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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 other
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. 605.0602, F.S.; revising
32 the events that cause a person to be dissociated as a
33 member; amending s. 605.0715, F.S.; revising which
34 materials and information a specified limited
35 liability company must submit to the Department of
36 State as part of an application for reinstatement
37 after administrative dissolution; amending s.
38 605.0909, F.S.; revising which materials and
39 information a specified limited liability company must
40 submit to the Department of State as part of an
41 application for reinstatement after revocation of
42 certificate of authority; amending s. 605.1072, F.S.;
43 deleting a provision providing an exception to the
44 limitation of remedies for appraisal events under
45 specified circumstances; amending s. 605.1108, F.S.;
46 deleting a provision requiring that, for a limited
47 liability company formed before a specified date,
48 certain language in the company's articles of
49 organization operates as if it were in the operating
50 agreement; repealing chapter 608, F.S., relating to
51 the Florida Limited Liability Company Act; amending
52 ss. 15.16, 48.062, 213.758, 220.02, 220.03, 220.13,
53 310.181, 440.02, 605.0401, 605.04074, 605.04091,
54 606.06, 607.1108, 607.1109, 607.11101, 621.12,
55 636.204, 655.0201, 658.2953, 694.16, and 1002.395,
56 F.S.; conforming provisions to the repeal of the
57 Florida Limited Liability Company Act; providing
58 retroactive applicability; amending ss. 605.0102,

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59 605.0712, 605.0717, and 605.0805, F.S.; revising a
60 definition; conforming cross-references; providing
61 effective dates.
62

63 Be It Enacted by the Legislature of the State of Florida:
64

65 Section 1. Paragraph (b) of subsection (4) of section
66 605.0103, Florida Statutes, is amended to read:

67 605.0103 Knowledge; notice.—

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

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

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

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

74 3. Participation in a merger, interest exchange,
75 conversion, or domestication, 90 days after the articles of
76 merger, articles of interest exchange, articles of conversion,
77 or articles of domestication under s. 605.1025, s. 605.1035, s.
78 605.1045, or s. 605.1055, respectively, become effective;

79 4. Declaration in its articles of organization that it is
80 manager-managed in accordance with s. 605.0201(3)(a); however,
81 if such a declaration has been added or changed by an amendment
82 or amendment and restatement of the articles of organization,
83 notice of the addition or change may not become effective until
84 90 days after the effective date of such amendment or amendment
85 and restatement; and

86 5. Grant of authority to or limitation imposed on the
87 authority of a person holding a position or having a specified

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88 status in a company, or grant of authority to or limitation
89 imposed on the authority of a specific person, if the grant of
90 authority or limitation imposed on the authority is described in
91 the articles of organization in accordance with s.

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

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

108 605.0105 Operating agreement; scope, function, and
109 limitations.-

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

111 ~~(i) Vary the power of a person to dissociate under s.~~
112 ~~605.0601, except to require that the notice under s. 605.0602(1)~~
113 ~~be in a record.~~

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

116 1. Conduct involving bad faith, willful or intentional

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117 misconduct, or a knowing violation of law.

118 2. A transaction from which the member or manager derived
119 an improper personal benefit.

120 3. A circumstance under which the liability provisions of
121 s. 605.0406 are applicable.

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

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

130 (c) If not manifestly unreasonable, the operating agreement
131 may:

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

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

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

138 4. Alter or eliminate any other fiduciary duty.

139 Section 3. Section 605.0111, Florida Statutes, is amended
140 to read:

141 605.0111 Rules of construction and supplemental principles
142 of law.—

143 (1) It is the intent of this chapter to give the maximum
144 effect to the principle of freedom of contract and to the
145 enforceability of operating agreements, including the purposes

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146 of ss. 605.0105-605.0107.

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

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

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

162 605.04073 Voting rights of members and managers.—

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

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

177 605.04091 Standards of conduct for members and managers.—

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

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

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

184 2. From the use by the member or manager of the company's
185 property; or

186 3. From the appropriation of a company opportunity;

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

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

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

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

203 605.0410 Records to be kept; rights of member, manager, and

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204 person dissociated to information.—

205 (2) In a member-managed limited liability company, the
206 following rules apply:

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

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

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

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

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

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

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

232 1. The information that the company will provide in

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233 response to the demand and when and where the company will
234 provide such information.

