

TITLE 30
CORPORATIONS

CHAPTER 25
LIMITED LIABILITY COMPANIES

PART 1
GENERAL PROVISIONS

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

[30-25-101, added 2015, ch. 243, sec. 43, p. 871.]

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

(1) "Certificate of organization" means the certificate required by section [30-25-201](#), Idaho Code. The term includes the certificate as amended or restated.

(2) "Contribution," except in the phrase "right of contribution," means property or a benefit described in section [30-25-402](#), Idaho Code, that is provided by a person to a limited liability company to become a member or in the person's capacity as a member.

(3) "Distribution" means a transfer of money or other property from a limited liability company to a person on account of a transferable interest or in the person's capacity as a member. The term:

(A) Includes:

(i) A redemption or other purchase by a limited liability company of a transferable interest; and

(ii) A transfer to a member in return for the member's relinquishment of any right to participate as a member in the management or conduct of the company's activities and affairs or to have access to records or other information concerning the company's activities and affairs; and

(B) Does not include amounts constituting reasonable compensation for present or past service or payments made in the ordinary course of business under a bona fide retirement plan or other bona fide benefits program.

(4) "Limited liability company" means an entity formed under this chapter or that becomes subject to this chapter under [chapter 22, title 30](#), Idaho Code, or section [30-25-110](#), Idaho Code.

(5) "Manager" means a person that under the operating agreement of a manager-managed limited liability company is responsible, alone or in concert with others, for performing the management functions stated in section [30-25-407](#)(c), Idaho Code.

(6) "Manager-managed limited liability company" means a limited liability company that qualifies under section [30-25-407](#)(a), Idaho Code.

(7) "Member" means a person that:

(A) Has become a member of a limited liability company under section [30-25-401](#), Idaho Code, or was a member in a company when the company became subject to this chapter under section [30-25-110](#), Idaho Code; and

(B) Has not dissociated under section [30-25-602](#), Idaho Code.

(8) "Member-managed limited liability company" means a limited liability company that is not a manager-managed limited liability company.

(9) "Operating agreement" means the agreement, whether or not referred to as an operating agreement and whether oral, implied, in a record, or in any combination thereof, of all the members of a limited liability company, including a sole member, concerning the matters described in section [30-25-105](#)(a), Idaho Code. The term includes the agreement as amended or restated.

(10) "Organizer" means a person that acts under section [30-25-201](#), Idaho Code, to form a limited liability company.

(11) "Transferable interest" means the right, as initially owned by a person in the person's capacity as a member, to receive distributions from a limited liability company, whether or not the person remains a member or continues to own any part of the right. The term applies to any fraction of the interest, by whomever owned.

(12) "Transferee" means a person to which all or part of a transferable interest has been transferred, whether or not the transferor is a member. The term includes a person that owns a transferable interest under section [30-25-603](#)(a) (3), Idaho Code.

(b) The following definitions outside this chapter apply to this chapter:

- (1) "Debtor in bankruptcy" - section [30-21-102](#)(7), Idaho Code.
- (2) "Foreign" - section [30-21-102](#)(15), Idaho Code.
- (3) "Jurisdiction" - section [30-21-102](#)(22), Idaho Code.
- (4) "Jurisdiction of formation" - section [30-21-102](#)(23), Idaho Code.
- (5) "Person" - section [30-21-102](#)(35), Idaho Code.
- (6) "Principal office" - section [30-21-102](#)(36), Idaho Code.
- (7) "Property" - section [30-21-102](#)(41), Idaho Code.
- (8) "Record" - section [30-21-102](#)(44), Idaho Code.
- (9) "Registered agent" - section [30-21-102](#)(45), Idaho Code.
- (10) "Sign" - section [30-21-102](#)(47), Idaho Code.
- (11) "State" - section [30-21-102](#)(48), Idaho Code.
- (12) "Transfer" - section [30-21-102](#)(50), Idaho Code.

[30-25-102, added 2015, ch. 243, sec. 43, p. 871.]

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

- (1) Has actual knowledge of it; or
- (2) Is deemed to know it under subsection (d) (1) of this section or law other than this act.

(b) A person has notice of a fact if the person:

- (1) Has reason to know the fact from all the facts known to the person at the time in question; or
- (2) Is deemed to have notice of the fact under subsection (d) (2) of this section.

(c) Subject to section [30-25-210](#)(f), Idaho Code, a person notifies another person of a fact by taking steps reasonably required to inform the other person in ordinary course, whether or not those steps cause the other person to know the fact.

(d) A person not a member is deemed:

- (1) To know of a limitation on authority to transfer real property as provided in section [30-25-302](#)(g), Idaho Code; and
- (2) To have notice of a limited liability company's:
 - (A) Dissolution ninety (90) days after a statement of dissolution under section [30-25-702](#)(b) (2) (A), Idaho Code, becomes effective;

(B) Termination ninety (90) days after a statement of termination under section [30-25-702](#) (b) (2) (F), Idaho Code, becomes effective; and

(C) Participation in a merger, interest exchange, conversion, or domestication, ninety (90) days after articles of merger, interest exchange, conversion, or domestication under [chapter 22, title 30](#), Idaho Code, become effective.

[30-25-103, added 2015, ch. 243, sec. 43, p. 872.]

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

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

[30-25-104, added 2015, ch. 243, sec. 43, p. 873.]

