:

- (1) indemnify a person;
- (2) pay in advance or reimburse expenses incurred by a person; and
- (3) purchase or procure or establish and maintain insurance or another arrangement to indemnify or hold harmless a person.

(b) In this section, "person" includes a member, manager, or officer of a limited liability company or an assignee of a membership interest in the company.

Acts 2003, 78th Leg., ch. 182, Sec. 1, eff. Jan. 1, 2006.

SUBCHAPTER J. DERIVATIVE PROCEEDINGS

Sec. 101.451. DEFINITIONS. In this subchapter:

- (1) "Derivative proceeding" means a civil suit in the

right of a domestic limited liability company or, to the extent provided by Section [101.462](#), in the right of a foreign limited liability company.

(2) "Managing entity" means an entity that is either:

(A) a manager of a limited liability company that is managed by managers; or

(B) a member of a limited liability company that is managed by members who are entitled to manage the company.

(3) "Member" includes a person who is a member or is an assignee of a membership interest or a person who beneficially owns a membership interest through a voting trust or a nominee on the person's behalf.

Acts 2003, 78th Leg., ch. 182, Sec. 1, eff. Jan. 1, 2006.

Amended by:

Acts 2019, 86th Leg., R.S., Ch. 899 (H.B. [3603](#)), Sec. 13, eff. September 1, 2019.

Acts 2021, 87th Leg., R.S., Ch. 39 (S.B. [1203](#)), Sec. 29, eff. September 1, 2021.

Sec. 101.452. STANDING TO BRING PROCEEDING. (a) Subject to Subsection (b), a member may not institute or maintain a derivative proceeding unless:

(1) the member:

(A) was a member of the limited liability company at the time of the act or omission complained of; or

(B) became a member by operation of law originating from a person that was a member at the time of the act or omission complained of; and

(2) the member fairly and adequately represents the interests of the limited liability company in enforcing the right of the limited liability company.

(b) If the converted entity in a conversion is a limited liability company, a member of that limited liability company may not institute or maintain a derivative proceeding based on an act or omission that occurred with respect to the converting entity before the date of the conversion unless:

(1) the member was an equity owner of the converting

entity at the time of the act or omission; and

(2) the member fairly and adequately represents the interests of the limited liability company in enforcing the right of the limited liability company.

Acts 2003, 78th Leg., ch. 182, Sec. 1, eff. Jan. 1, 2006.

Amended by:

Acts 2019, 86th Leg., R.S., Ch. 899 (H.B. 3603), Sec. 14, eff. September 1, 2019.

Sec. 101.453. DEMAND. (a) A member may not institute a derivative proceeding until the 91st day after the date a written demand is filed with the limited liability company stating with particularity the act, omission, or other matter that is the subject of the claim or challenge and requesting that the limited liability company take suitable action.

(b) The waiting period required by Subsection (a) before a derivative proceeding may be instituted is not required or, if applicable, shall terminate if:

(1) the member has been notified that the demand has been rejected by the limited liability company;

(2) the limited liability company is suffering irreparable injury; or

(3) irreparable injury to the limited liability company would result by waiting for the expiration of the 90-day period.

Acts 2003, 78th Leg., ch. 182, Sec. 1, eff. Jan. 1, 2006.

Amended by:

Acts 2019, 86th Leg., R.S., Ch. 899 (H.B. 3603), Sec. 15, eff. September 1, 2019.

Sec. 101.454. DETERMINATION BY GOVERNING OR INDEPENDENT PERSONS. (a) The determination of how to proceed on allegations made in a demand or petition relating to a derivative proceeding must be made by an affirmative vote of the majority of:

(1) the independent and disinterested governing persons of the limited liability company, whether one or more, even if the independent and disinterested governing persons are not a

majority of the governing persons of the limited liability company;

(2) a committee consisting of one or more independent and disinterested governing persons appointed by the majority of one or more independent and disinterested governing persons of the limited liability company, even if the appointing independent and disinterested governing persons are not a majority of the governing persons of the limited liability company; or

(3) a panel of one or more independent and disinterested individuals appointed by the court on a motion by the limited liability company listing the names of the individuals to be appointed and stating that, to the best of the limited liability company's knowledge, the individuals to be appointed are disinterested and qualified to make the determinations contemplated by Section [101.458](#).

(b) An entity to which this subsection applies is independent and disinterested under this section only if its decision with respect to the limited liability company's derivative proceeding is made by a majority of its governing persons who are independent and disinterested with respect to that derivative proceeding, even if those governing persons are not a majority of its governing persons. This subsection applies to an entity that is:

(1) a managing entity of the limited liability company; or

(2) directly, or indirectly through one or more other entities, a governing person of that managing entity.

(c) The court shall appoint a panel under Subsection (a)(3) if the court finds that the individuals recommended by the limited liability company are independent and disinterested and are otherwise qualified with respect to expertise, experience, independent judgment, and other factors considered appropriate by the court under the circumstances to make the determinations. An individual appointed by the court to a panel under this section may not be held liable to the limited liability company or the limited liability company's members for an action taken or omission made by the individual in that capacity, except for acts or omissions constituting fraud or wilful misconduct.

Acts 2003, 78th Leg., ch. 182, Sec. 1, eff. Jan. 1, 2006.

Amended by:

Acts 2019, 86th Leg., R.S., Ch. 899 (H.B. 3603), Sec. 16, eff. September 1, 2019.

Sec. 101.455. STAY OF PROCEEDING. (a) If the limited liability company that is the subject of a derivative proceeding commences an inquiry into the allegations made in a demand or petition and the person or group of persons described by Section 101.454 is conducting an active review of the allegations in good faith, the court shall stay a derivative proceeding for not more than 60 days until the review is completed and a determination is made by the person or group regarding what further action, if any, should be taken.

(b) To obtain a stay, the limited liability company must provide the court with a written statement agreeing to advise the court and the member making the demand of the determination promptly on the completion of the review of the matter.

(c) A stay, on motion, may be reviewed every 60 days for continuation of the stay if the limited liability company provides the court and the member with a written statement of the status of the review and the reasons why an extension for a period not to exceed 60 additional days is appropriate. An extension shall be granted for a period not to exceed 60 days if the court determines that the continuation is appropriate in the interests of the limited liability company.

Acts 2003, 78th Leg., ch. 182, Sec. 1, eff. Jan. 1, 2006.

Amended by:

Acts 2019, 86th Leg., R.S., Ch. 899 (H.B. 3603), Sec. 17, eff. September 1, 2019.

Sec. 101.456. DISCOVERY. (a) If a limited liability company proposes to dismiss a derivative proceeding under Section 101.458, discovery by a member after the filing of the derivative proceeding in accordance with this subchapter shall be limited to:

(1) facts relating to whether the person or persons described by Section 101.454 are independent and disinterested;

(2) the good faith of the inquiry and review by the person or group; and

(3) the reasonableness of the procedures followed by the person or group in conducting the review.

(b) Discovery described by Subsection (a) may not be expanded to include a fact or substantive matter regarding the act, omission, or other matter that is the subject matter of the derivative proceeding but the scope of discovery shall not be so limited if the court determines after notice and hearing that a good faith review of the allegations has not been made by an independent and disinterested person or group in accordance with Sections [101.454](#) and [101.458](#).

Acts 2003, 78th Leg., ch. 182, Sec. 1, eff. Jan. 1, 2006.

Amended by:

Acts 2019, 86th Leg., R.S., Ch. 899 (H.B. [3603](#)), Sec. 18, eff. September 1, 2019.

Sec. 101.457. TOLLING OF STATUTE OF LIMITATIONS. A written demand filed with the limited liability company under Section [101.453](#) tolls the statute of limitations on the claim on which demand is made until the later of:

(1) the 31st day after the expiration of any waiting period under Section [101.453](#)(a); or

(2) the 31st day after the expiration of any stay granted under Section [101.455](#), including all continuations of the stay.

Acts 2003, 78th Leg., ch. 182, Sec. 1, eff. Jan. 1, 2006.

Amended by:

Acts 2019, 86th Leg., R.S., Ch. 899 (H.B. [3603](#)), Sec. 19, eff. September 1, 2019.

Acts 2021, 87th Leg., R.S., Ch. 39 (S.B. [1203](#)), Sec. 30, eff. September 1, 2021.

Sec. 101.458. DISMISSAL OF DERIVATIVE PROCEEDING. (a) A court, sitting in equity as the finder of fact, shall dismiss a derivative proceeding on a motion by the limited liability company if the person or group of persons described by Section [101.454](#)

determines in good faith, after conducting a reasonable inquiry and based on factors the person or group considers appropriate under the circumstances, that continuation of the derivative proceeding is not in the best interests of the limited liability company.

(b) In determining whether the requirements of Subsection (a) have been met, the burden of proof shall be on:

(1) the plaintiff member if:

(A) the applicable person or persons making the determination under Section 101.454(a)(1) or (2) are independent and disinterested at the time the determination is made;

(B) the determination is made by a panel of one or more independent and disinterested persons appointed under Section 101.454(a)(3); or

(C) the limited liability company presents prima facie evidence that demonstrates that the applicable person or persons making the determination under Section 101.454(a) are independent and disinterested; or

(2) the limited liability company in any other circumstance.

