

## HOUSE BILL No. 2398

By Committee on Federal and State Affairs

3-8

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1 AN ACT concerning limited liability companies; concerning the Kansas  
2 revised limited liability company act; amending K.S.A. 17-7662, 17-  
3 7664, 17-7666, 17-7668, 17-7670, 17-7671, 17-7672, 17-7673, 17-  
4 7674, 17-7676, 17-7677, 17-7679, 17-7680, 17-7683, 17-7686, 17-  
5 7687, 17-7688, 17-7689, 17-7690, 17-7691, 17-7693, 17-7695, 17-  
6 7697, 17-7698, 17-76,100, 17-76,103, 17-76,104, 17-76,105, 17-  
7 76,106, 17-76,107, 17-76,110, 17-76,112, 17-76,113, 17-76,114, 17-  
8 76,115, 17-76,116, 17-76,117, 17-76,118, 17-76,119, 17-76,121, 17-  
9 76,121a, 17-76,122, 17-76,123, 17-76,124, 17-76,125, 17-76,126, 17-  
10 76,127, 17-76,128, 17-76,130, 17-76,131, 17-76,133, 17-76,134, 17-  
11 76,136, 17-76,137, 17-76,139 and 17-76,140; K.S.A. 2011 Supp. 84-9-  
12 406, as amended by section 8 of chapter 84 of the 2012 Session Laws  
13 of Kansas, and 84-9-408, as amended by section 9 of chapter 84 of the  
14 2012 Session Laws of Kansas, and K.S.A. 2012 Supp. 17-7663, 17-  
15 7675, 17-7678, 17-7681, 17-7682 and 17-76,143 and repealing the  
16 existing sections.  
17

*Be it enacted by the Legislature of the State of Kansas:*

19 Section 1. K.S.A. 17-7662 is hereby amended to read as follows: 17-  
20 7662. ~~This act~~ K.S.A. 17-7662 through 17-76,143, and amendments  
21 thereto, and sections 63 through 65, and amendments thereto, shall be  
22 known and may be cited as the Kansas revised limited liability company  
23 act.

24 Sec. 2. K.S.A. 2012 Supp. 17-7663 is hereby amended to read as  
25 follows: 17-7663. As used in this act unless the context otherwise requires:

26 (a) "Articles of organization" means the articles of organization  
27 referred to in K.S.A. 17-7673, and amendments thereto, and the articles of  
28 organization as amended.

29 (b) "Bankruptcy" means an event that causes a person to cease to be a  
30 member as provided in K.S.A. 17-7689, and amendments thereto.

31 (c) "Contribution" means any cash, property, services rendered or a  
32 promissory note or other obligation to contribute cash or property or to  
33 perform services, which a person contributes to a limited liability company  
34 in such person's capacity as a member.

35 (d) "Foreign limited liability company" means a limited liability  
36 company formed under the laws of any state or under the laws of any

1 foreign country or other foreign jurisdiction and denominated as such  
2 under the laws of such state or foreign country or other foreign  
3 jurisdiction.

4 (e) "Knowledge" means a person's actual knowledge of a fact, rather  
5 than the person's constructive knowledge of the fact.

6 (f) "Limited liability company" and "domestic limited liability  
7 company" means a limited liability company formed under the laws of the  
8 state of Kansas and having one or more members.

9 (g) *"Limited liability company interest" means a member's share of*  
10 *the profits and losses of a limited liability company and a member's right*  
11 *to receive distributions of the limited liability company's assets.*

12 (h) *"Liquidating trustee" means a person carrying out the winding up*  
13 *of a limited liability company.*

14 (i) *"Manager" means a person who is named as a manager of a*  
15 *limited liability company in, or designated as a manager of a limited*  
16 *liability company pursuant to, an operating agreement or similar*  
17 *instrument under which the limited liability company is formed.*

18 (j) *"Member" means a person who is admitted to a limited liability*  
19 *company as a member as provided in K.S.A. 17-7686, and amendments*  
20 *thereto, or, in the case of a foreign limited liability company, in*  
21 *accordance with the laws of the state or foreign country or other foreign*  
22 *jurisdiction under which the foreign limited liability company is formed.*

23 ~~(g)~~ (k) *"Operating agreement" means any agreement, written or*  
24 *whether referred to as an operating agreement, limited liability company*  
25 *agreement or otherwise, written, oral, or implied, of the member or*  
26 *members as to the affairs of a limited liability company and the conduct of*  
27 *its business. A member or manager of a limited liability company or an*  
28 *assignee of a limited liability company interest is bound by the operating*  
29 *agreement whether or not the member or manager or assignee executes*  
30 *the operating agreement. A limited liability company is not required to*  
31 *execute its operating agreement. A limited liability company is bound by*  
32 *its operating agreement whether or not the limited liability company*  
33 *executes the operating agreement. An operating agreement of a limited*  
34 *liability company having only one member shall not be unenforceable by*  
35 *reason of there being only one person who is a party to the operating*  
36 *agreement. An operating agreement is not subject to any statute of frauds,*  
37 *including K.S.A. 33-106, and amendments thereto. An operating*  
38 *agreement may provide rights to any person, including a person who is*  
39 *not a party to the operating agreement, to the extent set forth therein. A*  
40 *written operating agreement or another written agreement or writing:*

41 (1) *May provide that a person shall be admitted as a member of a*  
42 *limited liability company, or shall become an assignee of a limited liability*  
43 *company interest or other rights or powers of a member to the extent*

1 assigned, and shall become bound by the operating agreement:

2 (A) If such person, or a representative authorized by such person  
3 orally, in writing or by other action such as payment for a limited liability  
4 company interest, executes the operating agreement or any other writing  
5 evidencing the intent of such person to become a member or assignee; or

6 (B) without such execution, if such person, or a representative  
7 authorized by such person orally, in writing or by other action such as  
8 payment for a limited liability company interest, complies with the  
9 conditions for becoming a member or assignee as set forth in the operating  
10 agreement or any other writing and requests, orally, in writing or by other  
11 action such as payment for a limited liability company interest, that the  
12 records of the limited liability company reflect such admission or  
13 assignment; and

14 (2) shall not be unenforceable by reason of its not having been signed  
15 by a person being admitted as a member or becoming an assignee as  
16 provided in subparagraph (a) of this paragraph subsection (k)(1) , or by  
17 reason of its having been signed by a representative as provided in this act.