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

- (1) Relations among the members as members and between the members and the limited liability company;
 - (2) The rights and duties under this act of a person in the capacity of manager;
 - (3) The activities and affairs of the company and the conduct of those activities and affairs; and
 - (4) The means and conditions for amending the operating agreement.
- (b) To the extent the operating agreement does not provide for a matter described in subsection (a) of this section, this chapter governs the matter.

(c) An operating agreement may not:

- (1) Vary the law applicable under section [30-25-104](#), Idaho Code;
- (2) Vary a limited liability company's capacity under section [30-25-109](#), Idaho Code, to sue and be sued in its own name;
- (3) Vary any requirement, procedure, or other provision of this act pertaining to:
 - (A) Registered agents; or
 - (B) The secretary of state, including provisions pertaining to records authorized or required to be delivered to the secretary of state for filing under this act;
- (4) Vary the provisions of section [30-25-204](#), Idaho Code;
- (5) Alter or eliminate the duty of loyalty or the duty of care, except as otherwise provided in subsection (d) of this section;
- (6) Eliminate the contractual obligation of good faith and fair dealing under section [30-25-409](#) (d), Idaho Code, but the operating agreement may prescribe the standards, if not manifestly unreasonable, by which the performance of the obligation is to be measured;
- (7) Relieve or exonerate a person from liability for conduct involving bad faith, willful or intentional misconduct, or knowing violation of law;
- (8) Unreasonably restrict the duties and rights under section [30-25-410](#), Idaho Code, but the operating agreement may impose reasonable restrictions on the availability and use of information obtained

under that section and may define appropriate remedies, including liquidated damages, for a breach of any reasonable restriction on use;

(9) Vary the causes of dissolution specified in section [30-25-701](#)(a)(4), Idaho Code;

(10) Vary the requirement to wind up the company's activities and affairs as specified in section [30-25-702](#)(a), (b)(1) and (e), Idaho Code;

(11) Unreasonably restrict the right of a member to maintain an action under part 8 of this chapter;

(12) Vary the provisions of section [30-25-805](#), Idaho Code, but the operating agreement may provide that the company may not have a special litigation committee;

(13) Vary the right of a member to approve a merger, interest exchange, conversion, or domestication under section [30-22-203](#)(a)(2), [30-22-303](#)(a)(2), [30-22-403](#)(a)(2) or [30-22-503](#)(a)(2), Idaho Code; or

(14) Vary the required contents of a plan of merger under section [30-22-202](#)(a), Idaho Code, plan of interest exchange under section [30-22-302](#)(a), Idaho Code, plan of conversion under section [30-22-402](#)(a), Idaho Code, or plan of domestication under section [30-22-502](#)(a), Idaho Code; or

(15) Except as otherwise provided in sections [30-25-106](#) and [30-25-107](#)(b), Idaho Code, restrict the rights under this chapter of a person other than a member or manager.

(d) Subject to subsection (c)(7) of this section, without limiting other terms that may be included in an operating agreement, the following rules apply:

(1) The operating agreement may:

(A) Specify the method by which a specific act or transaction that would otherwise violate the duty of loyalty may be authorized or ratified by one (1) or more disinterested and independent persons after full disclosure of all material facts; and

(B) Alter the prohibition in section [30-25-405](#)(a)(2), Idaho Code, so that the prohibition requires only that the company's total assets not be less than the sum of its total liabilities.

(2) To the extent the operating agreement of a member-managed limited liability company expressly relieves a member of a responsibility that the member otherwise would have under this chapter and imposes the responsibility on one (1) or more other members, the agreement also may eliminate or limit any fiduciary duty of the member relieved of the responsibility that would have pertained to the responsibility.

(3) If not manifestly unreasonable, the operating agreement may:

(A) Alter or eliminate the aspects of the duty of loyalty stated in section [30-25-409](#)(b) and (i), Idaho Code;

(B) Identify specific types or categories of activities that do not violate the duty of loyalty;

(C) Alter the duty of care, but may not authorize conduct involving bad faith, willful or intentional misconduct, or knowing violation of law; and

(D) Alter or eliminate any other fiduciary duty.

(e) The court shall decide as a matter of law whether a term of an operating agreement is manifestly unreasonable under subsection (c)(6) or (d)(3) of this section. The court:

(1) Shall make its determination as of the time the challenged term became part of the operating agreement and by considering only circumstances existing at that time; and

(2) May invalidate the term only if, in light of the purposes, activities, and affairs of the limited liability company, it is readily apparent that:

(A) The objective of the term is unreasonable; or

(B) The term is an unreasonable means to achieve the provision's objective.

[30-25-105, added 2015, ch. 243, sec. 43, p. 873.]

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

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

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

[30-25-106, added 2015, ch. 243, sec. 43, p. 874.]

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

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

(1) Is effective with regard to any debt, obligation, or other liability of the limited liability company or its members to the person in the person's capacity as a transferee or person dissociated as a member; and

(2) Is not effective to the extent the amendment imposes a new debt, obligation, or other liability on the transferee or person dissociated as a member.

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

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

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

[30-25-107, added 2015, ch. 243, sec. 43, p. 875.]

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

- (b) A limited liability company may have any lawful purpose.
- (c) A limited liability company has perpetual duration.

[30-25-108, added 2015, ch. 243, sec. 43, p. 875.]

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

[30-25-109, added 2015, ch. 243, sec. 43, p. 875.]

