

By the Committees on Rules; Judiciary; and Commerce and Tourism;
and Senator Simmons

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1 A bill to be entitled
2 An act relating to limited liability companies;
3 amending s. 605.0103, F.S.; specifying that persons
4 who are not members of a limited liability company are
5 not deemed to have notice of a provision of the
6 company's articles of organization which limits a
7 person's authority to transfer real property held in
8 the company's name unless such limitation appears in
9 an affidavit, certificate, or other instrument that is
10 recorded in a specified manner; amending s. 605.0105,
11 F.S.; removing the prohibition that an operating
12 agreement may not vary the power of a person to
13 dissociate; clarifying that an operating agreement is
14 prohibited from providing indemnification for a member
15 or manager in certain circumstances; authorizing an
16 operating agreement to alter or eliminate any other
17 fiduciary duty; amending s. 605.0111, F.S.; providing
18 that the duties of the member, manager, or another
19 person may be restricted, expanded, or eliminated in
20 certain circumstances; amending s. 605.04073, F.S.;
21 requiring certain conditions for members of a limited
22 liability company, without a meeting, to take certain
23 actions requiring the vote or consent of the members;
24 amending s. 605.04091, F.S.; providing that the duty
25 of loyalty includes, but is not limited to, specified
26 actions; revising the duty of care in the conduct or
27 winding up of the company's activities and affairs;
28 amending s. 605.0410, F.S.; requiring a limited
29 liability company to provide a record of certain

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30 information within a specified period to a member who
31 makes a demand; amending s. 605.0715, F.S.; revising
32 which materials and information a specified limited
33 liability company must submit to the Department of
34 State as part of an application for reinstatement
35 after administrative dissolution; amending s.
36 605.0909, F.S.; revising which materials and
37 information a specified limited liability company must
38 submit to the Department of State as part of an
39 application for reinstatement after revocation of
40 certificate of authority; amending s. 605.1072, F.S.;
41 deleting a provision providing an exception to the
42 limitation of remedies for appraisal events under
43 specified circumstances; amending s. 605.1108, F.S.;
44 deleting a provision requiring that, for a limited
45 liability company formed before a specified date,
46 certain language in the company's articles of
47 organization operates as if it were in the operating
48 agreement; repealing chapter 608, F.S., relating to
49 the Florida Limited Liability Company Act; amending
50 ss. 15.16, 48.062, 213.758, 220.02, 220.03, 220.13,
51 310.181, 440.02, 605.0401, 605.04074, 605.04091,
52 606.06, 607.1108, 607.1109, 607.11101, 621.12,
53 636.204, 655.0201, 658.2953, 694.16, and 1002.395,
54 F.S.; conforming provisions to the repeal of the
55 Florida Limited Liability Company Act; providing
56 retroactive applicability; amending ss. 605.0102,
57 605.0712, 605.0717, and 605.0805, F.S.; revising a
58 definition; conforming cross-references; providing

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59 effective dates.

60
61 Be It Enacted by the Legislature of the State of Florida:

62
63 Section 1. Paragraph (b) of subsection (4) of section
64 605.0103, Florida Statutes, is amended to read:

65 605.0103 Knowledge; notice.—

66 (4) A person who is not a member is deemed to:

67 (b) Have notice of a limited liability company's:

68 1. Dissolution, 90 days after the articles of dissolution
69 filed under s. 605.0707 become effective;

70 2. Termination, 90 days after a statement of termination
71 filed under s. 605.0709(7) becomes effective;

72 3. Participation in a merger, interest exchange,
73 conversion, or domestication, 90 days after the articles of
74 merger, articles of interest exchange, articles of conversion,
75 or articles of domestication under s. 605.1025, s. 605.1035, s.
76 605.1045, or s. 605.1055, respectively, become effective;

77 4. Declaration in its articles of organization that it is
78 manager-managed in accordance with s. 605.0201(3)(a); however,
79 if such a declaration has been added or changed by an amendment
80 or amendment and restatement of the articles of organization,
81 notice of the addition or change may not become effective until
82 90 days after the effective date of such amendment or amendment
83 and restatement; and

84 5. Grant of authority to or limitation imposed on the
85 authority of a person holding a position or having a specified
86 status in a company, or grant of authority to or limitation
87 imposed on the authority of a specific person, if the grant of

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88 authority or limitation imposed on the authority is described in
89 the articles of organization in accordance with s.
90 605.0201(3)(d); however, if that description has been added or
91 changed by an amendment or an amendment and restatement of the
92 articles of organization, notice of the addition or change may
93 not become effective until 90 days after the effective date of
94 such amendment or amendment and restatement. A provision of the
95 articles of organization that limits the authority of a person
96 to transfer real property held in the name of the limited
97 liability company is not notice of such limitation to a person
98 who is not a member or manager of the company, unless such
99 limitation appears in an affidavit, certificate, or other
100 instrument that bears the name of the limited liability company
101 and is recorded in the office for recording transfers of such
102 real property.