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

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

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

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

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

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

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

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

255 Section 7. Subsection (6) of section 605.0602, Florida
256 Statutes, is amended to read:

257 605.0602 Events causing dissociation.—A person is
258 dissociated as a member if any of the following occur:

259 (6) On application by the company or a member in a direct
260 action under s. 605.0801, the person is expelled as a member by
261 judicial order because the person:

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262 (a) Has engaged or is engaging in wrongful conduct that has
263 affected adversely and materially, or will affect adversely and
264 materially, the company's activities and affairs;

265 (b) Has committed willfully or persistently, or is
266 committing willfully or ~~and~~ persistently, a material breach of
267 the operating agreement or a duty or obligation under s.
268 605.04091; or

269 (c) Has engaged or is engaging in conduct relating to the
270 company's activities and affairs which makes it not reasonably
271 practicable to carry on the activities and affairs with the
272 person as a member.

273 Section 8. Section 605.0715, Florida Statutes, is amended
274 to read:

275 605.0715 Reinstatement.—

276 (1) A limited liability company that is administratively
277 dissolved under s. 605.0714 or former s. 608.4481 may apply to
278 the department for reinstatement at any time after the effective
279 date of dissolution. The company must submit ~~a form of~~
280 ~~application for reinstatement prescribed and furnished by the~~
281 ~~department and provide all of the information required by the~~
282 ~~department, together with~~ all fees and penalties then owed by
283 the company at the rates provided by law at the time the company
284 applies for reinstatement together with an application for
285 reinstatement prescribed and furnished by the department, which
286 is signed by both the registered agent and an authorized
287 representative of the company and states:

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

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

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

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

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

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

298 (2) In lieu of the requirement to file an application for
299 reinstatement as described in subsection (1), an
300 administratively dissolved limited liability company may submit
301 all fees and penalties owed by the company at the rates provided
302 by law at the time the company applies for reinstatement,
303 together with a current annual report, signed by both the
304 registered agent and an authorized representative of the
305 company, which contains the information described in subsection
306 (1).

307 (3)~~(2)~~ If the department determines that an application for
308 reinstatement contains the information required under subsection
309 (1) or subsection (2) and that the information is correct, upon
310 payment of all required fees and penalties, the department shall
311 reinstate the limited liability company.

312 (4)~~(3)~~ When reinstatement under this section becomes
313 effective:

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

316 (b) The limited liability company may resume its activities
317 and affairs as if the administrative dissolution had not
318 occurred.

319 (c) The rights of a person arising out of an act or

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320 omission in reliance on the dissolution before the person knew
321 or had notice of the reinstatement are not affected.

322 (5)~~(4)~~ The name of the dissolved limited liability company
323 is not available for assumption or use by another business
324 entity until 1 year after the effective date of dissolution
325 unless the dissolved limited liability company provides the
326 department with a record executed as required pursuant to s.
327 605.0203 permitting the immediate assumption or use of the name
328 by another limited liability company.

329 Section 9. Section 605.0909, Florida Statutes, is amended
330 to read:

331 605.0909 Reinstatement following revocation of certificate
332 of authority.—

333 (1) A foreign limited liability company whose certificate
334 of authority has been revoked may apply to the department for
335 reinstatement at any time after the effective date of the
336 revocation. The foreign limited liability company applying for
337 reinstatement must submit ~~provide information in a form~~
338 ~~prescribed and furnished by the department and pay~~ all fees and
339 penalties then owed by the foreign limited liability company at
340 rates provided by law at the time the foreign limited liability
341 company applies for reinstatement together with an application
342 for reinstatement prescribed and furnished by the department,
343 which is signed by both the registered agent and an authorized
344 representative of the company and states:

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

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

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

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

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

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

358 (2) In lieu of the requirement to file an application for
359 reinstatement as described in subsection (1), a foreign limited
360 liability company whose certificate of authority has been
361 revoked may submit all fees and penalties owed by the company at
362 the rates provided by law at the time the company applies for
363 reinstatement, together with a current annual report, signed by
364 both the registered agent and an authorized representative of
365 the company, which contains the information described in
366 subsection (1).