Acts 2003, 78th Leg., ch. 182, Sec. 1, eff. Jan. 1, 2006.

Amended by:

Acts 2019, 86th Leg., R.S., Ch. 899 (H.B. 3603), Sec. 20, eff. September 1, 2019.

Sec. 101.459. ALLEGATIONS AFTER DEMAND REJECTED. If a derivative proceeding is instituted after a demand is rejected, the petition must allege with particularity facts that establish that the rejection was not made in accordance with the requirements and standards under Sections 101.454 and 101.458.

Acts 2003, 78th Leg., ch. 182, Sec. 1, eff. Jan. 1, 2006.

Amended by:

Acts 2019, 86th Leg., R.S., Ch. 899 (H.B. 3603), Sec. 21, eff. September 1, 2019.

Sec. 101.460. DISCONTINUANCE OR SETTLEMENT. (a) A derivative proceeding may not be discontinued or settled without court approval.

(b) The court shall direct that notice be given to the affected members if the court determines that a proposed discontinuance or settlement may substantially affect the interests of other members.

Acts 2003, 78th Leg., ch. 182, Sec. 1, eff. Jan. 1, 2006.

Sec. 101.461. PAYMENT OF EXPENSES. (a) In this section, "expenses" means reasonable expenses incurred by a party in a derivative proceeding, including:

- (1) attorney's fees;
- (2) costs in pursuing an investigation of the matter that was the subject of the derivative proceeding; or
- (3) expenses for which the limited liability company may be required to indemnify another person.

(b) On termination of a derivative proceeding, the court may order:

- (1) the limited liability company to pay expenses the plaintiff incurred in the proceeding if the court finds the proceeding has resulted in a substantial benefit to the limited liability company;

- (2) the plaintiff to pay expenses the limited liability company or other defendant incurred in investigating and defending the proceeding if the court finds the proceeding has been instituted or maintained without reasonable cause or for an improper purpose; or

- (3) a party to pay expenses incurred by another party relating to the filing of a pleading, motion, or other paper if the court finds the pleading, motion, or other paper:

- (A) was not well grounded in fact after reasonable inquiry;

- (B) was not warranted by existing law or a good faith argument for the application, extension, modification, or reversal of existing law; or

- (C) was interposed for an improper purpose, such as to harass, cause unnecessary delay, or cause a needless increase in the cost of litigation.

Acts 2003, 78th Leg., ch. 182, Sec. 1, eff. Jan. 1, 2006.

Amended by:

Acts 2019, 86th Leg., R.S., Ch. 899 (H.B. 3603), Sec. 22, eff. September 1, 2019.

Sec. 101.462. APPLICATION TO FOREIGN LIMITED LIABILITY COMPANIES. (a) In a derivative proceeding brought in the right of a foreign limited liability company, the matters covered by this subchapter are governed by the laws of the jurisdiction of formation of the foreign limited liability company, except for Sections 101.455, 101.460, and 101.461, which are procedural provisions and do not relate to the internal affairs of the foreign limited liability company, unless applying the laws of the jurisdiction of formation of the foreign limited liability company requires otherwise with respect to Section 101.455.

(b) In the case of matters relating to a foreign limited liability company under Section 101.455, a reference to a person or group of persons described by Section 101.454 refers to a person or group entitled under the laws of the jurisdiction of formation of the foreign limited liability company to make the determination described by Section 101.454(a). The standard of review of a determination made by the person or group shall be governed by the laws of the jurisdiction of formation of the foreign limited liability company.

Acts 2003, 78th Leg., ch. 182, Sec. 1, eff. Jan. 1, 2006.

Amended by:

Acts 2019, 86th Leg., R.S., Ch. 899 (H.B. 3603), Sec. 23, eff. September 1, 2019.

Sec. 101.463. CLOSELY HELD LIMITED LIABILITY COMPANY.

(a) In this section, "closely held limited liability company" means a limited liability company that has:

- (1) fewer than 35 members; and
- (2) no membership interests listed on a national securities exchange or regularly quoted in an over-the-counter market by one or more members of a national securities association.

(b) Sections 101.452-101.460 do not apply to a claim or a derivative proceeding by a member of a closely held limited

liability company against a governing person, member, or officer of the limited liability company. In the event the claim or derivative proceeding is also made against a person who is not that governing person, member, or officer, this subsection applies only to the claim or derivative proceeding against the governing person, member, or officer.

(c) If Sections 101.452-101.460 do not apply because of Subsection (b) and if justice requires:

(1) a derivative proceeding brought by a member of a closely held limited liability company may be treated by a court as a direct action brought by the member for the member's own benefit; and

(2) a recovery in a direct or derivative proceeding by a member may be paid directly to the plaintiff or to the limited liability company if necessary to protect the interests of creditors or other members of the limited liability company.

(d) Other provisions of state law govern whether a member has a direct cause of action or right to sue a governing person, member, or officer, and this section may not be construed to create that direct cause of action or right to sue.

Acts 2003, 78th Leg., ch. 182, Sec. 1, eff. Jan. 1, 2006.

Amended by:

Acts 2007, 80th Leg., R.S., Ch. 688 (H.B. [1737](#)), Sec. 100, eff. September 1, 2007.

Acts 2019, 86th Leg., R.S., Ch. 899 (H.B. [3603](#)), Sec. 24, eff. September 1, 2019.

SUBCHAPTER K. SUPPLEMENTAL RECORDKEEPING REQUIREMENTS

Sec. 101.501. SUPPLEMENTAL RECORDS REQUIRED FOR LIMITED LIABILITY COMPANIES. (a) In addition to the books and records required to be kept under Section [3.151](#), a limited liability company shall keep at its principal office in the United States, or make available to a person at its principal office in the United States not later than the fifth day after the date the person submits a written request to examine the books and records of the company under Section [3.152\(a\)](#) or [101.502](#):

(1) a current list that states:

(A) the percentage or other interest in the limited liability company owned by each member; and

(B) if one or more classes or groups of membership interests are established in or under the certificate of formation or company agreement, the names of the members of each specified class or group;

(2) a copy of the company's federal, state, and local tax information or income tax returns for each of the six preceding tax years;

(3) a copy of the company's certificate of formation, including any amendments to or restatements of the certificate of formation;

(4) if the company agreement is in writing, a copy of the company agreement, including any amendments to or restatements of the company agreement;

(5) an executed copy of any powers of attorney;

(6) a copy of any document that establishes a class or group of members of the company as provided by the company agreement; and

(7) except as provided by Subsection (b), a written statement of:

(A) the amount of a cash contribution and a description and statement of the agreed value of any other contribution made or agreed to be made by each member;

(B) the dates any additional contributions are to be made by a member;

(C) any event the occurrence of which requires a member to make additional contributions;

(D) any event the occurrence of which requires the winding up of the company; and

(E) the date each member became a member of the company.

(b) A limited liability company is not required to keep or make available at its principal office in the United States a written statement of the information required by Subsection (a)(7) if that information is stated in a written company agreement.

(c) A limited liability company shall keep at its registered office located in this state and make available to a member of the company on reasonable request the street address of the company's principal office in the United States in which the records required by this section and Section 3.151 are maintained or made available.

(d) All books and records required to be maintained by a limited liability company under this section may be maintained in any form and manner permitted under Section 3.151(b).

Acts 2003, 78th Leg., ch. 182, Sec. 1, eff. Jan. 1, 2006.

Amended by:

Acts 2007, 80th Leg., R.S., Ch. 688 (H.B. 1737), Sec. 101, eff. September 1, 2007.

Acts 2019, 86th Leg., R.S., Ch. 658 (S.B. 1859), Sec. 9, eff. September 1, 2019.

Sec. 101.502. RIGHT TO EXAMINE RECORDS AND CERTAIN OTHER INFORMATION. (a) A member of a limited liability company or an assignee of a membership interest in a limited liability company, or a representative of the member or assignee, on written request and for a proper purpose, may examine and copy at any reasonable time and at the member's or assignee's expense:

(1) records required under Sections 3.151 and 101.501; and

(2) other information regarding the business, affairs, and financial condition of the company that is reasonable for the person to examine and copy.

(b) A limited liability company shall provide to a member of the company or an assignee of a membership interest in the company, on written request by the member or assignee sent to the company's principal office in the United States or, if different, the person and address designated in the company agreement, a free copy of:

(1) the company's certificate of formation, including any amendments to or restatements of the certificate of formation;

(2) if in writing, the company agreement, including any amendments to or restatements of the company agreement; and

(3) any tax returns described by Section 101.501(a)(2).

Acts 2003, 78th Leg., ch. 182, Sec. 1, eff. Jan. 1, 2006.

Sec. 101.503. PENALTY FOR REFUSAL TO PERMIT EXAMINATION OF CERTAIN RECORDS. (a) A limited liability company that refuses to allow a member or an assignee of a membership interest to examine and copy, on written request that complies with Section 101.502(a), records or other information described by that section is liable to the member or assignee for any cost or expense, including attorney's fees, incurred in enforcing the member's or assignee's rights under Section 101.502. The liability imposed on a limited liability company under this subsection is in addition to any other damages or remedy afforded to the member or assignee by law.

