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HOUSE BILL

52ND LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2015

INTRODUCED BY

FOR THE COURTS, CORRECTIONS AND JUSTICE COMMITTEE

AN ACT

RELATING TO BUSINESS; REPEALING THE LIMITED LIABILITY COMPANY
ACT; ENACTING THE REVISED UNIFORM LIMITED LIABILITY COMPANY
ACT.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF NEW MEXICO:

ARTICLE 1

GENERAL PROVISIONS

SECTION 101. [NEW MATERIAL] SHORT TITLE.--This act may be
cited as the "Revised Uniform Limited Liability Company Act".

SECTION 102. [NEW MATERIAL] DEFINITIONS.--As used in the
Revised Uniform Limited Liability Company Act:

A. "certificate of organization" means the
certificate required by Section 201 of the Revised Uniform
Limited Liability Company Act and includes the certificate as
amended or restated;

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1 B. "contribution", except when used in the phrase
2 "right of contribution", means property or a benefit described
3 in Section 402 of the Revised Uniform Limited Liability Company
4 Act that is provided by a person to a limited liability company
5 to become a member or in the person's capacity as a member;

6 C. "debtor in bankruptcy" means a person that is
7 the subject of:

8 (1) an order for relief pursuant to Title 11
9 of the United States Code or a comparable order pursuant to a
10 successor statute of general application; or

11 (2) a comparable order pursuant to federal,
12 state or foreign law governing insolvency;

13 D. "distribution":

14 (1) means a transfer of money or other
15 property from a limited liability company to a person on
16 account of a transferable interest or in the person's capacity
17 as a member; and

18 (2) includes:

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

21 (b) a transfer to a member in return for
22 the member's relinquishment of a right to participate as a
23 member in the management or conduct of the company's activities
24 and affairs or to have access to records or other information
25 concerning the company's activities and affairs; but

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1 (3) does not include:

2 (a) reasonable compensation for present
3 or past services; or

4 (b) payments made in the ordinary course
5 of business under a bona fide retirement plan or other bona
6 fide benefits program;

7 E. "foreign limited liability company" means an
8 unincorporated entity formed pursuant to the law of a
9 jurisdiction other than New Mexico and that would be a limited
10 liability company if formed pursuant to the laws of New Mexico;

11 F. "jurisdiction", when used to refer to a
12 political entity, means the United States, a state, a foreign
13 country or a political subdivision of a foreign country;

14 G. "jurisdiction of formation" means the
15 jurisdiction whose law governs the internal affairs of an
16 entity;

17 H. "limited liability company", except when used in
18 the phrase "foreign limited liability company" or when used in
19 Article 10 of the Revised Uniform Limited Liability Company
20 Act, means an entity formed pursuant to the provisions of that
21 act or an entity that becomes subject to that act pursuant to
22 the provisions of Article 10 or Section 110 of that act;

23 I. "manager" means a person that, pursuant to the
24 operating agreement of a manager-managed limited liability
25 company, is responsible, alone or in concert with others, for

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1 performing the management functions stated in Subsection C of
2 Section 407 of the Revised Uniform Limited Liability Company
3 Act;

4 J. "manager-managed limited liability company"
5 means a limited liability company that qualifies pursuant to
6 the provisions of Subsection A of Section 407 of the Revised
7 Uniform Limited Liability Company Act;

8 K. "member" means a person that has become a member
9 of a limited liability company pursuant to the provisions of
10 Section 401 of the Revised Uniform Limited Liability Company
11 Act and that has not dissociated pursuant to the provisions of
12 Section 602 of that act;

13 L. "member-managed limited liability company" means
14 a limited liability company that is not a manager-managed
15 limited liability company;

16 M. "operating agreement" means the agreement,
17 regardless of whether it is referred to as an operating
18 agreement, and regardless of whether it is oral, in a record,
19 implied or in any combination thereof, of all of the members of
20 a limited liability company, including a sole member,
21 concerning the matters described in Subsection A of Section 110
22 of the Revised Uniform Limited Liability Company Act and
23 includes the agreement as amended or restated;

24 N. "organizer" means a person that acts pursuant to
25 the provisions of Section 201 of the Revised Uniform Limited

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1 Liability Company Act to form a limited liability company and
2 who need not be nor become a member or manager of the company
3 formed;

4 O. "person" means an individual, a business
5 corporation, a nonprofit corporation, a partnership, a limited
6 partnership, a limited liability company, a general cooperative
7 association, an unincorporated nonprofit association, a
8 statutory trust, a business trust, a common-law business trust,
9 an estate, a trust, an association, a joint venture, a public
10 corporation, a government, a governmental subdivision, an
11 agency, an instrumentality or any other legal or commercial
12 entity;

13 P. "principal office" means the principal executive
14 office of a limited liability company or foreign limited
15 liability company, regardless of whether the office is located
16 in New Mexico;

17 Q. "property" means all property, whether real,
18 personal, mixed, tangible, intangible or any right or interest
19 therein;

20 R. "record", when used as a noun, means information
21 that is inscribed on a tangible medium or that is stored in an
22 electronic or another medium and is retrievable in a
23 perceivable form;

24 S. "registered agent" means an agent of a limited
25 liability company or foreign limited liability company that is

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1 authorized to receive service of any process, notice or demand
2 required or permitted by law to be served on the company;

3 T. "registered foreign limited liability company"
4 means a foreign limited liability company that is registered to
5 do business in New Mexico pursuant to a statement of
6 registration filed by the secretary of state;

7 U. "sign" means, with the present intent to
8 authenticate or adopt a record, to:

- 9 (1) execute or adopt a tangible symbol; or
10 (2) attach to or logically associate with the
11 record an electronic symbol, sound or process;

12 V. "state" means a state of the United States, the
13 District of Columbia, Puerto Rico, the United States Virgin
14 Islands or a territory or insular possession subject to the
15 jurisdiction of the United States;

16 W. "transfer" includes an assignment, a conveyance,
17 a sale, a lease, an encumbrance, including a mortgage and a
18 security interest, a gift and a transfer by operation of law;

19 X. "transferable interest" means the right, as
20 initially owned by a person in the person's capacity as a
21 member, to receive distributions from a limited liability
22 company, regardless of whether the person remains a member or
23 continues to own any part of the right, and applies to any
24 fraction of the interest, regardless of who owns it; and

25 Y. "transferee" means a person to which all or part

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1 of a transferable interest has been transferred, regardless of
2 whether the transferor is a member, and includes a person that
3 owns a transferable interest pursuant to the provisions of
4 Paragraph (3) of Subsection A of Section 603 of the Revised
5 Uniform Limited Liability Company Act.

6 SECTION 103. [NEW MATERIAL] KNOWLEDGE--NOTICE.--

7 A. A person knows a fact when the person:

8 (1) has actual knowledge of it; or

9 (2) is deemed to know it pursuant to the

10 provisions of Paragraph (1) of Subsection D of this section or
11 a law other than one in the Revised Uniform Limited Liability
12 Company Act.

13 B. A person has notice of a fact when the person:

14 (1) has reason to know the fact from all of

15 the facts known to the person at the time in question; or

16 (2) is deemed to have notice of the fact

17 pursuant to the provisions of Paragraph (2) of Subsection D of
18 this section.

19 C. Subject to the provisions of Subsection F of

20 Section 210 of the Revised Uniform Limited Liability Company

21 Act, a person notifies another person of a fact by taking steps

22 reasonably required to inform the other person in ordinary

23 course, regardless of whether those steps cause the other

24 person to know the fact.

25 D. A person that is not a member is deemed:

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1 (1) to know of a limitation on authority to
2 transfer real property as provided in Subsection G of Section
3 302 of the Revised Uniform Limited Liability Company Act; and

4 (2) to have notice of a limited liability
5 company's:

6 (a) dissolution ninety days after a
7 statement of dissolution pursuant to the provisions of
8 Subparagraph (a) of Paragraph (2) of Subsection B of Section
9 702 of that act becomes effective;

10 (b) termination ninety days after a
11 statement of termination pursuant to the provisions of
12 Subparagraph (f) of Paragraph (2) of Subsection B of Section
13 702 of that act becomes effective; and

14 (c) participation in a merger, an
15 interest exchange, a conversion or a domestication, ninety days
16 after articles of merger, interest, exchange, conversion or
17 domestication pursuant to the provisions of Article 10 of that
18 act become effective.

19 SECTION 104. [NEW MATERIAL] GOVERNING LAW.--The laws of
20 New Mexico govern:

21 A. the internal affairs of a limited liability
22 company; and

23 B. the liability of a member as member and a
24 manager as manager for a debt, an obligation or another
25 liability of a limited liability company.

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1 SECTION 105. [NEW MATERIAL] OPERATING AGREEMENT--SCOPE,
2 FUNCTION AND LIMITATIONS.--

3 A. Except as otherwise provided in Subsections C
4 and D of this section, the operating agreement governs:

5 (1) relations among the members as members and
6 between the members and the limited liability company;

7 (2) the rights and duties pursuant to the
8 provisions of the Revised Uniform Limited Liability Company Act
9 of a person in the capacity of manager;

10 (3) the activities and affairs of the company
11 and the conduct of those activities and affairs; and

12 (4) the means and conditions for amending the
13 operating agreement.

14 B. To the extent that the operating agreement does
15 not provide for a matter described in Subsection A of this
16 section, the Revised Uniform Limited Liability Company Act
17 governs the matter.

18 C. An operating agreement shall not:

19 (1) vary the law applicable pursuant to the
20 provisions of Section 104 of the Revised Uniform Limited
21 Liability Company Act;

22 (2) vary a limited liability company's
23 capacity pursuant to the provisions of Section 109 of that act
24 to sue and be sued in its own name;

25 (3) vary any requirement, procedure or other

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1 provision of that act pertaining to:

2 (a) registered agents; or

3 (b) the secretary of state, including
4 provisions pertaining to records authorized or required to be
5 delivered to the secretary of state for filing pursuant to the
6 provisions of that act;

7 (4) vary the provisions of Section 204 of that
8 act;

9 (5) alter or eliminate the duty of loyalty or
10 the duty of care, except as otherwise provided in Subsection D
11 of this section;

12 (6) eliminate the contractual obligation of
13 good faith and fair dealing pursuant to the provisions of
14 Subsection D of Section 409 of that act, except that the
15 operating agreement may prescribe the standards, if not
16 manifestly unreasonable, by which the performance of the
17 obligation is to be measured;

18 (7) relieve or exonerate a person from
19 liability for conduct involving bad faith, willful or
20 intentional misconduct or a knowing violation of law;

21 (8) unreasonably restrict the duties and
22 rights provided for in Section 410 of that act, except that the
23 operating agreement may impose reasonable restrictions on the
24 availability and use of information obtained pursuant to that
25 section and may define appropriate remedies, including

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1 liquidated damages, for a breach of a reasonable restriction on
2 use;

3 (9) vary the causes of dissolution specified
4 in Paragraph (4) of Subsection A of Section 701 of that act;

5 (10) vary the requirement to wind up the
6 company's activities and affairs as specified in Subsections A
7 and E and Paragraph (1) of Subsection B of Section 702 of that
8 act;

9 (11) unreasonably restrict the right of a
10 member to maintain an action pursuant to the provisions of
11 Article 8 of that act;

12 (12) vary the provisions of Section 805 of
13 that act, except that the operating agreement may provide that
14 the company shall not have a special litigation committee;

15 (13) vary the right of a member to approve a
16 merger pursuant to the provisions of Paragraph (2) of
17 Subsection A of Section 1009 of that act, an interest exchange
18 pursuant to the provisions of Paragraph (2) of Subsection A of
19 Section 1015 of that act, a conversion pursuant to the
20 provisions of Paragraph (2) of Subsection A of Section 1021 of
21 that act or a domestication pursuant to the provisions of
22 Paragraph (2) of Subsection A of Section 1027 of that act;

23 (14) vary the required contents of a plan of
24 merger pursuant to the provisions of Subsection A of Section
25 1008 of that act, a plan of interest exchange pursuant to the

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1 provisions of Subsection A of Section 1014 of that act, a plan
2 of conversion pursuant to the provisions of Subsection A of
3 Section 1020 of that act or a plan of domestication pursuant to
4 the provisions of Subsection A of Section 1012 of that act; and

5 (15) except as otherwise provided in Section
6 106 and Subsection B of Section 107 of that act, restrict the
7 rights provided by that act of a person other than a member or
8 manager.

9 D. Subject to the provisions of Paragraph (7) of
10 Subsection C of this section, and without limiting other terms
11 that may be included in an operating agreement, the operating
12 agreement may:

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

18 (2) alter the prohibition specified in
19 Paragraph (2) of Subsection A of Section 405 of the Revised
20 Uniform Limited Liability Company Act so that the prohibition
21 requires only that the company's total assets not be less than
22 the sum of its total liabilities;

23 (3) to the extent that the operating agreement
24 of a member-managed limited liability company expressly
25 relieves a member of a responsibility that the member otherwise

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1 would have pursuant to the provisions of that act and imposes
2 that responsibility on one or more other members, eliminate or
3 limit a fiduciary duty of the member relieved of the
4 responsibility that would have pertained to the responsibility;
5 and

6 (4) if not manifestly unreasonable:

7 (a) alter or eliminate the aspects of
8 the duty of loyalty stated in Subsections B and I of Section
9 409 of that act;

10 (b) identify specific types or
11 categories of activities that do not violate the duty of
12 loyalty;

13 (c) alter the duty of care; however, the
14 operating agreement shall not authorize conduct involving bad
15 faith, willful or intentional misconduct or a knowing violation
16 of law; and

17 (d) alter or eliminate any other
18 fiduciary duty.

19 E. A court shall decide as a matter of law whether
20 a term of an operating agreement is manifestly unreasonable
21 pursuant to Paragraph (6) of Subsection C or Paragraph (3) of
22 Subsection D of this section. The court:

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

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1 and

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

5 (a) the objective of the term is
6 unreasonable; or

7 (b) the term is an unreasonable means to
8 achieve the term's objective.

9 SECTION 106. [NEW MATERIAL] OPERATING AGREEMENT--EFFECT
10 ON LIMITED LIABILITY COMPANY AND PERSON BECOMING MEMBER--PRE-
11 FORMATION AGREEMENT.--

12 A. A limited liability company is bound by and may
13 enforce the operating agreement, regardless of whether the
14 company has itself manifested assent to the operating
15 agreement.

16 B. A person that becomes a member of a limited
17 liability company is deemed to assent to the operating
18 agreement.

19 C. Two or more persons intending to become the
20 initial members of a limited liability company may make an
21 agreement providing that, upon the formation of the company,
22 the agreement will become the operating agreement. One person
23 intending to become the initial member of a limited liability
24 company may assent to terms providing that, upon the formation
25 of the company, the terms will become the operating agreement.

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1 SECTION 107. [NEW MATERIAL] OPERATING AGREEMENT--EFFECT
2 ON THIRD PARTIES AND RELATIONSHIP TO RECORDS EFFECTIVE ON
3 BEHALF OF LIMITED LIABILITY COMPANY.--

4 A. An operating agreement may specify that its
5 amendment requires the approval of a person that is not a party
6 to the agreement or the satisfaction of a condition. An
7 amendment is ineffective if its adoption does not include the
8 required approval or satisfy the specified condition.

9 B. The obligations of a limited liability company
10 and its members to a person in the person's capacity as a
11 transferee or a person dissociated as a member are governed by
12 the operating agreement. Subject only to any court order
13 issued pursuant to the provisions of Paragraph (2) of
14 Subsection B of Section 503 of the Revised Uniform Limited
15 Liability Company Act to effectuate a charging order, an
16 amendment to the operating agreement made after a person
17 becomes a transferee or is dissociated as a member:

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

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

25 C. If a record that has been delivered by a limited

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1 liability company to the secretary of state for filing becomes
2 effective and contains a provision that would be ineffective
3 pursuant to the provisions of Subsection C or Paragraph (3) of
4 Subsection D of Section 105 of the Revised Uniform Limited
5 Liability Company Act if contained in the operating agreement,
6 the provision is ineffective in the record.

7 D. Subject to the provisions of Subsection C of
8 this section, if a record delivered by a limited liability
9 company to the secretary of state for filing becomes effective
10 and conflicts with a provision of the operating agreement:

11 (1) the agreement prevails as to members,
12 persons dissociated as members, transferees and managers; and

13 (2) the record prevails as to other persons to
14 the extent that they reasonably rely on the record.

15 SECTION 108. [NEW MATERIAL] NATURE, PURPOSE AND DURATION
16 OF LIMITED LIABILITY COMPANY.--

17 A. A limited liability company is an entity
18 distinct from its member or members.

19 B. A limited liability company may have any lawful
20 purpose, regardless of whether it is for profit.

21 C. A limited liability company has perpetual
22 duration.

23 SECTION 109. [NEW MATERIAL] POWERS.--A limited liability
24 company has the capacity to sue and be sued in its own name and
25 the power to do all things necessary or convenient to carry on

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1 its activities and affairs.

2 SECTION 110. [NEW MATERIAL] APPLICATION TO EXISTING
3 RELATIONSHIPS.--

4 A. The Revised Uniform Limited Liability Company
5 Act governs only:

6 (1) a limited liability company formed on or
7 after July 1, 2016; and

8 (2) except as otherwise provided in this
9 section, a limited liability company formed before July 1, 2016
10 that:

11 (a) elects, in the manner provided in
12 its operating agreement or by law for amending the operating
13 agreement, to be subject to that act; and

14 (b) presents to the secretary of state
15 for filing an amended and restated certificate of organization
16 stating that it desires to be subject to that act.

17 B. For purposes of applying the Revised Uniform
18 Limited Liability Company Act to a limited liability company
19 formed before July 1, 2016 and that follows the provisions in
20 Subparagraphs (a) and (b) of Paragraph (2) of Subsection A of
21 this section, except as otherwise agreed:

22 (1) the company's articles of organization are
23 deemed to be the company's certificate of organization; and

24 (2) for purposes of applying the definition in
25 Subsection J of Section 102 of that act and subject to the

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1 provisions of Subsection D of Section 107 of that act, language
2 in the company's articles of organization designating the
3 company's management structure operates as if that language
4 were in the operating agreement.

5 C. Except as otherwise provided in Subsection E of
6 this section, until a limited liability company formed before
7 July 1, 2016 elects to be governed by the Revised Uniform
8 Limited Liability Company Act, the company shall continue to be
9 governed by the provisions of the Limited Liability Company Act
10 as if that act had not been repealed, except that the company
11 shall not be renewed unless so provided in the original
12 agreement or in the manner provided in its limited liability
13 company agreement or by law for amending a limited liability
14 company agreement.

15 D. After July 1, 2016, the Revised Uniform Limited
16 Liability Company Act governs a foreign limited liability
17 company formed at any time.

18 E. Sections 117, 212, 702 and 704 through 710 of
19 the Revised Uniform Limited Liability Company Act apply to
20 limited liability companies formed before July 1, 2016.

21 SECTION 111. [NEW MATERIAL] SUPPLEMENTAL PRINCIPLES OF
22 LAW.--Unless displaced by particular provisions of the Revised
23 Uniform Limited Liability Company Act, the principles of law
24 and equity supplement that act.

25 SECTION 112. [NEW MATERIAL] NAMES PERMITTED.--

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1 A. The name of a limited liability company shall
2 contain the phrase "limited liability company" or "limited
3 company" or the abbreviation "L.L.C.", "LLC", "L.C." or "LC".
4 "Limited" may be abbreviated as "Ltd.", and "company" may be
5 abbreviated as "Co.".

6 B. Except as otherwise provided in Subsection D of
7 this section, the name of a limited liability company, and the
8 name under which a foreign limited liability company may
9 register to do business in New Mexico, shall be distinguishable
10 on the records of the secretary of state from the name:

11 (1) of an existing person whose formation
12 required the filing of a record by the secretary of state and
13 that is not at the time administratively dissolved;

14 (2) of a limited liability partnership whose
15 statement of qualification is in effect;

16 (3) under which a person is registered to do
17 business in New Mexico by the filing of a record by the
18 secretary of state;

19 (4) reserved pursuant to the provisions of
20 Section 113 of the Revised Uniform Limited Liability Company
21 Act or another law of New Mexico providing for the reservation
22 of a name by the filing of a record by the secretary of state;
23 and

24 (5) registered pursuant to the provisions of
25 Section 114 of that act or another law of New Mexico providing

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1 for the registration of a name by the filing of a record by the
2 secretary of state.

3 C. If a person consents in a record to the use of
4 its name and submits an undertaking in a form satisfactory to
5 the secretary of state to change its name to a name that is
6 distinguishable on the records of the secretary of state from
7 any name in any category of names specified in Subsection B of
8 this section, the name of the consenting person may be used by
9 the person to which the consent was given.

10 D. Except as otherwise provided in Subsection E of
11 this section, in determining whether a name is the same as or
12 not distinguishable on the records of the secretary of state
13 from the name of another person, words, phrases or
14 abbreviations indicating a type of person, such as
15 "corporation", "corp.", "incorporated", "Inc.", "professional
16 corporation", "P.C.", "PC", "professional association", "P.A.",
17 "PA", "Limited", "Ltd.", "limited partnership", "L.P.", "LP",
18 "limited liability partnership", "L.L.P.", "LLP", "registered
19 limited liability partnership", "R.L.L.P.", "RLLP", "limited
20 liability limited partnership", "L.L.L.P.", "LLLp", "registered
21 limited liability limited partnership", "R.L.L.L.P.", "RLLLLP",
22 "limited liability company", "L.L.C." and "LLC", shall not be
23 taken into account.

24 E. A person may consent in a record to the use of a
25 name that is not distinguishable on the records of the

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1 secretary of state from its name except for the addition of a
2 word, phrase or abbreviation indicating the type of person as
3 provided in Subsection D of this section. In such a case, the
4 person need not change its name pursuant to the provisions of
5 Subsection B of this section.

6 F. A limited liability company or foreign limited
7 liability company may use a name that is not distinguishable
8 from a name described in Paragraphs (1) through (5) of
9 Subsection B of this section if the company delivers to the
10 secretary of state a certified copy of a final judgment of the
11 district court establishing the right of the company to use the
12 name in New Mexico.

13 SECTION 113. [NEW MATERIAL] RESERVATION OF NAME.--

14 A. A person may reserve the exclusive use of a name
15 that complies with the provisions of Section 112 of the Revised
16 Uniform Limited Liability Company Act by delivering an
17 application to the secretary of state for filing. The
18 application shall state the name and address of the applicant
19 and the name to be reserved. If the secretary of state finds
20 that the name is available, the secretary of state shall
21 reserve the name for the applicant's exclusive use for one
22 hundred twenty days.