103 Section 2. Paragraphs (i) and (q) of subsection (3) and
104 paragraph (c) of subsection (4) of section 605.0105, Florida
105 Statutes, are amended to read:

106 605.0105 Operating agreement; scope, function, and
107 limitations.-

108 (3) An operating agreement may not do any of the following:

109 ~~(i) Vary the power of a person to dissociate under s.~~
110 ~~605.0601, except to require that the notice under s. 605.0602(1)~~
111 ~~be in a record.~~

112 (p)(q) Provide for indemnification for a member or manager
113 under s. 605.0408 for any of the following:

114 1. Conduct involving bad faith, willful or intentional
115 misconduct, or a knowing violation of law.

116 2. A transaction from which the member or manager derived

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117 an improper personal benefit.

118 3. A circumstance under which the liability provisions of
119 s. 605.0406 are applicable.

120 4. A breach of duties or obligations under s. 605.04091,
121 taking into account a restriction, an expansion, or an
122 elimination ~~variation~~ of such duties and obligations provided
123 for in the operating agreement to the extent allowed by
124 subsection (4).

125 (4) Subject to paragraph (3)(g), without limiting other
126 terms that may be included in an operating agreement, the
127 following rules apply:

128 (c) If not manifestly unreasonable, the operating agreement
129 may:

130 1. Alter or eliminate the aspects of the duty of loyalty
131 under s. 605.04091(2);

132 2. Identify specific types or categories of activities that
133 do not violate the duty of loyalty; ~~and~~

134 3. Alter the duty of care, but may not authorize willful or
135 intentional misconduct or a knowing violation of law; and

136 4. Alter or eliminate any other fiduciary duty.

137 Section 3. Section 605.0111, Florida Statutes, is amended
138 to read:

139 605.0111 Rules of construction and supplemental principles
140 of law.—

141 (1) It is the intent of this chapter to give the maximum
142 effect to the principle of freedom of contract and to the
143 enforceability of operating agreements, including the purposes
144 of ss. 605.0105-605.0107.

145 (2) To the extent that, at law or in equity, a member, a

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146 manager, or another person has duties, including fiduciary
147 duties, to a limited liability company or to another member or
148 manager or to another person that is a party to or is otherwise
149 bound by an operating agreement, the duties of the member,
150 manager, or other person may be restricted, expanded, or
151 eliminated, including in the determination of applicable duties
152 and obligations under this chapter, by the operating agreement,
153 and to the extent allowed by s. 605.0105.

154 (3) Unless displaced by particular provisions of this
155 chapter, the principles of law and equity, including the common
156 law principles relating to the fiduciary duties of loyalty and
157 care, supplement this chapter.

158 Section 4. Subsection (4) of section 605.04073, Florida
159 Statutes, is amended to read:

160 605.04073 Voting rights of members and managers.—

161 (4) An action requiring the vote or consent of members
162 under this chapter may be taken without a meeting if the action
163 is approved in a record by members with at least the minimum
164 number of votes that would be necessary to authorize or take the
165 action at a meeting of the members.~~and~~ A member may appoint a
166 proxy or other agent to vote or consent for the member by
167 signing an appointing record, personally or by the member's
168 agent. On an action taken by fewer than all of the members
169 without a meeting, notice of the action must be given to those
170 members who did not consent in writing to the action or who were
171 not entitled to vote on the action within 10 days after the
172 action was taken.

173 Section 5. Subsections (2) and (3) of section 605.04091,
174 Florida Statutes, are amended to read:

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175 605.04091 Standards of conduct for members and managers.—

176 (2) The duty of loyalty includes ~~is limited to~~:

177 (a) Accounting to the limited liability company and holding
178 as trustee for it any property, profit, or benefit derived by
179 the manager or member, as applicable:

180 1. In the conduct or winding up of the company's activities
181 and affairs;

182 2. From the use by the member or manager of the company's
183 property; or

184 3. From the appropriation of a company opportunity;

185 (b) Refraining from dealing with the company in the conduct
186 or winding up of the company's activities and affairs as, or on
187 behalf of, a person having an interest adverse to the company,
188 except to the extent that a transaction satisfies the
189 requirements of this section; and

190 (c) Refraining from competing with the company in the
191 conduct of the company's activities and affairs before the
192 dissolution of the company.

193 (3) The duty of care in the conduct or winding up of the
194 company's activities and affairs is ~~limited~~ to refrain
195 ~~refraining~~ from engaging in grossly negligent or reckless
196 conduct, willful or intentional misconduct, or a knowing
197 violation of law.

198 Section 6. Subsection (2), paragraph (a) of subsection (3),
199 and subsection (4) of section 605.0410, Florida Statutes, are
200 amended to read:

201 605.0410 Records to be kept; rights of member, manager, and
202 person dissociated to information.—

203 (2) In a member-managed limited liability company, the

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204 following rules apply:

205 (a) Upon reasonable notice, a member may inspect and copy
206 during regular business hours, at a reasonable location
207 specified by the company:

208 1. The records described in subsection (1); and

209 2. Each other record maintained by the company regarding
210 the company's activities, affairs, financial condition, and
211 other circumstances, to the extent the information is material
212 to the member's rights and duties under the operating agreement
213 or this chapter.

214 (b) The company shall furnish to each member:

215 1. Without demand, any information concerning the company's
216 activities, affairs, financial condition, and other
217 circumstances that the company knows and is material to the
218 proper exercise of the member's rights and duties under the
219 operating agreement or this chapter, except to the extent the
220 company can establish that it reasonably believes the member
221 already knows the information; and

222 2. On demand, other information concerning the company's
223 activities, affairs, financial condition, and other
224 circumstances, except to the extent the demand or information
225 demanded is unreasonable or otherwise improper under the
226 circumstances.