(b) It is a defense to an action brought under this section that the person suing:

(1) has improperly used information obtained through a prior examination of the records or other information of the limited liability company or any other limited liability company, under Section 101.502; or

(2) was not acting in good faith or for a proper purpose in making the person's request for examination.

Added by Acts 2017, 85th Leg., R.S., Ch. 74 (S.B. 1517), Sec. 11, eff. September 1, 2017.

Amended by:

Acts 2019, 86th Leg., R.S., Ch. 658 (S.B. 1859), Sec. 10, eff. September 1, 2019.

SUBCHAPTER L. SUPPLEMENTAL WINDING UP AND TERMINATION PROVISIONS

Sec. 101.551. PERSONS ELIGIBLE TO WIND UP COMPANY. After an event requiring the winding up of a limited liability company unless a revocation as provided by Section 11.151 or a cancellation as provided by Section 11.152 occurs, the winding up of the company must be carried out by:

(1) the company's governing authority or one or more persons, including a governing person, designated by the governing authority, the members, or the governing documents;

(2) if the event requiring the winding up of the

company is the termination of the continued membership of the last remaining member of the company, the legal representative or successor of the last remaining member or one or more persons designated by the legal representative or successor; or

(3) a person appointed by the court to carry out the winding up of the company under Section [11.054](#), [11.405](#), [11.409](#), or [11.410](#).

Acts 2003, 78th Leg., ch. 182, Sec. 1, eff. Jan. 1, 2006.

Sec. 101.552. APPROVAL OF VOLUNTARY WINDING UP, REVOCATION, CANCELLATION, OR REINSTATEMENT. (a) A majority vote of all of the members of a limited liability company or, if the limited liability company has no members, a majority vote of all of the managers of the company is required to approve:

(1) a voluntary winding up of the company under Chapter [11](#);

(2) a revocation of a voluntary decision to wind up the company under Section [11.151](#); or

(3) a reinstatement of a terminated company under Section [11.202](#).

(b) The consent of all of the members of the limited liability company is required to approve a cancellation under Section [11.152](#) of an event requiring winding up specified in Section [11.051](#)(1) or (3).

(c) An event requiring winding up specified in Section [11.056](#) may be canceled in accordance with Section [11.152](#)(a) if the legal representative or successor of the last remaining member of the domestic limited liability company agrees to:

(1) cancel the event requiring winding up and continue the company; and

(2) become a member of the company effective as of the date of termination of the membership of the last remaining member of the company, or designate another person who agrees to become a member of the company effective as of the date of the termination.

Acts 2003, 78th Leg., ch. 182, Sec. 1, eff. Jan. 1, 2006.

Amended by:

Acts 2007, 80th Leg., R.S., Ch. 688 (H.B. [1737](#)), Sec. 102,

eff. September 1, 2007.

SUBCHAPTER M. SERIES LIMITED LIABILITY COMPANY

Sec. 101.601. SERIES OF MEMBERS, MANAGERS, MEMBERSHIP INTERESTS, OR ASSETS. (a) A company agreement may establish or provide for the establishment of one or more designated series of members, managers, membership interests, or assets that:

(1) has separate rights, powers, or duties with respect to specified property or obligations of the limited liability company or profits and losses associated with specified property or obligations; or

(2) has a separate business purpose or investment objective.

(b) A series established in accordance with Subsection (a) or a protected series or registered series established in accordance with Section 101.602 may carry on any business, purpose, or activity, whether or not for profit, that is not prohibited by Section 2.003.

(c) Nothing in this subchapter shall be construed to limit the freedom to contract to a series that is not a protected series or a registered series. Except as otherwise provided by Sections 101.627 through 101.636, a series may not merge or convert.

(d) The provisions of the company agreement that govern a protected series or registered series may be amended by the approval of:

(1) each member associated with the protected series or registered series;

(2) the members of each other protected series and registered series if the amendment adversely affects those members; and

(3) the members of the limited liability company that are not associated with any protected series or registered series if the amendment adversely affects those members.

Added by Acts 2009, 81st Leg., R.S., Ch. 84 (S.B. 1442), Sec. 45, eff. September 1, 2009.

Amended by:

Acts 2021, 87th Leg., R.S., Ch. 43 (S.B. 1523), Sec. 1, eff. June 1, 2022.

Sec. 101.602. ENFORCEABILITY OF OBLIGATIONS AND EXPENSES OF PROTECTED SERIES OR REGISTERED SERIES AGAINST ASSETS.

(a) Notwithstanding any other provision of this chapter or any other law, but subject to Subsection (b) and any other provision of this subchapter:

(1) the debts, liabilities, obligations, and expenses incurred, contracted for, or otherwise existing with respect to a particular protected series or registered series shall be enforceable against the assets of that series only, and shall not be enforceable against the assets of the limited liability company generally or any other series; and

(2) none of the debts, liabilities, obligations, and expenses incurred, contracted for, or otherwise existing with respect to the limited liability company generally or any other series shall be enforceable against the assets of a particular protected series or registered series.

(b) Subsection (a) applies only:

(1) to the extent the records maintained for that particular protected series or registered series account for the assets associated with that series separately from the other assets of the company or any other series;

(2) if the company agreement contains a statement to the effect of the limitations provided in Subsection (a), subject to any exceptions permitted under Subsection (d); and

(3) if the company's certificate of formation contains a notice of the limitations provided in Subsection (a), subject to any exceptions permitted under Subsection (d).

(c) A certificate of registered series must be filed with the secretary of state to form a registered series.

(d) Subsection (a) or any provision contained in a company agreement, certificate of formation, or certificate of registered series pursuant to Subsections (a) and (b) does not restrict:

(1) a particular protected series or registered series or a limited liability company on behalf of a particular protected

series or registered series from expressly agreeing in the company agreement, the certificate of formation, any certificate of registered series, or in another written agreement that does not violate that agreement or those certificates that any of the debts, liabilities, obligations, and expenses incurred, contracted for, or otherwise existing with respect to the company generally or any other series of the company shall be enforceable against the assets of that particular protected series or registered series if there are one or more liabilities that are recourse to the company generally or any other series and that cannot be enforced against those assets pursuant to the company agreement, the certificate of formation, any certificate of registered series, or in another written agreement that does not violate that agreement or those certificates; or

(2) a limited liability company from expressly agreeing in the company agreement or other written agreement that any or all of the debts, liabilities, obligations, and expenses incurred, contracted for, or otherwise existing with respect to a particular protected series or registered series shall be enforceable against the assets of the company generally.

(e) A company agreement does not need to use the term "protected" or "registered" or refer to this section when referencing a series. A series established by a company agreement without designating whether the series is a protected series or registered series and without filing the certificate of registered series required by Subsection (c) is a protected series if it meets the requirements of Subsections (a) and (b), subject to any exceptions permitted by Subsection (d).

(f) A series established in accordance with this section, but without filing the certificate of registered series under Subsection (c), is a protected series.

(g) A series established in accordance with this section, including by filing the certificate of registered series under Subsection (c), is a registered series.

Added by Acts 2009, 81st Leg., R.S., Ch. 84 (S.B. [1442](#)), Sec. 45, eff. September 1, 2009.

Amended by:

Acts 2017, 85th Leg., R.S., Ch. 74 (S.B. 1517), Sec. 12, eff. September 1, 2017.

Acts 2021, 87th Leg., R.S., Ch. 43 (S.B. 1523), Sec. 1, eff. June 1, 2022.

Sec. 101.603. ASSETS OF PROTECTED SERIES OR REGISTERED SERIES. (a) Assets associated with a protected series or registered series may be held directly or indirectly, including being held in the name of the protected series or registered series, in the name of the limited liability company, through a nominee, or otherwise.

(b) To the extent the records of a protected series or registered series are maintained in a manner so that the assets of the protected series or registered series can be reasonably identified by specific listing, category, type, quantity, or computational or allocational formula or procedure, including a percentage or share of any assets, or by any other method in which the identity of the assets can be objectively determined, the records are considered to satisfy the requirements of Section 101.602(b)(1).

(c) In this subchapter, a reference to:

(1) "assets of a protected series" or "assets of a registered series" includes assets associated with that series;

(2) "assets associated with a protected series" or "assets associated with a registered series" includes assets of that series;

(3) "members or managers of a protected series" or "members or managers of a registered series" includes members or managers associated with that series; and

(4) "members or managers associated with a protected series" or "members or managers associated with a registered series" includes members or managers of that series.

Added by Acts 2009, 81st Leg., R.S., Ch. 84 (S.B. 1442), Sec. 45, eff. September 1, 2009.

Amended by:

Acts 2021, 87th Leg., R.S., Ch. 43 (S.B. 1523), Sec. 1, eff. June 1, 2022.

Sec. 101.604. NOTICE OF LIMITATION ON LIABILITIES OF PROTECTED SERIES OR REGISTERED SERIES. (a) Notice of the limitation on liabilities of a protected series or registered series required by Section 101.602 that is contained in a certificate of formation filed with the secretary of state satisfies the requirements of Section 101.602(b)(3), regardless of whether:

(1) the limited liability company has established any protected series or registered series under this subchapter when the notice is contained in the certificate of formation;

(2) the notice makes a reference to a specific protected series or registered series of the limited liability company; and

(3) the notice:

(A) uses the term "protected" or "registered" when referencing the series; or

(B) includes a reference to Section 101.602.