23 B. The owner of a reserved name may transfer the
24 reservation to another person by delivering to the secretary of
25 state a signed notice in a record of the transfer that states

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1 the name and address of the person to which the reservation is
2 being transferred.

3 SECTION 114. [NEW MATERIAL] REGISTRATION OF NAME.--

4 A. A foreign limited liability company not
5 registered to do business in New Mexico pursuant to the
6 provisions of Article 9 of the Revised Uniform Limited
7 Liability Company Act may register its name, or an alternate
8 name adopted pursuant to the provisions of Section 906 of that
9 act, if the name is distinguishable on the records of the
10 secretary of state from the names that are not available
11 pursuant to the provisions of Section 112 of that act.

12 B. To register its name or an alternate name
13 adopted pursuant to the provisions of Section 906 of the
14 Revised Uniform Limited Liability Company Act, a foreign
15 limited liability company shall deliver to the secretary of
16 state for filing an application stating the company's name, the
17 jurisdiction and date of its formation and any alternate name
18 adopted pursuant to the provisions of Section 906 of that act.
19 If the secretary of state finds that the name applied for is
20 available, the secretary of state shall register the name for
21 the applicant's exclusive use.

22 C. The registration of a name pursuant to the
23 provisions of this section is effective for one year after the
24 date of registration.

25 D. A foreign limited liability company whose name

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1 registration is effective may renew the registration for
2 successive one-year periods by delivering, not earlier than
3 three months before the expiration of the registration, to the
4 secretary of state for filing a renewal application that
5 complies with the provisions of this section. When filed, the
6 renewal application renews the registration for a succeeding
7 one-year period.

8 E. A foreign limited liability company whose name
9 registration is effective may register as a foreign limited
10 liability company under the registered name or consent in a
11 signed record to the use of that name by another person that is
12 not an individual.

13 SECTION 115. [NEW MATERIAL] REGISTERED OFFICE AND
14 REGISTERED AGENT--CHANGE OF PRINCIPAL PLACE OF BUSINESS.--

15 A. A limited liability company shall maintain in
16 New Mexico:

17 (1) a registered office, which may be the same
18 as the limited liability company's principal place of business;
19 and

20 (2) a registered agent for service of process
21 on the limited liability company that is either:

22 (a) an individual resident of New
23 Mexico;

24 (b) a domestic corporation, limited
25 liability company or partnership having a place of business in

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1 New Mexico that is the same as the registered office; or

2 (c) a foreign corporation, limited
3 liability company or partnership authorized to transact
4 business in New Mexico and that has a place of business that is
5 the same as the registered office.

6 B. A limited liability company may change its
7 registered office or registered agent by delivering to the
8 secretary of state a statement setting forth:

9 (1) the name of the limited liability company;
10 (2) the name of its current registered agent;
11 (3) the street address of its current
12 registered office; and

13 (4) if its current registered agent is to be
14 changed:

15 (a) the name of its successor registered
16 agent;

17 (b) the street address of the successor
18 registered agent's place of business;

19 (c) a statement that such address is the
20 same as the current address of the limited liability company's
21 current registered office or, if there is a concurrent change
22 in the address of the registered office, as the new address of
23 the registered office; and

24 (d) a statement of the successor
25 registered agent that the agent accepts the appointment;

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1 (5) if the current address of the place of
2 business of its current registered agent is to be changed, the
3 new street address of the place of business of the current
4 registered agent and a statement that the new street address is
5 the same as the address of the limited liability company's
6 registered office or, if there is a concurrent change in the
7 address of the registered office, as the new street address of
8 the registered office; or

9 (6) if the address of its current registered
10 office is to be changed, the new street address to which the
11 current registered office is to be changed and a statement that
12 the new address is the same as the street address of the place
13 of business of the current or, if there is a concurrent change
14 of the current registered agent, of the successor registered
15 agent of the limited liability company.

16 C. If a registered agent changes the street address
17 of the registered agent's business office, the registered agent
18 may change the street address of the registered office of any
19 limited liability company corporation for which the registered
20 agent is the registered agent by notifying the limited
21 liability company in writing of the change and signing, either
22 manually or in facsimile, and delivering to the secretary of
23 state for filing a statement that complies with the
24 requirements of this section but need not be responsive to
25 Paragraph (4) of Subsection B of this section and recites that

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1 the corporation has been notified of the change.

2 D. If the secretary of state finds that the
3 statement conforms to the provisions of this section, it shall
4 file the statement in its office and, upon such filing, the
5 change of registered agent, change of address of the registered
6 office or change of the registered agent's place of business
7 shall become effective and fulfill any requirement that such
8 change be reported to the secretary of state.

9 E. A registered agent of a limited liability
10 company may resign as registered agent by delivering a written
11 notice, executed in duplicate, to the secretary of state, which
12 shall mail a copy of the notice to the limited liability
13 company at its principal place of business as shown on the
14 records of the secretary of state. The resigning registered
15 agent's appointment terminates thirty days after receipt of the
16 notice by the secretary of state or on the effective date of
17 the appointment of a successor registered agent, whichever
18 occurs first.

19 F. A limited liability company shall notify the
20 secretary of state of a change in the street address of its
21 principal place of business by delivering a written statement
22 to the secretary of state setting forth such change.

23 SECTION 116. [NEW MATERIAL] SERVICE OF PROCESS.--A
24 limited liability company or a foreign limited liability
25 company, regardless of whether registered pursuant to the

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1 provisions of the Uniform Revised Limited Partnership Act,
2 shall be served with process in the manner prescribed by law
3 and the New Mexico Rules of Civil Procedure.

4 SECTION 117. [NEW MATERIAL] FILING, SERVICE AND COPYING
5 FEES.--The secretary of state shall charge and collect, for:

6 A. filing the original certificate of organization
7 and issuing a certificate of organization, a fee of fifty
8 dollars (\$50.00);

9 B. filing amended or restated articles of merger
10 and issuing a certificate of amended or restated articles, a
11 fee of fifty dollars (\$50.00);

12 C. filing articles of merger, conversion or
13 consolidation and issuing a certificate of consolidation, a fee
14 of one hundred dollars (\$100);

15 D. filing articles of dissolution or revocation of
16 dissolution, a fee of twenty-five dollars (\$25.00);

17 E. issuing a certificate of good standing, a
18 certificate of registration or a certificate for any purpose
19 not otherwise specified, a fee of twenty-five dollars (\$25.00);

20 F. furnishing written information on any limited
21 liability company, a fee of twenty-five dollars (\$25.00);

22 G. providing any number of pages of documents or
23 instruments pertaining to one limited liability company, a fee
24 of ten dollars (\$10.00); provided, however, that the secretary
25 of state shall be required to furnish only one copy of each

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1 page at this fee;

2 H. providing a certification of documents or
3 instruments pertaining to a limited liability company, a fee of
4 twenty-five dollars (\$25.00);

5 I. accepting an application for reservation of a
6 name or for filing a notice of the transfer of any name
7 reservation, a fee of twenty dollars (\$20.00);

8 J. filing a statement of change of address of
9 registered office or registered agent, or both, a fee of twenty
10 dollars (\$20.00);

11 K. filing an agent's statement of change of address
12 of registered agent, a fee of twenty dollars (\$20.00);

13 L. issuing a registration to a foreign limited
14 liability company, a fee of one hundred dollars (\$100);

15 M. filing an amendment of the registration of a
16 foreign limited liability company, a fee of fifty dollars
17 (\$50.00);

18 N. filing an application for cancellation of
19 registration of a foreign limited liability company and issuing
20 a certificate of cancellation, a fee of twenty-five dollars
21 (\$25.00); and

22 O. filing a triennial report or any other report,
23 statement, instrument or document not otherwise specified, a
24 fee of twenty dollars (\$20.00).

25 SECTION 118. [NEW MATERIAL] DELIVERY OF RECORD.--

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1 registered office and the name of the registered agent at that
2 office; and

3 (3) the street and mailing address of the
4 company's principal office, if different from the street
5 address of its registered office.

6 C. A certificate of organization may contain
7 statements as to matters other than those required by the
8 provisions of Subsection B of this section, but those
9 statements shall not vary or otherwise affect the provisions
10 specified in Subsection C or D of Section 105 of the Revised
11 Uniform Limited Liability Company Act in a manner inconsistent
12 with the provisions of that section. However, a statement in a
13 certificate of organization is not effective as a statement of
14 authority.

15 D. A limited liability company is formed when the
16 certificate of organization becomes effective and at least one
17 person has become a member.

18 E. The organizer or organizers of a limited
19 liability company shall file with the secretary of state:

20 (1) the signed original of the articles of
21 organization, together with a duplicate copy, which may be
22 either signed, photocopied or conformed;

23 (2) the statement of the person appointed
24 registered agent, accepting appointment as registered agent;
25 and

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1 (3) any other documents required to be filed
2 pursuant to the Revised Uniform Limited Liability Company Act.

3 F. The secretary of state may accept a facsimile
4 transmission for filing.

5 G. If the secretary of state determines that the
6 documents delivered for filing conform with the provisions of
7 the Revised Uniform Limited Liability Company Act, it shall,
8 when all required filing fees have been paid:

9 (1) endorse on each signed original and
10 duplicate copy the word "filed" and the date of its acceptance
11 for filing;

12 (2) retain a signed original in the files of
13 the secretary of state; and

14 (3) return each duplicate copy to the person
15 who delivered it to the secretary of state or to that person's
16 representative.

17 **SECTION 202. [NEW MATERIAL] AMENDMENT OR RESTATEMENT OF**
18 **CERTIFICATE OF ORGANIZATION.--**

19 A. A certificate of organization may be amended or
20 restated at any time.

21 B. To amend its certificate of organization, a
22 limited liability company shall deliver to the secretary of
23 state for filing an amendment stating:

24 (1) the name of the company;

25 (2) the date of filing of its initial

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1 certificate; and

2 (3) the text of the amendment.

3 C. To restate its certificate of organization, a
4 limited liability company shall deliver to the secretary of
5 state for filing a restatement, designated as a restatement in
6 its heading.

7 D. If a member of a member-managed limited
8 liability company or a manager of a manager-managed limited
9 liability company knows that any information in a filed
10 certificate of organization was inaccurate when the certificate
11 was filed or has become inaccurate due to to changed
12 circumstances, the member or manager shall promptly:

13 (1) cause the certificate to be amended; or

14 (2) if appropriate, deliver to the secretary
15 of state for filing a statement of change pursuant to the
16 provisions of Section 115 of the Revised Uniform Limited
17 Liability Company Act or a statement of correction pursuant the
18 provisions of Section 209 of that act.

19 **SECTION 203. [NEW MATERIAL] SIGNING OF RECORDS TO BE**
20 **DELIVERED FOR FILING TO SECRETARY OF STATE.--**

21 A. A record delivered to the secretary of state for
22 filing pursuant to the provisions of the Revised Uniform
23 Limited Liability Company Act shall be signed as follows:

24 (1) except as otherwise provided in Paragraphs
25 (2) and (3) of this subsection, a record signed by a limited

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1 liability company shall be signed by a person authorized by the
2 company;

3 (2) a limited liability company's initial
4 certificate of organization shall be signed by at least one
5 person acting as an organizer;

6 (3) a record delivered on behalf of a
7 dissolved limited liability company that has no member shall be
8 signed by the person winding up the company's activities and
9 affairs pursuant to the provisions of Subsection C of Section
10 702 of that act or a person appointed pursuant to the
11 provisions of Subsection D of Section 702 of that act to wind
12 up the activities and affairs;

13 (4) a statement of denial by a person pursuant
14 to the provisions of Section 303 of that act shall be signed by
15 that person; and

16 (5) any other record delivered on behalf of a
17 person to the secretary of state for filing shall be signed by
18 that person.

19 B. Any record delivered for filing pursuant to the
20 provisions of the Revised Uniform Limited Liability Company Act
21 may be signed by an agent. When the provisions of that act
22 require a particular individual to sign a record and the
23 individual is deceased or incapacitated, the record may be
24 signed by a legal representative of the individual.

25 C. A person that signs a record as an agent or a

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1 legal representative affirms as a fact that the person is
2 authorized to sign the record.

3 SECTION 204. [NEW MATERIAL] SIGNING AND FILING PURSUANT
4 TO JUDICIAL ORDER.--

5 A. If a person required by the provisions of the
6 Revised Uniform Limited Liability Company Act to sign a record
7 or deliver a record to the secretary of state for filing
8 pursuant to the provisions of that act does not do so, any
9 other person that is aggrieved may petition the district court
10 to order:

- 11 (1) the person to sign the record;
- 12 (2) the person to deliver the record to the
13 secretary of state for filing; or
- 14 (3) the secretary of state to file the record
15 unsigned.

16 B. If a petitioner pursuant to the provisions of
17 Subsection A of this section is not the limited liability
18 company or foreign limited liability company to which the
19 record pertains, the petitioner shall make the company or
20 foreign company a party to the action.

21 C. A record filed pursuant to the provisions of
22 Paragraph (3) of Subsection A of this section is effective
23 without being signed.

24 SECTION 205. [NEW MATERIAL] LIABILITY FOR INACCURATE
25 INFORMATION IN FILED RECORD.--

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1 A. If a record delivered to the secretary of state
2 for filing pursuant to the provisions of the Revised Uniform
3 Limited Liability Company Act and filed by the secretary of
4 state contains inaccurate information, a person that suffers a
5 loss by reliance on the information may recover damages for the
6 loss from:

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

11 (2) subject to the provisions of Subsection B
12 of this section, a member of a member-managed limited liability
13 company or a manager of a manager-managed limited liability
14 company, if:

15 (a) the record was delivered for filing
16 on behalf of the company; and

17 (b) the member or manager knew or had
18 notice of the inaccuracy for a reasonably sufficient time
19 before the information was relied upon so that, before the
20 reliance, the member or manager reasonably could have: 1)
21 effected an amendment pursuant to the provisions of Section 202
22 of the Revised Uniform Limited Liability Company Act; 2) filed
23 a petition pursuant to the provisions of Section 204 of that
24 act; or 3) delivered to the secretary of state for filing a
25 statement of change pursuant to the provisions of Section 115

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1 of that act or a statement of correction pursuant to the
2 provisions of Section 209 of that act.

3 B. To the extent that the operating agreement of a
4 member-managed limited liability company expressly relieves a
5 member of responsibility for maintaining the accuracy of
6 information contained in records delivered on behalf of the
7 company to the secretary of state for filing pursuant to the
8 provisions of the Revised Uniform Limited Liability Company Act
9 and imposes that responsibility on one or more other members,
10 the liability stated in Paragraph (2) of Subsection A of this
11 section applies to those other members and not to the member
12 that the operating agreement relieves of the responsibility.

13 C. An individual who signs a record authorized or
14 required to be filed pursuant to the provisions of the Revised
15 Uniform Limited Liability Company Act affirms under penalty of
16 perjury that the information stated in the record is accurate.

17 SECTION 206. [NEW MATERIAL] FILING REQUIREMENTS.--

18 A. To be filed by the secretary of state pursuant
19 to the provisions of the Revised Uniform Limited Liability
20 Company Act, a record shall be received by the secretary of
21 state, comply with the provisions of that act and:

22 (1) have its filing required or permitted by
23 the provisions of that act;

24 (2) be physically delivered in written form
25 unless and to the extent that the secretary of state permits

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1 electronic delivery of records;

2 (3) have its words in English and its numbers
3 in Arabic or Roman numerals. However, the name of an entity
4 need not be in English if written in English letters or Arabic
5 or Roman numerals;

6 (4) be signed by a person authorized or
7 required by the provisions of that act to sign the record; and

8 (5) state the name and capacity, if any, of
9 each individual who signed the record, either on behalf of the
10 individual or the person authorized or required to sign it, but
11 the record need not contain a seal, attestation, acknowledgment
12 or verification.

13 B. If a provision of law other than one in the
14 Revised Uniform Limited Liability Company Act prohibits the
15 disclosure by the secretary of state of information contained
16 in a record delivered to the secretary of state for filing, the
17 secretary of state shall file the record if the record
18 otherwise complies with the provisions of that act. However,
19 the secretary of state may redact the information whose
20 disclosure is prohibited.

21 C. When a record is delivered to the secretary of
22 state for filing, a fee, tax, interest or penalty required to
23 be paid pursuant to the provisions of the Revised Uniform
24 Limited Liability Company Act or other law shall be paid in a
25 manner permitted by the secretary of state or required by that

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1 law.

2 D. The secretary of state may require that a record
3 delivered in written form be accompanied by an identical or
4 conformed copy.

5 E. The secretary of state may provide forms for
6 filings that are required or permitted to be made by the
7 provisions of the Revised Uniform Limited Liability Company
8 Act. However, except as otherwise provided pursuant to the
9 provisions of Subsection F of this section, the use of such
10 forms is not required.

11 F. The secretary of state may require that a cover
12 sheet for a filing be on a form prescribed by the secretary of
13 state.

14 SECTION 207. [NEW MATERIAL] EFFECTIVE DATE AND TIME.--
15 Except as otherwise provided in Section 208 of the Revised
16 Uniform Limited Liability Company Act, and subject to the
17 provisions of Subsection D of Section 209 of that act, a record
18 filed pursuant to the provisions of that act is effective:

19 A. on the date and at the time of its filing by the
20 secretary of state, as provided in Subsection B of Section 210
21 of that act;

22 B. if later than the time specified in Subsection A
23 of this section, on the date of filing and at the time
24 specified in the record as its effective time;

25 C. at the specified delayed effective date and

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1 time, which shall not be more than ninety days after the date
2 of filing; or

3 D. if a delayed effective date, but no time, is
4 specified, at 12:01 a.m. on the date specified, which shall not
5 be more than ninety days after the date of filing.

6 SECTION 208. [NEW MATERIAL] WITHDRAWAL OF FILED RECORD
7 BEFORE EFFECTIVENESS.--

8 A. Except as otherwise provided in Sections 1010,
9 1016, 1022 and 1028 of the Revised Uniform Limited Liability
10 Company Act, a record delivered to the secretary of state for
11 filing may be withdrawn before it takes effect by delivering to
12 the secretary of state for filing a statement of withdrawal.

13 B. A statement of withdrawal shall:

14 (1) be signed by each person that signed the
15 record being withdrawn, except as otherwise agreed by those
16 persons;

17 (2) identify the record to be withdrawn; and

18 (3) if signed by fewer than all of the persons
19 that signed the record being withdrawn, state that the record
20 is withdrawn in accordance with the agreement of all of the
21 persons that signed the record.

22 C. On filing by the secretary of state of a
23 statement of withdrawal, the action or transaction evidenced by
24 the original record does not take effect.

25 SECTION 209. [NEW MATERIAL] CORRECTING FILED RECORD.--

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1 A. A person on whose behalf a filed record was
2 delivered to the secretary of state for filing may correct the
3 record if:

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

9 B. To correct a filed record, a person on whose
10 behalf the record was delivered to the secretary of state shall
11 deliver to the secretary of state for filing a statement of
12 correction.

- 13 C. A statement of correction shall:
- 14 (1) not state a delayed effective date;
- 15 (2) be signed by the person correcting the
16 filed record;
- 17 (3) identify the filed record to be corrected;
- 18 (4) specify the inaccuracy or defect to be
19 corrected; and
- 20 (5) correct the inaccuracy or defect.

21 D. A statement of correction is effective as of the
22 effective date of the filed record that it corrects except as
23 to persons relying on the uncorrected filed record and
24 adversely affected by the correction. For those purposes and
25 as to those persons, the statement of correction is effective

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1 when filed.

2 SECTION 210. [NEW MATERIAL] DUTY OF SECRETARY OF STATE TO
3 FILE--REVIEW OF REFUSAL TO FILE--DELIVERY OF RECORD BY
4 SECRETARY OF STATE.--

5 A. The secretary of state shall file a record that
6 satisfies the provisions of the Revised Uniform Limited
7 Liability Company Act and that is delivered to the secretary of
8 state for filing. The duty of the secretary of state stated in
9 this section is ministerial.

10 B. When the secretary of state files a record, the
11 secretary of state shall record it as filed on the date and at
12 the time of its delivery. After filing a record, the secretary
13 of state shall deliver to the person that submitted the record
14 a copy of the record with an acknowledgment of the date and
15 time of filing and, in the case of a statement of denial, also
16 to the limited liability company to which the statement
17 pertains.

18 C. If the secretary of state refuses to file a
19 record, the secretary of state shall, within fifteen business
20 days after the record is delivered:

21 (1) return the record or notify the person
22 that submitted the record of the refusal; and

23 (2) provide a brief explanation in a record of
24 the reason for the refusal.

25 D. If the secretary of state refuses to file a

1 record, the person that submitted the record may petition the
2 district court to compel the filing of the record. The record
3 and the explanation of the secretary of state of the refusal to
4 file shall be attached to the petition. The court may decide
5 the matter in a summary proceeding.

6 E. The filing of or refusal to file a record does
7 not:

8 (1) affect the validity or invalidity of the
9 record in whole or in part; or

10 (2) create a presumption that the information
11 contained in the record is correct or incorrect.

12 F. The secretary of state may deliver any record to
13 a person by delivering it:

14 (1) in person to the person that submitted it;

15 (2) to the address of the person's registered
16 agent;

17 (3) to the principal office of the person; or

18 (4) to another address that the person

19 provides to the secretary of state for delivery.

20 SECTION 211. [NEW MATERIAL] CERTIFICATE OF GOOD STANDING
21 OR REGISTRATION.--

22 A. On request of any person, the secretary of state
23 shall issue a certificate of good standing for a limited
24 liability company or a certificate of registration for a
25 registered foreign limited liability company.

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1 B. A certificate issued pursuant to the provisions
2 of Subsection A of this section shall state:

3 (1) the limited liability company's name or
4 the registered foreign limited liability company's name used in
5 New Mexico;

6 (2) in the case of a limited liability
7 company:

8 (a) that a certificate of organization
9 has been filed and has taken effect;

10 (b) the date that the certificate became
11 effective;

12 (c) if the records of the secretary of
13 state reflect that the company's period of duration is less
14 than perpetual, the period of the company's duration; and

15 (d) that: 1) no statement of
16 dissolution, statement of administrative dissolution or
17 statement of termination has been filed; 2) the records of the
18 secretary of state do not otherwise reflect that the company
19 has been dissolved or terminated; and 3) a proceeding is not
20 pending pursuant to the provisions of Section 708 of the
21 Revised Uniform Limited Liability Company Act;

22 (3) in the case of a registered foreign
23 limited liability company, that it is registered to do business
24 in New Mexico;

25 (4) that all fees, taxes, interest and

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1 penalties owed to New Mexico by the limited liability company
2 or foreign limited liability company and collected through the
3 secretary of state have been paid, if:

4 (a) payment is reflected in the records
5 of the secretary of state; and

6 (b) nonpayment affects the good standing
7 or registration of the company or foreign company;

8 (5) that the most recent triennial report
9 required by the provisions of Section 212 of the Revised
10 Uniform Limited Liability Company Act has been delivered to the
11 secretary of state for filing; and

12 (6) other facts reflected in the records of
13 the secretary of state pertaining to the limited liability
14 company or foreign limited liability company that the person
15 requesting the certificate reasonably requests.