367 (3)~~(2)~~ If the department determines that an application for
368 reinstatement contains the information required under subsection
369 (1) or subsection (2) and that the information is correct, upon
370 payment of all required fees and penalties, the department shall
371 reinstate the foreign limited liability company's certificate of
372 authority.

373 (4)~~(3)~~ When a reinstatement becomes effective, it relates
374 back to and takes effect as of the effective date of the
375 revocation of authority and the foreign limited liability
376 company may resume its activities in this state as if the
377 revocation of authority had not occurred.

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378 (5)~~(4)~~ The name of the foreign limited liability company
379 whose certificate of authority has been revoked is not available
380 for assumption or use by another business entity until 1 year
381 after the effective date of revocation of authority unless the
382 limited liability company provides the department with a record
383 executed pursuant to s. 605.0203 which authorizes the immediate
384 assumption or use of its name by another limited liability
385 company.

386 (6)~~(5)~~ If the name of the foreign limited liability company
387 applying for reinstatement has been lawfully assumed in this
388 state by another business entity, the department shall require
389 the foreign limited liability company to comply with s. 605.0906
390 before accepting its application for reinstatement.

391 Section 10. Subsection (2) of section 605.1072, Florida
392 Statutes, is amended to read:

393 605.1072 Other remedies limited.—

394 (2) Subsection (1) does not apply to an appraisal event
395 that:

396 (a) Was not authorized and approved in accordance with the
397 applicable provisions of this chapter, the organic rules of the
398 limited liability company, or the resolutions of the members
399 authorizing the appraisal event; or

400 (b) Was procured as a result of fraud, a material
401 misrepresentation, or an omission of a material fact that is
402 necessary to make statements made, in light of the circumstances
403 in which they were made, not misleading. ~~;~~ ~~or~~

404 ~~(c) Is an interested transaction, unless it has been~~
405 ~~approved in the same manner as is provided in s. 605.04092 or is~~
406 ~~fair to the limited liability company as defined in s.~~

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407 ~~605.04092(1)(c).~~

408 Section 11. Subsection (3) of section 605.1108, Florida
409 Statutes, is amended to read:

410 605.1108 Application to limited liability company formed
411 under the Florida Limited Liability Company Act.—

412 (3) For the purpose of applying this chapter to a limited
413 liability company formed before January 1, 2014, under the
414 Florida Limited Liability Company Act, former ss. 608.401-
415 608.705, ~~÷~~

416 ~~(a) the company's articles of organization are deemed to be~~
417 ~~the company's articles of organization under this chapter; and~~

418 ~~(b) For the purpose of applying s. 605.0102(39), the~~
419 ~~language in the company's articles of organization designating~~
420 ~~the company's management structure operates as if that language~~
421 ~~were in the operating agreement.~~

422 Section 12. Effective upon this act becoming a law, chapter
423 608, Florida Statutes, consisting of sections 608.401, 608.402,
424 608.403, 608.404, 608.405, 608.406, 608.407, 608.408, 608.4081,
425 608.4082, 608.409, 608.4101, 608.411, 608.4115, 608.415,
426 608.416, 608.4211, 608.422, 608.4225, 608.4226, 608.4227,
427 608.4228, 608.4229, 608.423, 608.4231, 608.4232, 608.4235,
428 608.4236, 608.4237, 608.4238, 608.425, 608.426, 608.4261,
429 608.427, 608.428, 608.431, 608.432, 608.433, 608.434, 608.4351,
430 608.4352, 608.4353, 608.4354, 608.4355, 608.4356, 608.4357,
431 608.43575, 608.4358, 608.43585, 608.4359, 608.43595, 608.438,
432 608.4381, 608.4382, 608.4383, 608.439, 608.4401, 608.4402,
433 608.4403, 608.4404, 608.441, 608.4411, 608.4421, 608.4431,
434 608.444, 608.445, 608.446, 608.447, 608.448, 608.4481, 608.4482,
435 608.4483, 608.449, 608.4491, 608.4492, 608.4493, 608.4511,