(b) The fact that the certificate of formation filed with the secretary of state contains the notice of the limitation on liabilities of a protected series or registered series required by Section 101.602 is notice of that limitation on liabilities of a protected series or registered series.

Added by Acts 2009, 81st Leg., R.S., Ch. 84 (S.B. 1442), Sec. 45, eff. September 1, 2009.

Amended by:

Acts 2021, 87th Leg., R.S., Ch. 43 (S.B. 1523), Sec. 1, eff. June 1, 2022.

Sec. 101.605. GENERAL POWERS OF PROTECTED SERIES OR REGISTERED SERIES. A protected series or registered series established under this subchapter has the power and capacity, in the name of the protected series or registered series, to:

(1) sue and be sued;

(2) contract;

(3) acquire, sell, and hold title to assets of the protected series or registered series, including real property,

personal property, and intangible property;

(4) grant liens and security interests in assets of the protected series or registered series;

(5) be a promoter, organizer, partner, owner, member, associate, or manager of an organization; and

(6) exercise any power or privilege as necessary or appropriate to the conduct, promotion, or attainment of the business, purposes, or activities of the protected series or registered series.

Added by Acts 2009, 81st Leg., R.S., Ch. 84 (S.B. 1442), Sec. 45, eff. September 1, 2009.

Amended by:

Acts 2013, 83rd Leg., R.S., Ch. 9 (S.B. 847), Sec. 6, eff. September 1, 2013.

Acts 2017, 85th Leg., R.S., Ch. 74 (S.B. 1517), Sec. 13, eff. September 1, 2017.

Acts 2021, 87th Leg., R.S., Ch. 43 (S.B. 1523), Sec. 1, eff. June 1, 2022.

Sec. 101.606. LIABILITY OF MEMBER OR MANAGER FOR OBLIGATIONS; DUTIES. (a) Except as and to the extent the company agreement specifically provides otherwise, a member or manager associated with a protected series or registered series or a member or manager of the company is not liable for a debt, obligation, or liability of a protected series or registered series, including a debt, obligation, or liability under a judgment, decree, or court order.

(b) Notwithstanding Subsection (a), a member or manager associated with a protected series or registered series or a member or manager of the company may agree to be obligated personally for any or all of the debts, obligations, and liabilities of one or more protected series or registered series under the company agreement or another agreement.

(c) The company agreement may expand or restrict any duties, including fiduciary duties, and related liabilities that a member, manager, officer, or other person associated with a protected series or registered series has to:

(1) the protected series or registered series or the company;

(2) a member or manager associated with the protected series or registered series; or

(3) a member or manager of the company.

Added by Acts 2009, 81st Leg., R.S., Ch. 84 (S.B. 1442), Sec. 45, eff. September 1, 2009.

Amended by:

Acts 2021, 87th Leg., R.S., Ch. 43 (S.B. 1523), Sec. 1, eff. June 1, 2022.

Sec. 101.607. CLASS OR GROUP OF MEMBERS OR MANAGERS.

(a) The company agreement may:

(1) establish classes or groups of one or more members or managers associated with a protected series or registered series each of which has certain express relative rights, powers, and duties, including voting rights; and

(2) provide for the manner of establishing additional classes or groups of one or more members or managers associated with the protected series or registered series each of which has certain express rights, powers, and duties, including providing for voting rights and rights, powers, and duties senior to existing classes and groups of members or managers associated with the protected series or registered series.

(b) The company agreement may provide for the taking of an action without the vote or approval of any member or manager or class or group of members or managers, including the amendment of the company agreement or an action to create under the provisions of the company agreement a class or group of the protected series or registered series of membership interests that was not previously outstanding.

(c) The company agreement may provide that:

(1) all or certain identified members or managers or a specified class or group of the members or managers associated with a protected series or registered series have the right to vote on any matter separately or with all or any class or group of the members or managers associated with the protected series or

registered series;

(2) any member or class or group of members associated with a protected series or registered series has no voting rights; and

(3) voting by members or managers associated with a protected series or registered series is on a per capita, number, financial interest, class, group, or any other basis.

Added by Acts 2009, 81st Leg., R.S., Ch. 84 (S.B. 1442), Sec. 45, eff. September 1, 2009.

Amended by:

Acts 2021, 87th Leg., R.S., Ch. 43 (S.B. 1523), Sec. 1, eff. June 1, 2022.

Sec. 101.608. GOVERNING AUTHORITY. (a) Notwithstanding any conflicting provision of the certificate of formation of a limited liability company or the certificate of registered series, the governing authority of a protected series or registered series consists of the managers or members associated with the protected series or registered series as provided in the company agreement.

(b) If the company agreement does not provide for the governing authority of the protected series or registered series, the governing authority of the protected series or registered series consists of:

(1) the managers associated with the protected series or registered series, if the company's certificate of formation states that the company has one or more managers; or

(2) the members associated with the protected series or registered series, if the company's certificate of formation does not provide that the company has managers.

Added by Acts 2009, 81st Leg., R.S., Ch. 84 (S.B. 1442), Sec. 45, eff. September 1, 2009.

Amended by:

Acts 2021, 87th Leg., R.S., Ch. 43 (S.B. 1523), Sec. 1, eff. June 1, 2022.

Sec. 101.609. APPLICABILITY OF OTHER PROVISIONS OF CHAPTER OR TITLE 1; SYNONYMOUS TERMS. (a) To the extent not inconsistent

with this subchapter, this chapter applies to a protected series or registered series and its associated members and managers.

(b) For purposes of the application of any other provision of this chapter to a provision of this subchapter, and as the context requires:

(1) a reference to "limited liability company" or "company" means the "protected series" or "registered series";

(2) a reference to "member" means "member associated with the protected series" or "member associated with the registered series"; and

(3) a reference to "manager" means "manager associated with the protected series" or "manager associated with the registered series."

(c) To the extent not inconsistent with this subchapter, a protected series or registered series and the governing persons and officers associated with the protected series or registered series have the powers and rights provided by Subchapters C and D, Chapter 3, and Subchapter F, Chapter 10. For purposes of those provisions, and as the context requires:

(1) a reference to "entity," "domestic entity," or "filing entity" includes the "protected series" or "registered series";

(2) a reference to "governing person" includes "governing person associated with the protected series" or "governing person associated with the registered series";

(3) a reference to "governing authority" includes "governing authority associated with the protected series" or "governing authority associated with the registered series"; and

(4) a reference to "officer" includes "officer associated with the protected series" or "officer associated with the registered series."

Added by Acts 2009, 81st Leg., R.S., Ch. 84 (S.B. 1442), Sec. 45, eff. September 1, 2009.

Amended by:

Acts 2013, 83rd Leg., R.S., Ch. 9 (S.B. 847), Sec. 8, eff. September 1, 2013.

Acts 2021, 87th Leg., R.S., Ch. 43 (S.B. 1523), Sec. 1, eff. June 1, 2022.

Sec. 101.610. EFFECT OF CERTAIN EVENT ON MANAGER OR MEMBER.

(a) An event that under this chapter or the company agreement causes a manager to cease to be a manager with respect to a protected series or registered series does not, in and of itself, cause the manager to cease to be a manager of the limited liability company or with respect to any other protected series or registered series of the company.

(b) An event that under this chapter or the company agreement causes a member to cease to be associated with a protected series or registered series does not, in and of itself, cause the member to cease to be associated with any other protected series or registered series or terminate the continued membership of a member in the limited liability company or require the winding up of the protected series or registered series, regardless of whether the member was the last remaining member associated with the protected series or registered series.

Added by Acts 2009, 81st Leg., R.S., Ch. 84 (S.B. 1442), Sec. 45, eff. September 1, 2009.

Amended by:

Acts 2021, 87th Leg., R.S., Ch. 43 (S.B. 1523), Sec. 1, eff. June 1, 2022.

Sec. 101.611. MEMBER STATUS WITH RESPECT TO DISTRIBUTION.

(a) Subject to Sections 101.613, 101.617, 101.618, 101.619, and 101.620, when a member associated with a protected series or registered series established under this subchapter is entitled to receive a distribution with respect to the protected series or registered series, the member, with respect to the distribution, has the same status as a creditor of the protected series or registered series and is entitled to any remedy available to a creditor of the protected series or registered series.

(b) Section 101.206 does not apply to a distribution with respect to the protected series or registered series.

Added by Acts 2009, 81st Leg., R.S., Ch. 84 (S.B. 1442), Sec. 45,

eff. September 1, 2009.

Amended by:

Acts 2011, 82nd Leg., R.S., Ch. 139 (S.B. 748), Sec. 40, eff. September 1, 2011.

Acts 2021, 87th Leg., R.S., Ch. 43 (S.B. 1523), Sec. 1, eff. June 1, 2022.

Sec. 101.612. RECORD DATE FOR ALLOCATIONS AND DISTRIBUTIONS. A company agreement may establish or provide for the establishment of a record date for allocations and distributions with respect to a protected series or registered series.