18 (h) ~~"Limited liability company interest" means a member's share of~~  
19 ~~the profits and losses of a limited liability company and a member's right~~  
20 ~~to receive distributions of the limited liability company's assets.~~

21 (i) ~~"Liquidating trustee" means a person carrying out the winding up~~  
22 ~~of a limited liability company.~~

23 (j) ~~"Majority in interest" means the affirmative vote or consent of the~~  
24 ~~members who own more than 50% of the then current percentage or other~~  
25 ~~interest in the profits of the limited liability company owned by all~~  
26 ~~members entitled to vote thereon or the members in each class or group~~  
27 ~~entitled to vote thereon as appropriate.~~

28 (k) ~~"Manager" means a person who is named as a manager of a~~  
29 ~~limited liability company in, or designated as a manager of, a limited~~  
30 ~~liability company pursuant to an operating agreement or similar instrument~~  
31 ~~under which the limited liability company is formed.~~

32 (l) ~~"Member" means a person who has been admitted to a limited~~  
33 ~~liability company as a member as provided in K.S.A. 17-7686, and~~  
34 ~~amendments thereto, or, in the case of a foreign limited liability company,~~  
35 ~~in accordance with the laws of the state or foreign country or other foreign~~  
36 ~~jurisdiction under which the foreign limited liability company is organized.~~

37 (m) (l) ~~"Person" means a natural person, partnership, whether general~~  
38 ~~or limited and whether domestic or foreign, limited liability company,~~  
39 ~~foreign limited liability company, trust, including a common law trust,~~  
40 ~~business trust, statutory trust, voting trust or any other form of trust,~~  
41 ~~estate, association, including any group, organization, co-tenancy, plan,~~  
42 ~~board, council or committee, corporation, government, including a~~  
43 ~~country, state, county or any other governmental subdivision, agency or~~

1 *instrumentality*, custodian, nominee or any other individual or entity, or  
 2 series thereof, in its own or any representative capacity, *in each case*,  
 3 *whether domestic or foreign*.

4 ~~(m)~~ (m) "Personal representative" means, as to a natural person, the  
 5 executor, administrator, guardian, conservator or other legal representative  
 6 thereof and, as to a person other than a natural person, the legal  
 7 representative or successor thereof.

8 ~~(n)~~ (n) "State" means the District of Columbia or the commonwealth  
 9 of Puerto Rico or any state, territory, possession or other jurisdiction of the  
 10 United States other than the state of Kansas.

11 Sec. 3. K.S.A. 17-7664 is hereby amended to read as follows: 17-  
 12 7664. The name of each limited liability company as set forth in its articles  
 13 of organization:

14 (a) Shall contain the words "limited liability company" or "limited  
 15 company", or the abbreviation "~~LLC,~~" "~~LC~~" "*L.L.C.*," "*L.C.*" or the  
 16 designation "LLC" or "LC";

17 (b) may contain the name of a member or manager;

18 (c) must be such as to distinguish it upon the records with the  
 19 secretary of state from the name *on such records* of any corporation,  
 20 *partnership*, limited partnership, business trust, ~~registered limited liability~~  
 21 ~~partnership~~ or limited liability company reserved, registered, formed or  
 22 organized under the laws of the state of Kansas or qualified to do business  
 23 or registered as a foreign corporation, foreign limited partnership, *foreign*  
 24 *business trust*, *foreign partnership* or foreign limited liability company in  
 25 the state of Kansas; ~~provided however, except~~ that a limited liability  
 26 company may register under any name which is not such as to distinguish  
 27 it upon the records with the secretary of state from the name *on such*  
 28 *records* of any domestic or foreign corporation, *partnership*, limited  
 29 partnership, business trust, ~~registered limited liability partnership~~ or  
 30 limited liability company reserved, registered, formed ~~or~~, organized *or*  
 31 *qualified to do business* under the laws of the state of Kansas with the  
 32 written consent of the other *domestic or foreign* corporation, *partnership*,  
 33 limited partnership, business trust, ~~registered limited liability partnership~~  
 34 or limited liability company, which written consent shall be filed with the  
 35 secretary of state; and

36 (d) may contain the following words: "company," "association,"  
 37 "club," "foundation," "fund," "institute," "society," "union," "syndicate,"  
 38 "limited" or "trust" (or abbreviations of like import).

39 Sec. 4. K.S.A. 17-7666 is hereby amended to read as follows: 17-  
 40 7666. (a) Each limited liability company shall have and maintain in the  
 41 state of Kansas:

42 (1) A registered office, which may but need not be a place of its  
 43 business in the state of Kansas; and

1 (2) a resident agent for service of process on the limited liability  
2 company, which agent may be either an individual resident of the state of  
3 Kansas whose business office is identical with the limited liability  
4 company's registered office, or a domestic corporation, or a domestic  
5 limited partnership, or a domestic limited liability company, or a domestic  
6 business trust or a foreign corporation, or a foreign limited partnership, or  
7 a foreign limited liability company, or foreign business trust authorized to  
8 do business in the state of Kansas having a business office identical with  
9 such registered office, which is generally open during normal business  
10 hours to accept service of process and otherwise perform the functions of a  
11 resident agent, or the limited liability company itself.