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

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

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

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

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

[30-25-110, added 2015, ch. 243, sec. 43, p. 875.]

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

- (1) Delivery of record - section [30-21-104](#), Idaho Code.
- (2) Permitted names - section [30-21-301](#), Idaho Code.
- (3) Reservation of name - section [30-21-303](#), Idaho Code.
- (4) Registration of name - section [30-21-304](#), Idaho Code.
- (5) Registered agent - section [30-21-404](#), Idaho Code.
- (6) Change of registered agent or address for registered agent by limited liability company - section [30-21-407](#), Idaho Code.
- (7) Resignation of registered agent - section [30-21-410](#), Idaho Code.
- (8) Change of name or address by registered agent - sections [30-21-408](#) and [30-21-409](#), Idaho Code.

(9) Service of process, notice or demand - section [30-21-412](#), Idaho Code.

(10) Reservation of power to amend or repeal - section [30-21-701](#), Idaho Code.

(11) Supplemental principles of law - section [30-21-702](#), Idaho Code.

[30-25-111, added 2015, ch. 243, sec. 43, p. 876.]

PART 2

FORMATION -- CERTIFICATE OF ORGANIZATION AND OTHER FILINGS

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

(b) A certificate of organization must state:

(1) The name of the limited liability company that must comply with sections [30-21-301](#) and [30-21-302](#) (d), Idaho Code;

(2) The street and mailing addresses of the company's principal office;

(3) The information required by section [30-21-404](#) (a), Idaho Code;

(4) The name and mailing address of at least one (1) governor of the company; and

(5) If the company is a professional entity, a statement that the company is a professional limited liability company and the principal profession or professions for which the company's members are duly licensed or otherwise legally authorized to render professional services.

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

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

[30-25-201, added 2015, ch. 243, sec. 44, p. 876.]

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

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

(1) The name of the company;

(2) The date of filing of its initial certificate of organization; and

(3) The text of the amendment.

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

(d) If a member of a member-managed limited liability company, or a manager of a manager-managed limited liability company, knows that any information in a filed certificate of organization was inaccurate when the certifi-

cate was filed or has become inaccurate due to changed circumstances, the member or manager shall promptly:

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

[30-25-202, added 2015, ch. 243, sec. 44, p. 876.]

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

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

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

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

[30-25-203, added 2015, ch. 243, sec. 44, p. 877.]

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

- (1) A person that signed the record, or caused another to sign it on the person's behalf, and knew the information to be inaccurate at the time the record was signed; and
- (2) Subject to subsection (b) of this section, a member of a member-managed limited liability company or the manager of a manager-managed limited liability company, if:
 - (A) The record was delivered for filing on behalf of the company; and
 - (B) The member or manager knew or had notice of the inaccuracy for a reasonably sufficient time before the information was relied upon so that, before the reliance, the member or manager reasonably could have:
 - (i) Effected an amendment under section [30-25-202](#), Idaho Code;

- (ii) Filed a petition under section [30-25-204](#), Idaho Code; or
- (iii) Delivered to the secretary of state for filing a statement of change under section [30-21-407](#), Idaho Code, or a statement of correction under section [30-21-205](#), Idaho Code.

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

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

[30-25-204, added 2015, ch. 243, sec. 44, p. 877.]

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

- (1) Signing and filing pursuant to judicial order - section [30-21-210](#), Idaho Code.
- (2) Filing requirements - section [30-21-201](#), Idaho Code.
- (3) Effective date and time - section [30-21-203](#), Idaho Code.
- (4) Withdrawal of filed record before effectiveness - section [30-21-204](#), Idaho Code.
- (5) Correcting filed record - section [30-21-205](#), Idaho Code.
- (6) Duty of secretary of state to file; review of refusal to file; delivery of record by secretary of state - sections [30-21-206](#) and [30-21-211](#), Idaho Code.
- (7) Certificate of good standing or registration - section [30-21-208](#), Idaho Code.
- (8) Annual report for secretary of state - section [30-21-213](#), Idaho Code.

[30-25-205, added 2015, ch. 243, sec. 44, p. 878.]

PART 3

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

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

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

[30-25-301, added 2015, ch. 243, sec. 45, p. 878.]

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

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

property held in the name of a limited liability company, all persons are deemed to know of the limitation.

(h) Subject to subsection (i) of this section, an effective statement of dissolution or termination is a cancellation of any filed statement of authority for the purposes of subsection (f) of this section and is a limitation on authority for the purposes of subsection (g) of this section.

(i) After a statement of dissolution becomes effective, a limited liability company may deliver to the secretary of state for filing a statement of authority that is designated as a post-dissolution statement of authority. The statement operates as provided in subsections (f) and (g) of this section.

(j) Unless earlier canceled, an effective statement of authority is canceled by operation of law five (5) years after the date on which the statement, or its most recent amendment, becomes effective.

(k) An effective statement of denial operates as a restrictive amendment under this section.

[30-25-302, added 2015, ch. 243, sec. 45, p. 878.]

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

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

[30-25-303, added 2015, ch. 243, sec. 45, p. 880.]

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

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

[30-25-304, added 2015, ch. 243, sec. 45, p. 880.]