16 C. Subject to any qualification stated in the
17 certificate, a certificate issued by the secretary of state
18 pursuant to the provisions of Subsection A of this section may
19 be relied on as conclusive evidence of the facts stated in the
20 certificate.

21 SECTION 212. [NEW MATERIAL] TRIENNIAL REPORT FOR
22 SECRETARY OF STATE.--

23 A. A limited liability company or registered
24 foreign limited liability company shall deliver to the
25 secretary of state for filing a triennial report that states:

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- 1 (1) the name of the company or foreign
2 company;
- 3 (2) the street address of its registered
4 office in New Mexico and the name of the registered agent at
5 that office;
- 6 (3) the street and mailing addresses of its
7 principal office, if different from the street address of its
8 registered office;
- 9 (4) if the company is member managed, the name
10 of at least one member;
- 11 (5) if the company is manager managed, the
12 name of at least one manager; and
- 13 (6) in the case of a foreign company, its
14 jurisdiction of formation and any alternate name adopted
15 pursuant to the provisions of Subsection A of Section 906 of
16 the Revised Uniform Limited Liability Company Act.

17 B. Information in the triennial report shall be
18 current as of the date that the report is signed by the limited
19 liability company or registered foreign limited liability
20 company.

21 C. The first triennial report shall be delivered to
22 the secretary of state for filing by the end of the first
23 calendar month that follows the date on which the limited
24 liability company's certificate of organization became
25 effective or the registered limited liability company

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1 registered to do business in New Mexico. Subsequent reports
2 shall be delivered for filing to the secretary of state during
3 the corresponding months of each third calendar year
4 thereafter. The secretary of state may provide by rule for the
5 orderly transition over several years of report filing for
6 limited liability companies formed before July 1, 2016.

7 D. If a triennial report does not contain the
8 information required by this section, the secretary of state
9 shall promptly notify the reporting limited liability company
10 or registered foreign limited liability company of the
11 deficiency in a record and return the report for correction.

12 E. If a triennial report contains the name or
13 address of a registered agent that differs from the information
14 shown in the records of the secretary of state immediately
15 before the report becomes effective, the differing information
16 in the report is considered a statement of change under Section
17 115 of the Revised Uniform Limited Liability Company Act.

18 ARTICLE 3

19 RELATIONS OF MEMBERS AND MANAGERS

20 TO PERSONS DEALING WITH LIMITED LIABILITY COMPANY

21 SECTION 301. [NEW MATERIAL] NO AGENCY POWER OF MEMBER AS
22 MEMBER.--

23 A. A member is not an agent of a limited liability
24 company solely by reason of being a member.

25 B. A person's status as a member does not prevent

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1 or restrict a law other than one in the Revised Uniform Limited
2 Liability Company Act from imposing liability on a limited
3 liability company because of the person's conduct.

4 SECTION 302. [NEW MATERIAL] STATEMENT OF AUTHORITY.--

5 A. A limited liability company may deliver to the
6 secretary of state for filing a statement of authority. The
7 statement:

8 (1) shall include the name of the company and
9 the name and street and mailing addresses of its registered
10 agent;

11 (2) with respect to any position that exists
12 in or with respect to the company, may state the authority, or
13 limitations on the authority, of all persons holding the
14 position to:

15 (a) sign an instrument transferring real
16 property held in the name of the company; or

17 (b) enter into other transactions on
18 behalf of, or otherwise act for or bind, the company; and

19 (3) may state the authority, or limitations on
20 the authority, of a specific person to:

21 (a) sign an instrument transferring real
22 property held in the name of the company; or

23 (b) enter into other transactions on
24 behalf of, or otherwise act for or bind, the company.

25 B. To amend or cancel a statement of authority

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1 filed by the secretary of state, a limited liability company
2 shall deliver to the secretary of state for filing an amendment
3 or cancellation stating:

4 (1) the name of the company;

5 (2) the name and street and mailing addresses
6 of the company's registered agent;

7 (3) the date the statement being affected
8 became effective; and

9 (4) the contents of the amendment or a
10 declaration that the statement is canceled.

11 C. A statement of authority affects only the power
12 of a person to bind a limited liability company to persons that
13 are not members.

14 D. Subject to the provisions of Subsection C of
15 this section and Subsection D of Section 103 of the Revised
16 Uniform Limited Liability Company Act, and except as otherwise
17 provided in Subsections F, G and H of this section, a
18 limitation on the authority of a person or a position contained
19 in an effective statement of authority is not by itself
20 evidence of a person's knowledge or notice of the limitation.

21 E. Subject to the provisions of Subsection C of
22 this section, a grant of authority not pertaining to transfers
23 of real property and contained in an effective statement of
24 authority is conclusive in favor of a person that gives value
25 in reliance on the grant, except to the extent that when the

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1 person gives value:

2 (1) the person has knowledge to the contrary;

3 (2) the statement has been canceled or

4 restrictively amended pursuant to the provisions of Subsection
5 B of this section; or

6 (3) a limitation on the grant is contained in
7 another statement of authority that became effective after the
8 statement containing the grant became effective.

9 F. Subject to the provisions of Subsection C of
10 this section, an effective statement of authority that grants
11 authority to transfer real property held in the name of the
12 limited liability company, a certified copy of which statement
13 is recorded in the office for recording transfers of the real
14 property, is conclusive in favor of a person that gives value
15 in reliance on the grant without knowledge to the contrary,
16 except to the extent that when the person gives value:

17 (1) the statement has been canceled or
18 restrictively amended pursuant to the provisions of Subsection
19 B of this section and a certified copy of the cancellation or
20 restrictive amendment has been recorded in the office for
21 recording transfers of the real property; or

22 (2) a limitation on the grant is contained in
23 another statement of authority that became effective after the
24 statement containing the grant became effective, and a
25 certified copy of the later-effective statement is recorded in

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1 the office for recording transfers of the real property.

2 G. Subject to the provisions of Subsection C of
3 this section, if a certified copy of an effective statement
4 containing a limitation on the authority to transfer real
5 property held in the name of a limited liability company is
6 recorded in the office for recording transfers of that real
7 property, all persons are deemed to know of the limitation.

8 H. Subject to the provisions of Subsection I of
9 this section, an effective statement of dissolution or
10 termination is a cancellation of any filed statement of
11 authority for the purposes of the provisions of Subsection F of
12 this section and is a limitation on authority for the purposes
13 of the provisions of Subsection G of this section.

14 I. After a statement of dissolution becomes
15 effective, a limited liability company may deliver to the
16 secretary of state for filing and, if appropriate, may record a
17 statement of authority that is designated as a post-dissolution
18 statement of authority. The statement operates pursuant to the
19 provisions of the provisions of Subsections F and G of this
20 section.

21 J. Unless earlier canceled, an effective statement
22 of authority is canceled by operation of law five years after
23 the date on which the statement, or its most recent amendment,
24 becomes effective. This cancellation operates without need for
25 any recording pursuant to the provisions of Subsection F or G

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1 of this section.

2 K. An effective statement of denial operates as a
3 restrictive amendment pursuant to the provisions of this
4 section and may be recorded by certified copy for purposes of
5 the provisions of Paragraph (1) of Subsection F of this
6 section.

7 SECTION 303. [NEW MATERIAL] STATEMENT OF DENIAL.--A
8 person named in a filed statement of authority granting that
9 person authority may deliver to the secretary of state for
10 filing a statement of denial that:

11 A. provides the name of the limited liability
12 company and the caption of the statement of authority to which
13 the statement of denial pertains; and

14 B. denies the grant of authority.

15 SECTION 304. [NEW MATERIAL] LIABILITY OF MEMBERS AND
16 MANAGERS.--

17 A. A debt, an obligation or another liability of a
18 limited liability company is solely the debt, obligation or
19 other liability of the company. A member or manager is not
20 personally liable, directly or indirectly, by way of
21 contribution or otherwise, for a debt, an obligation or another
22 liability of the company solely by reason of being or acting as
23 a member or manager. The provisions of this subsection apply
24 regardless of the dissolution of the company.

25 B. The failure of a limited liability company to

1 observe formalities relating to the exercise of its powers or
2 management of its activities and affairs is not a ground for
3 imposing liability on a member or manager for a debt, an
4 obligation or another liability of the company.

5 ARTICLE 4

6 RELATIONS OF MEMBERS TO EACH OTHER AND
7 TO LIMITED LIABILITY COMPANY

8 SECTION 401. [NEW MATERIAL] BECOMING MEMBER.--

9 A. If a limited liability company is to have only
10 one member upon formation, the person becomes a member as
11 agreed by that person and the organizer of the company. That
12 person and the organizer may, but need not, be different
13 persons. If different, the organizer acts on behalf of the
14 initial member.

15 B. If a limited liability company is to have more
16 than one member upon formation, those persons become members as
17 agreed by the persons before the formation of the company. The
18 organizer acts on behalf of the persons in forming the company
19 and may, but need not, be one of the persons.

20 C. After formation of a limited liability company,
21 a person becomes a member:

- 22 (1) as provided in the operating agreement;
23 (2) as the result of a transaction effective
24 pursuant to the provisions of Article 10 of the Revised Uniform
25 Limited Liability Company Act;

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1 (3) with the affirmative vote or consent of
2 all of the members; or

3 (4) as provided in Paragraph (3) of Subsection
4 A of Section 701 of that act.

5 D. A person may become a member without:

6 (1) acquiring a transferable interest; or

7 (2) making or being obligated to make a
8 contribution to the limited liability company.

9 SECTION 402. [NEW MATERIAL] FORM OF CONTRIBUTION.--A
10 contribution may consist of property transferred to, services
11 performed for or another benefit provided to the limited
12 liability company or an agreement to transfer property to,
13 perform services for or provide another benefit to the company.

14 SECTION 403. [NEW MATERIAL] LIABILITY FOR
15 CONTRIBUTIONS.--

16 A. A person's obligation to make a contribution to
17 a limited liability company is not excused by the person's
18 death, disability, termination or other inability to perform
19 personally.

20 B. If a person does not fulfill an obligation to
21 make a contribution other than money, the person is obligated
22 at the option of the limited liability company to contribute
23 money equal to the value of the part of the contribution that
24 has not been made.

25 C. The obligation of a person to make a

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1 contribution may be compromised only by the affirmative vote or
2 consent of all of the members. If a creditor of a limited
3 liability company extends credit or otherwise acts in reliance
4 on an obligation described in Subsection A of this section
5 without knowledge or notice of a compromise pursuant to the
6 provisions of this subsection, the creditor may enforce the
7 obligation.

8 SECTION 404. [NEW MATERIAL] SHARING OF AND RIGHT TO
9 DISTRIBUTIONS BEFORE DISSOLUTION.--

10 A. A distribution made by a limited liability
11 company before its dissolution and winding up shall be in equal
12 shares among members and persons dissociated as members, except
13 to the extent necessary to comply with a transfer effective
14 pursuant to the provisions of Section 502 of the Revised
15 Uniform Limited Liability Company Act or charging order in
16 effect pursuant to the provisions of Section 503 of that act.

17 B. A person has a right to a distribution before
18 the dissolution and winding up of a limited liability company
19 only if the company decides to make an interim distribution. A
20 person's dissociation does not entitle the person to a
21 distribution.

22 C. A person does not have a right to demand or
23 receive a distribution from a limited liability company in a
24 form other than money. Except as otherwise provided in
25 Subsection D of Section 707 of the Revised Uniform Limited

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1 Liability Company Act, a company may distribute an asset in
2 kind only if each part of the asset is fungible with each other
3 part and each person receives a percentage of the asset equal
4 in value to the person's share of distributions.

5 D. If a member or transferee becomes entitled to
6 receive a distribution, the member or transferee has the status
7 of, and is entitled to all remedies available to, a creditor of
8 the limited liability company with respect to the distribution.
9 However, the company's obligation to make a distribution is
10 subject to offset for any amount owed to the company by the
11 member or a person dissociated as a member on whose account the
12 distribution is made.

13 SECTION 405. [NEW MATERIAL] LIMITATIONS ON
14 DISTRIBUTIONS.--

15 A. A limited liability company shall not make a
16 distribution, including a distribution pursuant to the
17 provisions of Section 707 of the Revised Uniform Limited
18 Liability Company Act, if after the distribution:

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

22 (2) the company's total assets would be less
23 than the sum of its total liabilities plus the amount that
24 would be needed, if the company were to be dissolved and wound
25 up at the time of the distribution, to satisfy the preferential

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1 rights upon dissolution and winding up of members and
2 transferees whose preferential rights are superior to the
3 rights of persons receiving the distribution.

4 B. A limited liability company may base a
5 determination that a distribution is not prohibited as provided
6 in Subsection A of this section on:

7 (1) financial statements prepared on the basis
8 of accounting practices and principles that are reasonable in
9 the circumstances; or

10 (2) a fair valuation or other method that is
11 reasonable under the circumstances.

12 C. Except as otherwise provided in Subsection E of
13 this section, the effect of a distribution as provided in
14 Subsection A of this section is measured:

15 (1) in the case of a distribution as defined
16 in Paragraph (2) of Subsection D of Section 102 of the Revised
17 Uniform Limited Liability Company Act, as of the earlier of the
18 date that:

19 (a) money or other property is
20 transferred or debt is incurred by the limited liability
21 company; or

22 (b) the person entitled to the
23 distribution ceases to own the interest or right being acquired
24 by the company in return for the distribution;

25 (2) in the case of any other distribution of

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1 indebtedness, as of the date the indebtedness is distributed;
2 and

3 (3) in all other cases, as of the date that
4 the:

5 (a) distribution is authorized, if the
6 payment occurs within one hundred twenty days after that date;
7 or

8 (b) payment is made, if the payment
9 occurs more than one hundred twenty days after the distribution
10 is authorized.

11 D. A limited liability company's indebtedness to a
12 member or transferee incurred by reason of a distribution made
13 in accordance with the provisions of this section is at parity
14 with the company's indebtedness to its general, unsecured
15 creditors, except to the extent that it is subordinated by
16 agreement.

17 E. A limited liability company's indebtedness,
18 including indebtedness issued as a distribution, is not a
19 liability for purposes of the provisions of Subsection A of
20 this section if the terms of the indebtedness provide that
21 payment of principal and interest is made only if and to the
22 extent that payment of a distribution could be made pursuant to
23 this section. If the indebtedness is issued as a distribution,
24 each payment of principal or interest is treated as a
25 distribution, the effect of which is measured on the date the

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1 payment is made.

2 F. In measuring the effect of a distribution
3 pursuant to the provisions of Section 707 of the Revised
4 Uniform Limited Liability Company Act, the liabilities of a
5 dissolved limited liability company do not include a claim that
6 has been disposed of pursuant to the provisions of Section 704,
7 705 or 706 of that act.

8 SECTION 406. [NEW MATERIAL] LIABILITY FOR IMPROPER
9 DISTRIBUTIONS.--

10 A. Except as otherwise provided in Subsection B of
11 this section, if a member of a member-managed limited liability
12 company or manager of a manager-managed limited liability
13 company consents to a distribution made in violation of the
14 provisions of Section 405 of the Revised Uniform Limited
15 Liability Company Act and in consenting to the distribution
16 fails to comply with the provisions of Section 409 of that act,
17 the member or manager is personally liable to the company for
18 the amount of the distribution that exceeds the amount that
19 could have been distributed without the violation of the
20 provisions of Section 405 of that act.

21 B. To the extent that the operating agreement of a
22 member-managed limited liability company expressly relieves a
23 member of the authority and responsibility to consent to
24 distributions and imposes that authority and responsibility on
25 one or more other members, the liability stated in Subsection A

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1 of this section applies to the other members and not the member
2 that the operating agreement relieves of the authority and
3 responsibility.

4 C. A person that receives a distribution knowing
5 that the distribution violated the provisions of Section 405 of
6 the Revised Uniform Limited Liability Company Act is personally
7 liable to the limited liability company, but only to the extent
8 that the distribution received by the person exceeded the
9 amount that could have been properly paid pursuant to the
10 provisions of Section 405 of that act.

11 D. A person against which an action is commenced
12 because the person is liable pursuant to the provisions of
13 Subsection A of this section may:

14 (1) implead any other person that is liable
15 pursuant to the provisions of that subsection and seek to
16 enforce a right of contribution from the person; and

17 (2) implead any person that received a
18 distribution in violation of the provisions of Subsection C of
19 this section and seek to enforce a right of contribution from
20 the person in the amount that the person received in violation
21 that subsection.

22 E. An action pursuant to the provisions of this
23 section is barred unless it is commenced within two years after
24 the distribution.

25 SECTION 407. [NEW MATERIAL] MANAGEMENT OF LIMITED

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1 LIABILITY COMPANY.--

2 A. A limited liability company is a member-managed
3 limited liability company unless the operating agreement:

4 (1) expressly provides that:

5 (a) the company is or will be
6 "manager-managed";

7 (b) the company is or will be "managed
8 by managers"; or

9 (c) management of the company is or will
10 be "vested in managers"; or

11 (2) includes words of similar import.

12 B. In a member-managed limited liability company:

13 (1) except as expressly provided in the
14 Revised Uniform Limited Liability Company Act, the management
15 and conduct of the company are vested in the members;

16 (2) each member has equal rights in the
17 management and conduct of the company's activities and affairs;

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

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

23 (a) undertake an act outside the
24 ordinary course of the activities and affairs of the company;
25 or

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(b) amend the operating agreement.

C. In a manager-managed limited liability company:

(1) except as expressly provided in the Revised Uniform Limited Liability Company Act, any matter relating to the activities and affairs of the company is decided exclusively by the manager or, if there is more than one 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 affirmative vote or 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, dies or, in the case of a manager that is not an individual, terminates. A manager may be removed, without notice or cause, at any time by the affirmative vote or consent of a majority of the members;

(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

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1 cessation does not by itself dissociate the person as a member;
2 and

3 (6) a person's ceasing to be a manager does
4 not discharge any debt, obligation or other liability to the
5 limited liability company or members that the person incurred
6 while a manager.

7 D. An action requiring the vote or consent of
8 members pursuant to the provisions of the Revised Uniform
9 Limited Liability Company Act may be taken without a meeting,
10 and a member may appoint a proxy or another agent to vote,
11 consent or otherwise act for the member by signing an
12 appointing record, personally or by the member's agent.

13 E. The dissolution of a limited liability company
14 does not affect the applicability of this section. However, a
15 person that wrongfully causes dissolution of the company loses
16 the right to participate in management as a member and a
17 manager.

18 F. A limited liability company shall reimburse a
19 member for an advance to the company beyond the amount of
20 capital that the member agreed to contribute.

21 G. A payment or advance made by a member that gives
22 rise to an obligation of the limited liability company pursuant
23 to the provisions of Subsection F of this section or Subsection
24 A of Section 408 of the Revised Uniform Limited Liability
25 Company Act constitutes a loan to the company that accrues

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1 interest from the date of the payment or advance.

2 H. A member is not entitled to remuneration for
3 services performed for a member-managed limited liability
4 company, except for reasonable compensation for services
5 rendered in winding up the activities of the company.

6 SECTION 408. [NEW MATERIAL] REIMBURSEMENT--
7 INDEMNIFICATION--ADVANCEMENT--INSURANCE.--

8 A. A limited liability company shall reimburse a
9 member of a member-managed company or the manager of a manager-
10 managed company for any payment made by the member or manager
11 in the course of the member's or manager's activities on behalf
12 of the company if the member or manager complied with the
13 provisions of Sections 405, 407 and 409 of the Revised Uniform
14 Limited Liability Company Act in making the payment.

15 B. A limited liability company shall indemnify and
16 hold harmless a person with respect to any claim or demand
17 against the person and any debt, obligation or other liability
18 incurred by the person by reason of the person's former or
19 present capacity as a member or manager, if the claim, demand,
20 debt, obligation or other liability does not arise from the
21 person's breach of the provisions of Section 405, 407 or 409 of
22 the Revised Uniform Limited Liability Company Act.

23 C. In the ordinary course of its activities and
24 affairs, a limited liability company may advance reasonable
25 expenses, including attorney fees and costs, incurred by a

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1 person in connection with a claim or demand against the person
2 by reason of the person's former or present capacity as a
3 member or manager, if the person promises to repay the company
4 if the person ultimately is determined not to be entitled to be
5 indemnified as provided in Subsection B of this section.

6 D. A limited liability company may purchase and
7 maintain insurance on behalf of a member or manager against
8 liability asserted against or incurred by the member or manager
9 in that capacity or arising from that status even if, pursuant
10 to the provisions of Paragraph (7) of Subsection C of Section
11 105 of the Revised Uniform Limited Liability Company Act, the
12 operating agreement could not eliminate or limit the person's
13 liability to the company for the conduct giving rise to the
14 liability.

15 SECTION 409. [NEW MATERIAL] STANDARDS OF CONDUCT FOR
16 MEMBERS AND MANAGERS.--

17 A. A member of a member-managed limited liability
18 company owes to the company and, subject to the provisions of
19 Section 801 of the Revised Uniform Limited Liability Company
20 Act, the other members the duties of loyalty and care stated in
21 Subsections B and C of this section.

22 B. The fiduciary duty of loyalty of a member in a
23 member-managed limited liability company includes the duties
24 to:

- 25 (1) account to the company and hold as trustee

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1 for it any property, profit or benefit derived by the member:

2 (a) in the conduct or winding up of the
3 company's activities and affairs;

4 (b) from a use by the member of the
5 company's property; or

6 (c) from the appropriation of a company
7 opportunity;

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

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

15 C. The duty of care of a member of a member-managed
16 limited liability company in the conduct or winding up of the
17 company's activities and affairs is to refrain from engaging
18 in:

19 (1) grossly negligent or reckless conduct;

20 (2) willful or intentional misconduct; and

21 (3) knowing violation of law.