12 (b) A resident agent may change the address of the registered office  
13 of the limited liability company or companies for which such resident  
14 agent is resident agent to another address in the state of Kansas by paying  
15 a fee as set forth in K.S.A. 17-76,136, and amendments thereto, and filing  
16 with the secretary of state a certificate, executed by such resident agent,  
17 setting forth the names of all the limited liability companies represented by  
18 such resident agent, and the address at which such resident agent has  
19 maintained the registered office for each of such limited liability  
20 companies, and further certifying to the new address to which each such  
21 registered office will be changed on a given day, and at which new address  
22 such resident agent will thereafter maintain the registered office for each  
23 of the limited liability companies recited in the certificate. Upon the filing  
24 of such certificate, the secretary of state shall furnish to the resident agent  
25 a certified copy of the same under the secretary's hand and seal of office,  
26 and thereafter, or until further change of address, as authorized by law, the  
27 registered office in the state of Kansas of each of the limited liability  
28 companies recited in the certificate shall be located at the new address of  
29 the resident agent thereof as given in the certificate. In the event of a  
30 change of name of any person acting as a resident agent of a limited  
31 liability company, such resident agent shall file with the secretary of state a  
32 certificate, executed by such resident agent, setting forth the new name of  
33 such resident agent, the name of such resident agent before it was changed,  
34 the names of all the limited liability companies represented by such  
35 resident agent, and the address at which such resident agent has  
36 maintained the registered office for each of such limited liability  
37 companies, and shall pay a fee as set forth in K.S.A. 17-76,136, and  
38 amendments thereto. Upon the filing of such certificate, the secretary of  
39 state shall furnish to the resident agent a certified copy of the certificate  
40 under hand and seal of office. Filing a certificate under this section shall be  
41 deemed to be an amendment of the articles of organization of each limited  
42 liability company affected thereby and each such limited liability company  
43 shall not be required to take any further action with respect thereto, to

1 amend its articles of organization under K.S.A. ~~17-76,136~~ 17-7674, and  
2 amendments thereto. Any resident agent filing a certificate under this  
3 section shall promptly, upon such filing, deliver a copy of any such  
4 certificate to each limited liability company affected thereby.

5 (c) The resident agent of one or more limited liability companies may  
6 resign and appoint a successor resident agent by paying a fee as set forth in  
7 K.S.A. 17-76,136, and amendments thereto, and filing a certificate with  
8 the secretary of state, stating that the resident agent resigns and the name  
9 and address of the successor resident agent. There shall be attached to such  
10 certificate a statement executed by each affected limited liability company  
11 ratifying and approving such change of resident agent. Upon such filing,  
12 the successor resident agent shall become the resident agent of such  
13 limited liability companies as have ratified and approved such substitution  
14 and the successor resident agent's address, as stated in such certificate,  
15 shall become the address of each such limited liability company's  
16 registered office in the state of Kansas. The secretary of state shall furnish  
17 to the successor resident agent a certified copy of the certificate of  
18 resignation. Filing of such certificate of resignation shall be deemed to be  
19 an amendment of the articles of organization of each limited liability  
20 company affected thereby and each such limited liability company shall  
21 not be required to take any further action with respect thereto, to amend its  
22 articles of organization under K.S.A. ~~17-76,136~~ 17-7674, and amendments  
23 thereto.

24 (d) The resident agent of a limited liability company may resign  
25 without appointing a successor resident agent by paying a fee as set forth  
26 in K.S.A. 17-76,136, and amendments thereto, and filing a certificate with  
27 the secretary of state stating that the resident agent resigns as resident  
28 agent for the limited liability company identified in the certificate, but  
29 such resignation shall not become effective until 60 days after the  
30 certificate is filed. There shall be attached to said certificate an affidavit of  
31 such resident agent, if an individual, or the president, a vice-president or  
32 the secretary thereof if a corporation, that at least 30 days prior to and on  
33 or about the date of the filing of such certificate, notices were sent by  
34 certified or registered mail to the limited liability company for which such  
35 resident agent is resigning as resident agent, at the principal office thereof  
36 within or outside the state of Kansas, if known to such resident agent or, if  
37 not, to the last known address of the attorney or other individual at whose  
38 request such resident agent was appointed for such limited liability  
39 company, of the resignation of such resident agent. After receipt of the  
40 notice of the resignation of its resident agent, the limited liability company  
41 for which such resident agent was acting shall obtain and designate a new  
42 resident agent, to take the place of the resident agent so resigning. If such  
43 limited liability company fails to obtain and designate a new resident agent

1 as aforesaid prior to the expiration of the period of 60 days after the filing  
2 by the resident agent of the certificate of resignation, the articles of  
3 organization of such limited liability company shall be deemed to be  
4 canceled. After the resignation of the resident agent shall have become  
5 effective as provided in this section and if no new resident agent shall have  
6 been obtained and designated in the time and manner aforesaid, service of  
7 legal process against the limited liability company for which the resigned  
8 resident agent had been acting shall thereafter be upon the secretary of  
9 state in accordance with K.S.A. ~~17-76,136~~ 60-304, and amendments  
10 thereto.