PART 4

RELATIONS OF MEMBERS TO EACH OTHER AND TO LIMITED LIABILITY COMPANY

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

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

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

- (1) As provided in the operating agreement;
 - (2) As the result of a transaction effective under [chapter 22, title 30](#), Idaho Code;
 - (3) With the affirmative vote or consent of all the members; or
 - (4) As provided in section [30-25-701](#) (a) (3), Idaho Code.
- (d) A person may become a member without:
- (1) Acquiring a transferable interest; or
 - (2) Making or being obligated to make a contribution to the limited liability company.

[30-25-401, added 2015, ch. 243, sec. 46, p. 880.]

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

[30-25-402, added 2015, ch. 243, sec. 46, p. 880.]

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

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

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

[30-25-403, added 2015, ch. 243, sec. 46, p. 880.]

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

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

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

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

[30-25-404, added 2015, ch. 243, sec. 46, p. 881.]

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

- (1) The company would not be able to pay its debts as they become due in the ordinary course of the company's activities and affairs; or
- (2) The company's total assets would be less than the sum of its total liabilities plus the amount that would be needed, if the company were to be dissolved and wound up at the time of the distribution, to satisfy the preferential rights upon dissolution and winding up of members and transferees whose preferential rights are superior to the rights of persons receiving the distribution.

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

- (1) Financial statements prepared on the basis of accounting practices and principles that are reasonable in the circumstances; or
- (2) A fair valuation or other method that is reasonable under the circumstances.

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

- (1) In the case of a distribution as defined in section [30-25-102](#) (3) (A), Idaho Code, as of the earlier of:
 - (A) The date money or other property is transferred or debt is incurred by the limited liability company; or
 - (B) The date the person entitled to the distribution ceases to own the interest or right being acquired by the company in return for the distribution;
- (2) In the case of any other distribution of indebtedness, as of the date the indebtedness is distributed; and
- (3) In all other cases, as of the date:
 - (A) The distribution is authorized, if the payment occurs not later than one hundred twenty (120) days after that date; or
 - (B) The payment is made, if the payment occurs more than one hundred twenty (120) days after the distribution is authorized.

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

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

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

[30-25-405, added 2015, ch. 243, sec. 46, p. 881.]

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

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

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

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

- (1) Implead any other person that is liable under subsection (a) of this section and seek to enforce a right of contribution from the person; and
- (2) Implead any person that received a distribution in violation of subsection (c) of this section and seek to enforce a right of contribution from the person in the amount the person received in violation of subsection (c) of this section.

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

[30-25-406, added 2015, ch. 243, sec. 46, p. 882.]

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

- (1) Expressly provides that:
 - (A) The company is or will be "manager-managed";
 - (B) The company is or will be "managed by managers"; or
 - (C) Management of the company is or will be "vested in managers";
 or
- (2) Includes words of similar import.

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

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

- (2) Each member has equal rights in the management and conduct of the company's activities and affairs.
- (3) A difference arising among members as to a matter in the ordinary course of the activities and affairs of the company may be decided by a majority of the members.
- (4) The affirmative vote or consent of all the members is required to:
- (A) Undertake an act outside the ordinary course of the activities and affairs of the company; or
 - (B) Amend the operating agreement.
- (c) In a manager-managed limited liability company, as among the members and the managers, the following rules apply:
- (1) Except as expressly provided in this chapter, any matter relating to the activities and affairs of the company is decided exclusively by the manager, or, if there is more than one (1) manager, by a majority of the managers.
- (2) Each manager has equal rights in the management and conduct of the company's activities and affairs.
- (3) The affirmative vote or consent of all members is required to:
- (A) Undertake an act outside the ordinary course of the company's activities and affairs; or
 - (B) Amend the operating agreement.
- (4) A manager may be chosen at any time by the consent of a majority of the members and remains a manager until a successor has been chosen, unless the manager at an earlier time resigns, is removed, or dies, or, in the case of a manager that is not an individual, terminates. A manager may be removed at any time by the consent of a majority of the members without notice or cause.
- (5) A person need not be a member to be a manager, but the dissociation of a member that is also a manager removes the person as a manager. If a person that is both a manager and a member ceases to be a manager, that cessation does not by itself dissociate the person as a member.
- (6) A person's ceasing to be a manager does not discharge any debt, obligation, or other liability to the limited liability company or members which the person incurred while a manager.
- (d) An action requiring the vote or consent of members under this chapter may be taken without a meeting, and a member may appoint a proxy or other agent to vote, consent, or otherwise act for the member by signing an appointing record, personally or by the member's agent.
- (e) The dissolution of a limited liability company does not affect the applicability of this section. However, a person that wrongfully causes dissolution of the company loses the right to participate in management as a member and a manager.
- (f) A limited liability company shall reimburse a member for an advance to the company beyond the amount of capital the member agreed to contribute.
- (g) A payment or advance made by a member which gives rise to an obligation of the limited liability company under subsection (f) of this section or section [30-25-408](#)(a), Idaho Code, constitutes a loan to the company which accrues interest from the date of the payment or advance.
- (h) A member is not entitled to remuneration for services performed for a member-managed limited liability company, except for reasonable compensation for services rendered in winding up the activities of the company.

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

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

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

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

[30-25-408, added 2015, ch. 243, sec. 46, p. 884.]

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

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

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

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

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

(C) From the appropriation of a company opportunity;

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

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

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

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

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

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

(g) It is a defense to a claim under subsection (b) (2) of this section and any comparable claim in equity or at common law that the transaction was fair to the limited liability company.