22 D. A member shall discharge the duties and
23 obligations provided in the Revised Uniform Limited Liability
24 Company Act or the operating agreement and exercise any rights
25 consistently with the contractual obligation of good faith and

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1 fair dealing.

2 E. A member does not violate a duty or obligation
3 provided in the Revised Uniform Limited Liability Company Act
4 or the operating agreement solely because the member's conduct
5 furthers the member's own interest.

6 F. All of the members of a member-managed limited
7 liability company or a manager-managed limited liability
8 company may authorize or ratify, after full disclosure of all
9 material facts, a specific act or transaction that otherwise
10 would violate the duty of loyalty.

11 G. It is a defense to a claim provided in Paragraph
12 (2) of Subsection B of this section and any comparable claim in
13 equity or at common law that the transaction was fair to the
14 limited liability company.

15 H. If, as permitted by the provisions of Subsection
16 F or Paragraph (6) of Subsection I of this section or the
17 operating agreement, a member enters into a transaction with
18 the limited liability company that otherwise would be
19 prohibited by the provisions of Paragraph (2) of Subsection B
20 of this section, then the member's rights and obligations
21 arising from the transaction are the same as those of a person
22 that is not a member.

23 I. In a manager-managed limited liability company:
24 (1) the provisions of Subsections A, B, C and
25 G of this section apply to the manager or managers and not the

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1 members;

2 (2) the duty stated in Paragraph (3) of
3 Subsection B of this section continues until winding up is
4 completed;

5 (3) the provisions of Subsection D of this
6 section apply to managers and members;

7 (4) the provisions of Subsection E of this
8 section apply only to members;

9 (5) the power to ratify pursuant to the
10 provisions of Subsection F of this section applies only to the
11 members; and

12 (6) subject to the provisions of Subsection D
13 of this section, a member does not have a duty to the company
14 or to any other member solely by reason of being a member.

15 SECTION 410. [NEW MATERIAL] RIGHTS TO INFORMATION OF
16 MEMBER, MANAGER AND PERSON DISSOCIATED AS MEMBER.--

17 A. In a member-managed limited liability company:

18 (1) on reasonable notice, a member may inspect
19 and copy during regular business hours, at a reasonable
20 location specified by the company, any record maintained by the
21 company regarding the company's activities, affairs, financial
22 condition and other circumstances, to the extent that the
23 information is material to the member's rights and duties
24 provided in the operating agreement or the Revised Uniform
25 Limited Liability Company Act;

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1 (2) the company shall furnish to each member:

2 (a) without demand, any information
3 concerning the company's activities, affairs, financial
4 condition and other circumstances that the company knows and is
5 material to the proper exercise of the member's rights and
6 duties provided in the operating agreement or the Revised
7 Uniform Limited Liability Company Act, except to the extent
8 that the company can establish that it reasonably believes the
9 member already knows the information; and

10 (b) on demand, any other information
11 concerning the company's activities, affairs, financial
12 condition and other circumstances, except to the extent that
13 the demand for the information demanded is unreasonable or
14 otherwise improper under the circumstances; and

15 (3) the duty to furnish information pursuant
16 to the provisions of Paragraph (2) of this subsection also
17 applies to each member to the extent that the member knows any
18 of the information described in that paragraph.

19 B. In a manager-managed limited liability company:

20 (1) the informational rights stated in
21 Subsection A of this section and the duty stated in Paragraph
22 (3) of Subsection A of this section apply to the managers and
23 not the members;

24 (2) during regular business hours and at a
25 reasonable location specified by the company, a member may

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1 inspect and copy information regarding the activities, affairs,
2 financial condition and other circumstances of the company as
3 is just and reasonable if:

4 (a) the member seeks the information for
5 a purpose reasonably related to the member's interest as a
6 member;

7 (b) the member makes a demand in a
8 record received by the company, describing with reasonable
9 particularity the information sought and the purpose for
10 seeking the information; and

11 (c) the information sought is directly
12 connected to the member's purpose;

13 (3) within ten days after receiving a demand
14 pursuant to the provisions of Subparagraph (b) of Paragraph (2)
15 of this subsection, the company shall in a record inform the
16 member that made the demand of:

17 (a) what information the company will
18 provide in response to the demand and the place and time that
19 the company will provide the information; and

20 (b) the company's reasons for declining,
21 if the company declines to provide any demanded information;
22 and

23 (4) whenever the provisions of the Revised
24 Uniform Limited Liability Company Act or of an operating
25 agreement provide for a member to vote on or give or withhold

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1 consent to a matter, before the vote is cast or consent is
2 given or withheld, the company shall, without demand, provide
3 the member with all information that is known to the company
4 and is material to the member's decision.

5 C. Subject to the provisions of Subsection H of
6 this section, on ten days' demand made in a record received by
7 a limited liability company, a person dissociated as a member
8 may have access to the information to which the person was
9 entitled while a member if:

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

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

14 (3) the person satisfies the requirements
15 imposed on a member by the provisions of Paragraph (2) of
16 Subsection B of this section.

17 D. A limited liability company shall respond to a
18 demand made pursuant to the provisions of Subsection C of this
19 section in the manner provided in Paragraph (3) of Subsection B
20 of this section.

21 E. A limited liability company may charge a person
22 that makes a demand pursuant to the provisions of this section
23 the reasonable costs of labor and material for copying.

24 F. A member or person dissociated as a member may
25 exercise the rights provided in this section through an agent

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1 or, in the case of an individual under legal disability, a
2 legal representative. A restriction or condition imposed by
3 the provisions of the operating agreement or pursuant to
4 Subsection H of this section applies both to the agent or legal
5 representative and to the member or person dissociated as a
6 member.

7 G. Subject to the provisions of Section 504 of the
8 Revised Uniform Limited Liability Company Act, the rights
9 stated in this section do not extend to a person as transferee.

10 H. In addition to any restriction or condition
11 stated in its operating agreement, a limited liability company,
12 as a matter within the ordinary course of its activities and
13 affairs, may impose reasonable restrictions and conditions on
14 access to and use of information to be furnished pursuant to
15 the provisions of this section, including designating
16 information confidential and imposing nondisclosure and
17 safeguarding obligations on the recipient. In a dispute
18 concerning the reasonableness of a restriction provided in this
19 subsection, the company has the burden of proving
20 reasonableness.

21 ARTICLE 5

22 TRANSFERABLE INTERESTS AND RIGHTS OF TRANSFEREES AND CREDITORS

23 SECTION 501. [NEW MATERIAL] NATURE OF TRANSFERABLE
24 INTEREST.--A transferable interest is personal property.

25 SECTION 502. [NEW MATERIAL] TRANSFER OF TRANSFERABLE

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1 INTEREST.--

2 A. Subject to the provisions of Subsection F of
3 Section 503 of the Revised Uniform Limited Liability Company
4 Act, a transfer, in whole or in part, of a transferable
5 interest:

6 (1) is permissible;

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

10 (3) subject to the provisions of Section 504
11 of that act, does not entitle the transferee to:

12 (a) participate in the management or
13 conduct of the company's activities and affairs; or

14 (b) except as otherwise provided in
15 Subsection C of this section, have access to records or other
16 information concerning the company's activities and affairs.

17 B. A transferee has the right to receive, in
18 accordance with the transfer, distributions to which the
19 transferor would otherwise be entitled.

20 C. In a dissolution and winding up of a limited
21 liability company, a transferee is entitled to an account of
22 the company's transactions only from the date of dissolution.

23 D. A transferable interest may be evidenced by a
24 certificate of the interest issued by a limited liability
25 company in a record, and, subject to the provisions of this

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1 section, the interest represented by a certificate may be
2 transferred by a transfer of the certificate.

3 E. A limited liability company need not give effect
4 to a transferee's rights pursuant to the provisions of this
5 section until the company knows or has notice of the transfer.

6 F. A transfer of a transferable interest in
7 violation of a restriction on transfer contained in the
8 operating agreement is ineffective if the intended transferee
9 has knowledge or notice of the restriction at the time of
10 transfer.

11 G. Except as otherwise provided in Paragraph (2) of
12 Subsection E of Section 602 of the Revised Uniform Limited
13 Liability Company Act, if a member transfers a transferable
14 interest, the transferor retains the rights of a member other
15 than the transferable interest transferred and retains all of
16 the duties and obligations of a member.

17 H. If a member transfers a transferable interest to
18 a person that becomes a member with respect to the transferred
19 interest, the transferee is liable for the member's obligations
20 pursuant to the provisions of Sections 403 and 406 of the
21 Revised Uniform Limited Liability Company Act and that are
22 known to the transferee when the transferee becomes a member.

23 **SECTION 503. [NEW MATERIAL] CHARGING ORDER.--**

24 A. On application by a judgment creditor of a
25 member or transferee, a court may enter a charging order

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1 against the transferable interest of the judgment debtor for
2 the unsatisfied amount of the judgment. Except as otherwise
3 provided in Subsection F of this section, a charging order
4 constitutes a lien on a judgment debtor's transferable interest
5 and requires the limited liability company to pay over to the
6 person to which the charging order was issued any distribution
7 that otherwise would be paid to the judgment debtor.

8 B. To the extent necessary to effectuate the
9 collection of distributions pursuant to a charging order in
10 effect pursuant to the provisions of Subsection A of this
11 section, the court may:

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

15 (2) make all other orders necessary to give
16 effect to the charging order.

17 C. Upon a showing that distributions pursuant to a
18 charging order will not pay the judgment debt within a
19 reasonable time, the court may foreclose the lien and order the
20 sale of the transferable interest. Except as otherwise
21 provided in Subsection F of this section, the purchaser at the
22 foreclosure sale obtains only the transferable interest, does
23 not thereby become a member and is subject to the provisions of
24 Section 502 of the Revised Uniform Limited Liability Company
25 Act.

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1 D. At any time before foreclosure pursuant to the
2 provisions of Subsection C of this section, the member or
3 transferee whose transferable interest is subject to a charging
4 order issued pursuant to the provisions of Subsection A of this
5 section may extinguish the charging order by satisfying the
6 judgment and filing a certified copy of the satisfaction with
7 the court that issued the charging order.

8 E. At any time before foreclosure pursuant to the
9 provisions of Subsection C of this section, a limited liability
10 company or one or more members whose transferable interests are
11 not subject to the charging order may pay to the judgment
12 creditor the full amount due under the judgment and thereby
13 succeed to the rights of the judgment creditor, including the
14 charging order.

15 F. If a court orders foreclosure of a charging
16 order lien against the sole member of a limited liability
17 company:

- 18 (1) the court shall confirm the sale;
19 (2) the purchaser at the sale obtains the
20 member's entire interest, not only the member's transferable
21 interest;
22 (3) the purchaser thereby becomes a member;
23 and
24 (4) the person whose interest was subject to
25 the foreclosed charging order is dissociated as a member.

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1 of the Revised Uniform Limited Liability Company Act.

2 B. A person's dissociation as a member is wrongful
3 only if the dissociation:

4 (1) is in breach of an express provision of
5 the operating agreement; or

6 (2) occurs before the completion of the
7 winding up of the limited liability company and:

8 (a) the person withdraws as a member by
9 express will;

10 (b) the person is expelled as a member
11 by judicial order pursuant to the provisions of Subsection F of
12 Section 602 of the Revised Uniform Limited Liability Company
13 Act;

14 (c) the person is dissociated pursuant
15 to the provisions of Subsection H of Section 602 of that act;
16 or

17 (d) in the case of a person that is not
18 a trust other than a business trust, an estate or an
19 individual, the person is expelled or otherwise dissociated as
20 a member because it willfully dissolved or terminated.

21 C. A person that wrongfully dissociates as a member
22 is liable to the limited liability company and, subject to the
23 provisions of Section 801 of the Revised Uniform Limited
24 Liability Company Act, to the other members for damages caused
25 by the dissociation. The liability is in addition to any debt,

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1 obligation or other liability of the member to the company or
2 the other members.

3 SECTION 602. [NEW MATERIAL] EVENTS CAUSING

4 DISSOCIATION.--A person is dissociated as a member when:

5 A. the limited liability company knows or has
6 notice of the person's express will to withdraw as a member,
7 but if the person has specified a withdrawal date later than
8 the date the company knew or had notice, on that later date;

9 B. an event stated in the operating agreement as
10 causing the person's dissociation occurs;

11 C. the person's entire interest is transferred in a
12 foreclosure sale pursuant to the provisions of Subsection F of
13 Section 503 of the Revised Uniform Limited Liability Company
14 Act;

15 D. the person is expelled as a member pursuant to
16 the provisions of the operating agreement;

17 E. the person is expelled as a member by the
18 affirmative vote or consent of all the other members if:

19 (1) it is unlawful to carry on the limited
20 liability company's activities and affairs with the person as a
21 member;

22 (2) there has been a transfer of all of the
23 person's transferable interest in the company other than a:

24 (a) transfer for security purposes; or

25 (b) charging order in effect pursuant to

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1 the provisions of Section 503 of the Revised Uniform Limited
2 Liability Company Act and that has not been foreclosed;

3 (3) the person is an entity and:

4 (a) the company notifies the person that
5 the person will be expelled as a member because the person has
6 filed a statement of dissolution or the equivalent, the person
7 has been administratively dissolved, the person's charter or
8 the equivalent has been revoked or the person's right to
9 conduct business has been suspended by the person's
10 jurisdiction of formation; and

11 (b) within ninety days after the
12 notification: 1) the statement of dissolution or the
13 equivalent has not been withdrawn, rescinded or revoked; 2) the
14 person has not been reinstated; or 3) the person's charter or
15 the equivalent or right to conduct business has not been
16 reinstated; or

17 (4) the person is an unincorporated entity
18 that has been dissolved and whose activities and affairs are
19 being wound up;

20 F. on application by the limited liability company
21 or a member in a direct action taken pursuant to the provisions
22 of Section 801 of the Revised Uniform Limited Liability Company
23 Act, the person is expelled as a member by judicial order
24 because the person:

25 (1) has engaged or is engaging in wrongful

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1 conduct that has affected adversely and materially, or will
2 affect adversely and materially, the company's activities and
3 affairs;

4 (2) has committed willfully or persistently,
5 or is committing willfully and persistently, a material breach
6 of the operating agreement or a duty or an obligation provided
7 in Section 409 of the Revised Uniform Limited Liability Company
8 Act; or

9 (3) has engaged in or is engaging in conduct
10 relating to the company's activities and affairs that makes it
11 not reasonably practicable to carry on the activities and
12 affairs with the person as a member;

13 G. in the case of an individual:

14 (1) the individual dies; or

15 (2) in a member-managed limited liability
16 company:

17 (a) a guardian or general conservator
18 for the individual is appointed; or

19 (b) a court orders that the individual
20 has otherwise become incapable of performing the individual's
21 duties as a member pursuant to the provisions of the Revised
22 Uniform Limited Liability Company Act or the operating
23 agreement;

24 H. in a member-managed limited liability company,
25 the person:

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1 (1) becomes a debtor in bankruptcy;

2 (2) signs an assignment for the benefit of
3 creditors; or

4 (3) seeks, consents to or acquiesces in the
5 appointment of a trustee, receiver or liquidator of the person
6 or of all or substantially all of the person's property;

7 I. in the case of a person that is a testamentary
8 or inter vivos trust or is acting as a member by virtue of
9 being a trustee of such a trust, the trust's entire
10 transferable interest in the limited liability company is
11 distributed;

12 J. in the case of a person that is an estate or is
13 acting as a member by virtue of being a personal representative
14 of an estate, the estate's entire transferable interest in the
15 limited liability company is distributed;

16 K. in the case of a person that is not an
17 individual, the existence of the person terminates;

18 L. the limited liability company participates in a
19 merger pursuant to the provisions of Article 10 of the Revised
20 Uniform Limited Liability Company Act and:

21 (1) the company is not the surviving entity;
22 or

23 (2) otherwise as a result of the merger, the
24 person ceases to be a member;

25 M. the limited liability company participates in an

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1 interest exchange pursuant to the provisions of Article 10 of
2 the Revised Uniform Limited Liability Company Act and, as a
3 result of the interest exchange, the person ceases to be a
4 member;

5 N. the limited liability company participates in a
6 conversion pursuant to the provisions of Article 10 of the
7 Revised Uniform Limited Liability Company Act;

8 O. the limited liability company participates in a
9 domestication pursuant to the provisions of Article 10 of the
10 Revised Uniform Limited Liability Company Act and, as a result
11 of the domestication, the person ceases to be a member; or

12 P. the limited liability company dissolves and
13 completes winding up.

14 SECTION 603. [NEW MATERIAL] EFFECT OF DISSOCIATION.--

15 A. If a person is dissociated as a member:

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

19 (2) the person's duties and obligations as a
20 member and as provided in Section 409 of the Revised Uniform
21 Limited Liability Company Act end with regard to matters
22 arising and events occurring after the person's dissociation;
23 and

24 (3) subject to the provisions of Section 504
25 and Article 10 of that act, a transferable interest owned by

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1 the person in the person's capacity as a member immediately
2 before dissociation is owned by the person solely as a
3 transferee.

4 B. A person's dissociation as a member does not of
5 itself discharge the person from debt, an obligation or another
6 liability to the limited liability company or the other members
7 that the person incurred while a member.

8 ARTICLE 7

9 DISSOLUTION AND WINDING UP

10 SECTION 701. [NEW MATERIAL] EVENTS CAUSING DISSOLUTION.--

11 A. A limited liability company is dissolved and its
12 activities and affairs shall be wound up upon the occurrence
13 of:

14 (1) an event or circumstance that the
15 operating agreement states causes dissolution;

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

18 (3) the passage of ninety consecutive days
19 during which the company has no members, unless before the end
20 of the period:

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

25 (b) at least one person becomes a member

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1 in accordance with the consent;

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

5 (a) the conduct of all or substantially
6 all of the company's activities and affairs is unlawful;

7 (b) it is not reasonably practicable to
8 carry on the company's activities and affairs in conformity
9 with the certificate of organization and the operating
10 agreement; or

11 (c) the managers or those members in
12 control of the company: 1) have acted, are acting or will act
13 in a manner that is illegal or fraudulent; or 2) have acted or
14 are acting in a manner that is oppressive and was, is or will
15 be directly harmful to the applicant; or

16 (5) the signing and filing of a statement of
17 administrative dissolution by the secretary of state pursuant
18 to the provisions of Section 708 of the Revised Uniform Limited
19 Liability Company Act.

20 B. In a proceeding brought pursuant to the
21 provisions of Subparagraph (c) of Paragraph (4) of Subsection A
22 of this section, the court may order a remedy other than
23 dissolution.

24 SECTION 702. [NEW MATERIAL] WINDING UP.--

25 A. A dissolved limited liability company shall wind

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1 up its activities and affairs and, except as otherwise provided
2 in Section 703 of the Revised Uniform Limited Liability Company
3 Act, the company continues after dissolution only for the
4 purpose of winding up.

5 B. In winding up its activities, a limited
6 liability company:

7 (1) shall discharge the company's debts,
8 obligations and other liabilities, settle and close the
9 company's activities and affairs and marshal and distribute the
10 assets of the company; and

11 (2) may:

12 (a) deliver to the secretary of state
13 for filing a statement of dissolution stating the name of the
14 company and that the company is dissolved;

15 (b) preserve the company activities,
16 affairs and property as a going concern for a reasonable time;

17 (c) prosecute and defend actions and
18 proceedings, whether civil, criminal or administrative;

19 (d) transfer the company's property;

20 (e) settle disputes by mediation or
21 arbitration;

22 (f) deliver to the secretary of state
23 for filing a statement of termination stating the name of the
24 company and that the company is terminated; and

25 (g) perform other acts necessary or

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1 appropriate to the winding up.

2 C. If a dissolved limited liability company has no
3 members, the legal representative of the last person to have
4 been a member may wind up the activities and affairs of the
5 company. If the person does so, the person has the powers of a
6 sole manager pursuant to the provisions of Subsection C of
7 Section 407 of the Revised Uniform Limited Liability Company
8 Act and is deemed to be a manager for the purposes of
9 Subsection A of Section 304 of that act.

10 D. If the legal representative provided in
11 Subsection C of this section declines or fails to wind up the
12 limited liability company's activities and affairs, a person
13 may be appointed to do so by the consent of transferees owning
14 a majority of the rights to receive distributions as
15 transferees at the time the consent is to be effective. A
16 person appointed pursuant to the provisions of this subsection:

17 (1) has the powers of a sole manager pursuant
18 to the provisions of Subsection C of Section 407 of the Revised
19 Uniform Limited Liability Company Act and is deemed to be a
20 manager for the purposes of the provisions of Subsection A of
21 Section 304 of that act; and

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

25 (a) that the company has no members;

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- 1 (b) the name and street and mailing
- 2 addresses of the person; and
- 3 (c) that the person has been appointed
- 4 pursuant to the provisions of this subsection to wind up the
- 5 company.

6 E. The district court may order judicial

7 supervision of the winding up of a dissolved limited liability

8 company, including the appointment of a person to wind up the

9 company's activities and affairs:

10 (1) on the application of a member, if the

11 applicant establishes good cause;

12 (2) on the application of a transferee, if:

13 (a) the company does not have any

14 members;

15 (b) the legal representative of the last

16 person to have been a member declines or fails to wind up the

17 company's activities; and

18 (c) within a reasonable time following

19 the dissolution, a person has not been appointed pursuant to

20 the provisions of Subsection C of this section; or

21 (3) in connection with a proceeding as

22 provided in Paragraph (4) of Subsection A of Section 701 of the

23 Revised Uniform Limited Liability Company Act.

24 SECTION 703. [NEW MATERIAL] RESCINDING DISSOLUTION.--

25 A. Unless a statement of termination applicable to

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1 the limited liability company is effective, the district court
2 has entered an order dissolving the company pursuant to the
3 provisions of Paragraph (4) of Subsection A of Section 701 of
4 the Revised Uniform Limited Liability Company Act or the
5 secretary of state has dissolved the company pursuant to the
6 provisions of Section 708 of that act, a limited liability
7 company may rescind its dissolution.

8 B. Rescinding dissolution pursuant to the
9 provisions of this section requires:

10 (1) the affirmative vote or consent of each
11 member; and

12 (2) if the limited liability company has
13 delivered to the secretary of state for filing a statement of
14 dissolution and:

15 (a) the statement has not become
16 effective, delivery to the secretary of state for filing of a
17 statement of withdrawal pursuant to the provisions of Section
18 208 of the Revised Uniform Limited Liability Company Act
19 applicable to the statement of dissolution; or

20 (b) if the statement of dissolution has
21 become effective, delivery to the secretary of state for filing
22 a statement of rescission stating the name of the company and
23 that dissolution has been rescinded pursuant to the provisions
24 of this section.