227 (c) Within 10 days after receiving a demand pursuant to
228 subparagraph (b)2., the company shall provide to the member who
229 made the demand a record of:

230 1. The information that the company will provide in
231 response to the demand and when and where the company will
232 provide such information.

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233 2. For any demanded information that the company is not
234 providing, the reasons that the company will not provide the
235 information.

236 (d)-(e) The duty to furnish information under this
237 subsection also applies to each member to the extent the member
238 knows any of the information described in this subsection.

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

241 (a) The informational rights stated in subsection (2) and
242 the duty stated in paragraph (2) (d) ~~(2) (e)~~ apply to the managers
243 and not to the members.

244 (4) Subject to subsection (10) ~~(9)~~, on 10 days' demand made
245 in a record received by a limited liability company, a person
246 dissociated as a member may have access to information to which
247 the person was entitled while a member if:

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

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

251 (c) The person satisfies the requirements imposed on a
252 member by paragraph (3) (b).

253 Section 7. Section 605.0715, Florida Statutes, is amended
254 to read:

255 605.0715 Reinstatement.—

256 (1) A limited liability company that is administratively
257 dissolved under s. 605.0714 or former s. 608.4481 may apply to
258 the department for reinstatement at any time after the effective
259 date of dissolution. The company must submit ~~a form of~~
260 ~~application for reinstatement prescribed and furnished by the~~
261 ~~department and provide all of the information required by the~~

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262 ~~department, together with~~ all fees and penalties then owed by
263 the company at the rates provided by law at the time the company
264 applies for reinstatement together with an application for
265 reinstatement prescribed and furnished by the department, which
266 is signed by both the registered agent and an authorized
267 representative of the company and states:

268 (a) The name of the limited liability company.

269 (b) The street address of the company's principal office
270 and mailing address.

271 (c) The date of the company's organization.

272 (d) The company's federal employer identification number
273 or, if none, whether one has been applied for.

274 (e) The name, title or capacity, and address of at least
275 one person who has authority to manage the company.

276 (f) Additional information that is necessary or appropriate
277 to enable the department to carry out this chapter.

278 (2) In lieu of the requirement to file an application for
279 reinstatement as described in subsection (1), an
280 administratively dissolved limited liability company may submit
281 all fees and penalties owed by the company at the rates provided
282 by law at the time the company applies for reinstatement,
283 together with a current annual report, signed by both the
284 registered agent and an authorized representative of the
285 company, which contains the information described in subsection
286 (1).

287 (3)~~(2)~~ If the department determines that an application for
288 reinstatement contains the information required under subsection
289 (1) or subsection (2) and that the information is correct, upon
290 payment of all required fees and penalties, the department shall

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291 reinstate the limited liability company.

292 (4)~~(3)~~ When reinstatement under this section becomes
293 effective:

294 (a) The reinstatement relates back to and takes effect as
295 of the effective date of the administrative dissolution.

296 (b) The limited liability company may resume its activities
297 and affairs as if the administrative dissolution had not
298 occurred.

299 (c) The rights of a person arising out of an act or
300 omission in reliance on the dissolution before the person knew
301 or had notice of the reinstatement are not affected.

302 (5)~~(4)~~ The name of the dissolved limited liability company
303 is not available for assumption or use by another business
304 entity until 1 year after the effective date of dissolution
305 unless the dissolved limited liability company provides the
306 department with a record executed as required pursuant to s.
307 605.0203 permitting the immediate assumption or use of the name
308 by another limited liability company.

309 Section 8. Section 605.0909, Florida Statutes, is amended
310 to read:

311 605.0909 Reinstatement following revocation of certificate
312 of authority.—

313 (1) A foreign limited liability company whose certificate
314 of authority has been revoked may apply to the department for
315 reinstatement at any time after the effective date of the
316 revocation. The foreign limited liability company applying for
317 reinstatement must submit ~~provide information in a form~~
318 ~~prescribed and furnished by the department and pay~~ all fees and
319 penalties then owed by the foreign limited liability company at

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320 rates provided by law at the time the foreign limited liability
321 company applies for reinstatement together with an application
322 for reinstatement prescribed and furnished by the department,
323 which is signed by both the registered agent and an authorized
324 representative of the company and states:

325 (a) The name under which the foreign limited liability
326 company is registered to transact business in this state.

327 (b) The street address of the company's principal office
328 and its mailing address.

329 (c) The jurisdiction of the company's formation and the
330 date on which it became qualified to transact business in this
331 state.

332 (d) The company's federal employer identification number
333 or, if none, whether one has been applied for.

334 (e) The name, title or capacity, and address of at least
335 one person who has authority to manage the company.

336 (f) Additional information that is necessary or appropriate
337 to enable the department to carry out this chapter.

338 (2) In lieu of the requirement to file an application for
339 reinstatement as described in subsection (1), a foreign limited
340 liability company whose certificate of authority has been
341 revoked may submit all fees and penalties owed by the company at
342 the rates provided by law at the time the company applies for
343 reinstatement, together with a current annual report, signed by
344 both the registered agent and an authorized representative of
345 the company, which contains the information described in
346 subsection (1).