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

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

- (1) Subsections (a), (b), (c) and (g) of this section apply to the manager or managers and not the members.
- (2) The duty stated under subsection (b) (3) of this section continues until winding up is completed.
- (3) Subsection (d) of this section applies to managers and members.
- (4) Subsection (e) of this section applies only to members.
- (5) The power to ratify under subsection (f) of this section applies only to the members.
- (6) Subject to subsection (d) of this section, a member does not have any duty to the company or to any other member solely by reason of being a member.

[30-25-409, added 2015, ch. 243, sec. 46, p. 884.]

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

- (1) On reasonable notice, a member may inspect and copy during regular business hours, at a reasonable location specified by the company, any record maintained by the company regarding the company's activities, affairs, financial condition, and other circumstances, to the extent the information is material to the member's rights and duties under the operating agreement or this act.
- (2) The company shall furnish to each member:
 - (A) Without demand, any information concerning the company's activities, affairs, financial condition, and other circumstances which the company knows and is material to the proper exercise of the member's rights and duties under the operating agreement or this act, except to the extent the company can establish that it reasonably believes the member already knows the information; and
 - (B) On demand, any other information concerning the company's activities, affairs, financial condition, and other circumstances, except to the extent the demand for the information demanded is unreasonable or otherwise improper under the circumstances.
- (3) The duty to furnish information under paragraph (2) of this subsection also applies to each member to the extent the member knows any of the information described in paragraph (2) of this subsection.

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

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

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

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

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

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

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

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

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

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

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

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

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

(3) The person satisfies the requirements imposed on a member by subsection (b) (2) of this section.

(d) A limited liability company shall respond to a demand made pursuant to subsection (c) of this section in the manner provided in subsection (b) (3) of this section.

(e) A limited liability company may charge a person that makes a demand under this section the reasonable costs of copying, limited to the costs of labor and material.

(f) A member or person dissociated as a member may exercise rights under this section through an agent or, in the case of an individual under legal disability, a legal representative. Any restriction or condition imposed by the operating agreement or under subsection (h) of this section applies both to the agent or legal representative and to the member or person dissociated as a member.

(g) Subject to section [30-25-504](#), Idaho Code, the rights under this section do not extend to a person as transferee.

(h) In addition to any restriction or condition stated in its operating agreement, a limited liability company, as a matter within the ordinary course of its activities and affairs, may impose reasonable restrictions and conditions on access to and use of information to be furnished under this section, including designating information confidential and imposing nondisclosure and safeguarding obligations on the recipient. In a dispute concerning the reasonableness of a restriction under this subsection, the company has the burden of proving reasonableness.

[30-25-410, added 2015, ch. 243, sec. 46, p. 885.]

PART 5

TRANSFERABLE INTERESTS AND RIGHTS OF TRANSFEREES AND CREDITORS

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

[30-25-501, added 2015, ch. 243, sec. 47, p. 887.]

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

(1) Is permissible, except the transfer of a transferable interest in a professional entity is not permissible without compliance with section [30-21-901](#)(i), Idaho Code;

(2) Does not by itself cause a member's dissociation or a dissolution and winding up of the limited liability company's activities and affairs; and

(3) Subject to section [30-25-504](#), Idaho Code, does not entitle the transferee to:

(A) Participate in the management or conduct of the company's activities and affairs; or

(B) Except as otherwise provided in subsection (c) of this section, have access to records or other information concerning the company's activities and affairs.

(b) A transferee has the right to receive, in accordance with the transfer, distributions to which the transferor would otherwise be entitled.

(c) In a dissolution and winding up of a limited liability company, a transferee is entitled to an account of the company's transactions only from the date of dissolution.

(d) A transferable interest may be evidenced by a certificate of the interest issued by a limited liability company in a record, and, subject to this section, the interest represented by the certificate may be transferred by a transfer of the certificate.

(e) A limited liability company need not give effect to a transferee's rights under this section until the company knows or has notice of the transfer.

(f) A transfer of a transferable interest in violation of a restriction on transfer contained in the operating agreement is ineffective as to a person having knowledge or notice of the restriction at the time of transfer.

(g) Except as otherwise provided in section [30-25-602](#)(5)(B), Idaho Code, if a member transfers a transferable interest, the transferor retains the rights of a member other than the transferable interest transferred and retains all the duties and obligations of a member.

(h) If a member transfers a transferable interest to a person that becomes a member with respect to the transferred interest, the transferee is liable for the member's obligations under sections [30-25-403](#) and [30-25-406](#), Idaho Code, known to the transferee when the transferee becomes a member.

[30-25-502, added 2015, ch. 243, sec. 47, p. 887.]

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

(b) To the extent necessary to effectuate the collection of distributions pursuant to a charging order in effect under subsection (a) of this section, the court may:

(1) Appoint a receiver of the distributions subject to the charging order, with the power to make all inquiries the judgment debtor might have made; and

(2) Make all other orders necessary to give effect to the charging order.

(c) Upon a showing that distributions under a charging order will not pay the judgment debt within a reasonable time, the court may foreclose the lien and order the sale of the transferable interest. Except as otherwise provided in subsection (f) of this section, the purchaser at the foreclosure sale obtains only the transferable interest, does not thereby become a member, and is subject to section [30-25-502](#), Idaho Code.

(d) At any time before foreclosure under subsection (c) of this section, the member or transferee whose transferable interest is subject to a charging order under subsection (a) of this section may extinguish the charging order by satisfying the judgment and filing a certified copy of the satisfaction with the court that issued the charging order.