11 (e) If a domestic limited liability company's resident agent dies or  
12 moves from the registered office, the limited liability company shall  
13 designate and certify to the secretary of state the name of another resident  
14 agent within 30 days of the death or move. If no new resident agent is  
15 designated, the service of legal process on the limited liability company  
16 may be made as prescribed in K.S.A. 60-304, and amendments thereto. If  
17 any domestic limited liability company fails to designate a new resident  
18 agent as required by this subsection, the secretary of state, after giving 30  
19 days' notice of the intended action, may declare the articles of organization  
20 canceled.

21 Sec. 5. K.S.A. 17-7668 is hereby amended to read as follows: 17-  
22 7668. (a) Unless otherwise specifically prohibited by law, a limited  
23 liability company may carry on any lawful business, purpose or activity,  
24 whether or not for profit with the exception of the business of granting  
25 policies of insurance, or assuming insurance risks or banking as defined in  
26 K.S.A. 9-702, and amendments thereto.

27 (b) A limited liability company shall possess and may exercise all the  
28 powers and privileges granted by this act or by any other law or by its  
29 operating agreement, together with any powers incidental thereto, ~~so far as~~  
30 *including* such powers and privileges *as* are necessary or convenient to the  
31 conduct, promotion or attainment of the business, purposes or activities of  
32 the limited liability company.

33 (c) A limited liability company organized and existing under the  
34 Kansas *revised* limited liability company act or otherwise qualified to do  
35 business in Kansas may have and exercise all powers which may be  
36 exercised by a Kansas professional association or professional corporation  
37 under the professional corporation law of Kansas, including employment  
38 of professionals to practice a profession, which shall be limited to the  
39 practice of one profession, except as provided in K.S.A. 17-2710, and  
40 amendments thereto.

41 (d) Only a qualified person may be a member of a limited liability  
42 company organized to exercise powers of a professional association or  
43 professional corporation. No membership may be transferred to another

1 person until there is presented to such limited liability company a  
2 certificate by the licensing body, as defined in K.S.A. 74-146, and  
3 amendments thereto, stating that the person to whom the transfer is made  
4 or the membership issued is duly licensed to render the same type of  
5 professional services as that for which the limited liability company was  
6 organized.

7 (e) As used in the section, "qualified person" means:

8 (1) Any natural person licensed to practice the same type of  
9 profession which any professional *association or professional* corporation  
10 is authorized to practice;

11 (2) the trustee of a trust which is a qualified trust under subsection (a)  
12 of section 401 of the federal internal revenue code of 1986, as in effect, on  
13 July 1, 1999, or of a contribution plan which is a qualified employee stock  
14 ownership plan under subsection (a) of section 409A of the federal internal  
15 revenue code of 1986, as in effect, on July 1, 1999;

16 (3) the trustee of a revocable living trust established by a natural  
17 person who is licensed to practice the type of profession which any  
18 professional *association or professional* corporation is authorized to  
19 practice, if the terms of such trust provide that such natural person is the  
20 principal beneficiary and sole trustee of such trust and such trust does not  
21 continue to hold title to membership in the limited liability company  
22 following such natural person's death for more than a reasonable period of  
23 time necessary to dispose of such membership; ~~or~~

24 (4) a Kansas professional corporation or foreign professional  
25 corporation in which at least one member or shareholder is authorized by a  
26 licensing body, as defined in K.S.A. 74-146, and amendments thereto, to  
27 render in this state a professional service permitted by the articles of  
28 organization; or

29 (5) a general partnership or limited liability company, if all partners  
30 or members thereof are authorized to render the professional services  
31 permitted by the articles of organization of the ~~issuing~~ limited liability  
32 company formed pursuant to this section and in which at least one partner  
33 or member is authorized by a licensing authority of this state to render in  
34 this state the professional services permitted by the articles of organization  
35 of the limited liability company.

36 (f) Nothing in this act shall restrict or limit in any manner the  
37 authority and duty of any licensing body, as defined in K.S.A. 74-146, and  
38 amendments thereto, for the licensing of individual persons rendering a  
39 professional service or the practice of the profession which is within the  
40 jurisdiction of the licensing body, notwithstanding that the person is an  
41 officer, manager, member or employee of a limited liability company  
42 organized to exercise powers of a professional association or *professional*  
43 corporation. Each licensing body may adopt rules and regulations



1 governing the practice of each profession as are necessary to enforce and  
2 comply with this act and the law applicable to each profession.

3 (g) A licensing body, as defined in K.S.A. 74-146, and amendments  
4 thereto, the attorney general or district or county attorney may bring an  
5 action in the name of the state of Kansas in quo warranto or injunction  
6 against a limited liability company engaging in the practice of a profession  
7 ~~with~~ *without* complying with the provisions of this act.

8 ~~(h) A limited liability company organized to exercise powers of a~~  
9 ~~professional association or professional corporation under the Kansas~~  
10 ~~limited liability company act prior to July 1, 1999, shall file with the~~  
11 ~~secretary of state at the time of making an annual report for the calendar~~  
12 ~~year 1999 a certificate by the licensing body, as defined in K.S.A. 74-146,~~  
13 ~~and amendments thereto, of the profession involved that each of the~~  
14 ~~members is duly licensed to practice that profession, and that the proposed~~  
15 ~~company name has been approved.~~

16 *(h) Notwithstanding any provision of this act to the contrary, without*  
17 *limiting the general powers enumerated in subsection (b), a limited*  
18 *liability company shall, subject to such standards and restrictions, if any,*  
19 *as are set forth in its operating agreement, have the power and authority*  
20 *to make contracts of guaranty and suretyship and enter into interest rate,*  
21 *basis, currency, hedge or other swap agreements or cap, floor, put, call,*  
22 *option, exchange or collar agreements, derivative agreements, or other*  
23 *agreements similar to any of the foregoing.*

24 *(i) Unless otherwise provided in an operating agreement, a limited*  
25 *liability company has the power and authority to grant, hold or exercise a*  
26 *power of attorney, including an irrevocable power of attorney.*

27 Sec. 6. K.S.A. 17-7670 is hereby amended to read as follows: 17-  
28 7670. (a) Subject to such standards and restrictions, if any, as are set forth  
29 in its operating agreement, a limited liability company may, and shall have  
30 the power to, indemnify and hold harmless any member or manager or  
31 other person from and against any and all claims and demands whatsoever.