347 (3)~~(2)~~ If the department determines that an application for
348 reinstatement contains the information required under subsection

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349 (1) or subsection (2) and that the information is correct, upon
350 payment of all required fees and penalties, the department shall
351 reinstate the foreign limited liability company's certificate of
352 authority.

353 ~~(4)(3)~~ When a reinstatement becomes effective, it relates
354 back to and takes effect as of the effective date of the
355 revocation of authority and the foreign limited liability
356 company may resume its activities in this state as if the
357 revocation of authority had not occurred.

358 ~~(5)(4)~~ The name of the foreign limited liability company
359 whose certificate of authority has been revoked is not available
360 for assumption or use by another business entity until 1 year
361 after the effective date of revocation of authority unless the
362 limited liability company provides the department with a record
363 executed pursuant to s. 605.0203 which authorizes the immediate
364 assumption or use of its name by another limited liability
365 company.

366 ~~(6)(5)~~ If the name of the foreign limited liability company
367 applying for reinstatement has been lawfully assumed in this
368 state by another business entity, the department shall require
369 the foreign limited liability company to comply with s. 605.0906
370 before accepting its application for reinstatement.

371 Section 9. Paragraph (c) of subsection (2) of section
372 605.1072, Florida Statutes, is amended to read:

373 605.1072 Other remedies limited.—

374 (2) Subsection (1) does not apply to an appraisal event
375 that:

376 ~~(c) Is an interested transaction, unless it has been~~
377 ~~approved in the same manner as is provided in s. 605.04092 or is~~

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378 ~~fair to the limited liability company as defined in s.~~
379 ~~605.04092(1)(c).~~

380 Section 10. Subsection (3) of section 605.1108, Florida
381 Statutes, is amended to read:

382 605.1108 Application to limited liability company formed
383 under the Florida Limited Liability Company Act.—

384 (3) For the purpose of applying this chapter to a limited
385 liability company formed before January 1, 2014, under the
386 Florida Limited Liability Company Act, former ss. 608.401-
387 608.705, ÷

388 ~~(a) the company's articles of organization are deemed to be~~
389 ~~the company's articles of organization under this chapter, and~~

390 ~~(b) For the purpose of applying s. 605.0102(39), the~~
391 ~~language in the company's articles of organization designating~~
392 ~~the company's management structure operates as if that language~~
393 ~~were in the operating agreement.~~

394 Section 11. Effective upon this act becoming a law, chapter
395 608, Florida Statutes, consisting of sections 608.401, 608.402,
396 608.403, 608.404, 608.405, 608.406, 608.407, 608.408, 608.4081,
397 608.4082, 608.409, 608.4101, 608.411, 608.4115, 608.415,
398 608.416, 608.4211, 608.422, 608.4225, 608.4226, 608.4227,
399 608.4228, 608.4229, 608.423, 608.4231, 608.4232, 608.4235,
400 608.4236, 608.4237, 608.4238, 608.425, 608.426, 608.4261,
401 608.427, 608.428, 608.431, 608.432, 608.433, 608.434, 608.4351,
402 608.4352, 608.4353, 608.4354, 608.4355, 608.4356, 608.4357,
403 608.43575, 608.4358, 608.43585, 608.4359, 608.43595, 608.438,
404 608.4381, 608.4382, 608.4383, 608.439, 608.4401, 608.4402,
405 608.4403, 608.4404, 608.441, 608.4411, 608.4421, 608.4431,
406 608.444, 608.445, 608.446, 608.447, 608.448, 608.4481, 608.4482,

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407 608.4483, 608.449, 608.4491, 608.4492, 608.4493, 608.4511,
408 608.452, 608.455, 608.461, 608.462, 608.463, 608.471, 608.501,
409 608.502, 608.503, 608.504, 608.505, 608.506, 608.507, 608.508,
410 608.509, 608.5101, 608.511, 608.512, 608.513, 608.5135, 608.514,
411 608.601, 608.701, 608.702, 608.703, 608.704, and 608.705, is
412 repealed.

413 Section 12. Effective upon this act becoming a law and
414 operating retroactively to January 1, 2015, subsection (3) of
415 section 15.16, Florida Statutes, is amended to read:

416 15.16 Reproduction of records; admissibility in evidence;
417 electronic receipt and transmission of records; certification;
418 acknowledgment.—

419 (3) The Department of State may cause to be received
420 electronically any records that are required to be filed with it
421 pursuant to chapter 55, chapter 117, chapter 118, chapter 495,
422 chapter 605, chapter 606, chapter 607, ~~chapter 608~~, chapter 610,
423 chapter 617, chapter 620, chapter 621, chapter 679, chapter 713,
424 or chapter 865, through facsimile or other electronic transfers,
425 for the purpose of filing such records. The originals of all
426 such electronically transmitted records must be executed in the
427 manner provided in paragraph (5) (b). The receipt of such
428 electronic transfer constitutes delivery to the department as
429 required by law. The department may use electronic transmissions
430 for purposes of notice in the administration of chapters 55,
431 117, 118, 495, 605, 606, 607, ~~608~~, 610, 617, 620, 621, 679, and
432 713 and s. 865.09. The Department of State may collect e-mail
433 addresses for purposes of notice and communication in the
434 performance of its duties and may require filers and registrants
435 to furnish such e-mail addresses when presenting documents for

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436 filing.