(e) At any time before foreclosure under subsection (c) of this section, a limited liability company or one (1) or more members whose transferable interests are not subject to the charging order may pay to the judgment creditor the full amount due under the judgment and thereby succeed to the rights of the judgment creditor, including the charging order.

(f) If a court orders foreclosure of a charging order lien against the sole member of a limited liability company:

(1) The court shall confirm the sale;

(2) The purchaser at the sale obtains the member's entire interest, not only the member's transferable interest;

(3) The purchaser thereby becomes a member; and

(4) The person whose interest was subject to the foreclosed charging order is dissociated as a member.

(g) This chapter does not deprive any member or transferee of the benefit of any exemption laws applicable to the transferable interest of the member or transferee.

(h) This section provides the exclusive remedy by which a person seeking in the capacity of judgment creditor to enforce a judgment against a member or transferee may satisfy the judgment from the judgment debtor's transferable interest.

[30-25-503, added 2015, ch. 243, sec. 47, p. 887.]

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

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

[30-25-504, added 2015, ch. 243, sec. 47, p. 888.]

PART 6 DISSOCIATION

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

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

- (1) Is in breach of an express provision of the operating agreement; or
- (2) Occurs before the completion of the winding up of the limited liability company and:
 - (A) The person withdraws as a member by express will;
 - (B) The person is expelled as a member by judicial order under section [30-25-602](#) (6), Idaho Code;
 - (C) The person is dissociated under section [30-25-602](#) (8), Idaho Code; or
 - (D) In the case of a person that is not a trust other than a business trust, an estate, or an individual, the person is expelled or otherwise dissociated as a member because it willfully dissolved or terminated.

(c) A person that wrongfully dissociates as a member is liable to the limited liability company and, subject to section [30-25-801](#), Idaho Code, to the other members for damages caused by the dissociation. The liability is in addition to any debt, obligation, or other liability of the member to the company or the other members.

[30-25-601, added 2015, ch. 243, sec. 48, p. 888.]

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

- (1) The limited liability company knows or has notice of the person's express will to withdraw as a member, but, if the person has specified a withdrawal date later than the date the company had known or had notice, on that later date;
- (2) An event stated in the operating agreement as causing the person's dissociation occurs;
- (3) The person's entire interest is transferred in a foreclosure sale under section [30-25-503](#) (f), Idaho Code;
- (4) The person is expelled as a member pursuant to the operating agreement;
- (5) The person is expelled as a member by the affirmative vote or consent of all the other members if:

- (A) It is unlawful to carry on the limited liability company's activities and affairs with the person as a member;
 - (B) There has been a transfer of all the person's transferable interest in the company, other than:
 - (i) A transfer for security purposes; or
 - (ii) A charging order in effect under section [30-25-503](#), Idaho Code, that has not been foreclosed;
 - (C) The person is an entity and:
 - (i) The company notifies the person that it will be expelled as a member because the person has filed a statement of dissolution or the equivalent, the person has been administratively dissolved, the person's charter or the equivalent has been revoked, or the person's right to conduct business has been suspended by the person's jurisdiction of formation; and
 - (ii) Not later than ninety (90) days after the notification, the statement of dissolution or the equivalent has not been withdrawn, rescinded, or revoked, the person has not been reinstated, or the person's charter or the equivalent or right to conduct business has not been reinstated; or
 - (D) The person is an unincorporated entity that has been dissolved and whose activities and affairs are being wound up;
- (6) On application by the limited liability company or a member in a direct action under section [30-25-801](#), Idaho Code, the person is expelled as a member by judicial order because the person:
- (A) Has engaged or is engaging in wrongful conduct that has affected adversely and materially, or will affect adversely and materially, the company's activities and affairs;
 - (B) Has committed willfully or persistently, or is committing willfully or persistently, a material breach of the operating agreement or a duty or obligation under section [30-25-409](#), Idaho Code; or
 - (C) Has engaged or is engaging in conduct relating to the company's activities and affairs which makes it not reasonably practicable to carry on the activities and affairs with the person as a member;
- (7) In the case of an individual:
- (A) The individual dies; or
 - (B) In a member-managed limited liability company:
 - (i) A guardian or general conservator for the individual is appointed; or
 - (ii) A court orders that the individual has otherwise become incapable of performing the individual's duties as a member under this chapter or the operating agreement;
- (8) In a member-managed limited liability company, the person:
- (A) Becomes a debtor in bankruptcy;
 - (B) Executes an assignment for the benefit of creditors; or
 - (C) Seeks, consents to, or acquiesces in the appointment of a trustee, receiver, or liquidator of the person or of all or substantially all the person's property;
- (9) In the case of a person that is a testamentary or inter vivos trust or is acting as a member by virtue of being a trustee of such a trust, the trust's entire transferable interest in the limited liability company is distributed;

(10) In the case of a person who is an estate or is acting as a member by virtue of being a personal representative of an estate, the estate's entire transferable interest in the limited liability company is distributed;

(11) In the case of a person that is not an individual, the existence of the person terminates;

(12) The limited liability company participates in a merger under [chapter 22, title 30](#), Idaho Code, and:

(A) The company is not the surviving entity; or

(B) Otherwise as a result of the merger, the person ceases to be a member;

(13) The limited liability company participates in an interest exchange under [chapter 22, title 30](#), Idaho Code, and, as a result of the interest exchange, the person ceases to be a member;

(14) The limited liability company participates in a conversion under [chapter 22, title 30](#), Idaho Code;

(15) The limited liability company participates in a domestication under [chapter 22, title 30](#), Idaho Code, and, as a result of the domestication, the person ceases to be a member;

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

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

[30-25-602, added 2015, ch. 243, sec. 48, p. 889.]