Added by Acts 2009, 81st Leg., R.S., Ch. 84 (S.B. 1442), Sec. 45, eff. September 1, 2009.

Amended by:

Acts 2021, 87th Leg., R.S., Ch. 43 (S.B. 1523), Sec. 1, eff. June 1, 2022.

Sec. 101.613. DISTRIBUTIONS. (a) A limited liability company may make a distribution with respect to a protected series or registered series.

(b) A limited liability company may not make a distribution with respect to a protected series or registered series to a member if, immediately after making the distribution, the total amount of the liabilities of the protected series or registered series, other than liabilities described by Subsection (c), exceeds the fair value of the assets associated with the protected series or registered series.

(c) For purposes of Subsection (b), the liabilities of a protected series or registered series do not include:

(1) a liability to a member related to the member's membership interest associated with the protected series or registered series; or

(2) except as provided by Subsection (e), a liability of the protected series or registered series for which the recourse of creditors is limited to specified property of the protected series or registered series.

(d) For purposes of Subsection (b), the assets associated with a protected series or registered series include the fair value of property of the protected series or registered series subject to a liability for which recourse of creditors is limited to specified property of the protected series or registered series only if the fair value of that property exceeds the liability.

(e) A member who receives a distribution from a protected series or registered series in violation of this section is not required to return the distribution to the protected series or registered series unless the member had knowledge of the violation.

(f) This section may not be construed to affect the obligation of a member to return a distribution to the protected series or registered series under the company agreement, another agreement, or other state or federal law.

(g) Section 101.206 does not apply to a distribution with respect to a protected series or registered series.

(h) For purposes of this section, "distribution" does not include an amount constituting reasonable compensation for present or past services or a reasonable payment made in the ordinary course of business under a bona fide retirement plan or other benefits program.

(i) For purposes of this subchapter, the determination of the amount of the liabilities or the value of the assets of a protected series or registered series may be based on:

(1) financial statements of the protected series or registered series, which may include the financial statements of subsidiary entities of the protected series or registered series accounted for on a consolidated basis or on the equity method of accounting that:

(A) present the financial condition of the protected series or registered series, and any subsidiary entity included in those financial statements, in accordance with generally accepted accounting principles or international financial reporting standards; or

(B) have been prepared using the method of accounting used to file a federal income tax return for the protected series or registered series or using any other accounting

practices or principles that are reasonable under the circumstances;

(2) financial information, including condensed or summary financial statements, that is prepared on the same basis as financial statements described by Subdivision (1);

(3) projections, forecasts, or other forward-looking information relating to the future economic performance, financial condition, or liquidity of the protected series or registered series that is reasonable under the circumstances;

(4) a fair valuation or information from any other method that is reasonable under the circumstances; or

(5) a combination of a statement, valuation, or information authorized by this subsection.

(j) Subsection (i) does not apply to the computation of any tax imposed on a protected series or registered series under the laws of this state.

(k) An action alleging a distribution is made in violation of this section must be commenced not later than the second anniversary of the date of the distribution.

Added by Acts 2009, 81st Leg., R.S., Ch. 84 (S.B. 1442), Sec. 45, eff. September 1, 2009.

Amended by:

Acts 2021, 87th Leg., R.S., Ch. 43 (S.B. 1523), Sec. 1, eff. June 1, 2022.

Sec. 101.614. AUTHORITY TO WIND UP AND TERMINATE PROTECTED SERIES OR REGISTERED SERIES. Except to the extent otherwise provided in the company agreement and subject to Sections 101.617, 101.618, 101.619, and 101.620, a protected series or registered series and its business and affairs may be wound up and terminated without causing the winding up of the limited liability company.

Added by Acts 2009, 81st Leg., R.S., Ch. 84 (S.B. 1442), Sec. 45, eff. September 1, 2009.

Amended by:

Acts 2021, 87th Leg., R.S., Ch. 43 (S.B. 1523), Sec. 1, eff. June 1, 2022.

Sec. 101.615. TERMINATION OF PROTECTED SERIES OR REGISTERED SERIES. (a) Except as otherwise provided by Sections 101.617, 101.618, 101.619, and 101.620, the protected series terminates on the completion of the winding up of the business and affairs of the protected series in accordance with Sections 101.617, 101.618, 101.619, and 101.620.

(b) Except as otherwise provided by Sections 101.617, 101.618, 101.619, and 101.620, the registered series terminates on:

(1) the completion of the winding up of the business and affairs of the registered series in accordance with Sections 101.617, 101.618, 101.619, and 101.620; and

(2) the effectiveness of the filing with the secretary of state of a certificate of termination for the registered series.

(c) The limited liability company shall provide notice of the termination of a protected series or registered series in the manner provided in the company agreement for notice of termination, if any.

(d) The termination of the protected series or registered series does not affect the limitation on liabilities of the protected series or registered series provided by Section 101.602. Added by Acts 2009, 81st Leg., R.S., Ch. 84 (S.B. 1442), Sec. 45, eff. September 1, 2009.

Amended by:

Acts 2021, 87th Leg., R.S., Ch. 43 (S.B. 1523), Sec. 1, eff. June 1, 2022.

Sec. 101.616. EVENT REQUIRING WINDING UP. Subject to Sections 101.617, 101.618, 101.619, and 101.620, the business and affairs of a protected series or registered series are required to be wound up:

(1) if the winding up of the limited liability company is required under Section 101.552(a) or Chapter 11; or

(2) on the earlier of:

(A) the time specified for winding up the protected series or registered series in the company agreement;

(B) the occurrence of an event specified with respect to the protected series or registered series in the company

agreement;

(C) the occurrence of a majority vote of all of the members associated with the protected series or registered series approving the winding up of the protected series or registered series or, if there is more than one class or group of members associated with the protected series or registered series, a majority vote of the members of each class or group of members associated with the protected series or registered series approving the winding up of the protected series or registered series;

(D) if the protected series or registered series has no members, the occurrence of a majority vote of all of the managers associated with the protected series or registered series approving the winding up of the protected series or registered series or, if there is more than one class or group of managers associated with the protected series or registered series, a majority vote of the managers of each class or group of managers associated with the protected series or registered series approving the winding up of the protected series or registered series; or

(E) a determination by a court in accordance with Section [101.621](#).

Added by Acts 2009, 81st Leg., R.S., Ch. 84 (S.B. [1442](#)), Sec. 45, eff. September 1, 2009.

Amended by:

Acts 2021, 87th Leg., R.S., Ch. 43 (S.B. [1523](#)), Sec. 1, eff. June 1, 2022.

Sec. 101.617. PROCEDURES FOR WINDING UP AND TERMINATION OF PROTECTED SERIES OR REGISTERED SERIES. (a) The following provisions apply to a protected series or registered series and the associated members and managers of the protected series or registered series:

(1) Subchapters A, G, H, and I, Chapter [11](#); and

(2) Subchapter [B](#), Chapter [11](#), other than Sections [11.051](#), [11.056](#), [11.057](#), [11.058](#), and [11.059](#).

(b) The following provisions apply to a registered series and the associated members and managers of the registered series:

(1) Subchapters E and F, Chapter [11](#); and

(2) Section [11.102](#).

(c) For purposes of the application of Chapter [11](#) to a protected series or registered series and as the context requires:

(1) a reference to "domestic entity," "filing entity," "domestic filing entity," or "entity" means the "protected series" or "registered series";

(2) a reference to an "owner" means a "member associated with the protected series" or "member associated with the registered series";

(3) a reference to the "governing authority" or a "governing person" means:

(A) the "governing authority associated with the protected series" or a "governing person associated with the protected series"; or

(B) the "governing authority associated with the registered series" or a "governing person associated with the registered series"; and

(4) a reference to "business," "property," "obligations," or "liabilities" means:

(A) the "business associated with the protected series," "property associated with the protected series," "obligations associated with the protected series," or "liabilities associated with the protected series"; or

(B) the "business associated with the registered series," "property associated with the registered series," "obligations associated with the registered series," or "liabilities associated with the registered series."

(d) After the occurrence of an event requiring winding up of a protected series or registered series under Section [101.616](#), unless a revocation as provided by Section [101.618](#) or a cancellation as provided by Section [101.619](#) occurs, the winding up of the protected series or registered series must be carried out by:

(1) the governing authority of the protected series or registered series or one or more persons, including a governing person, designated by:

(A) the governing authority of the protected series or registered series;

(B) the members associated with the protected series or registered series; or

(C) the company agreement; or

(2) a person appointed by the court to carry out the winding up of the protected series or registered series under Section 11.054, 11.405, 11.409, or 11.410.

(e) An action taken in accordance with this section does not affect the limitation on liability of members and managers provided by Section 101.606.

Added by Acts 2009, 81st Leg., R.S., Ch. 84 (S.B. 1442), Sec. 45, eff. September 1, 2009.

Amended by:

Acts 2021, 87th Leg., R.S., Ch. 43 (S.B. 1523), Sec. 1, eff. June 1, 2022.