437 Section 13. Effective upon this act becoming a law and
438 operating retroactively to January 1, 2015, subsections (1) and
439 (2) of section 48.062, Florida Statutes, are amended to read:

440 48.062 Service on a limited liability company.—

441 (1) Process against a limited liability company, domestic
442 or foreign, may be served on the registered agent designated by
443 the limited liability company under chapter 605 ~~or chapter 608~~.
444 A person attempting to serve process pursuant to this subsection
445 may serve the process on any employee of the registered agent
446 during the first attempt at service even if the registered agent
447 is a natural person and is temporarily absent from his or her
448 office.

449 (2) If service cannot be made on a registered agent of the
450 limited liability company because of failure to comply with
451 chapter 605 ~~or chapter 608~~ or because the limited liability
452 company does not have a registered agent, or if its registered
453 agent cannot with reasonable diligence be served, process
454 against the limited liability company, domestic or foreign, may
455 be served:

456 (a) On a member of a member-managed limited liability
457 company;

458 (b) On a manager of a manager-managed limited liability
459 company; or

460 (c) If a member or manager is not available during regular
461 business hours to accept service on behalf of the limited
462 liability company, he, she, or it may designate an employee of
463 the limited liability company to accept such service. After one
464 attempt to serve a member, manager, or designated employee has

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465 been made, process may be served on the person in charge of the
466 limited liability company during regular business hours.

467 Section 14. Effective upon this act becoming a law and
468 operating retroactively to January 1, 2015, paragraph (c) of
469 subsection (1) of section 213.758, Florida Statutes, is amended
470 to read:

471 213.758 Transfer of tax liabilities.—

472 (1) As used in this section, the term:

473 (c) "Insider" means:

474 1. Any person included within the meaning of insider as
475 used in s. 726.102; or

476 2. A manager of, ~~a managing member of,~~ or a person who
477 controls a transferor that is, a limited liability company, or a
478 relative as defined in s. 726.102 of any such persons.

479 Section 15. Effective upon this act becoming a law and
480 operating retroactively to January 1, 2015, subsection (1) of
481 section 220.02, Florida Statutes, is amended to read:

482 220.02 Legislative intent.—

483 (1) It is the intent of the Legislature in enacting this
484 code to impose a tax upon all corporations, organizations,
485 associations, and other artificial entities which derive from
486 this state or from any other jurisdiction permanent and inherent
487 attributes not inherent in or available to natural persons, such
488 as perpetual life, transferable ownership represented by shares
489 or certificates, and limited liability for all owners. It is
490 intended that any limited liability company that is classified
491 as a partnership for federal income tax purposes and is defined
492 in and organized pursuant to ~~formed under~~ chapter 605 ~~608~~ or
493 qualified to do business in this state as a foreign limited

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494 liability company not be subject to the tax imposed by this
495 code. It is the intent of the Legislature to subject such
496 corporations and other entities to taxation hereunder for the
497 privilege of conducting business, deriving income, or existing
498 within this state. This code is not intended to tax, and shall
499 not be construed so as to tax, any natural person who engages in
500 a trade, business, or profession in this state under his or her
501 own or any fictitious name, whether individually as a
502 proprietorship or in partnership with others, or as a member or
503 a manager of a limited liability company classified as a
504 partnership for federal income tax purposes; any estate of a
505 decedent or incompetent; or any testamentary trust. However, a
506 corporation or other taxable entity which is or which becomes
507 partners with one or more natural persons shall not, merely by
508 reason of being a partner, exclude from its net income subject
509 to tax its respective share of partnership net income. This
510 statement of intent shall be given preeminent consideration in
511 any construction or interpretation of this code in order to
512 avoid any conflict between this code and the mandate in s. 5,
513 Art. VII of the State Constitution that no income tax be levied
514 upon natural persons who are residents and citizens of this
515 state.

516 Section 16. Effective upon this act becoming a law and
517 operating retroactively to January 1, 2015, paragraph (e) of
518 subsection (1) of section 220.03, Florida Statutes, is amended
519 to read:

520 220.03 Definitions.—

521 (1) SPECIFIC TERMS.—When used in this code, and when not
522 otherwise distinctly expressed or manifestly incompatible with

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523 the intent thereof, the following terms shall have the following
524 meanings:

525 (e) "Corporation" includes all domestic corporations;
526 foreign corporations qualified to do business in this state or
527 actually doing business in this state; joint-stock companies;
528 limited liability companies, under chapter 605 ~~608~~; common-law
529 declarations of trust, under chapter 609; corporations not for
530 profit, under chapter 617; agricultural cooperative marketing
531 associations, under chapter 618; professional service
532 corporations, under chapter 621; foreign unincorporated
533 associations, under chapter 622; private school corporations,
534 under chapter 623; foreign corporations not for profit which are
535 carrying on their activities in this state; and all other
536 organizations, associations, legal entities, and artificial
537 persons which are created by or pursuant to the statutes of this
538 state, the United States, or any other state, territory,
539 possession, or jurisdiction. The term "corporation" does not
540 include proprietorships, even if using a fictitious name;
541 partnerships of any type, as such; limited liability companies
542 that are taxable as partnerships for federal income tax
543 purposes; state or public fairs or expositions, under chapter
544 616; estates of decedents or incompetents; testamentary trusts;
545 or private trusts.