32 (b) To the extent that a *present or former* member, manager, officer,  
33 employee or agent of a limited liability company has been successful on  
34 the merits or otherwise ~~or the defenses of any action, suits or proceeding,~~  
35 ~~or in defense of any issue or matter therein, such director, officer,~~  
36 ~~employee or agent in defense of any threatened, pending or completed~~  
37 *action, suit or proceeding, whether civil, criminal, administrative or*  
38 *investigative, by reason of the fact that such person is or was a member,*  
39 *manager, officer, employee or agent of the limited liability company, or is*  
40 *or was serving at the request of the limited liability company as a member,*  
41 *manager, director, officer, employee or agent of another limited liability*  
42 *company, corporation, partnership, joint venture, trust or other enterprise,*  
43 *or in defense of any claim, issue or matter therein, such member, manager,*

1 *officer, employee or agent* shall be indemnified by the limited liability  
2 *company* against expenses actually and reasonably incurred by such person  
3 in connection therewith, including attorney fees.

4 Sec. 7. K.S.A. 17-7671 is hereby amended to read as follows: 17-  
5 7671. (a) Upon application of any member or manager, *as defined in*  
6 *subsection (c)*, the district court may hear and determine the validity of any  
7 admission, election, appointment, removal or resignation of a manager of a  
8 limited liability company, and the right of any person to become or  
9 continue to be a manager of a limited liability company, and, in case the  
10 right to serve as a manager is claimed by more than one person, may  
11 determine the person or persons entitled to serve as managers; and to that  
12 end make such order or decree in any such case as may be just and proper,  
13 with power to enforce the production of any books, papers and records of  
14 the limited liability company relating to the issue. In any such application,  
15 the limited liability company shall be named as a party, and service of  
16 copies of the application upon the resident agent of the limited liability  
17 company shall be deemed to be service upon the limited liability company  
18 and upon the person or persons whose right to serve as a manager is  
19 contested and upon the person or persons, if any, claiming to be a manager  
20 or claiming the right to be a manager; and the resident agent shall forward  
21 immediately a copy of the application to the limited liability company and  
22 to the person or persons whose right to serve as a manager is contested and  
23 to the person or persons, if any, claiming to be a manager or the right to be  
24 a manager, in a postpaid, sealed, registered letter addressed to such limited  
25 liability company and such person or persons at their post-office addresses  
26 last known to the resident agent or furnished to the resident agent by the  
27 applicant member or manager. The court may make such order respecting  
28 further or other notice of such application as it deems proper under these  
29 circumstances.

30 (b) Upon application of any member or manager, the district court  
31 may hear and determine the result of any vote of members or managers  
32 upon matters as to which the members or managers of the limited liability  
33 company, or any class or group of members or managers, have the right to  
34 vote pursuant to the operating agreement or other agreement or this act~~(,~~  
35 ~~other than the admission, election, appointment, removal or resignation of~~  
36 ~~managers)~~. In any such application, the limited liability company shall be  
37 named as a party, and service of the application upon the resident agent of  
38 the limited liability company shall be deemed to be service upon the  
39 limited liability company, and no other party need be joined in order for  
40 the court to adjudicate the result of the vote. The court may make such  
41 order respecting further or other notice of such application as it deems  
42 proper under these circumstances.

43 (c) *As used in this section, the term "manager" refers to a person:*

1       (1) *Who is a manager as defined in subsection (i) of K.S.A. 17-7663,*  
2 *and amendments thereto; and*

3       (2) *whether or not a member of a limited liability company, who,*  
4 *although not a manager as defined in subsection (i) of K.S.A. 17-7663,*  
5 *and amendments thereto, participates materially in the management of the*  
6 *limited liability company, except that the power to elect or otherwise select*  
7 *or to participate in the election or selection of a person to be a manager*  
8 *as defined in subsection (i) of K.S.A. 17-7663, and amendments thereto,*  
9 *shall not, by itself, constitute participation in the management of the*  
10 *limited liability company.*

11       (⊕) (d) Nothing herein contained limits or affects the right to serve  
12 process in any other manner now or hereafter provided by law. This  
13 section is an extension of and not a limitation upon the right otherwise  
14 existing of service of legal process upon nonresidents.

15       Sec. 8. K.S.A. 17-7672 is hereby amended to read as follows: 17-  
16 7672. (a) Any action to interpret, apply or enforce the provisions of an  
17 operating agreement, or the duties, obligations or liabilities of a limited  
18 liability company to the members or managers of the limited liability  
19 company, or the duties, obligations or liabilities among members or  
20 managers and of members or managers to the limited liability company, or  
21 the rights or powers of, or restrictions on, the limited liability company,  
22 members or managers, or any provision of this act, or any other  
23 instrument, document, agreement, articles of organization or certificate  
24 contemplated by any provision of this act, may be brought in the district  
25 court.