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436 608.452, 608.455, 608.461, 608.462, 608.463, 608.471, 608.501,
437 608.502, 608.503, 608.504, 608.505, 608.506, 608.507, 608.508,
438 608.509, 608.5101, 608.511, 608.512, 608.513, 608.5135, 608.514,
439 608.601, 608.701, 608.702, 608.703, 608.704, and 608.705, is
440 repealed.

441 Section 13. Effective upon this act becoming a law and
442 operating retroactively to January 1, 2015, subsection (3) of
443 section 15.16, Florida Statutes, is amended to read:

444 15.16 Reproduction of records; admissibility in evidence;
445 electronic receipt and transmission of records; certification;
446 acknowledgment.—

447 (3) The Department of State may cause to be received
448 electronically any records that are required to be filed with it
449 pursuant to chapter 55, chapter 117, chapter 118, chapter 495,
450 chapter 605, chapter 606, chapter 607, ~~chapter 608~~, chapter 610,
451 chapter 617, chapter 620, chapter 621, chapter 679, chapter 713,
452 or chapter 865, through facsimile or other electronic transfers,
453 for the purpose of filing such records. The originals of all
454 such electronically transmitted records must be executed in the
455 manner provided in paragraph (5) (b). The receipt of such
456 electronic transfer constitutes delivery to the department as
457 required by law. The department may use electronic transmissions
458 for purposes of notice in the administration of chapters 55,
459 117, 118, 495, 605, 606, 607, ~~608~~, 610, 617, 620, 621, 679, and
460 713 and s. 865.09. The Department of State may collect e-mail
461 addresses for purposes of notice and communication in the
462 performance of its duties and may require filers and registrants
463 to furnish such e-mail addresses when presenting documents for
464 filing.

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465 Section 14. Effective upon this act becoming a law and
466 operating retroactively to January 1, 2015, subsections (1) and
467 (2) of section 48.062, Florida Statutes, are amended to read:

468 48.062 Service on a limited liability company.—

469 (1) Process against a limited liability company, domestic
470 or foreign, may be served on the registered agent designated by
471 the limited liability company under chapter 605 ~~or chapter 608~~.
472 A person attempting to serve process pursuant to this subsection
473 may serve the process on any employee of the registered agent
474 during the first attempt at service even if the registered agent
475 is a natural person and is temporarily absent from his or her
476 office.

477 (2) If service cannot be made on a registered agent of the
478 limited liability company because of failure to comply with
479 chapter 605 ~~or chapter 608~~ or because the limited liability
480 company does not have a registered agent, or if its registered
481 agent cannot with reasonable diligence be served, process
482 against the limited liability company, domestic or foreign, may
483 be served:

484 (a) On a member of a member-managed limited liability
485 company;

486 (b) On a manager of a manager-managed limited liability
487 company; or

488 (c) If a member or manager is not available during regular
489 business hours to accept service on behalf of the limited
490 liability company, he, she, or it may designate an employee of
491 the limited liability company to accept such service. After one
492 attempt to serve a member, manager, or designated employee has
493 been made, process may be served on the person in charge of the

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494 limited liability company during regular business hours.

495 Section 15. Effective upon this act becoming a law and
496 operating retroactively to January 1, 2015, paragraph (c) of
497 subsection (1) of section 213.758, Florida Statutes, is amended
498 to read:

499 213.758 Transfer of tax liabilities.—

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

501 (c) "Insider" means:

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

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

507 Section 16. Effective upon this act becoming a law and
508 operating retroactively to January 1, 2015, subsection (1) of
509 section 220.02, Florida Statutes, is amended to read:

510 220.02 Legislative intent.—

511 (1) It is the intent of the Legislature in enacting this
512 code to impose a tax upon all corporations, organizations,
513 associations, and other artificial entities which derive from
514 this state or from any other jurisdiction permanent and inherent
515 attributes not inherent in or available to natural persons, such
516 as perpetual life, transferable ownership represented by shares
517 or certificates, and limited liability for all owners. It is
518 intended that any limited liability company that is classified
519 as a partnership for federal income tax purposes and is defined
520 in and organized pursuant to ~~formed under~~ chapter 605 ~~608~~ or
521 qualified to do business in this state as a foreign limited
522 liability company not be subject to the tax imposed by this

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523 code. It is the intent of the Legislature to subject such
524 corporations and other entities to taxation hereunder for the
525 privilege of conducting business, deriving income, or existing
526 within this state. This code is not intended to tax, and shall
527 not be construed so as to tax, any natural person who engages in
528 a trade, business, or profession in this state under his or her
529 own or any fictitious name, whether individually as a
530 proprietorship or in partnership with others, or as a member or
531 a manager of a limited liability company classified as a
532 partnership for federal income tax purposes; any estate of a
533 decedent or incompetent; or any testamentary trust. However, a
534 corporation or other taxable entity which is or which becomes
535 partners with one or more natural persons shall not, merely by
536 reason of being a partner, exclude from its net income subject
537 to tax its respective share of partnership net income. This
538 statement of intent shall be given preeminent consideration in
539 any construction or interpretation of this code in order to
540 avoid any conflict between this code and the mandate in s. 5,
541 Art. VII of the State Constitution that no income tax be levied
542 upon natural persons who are residents and citizens of this
543 state.

544 Section 17. Effective upon this act becoming a law and
545 operating retroactively to January 1, 2015, paragraph (e) of
546 subsection (1) of section 220.03, Florida Statutes, is amended
547 to read:

548 220.03 Definitions.—

549 (1) SPECIFIC TERMS.—When used in this code, and when not
550 otherwise distinctly expressed or manifestly incompatible with
551 the intent thereof, the following terms shall have the following

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552 meanings:

553 (e) "Corporation" includes all domestic corporations;
554 foreign corporations qualified to do business in this state or
555 actually doing business in this state; joint-stock companies;
556 limited liability companies, under chapter 605 ~~608~~; common-law
557 declarations of trust, under chapter 609; corporations not for
558 profit, under chapter 617; agricultural cooperative marketing
559 associations, under chapter 618; professional service
560 corporations, under chapter 621; foreign unincorporated
561 associations, under chapter 622; private school corporations,
562 under chapter 623; foreign corporations not for profit which are
563 carrying on their activities in this state; and all other
564 organizations, associations, legal entities, and artificial
565 persons which are created by or pursuant to the statutes of this
566 state, the United States, or any other state, territory,
567 possession, or jurisdiction. The term "corporation" does not
568 include proprietorships, even if using a fictitious name;
569 partnerships of any type, as such; limited liability companies
570 that are taxable as partnerships for federal income tax
571 purposes; state or public fairs or expositions, under chapter
572 616; estates of decedents or incompetents; testamentary trusts;
573 or private trusts.

574 Section 18. Effective upon this act becoming a law and
575 operating retroactively to January 1, 2015, paragraph (j) of
576 subsection (2) of section 220.13, Florida Statutes, is amended
577 to read:

578 220.13 "Adjusted federal income" defined.—

579 (2) For purposes of this section, a taxpayer's taxable
580 income for the taxable year means taxable income as defined in

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581 s. 63 of the Internal Revenue Code and properly reportable for
582 federal income tax purposes for the taxable year, but subject to
583 the limitations set forth in paragraph (1)(b) with respect to
584 the deductions provided by ss. 172 (relating to net operating
585 losses), 170(d)(2) (relating to excess charitable
586 contributions), 404(a)(1)(D) (relating to excess pension trust
587 contributions), 404(a)(3)(A) and (B) (to the extent relating to
588 excess stock bonus and profit-sharing trust contributions), and
589 1212 (relating to capital losses) of the Internal Revenue Code,
590 except that, subject to the same limitations, the term:

591 (j) "Taxable income," in the case of a limited liability
592 company, other than a limited liability company classified as a
593 partnership for federal income tax purposes, as defined in and
594 organized pursuant to chapter 605 ~~608~~ or qualified to do
595 business in this state as a foreign limited liability company or
596 other than a similar limited liability company classified as a
597 partnership for federal income tax purposes and created as an
598 artificial entity pursuant to the statutes of the United States
599 or any other state, territory, possession, or jurisdiction, if
600 such limited liability company or similar entity is taxable as a
601 corporation for federal income tax purposes, means taxable
602 income determined as if such limited liability company were
603 required to file or had filed a federal corporate income tax
604 return under the Internal Revenue Code;

605 Section 19. Effective upon this act becoming a law and
606 operating retroactively to January 1, 2015, section 310.181,
607 Florida Statutes, is amended to read:

608 310.181 Corporate powers.—All the rights, powers, and
609 liabilities conferred or imposed by the laws of Florida relating

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610 to corporations for profit organized under part I of chapter 607
611 or under former chapter 608 before January 1, 1976, or to
612 corporations organized under chapter 621 apply to corporations
613 organized pursuant to s. 310.171.

614 Section 20. Effective upon this act becoming a law and
615 operating retroactively to January 1, 2015, subsection (9) of
616 section 440.02, Florida Statutes, is amended to read:

617 440.02 Definitions.—When used in this chapter, unless the
618 context clearly requires otherwise, the following terms shall
619 have the following meanings:

620 (9) "Corporate officer" or "officer of a corporation" means
621 any person who fills an office provided for in the corporate
622 charter or articles of incorporation filed with the Division of
623 Corporations of the Department of State or as authorized or
624 required under part I of chapter 607. The term "officer of a
625 corporation" includes a member owning at least 10 percent of a
626 limited liability company as defined in and organized pursuant
627 to ~~created and approved under~~ chapter 605 ~~608~~.

628 Section 21. Subsection (37) of section 605.0102, Florida
629 Statutes, is amended to read:

630 605.0102 Definitions.—As used in this chapter, the term:

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

636 (a) In the case of a limited liability company with only
637 one class or series of members, the holders of more than 50
638 percent of the then-current percentage or other interest in the

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639 profits of the company owned by all of its members who have the
640 right to approve the a merger, interest exchange, or conversion,
641 as applicable, under the organic law or the organic rules of the
642 company; and

643 (b) In the case of a limited liability company having more
644 than one class or series of members, the holders in each class
645 or series of more than 50 percent of the then-current percentage
646 or other interest in the profits of the company owned by all of
647 the members of that class or series who have the right to
648 approve the a merger, interest exchange, or conversion, as
649 applicable, under the organic law or the organic rules of the
650 company, unless the company's organic rules provide for the
651 approval of the transaction in a different manner.

652 Section 22. Effective upon this act becoming a law and
653 operating retroactively to January 1, 2015, subsection (3) of
654 section 605.0401, Florida Statutes, is amended to read:

655 605.0401 Becoming a member.—

656 (3) After formation of a limited liability company, a
657 person becomes a member:

658 (a) As provided in the operating agreement;

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

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

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

664 Section 23. Effective upon this act becoming a law and
665 operating retroactively to January 1, 2015, paragraph (a) of
666 subsection (1) of section 605.04074, Florida Statutes, is
667 amended to read:

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668 605.04074 Agency rights of members and managers.—

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

671 (a) Except as provided in subsection (3), each member is an
672 agent of the limited liability company for the purpose of its
673 activities and affairs, and— an act of a member, including
674 signing an agreement or instrument of transfer in the name of
675 the company for apparently carrying on in the ordinary course of
676 the company's activities and affairs or activities and affairs
677 of the kind carried on by the company, binds the company unless
678 the member had no authority to act for the company in the
679 particular matter and the person with whom the member was
680 dealing knew or had notice that the member lacked authority.