546 Section 17. Effective upon this act becoming a law and
547 operating retroactively to January 1, 2015, paragraph (j) of
548 subsection (2) of section 220.13, Florida Statutes, is amended
549 to read:

550 220.13 "Adjusted federal income" defined.—

551 (2) For purposes of this section, a taxpayer's taxable

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552 income for the taxable year means taxable income as defined in
553 s. 63 of the Internal Revenue Code and properly reportable for
554 federal income tax purposes for the taxable year, but subject to
555 the limitations set forth in paragraph (1)(b) with respect to
556 the deductions provided by ss. 172 (relating to net operating
557 losses), 170(d)(2) (relating to excess charitable
558 contributions), 404(a)(1)(D) (relating to excess pension trust
559 contributions), 404(a)(3)(A) and (B) (to the extent relating to
560 excess stock bonus and profit-sharing trust contributions), and
561 1212 (relating to capital losses) of the Internal Revenue Code,
562 except that, subject to the same limitations, the term:

563 (j) "Taxable income," in the case of a limited liability
564 company, other than a limited liability company classified as a
565 partnership for federal income tax purposes, as defined in and
566 organized pursuant to chapter 605 ~~608~~ or qualified to do
567 business in this state as a foreign limited liability company or
568 other than a similar limited liability company classified as a
569 partnership for federal income tax purposes and created as an
570 artificial entity pursuant to the statutes of the United States
571 or any other state, territory, possession, or jurisdiction, if
572 such limited liability company or similar entity is taxable as a
573 corporation for federal income tax purposes, means taxable
574 income determined as if such limited liability company were
575 required to file or had filed a federal corporate income tax
576 return under the Internal Revenue Code;

577 Section 18. Effective upon this act becoming a law and
578 operating retroactively to January 1, 2015, section 310.181,
579 Florida Statutes, is amended to read:

580 310.181 Corporate powers.—All the rights, powers, and

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581 liabilities conferred or imposed by the laws of Florida relating
582 to corporations for profit organized under part I of chapter 607
583 or under former chapter 608 before January 1, 1976, or to
584 corporations organized under chapter 621 apply to corporations
585 organized pursuant to s. 310.171.

586 Section 19. Effective upon this act becoming a law and
587 operating retroactively to January 1, 2015, subsection (9) of
588 section 440.02, Florida Statutes, is amended to read:

589 440.02 Definitions.—When used in this chapter, unless the
590 context clearly requires otherwise, the following terms shall
591 have the following meanings:

592 (9) "Corporate officer" or "officer of a corporation" means
593 any person who fills an office provided for in the corporate
594 charter or articles of incorporation filed with the Division of
595 Corporations of the Department of State or as authorized or
596 required under part I of chapter 607. The term "officer of a
597 corporation" includes a member owning at least 10 percent of a
598 limited liability company as defined in and organized pursuant
599 to ~~created and approved under~~ chapter 605 ~~608~~.

600 Section 20. Subsection (37) of section 605.0102, Florida
601 Statutes, is amended to read:

602 605.0102 Definitions.—As used in this chapter, the term:

603 (37) "Majority-in-interest" means those members who hold
604 more than 50 percent of the then-current percentage or other
605 interest in the profits of the limited liability company owned
606 by all of its members ~~and who have the right to vote~~; however,
607 as used in ss. 605.1001-605.1072, the term means:

608 (a) In the case of a limited liability company with only
609 one class or series of members, the holders of more than 50

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610 percent of the then-current percentage or other interest in the
611 profits of the company owned by all of its members who have the
612 right to approve the a merger, interest exchange, or conversion,
613 as applicable, under the organic law or the organic rules of the
614 company; and

615 (b) In the case of a limited liability company having more
616 than one class or series of members, the holders in each class
617 or series of more than 50 percent of the then-current percentage
618 or other interest in the profits of the company owned by all of
619 the members of that class or series who have the right to
620 approve the a merger, interest exchange, or conversion, as
621 applicable, under the organic law or the organic rules of the
622 company, unless the company's organic rules provide for the
623 approval of the transaction in a different manner.

624 Section 21. Effective upon this act becoming a law and
625 operating retroactively to January 1, 2015, subsection (3) of
626 section 605.0401, Florida Statutes, is amended to read:

627 605.0401 Becoming a member.—

628 (3) After formation of a limited liability company, a
629 person becomes a member:

630 (a) As provided in the operating agreement;

631 (b) As the result of a merger, interest exchange,
632 conversion, or domestication under ss. 605.1001-605.1072, as
633 applicable;

634 (c) With the consent of all the members; or

635 (d) As provided in s. 605.0701(3).