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

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

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

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

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

[30-25-603, added 2015, ch. 243, sec. 48, p. 890.]

PART 7

DISSOLUTION AND WINDING UP

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

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

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

- (3) The passage of ninety (90) consecutive days during which the company has no members unless before the end of the period:
- (A) Consent to admit at least one (1) specified person as a member is given by transferees owning the rights to receive a majority of distributions as transferees at the time the consent is to be effective; and
 - (B) At least one (1) person becomes a member in accordance with the consent;
- (4) On application by a member, the entry by the district court of an order dissolving the company on the grounds that:
- (A) The conduct of all or substantially all the company's activities and affairs is unlawful; or
 - (B) It is not reasonably practicable to carry on the company's activities and affairs in conformity with the certificate of organization and the operating agreement; or
 - (C) The managers or those members in control of the company:
 - (i) Have acted, are acting, or will act in a manner that is illegal or fraudulent; or
 - (ii) Have acted or are acting in a manner that is oppressive and was, is, or will be directly harmful to the applicant; or
- (5) The signing and filing of a statement of administrative dissolution by the secretary of state under section [30-25-708](#), Idaho Code.
- (b) In a proceeding brought under subsection (a) (4) (B) of this section, the court may order a remedy other than dissolution.

[30-25-701, added 2015, ch. 243, sec. 49, p. 891; am. 2017, ch. 100, sec. 1, p. 248.]

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

- (b) In winding up its activities and affairs, a limited liability company:
- (1) Shall discharge the company's debts, obligations, and other liabilities, settle and close the company's activities and affairs, and marshal and distribute the assets of the company; and
 - (2) May:
 - (A) Deliver to the secretary of state for filing a statement of dissolution stating the name of the company and that the company is dissolved;
 - (B) Preserve the company activities, affairs, and property as a going concern for a reasonable time;
 - (C) Prosecute and defend actions and proceedings, whether civil, criminal, or administrative;
 - (D) Transfer the company's property;
 - (E) Settle disputes by mediation or arbitration;
 - (F) Deliver to the secretary of state for filing a statement of termination stating the name of the company and that the company is terminated; and
 - (G) Perform other acts necessary or appropriate to the winding up.
 - (c) If a dissolved limited liability company has no members, the legal representative of the last person to have been a member may wind up the activities and affairs of the company. If the person does so, the person has

the powers of a sole manager under section [30-25-407\(c\)](#), Idaho Code, and is deemed to be a manager for the purposes of section [30-25-304\(a\)](#), Idaho Code.

(d) If the legal representative under subsection (c) of this section declines or fails to wind up the limited liability company's activities and affairs, a person may be appointed to do so by the consent of transferees owning a majority of the rights to receive distributions as transferees at the time the consent is to be effective. A person appointed under this subsection:

(1) Has the powers of a sole manager under section [30-25-407\(c\)](#), Idaho Code, and is deemed to be a manager for the purposes of section [30-25-304\(a\)](#), Idaho Code; and

(2) Shall deliver promptly to the secretary of state for filing an amendment to the company's certificate of organization stating:

(A) That the company has no members;

(B) The name and street and mailing addresses of the person; and

(C) That the person has been appointed pursuant to this subsection to wind up the company.

(e) The district court may order judicial supervision of the winding up of a dissolved limited liability company, including the appointment of a person to wind up the company's activities and affairs:

(1) On the application of a member, if the applicant establishes good cause;

(2) On the application of a transferee, if:

(A) The company does not have any members;

(B) The legal representative of the last person to have been a member declines or fails to wind up the company's activities; and

(C) Within a reasonable time following the dissolution, a person has not been appointed pursuant to subsection (c) of this section; or

(3) In connection with a proceeding under section [30-25-701\(a\)](#), Idaho Code.

[30-25-702, added 2015, ch. 243, sec. 49, p. 891.]

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

(b) Rescinding dissolution under this section requires:

(1) The affirmative vote or consent of each member;

(2) If a statement of dissolution applicable to the limited liability company has been filed by the secretary of state but has not become effective, the delivery to the secretary of state for filing of a statement of withdrawal under section [30-21-208](#), Idaho Code, applicable to the statement of dissolution; and

(3) If a statement of dissolution applicable to the limited liability company is effective, the delivery to the secretary of state for filing of a statement of rescission stating the name of the company and that dissolution has been rescinded under this section.

(c) If a limited liability company rescinds its dissolution:

(1) The company resumes carrying on its activities and affairs as if dissolution had never occurred;

(2) Subject to paragraph (3) of this subsection, any liability incurred by the company after the dissolution and before the rescission is effective is determined as if dissolution had never occurred; and

(3) The rights of a third party arising out of conduct in reliance on the dissolution before the third party knew or had notice of the rescission may not be adversely affected.

[30-25-703, added 2015, ch. 243, sec. 49, p. 892.]

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

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

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

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

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

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

[30-25-704, added 2015, ch. 243, sec. 49, p. 893.]