26       (b) *As used in this section, the term "manager" refers to a person:*

27       (1) *Who is a manager as defined in subsection (i) of K.S.A. 17-7663,*  
28 *and amendments thereto; and*

29       (2) *whether or not a member of a limited liability company, who,*  
30 *although not a manager as defined in subsection (i) of K.S.A. 17-7663,*  
31 *and amendments thereto, participates materially in the management of the*  
32 *limited liability company, except that the power to elect or otherwise select*  
33 *or to participate in the election or selection of a person to be a manager*  
34 *as defined in subsection (i) of K.S.A. 17-7663, and amendments thereto,*  
35 *shall not, by itself, constitute participation in the management of the*  
36 *limited liability company.*

37       Sec. 9. K.S.A. 17-7673 is hereby amended to read as follows: 17-  
38 7673. (a) In order to form a limited liability company, *one or more*  
39 *authorized persons must execute* articles of organization. *The articles of*  
40 *organization shall be filed with the secretary of state and set forth:*

41       (1) The name of the limited liability company;

42       (2) the address of the registered office and the name and address of  
43 the resident agent for service of process required to be maintained by

1 K.S.A. 17-7666, and amendments thereto;

2 (3) any other matters the members determine to include therein; ~~and~~

3 (4) if the limited liability company is organized to exercise the  
4 powers of a professional association or *professional* corporation, each such  
5 profession shall be stated-; *and*

6 (5) *if the limited liability company will have series, the matters*  
7 *required by K.S.A. 17-76,143, and amendments thereto.*

8 (b) A limited liability company is formed at the time of the filing of  
9 the initial articles of organization with the secretary of state or at any later  
10 date or time specified in the articles of organization which is not later than  
11 90 days after the date of filing, if, in either case, there has been substantial  
12 compliance with the requirements of this section. A limited liability  
13 company formed under this act shall be a separate legal entity, the  
14 existence of which as a separate legal entity shall continue until  
15 cancellation of the limited liability company's articles of organization.

16 (c) An operating agreement ~~may~~ *shall* be entered into *or otherwise*  
17 *existing* either before, after or at the time of the filing of the articles of  
18 organization and, whether entered into *or otherwise existing* before, after  
19 or at the time of such filing, may be made effective as of the ~~formation of~~  
20 ~~the limited liability company~~ *effective time of such filing* or at such other  
21 time or date as provided in *or reflected by* the operating agreement.

22 Sec. 10. K.S.A. 17-7674 is hereby amended to read as follows: 17-  
23 7674. (a) Articles of organization are amended by filing a certificate of  
24 amendment thereto with the secretary of state. The certificate of  
25 amendment shall set forth:

26 (1) The name of the limited liability company; and

27 (2) the amendment to the articles of organization.

28 (b) A manager or, if there is no manager, then any member who  
29 becomes aware that any statement in the articles of organization was false  
30 *in any material respect* when made, or that any matter described has  
31 changed making the articles of organization false in any material respect,  
32 shall promptly amend the articles of organization.

33 (c) Articles of organization may be amended at any time for any other  
34 proper purpose.

35 (d) Unless otherwise provided in this act or unless a later effective  
36 date or time-~~f~~, which shall be a date or time certain within 90 days of the  
37 date of filing), is provided for in the certificate of amendment, a certificate  
38 of amendment shall be effective at the time of its filing with the secretary  
39 of state.

40 Sec. 11. K.S.A. 2012 Supp. 17-7675 is hereby amended to read as  
41 follows: 17-7675. (a) Articles of organization shall be canceled upon the  
42 dissolution and the completion of winding up of a limited liability  
43 company, or as provided in subsection (d) *or (e)* of K.S.A. 17-7666, and

1 amendments thereto, or K.S.A. 17-76,139, and amendments thereto, or  
 2 upon the filing of a certificate of merger or consolidation if the limited  
 3 liability company is not the surviving or resulting entity in a merger or  
 4 consolidation *or upon the future effective date of a certificate of merger or*  
 5 *consolidation if the limited liability company is not the surviving or*  
 6 *resulting entity in a merger or consolidation.* A certificate of cancellation  
 7 shall be filed with the secretary of state to accomplish the cancellation of  
 8 articles of organization upon the dissolution and the completion of winding  
 9 up of a limited liability company. The certificate shall set forth:

10 ~~(a)~~ (1) The name of the limited liability company;  
 11 (2) *the date of filing of its articles of organization;*  
 12 ~~(b)~~ (3) the reason for filing the certificate of cancellation;  
 13 ~~(c)~~ (4) the future effective date or time, which shall be a date or time  
 14 certain not later than 90 days after the date of filing, of cancellation if it is  
 15 not to be effective upon the filing of the certificate; and  
 16 ~~(d)~~ (5) any other information the person filing the certificate of  
 17 cancellation determines.

18 (b) *A certificate of cancellation that is filed with the secretary of state*  
 19 *prior to the dissolution or the completion of winding up of a limited*  
 20 *liability company may be corrected as an erroneously executed certificate*  
 21 *of cancellation by filing with the secretary of state a certificate of*  
 22 *correction of such certificate of cancellation in accordance with K.S.A.*  
 23 *17-7683, and amendments thereto.*

24 (c) *The secretary of state shall not issue a certificate of good*  
 25 *standing with respect to a limited liability company if its articles of*  
 26 *organization are canceled.*

27 Sec. 12. K.S.A. 17-7676 is hereby amended to read as follows: 17-  
 28 7676. (a) ~~Each of~~ *The articles or any of organization and each* certificate  
 29 ~~required by this act~~ *K.S.A. 17-7673 through 17-7683, and amendments*  
 30 *thereto*, to be filed with the secretary of state shall be executed by one or  
 31 more authorized persons.