681 Section 24. Effective upon this act becoming a law and
682 operating retroactively to January 1, 2015, paragraph (b) of
683 subsection (2) of section 605.04091, Florida Statutes, is
684 amended to read:

685 605.04091 Standards of conduct for members and managers.—

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

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

692 Section 25. Subsection (3) of section 605.0712, Florida
693 Statutes, is amended to read:

694 605.0712 Other claims against a dissolved limited liability
695 company.—

696 (3) A claim that is not barred by this section, ~~s.~~

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697 ~~608.0711~~, or another statute limiting actions, may be enforced:

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

700 (b) Except as otherwise provided in s. 605.0713, if assets
701 of the limited liability company have been distributed after
702 dissolution, against a member or transferee to the extent of
703 that person's proportionate share of the claim or of the
704 company's assets distributed to the member or transferee after
705 dissolution, whichever is less, but a person's total liability
706 for all claims under this subsection may not exceed the total
707 amount of assets distributed to the person after dissolution.

708 Section 26. Subsection (2) of section 605.0717, Florida
709 Statutes, is amended to read:

710 605.0717 Effect of dissolution.—

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

716 Section 27. Subsection (2) of section 605.0805, Florida
717 Statutes, is amended to read:

718 605.0805 Proceeds and expenses.—

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

723 Section 28. Effective upon this act becoming a law and
724 operating retroactively to January 1, 2015 subsection (2) of
725 section 606.06, Florida Statutes, is amended to read:

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726 606.06 Uniform business report.—The department may use the
727 uniform business report:

728 (2) As a substitute for any annual report or renewal filing
729 required by chapters 495, 605, 607, ~~608~~, 609, 617, 620, 621, and
730 865.

731 Section 29. Effective upon this act becoming a law and
732 operating retroactively to January 1, 2015, paragraph (c) of
733 subsection (2) of section 607.1108, Florida Statutes, is amended
734 to read:

735 607.1108 Merger of domestic corporation and other business
736 entity.—

737 (2) Pursuant to a plan of merger complying and approved in
738 accordance with this section, one or more domestic corporations
739 may merge with or into one or more other business entities
740 formed, organized, or incorporated under the laws of this state
741 or any other state, the United States, foreign country, or other
742 foreign jurisdiction, if:

743 (c) Each domestic limited liability company that is a party
744 to the merger complies with the applicable provisions of chapter
745 605 ~~608~~.

746 Section 30. Effective upon this act becoming a law and
747 operating retroactively to January 1, 2015, paragraph (d) of
748 subsection (1) of section 607.1109, Florida Statutes, is amended
749 to read:

750 607.1109 Articles of merger.—

751 (1) After a plan of merger is approved by each domestic
752 corporation and other business entity that is a party to the
753 merger, the surviving entity shall deliver to the Department of
754 State for filing articles of merger, which shall be executed by

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755 each domestic corporation as required by s. 607.0120 and by each
756 other business entity as required by applicable law, and which
757 shall set forth:

758 (d) A statement that the plan of merger was approved by
759 each domestic limited liability company that is a party to the
760 merger in accordance with the applicable provisions of chapter
761 605 ~~608~~.

762 Section 31. Effective upon this act becoming a law and
763 operating retroactively to January 1, 2015, subsection (7) of
764 section 607.11101, Florida Statutes, is amended to read:

765 607.11101 Effect of merger of domestic corporation and
766 other business entity.—When a merger becomes effective:

767 (7) The shares, partnership interests, interests,
768 obligations, or other securities, and the rights to acquire
769 shares, partnership interests, interests, obligations, or other
770 securities, of each domestic corporation and other business
771 entity that is a party to the merger shall be converted into
772 shares, partnership interests, interests, obligations, or other
773 securities, or rights to such securities, of the surviving
774 entity or any other domestic corporation or other business
775 entity or, in whole or in part, into cash or other property as
776 provided in the plan of merger, and the former holders of
777 shares, partnership interests, interests, obligations, or other
778 securities, or rights to such securities, shall be entitled only
779 to the rights provided in the plan of merger and to their
780 appraisal rights, if any, under s. 605.1006, ss. 605.1061-
781 605.1072, ss. 607.1301-607.1333, ~~ss. 608.4351-608.43595~~, ss.
782 620.2114-620.2124, or other applicable law.