Sec. 101.618. REVOCATION OF VOLUNTARY WINDING UP. Before the termination of the protected series or registered series takes effect, a voluntary decision to wind up the protected series or registered series under Section 101.616(2)(C) or (D) may be revoked by:

(1) a majority vote of all of the members associated with the protected series or registered series approving the revocation or, if there is more than one class or group of members associated with the protected series or registered series, a majority vote of the members of each class or group of members associated with the protected series or registered series approving the revocation; or

(2) if the protected series or registered series has no members, a majority vote of all the managers associated with the protected series or registered series approving the revocation or, if there is more than one class or group of managers associated with the protected series or registered series, a majority vote of the managers of each class or group of managers associated with the protected series or registered series approving the revocation.

Added by Acts 2009, 81st Leg., R.S., Ch. 84 (S.B. 1442), Sec. 45, eff. September 1, 2009.

Amended by:

Acts 2021, 87th Leg., R.S., Ch. 43 (S.B. 1523), Sec. 1, eff. June 1, 2022.

Sec. 101.619. CANCELLATION OF EVENT REQUIRING WINDING UP.

(a) Unless the cancellation is prohibited by the company agreement, an event requiring winding up of the protected series or registered series under Section 101.616(2)(A) or (B) may be canceled by the consent of all of the members of the protected series or registered series before the termination of the protected series or registered series takes effect.

(b) In connection with the cancellation, the members must amend the company agreement to:

(1) eliminate or extend the time specified for the protected series or registered series if the event requiring winding up of the protected series or registered series occurred under Section 101.616(2)(A); or

(2) eliminate or revise the event specified with respect to the protected series or registered series if the event requiring winding up of the protected series or registered series occurred under Section 101.616(2)(B).

Added by Acts 2009, 81st Leg., R.S., Ch. 84 (S.B. 1442), Sec. 45, eff. September 1, 2009.

Amended by:

Acts 2021, 87th Leg., R.S., Ch. 43 (S.B. 1523), Sec. 1, eff. June 1, 2022.

Sec. 101.620. CONTINUATION OF BUSINESS. The protected series or registered series may continue its business following the revocation under Section 101.618 or the cancellation under Section 101.619.

Added by Acts 2009, 81st Leg., R.S., Ch. 84 (S.B. 1442), Sec. 45, eff. September 1, 2009.

Amended by:

Acts 2021, 87th Leg., R.S., Ch. 43 (S.B. 1523), Sec. 1, eff. June 1, 2022.

Sec. 101.621. WINDING UP BY COURT ORDER. A district court

in the county in which the registered office or principal place of business in this state of a domestic limited liability company is located, on application by or for a member associated with a protected series or registered series of the company, has jurisdiction to order the winding up and termination of the protected series or registered series if the court determines that:

(1) it is not reasonably practicable to carry on the business of the protected series or registered series in conformity with the company agreement;

(2) the economic purpose of the protected series or registered series is likely to be unreasonably frustrated; or

(3) another member associated with the protected series or registered series has engaged in conduct relating to the protected series' or registered series' business that makes it not reasonably practicable to carry on the business with that member.

Added by Acts 2009, 81st Leg., R.S., Ch. 84 (S.B. [1442](#)), Sec. 45, eff. September 1, 2009.

Amended by:

Acts 2019, 86th Leg., R.S., Ch. 658 (S.B. [1859](#)), Sec. 11, eff. September 1, 2019.

Acts 2021, 87th Leg., R.S., Ch. 43 (S.B. [1523](#)), Sec. 1, eff. June 1, 2022.

Sec. 101.622. PROTECTED SERIES OR REGISTERED SERIES NOT A SEPARATE DOMESTIC ENTITY OR ORGANIZATION. For purposes of this chapter and Title 1, a protected series or registered series has the rights, powers, and duties provided by this subchapter to the protected series or registered series but is not a separate domestic entity or organization.

Added by Acts 2013, 83rd Leg., R.S., Ch. 9 (S.B. [847](#)), Sec. 9, eff. September 1, 2013.

Amended by:

Acts 2021, 87th Leg., R.S., Ch. 43 (S.B. [1523](#)), Sec. 1, eff. June 1, 2022.

Sec. 101.623. FILING OF CERTIFICATE OF REGISTERED SERIES.
(a) To establish a registered series of a limited liability

company in accordance with Section 101.602, a certificate of registered series for the registered series must be filed in accordance with this section.

(b) A certificate of registered series must state:

- (1) the name of the limited liability company;
- (2) the name of the registered series being formed, which must conform with the requirements of Section 5.056(c); and
- (3) if the registered series is formed under a plan of conversion or merger, a statement to that effect.

(c) A certificate of registered series may include any other provisions not inconsistent with law relating to the organization, ownership, governance, business, or affairs of the registered series.

(d) A certificate of registered series shall be executed by the limited liability company in accordance with Section 101.0515 and filed with the secretary of state in accordance with and take effect as a filing instrument as specified by Chapter 4.

(e) A certificate of registered series is not an amendment to the certificate of formation of the limited liability company.

(f) If a new registered series is established under a plan of conversion or plan of merger, the certificate of registered series of the registered series must be filed simultaneously with the certificate of conversion or certificate of merger under Section 101.627(b) or 101.634(e). The certificate of registered series is not required to be filed separately under Subsection (a). The formation and existence of a registered series that results from a conversion or merger takes effect and commences on the effectiveness of the conversion or merger.

Added by Acts 2021, 87th Leg., R.S., Ch. 43 (S.B. 1523), Sec. 1, eff. June 1, 2022.

Sec. 101.624. AMENDING CERTIFICATE OF REGISTERED SERIES.

(a) A certificate of registered series is amended by filing a certificate of amendment in accordance with this section.

(b) If the company agreement of the limited liability company specifies the manner of adopting an amendment to the certificate of registered series, the amendment must be adopted as

specified by the company agreement. If the company agreement does not specify the manner of adopting an amendment to the certificate of registered series but specifies the manner of adopting an amendment to the provisions of the company agreement governing the registered series, the amendment must be adopted as specified in the company agreement for the adoption of an amendment to the provisions of the company agreement governing the registered series. If the company agreement does not specify the manner of adopting an amendment to the certificate of registered series or to the provisions of the company agreement governing the registered series, the amendment must be approved:

(1) by all of the members of the registered series;

(2) if the registered series does not yet have any members but has managers, by all of the managers of the registered series; or

(3) if the registered series does not have members or managers, in the manner specified by the company agreement for authorization of the establishment of a new registered series of the limited liability company.

(c) The certificate of amendment must state:

(1) the name of the limited liability company;

(2) the name of the registered series;

(3) for each provision of the certificate of registered series that is added, altered, or deleted, an identification by reference or description of the added, altered, or deleted provision and, if the provision is added or altered, a statement of the text of the altered or added provision; and

(4) that the amendment has been approved in the manner required by this subchapter and by the governing documents of the registered series.

(d) A manager associated with a registered series or, if there is no manager, any member associated with the registered series who becomes aware that any statement in a certificate of registered series filed with respect to the registered series was false when made, or that any provision in the certificate of registered series has changed making the certificate of registered series false in any material respect, shall promptly amend the

certificate of registered series.

(e) The certificate of amendment must be executed by the registered series in accordance with Section 101.0515 and shall be filed with the secretary of state in accordance with and take effect as a filing instrument as specified by Chapter 4.

Added by Acts 2021, 87th Leg., R.S., Ch. 43 (S.B. 1523), Sec. 1, eff. June 1, 2022.

Sec. 101.625. CERTIFICATE OF TERMINATION FOR REGISTERED SERIES. (a) On completion of the winding up of a registered series, a certificate of termination shall be filed in accordance with this section.

(b) The certificate of termination must contain:

(1) the name of the limited liability company;

(2) the name of the registered series;

(3) the registered series' filing number assigned by the secretary of state;

(4) the nature of the event requiring winding up the registered series;

(5) a statement that the registered series has complied with the provisions of this code governing the series' winding up; and

(6) any other information the person filing the certificate of termination determines.

(c) The certificate of termination must be executed by the registered series in accordance with Section 101.0515 and shall be filed with the secretary of state in accordance with and take effect as a filing instrument as specified by Chapter 4.

(d) The secretary of state may not issue a certificate of fact confirming the existence of a registered series if the limited liability company has ceased to be in existence.

Added by Acts 2021, 87th Leg., R.S., Ch. 43 (S.B. 1523), Sec. 1, eff. June 1, 2022.

Sec. 101.626. NAME OF REGISTERED SERIES. The name of each registered series included in a series' certificate of registered series must:

(1) comply with the requirements of Chapter 5; and

(2) contain the name of the limited liability company and the phrase or abbreviation required by Section 5.0561.

Added by Acts 2021, 87th Leg., R.S., Ch. 43 (S.B. 1523), Sec. 1, eff. June 1, 2022.

Sec. 101.627. CONVERSION OF A REGISTERED SERIES TO A PROTECTED SERIES. (a) Upon compliance with Section 101.628, a registered series of a domestic limited liability company may convert to a protected series of the domestic limited liability company by filing a certificate of conversion that complies with Section 101.631 with the secretary of state in accordance with, and taking effect as a filing instrument as specified, by Chapter 4.