636 Section 22. Effective upon this act becoming a law and
637 operating retroactively to January 1, 2015, paragraph (a) of
638 subsection (1) of section 605.04074, Florida Statutes, is

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639 amended to read:

640 605.04074 Agency rights of members and managers.—

641 (1) In a member-managed limited liability company, the
642 following rules apply:

643 (a) Except as provided in subsection (3), each member is an
644 agent of the limited liability company for the purpose of its
645 activities and affairs, and an act of a member, including
646 signing an agreement or instrument of transfer in the name of
647 the company for apparently carrying on in the ordinary course of
648 the company's activities and affairs or activities and affairs
649 of the kind carried on by the company, binds the company unless
650 the member had no authority to act for the company in the
651 particular matter and the person with whom the member was
652 dealing knew or had notice that the member lacked authority.

653 Section 23. Effective upon this act becoming a law and
654 operating retroactively to January 1, 2015, paragraph (b) of
655 subsection (2) of section 605.04091, Florida Statutes, is
656 amended to read:

657 605.04091 Standards of conduct for members and managers.—

658 (2) The duty of loyalty is limited to:

659 (b) Refraining from dealing with the company in the conduct
660 or winding up of the company's activities and affairs as, or on
661 behalf of, a person having an interest adverse to the company,
662 except to the extent that a transaction satisfies the
663 requirements of s. 605.04092 ~~this section~~; and

664 Section 24. Subsection (3) of section 605.0712, Florida
665 Statutes, is amended to read:

666 605.0712 Other claims against a dissolved limited liability
667 company.—

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668 (3) A claim that is not barred by this section,~~s.~~
669 ~~608.0711~~, or another statute limiting actions,~~r~~ may be enforced:

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

672 (b) Except as otherwise provided in s. 605.0713, if assets
673 of the limited liability company have been distributed after
674 dissolution, against a member or transferee to the extent of
675 that person's proportionate share of the claim or of the
676 company's assets distributed to the member or transferee after
677 dissolution, whichever is less, but a person's total liability
678 for all claims under this subsection may not exceed the total
679 amount of assets distributed to the person after dissolution.

680 Section 25. Subsection (2) of section 605.0717, Florida
681 Statutes, is amended to read:

682 605.0717 Effect of dissolution.—

683 (2) Except as provided in s. 605.0715(5) ~~605.0715(4)~~, the
684 name of the dissolved limited liability company is not available
685 for assumption or use by another business entity until 120 days
686 after the effective date of dissolution or filing of a statement
687 of termination, if earlier.

688 Section 26. Subsection (2) of section 605.0805, Florida
689 Statutes, is amended to read:

690 605.0805 Proceeds and expenses.—

691 (2) If a derivative action ~~under s. 608.0802~~ is successful
692 in whole or in part, the court may award the plaintiff
693 reasonable expenses, including reasonable attorney fees and
694 costs, from the recovery of the limited liability company.

695 Section 27. Effective upon this act becoming a law and
696 operating retroactively to January 1, 2015 subsection (2) of

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697 section 606.06, Florida Statutes, is amended to read:

698 606.06 Uniform business report.—The department may use the
699 uniform business report:

700 (2) As a substitute for any annual report or renewal filing
701 required by chapters 495, 605, 607, ~~608~~, 609, 617, 620, 621, and
702 865.

703 Section 28. Effective upon this act becoming a law and
704 operating retroactively to January 1, 2015, paragraph (c) of
705 subsection (2) of section 607.1108, Florida Statutes, is amended
706 to read:

707 607.1108 Merger of domestic corporation and other business
708 entity.—

709 (2) Pursuant to a plan of merger complying and approved in
710 accordance with this section, one or more domestic corporations
711 may merge with or into one or more other business entities
712 formed, organized, or incorporated under the laws of this state
713 or any other state, the United States, foreign country, or other
714 foreign jurisdiction, if:

715 (c) Each domestic limited liability company that is a party
716 to the merger complies with the applicable provisions of chapter
717 605 ~~608~~.

718 Section 29. Effective upon this act becoming a law and
719 operating retroactively to January 1, 2015, paragraph (d) of
720 subsection (1) of section 607.1109, Florida Statutes, is amended
721 to read:

722 607.1109 Articles of merger.—

723 (1) After a plan of merger is approved by each domestic
724 corporation and other business entity that is a party to the
725 merger, the surviving entity shall deliver to the Department of

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726 State for filing articles of merger, which shall be executed by
727 each domestic corporation as required by s. 607.0120 and by each
728 other business entity as required by applicable law, and which
729 shall set forth:

730 (d) A statement that the plan of merger was approved by
731 each domestic limited liability company that is a party to the
732 merger in accordance with the applicable provisions of chapter
733 605 ~~608~~.

734 Section 30. Effective upon this act becoming a law and
735 operating retroactively to January 1, 2015, subsection (7) of
736 section 607.11101, Florida Statutes, is amended to read:

737 607.11101 Effect of merger of domestic corporation and
738 other business entity.—When a merger becomes effective:

739 (7) The shares, partnership interests, interests,
740 obligations, or other securities, and the rights to acquire
741 shares, partnership interests, interests, obligations, or other
742 securities, of each domestic corporation and other business
743 entity that is a party to the merger shall be converted into
744 shares, partnership interests, interests, obligations, or other
745 securities, or rights to such securities, of the surviving
746 entity or any other domestic corporation or other business
747 entity or, in whole or in part, into cash or other property as
748 provided in the plan of merger, and the former holders of
749 shares, partnership interests, interests, obligations, or other
750 securities, or rights to such securities, shall be entitled only
751 to the rights provided in the plan of merger and to their
752 appraisal rights, if any, under s. 605.1006, ss. 605.1061-
753 605.1072, ss. 607.1301-607.1333, ~~ss. 608.4351-608.4359~~, ss.
754 620.2114-620.2124, or other applicable law.