25 C. If a limited liability company rescinds its

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1 dissolution:

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

4 (2) subject to the provisions of Paragraph (3)
5 of this subsection, any liability incurred by the company after
6 the dissolution and before the rescission is effective is
7 determined as if dissolution had never occurred; and

8 (3) the rights of a third party arising out of
9 conduct in reliance on the dissolution before the third party
10 knew or had notice of the rescission shall not be adversely
11 affected.

12 SECTION 704. [NEW MATERIAL] KNOWN CLAIMS AGAINST
13 DISSOLVED LIMITED LIABILITY COMPANY.--

14 A. Except as otherwise provided in Subsection D of
15 this section, a dissolved limited liability company may give
16 notice of a known claim pursuant to the provisions of
17 Subsection B of this section, which has the effect provided in
18 Subsection C of this section.

19 B. A dissolved limited liability company may in a
20 record notify its known claimants of the dissolution. The
21 notice shall:

22 (1) specify the information required to be
23 included in a claim;

24 (2) state that a claim shall be in writing and
25 provide a mailing address to which the claim is to be sent;

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1 (3) state the deadline for receipt of a claim,
2 which shall not be less than one hundred twenty days after the
3 date the notice is received by the claimant; and

4 (4) state that the claim will be barred if not
5 received by the deadline.

6 C. A claim against a dissolved limited liability
7 company is barred if the requirements provided in Subsection B
8 of this section are met and:

9 (1) the claim is not received by the specified
10 deadline; or

11 (2) if the claim is timely received but
12 rejected by the company:

13 (a) the company causes the claimant to
14 receive a notice in a record stating that the claim is rejected
15 and will be barred unless the claimant commences an action
16 against the company to enforce the claim within ninety days
17 after the claimant receives the notice; and

18 (b) the claimant does not commence the
19 required action within the ninety days after the claimant
20 receives the notice.

21 D. This section does not apply to a claim based on
22 an event occurring after the date of dissolution or a liability
23 that on that date is contingent.

24 SECTION 705. [NEW MATERIAL] OTHER CLAIMS AGAINST
25 DISSOLVED LIMITED LIABILITY COMPANY.--

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1 A. A dissolved limited liability company may
2 publish notice of its dissolution and request persons having
3 claims against the company to present them in accordance with
4 the notice.

5 B. A notice provided in Subsection A of this
6 section shall:

7 (1) be published at least once in a newspaper
8 of general circulation in the county in New Mexico in which the
9 dissolved limited liability company's principal office is
10 located or, if the principal office is not located in New
11 Mexico, in the county in which the office of the company's
12 registered agent is or was last located;

13 (2) describe the information required to be
14 contained in a claim, state that the claim must be in writing
15 and provide a mailing address to which the claim is to be sent;
16 and

17 (3) state that a claim against the company is
18 barred unless an action to enforce the claim is commenced
19 within three years after publication of the notice.

20 C. If a dissolved limited liability company
21 publishes a notice in accordance with the provisions of
22 Subsection B of this section, unless the claimant commences an
23 action to enforce the claim against the company within three
24 years after the publication date of the notice, the claim of
25 each of the following claimants is barred:

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1 (1) a claimant that did not receive notice in
2 a record provided in Section 704 of the Revised Uniform Limited
3 Liability Company Act;

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

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

8 D. A claim not barred pursuant to the provisions of
9 this section or Section 704 of the Revised Uniform Limited
10 Liability Company Act may be enforced:

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

13 (2) except as otherwise provided in Section
14 706 of that act, if assets of the company have been distributed
15 after dissolution, against a member or transferee to the extent
16 of that person's proportionate share of the claim or of the
17 company's assets distributed to the member or transferee after
18 dissolution, whichever is less. However, a person's total
19 liability for all claims pursuant to the provisions of this
20 paragraph shall not exceed the total amount of assets
21 distributed to the person after dissolution.

22 SECTION 706. [NEW MATERIAL] COURT PROCEEDINGS.--

23 A. A dissolved limited liability company that has
24 published a notice pursuant to the provisions of Section 705 of
25 the Revised Uniform Limited Liability Company Act may file an

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1 application with the district court in the county in New Mexico
2 where the company's principal office is located or, if the
3 principal office is not located in New Mexico, where the office
4 of its registered agent is or was last located, for a
5 determination of the amount and form of security to be provided
6 for payment of claims that are reasonably expected to arise
7 after the date of dissolution based on facts known to the
8 company and:

9 (1) at the time of application:

10 (a) are contingent; or

11 (b) have not been made known to the
12 company; or

13 (2) are based on an event occurring after the
14 date of dissolution.

15 B. Security is not required for any claim that is
16 or is reasonably anticipated to be barred pursuant to the
17 provisions of Section 705 of the Revised Uniform Limited
18 Liability Company Act.

19 C. Within ten days after the filing of an
20 application pursuant to the provisions of Subsection A of this
21 section, the dissolved limited liability company shall give
22 notice of the proceeding to each claimant holding a contingent
23 claim known to the company.

24 D. In a proceeding pursuant to the provisions of
25 this section, the court may appoint a guardian ad litem to

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1 represent all claimants whose identities are unknown. The
2 reasonable fees and expenses of the guardian, including all
3 reasonable expert witness fees, shall be paid by the dissolved
4 limited liability company.

5 E. A dissolved limited liability company that
6 provides security in the amount and form ordered by the court
7 pursuant to the provisions of Subsection A of this section
8 satisfies the company's obligations with respect to claims that
9 are contingent, have not been made known to the company or are
10 based on an event occurring after the date of dissolution, and
11 such claims shall not be enforced against a member or
12 transferee on account of assets received in liquidation.

13 SECTION 707. [NEW MATERIAL] DISPOSITION OF ASSETS IN
14 WINDING UP.--

15 A. In winding up its activities and affairs, a
16 limited liability company shall apply its assets to discharge
17 its obligations to creditors, including members that are
18 creditors.

19 B. After a limited liability company complies with
20 the provisions of Subsection A of this section, any surplus
21 shall be distributed in the following order, subject to any
22 charging order in effect pursuant to the provisions of Section
23 503 of the Revised Uniform Limited Liability Company Act:

24 (1) to each person owning a transferable
25 interest that reflects contributions made and not previously

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1 returned, an amount equal to the value of the unreturned
2 contributions; and

3 (2) among persons owning transferable
4 interests, in proportion to their respective rights to share in
5 distributions immediately before the dissolution of the
6 company.

7 C. If a limited liability company does not have
8 sufficient surplus to comply with the provisions of Paragraph
9 (1) of Subsection B of this section, any surplus shall be
10 distributed among the owners of transferable interests in
11 proportion to the value of the respective unreturned
12 contributions.

13 D. All distributions made pursuant to the
14 provisions of Subsections B and C of this section shall be paid
15 in money.

16 SECTION 708. [NEW MATERIAL] ADMINISTRATIVE DISSOLUTION.--

17 A. The secretary of state may commence a proceeding
18 pursuant to the provisions of Subsection B of this section to
19 dissolve a limited liability company administratively if the
20 company does not:

21 (1) pay, within six months after it is due, a
22 fee, tax or penalty required to be paid to the secretary of
23 state;

24 (2) deliver, within six months after it is
25 due, its triennial report to the secretary of state; or

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1 (3) have a registered agent in New Mexico for
2 thirty consecutive days.

3 B. If the secretary of state determines that one or
4 more grounds exist for administratively dissolving a limited
5 liability company, the secretary of state shall serve the
6 company with notice in a record of the secretary of state's
7 determination.

8 C. If, within sixty days after service of the
9 notice provided in Subsection B of this section, a limited
10 liability company does not cure or demonstrate to the
11 satisfaction of the secretary of state the nonexistence of each
12 ground determined by the secretary of state, the secretary of
13 state shall administratively dissolve the company by signing a
14 statement of administrative dissolution that recites the
15 grounds for dissolution and the effective date of dissolution.
16 The secretary of state shall file the statement and serve a
17 copy on the company pursuant to the provisions of Section 210
18 of the Revised Uniform Limited Liability Company Act.

19 D. A limited liability company that is
20 administratively dissolved continues in existence as an entity
21 but shall not carry on any activities except as necessary to
22 wind up its activities and affairs and liquidate its assets
23 pursuant to the provisions of Sections 702 and 704 through 707
24 of the Revised Uniform Limited Liability Company Act or to
25 apply for reinstatement pursuant to the provisions of Section

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1 709 of that act.

2 E. The administrative dissolution of a limited
3 liability company does not terminate the authority of its
4 registered agent.

5 SECTION 709. [NEW MATERIAL] REINSTATEMENT.--

6 A. A limited liability company that is
7 administratively dissolved pursuant to the provisions of
8 Section 708 of the Revised Uniform Limited Liability Company
9 Act may apply to the secretary of state for reinstatement
10 within two years after the effective date of dissolution. The
11 application shall state:

12 (1) the name of the company at the time of its
13 administrative dissolution and, if needed, a different name
14 that satisfies the provisions of Section 112 of that act;

15 (2) the address of the principal office of the
16 company and the name and street and mailing addresses of its
17 registered agent;

18 (3) the effective date of the company's
19 administrative dissolution; and

20 (4) that the grounds for dissolution did not
21 exist or have been cured.

22 B. To be reinstated, a limited liability company
23 shall pay all fees, taxes, interest and penalties that were due
24 to the secretary of state at the time of the company's
25 administrative dissolution and all fees, taxes, interest and

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1 penalties that would have been due to the secretary of state
2 while the company was administratively dissolved.

3 C. If the secretary of state determines that an
4 application pursuant to the provisions of Subsection A of this
5 section contains the required information, is satisfied that
6 the information is correct and determines that all payments
7 required to be made to the secretary of state pursuant to the
8 provisions of Subsection B of this section have been made, the
9 secretary of state shall:

10 (1) cancel the statement of administrative
11 dissolution and prepare a statement of reinstatement that
12 states the secretary of state's determination and the effective
13 date of reinstatement; and

14 (2) file the statement of reinstatement and
15 serve a copy on the limited liability company.

16 D. When reinstatement pursuant to the provisions of
17 this section is effective:

18 (1) the reinstatement relates back to and
19 takes effect as of the effective date of the administrative
20 dissolution;

21 (2) the limited liability company resumes
22 carrying on its activities and affairs as if the administrative
23 dissolution had not occurred; and

24 (3) the rights of a person arising out of an
25 act or omission in reliance on the dissolution before the

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1 person knew or had notice of the reinstatement are not
2 affected.

3 SECTION 710. [NEW MATERIAL] JUDICIAL REVIEW OF DENIAL OF
4 REINSTATEMENT.--

5 A. If the secretary of state denies a limited
6 liability company's application for reinstatement following
7 administrative dissolution, the secretary of state shall serve
8 the company with a notice in a record that explains the reasons
9 for the denial.

10 B. A limited liability company may seek judicial
11 review of denial of reinstatement in the district court within
12 thirty days after service of the notice of denial.

13 ARTICLE 8

14 ACTIONS BY MEMBERS

15 SECTION 801. [NEW MATERIAL] DIRECT ACTION BY MEMBER.--

16 A. Subject to the provisions of Subsection B of
17 this section, a member may maintain a direct action against
18 another member, a manager or the limited liability company to
19 enforce the member's rights and to protect the member's
20 interests, including rights and interests provided in the
21 operating agreement or the Revised Uniform Limited Liability
22 Company Act or arising independently of the membership
23 relationship.

24 B. A member maintaining a direct action pursuant to
25 the provisions of this section shall plead and prove an actual

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1 or threatened injury that is not solely the result of an injury
2 suffered or threatened to be suffered by the limited liability
3 company.

4 SECTION 802. [NEW MATERIAL] DERIVATIVE ACTION.--A member
5 may maintain a derivative action to enforce a right of a
6 limited liability company if:

7 A. the member first makes a demand on the other
8 members in a member-managed limited liability company, or the
9 managers of a manager-managed limited liability company,
10 requesting that they cause the company to bring an action to
11 enforce the right, and the managers or other members do not
12 bring the action within a reasonable time; or

13 B. a demand made pursuant to the provisions of
14 Subsection A of this section would be futile.

15 SECTION 803. [NEW MATERIAL] PROPER PLAINTIFF.--A
16 derivative action to enforce a right of a limited liability
17 company may be maintained only by a person that is a member at
18 the time the action is commenced and:

19 A. was a member when the conduct giving rise to the
20 action occurred; or

21 B. whose status as a member devolved on the person
22 by operation of law or pursuant to the terms of the operating
23 agreement from a person that was a member at the time of the
24 conduct.

25 SECTION 804. [NEW MATERIAL] PLEADING.--In a derivative

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1 action, the complaint shall state with particularity:

2 A. the date and content of the plaintiff's demand
3 and the response to the demand by the other members or
4 managers; or

5 B. why the demand should be excused as futile.

6 SECTION 805. [NEW MATERIAL] SPECIAL LITIGATION

7 COMMITTEE.--

8 A. If a limited liability company is named as or
9 made a party in a derivative proceeding, the company may
10 appoint a special litigation committee to investigate the
11 claims asserted in the proceeding and determine whether
12 pursuing the action is in the best interests of the company.
13 If the company appoints a special litigation committee, on
14 motion by the committee made in the name of the company, except
15 for good cause shown, the court shall stay discovery for the
16 time reasonably necessary to permit the committee to make its
17 investigation. The provisions of this subsection do not
18 prevent a court from:

19 (1) enforcing a person's right to information
20 pursuant to the provisions of Section 410 of the Revised
21 Uniform Limited Liability Company Act; or

22 (2) granting extraordinary relief in the form
23 of a temporary restraining order or preliminary injunction.

24 B. A special litigation committee shall be composed
25 of one or more disinterested and independent individuals, who

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1 may be members.

2 C. A special litigation committee may be appointed:

3 (1) in a member-managed limited liability
4 company:

5 (a) by the affirmative vote or consent
6 of a majority of the members not named as parties in the
7 proceeding; or

8 (b) if all members are named as parties
9 in the proceeding, by a majority of the members named as
10 defendants; or

11 (2) in a manager-managed limited liability
12 company:

13 (a) by a majority of the managers not
14 named as parties in the proceeding; or

15 (b) if all managers are named as parties
16 in the proceeding, by a majority of the managers named as
17 defendants.

18 D. After appropriate investigation, a special
19 litigation committee may determine that it is in the best
20 interests of the limited liability company that the proceeding:

21 (1) continue under the control of the
22 plaintiff;

23 (2) continue under the control of the
24 committee;

25 (3) be settled on terms approved by the

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1 committee; or

2 (4) be dismissed.

3 E. After making a determination pursuant to the
4 provisions of Subsection D of this section, a special
5 litigation committee shall file with the court a statement of
6 its determination and its report supporting its determination
7 and shall serve each party with a copy of the determination and
8 report. The court shall determine whether the members of the
9 committee were disinterested and independent and whether the
10 committee conducted its investigation and made its
11 recommendation in good faith, independently and with reasonable
12 care, with the committee having the burden of proof. If the
13 court finds that the members of the committee were
14 disinterested and independent and that the committee acted in
15 good faith, independently and with reasonable care, the court
16 shall enforce the determination of the committee. Otherwise,
17 the court shall dissolve the stay of discovery entered pursuant
18 to the provisions of Subsection A of this section and allow the
19 action to continue under the control of the plaintiff.

20 SECTION 806. [NEW MATERIAL] PROCEEDS AND EXPENSES.--

21 A. Except as otherwise provided in Subsection B of
22 this section:

23 (1) any proceeds or other benefits of a
24 derivative action, whether by judgment, compromise or
25 settlement, belong to the limited liability company and not to

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1 the plaintiff; and

2 (2) if the plaintiff receives any proceeds,
3 the plaintiff shall remit them immediately to the company.

4 B. If a derivative action is successful in whole or
5 in part, the court may award the plaintiff reasonable expenses,
6 including reasonable attorney fees and costs, from the recovery
7 of the limited liability company.

8 C. A derivative action on behalf of a limited
9 liability company shall not be voluntarily dismissed or settled
10 without the court's approval.

11 ARTICLE 9

12 FOREIGN LIMITED LIABILITY COMPANIES

13 SECTION 901. [NEW MATERIAL] GOVERNING LAW.--

14 A. The law of the jurisdiction of formation of a
15 foreign limited liability company governs:

- 16 (1) the internal affairs of the company;
17 (2) the liability of a member as member and a
18 manager as manager for a debt, an obligation or another
19 liability of the company; and
20 (3) the liability of a series of the company.

21 B. A foreign limited liability company is not
22 precluded from registering to do business in New Mexico because
23 of any difference between the law of its jurisdiction of
24 formation and the law of New Mexico.

25 C. Registration of a foreign limited liability

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1 company to do business in New Mexico does not authorize the
2 foreign company to engage in any activities and affairs or
3 exercise any power that a limited liability company may not
4 engage in or exercise in New Mexico.

5 SECTION 902. [NEW MATERIAL] REGISTRATION TO DO BUSINESS
6 IN NEW MEXICO.--

7 A. A foreign limited liability company shall not do
8 business in New Mexico until it registers with the secretary of
9 state pursuant to the provisions of Article 9 of the Revised
10 Uniform Limited Liability Company Act.

11 B. A foreign limited liability company doing
12 business in New Mexico may not maintain an action or proceeding
13 in New Mexico unless it is registered to do business in New
14 Mexico.

15 C. The failure of a foreign limited liability
16 company to register to do business in New Mexico does not
17 impair the validity of a contract or act of the company or
18 preclude it from defending an action or proceeding in New
19 Mexico.

20 D. A limitation on the liability of a member or
21 manager of a foreign limited liability company is not waived
22 solely because the company does business in New Mexico without
23 registering to do business in New Mexico.

24 E. The provisions of Subsections A and B of Section
25 901 of the Revised Uniform Limited Liability Company Act apply

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1 even if a foreign limited liability company fails to register
2 pursuant to the provisions of Article 9 of that act.

3 SECTION 903. [NEW MATERIAL] FOREIGN REGISTRATION

4 STATEMENT.--To register to do business in New Mexico, a foreign
5 limited liability company shall deliver a foreign registration
6 statement to the secretary of state for filing. The statement
7 shall state:

8 A. the name of the company and, if the name does
9 not comply with the provisions of Section 112 of the Revised
10 Uniform Limited Liability Company Act, an alternate name
11 adopted pursuant to the provisions of Subsection A of Section
12 906 of that act;

13 B. that the company is a foreign limited liability
14 company;

15 C. the company's jurisdiction of formation;

16 D. the street and mailing addresses of the
17 company's principal office and, if the law of the company's
18 jurisdiction of formation requires the company to maintain an
19 office in that jurisdiction, the street and mailing addresses
20 of the required office;

21 E. the name and address of a registered agent for
22 service of process, which agent meets the requirements of
23 Section 53-19-5 NMSA 1978, whose original, signed statement,
24 together with a copy, which may be a photocopy of the original
25 after it was signed or a photocopy that is conformed to the

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1 original, to the effect that such person accepts designation as
2 the registered agent of the foreign limited liability company,
3 shall be submitted with the application; and

4 F. that the secretary of state is appointed the
5 agent of the foreign limited liability company for service of
6 process if no agent has been appointed upon resignation of an
7 already appointed registered agent or, if appointed, the
8 agent's authority has been revoked or the agent cannot be found
9 or served in the exercise of reasonable diligence.

10 SECTION 904. [NEW MATERIAL] AMENDMENT OF FOREIGN
11 REGISTRATION STATEMENT.--A registered foreign limited liability
12 company shall deliver to the secretary of state for filing an
13 amendment to its foreign registration statement if there is a
14 change in:

- 15 A. the name of the company;
16 B. the company's jurisdiction of formation;
17 C. an address required by the provisions of
18 Subsection D of Section 903 of the Revised Uniform Limited
19 Liability Company Act; or
20 D. the name and street and mailing addresses of the
21 company's registered agent in New Mexico.

22 SECTION 905. [NEW MATERIAL] ACTIVITIES NOT CONSTITUTING
23 DOING BUSINESS.--

24 A. Activities of a foreign limited liability
25 company that do not constitute doing business in New Mexico

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1 pursuant to the provisions of Article 9 of the Revised Uniform
2 Limited Liability Company Act include:

3 (1) maintaining, defending, mediating,
4 arbitrating or settling an action or proceeding;

5 (2) carrying on an activity concerning the
6 company's internal affairs, including holding meetings of its
7 members or managers;

8 (3) maintaining accounts in financial
9 institutions;

10 (4) maintaining offices or agencies for the
11 transfer, exchange and registration of securities of the
12 company or maintaining trustees or depositories with respect to
13 those securities;

14 (5) selling through independent contractors;

15 (6) soliciting or obtaining orders, whether by
16 mail or through employees or agents or otherwise, if the orders
17 require acceptance outside New Mexico before they become
18 contracts;

19 (7) creating as borrower or lender or
20 acquiring indebtedness or mortgages or other security interests
21 in real or personal property;

22 (8) securing or collecting debts or enforcing
23 mortgages or security interests in property securing the debts
24 and holding, protecting or maintaining property;

25 (9) conducting an isolated transaction that is

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1 not in the course of similar transactions;
2 (10) owning, without more, property;
3 (11) investing in or acquiring, in
4 transactions outside New Mexico, royalties and other
5 nonoperating mineral interests; executing division orders,
6 contracts of sale and other instruments incidental to the
7 ownership of such nonoperating mineral interests; and, in
8 general, owning, without more, real or personal property;
9 (12) conducting an isolated transaction that
10 is completed within thirty days and that is not one in the
11 course of repeated transactions of a like nature; and
12 (13) transacting business in interstate
13 commerce.

14 B. A person does not do business in New Mexico
15 solely by being a member or manager of a foreign limited
16 liability company that does business in New Mexico.

17 C. The provisions of this section do not apply in
18 determining the contacts or activities that may subject a
19 foreign limited liability company to service of process,
20 taxation or regulation pursuant to the provisions of laws of
21 New Mexico other than those in the Revised Uniform Limited
22 Liability Company Act.

23 SECTION 906. [NEW MATERIAL] NONCOMPLYING NAME OF FOREIGN
24 LIMITED LIABILITY COMPANY.--

25 A. A foreign limited liability company whose name
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1 does not comply with the provisions of Section 112 of the
2 Revised Uniform Limited Liability Company Act shall not
3 register to do business in New Mexico until it adopts, for the
4 purpose of doing business in New Mexico, an alternate name that
5 complies with the provisions of that section. After
6 registering to do business in New Mexico with an alternate
7 name, a company shall do business in New Mexico under:

- 8 (1) the alternate name; or
9 (2) the company's name, with the addition of
10 its jurisdiction of formation.