(b) Upon compliance with Section 101.628, a protected series of a domestic limited liability company may convert to a registered series of the domestic limited liability company by filing simultaneously with the secretary of state in accordance with, and taking effect as a filing instrument as specified by, Chapter 4:

(1) a certificate of conversion that complies with Section 101.631; and

(2) a certificate of registered series as provided by Section 101.623.

(c) An existing registered series may not become a protected series except as provided by Subsection (a) and Sections 101.628 through 101.632.

(d) For purposes of this section and Sections 101.628 through 101.632:

(1) "Conversion" means the continuation of:

(A) a registered series as a protected series; or

(B) a protected series as a registered series.

(2) "Converted series" means a registered series or protected series resulting from a conversion of, respectively, a protected series or registered series, of a domestic limited liability company.

(3) "Converting series" means a registered series or protected series before a conversion of that series.

(4) "Plan of conversion" means a document that conforms with the requirements of Section [101.628](#).

Added by Acts 2021, 87th Leg., R.S., Ch. 43 (S.B. [1523](#)), Sec. 1, eff. June 1, 2022.

Sec. 101.628. AUTHORIZATION OF CONVERSION. (a) A converting series of a domestic limited liability company may convert to a converted series of the company by adopting a plan of conversion of the converting series to a converted series of the company.

(b) If the company agreement of the limited liability company specifies the manner of adopting a plan of conversion of a converting series to a converted series of that company, the plan of conversion must be adopted as specified by the company agreement. If the company agreement does not specify the manner of adopting a plan of conversion of a converting series of the company to a converted series of that company and does not prohibit a conversion of a converting series to a converted series, the plan of conversion must be authorized by members of the converting series who own more than 50 percent of the then-current percentage or other interest in the profits of the converting series owned by all of the members of the converting series. If the plan of conversion provides for any amendment to the company agreement, the plan of conversion must also be approved in the manner required by this subchapter for the approval of that amendment.

(c) A converting series may not convert if a member associated with the converting series, as a result of the conversion, would become subject to liability under the company agreement as a member, without that member's consent, for a liability or other obligation of the converted series for which the member is not liable under the company agreement as a member of the converting series before the conversion.

(d) At the time a conversion takes effect, each member of the converting series has, unless otherwise agreed to by that member, a membership interest in and is the member of the converted series.

(e) A plan of conversion must be in writing and must

include:

- (1) the name of the converting series;
- (2) the name of the converted series;
- (3) a statement that the converting protected series or registered series, as applicable, is continuing its existence in the form of the converted protected series or registered series, as applicable;
- (4) the manner and basis, including use of a formula, of converting the membership interests of the converting series into membership interests of the converted series;
- (5) any amendment to the company agreement that may be necessary to reflect the conversion of the converting series and the establishment of the converted series; and
- (6) the certificate of registered series required to be filed under this subchapter if the converted series is a registered series.

(f) An amendment or certificate of registered series described by Subsection (e)(5) or (6) may be included in the plan of conversion by an attachment or exhibit to the plan.

(g) Any of the terms of the plan of conversion may be made dependent on a fact ascertainable outside of the plan if the manner in which those facts will operate on the terms of the conversion is clearly and expressly stated in the plan. In this subsection, "facts" includes the occurrence of any event, including a determination or action by any person.

Added by Acts 2021, 87th Leg., R.S., Ch. 43 (S.B. 1523), Sec. 1, eff. June 1, 2022.

Sec. 101.629. CONVERSION NOT WINDING UP EVENT. Unless otherwise agreed, the conversion of a converting series under Sections 101.627 through 101.631 does not:

- (1) require the limited liability company or the converting series to wind up the series' affairs under Section 11.051, 11.056, 101.552 or 101.616 or to pay the series' liabilities and distribute its assets under Sections 11.053 and 101.617; or

- (2) constitute an event requiring winding up of the

company or the converting series.

Added by Acts 2021, 87th Leg., R.S., Ch. 43 (S.B. [1523](#)), Sec. 1, eff. June 1, 2022.

Sec. 101.630. EFFECT OF CONVERSION. When a conversion takes effect:

(1) the converting series continues to exist without interruption in the form of the converted series rather than in the form of the converting series;

(2) all rights, title, and interests to all property owned by the converting series continues to be owned, subject to any existing liens or other encumbrances on the property, by the converted series in the new form without:

(A) reversion or impairment;

(B) further act or deed; or

(C) any transfer or assignment having occurred;

(3) all liabilities and obligations of the converting series continue to be liabilities and obligations of the converted series in the new form without impairment or diminution because of the conversion;

(4) the rights of creditors or other parties with respect to or against the previous members associated with the converting series in their capacities as members in existence when the conversion takes effect continue to exist as to those liabilities and obligations and may be enforced by the creditors and obligees as if a conversion had not occurred;

(5) a proceeding pending by or against the converting series or by or against any of the converting series' members in their capacities as members may be continued by or against the converted series in the new form and by or against the previous members without a need for substituting a party;

(6) the membership interests of the converting series that are to be converted into membership interests of the converted series as provided by the plan of conversion are converted as provided by the plan, and the former members of the converting series are entitled only to the rights provided by the plan of conversion;

(7) the amendment to the company agreement under the plan of conversion becomes effective; and

(8) if, after the conversion takes effect, a member of the converted series as a member is liable for the liabilities or obligations of the converted series, the member is liable for the liabilities and obligations of the converting series that existed before the conversion took effect only to the extent that the member:

(A) agrees in writing to be liable for the liabilities or obligations;

(B) was liable, before the conversion took effect, for the liabilities or obligations; or

(C) by becoming a member of the converted series, becomes liable under other applicable law for the existing liabilities and obligations of the converted series.

Added by Acts 2021, 87th Leg., R.S., Ch. 43 (S.B. [1523](#)), Sec. 1, eff. June 1, 2022.

Sec. 101.631. FILING OF CERTIFICATE OF CONVERSION.

(a) After adoption of a plan of conversion as provided by Section [101.628](#), a certificate of conversion must be signed by the converting series and must include a statement certifying the following:

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

(2) the filing number of the limited liability company assigned by the secretary of state;

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

(4) if the converting series is a registered series, the filing number of the registered series assigned by the secretary of state;

(5) that a plan of conversion is on file at the principal place of business of the converting series, and the address of the principal place of business;

(6) that a plan of conversion will be on file after the conversion at the principal place of business of the converted series, and the address of the principal place of business;

(7) that a copy of the plan of conversion will be on written request furnished without cost by the converting series before the conversion or by the converted series after the conversion to any owner or member of the converting series or the converted series; and

(8) that the plan of conversion has been adopted as required by the company agreement of the limited liability company and Section 101.628.

(b) The certificate of conversion must be filed with the secretary of state in accordance with Section 101.627.

Added by Acts 2021, 87th Leg., R.S., Ch. 43 (S.B. 1523), Sec. 1, eff. June 1, 2022.

Sec. 101.632. PROHIBITION ON CONVERSION PERMITTED. A company agreement may prohibit the conversion of a registered series or protected series of the company under Sections 101.627 through 101.631.

Added by Acts 2021, 87th Leg., R.S., Ch. 43 (S.B. 1523), Sec. 1, eff. June 1, 2022.

Sec. 101.633. MERGER AMONG MERGING SERIES OF SAME LIMITED LIABILITY COMPANY. (a) For purposes of the section and Sections 101.634 through 101.636:

(1) "Merger" means:

(A) the division of a merging series into two or more new protected series and registered series; or

(B) the combination of one or more merging series with one or more merging series resulting in:

(i) one or more surviving merging series;

(ii) the creation of one or more new protected series or registered series; or

(iii) one or more surviving merging series and the creation of one or more new protected series or registered series.

(2) "Merging series" means each and all protected series and registered series that are parties to a merger.

(3) "Party to a merger" means a protected series or registered series that under a plan of merger is divided or combined by a merger.

(4) "Plan of merger" means a document that conforms to the requirements of this section.

(b) One or more merging series of the same limited liability company may affect a merger as provided by a plan of merger that is approved in accordance with this section and that complies with Sections 101.634 through 101.636. The plan of merger shall provide for one or more surviving or new protected series or registered series.

(c) Unless otherwise provided by the company agreement, the plan of merger shall be approved by each protected series or registered series that is a party to the merger. If the company agreement specifies the manner of adopting a plan of merger for the merging series, the amendment must be adopted as specified in the company agreement. If the company agreement does not specify the manner of adopting a plan of merger for the merging series but specifies the manner of adopting an amendment to the provisions of the company agreement governing the merging series, the plan of merger must be adopted as specified in the company agreement for the adoption of an amendment to the provisions of the company agreement governing the merging series. If the company agreement does not specify the manner of adopting a plan of merger for the merging series or an amendment to the provisions of the company agreement governing the merging series, the amendment must be approved by members of that merging series who own more than 50 percent of the then-current percentage or other interest in the profits of that merging series owned by all of the members of that merging series. If the plan of merger provides for any amendment to the company agreement, the plan of merger must also be approved in the manner required by this subchapter for the approval of that amendment.