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

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

- (1) Be published at least once in a newspaper of general circulation in the county in this state in which the dissolved limited liability company's principal office is located or, if the principal office is not located in this state, in the county in which the office of the company's registered agent is or was last located;
- (2) Describe the information required to be contained in a claim, state that the claim must be in writing, and provide a mailing address to which the claim is to be sent; and

(3) State that a claim against the company is barred unless an action to enforce the claim is commenced not later than three (3) years after publication of the notice.

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

(1) A claimant that did not receive notice in a record under section [30-25-704](#), Idaho Code;

(2) A claimant whose claim was timely sent to the company but not acted on; and

(3) A claimant whose claim is contingent at, or based on an event occurring after, the date of dissolution.

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

(1) Against a dissolved limited liability company, to the extent of its undistributed assets; and

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

[30-25-705, added 2015, ch. 243, sec. 49, p. 893.]

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

(1) At the time of application:

(A) Are contingent; or

(B) Have not been made known to the company; or

(2) Are based on an event occurring after the date of dissolution.

(b) Security is not required for any claim that is or is reasonably anticipated to be barred under section [30-25-705](#), Idaho Code.

(c) Not later than ten (10) days after the filing of an application under subsection (a) of this section, the dissolved limited liability company shall give notice of the proceeding to each claimant holding a contingent claim known to the company.

(d) In a proceeding under this section, the court may appoint a guardian ad litem to represent all claimants whose identities are unknown. The reasonable fees and expenses of the guardian, including all reasonable expert witness fees, must be paid by the dissolved limited liability company.

(e) A dissolved limited liability company that provides security in the amount and form ordered by the court under subsection (a) of this section satisfies the company's obligations with respect to claims that are contingent, have not been made known to the company, or are based on an event oc-

curing after the date of dissolution, and such claims may not be enforced against a member or transferee on account of assets received in liquidation.

[30-25-706, added 2015, ch. 243, sec. 49, p. 894.]

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

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

(1) To each person owning a transferable interest that reflects contributions made and not previously returned, an amount equal to the value of the unreturned contributions; and

(2) Among members and persons dissociated as members in proportion to their respective rights to share in distributions immediately before the dissolution of the company, except to the extent necessary to comply with any transfer effective under section [30-25-502](#), Idaho Code.

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

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

[30-25-707, added 2015, ch. 243, sec. 49, p. 894.]

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

(1) Administrative dissolution - sections [30-21-601](#) and [30-21-602](#), Idaho Code.

(2) Reinstatement - section [30-21-603](#), Idaho Code.

(3) Judicial review of denial of reinstatement - section [30-21-604](#), Idaho Code.

[30-25-708, added 2015, ch. 243, sec. 49, p. 895.]

PART 8 ACTIONS BY MEMBERS

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

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

[30-25-801, added 2015, ch. 243, sec. 50, p. 895.]

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

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

[30-25-802, added 2015, ch. 243, sec. 50, p. 895.]

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

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

[30-25-803, added 2015, ch. 243, sec. 50, p. 895.]

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

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

[30-25-804, added 2015, ch. 243, sec. 50, p. 896.]

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

- (1) Enforcing a person's right to information under section [30-25-410](#), Idaho Code; or
 - (2) Granting extraordinary relief in the form of a temporary restraining order or preliminary injunction.
- (b) A special litigation committee must be composed of one (1) or more disinterested and independent individuals, who may be members.
- (c) A special litigation committee may be appointed:
- (1) In a member-managed limited liability company:
 - (A) By the consent of a majority of the members not named as parties in the proceeding; or
 - (B) If all members are named as parties in the proceeding, by a majority of the members named as defendants; or
 - (2) In a manager-managed limited liability company:
 - (A) By a majority of the managers not named as parties in the proceeding; or

(B) If all managers are named as parties in the proceeding, by a majority of the managers named as defendants.

(d) After appropriate investigation, a special litigation committee may determine that it is in the best interests of the limited liability company that the proceeding:

- (1) Continue under the control of the plaintiff;
- (2) Continue under the control of the committee;
- (3) Be settled on terms approved by the committee; or
- (4) Be dismissed.

(e) After making a determination under subsection (d) of this section, a special litigation committee shall file with the court a statement of its determination and its report supporting its determination and shall serve each party with a copy of the determination and report. The court shall determine whether the members of the committee were disinterested and independent and whether the committee conducted its investigation and made its recommendation in good faith, independently, and with reasonable care, with the committee having the burden of proof. If the court finds that the members of the committee were disinterested and independent and that the committee acted in good faith, independently, and with reasonable care, the court shall enforce the determination of the committee. Otherwise, the court shall dissolve the stay of discovery entered under subsection (a) of this section and allow the action to continue under the control of the plaintiff.

[30-25-805, added 2015, ch. 243, sec. 50, p. 896.]

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

- (1) Any proceeds or other benefits of a derivative action, whether by judgment, compromise, or settlement, belong to the limited liability company and not to the plaintiff; and
- (2) If the plaintiff receives any proceeds, the plaintiff shall remit them immediately to the company.

(b) If a derivative action is successful in whole or in part, the court may award the plaintiff reasonable expenses, including reasonable attorney's fees and costs, from the recovery of the limited liability company.

(c) A derivative action on behalf of a limited liability company may not be voluntarily dismissed or settled without the court's approval.

[30-25-806, added 2015, ch. 243, sec. 50, p. 896.]