783 Section 32. Effective upon this act becoming a law and

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784 operating retroactively to January 1, 2015, paragraph (b) of
785 subsection (2) of section 621.12, Florida Statutes, is amended
786 to read:

787 621.12 Identification with individual shareholders or
788 individual members.—

789 (2) The name shall also contain:

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

792 2. In the case of a professional limited liability company
793 formed before January 1, 2014, the words "professional limited
794 company" or "professional limited liability company," the
795 abbreviation "P.L." or "P.L.L.C." or the designation "PL" or
796 "PLLC," in lieu of the words "limited company" or "limited
797 liability company," or the abbreviation "L.C." or "L.L.C." or
798 the designation "LC" or "LLC" as otherwise required under s.
799 605.0112 or former s. 608.406.

800 3. In the case of a professional limited liability company
801 formed on or after January 1, 2014, the words "professional
802 limited liability company," the abbreviation "P.L.L.C." or the
803 designation "PLLC," in lieu of the words "limited liability
804 company," or the abbreviation "L.L.C." or the designation "LLC"
805 as otherwise required under s. 605.0112.

806 Section 33. Effective upon this act becoming a law and
807 operating retroactively to January 1, 2015, subsection (1) of
808 section 636.204, Florida Statutes, is amended to read:

809 636.204 License required.—

810 (1) Before doing business in this state as a discount
811 medical plan organization, an entity must be a corporation, a
812 limited liability company, or a limited partnership,

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813 incorporated, organized, formed, or registered under the laws of
814 this state or authorized to transact business in this state in
815 accordance with chapter 605, part I of chapter 607, ~~chapter 608~~,
816 chapter 617, chapter 620, or chapter 865, and must be licensed
817 by the office as a discount medical plan organization or be
818 licensed by the office pursuant to chapter 624, part I of this
819 chapter, or chapter 641.

820 Section 34. Effective upon this act becoming a law and
821 operating retroactively to January 1, 2015, subsection (1) of
822 section 655.0201, Florida Statutes, is amended to read:

823 655.0201 Service of process, notice, or demand on financial
824 institutions.—

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

829 Section 35. Effective upon this act becoming a law and
830 operating retroactively to January 1, 2015, paragraph (c) of
831 subsection (11) of section 658.2953, Florida Statutes, is
832 amended to read:

833 658.2953 Interstate branching.—

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

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

841 Section 36. Effective upon this act becoming a law and

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842 operating retroactively to January 1, 2015, section 694.16,
843 Florida Statutes, is amended to read:

844 694.16 Conveyances by merger or conversion of business
845 entities.—As to any merger or conversion of business entities
846 prior to June 15, 2000, the title to all real estate, or any
847 interest therein, owned by a business entity that was a party to
848 a merger or a conversion is vested in the surviving entity
849 without reversion or impairment, notwithstanding the requirement
850 of a deed which was previously required by s. 607.11101, former
851 s. 608.4383, former s. 620.204, former s. 620.8904, or former s.
852 620.8906.

853 Section 37. Effective upon this act becoming a law and
854 operating retroactively to January 1, 2015, paragraph (f) of
855 subsection (2) of section 1002.395, Florida Statutes, is amended
856 to read:

857 1002.395 Florida Tax Credit Scholarship Program.—

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

859 (f) "Eligible nonprofit scholarship-funding organization"
860 means a state university; or an independent college or
861 university that is eligible to participate in the William L.
862 Boyd, IV, Florida Resident Access Grant Program, located and
863 chartered in this state, is not for profit, and is accredited by
864 the Commission on Colleges of the Southern Association of
865 Colleges and Schools; or is a charitable organization that:

866 1. Is exempt from federal income tax pursuant to s.
867 501(c)(3) of the Internal Revenue Code;

868 2. Is a Florida entity formed under chapter 605, chapter
869 607, ~~chapter 608~~, or chapter 617 and whose principal office is
870 located in the state; and

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

872 Section 38. Except as otherwise expressly provided in this
873 act and except for this section, which shall take effect upon
874 this act becoming a law, this act shall take effect July 1,
875 2015.