(d) A plan of merger must be in writing and must include:

(1) the name of each merging series that is a party to

the merger;

(2) the name of each merging series that will survive the merger;

(3) the name of each new protected series or registered series that is to be created by the plan of merger;

(4) the manner and basis, including use of a formula, of converting or exchanging any of the membership interests of each merging series that is a party to the merger into:

(A) membership interests, obligations, rights to purchase securities, or other securities of one or more of the surviving merging series or new protected series or registered series;

(B) cash;

(C) other property, including membership interests, obligations, rights to purchase securities, or other securities of any other person or entity; or

(D) any combination of the items described by Paragraphs (A)-(C);

(5) the identification of any of the membership interests of a merging series that is a party to the merger that are:

(A) to be canceled rather than converted or exchanged; or

(B) to remain outstanding rather than converted or exchanged if the protected series or registered series survives the merger;

(6) any amendment to the company agreement that may be necessary to reflect the merger of the merging series and the establishment of any new protected series or registered series that is to be created by the merger;

(7) any amendment to the certificate of registered series of any registered series that is a surviving registered series, including a change in the name of the surviving registered series, that will be effected by the merger; and

(8) the certificate of registered series of each new registered series to be created by the plan of merger.

(e) An item required by Subsections (d)(6) and (8) may be

included in the plan of merger by an attachment or exhibit to the plan.

(f) If the plan of merger provides for a manner and basis of converting or exchanging a membership interest that may be converted or exchanged in a manner or basis different than any other membership interest of the same class of the membership interest, the manner and basis of conversion or exchange must be included in the plan of merger in the same manner as provided by Subsection (d)(4). A plan of merger may provide for cancellation of a membership interest while providing for the conversion or exchange of other membership interests of the same class as the membership interest to be canceled.

(g) Any of the terms of the plan of merger may be made dependent on facts ascertainable outside of the plan if the manner in which those facts will operate on the terms of the merger is clearly and expressly stated in the plan. In this subsection, "facts" includes the occurrence of any event, including a determination or action by any person.

(h) If more than one series is to survive or to be created by the plan of merger, the plan of merger must include:

(1) the manner and basis of allocating and vesting the property of each merging series that is a party to the merger among one or more of the surviving or new series; and

(2) the manner and basis of allocating each liability and obligation of each merging series that is a party to the merger, or adequate provisions for the payment and discharge of each liability and obligation, among one or more of the surviving or new series.

(i) A plan of merger may include:

(1) amendments to provisions of the company agreement relating to any surviving merging series or any new protected series or registered series to be created by the merger; and

(2) any other provisions relating to the merger that are not required by this subchapter.

(j) Notwithstanding prior approval, a plan of merger may be terminated or amended under a provision for that termination or amendment contained in the plan of merger.

(k) A merging series may not merge under this section if a member of that merging series that is a party to the merger will, as a result of the merger, become subject to liability under the company agreement as a member, without that member's consent, for a liability or other obligation of any other person for which the member is not liable under the company agreement as a member of that merging series before the merger.

Added by Acts 2021, 87th Leg., R.S., Ch. 43 (S.B. 1523), Sec. 1, eff. June 1, 2022.

Sec. 101.634. CERTIFICATE OF MERGER. (a) After approval of a plan of merger as provided by Section 101.633, if a registered series is a party to the merger or if a new registered series is to be created by the merger, a certificate of merger must be signed by each merging series that is a party to the merger and must include a statement certifying the following:

(1) the name of each merging series that is a party to the merger and the name of the limited liability company that formed that merging series;

(2) that a plan of merger has been approved and executed by or on behalf of each merging series that is to merge;

(3) the name of each merging series that survives the merger and each new registered series or protected series that is created by the merger;

(4) any amendment to the certificate of registered series of any registered series that is a surviving merging series, including a change in the name of the surviving registered series, to be effected by the merger or a statement that amendments are being made to the certificate of registered series of any registered series that is a surviving merging series under a certificate of amendment attached to the certificate of merger under Subsection (d);

(5) the certificate of registered series for each new registered series that is to be created by the merger is being filed with the certificate of merger;

(6) that the plan of merger is on file at a place of business of each surviving or new registered series or the limited

liability company that formed the registered series, and the address of that place of business;

(7) that a copy of the plan of merger will be on written request furnished without cost by each surviving merging series or new registered series or protected series to any member of any merging series that is a party to the merger or any registered series or protected series created by the plan of merger and, for a merger with multiple surviving or new series, to any creditor or obligee of the parties to the merger at the time of the merger if a liability or obligation is then outstanding;

(8) if approval of the members of any merging series that was a party to the plan of merger is not required by this code or the company agreement, a statement to that effect; and

(9) a statement that the plan of merger has been approved as required by this code and by the company agreement.

(b) As provided by Subsection (a)(4), a certificate of merger filed under this section may include as an attachment a certificate of amendment containing amendments to the certificate of registered series for any registered series that is a surviving registered series of the merger.

(c) A certificate of merger that contains any amendment or certificate of amendment to the certificate of registered series of a registered series that is a surviving registered series in accordance with Subsection (a)(4) and, if applicable, Subsection (b) is considered to be an amendment to the certificate of registered series of that surviving registered series. No further action is required to amend the certificate of registered series of the surviving registered series under Section [101.624](#) with respect to the amendment.

(d) The certificate of merger must be filed with the secretary of state in accordance with, and take effect as a filing instrument as specified by Chapter [4](#). If a new registered series is to be created by the merger, a certificate of registered series for the new registered series that complies with Section [101.623](#) must be simultaneously filed with the certificate of merger in accordance with Chapter [4](#) as a filing instrument and must take effect simultaneously with the effectiveness of the certificate of

merger.

(e) Whenever this section requires the filing of a certificate of merger, that requirement is satisfied by the filing of the plan of merger containing the information required to be included in the certificate of merger as provided by this section. Added by Acts 2021, 87th Leg., R.S., Ch. 43 (S.B. 1523), Sec. 1, eff. June 1, 2022.

Sec. 101.635. EFFECTS OF MERGER OF MERGING SERIES.

(a) When a merger of merging series takes effect:

(1) the separate existence of each merging series that is a party to the merger, other than a surviving merging series or a new protected series or registered series, ceases;

(2) all rights, title, and interests to all real estate and other property owned by each merging series that is a party to the merger is allocated to and vested, subject to any existing liens or other encumbrances on the property, in one or more of the series as provided by the plan of merger without:

(A) reversion or impairment;

(B) any further act or deed; or

(C) any transfer or assignment having occurred;

(3) all liabilities and obligations of each merging series that is a party to the merger are allocated to one or more of the surviving or new series provided by the plan of merger;

(4) each surviving or new series to which a liability or obligation is allocated under the plan of merger is the primary obligor for the liability or obligation, and, except as otherwise provided by the plan of merger or by law or contract, no other party to the merger, other than a surviving merging series liable or otherwise obligated at the time of the merger, and no other new registered series or protected series created under the plan of merger is liable for the debt or other obligation;

(5) any proceeding pending by or against any merging series that is a party to the merger may be continued as if the merger did not occur, or the surviving or new series to which the liability, obligation, asset, or right associated with that proceeding is allocated to and vested in under the plan of merger

may be substituted in the proceeding;

(6) any amendment to the company agreement provided by the plan of merger becomes effective;

(7) any amendment to the certificate of registered series of a surviving registered series that is contained in the certificate of merger, and any certificate of amendment attached to the certificate of merger that contains amendments to the certificate of registered series of a surviving registered series, becomes effective;

(8) each new registered series whose certificate of registered series is included in the plan of merger and filed with the certificate of merger, on meeting any additional requirements, if any, of this subchapter for the series' formation, is formed as a registered series under this subchapter as provided by the plan of merger; and

(9) the membership interests of each merging series that is a party to the merger and that are to be converted or exchanged, wholly or partly, into membership interests, obligations, rights to purchase securities, or other securities of one or more of the surviving or new series, into cash or other property, including membership interests, obligations, rights to purchase securities, or other securities of any organization, or into any combination of these, or that are to be canceled or remain outstanding, are converted, exchanged, canceled, or remain outstanding as provided in the plan of merger, and the former members who held membership interests of each merging series that is a party to the merger are entitled only to the rights provided by the plan of merger.

(b) If the plan of merger does not provide for the allocation and vesting of the right, title, and interest in any particular real estate or other property or for the allocation of any liability or obligation of any party to the merger, the unallocated property is owned in undivided interest by, or the liability or obligation is the joint and several liability and obligation of, each of the surviving and new series, pro rata to the total number of surviving and new series resulting from the merger.

(c) Unless otherwise agreed, a merger of a merging series of

a limited liability company, including a merging series which is not a surviving or new series resulting from the merger:

(1) does not require such merging series to wind up its affairs under Section 101.616 or pay its liabilities and distribute its assets under Sections 11.053 and 101.617; and

(2) does not constitute an event requiring winding up of the merging series.

Added by Acts 2021, 87th Leg., R.S., Ch. 43 (S.B. 1523), Sec. 1, eff. June 1, 2022.

Sec. 101.636. PROHIBITION ON MERGER PERMITTED. A company agreement may provide that a protected series or registered series company does not have the power to merge under Section 101.633.

Added by Acts 2021, 87th Leg., R.S., Ch. 43 (S.B. 1523), Sec. 1, eff. June 1, 2022.