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755 Section 31. Effective upon this act becoming a law and
756 operating retroactively to January 1, 2015, paragraph (b) of
757 subsection (2) of section 621.12, Florida Statutes, is amended
758 to read:

759 621.12 Identification with individual shareholders or
760 individual members.—

761 (2) The name shall also contain:

762 (b)1. In the case of a professional corporation, the words
763 "professional association" or the abbreviation "P.A."; or

764 2. In the case of a professional limited liability company
765 formed before January 1, 2014, the words "professional limited
766 company" or "professional limited liability company," the
767 abbreviation "P.L." or "P.L.L.C." or the designation "PL" or
768 "PLLC," in lieu of the words "limited company" or "limited
769 liability company," or the abbreviation "L.C." or "L.L.C." or
770 the designation "LC" or "LLC" as otherwise required under s.
771 605.0112 or former s. 608.406.

772 3. In the case of a professional limited liability company
773 formed on or after January 1, 2014, the words "professional
774 limited liability company," the abbreviation "P.L.L.C." or the
775 designation "PLLC," in lieu of the words "limited liability
776 company," or the abbreviation "L.L.C." or the designation "LLC"
777 as otherwise required under s. 605.0112.

778 Section 32. Effective upon this act becoming a law and
779 operating retroactively to January 1, 2015, subsection (1) of
780 section 636.204, Florida Statutes, is amended to read:

781 636.204 License required.—

782 (1) Before doing business in this state as a discount
783 medical plan organization, an entity must be a corporation, a

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784 limited liability company, or a limited partnership,
785 incorporated, organized, formed, or registered under the laws of
786 this state or authorized to transact business in this state in
787 accordance with chapter 605, part I of chapter 607, ~~chapter 608~~,
788 chapter 617, chapter 620, or chapter 865, and must be licensed
789 by the office as a discount medical plan organization or be
790 licensed by the office pursuant to chapter 624, part I of this
791 chapter, or chapter 641.

792 Section 33. Effective upon this act becoming a law and
793 operating retroactively to January 1, 2015, subsection (1) of
794 section 655.0201, Florida Statutes, is amended to read:

795 655.0201 Service of process, notice, or demand on financial
796 institutions.—

797 (1) Process against any financial institution authorized by
798 federal or state law to transact business in this state may be
799 served in accordance with chapter 48, chapter 49, chapter 605,
800 or part I of chapter 607, ~~or chapter 608~~, as appropriate.

801 Section 34. Effective upon this act becoming a law and
802 operating retroactively to January 1, 2015, paragraph (c) of
803 subsection (11) of section 658.2953, Florida Statutes, is
804 amended to read:

805 658.2953 Interstate branching.—

806 (11) DE NOVO INTERSTATE BRANCHING BY STATE BANKS.—

807 (c) An out-of-state bank may establish and maintain a de
808 novo branch or acquire a branch in this state upon compliance
809 with chapter 605 or part I of chapter 607 ~~or chapter 608~~
810 relating to doing business in this state as a foreign business
811 entity, including maintaining a registered agent for service of
812 process and other legal notice pursuant to s. 655.0201.

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813 Section 35. Effective upon this act becoming a law and
814 operating retroactively to January 1, 2015, section 694.16,
815 Florida Statutes, is amended to read:

816 694.16 Conveyances by merger or conversion of business
817 entities.—As to any merger or conversion of business entities
818 prior to June 15, 2000, the title to all real estate, or any
819 interest therein, owned by a business entity that was a party to
820 a merger or a conversion is vested in the surviving entity
821 without reversion or impairment, notwithstanding the requirement
822 of a deed which was previously required by s. 607.11101, former
823 s. 608.4383, former s. 620.204, former s. 620.8904, or former s.
824 620.8906.

825 Section 36. Section 31. Effective upon this act becoming a
826 law and operating retroactively to January 1, 2015, paragraph
827 (f) of subsection (2) of section 1002.395, Florida Statutes, is
828 amended to read:

829 1002.395 Florida Tax Credit Scholarship Program.—

830 (2) DEFINITIONS.—As used in this section, the term:

831 (f) "Eligible nonprofit scholarship-funding organization"
832 means a state university; or an independent college or
833 university that is eligible to participate in the William L.
834 Boyd, IV, Florida Resident Access Grant Program, located and
835 chartered in this state, is not for profit, and is accredited by
836 the Commission on Colleges of the Southern Association of
837 Colleges and Schools; or is a charitable organization that:

838 1. Is exempt from federal income tax pursuant to s.
839 501(c)(3) of the Internal Revenue Code;

840 2. Is a Florida entity formed under chapter 605, chapter
841 607, ~~chapter 608~~, or chapter 617 and whose principal office is

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842 located in the state; and

843 3. Complies with subsections (6) and (16).

844 Section 37. Except as otherwise expressly provided in this
845 act and except for this section, which shall take effect upon
846 this act becoming a law, this act shall take effect July 1,
847 2015.