32 (b) Unless otherwise provided in an operating agreement, any person  
 33 may sign ~~the~~ *articles; of organization or any certificate, or any amendment*  
 34 *thereof, or enter into an operating agreement or amendment thereof by an*  
 35 *agent, including an attorney-in-fact. An authorization, including a power*  
 36 *of attorney, to sign any articles; of organization or any certificate, or any*  
 37 ~~amendments~~ *amendment thereof, or to enter into an operating agreement*  
 38 *or amendment thereof need not be in writing, need not be sworn to,*  
 39 *verified or acknowledged, and need not be filed with the secretary of state,*  
 40 *but if in writing, must be retained by the limited liability company.*

41 (c) *For all purposes of the laws of the state of Kansas, a power of*  
 42 *attorney with respect to matters relating to the organization, internal*  
 43 *affairs or termination of a limited liability company or granted by a*

1 *person as a member or assignee of a limited liability company interest or*  
2 *by a person seeking to become a member or an assignee of a limited*  
3 *liability company interest shall be irrevocable if it states that it is*  
4 *irrevocable and it is coupled with an interest sufficient in law to support*  
5 *an irrevocable power. Such irrevocable power of attorney, unless*  
6 *otherwise provided therein, shall not be affected by subsequent death,*  
7 *disability, incapacity, dissolution, termination of existence or bankruptcy*  
8 *of, or any other event concerning, the principal. A power of attorney with*  
9 *respect to matters relating to the organization, internal affairs or*  
10 *termination of a limited liability company or granted by a person as a*  
11 *member or an assignee of a limited liability company interest or by a*  
12 *person seeking to become a member or an assignee of a limited liability*  
13 *company interest and, in either case, granted to the limited liability*  
14 *company, a manager or member thereof, or any of their respective*  
15 *officers, directors, managers, members, partners, trustees, employees or*  
16 *agents shall be deemed coupled with an interest sufficient in law to*  
17 *support an irrevocable power.*

18 (d) The execution of articles of organization or a certificate by ~~an~~  
19 ~~authorized~~ a person who is authorized by this act to execute such articles  
20 of organization or certificate, upon filing such articles of organization or  
21 certificate with the secretary of state, constitutes an oath or affirmation,  
22 under the penalties of perjury that, to the best of ~~the~~ ~~authorized~~ such  
23 person's knowledge and belief, the facts stated therein are true.

24 Sec. 13. K.S.A. 17-7677 is hereby amended to read as follows: 17-  
25 7677. (a) If a person required to execute *articles of organization or a*  
26 *certificate required by ~~this act~~ K.S.A. 17-7673 through 17-7683, and*  
27 *amendments thereto*, fails or refuses to do so, any other person who is  
28 adversely affected by the failure or refusal may petition the district court to  
29 direct the execution of the *articles of organization or certificate*. If the  
30 court finds that the execution of the *articles of organization or certificate*  
31 is proper and that any person so designated has failed or refused to execute  
32 the *articles of organization or certificate*, it shall order the secretary of  
33 state to record ~~an~~ appropriate *articles of organization or a certificate*.

34 (b) If a person required to execute an operating agreement or  
35 amendment thereof fails or refuses to do so, any other person who is  
36 adversely affected by the failure or refusal may petition the district court to  
37 direct the execution of the operating agreement or amendment thereof. If  
38 the court finds that the operating agreement or amendment thereof should  
39 be executed and that any person required to execute the operating  
40 agreement or amendment thereof has failed or refused to do so, it shall  
41 enter an order granting appropriate relief.

42 Sec. 14. K.S.A. 2012 Supp. 17-7678 is hereby amended to read as  
43 follows: 17-7678. (a) The original signed copy of articles of organization

1 or any certificate to be filed pursuant to this act, shall be filed with the  
2 secretary of state, where the instrument shall be recorded in an electronic  
3 medium. A person who executes *articles of organization*, a certificate, ~~or a~~  
4 ~~statement or articles~~ as an agent or fiduciary shall not be required to  
5 exhibit evidence of the person's authority as a prerequisite to filing. Any  
6 signature on any articles *of organization* or certificate authorized to be  
7 filed with the secretary of state under any provision of this act may be a  
8 facsimile, a conformed signature or an electronically transmitted signature.  
9 Unless the secretary of state finds that any filing does not conform to law,  
10 upon receipt of all filing fees required by law, the secretary of state shall:

11 (1) Certify that such document has been filed in the secretary of  
12 state's office by endorsing upon the electronically-recorded document the  
13 word "filed" and the date and hour of the filing; in the absence of actual  
14 fraud, this endorsement is conclusive of the date and time of its filing;

15 (2) record the endorsed document in an electronic medium and that  
16 electronic document shall become the original document; and

17 (3) return a copy of the recorded document, to the person who filed it  
18 or such person's representative.

19 (b) The articles of organization shall be amended as provided in a  
20 certificate of amendment or judicial decree of amendment upon the filing  
21 of the certificate of amendment or judicial decree of amendment with the  
22 secretary of state or upon the future effective date specified in the  
23 certificate of amendment. An inaccuracy in the articles of organization  
24 may be corrected by filing a certificate of correction with the secretary of  
25 state as provided in K.S.A. 17-7683, and amendments thereto. The articles  
26 of organization are canceled upon the ~~issuance of filing with the secretary~~  
27 ~~of state of~~ a certificate of cancellation or certificate of merger or  
28 consolidation where the limited liability company is not the surviving or  
29 resulting entity ~~by the secretary of state or upon the future effective date of~~  
30 ~~the certificate of cancellation or certificate of merger or consolidation.~~

31 (c) The fee required by this act shall be paid at the time of the filing  
32 of any articles of organization or any certificate to be filed pursuant to this  
33 act.