11 B. If a registered foreign limited liability
12 company changes its name to one that does not comply with the
13 provisions of Section 112 of the Revised Uniform Limited
14 Liability Company Act, it may not do business in New Mexico
15 until it complies with the provisions of Subsection A of this
16 section by amending its registration to adopt an alternate name
17 that complies with the provisions of Section 112 of that act.

18 **SECTION 907. [NEW MATERIAL] WITHDRAWAL DEEMED ON**
19 **CONVERSION TO DOMESTIC FILING ENTITY OR DOMESTIC LIMITED**
20 **LIABILITY PARTNERSHIP.--A registered foreign limited liability**
21 **company that converts to a domestic limited liability**
22 **partnership or to a domestic entity whose formation requires**
23 **delivery of a record to the secretary of state for filing is**
24 **deemed to have withdrawn its registration on the effective date**
25 **of the conversion.**

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1 SECTION 908. ~~[NEW MATERIAL]~~ WITHDRAWAL ON DISSOLUTION OR
2 CONVERSION TO NONFILING ENTITY OTHER THAN LIMITED LIABILITY
3 PARTNERSHIP.--

4 A. A registered foreign limited liability company
5 that has dissolved and completed winding up or has converted to
6 a domestic or foreign entity whose formation does not require
7 the public filing of a record, other than a limited liability
8 partnership, shall deliver a statement of withdrawal to the
9 secretary of state for filing. The statement shall state, in
10 the case of a company that has:

11 (1) completed winding up:

12 (a) its name and jurisdiction of
13 formation; and

14 (b) that the company surrenders its
15 registration to do business in New Mexico; and

16 (2) converted:

17 (a) the name of the converting company
18 and its jurisdiction of formation;

19 (b) the type of entity to which the
20 company has converted and its jurisdiction of formation;

21 (c) that the converted entity surrenders
22 the converting company's registration to do business in New
23 Mexico and revokes the authority of the converting company's
24 registered agent to act as registered agent in New Mexico on
25 behalf of the company or the converted entity; and

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1 (d) a mailing address to which service
2 of process may be made pursuant to the provisions of Subsection
3 B of this section.

4 B. After a withdrawal pursuant to the provisions of
5 this section is effective, service of process in an action or
6 proceeding based on a cause of action arising during the time
7 that the foreign limited liability company was registered to do
8 business in New Mexico may be made pursuant to the provisions
9 of Section 116 of the Revised Uniform Limited Liability Company
10 Act.

11 SECTION 909. [NEW MATERIAL] TRANSFER OF REGISTRATION.--

12 A. When a registered foreign limited liability
13 company has merged into a foreign entity that is not registered
14 to do business in New Mexico or has converted to a foreign
15 entity required to register with the secretary of state to do
16 business in New Mexico, the foreign entity shall deliver to the
17 secretary of state for filing an application for transfer of
18 registration. The application shall state:

19 (1) the name of the registered foreign limited
20 liability company before the merger or conversion;

21 (2) that, before the merger or conversion, the
22 registration pertained to a foreign limited liability company;

23 (3) the name of the applicant foreign entity
24 into which the foreign limited liability company has merged or
25 to which it has been converted and, if the name does not comply

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1 with the provisions of Section 112 of the Revised Uniform
2 Limited Liability Company Act, an alternate name adopted
3 pursuant to Subsection A of Section 906 of that act;

4 (4) the type of entity of the applicant
5 foreign entity and its jurisdiction of formation;

6 (5) the street and mailing addresses of the
7 principal office of the applicant foreign entity and, if the
8 law of the entity's jurisdiction of formation requires the
9 entity to maintain an office in that jurisdiction, the street
10 and mailing addresses of that office; and

11 (6) the name and street and mailing addresses
12 of the applicant foreign entity's registered agent in New
13 Mexico.

14 B. When an application for transfer of registration
15 takes effect, the registration of the foreign limited liability
16 company to do business in New Mexico is transferred without
17 interruption to the foreign entity into which the company has
18 merged or to which it has been converted.

19 SECTION 910. [NEW MATERIAL] TERMINATION OF
20 REGISTRATION.--

21 A. The secretary of state may terminate the
22 registration of a registered foreign limited liability company
23 in the manner provided in Subsections B and C of this section
24 if the company does not:

25 (1) pay, within sixty days after the due date,

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1 any fee, tax, interest or penalty required to be paid to the
2 secretary of state pursuant to the provisions of the Revised
3 Uniform Limited Liability Company Act or a law other than one
4 in that act;

5 (2) deliver to the secretary of state for
6 filing, within sixty days after the due date, a triennial
7 report required by the provisions of Section 212 of that act;

8 (3) have a registered agent as required by the
9 provisions of Section 115 of that act; or

10 (4) deliver to the secretary of state for
11 filing a statement of a change pursuant to the provisions of
12 Section 115 of that act within thirty days after a change has
13 occurred in the name or address of the registered agent.

14 B. The secretary of state may terminate the
15 registration of a registered foreign limited liability company
16 by:

17 (1) filing a notice of termination or noting
18 the termination in the records of the secretary of state; and

19 (2) delivering a copy of the notice or the
20 information in the notation to the company's registered agent
21 or, if the company does not have a registered agent, to the
22 company's principal office.

23 C. The notice shall state, or the information in
24 the notation shall include:

25 (1) the effective date of the termination,

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1 which shall be at least sixty days after the date that the
2 secretary of state delivers the copy; and

3 (2) the grounds for termination pursuant to
4 the provisions of Subsection A of this section.

5 D. The authority of a registered foreign limited
6 liability company to do business in New Mexico ceases on the
7 effective date of the notice of termination or notation
8 pursuant to the provisions of Subsection B of this section,
9 unless before that date the company cures each ground for
10 termination stated in the notice or notation. If the company
11 cures each ground, the secretary of state shall file a record
12 so stating.

13 SECTION 911. [NEW MATERIAL] WITHDRAWAL OF REGISTRATION OF
14 REGISTERED FOREIGN LIMITED LIABILITY COMPANY.--

15 A. A registered foreign limited liability company
16 may withdraw its registration by delivering a statement of
17 withdrawal to the secretary of state for filing. The statement
18 of withdrawal must state:

19 (1) the name of the company and its
20 jurisdiction of formation;

21 (2) that the company is not doing business in
22 New Mexico and that it withdraws its registration to do
23 business in New Mexico;

24 (3) that the company revokes the authority of
25 its registered agent to accept service on its behalf in New

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1 Mexico; and

2 (4) an address to which service of process may
3 be made pursuant to the provisions of Subsection B of this
4 section.

5 B. After the withdrawal of the registration of a
6 foreign limited liability company, service of process in any
7 action or proceeding based on a cause of action arising during
8 the time that the company was registered to do business in New
9 Mexico may be made pursuant to the provisions of Section 116 of
10 the Revised Uniform Limited Liability Company Act.

11 SECTION 912. [NEW MATERIAL] ACTION BY ATTORNEY GENERAL.--
12 The attorney general may maintain an action to enjoin a foreign
13 limited liability company from doing business in New Mexico in
14 violation of the provisions of Article 9 of the Revised Uniform
15 Limited Liability Company Act.

16 ARTICLE 10

17 MERGER, INTEREST EXCHANGE, CONVERSION AND DOMESTICATION

18 SECTION 1001. [NEW MATERIAL] DEFINITIONS.--As used in
19 Article 10 of the Revised Uniform Limited Liability Company
20 Act:

21 A. "acquired entity" means the entity, all of one
22 or more classes or series of interests of which are acquired in
23 an interest exchange;

24 B. "acquiring entity" means the entity that
25 acquires all of one or more classes or series of interests of

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1 the acquired entity in an interest exchange;

2 C. "conversion" means a transaction authorized
3 pursuant to the provisions of Sections 1019 through 1024 of the
4 Revised Uniform Limited Liability Company Act;

5 D. "converted entity" means the converting entity
6 as it continues in existence after a conversion;

7 E. "converting entity" means the domestic entity
8 that approves a plan of conversion pursuant to the provisions
9 of Section 1021 of the Revised Uniform Limited Liability
10 Company Act or the foreign entity that approves a conversion
11 pursuant to the laws of its jurisdiction of formation;

12 F. "distributional interest" means the right
13 provided in an unincorporated entity's organic law and organic
14 rules to receive distributions from the entity;

15 G. "domestic", with respect to an entity, means
16 governed as to the entity's internal affairs by the laws of New
17 Mexico;

18 H. "domesticated limited liability company" means
19 the domesticating limited liability company as it continues in
20 existence after a domestication;

21 I. "domesticating limited liability company" means
22 the domestic limited liability company that approves a plan of
23 domestication pursuant to the provisions of Section 1027 of the
24 Revised Uniform Limited Liability Company Act or the foreign
25 limited liability company that approves a domestication

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1 pursuant to the laws of its jurisdiction of formation;

2 J. "domestication" means a transaction authorized
3 in Sections 1025 through 1030 of the Revised Uniform Limited
4 Liability Company Act;

5 K. "entity":

6 (1) means:

- 7 (a) a business corporation;
- 8 (b) a nonprofit corporation;
- 9 (c) a general partnership, including a
10 limited liability partnership;
- 11 (d) a limited partnership, including a
12 limited liability limited partnership;
- 13 (e) a limited liability company;
- 14 (f) a general cooperative association;
- 15 (g) an unincorporated nonprofit
16 association;
- 17 (h) a statutory trust, business trust or
18 common-law business trust; or
- 19 (i) another person that has: 1) a legal
20 existence separate from any interest holder of that person; or
21 2) the power to acquire an interest in real property in its own
22 name; but

23 (2) does not include:

- 24 (a) an individual;
- 25 (b) a trust with a predominantly

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1 donative purpose or a charitable trust;

2 (c) an association or relationship that
3 is not an entity listed in Paragraph (1) of this subsection and
4 is not a partnership pursuant to the rules stated in Section
5 202(c) of the Uniform Partnership Act (1997) (Last Amended
6 2013), Section 7 of the Uniform Partnership Act (1914) or a
7 similar provision of the laws of another jurisdiction;

8 (d) a decedent's estate; or

9 (e) a government or a governmental
10 subdivision, agency or instrumentality;

11 L. "filing entity" means an entity whose formation
12 requires the filing of a public organic record. "Filing
13 entity" does not include a limited liability partnership;

14 M. "foreign", with respect to an entity, means an
15 entity governed as to its internal affairs by the laws of a
16 jurisdiction other than New Mexico;

17 N. "governance interest" means a right provided in
18 the organic law or organic rules of an unincorporated entity,
19 other than as a governor, an agent, an assignee or a proxy, to:

20 (1) receive or demand access to information
21 concerning, or the books and records of, the entity;

22 (2) vote for or consent to the election of the
23 governors of the entity; or

24 (3) receive notice of or vote on or consent to
25 an issue involving the internal affairs of the entity;

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- 1 0. "governor" means:
- 2 (1) a director of a business corporation;
- 3 (2) a director or trustee of a nonprofit
- 4 corporation;
- 5 (3) a general partner of a general
- 6 partnership;
- 7 (4) a general partner of a limited
- 8 partnership;
- 9 (5) a manager of a manager-managed limited
- 10 liability company;
- 11 (6) a member of a member-managed limited
- 12 liability company;
- 13 (7) a director of a general cooperative
- 14 association;
- 15 (8) a manager of an unincorporated nonprofit
- 16 association;
- 17 (9) a trustee of a statutory trust, business
- 18 trust or common-law business trust; or
- 19 (10) another person under whose authority the
- 20 powers of an entity are exercised and under whose direction the
- 21 activities and affairs of the entity are managed pursuant to
- 22 the organic law and organic rules of the entity;
- 23 P. "interest" means a:
- 24 (1) share in a business corporation;
- 25 (2) membership in a nonprofit corporation;

- 1 (3) partnership interest in a general
2 partnership;
3 (4) partnership interest in a limited
4 partnership;
5 (5) membership interest in a limited liability
6 company;
7 (6) share in a general cooperative
8 association;
9 (7) membership in an unincorporated nonprofit
10 association;
11 (8) beneficial interest in a statutory trust,
12 business trust or common-law business trust; or
13 (9) governance interest or distributional
14 interest in another type of unincorporated entity;
- 15 Q. "interest exchange" means a transaction
16 authorized in Sections 1013 through 1018 of the Revised Uniform
17 Limited Liability Company Act;
- 18 R. "interest holder" means:
19 (1) a shareholder of a business corporation;
20 (2) a member of a nonprofit corporation;
21 (3) a general partner of a general
22 partnership;
23 (4) a general partner of a limited
24 partnership;
25 (5) a limited partner of a limited

1 partnership;

2 (6) a member of a limited liability company;

3 (7) a shareholder of a general cooperative
4 association;

5 (8) a member of an unincorporated nonprofit
6 association;

7 (9) a beneficiary or beneficial owner of a
8 statutory trust, business trust or common-law business trust;
9 or

10 (10) any other direct holder of an interest;

11 S. "interest holder liability" means:

12 (1) personal liability for a liability of an
13 entity that is imposed on a person:

14 (a) solely by reason of the status of
15 the person as an interest holder; or

16 (b) by the organic rules of the entity
17 that make one or more specified interest holders or categories
18 of interest holders liable in their capacity as interest
19 holders for all or specified liabilities of the entity; or

20 (2) an obligation of an interest holder
21 provided in the organic rules of an entity to contribute to the
22 entity;

23 T. "merger" means a transaction authorized in
24 Sections 1007 through 1012 of the Revised Uniform Limited
25 Liability Company Act;

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1 U. "merging entity" means an entity that is a party
2 to a merger and exists immediately before the merger becomes
3 effective;

4 V. "organic law" means the laws of an entity's
5 jurisdiction of formation governing the internal affairs of the
6 entity;

7 W. "organic rules" means the public organic record
8 and private organic rules of an entity;

9 X. "plan" means a plan of merger, a plan of
10 interest exchange, a plan of conversion or a plan of
11 domestication;

12 Y. "plan of conversion" means a plan that conforms
13 to the provisions of Section 1020 of the Revised Uniform
14 Limited Liability Company Act;

15 Z. "plan of domestication" means a plan pursuant to
16 the provisions of Section 1026 of the Revised Uniform Limited
17 Liability Company Act;

18 AA. "plan of interest exchange" means a plan that
19 conforms to the provisions of Section 1014 of the Revised
20 Uniform Limited Liability Company Act;

21 BB. "plan of merger" means a plan that conforms to
22 the provisions of Section 1008 of the Revised Uniform Limited
23 Liability Company Act;

24 CC. "private organic rules" means the rules,
25 regardless of whether in a record, that govern the internal

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1 affairs of an entity, are binding on all of its interest
2 holders and are not part of its public organic record, if any.

3 "Private organic rules" includes the:

- 4 (1) bylaws of a business corporation;
- 5 (2) bylaws of a nonprofit corporation;
- 6 (3) partnership agreement of a general
7 partnership;
- 8 (4) partnership agreement of a limited
9 partnership;
- 10 (5) operating agreement of a limited liability
11 company;
- 12 (6) bylaws of a general cooperative
13 association;
- 14 (7) governing principles of an unincorporated
15 nonprofit association; and
- 16 (8) trust instrument of a statutory trust or
17 similar rules of a business trust or common-law business trust;

18 DD. "protected agreement" means:

- 19 (1) a record evidencing indebtedness and any
20 related agreement in effect on July 1, 2016;
- 21 (2) an agreement that is binding on an entity
22 on that date;
- 23 (3) the organic rules of an entity in effect
24 on that date; or
- 25 (4) an agreement that is binding on any of the

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1 governors or interest holders of an entity on that date;

2 EE. "public organic record" means the record the
3 filing of which by the secretary of state is required to form
4 an entity and any amendment to or restatement of that record.

5 "Public organic record" includes the:

6 (1) articles of incorporation of a business
7 corporation;

8 (2) articles of incorporation of a nonprofit
9 corporation;

10 (3) certificate of limited partnership of a
11 limited partnership;

12 (4) certificate of organization of a limited
13 liability company;

14 (5) articles of incorporation of a general
15 cooperative association; and

16 (6) certificate of trust of a statutory trust
17 or similar record of a business trust;

18 FF. "registered foreign entity" means a foreign
19 entity that is registered to do business in New Mexico pursuant
20 to a record filed by the secretary of state;

21 GG. "statement of conversion" means a statement
22 provided in Section 1023 of the Revised Uniform Limited
23 Liability Company Act;

24 HH. "statement of domestication" means a statement
25 provided in Section 1029 of the Revised Uniform Limited

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1 Liability Company Act;

2 II. "statement of interest exchange" means a
3 statement provided in Section 1017 of the Revised Uniform
4 Limited Liability Company Act;

5 JJ. "statement of merger" means a statement
6 provided in Section 1011 of the Revised Uniform Limited
7 Liability Company Act;

8 KK. "surviving entity" means the entity that
9 continues in existence after or is created by a merger; and

10 LL. "type of entity" means a generic form of
11 entity:

12 (1) recognized at common law; or

13 (2) formed pursuant to the provisions of an
14 organic law, regardless of whether some entities formed
15 pursuant to the provisions of that organic law are subject to
16 provisions of that law that create different categories of the
17 form of entity.

18 SECTION 1002. [NEW MATERIAL] RELATIONSHIP OF ARTICLE 10
19 OF THE REVISED UNIFORM LIMITED LIABILITY COMPANY ACT TO OTHER
20 LAWS.--

21 A. The provisions of Article 10 of the Revised
22 Uniform Limited Liability Company Act do not authorize an act
23 prohibited by, and do not affect the application or
24 requirements of, a law other than one in that article.

25 B. A transaction effected pursuant to the

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1 provisions of Article 10 of the Revised Uniform Limited
2 Liability Company Act shall not create or impair a right, a
3 duty or an obligation of a person pursuant to the provisions of
4 a statutory law of New Mexico other than one in that article
5 relating to a change in control, takeover, business
6 combination, control-share acquisition or similar transaction
7 involving a domestic merging, acquired, converting or
8 domesticating business corporation unless, if the corporation:

9 (1) does not survive the transaction, the
10 transaction satisfies any requirements of the law; or

11 (2) survives the transaction, the approval of
12 the plan is by a vote of the shareholders or directors that
13 would be sufficient to create or impair the right, duty or
14 obligation directly pursuant to the provisions of the law.

15 SECTION 1003. [NEW MATERIAL] REQUIRED NOTICE OR
16 APPROVAL.--

17 A. A domestic or foreign entity that is required to
18 give notice to, or obtain the approval of, a governmental
19 agency or officer of New Mexico to be a party to a merger shall
20 give the notice or obtain the approval to be a party to an
21 interest exchange, conversion or domestication.

22 B. Property held for a charitable purpose pursuant
23 to the provisions of the laws of New Mexico by a domestic or
24 foreign entity immediately before a transaction provided in
25 Article 10 of the Revised Uniform Limited Liability Company Act

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1 becomes effective shall not, as a result of the transaction, be
2 diverted from the objects for which it was donated, granted,
3 devised or otherwise transferred unless, to the extent required
4 by or pursuant to the laws of New Mexico concerning cy-pres or
5 other law dealing with non-diversion of charitable assets, the
6 entity obtains an appropriate order of the district court
7 specifying the disposition of the property. The attorney
8 general shall be given notice and an opportunity to be heard.

9 C. A bequest, devise, gift, grant or promise
10 contained in a will or other instrument of donation,
11 subscription or conveyance that is made to a merging entity
12 that is not the surviving entity and that takes effect or
13 remains payable after the merger inures to the surviving
14 entity.

15 D. A trust obligation that would govern property if
16 transferred to a non-surviving entity applies to property that
17 is transferred to the surviving entity pursuant to the
18 provisions of this section.

19 SECTION 1004. [NEW MATERIAL] NONEXCLUSIVITY.--The fact
20 that a transaction effected pursuant to the provisions of
21 Article 10 of the Revised Uniform Limited Liability Company Act
22 produces a certain result does not preclude the same result
23 from being accomplished in another manner permitted by a law
24 other than one in that article.

25 SECTION 1005. [NEW MATERIAL] REFERENCE TO EXTERNAL

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1 FACTS.--A plan may refer to facts ascertainable outside the
2 plan if the manner in which the facts will operate upon the
3 plan is specified in the plan. The facts may include the
4 occurrence of an event or a determination or action by a
5 person, regardless of whether the event, determination or
6 action is within the control of a party to the transaction.

7 **SECTION 1006. [NEW MATERIAL] APPRAISAL RIGHTS.--**An
8 interest holder of a domestic merging, acquired, converting or
9 domesticating limited liability company is entitled to
10 contractual appraisal rights in connection with a transaction
11 provided in Article 10 of the Revised Uniform Limited Liability
12 Company Act to the extent provided in the operating agreement
13 or the plan.

14 **SECTION 1007. [NEW MATERIAL] MERGER AUTHORIZED.--**

15 A. By complying with the provisions of Sections
16 1007 through 1012 of the Revised Uniform Limited Liability
17 Company Act:

18 (1) one or more domestic limited liability
19 companies may merge with one or more domestic or foreign
20 entities into a domestic or foreign surviving entity; and

21 (2) two or more foreign entities may merge
22 into a domestic limited liability company.

23 B. By complying with the provisions of Sections
24 1007 through 1012 of the Revised Uniform Limited Liability
25 Company Act applicable to foreign entities, a foreign entity

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1 may be a party to a merger pursuant to the provisions of those
2 sections or may be the surviving entity in such a merger if the
3 merger is authorized by the laws of the foreign entity's
4 jurisdiction of formation.

5 SECTION 1008. [NEW MATERIAL] PLAN OF MERGER.--

6 A. A domestic limited liability company may become
7 a party to a merger pursuant to the provisions of Sections 1007
8 through 1012 of the Revised Uniform Limited Liability Company
9 Act by approving a plan of merger. The plan shall be in a
10 record and contain:

11 (1) as to each merging entity, its name,
12 jurisdiction of formation and type of entity;

13 (2) if the surviving entity is to be created
14 in the merger, a statement to that effect and the entity's
15 name, jurisdiction of formation and type of entity;

16 (3) the manner of converting the interests in
17 each party to the merger into interests, securities,
18 obligations, money, other property, rights to acquire interests
19 or securities or any combination of the foregoing;

20 (4) if the surviving entity exists before the
21 merger, any proposed amendments to its:

22 (a) public organic record, if any; and

23 (b) private organic rules that are, or
24 are proposed to be, in a record;

25 (5) if the surviving entity is to be created

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1 in the merger:

2 (a) its proposed public organic record,
3 if any; and

4 (b) the full text of its private organic
5 rules that are proposed to be in a record;

6 (6) the other terms and conditions of the
7 merger; and

8 (7) any other provision required by the laws
9 of a merging entity's jurisdiction of formation or the organic
10 rules of a merging entity.

11 B. In addition to the requirements in Subsection A
12 of this section, a plan of merger may contain any other
13 provision not prohibited by law.

14 **SECTION 1009. [NEW MATERIAL] APPROVAL OF MERGER.--**

15 A. A plan of merger is not effective unless it has
16 been approved:

17 (1) by a domestic merging limited liability
18 company, by all of the members of the company who are entitled
19 to vote on or consent to any matter; and

20 (2) in a record, by each member of a domestic
21 merging limited liability company that will have interest
22 holder liability for debts, obligations and other liabilities
23 that arise after the merger becomes effective, unless:

24 (a) the operating agreement of the
25 company provides in a record for the approval of a merger in

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1 which some or all of its members become subject to interest
2 holder liability by the affirmative vote or consent of fewer
3 than all of the members; and

4 (b) the member consented in a record to
5 or voted for that provision of the operating agreement or
6 became a member after the adoption of that provision.

7 B. A merger involving a domestic merging entity
8 that is not a limited liability company is not effective unless
9 the merger is approved by that entity in accordance with the
10 provisions of its organic law.

11 C. A merger involving a foreign merging entity is
12 not effective unless the merger is approved by the foreign
13 entity in accordance with the laws of the foreign entity's
14 jurisdiction of formation.

15 SECTION 1010. [NEW MATERIAL] AMENDMENT OR ABANDONMENT OF
16 PLAN OF MERGER.--

17 A. A plan of merger may be amended only with the
18 consent of each party to the plan, except as otherwise provided
19 in the plan.

20 B. A domestic merging limited liability company may
21 approve an amendment of a plan of merger:

22 (1) in the same manner as the plan was
23 approved, if the plan does not provide for the manner in which
24 it may be amended; or

25 (2) by the company's managers or members in

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1 the manner provided in the plan. However, a member that was
2 entitled to vote on or consent to approval of the merger may
3 vote on or consent to any amendment of the plan that will
4 change:

5 (a) the amount or kind of interests,
6 securities, obligations, money, other property, rights to
7 acquire interests or securities or any combination of the
8 foregoing, to be received by the interest holders of any party
9 to the plan;

10 (b) the public organic record, if any,
11 or private organic rules of the surviving entity that will be
12 in effect immediately after the merger becomes effective,
13 except for changes that do not require approval of the interest
14 holders of the surviving entity pursuant to the provisions of
15 its organic law or organic rules; or

16 (c) any other term or condition of the
17 plan, if the change would adversely affect the member in any
18 material respect.

19 C. After a plan of merger has been approved and
20 before a statement of merger becomes effective, the plan may be
21 abandoned as provided in the plan. Unless prohibited by the
22 plan, a domestic merging limited liability company may abandon
23 the plan in the same manner as the plan was approved.

24 D. If a plan of merger is abandoned after a
25 statement of merger has been delivered to the secretary of

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1 state for filing and before the statement becomes effective, a
2 statement of abandonment, signed by a party to the plan, shall
3 be delivered to the secretary of state for filing before the
4 statement of merger becomes effective. The statement of
5 abandonment takes effect on filing, and the merger is abandoned
6 and does not become effective. The statement of abandonment
7 shall contain:

8 (1) the name of each party to the plan of
9 merger;

10 (2) the date on which the statement of merger
11 was filed by the secretary of state; and

12 (3) a statement that the merger has been
13 abandoned in accordance with the provisions of this section.

14 SECTION 1011. [NEW MATERIAL] STATEMENT OF MERGER--
15 EFFECTIVE DATE OF MERGER.--

16 A. A statement of merger shall be signed by each
17 merging entity and delivered to the secretary of state for
18 filing.

19 B. A statement of merger shall contain:

20 (1) the name, jurisdiction of formation and
21 type of entity of each merging entity that is not the surviving
22 entity;

23 (2) the name, jurisdiction of formation and
24 type of entity of the surviving entity;

25 (3) a statement that the merger was approved

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1 by each domestic merging entity, if any, in accordance with the
2 provisions of Sections 1007 through 1012 of the Revised Uniform
3 Limited Liability Company Act and by each foreign merging
4 entity, if any, in accordance with the laws of its jurisdiction
5 of formation;

6 (4) if the surviving entity exists before the
7 merger and is a domestic filing entity, any amendment to its
8 public organic record approved as part of the plan of merger;

9 (5) if the surviving entity is created by the
10 merger and is a domestic filing entity, its public organic
11 record, as an attachment;

12 (6) if the surviving entity is created by the
13 merger and is a domestic limited liability partnership, its
14 statement of qualification, as an attachment; and

15 (7) if the surviving entity is a foreign
16 entity that is not a registered foreign entity, a mailing
17 address to which the secretary of state may send any process
18 served on the secretary of state pursuant to the provisions of
19 Subsection E of Section 1012 of the Revised Uniform Limited
20 Liability Company Act.

21 C. In addition to the requirements stated in
22 Subsection B of this section, a statement of merger may contain
23 any other provision not prohibited by law.

24 D. If the surviving entity is a domestic entity,
25 its public organic record, if any, must satisfy the

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1 requirements of the laws of New Mexico, except that the public
2 organic record does not need to be signed.

3 E. A plan of merger that is signed by all of the
4 merging entities and that meets all of the requirements in
5 Subsection B of this section may be delivered to the secretary
6 of state for filing instead of a statement of merger and on
7 filing has the same effect. If a plan of merger is filed as
8 provided in this subsection, references in Article 10 of the
9 Revised Uniform Limited Liability Company Act to a statement of
10 merger refer to the plan of merger filed pursuant to the
11 provisions of this subsection.

12 F. If the surviving entity is a domestic limited
13 liability company, the merger is effective when the statement
14 of merger is effective. In all other cases, the merger is
15 effective on the later of:

16 (1) the date and time provided by the organic
17 law of the surviving entity; or

18 (2) when the statement is effective.

19 **SECTION 1012. [NEW MATERIAL] EFFECT OF MERGER.--**

20 A. When a merger becomes effective:

21 (1) the surviving entity continues or comes
22 into existence;

23 (2) each merging entity that is not the
24 surviving entity ceases to exist;

25 (3) all property of each merging entity vests

1 in the surviving entity without transfer, reversion or
2 impairment;

3 (4) all debts, obligations and other
4 liabilities of each merging entity are debts, obligations and
5 other liabilities of the surviving entity;

6 (5) except as otherwise provided by law or the
7 plan of merger, all of the rights, privileges, immunities,
8 powers and purposes of each merging entity vest in the
9 surviving entity;

10 (6) if the surviving entity exists before the
11 merger:

12 (a) all of its property continues to be
13 vested in it without transfer, reversion or impairment;

14 (b) it remains subject to all its debts,
15 obligations and other liabilities; and

16 (c) all of its rights, privileges,
17 immunities, powers and purposes continue to be vested in it;

18 (7) the name of the surviving entity may be
19 substituted for the name of any merging entity that is a party
20 to any pending action or proceeding;

21 (8) if the surviving entity exists before the
22 merger, its:

23 (a) public organic record, if any, is
24 amended to the extent provided in the statement of merger; and

25 (b) private organic rules that are to be

1 in a record, if any, are amended to the extent provided in the
2 plan of merger;

3 (9) if the surviving entity is created by the
4 merger, its private organic rules are effective, and if it is
5 a:

6 (a) filing entity, its public organic
7 record is effective; and

8 (b) limited liability partnership, its
9 statement of qualification is effective; and

10 (10) the interests in each merging entity that
11 are to be converted in the merger are converted, and the
12 interest holders of those interests are entitled only to the
13 rights provided to them pursuant to the plan of merger and to
14 any appraisal rights that they have pursuant to the provisions
15 of Section 1006 of the Revised Uniform Limited Liability
16 Company Act and the merging entity's organic law.

17 B. Except as otherwise provided in the organic law
18 or organic rules of a merging entity, the merger does not give
19 rise to any rights that an interest holder, a governor or a
20 third party would have upon a dissolution, liquidation or
21 winding up of the merging entity.

22 C. When a merger becomes effective, a person that
23 did not have interest holder liability with respect to any of
24 the merging entities and that becomes subject to interest
25 holder liability with respect to a domestic entity as a result

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1 of the merger has interest holder liability only to the extent
2 provided by the organic law of that entity and only for those
3 debts, obligations and other liabilities that arise after the
4 merger becomes effective.

5 D. When a merger becomes effective, the interest
6 holder liability of a person that ceases to hold an interest in
7 a domestic merging limited liability company with respect to
8 which the person had interest holder liability is subject to
9 the following rules:

10 (1) the merger does not discharge any interest
11 holder liability pursuant to the provisions of the Revised
12 Uniform Limited Liability Company Act to the extent that the
13 interest holder liability arose before the merger became
14 effective;

15 (2) the person does not have interest holder
16 liability pursuant to the provisions of that act for any debt,
17 obligation or other liability that arises after the merger
18 becomes effective;

19 (3) the provisions of that act continue to
20 apply to the release, collection or discharge of any interest
21 holder liability preserved pursuant to the provisions of
22 Paragraph (1) of this subsection as if the merger had not
23 occurred; and

24 (4) the person has whatever rights of
25 contribution from any other person as provided by that act, a

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1 law other than one in that act or the operating agreement of
2 the domestic merging limited liability company with respect to
3 any interest holder liability preserved pursuant to the
4 provisions of Paragraph (1) of this subsection as if the merger
5 had not occurred.

6 E. When a merger becomes effective, a foreign
7 entity that is the surviving entity may be served with process
8 in New Mexico for the collection and enforcement of any debts,
9 obligations or other liabilities of a domestic merging limited
10 liability company as provided in Section 116 of the Revised
11 Uniform Limited Liability Company Act.

12 F. When a merger becomes effective, the
13 registration to do business in New Mexico of any foreign
14 merging entity that is not the surviving entity is canceled.

15 SECTION 1013. [NEW MATERIAL] INTEREST EXCHANGE
16 AUTHORIZED.--

17 A. By complying with the provisions of Sections
18 1013 through 1018 of the Revised Uniform Limited Liability
19 Company Act:

20 (1) a domestic limited liability company may
21 acquire all of one or more classes or series of interests of
22 another domestic entity or a foreign entity in exchange for
23 interests, securities, obligations, money, other property,
24 rights to acquire interests or securities or any combination of
25 the foregoing; or

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1 (2) all of one or more classes or series of
2 interests of a domestic limited liability company may be
3 acquired by another domestic entity or a foreign entity in
4 exchange for interests, securities, obligations, money, other
5 property, rights to acquire interests or securities or any
6 combination of the foregoing.

7 B. By complying with the provisions of Sections
8 1013 through 1018 of the Revised Uniform Limited Liability
9 Company Act applicable to foreign entities, a foreign entity
10 may be the acquiring or acquired entity in an interest exchange
11 pursuant to the provisions of Sections 1013 through 1018 of
12 that act if the interest exchange is authorized by the laws of
13 the foreign entity's jurisdiction of formation.

14 C. If a protected agreement contains a provision
15 that applies to a merger of a domestic limited liability
16 company but does not refer to an interest exchange, the
17 provision applies to an interest exchange in which the domestic
18 limited liability company is the acquired entity as if the
19 interest exchange were a merger until the provision is amended
20 after July 1, 2016.

21 SECTION 1014. [NEW MATERIAL] PLAN OF INTEREST EXCHANGE.--

22 A. A domestic limited liability company may be the
23 acquired entity in an interest exchange pursuant to the
24 provisions of Sections 1013 through 1018 of the Revised Uniform
25 Limited Liability Company Act by approving a plan of interest

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1 exchange. The plan shall be in a record and shall contain:

2 (1) the name of the acquired entity;

3 (2) the name, jurisdiction of formation and
4 type of entity of the acquiring entity;

5 (3) the manner of converting the interests in
6 the acquired entity into interests, securities, obligations,
7 money, other property, rights to acquire interests or
8 securities or any combination of the foregoing;

9 (4) any proposed amendments to the:

10 (a) certificate of organization of the
11 acquired entity; and

12 (b) operating agreement of the acquired
13 entity that are, or are proposed to be, in a record;

14 (5) the other terms and conditions of the
15 interest exchange; and

16 (6) any other provision required by the laws
17 of New Mexico or the operating agreement of the acquired
18 entity.

19 B. In addition to the requirements in Subsection A
20 of this section, a plan of interest exchange may contain any
21 other provision not prohibited by law.

22 SECTION 1015. [NEW MATERIAL] APPROVAL OF INTEREST
23 EXCHANGE.--

24 A. A plan of interest exchange is not effective
25 unless it has been approved:

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1 (1) by all of the members of a domestic
2 acquired limited liability company entitled to vote on or
3 consent to any matter; and

4 (2) in a record, by each member of the
5 domestic acquired limited liability company that will have
6 interest holder liability for debts, obligations and other
7 liabilities that arise after the interest exchange becomes
8 effective, unless:

9 (a) the operating agreement of the
10 company provides in a record for the approval of an interest
11 exchange or a merger in which some or all of its members become
12 subject to interest holder liability by the affirmative vote or
13 consent of fewer than all of the members; and

14 (b) the member consented in a record to
15 or voted for that provision of the operating agreement or
16 became a member after the adoption of that provision.

17 B. An interest exchange involving a domestic
18 acquired entity that is not a limited liability company is not
19 effective unless it is approved by the domestic entity in
20 accordance with its organic law.

21 C. An interest exchange involving a foreign
22 acquired entity is not effective unless it is approved by the
23 foreign entity in accordance with the laws of the foreign
24 entity's jurisdiction of formation.

25 D. Except as otherwise provided in its organic law

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1 or organic rules, the interest holders of the acquiring entity
2 are not required to approve the interest exchange.

3 SECTION 1016. [NEW MATERIAL] AMENDMENT OR ABANDONMENT OF
4 PLAN OF INTEREST EXCHANGE.--

5 A. A plan of interest exchange may be amended only
6 with the consent of each party to the plan, except as otherwise
7 provided in the plan.

8 B. A domestic acquired limited liability company
9 may approve an amendment of a plan of interest exchange:

10 (1) in the same manner as the plan was
11 approved, if the plan does not provide for the manner in which
12 it may be amended; or

13 (2) by its managers or members in the manner
14 provided in the plan. However, a member that was entitled to
15 vote on or consent to approval of the interest exchange is
16 entitled to vote on or consent to any amendment of the plan
17 that will change:

18 (a) the amount or kind of interests,
19 securities, obligations, money, other property, rights to
20 acquire interests or securities or any combination of the
21 foregoing, to be received by any of the members of the acquired
22 company pursuant to the plan;

23 (b) the certificate of organization or
24 operating agreement of the acquired company that will be in
25 effect immediately after the interest exchange becomes

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1 effective, except for changes that do not require approval of
2 the members of the acquired company pursuant to the provisions
3 of the Revised Uniform Limited Liability Company Act or the
4 operating agreement; or

5 (c) any other terms or conditions of the
6 plan, if the change would adversely affect the member in any
7 material respect.

8 C. After a plan of interest exchange has been
9 approved and before a statement of interest exchange becomes
10 effective, the plan may be abandoned as provided in the plan.
11 Unless prohibited by the plan, a domestic acquired limited
12 liability company may abandon the plan in the same manner the
13 plan was approved.

14 D. If a plan of interest exchange is abandoned
15 after a statement of interest exchange has been delivered to
16 the secretary of state for filing and before the statement
17 becomes effective, a statement of abandonment, signed by the
18 acquired limited liability company, shall be delivered to the
19 secretary of state for filing before the statement of interest
20 exchange becomes effective. The statement of abandonment takes
21 effect on filing, and the interest exchange is abandoned and
22 does not become effective. The statement of abandonment shall
23 contain:

- 24 (1) the name of the acquired company;
25 (2) the date on which the statement of

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1 interest exchange was filed by the secretary of state; and
2 (3) a statement that the interest exchange has
3 been abandoned in accordance with the provisions of this
4 section.

5 SECTION 1017. [NEW MATERIAL] STATEMENT OF INTEREST
6 EXCHANGE--EFFECTIVE DATE OF INTEREST EXCHANGE.--

7 A. A statement of interest exchange shall be signed
8 by a domestic acquired limited liability company and delivered
9 to the secretary of state for filing.

10 B. A statement of interest exchange shall contain:

11 (1) the name of the acquired limited liability
12 company;

13 (2) the name, jurisdiction of formation and
14 type of entity of the acquiring entity;

15 (3) a statement that the plan of interest
16 exchange was approved by the acquired company in accordance
17 with Sections 1013 through 1018 of the Revised Uniform Limited
18 Liability Company Act; and

19 (4) any amendments to the company's
20 certificate of organization approved as part of the plan of
21 interest exchange.

22 C. In addition to the requirements in Subsection B
23 of this section, a statement of interest exchange may contain
24 any other provision not prohibited by law.

25 D. A plan of interest exchange that is signed by a

underscored material = new
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1 domestic acquired limited liability company and that meets all
2 of the requirements in Subsection B of this section may be
3 delivered to the secretary of state for filing instead of a
4 statement of interest exchange and on filing has the same
5 effect. If a plan of interest exchange is filed as provided in
6 this subsection, references in Article 10 of the Revised
7 Uniform Limited Liability Company Act to a statement of
8 interest exchange refer to the plan of interest exchange filed
9 pursuant to the provisions of this subsection.

10 E. An interest exchange is effective when the
11 statement of interest exchange is effective.

12 SECTION 1018. [NEW MATERIAL] EFFECT OF INTEREST
13 EXCHANGE.--

14 A. When an interest exchange in which the acquired
15 entity is a domestic limited liability company becomes
16 effective, the:

17 (1) interests in the acquired company that are
18 the subject of the interest exchange are converted, and the
19 members holding those interests are entitled only to the rights
20 provided to them by the plan of interest exchange and to any
21 appraisal rights that they have pursuant to the provisions of
22 Section 1006 of the Revised Uniform Limited Liability Company
23 Act;

24 (2) acquiring entity becomes the interest
25 holder of the interests in the acquired company stated in the

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1 plan of interest exchange to be acquired by the acquiring
2 entity;

3 (3) certificate of organization of the
4 acquired company is amended to the extent provided in the
5 statement of interest exchange; and

6 (4) provisions of the operating agreement of
7 the acquired company that are to be in a record, if any, are
8 amended to the extent provided in the plan of interest
9 exchange.

10 B. Except as otherwise provided in the operating
11 agreement of a domestic acquired limited liability company, the
12 interest exchange does not give rise to any rights that a
13 member, manager or third party would have upon a dissolution,
14 liquidation or winding up of the acquired company.

15 C. When an interest exchange becomes effective, a
16 person that did not have interest holder liability with respect
17 to a domestic acquired limited liability company and that
18 becomes subject to interest holder liability with respect to a
19 domestic entity as a result of the interest exchange has
20 interest holder liability only to the extent provided by the
21 organic law of the entity and only for those debts, obligations
22 and other liabilities that arise after the interest exchange
23 becomes effective.

24 D. When an interest exchange becomes effective, the
25 interest holder liability of a person that ceases to hold an

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underscoring material = new
[bracketed material] = delete

1 interest in a domestic acquired limited liability company with
2 respect to which the person had interest holder liability is
3 subject to the following rules:

4 (1) the interest exchange does not discharge
5 any interest holder liability pursuant to the provisions of the
6 Revised Uniform Limited Liability Company Act to the extent
7 that the interest holder liability arose before the interest
8 exchange became effective;

9 (2) the person does not have interest holder
10 liability pursuant to the provisions of that act for any debt,
11 obligation or other liability that arises after the interest
12 exchange becomes effective;

13 (3) the provisions of that act continue to
14 apply to the release, collection or discharge of any interest
15 holder liability preserved pursuant to the provisions of
16 Paragraph (1) of this subsection as if the interest exchange
17 had not occurred; and

18 (4) the person has whatever rights of
19 contribution from any other person as are provided by that act,
20 a law other than one in that act or the operating agreement of
21 the acquired company with respect to any interest holder
22 liability preserved pursuant to the provisions of Paragraph (1)
23 of this subsection as if the interest exchange had not
24 occurred.

25 SECTION 1019. [NEW MATERIAL] CONVERSION AUTHORIZED.--

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1 A. By complying with the provisions of Sections
2 1019 through 1024 of the Revised Uniform Limited Liability
3 Company Act, a domestic limited liability company may become a:

4 (1) domestic entity that is a different type
5 of entity; or

6 (2) foreign entity that is a different type of
7 entity, if the conversion is authorized by the laws of the
8 foreign entity's jurisdiction of formation.

9 B. By complying with the provisions of Sections
10 1019 through 1024 of the Revised Uniform Limited Liability
11 Company Act applicable to foreign entities, a foreign entity
12 that is not a foreign limited liability company may become a
13 domestic limited liability company if the conversion is
14 authorized by the laws of the foreign entity's jurisdiction of
15 formation.

16 C. If a protected agreement contains a provision
17 that applies to a merger of a domestic limited liability
18 company but does not refer to a conversion, the provision
19 applies to a conversion of the company as if the conversion
20 were a merger until the provision is amended after July 1,
21 2016.

22 SECTION 1020. [NEW MATERIAL] PLAN OF CONVERSION.--

23 A. A domestic limited liability company may convert
24 to a different type of entity pursuant to the provisions of
25 Sections 1019 through 1024 of the Revised Uniform Limited

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underscoring material = new
[bracketed material] = delete

1 Liability Company Act by approving a plan of conversion. The
2 plan shall be in a record and contain:

3 (1) the name of the converting limited
4 liability company;

5 (2) the name, jurisdiction of formation and
6 type of entity of the converted entity;

7 (3) the manner of converting the interests in
8 the converting limited liability company into interests,
9 securities, obligations, money, other property, rights to
10 acquire interests or securities or any combination of the
11 foregoing;

12 (4) the proposed public organic record of the
13 converted entity if it will be a filing entity;

14 (5) the full text of the private organic rules
15 of the converted entity that are proposed to be in a record;

16 (6) the other terms and conditions of the
17 conversion; and

18 (7) any other provision required by the laws
19 of New Mexico or the operating agreement of the converting
20 limited liability company.

21 B. In addition to the requirements in Subsection A
22 of this section, a plan of conversion may contain any other
23 provision not prohibited by law.

24 SECTION 1021. [NEW MATERIAL] APPROVAL OF CONVERSION.--

25 A. A plan of conversion is not effective unless it

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underscored material = new
[bracketed material] = delete

1 has been approved:

2 (1) by a domestic converting limited liability
3 company, by all of the members of the limited liability company
4 entitled to vote on or consent to any matter; and

5 (2) in a record, by each member of a domestic
6 converting limited liability company that will have interest
7 holder liability for debts, obligations and other liabilities
8 that arise after the conversion becomes effective, unless:

9 (a) the operating agreement of the
10 company provides in a record for the approval of a conversion
11 or a merger in which some or all of its members become subject
12 to interest holder liability by the affirmative vote or consent
13 of fewer than all of the members; and

14 (b) the member voted for or consented in
15 a record to that provision of the operating agreement or became
16 a member after the adoption of that provision.

17 B. A conversion involving a domestic converting
18 entity that is not a limited liability company is not effective
19 unless it is approved by the domestic converting entity in
20 accordance with its organic law.

21 C. A conversion of a foreign converting entity is
22 not effective unless it is approved by the foreign entity in
23 accordance with the laws of the foreign entity's jurisdiction
24 of formation.

25 SECTION 1022. [NEW MATERIAL] AMENDMENT OR ABANDONMENT OF

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~~[bracketed material]~~ = delete

1 PLAN OF CONVERSION.--

2 A. A plan of conversion of a domestic converting
3 limited liability company may be amended:

4 (1) in the same manner as the plan was
5 approved, if the plan does not provide for the manner in which
6 it may be amended; or

7 (2) by its managers or members in the manner
8 provided in the plan, but a member that was entitled to vote on
9 or consent to approval of the conversion is entitled to vote on
10 or consent to any amendment of the plan that will change:

11 (a) the amount or kind of interests,
12 securities, obligations, money, other property, rights to
13 acquire interests or securities or any combination of the
14 foregoing, to be received by any of the members of the
15 converting company pursuant to the plan;

16 (b) the public organic record, if any,
17 or private organic rules of the converted entity that will be
18 in effect immediately after the conversion becomes effective,
19 except for changes that do not require the approval of the
20 interest holders of the converted entity pursuant to the
21 provisions of its organic law or organic rules; or

22 (c) any other terms or conditions of the
23 plan, if the change would adversely and materially affect the
24 member.

25 B. After a plan of conversion has been approved by

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1 a domestic converting limited liability company and before a
2 statement of conversion becomes effective, the plan may be
3 abandoned as provided in the plan. Unless prohibited by the
4 plan, a domestic converting limited liability company may
5 abandon the plan in the same manner as the plan was approved.

6 C. If a plan of conversion is abandoned after a
7 statement of conversion has been delivered to the secretary of
8 state for filing and before the statement becomes effective, a
9 statement of abandonment, signed by the converting entity,
10 shall be delivered to the secretary of state for filing before
11 the statement of conversion becomes effective. The statement
12 of abandonment takes effect on filing, and the conversion is
13 abandoned and does not become effective. The statement of
14 abandonment shall contain:

15 (1) the name of the converting limited
16 liability company;

17 (2) the date on which the statement of
18 conversion was filed by the secretary of state; and

19 (3) a statement that the conversion has been
20 abandoned in accordance with the provisions of this section.

21 SECTION 1023. [NEW MATERIAL] STATEMENT OF CONVERSION--
22 EFFECTIVE DATE OF CONVERSION.--

23 A. A statement of conversion shall be signed by the
24 converting entity and delivered to the secretary of state for
25 filing.

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underscoring material = new
~~[bracketed material] = delete~~

- 1 B. A statement of conversion shall contain:
- 2 (1) the name, jurisdiction of formation and
- 3 type of entity of the converting entity;
- 4 (2) the name, jurisdiction of formation and
- 5 type of entity of the converted entity;
- 6 (3) if the converting entity is a domestic
- 7 limited liability company, a statement that the plan of
- 8 conversion was approved in accordance with the provisions of
- 9 Sections 1019 through 1024 of the Revised Uniform Limited
- 10 Liability Company Act or, if the converting entity is a foreign
- 11 entity, a statement that the conversion was approved by the
- 12 foreign entity in accordance with the laws of its jurisdiction
- 13 of formation;
- 14 (4) if the converted entity is a domestic
- 15 filing entity, its public organic record, as an attachment;
- 16 (5) if the converted entity is a domestic
- 17 limited liability partnership, its statement of qualification,
- 18 as an attachment; and
- 19 (6) if the converted entity is a foreign
- 20 entity, a mailing address to which the secretary of state may
- 21 send any process served on the secretary of state pursuant to
- 22 the provisions of Subsection E of Section 1024 of the Revised
- 23 Uniform Limited Liability Company Act.
- 24 C. In addition to the requirements in Subsection B
- 25 of this section, a statement of conversion may contain any

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[bracketed material] = delete

1 other provision not prohibited by law.

2 D. If the converted entity is a domestic entity,
3 its public organic record, if any, shall satisfy the
4 requirements of the laws of New Mexico, except that the public
5 organic record does not need to be signed.

6 E. A plan of conversion that is signed by a
7 domestic converting limited liability company and that meets
8 all of the requirements in Subsection B of this section may be
9 delivered to the secretary of state for filing instead of a
10 statement of conversion and on filing has the same effect. If
11 a plan of conversion is filed as provided in this subsection,
12 references in Article 10 of the Revised Uniform Limited
13 Liability Company Act to a statement of conversion refer to the
14 plan of conversion filed pursuant to the provisions of this
15 subsection.

16 F. If the converted entity is a domestic limited
17 liability company, the conversion is effective when the
18 statement of conversion is effective. In all other cases, the
19 conversion is effective on the later of:

20 (1) the date and time provided by the organic
21 law of the converted entity; or

22 (2) when the statement is effective.

23 SECTION 1024. [NEW MATERIAL] EFFECT OF CONVERSION.--

24 A. When a conversion becomes effective:

25 (1) the converted entity is:

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~~[bracketed material] = delete~~

1 (a) organized pursuant to the provisions
2 of and subject to the organic law of the converted entity; and

3 (b) without interruption, the same
4 entity as the converting entity;

5 (2) all property of the converting entity
6 continues to be vested in the converted entity without
7 transfer, reversion or impairment;

8 (3) all debts, obligations and other
9 liabilities of the converting entity continue as debts,
10 obligations and other liabilities of the converted entity;

11 (4) except as otherwise provided by law or the
12 plan of conversion, all of the rights, privileges, immunities,
13 powers and purposes of the converting entity remain in the
14 converted entity;

15 (5) the name of the converted entity may be
16 substituted for the name of the converting entity in any
17 pending action or proceeding;

18 (6) the certificate of organization of the
19 converted entity is effective;

20 (7) the provisions of the operating agreement
21 of the converted entity that are to be in a record, if any,
22 approved as part of the plan of conversion are effective; and

23 (8) the interests in the converting entity are
24 converted, and the interest holders of the converting entity
25 are entitled only to the rights provided to them pursuant to

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underscoring material = new
~~[bracketed material] = delete~~

1 the plan of conversion and to any appraisal rights that they
2 have pursuant to the provisions of Section 1006 of the Revised
3 Uniform Limited Liability Company Act.

4 B. Except as otherwise provided in the operating
5 agreement of a domestic converting limited liability company,
6 the conversion does not give rise to any right that a member,
7 manager or third party would have upon a dissolution,
8 liquidation or winding up of the converting entity.

9 C. When a conversion becomes effective, a person
10 that did not have interest holder liability with respect to the
11 converting entity and becomes subject to interest holder
12 liability with respect to a domestic entity as a result of the
13 conversion has interest holder liability only to the extent
14 provided by the organic law of the entity and only for those
15 debts, obligations and other liabilities that arise after the
16 conversion becomes effective.

17 D. When a conversion becomes effective, the
18 interest holder liability of a person that ceases to hold an
19 interest in a domestic converting limited liability company
20 with respect to which the person had interest holder liability
21 is subject to the following rules:

22 (1) the conversion does not discharge any
23 interest holder liability pursuant to the provisions of the
24 Revised Uniform Limited Liability Company Act to the extent
25 that the interest holder liability arose before the conversion

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underscoring material = new
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1 became effective;

2 (2) the person does not have interest holder
3 liability pursuant to the provisions of that act for any debt,
4 obligation or other liability that arises after the conversion
5 becomes effective;

6 (3) the provisions of that act continue to
7 apply to the release, collection or discharge of any interest
8 holder liability preserved pursuant to the provisions of
9 Paragraph (1) of this subsection as if the conversion had not
10 occurred; and

11 (4) the person has whatever rights of
12 contribution from any other person as are provided by that act,
13 a law other than one in that act or the organic rules of the
14 converting entity with respect to any interest holder liability
15 preserved pursuant to the provisions of Paragraph (1) of this
16 subsection as if the conversion had not occurred.

17 E. When a conversion becomes effective, a foreign
18 entity that is the converted entity may be served with process
19 in New Mexico for the collection and enforcement of any of its
20 debts, obligations and other liabilities as provided in Section
21 116 of the Revised Uniform Limited Liability Company Act.

22 F. If the converting entity is a registered foreign
23 entity, its registration to do business in New Mexico is
24 canceled when the conversion becomes effective.

25 G. A conversion does not require the entity to wind

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underscoring material = new
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1 up its affairs and does not constitute or cause the dissolution
2 of the entity.

3 SECTION 1025. [NEW MATERIAL] DOMESTICATION AUTHORIZED.--

4 A. By complying with the provisions of Sections
5 1025 through 1030 of the Revised Uniform Limited Liability
6 Company Act, a domestic limited liability company may become a
7 foreign limited liability company if the domestication is
8 authorized by the laws of the foreign jurisdiction.

9 B. By complying with the provisions of Sections
10 1025 through 1030 of the Revised Uniform Limited Liability
11 Company Act applicable to foreign limited liability companies,
12 a foreign limited liability company may become a domestic
13 limited liability company if the domestication is authorized by
14 the laws of the foreign limited liability company's
15 jurisdiction of formation.

16 C. If a protected agreement contains a provision
17 that applies to a merger of a domestic limited liability
18 company but does not refer to a domestication, the provision
19 applies to a domestication of the limited liability company as
20 if the domestication were a merger until the provision is
21 amended after July 1, 2016.

22 SECTION 1026. [NEW MATERIAL] PLAN OF DOMESTICATION.--

23 A. A domestic limited liability company may become
24 a foreign limited liability company in a domestication by
25 approving a plan of domestication. The plan shall be in a

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underscored material = new
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1 record and shall contain:

2 (1) the name of the domesticating limited
3 liability company;

4 (2) the name and jurisdiction of formation of
5 the domesticated limited liability company;

6 (3) the manner of converting the interests in
7 the domesticating limited liability company into interests,
8 securities, obligations, money, other property, rights to
9 acquire interests or securities or any combination of the
10 foregoing;

11 (4) the proposed certificate of organization
12 of the domesticated limited liability company;

13 (5) the full text of the provisions of the
14 operating agreement of the domesticated limited liability
15 company that are proposed to be in a record;

16 (6) the other terms and conditions of the
17 domestication; and

18 (7) any other provision required by the laws
19 of New Mexico or the operating agreement of the domesticating
20 limited liability company.

21 B. In addition to the requirements in Subsection A
22 of this section, a plan of domestication may contain any other
23 provision not prohibited by law.

24 SECTION 1027. [NEW MATERIAL] APPROVAL OF DOMESTICATION.--

25 A. A plan of domestication of a domestic

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underscoring material = new
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1 domesticating limited liability company is not effective unless
2 it has been approved:

3 (1) by all of the members entitled to vote on
4 or consent to any matter; and

5 (2) in a record, by each member that will have
6 interest holder liability for debts, obligations and other
7 liabilities that arise after the domestication becomes
8 effective, unless:

9 (a) the operating agreement of the
10 domesticating company in a record provides for the approval of
11 a domestication or merger in which some or all of its members
12 become subject to interest holder liability by the affirmative
13 vote or consent of fewer than all of the members; and

14 (b) the member voted for or consented in
15 a record to that provision of the operating agreement or became
16 a member after the adoption of that provision.

17 B. A domestication of a foreign domesticating
18 limited liability company is not effective unless it is
19 approved in accordance with the laws of the foreign limited
20 liability company's jurisdiction of formation.

21 SECTION 1028. [NEW MATERIAL] AMENDMENT OR ABANDONMENT OF
22 PLAN OF DOMESTICATION.--

23 A. A plan of domestication of a domestic
24 domesticating limited liability company may be amended:

25 (1) in the same manner as the plan was

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underscoring material = new
~~[bracketed material] = delete~~

1 approved, if the plan does not provide for the manner in which
2 it may be amended; or

3 (2) by its managers or members in the manner
4 provided in the plan, but a member that was entitled to vote on
5 or consent to the approval of the domestication is entitled to
6 vote on or consent to any amendment of the plan that will
7 change:

8 (a) the amount or kind of interests,
9 securities, obligations, money, other property, rights to
10 acquire interests or securities or any combination of the
11 foregoing, to be received by any of the members of the
12 domesticating limited liability company pursuant to the
13 provisions of the plan;

14 (b) the certificate of organization or
15 operating agreement of the domesticated limited liability
16 company that will be in effect immediately after the
17 domestication becomes effective, except for changes that do not
18 require the approval of the members of the domesticated limited
19 liability company pursuant to the provisions of its organic law
20 or operating agreement; or

21 (c) any other terms or conditions of the
22 plan, if the change would adversely affect the member in any
23 material respect.

24 B. After a plan of domestication has been approved
25 by a domestic domesticating limited liability company and

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underscored material = new
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1 before a statement of domestication becomes effective, the plan
2 may be abandoned as provided in the plan. Unless prohibited by
3 the plan, a domestic domesticating limited liability company
4 may abandon the plan in the same manner as the plan was
5 approved.

6 C. If a plan of domestication is abandoned after a
7 statement of domestication has been delivered to the secretary
8 of state for filing and before the statement becomes effective,
9 a statement of abandonment, signed by the domesticating limited
10 liability company, shall be delivered to the secretary of state
11 for filing before the statement of domestication becomes
12 effective. The statement of abandonment takes effect on
13 filing, and the domestication is abandoned and does not become
14 effective. The statement of abandonment shall contain:

15 (1) the name of the domesticating limited
16 liability company;

17 (2) the date on which the statement of
18 domestication was filed by the secretary of state; and

19 (3) a statement that the domestication has
20 been abandoned in accordance with the provisions of this
21 section.

22 SECTION 1029. [NEW MATERIAL] STATEMENT OF DOMESTICATION--
23 EFFECTIVE DATE OF DOMESTICATION.--

24 A. A statement of domestication shall be signed by
25 the domesticating limited liability company and delivered to

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1 the secretary of state for filing.

2 B. A statement of domestication shall contain:

3 (1) the name and jurisdiction of formation of
4 the domesticating limited liability company;

5 (2) the name and jurisdiction of formation of
6 the domesticated limited liability company;

7 (3) if the domesticating limited liability
8 company is a domestic limited liability company, a statement
9 that the plan of domestication was approved in accordance with
10 the provisions of Sections 1025 through 1030 of the Revised
11 Uniform Limited Liability Company Act or, if the domesticating
12 limited liability company is a foreign limited liability
13 company, a statement that the domestication was approved in
14 accordance with the laws of its jurisdiction of formation;

15 (4) the certificate of organization of the
16 domesticated limited liability company, as an attachment; and

17 (5) if the domesticated entity is a foreign
18 limited liability company, a mailing address to which the
19 secretary of state may send any process served on the secretary
20 of state pursuant to the provisions of Subsection E of Section
21 1030 of the Revised Uniform Limited Liability Company Act.

22 C. In addition to the requirements in Subsection B
23 of this section, a statement of domestication may contain any
24 other provision not prohibited by law.

25 D. The certificate of organization of a domestic

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1 domesticated limited liability company shall satisfy the
2 requirements of the Revised Uniform Limited Liability Company
3 Act, but the certificate does not need to be signed.

4 E. A plan of domestication that is signed by a
5 domestic domesticating limited liability company and meets all
6 of the requirements in Subsection B of this section may be
7 delivered to the secretary of state for filing instead of a
8 statement of domestication and on filing has the same effect.
9 If a plan of domestication is filed as provided in this
10 subsection, references in Article 10 of the Revised Uniform
11 Limited Liability Company Act to a statement of domestication
12 refer to the plan of domestication filed pursuant to the
13 provisions of this subsection.

14 F. If the domesticated entity is a domestic limited
15 liability company, the domestication is effective when the
16 statement of domestication is effective. If the domesticated
17 entity is a foreign limited liability company, the
18 domestication is effective on the later of:

19 (1) the date and time provided by the organic
20 law of the domesticated entity; or

21 (2) when the statement is effective.

22 SECTION 1030. [NEW MATERIAL] EFFECT OF DOMESTICATION.--

23 A. When a domestication becomes effective:

24 (1) the domesticated entity is:

25 (a) organized pursuant to the provisions

1 of and subject to the organic law of the domesticated entity;
2 and

3 (b) without interruption, the same
4 entity as the domesticating entity;

5 (2) all property of the domesticating entity
6 continues to be vested in the domesticated entity without
7 transfer, reversion or impairment;

8 (3) all debts, obligations and other
9 liabilities of the domesticating entity continue as debts,
10 obligations and other liabilities of the domesticated entity;

11 (4) except as otherwise provided by law or the
12 plan of domestication, all of the rights, privileges,
13 immunities, powers and purposes of the domesticating entity
14 remain in the domesticated entity;

15 (5) the name of the domesticated entity may be
16 substituted for the name of the domesticating entity in any
17 pending action or proceeding;

18 (6) the certificate of organization of the
19 domesticated entity is effective;

20 (7) the provisions of the operating agreement
21 of the domesticated entity that are to be in a record, if any,
22 approved as part of the plan of domestication are effective;

23 and

24 (8) the interests in the domesticating entity
25 are converted to the extent and as approved in connection with

underscoring material = new
~~[bracketed material]~~ = delete

1 the domestication, and the members of the domesticating entity
2 are entitled only to the rights provided to them pursuant to
3 the plan of domestication and to any appraisal rights that they
4 have pursuant to the provisions of Section 1006 of the Revised
5 Uniform Limited Liability Company Act.

6 B. Except as otherwise provided in the organic law
7 or operating agreement of the domesticating limited liability
8 company, the domestication does not give rise to any rights
9 that a member, manager or third party would otherwise have upon
10 a dissolution, liquidation or winding up of the domesticating
11 company.

12 C. When a domestication becomes effective, a person
13 that did not have interest holder liability with respect to the
14 domesticating limited liability company and becomes subject to
15 interest holder liability with respect to a domestic company as
16 a result of the domestication has interest holder liability
17 only to the extent provided by the Revised Uniform Limited
18 Liability Company Act and only for those debts, obligations and
19 other liabilities that arise after the domestication becomes
20 effective.

21 D. When a domestication becomes effective, the
22 interest holder liability of a person that ceases to hold an
23 interest in a domestic domesticating limited liability company
24 with respect to which the person had interest holder liability
25 is subject to the following rules:

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1 (1) the domestication does not discharge any
2 interest holder liability pursuant to the provisions of the
3 Revised Uniform Limited Liability Company Act to the extent
4 that the interest holder liability arose before the
5 domestication became effective;

6 (2) a person does not have interest holder
7 liability pursuant to the provisions of that act for any debt,
8 obligation or other liability that arises after the
9 domestication becomes effective;

10 (3) the provisions of that act continue to
11 apply to the release, collection or discharge of any interest
12 holder liability preserved pursuant to the provisions of
13 Paragraph (1) of this subsection as if the domestication had
14 not occurred; and

15 (4) a person has whatever rights of
16 contribution from any other person as provided by that act, a
17 law other than one in that act or the operating agreement of
18 the domestic domesticating limited liability company with
19 respect to any interest holder liability preserved pursuant to
20 the provisions of Paragraph (1) of this subsection as if the
21 domestication had not occurred.

22 E. When a domestication becomes effective, a
23 foreign limited liability company that is the domesticated
24 company may be served with process in New Mexico for the
25 collection and enforcement of any of its debts, obligations and

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underscoring material = new
[bracketed material] = delete

1 liabilities as provided in Section 116 of the Revised Uniform
2 Limited Liability Company Act.

3 F. If the domesticating limited liability company
4 is a registered foreign entity, the registration of the company
5 is canceled when the domestication becomes effective.

6 G. A domestication does not require a domestic
7 domesticating limited liability company to wind up its affairs
8 and does not constitute or cause the dissolution of the
9 company.

10 ARTICLE 11

11 MISCELLANEOUS PROVISIONS

12 SECTION 1101. [NEW MATERIAL] UNIFORMITY OF APPLICATION
13 AND CONSTRUCTION.--In applying and construing the provisions of
14 the Revised Uniform Limited Liability Company Act,
15 consideration shall be given to the need to promote uniformity
16 of the law with respect to its subject matter among states that
17 enact it.

18 SECTION 1102. [NEW MATERIAL] RELATION TO ELECTRONIC
19 SIGNATURES IN GLOBAL AND NATIONAL COMMERCE ACT.--The Revised
20 Uniform Limited Liability Company Act modifies, limits and
21 supersedes the federal Electronic Signatures in Global and
22 National Commerce Act, 15 U.S.C. Section 7001 et seq., but does
23 not modify, limit or supersede Section 101(c) of that act, 15
24 U.S.C. Section 7001(c) or authorize electronic delivery of any
25 of the notices described in Section 103(b) of that act, 15

.197548.3

underscoring material = new
[bracketed material] = delete

1 U.S.C. Section 7003(b).

2 SECTION 1103. [NEW MATERIAL] SAVING CLAUSE.--The Revised
3 Uniform Limited Liability Company Act does not affect an action
4 commenced, a proceeding brought or a right accrued before July
5 1, 2016.

6 SECTION 1104. REPEAL.--Sections 53-19-1 through 53-19-74
7 NMSA 1978 (being Laws 1993, Chapter 280, Sections 1 through 58,
8 Laws 1995, Chapter 213, Sections 7 and 8, Laws 2001, Chapter
9 200, Section 79, Laws 1995, Chapter 213, Sections 9 through 13,
10 Laws 1993, Chapter 280, Sections 63 through 66, Laws 2001,
11 Chapter 200, Sections 74 and 75 and Laws 1993, Chapter 280,
12 Sections 67 through 74, as amended) are repealed.

13 SECTION 1105. EFFECTIVE DATE.--The effective date of the
14 provisions of this act is July 1, 2016.