34 (d) The fee required by this act shall be paid for a certified copy of  
35 any paper on file pursuant to this act and the fee fixed pursuant to this act  
36 shall be paid for each page copied.

37 (e) The secretary of state may prescribe a telefacsimile  
38 communication fee in addition to any filing fees to cover the cost of such  
39 services. This fee must be paid prior to acceptance of a telefacsimile  
40 communication and shall be deposited into the information and copy  
41 service fee fund.

42 (f) Upon filing the articles of organization of a limited liability  
43 company organized to exercise powers of a professional association or

1 professional corporation, the limited liability company shall file with the  
2 secretary of state a certificate by the licensing body, as defined in K.S.A.  
3 74-146, and amendments thereto, of the profession involved that each of  
4 the members is duly licensed to practice that profession, and that the  
5 proposed company name has been approved.

6 Sec. 15. K.S.A. 17-7679 is hereby amended to read as follows: 17-  
7 7679. The fact that articles of organization, or amendments thereto, ~~of a~~  
8 ~~limited liability company~~ are on file with the secretary of state is notice  
9 that the entity formed in connection with the filing of the articles of  
10 organization is a limited liability company formed under the laws of the  
11 state of Kansas and is notice ~~for all purposes with respect to all matters~~  
12 ~~required to be set forth therein~~ *of all other facts set forth therein which are*  
13 *required to be set forth in articles of organization by subsections (a)(1),*  
14 *(a)(2), (a)(4) and (a)(5) of K.S.A. 17-7673, and amendments thereto.*

15 Sec. 16. K.S.A. 17-7680 is hereby amended to read as follows: 17-  
16 7680. (a) A limited liability company *may*, whenever desired, ~~may~~  
17 integrate into a single instrument all of the provisions of its articles of  
18 organization which are then in effect and operative as a result of there  
19 having previously been filed with the secretary of state one or more  
20 certificates or other instruments pursuant to ~~this act~~ *K.S.A. 17-7673*  
21 *through 17-7683, and amendments thereto*, and it may at the same time  
22 also further amend its articles of organization by adopting restated articles  
23 of organization.

24 (b) ~~If the~~ restated articles of organization merely restate and integrate  
25 but do not further amend the initial articles of organization, as previously  
26 amended or supplemented by any certificate or instrument that was  
27 executed and filed pursuant to ~~this act~~ *K.S.A. 17-7673 through 17-7683,*  
28 *and amendments thereto*, they shall be specifically designated in their  
29 heading as "restated articles of organization" together with such other  
30 words as the *limited liability* company may deem appropriate and shall be  
31 executed *by an authorized person* and filed *as provided in K.S.A. 17-7678,*  
32 *and amendments thereto*, with the secretary of state. ~~If the~~ restated articles  
33 *of organization* restate and integrate and also further amend in any respect  
34 the articles of organization, as previously amended or supplemented, they  
35 shall be specifically designated in their heading as "amended and restated  
36 articles of organization" together with such other words as the *limited*  
37 *liability* company may deem appropriate and shall be executed *by at least*  
38 *one authorized person* and filed *as provided in K.S.A. 17-7678, and*  
39 *amendments thereto*, with the secretary of state.

40 (c) Restated articles of organization ~~shall be specifically designated~~  
41 ~~as such in the heading.~~ They shall state, either in their heading or in an  
42 introductory paragraph, the *limited liability* company's present name; if it  
43 has been changed, the name under which it was originally filed; the date of



1 filing of its original articles of organization with the secretary of state; and  
2 the future effective date, *which shall be a date certain*, of the restated  
3 articles of organization if they are not to be effective upon the filing of the  
4 restated articles of organization with the secretary of state (, such future  
5 effective date must be within 90 days of the date of filing such restated  
6 articles of organization with the secretary of state). Restated articles ~~also~~  
7 *of organization* shall *also* state that they were duly executed and *are being*  
8 filed in accordance with ~~the provisions of~~ this section. If ~~the~~ restated  
9 articles *of organization* only restate and integrate and do not further amend  
10 ~~the provisions of the a limited liability company's~~ articles of organization  
11 as previously amended or supplemented and there is no discrepancy  
12 between those provisions and ~~the provisions of the~~ restated articles *of*  
13 *organization*, they shall state that fact as well.

14 (d) Upon the filing of ~~the~~ restated articles of organization with the  
15 secretary of state, or upon the future effective date of restated articles of  
16 organization as provided for therein, the initial articles *of organization*, as  
17 previously amended or supplemented, shall be superseded. Thereafter the  
18 restated articles of organization, including any further amendment or  
19 changes ~~made by the restated articles thereby~~, shall be the articles of  
20 organization *of the limited liability company*, but the original effective date  
21 of formation shall remain unchanged.

22 (e) Any amendment or change ~~made effected~~ in connection with the  
23 restatement and integration of the articles of organization shall be subject  
24 to any other provision of this act, not inconsistent with this section, which  
25 would apply if a separate certificate of amendment were filed to ~~make the~~  
26 *effect such* amendment or change.

27 Sec. 17. K.S.A. 2012 Supp. 17-7681 is hereby amended to read as  
28 follows: 17-7681. (a) Pursuant to an agreement of merger or consolidation,  
29 ~~a one or more domestic limited liability company companies~~ may merge or  
30 consolidate with or into one or more limited liability companies formed  
31 under the laws of ~~this the~~ state *of Kansas* or any other state *or any foreign*  
32 *country or other foreign jurisdiction, or any combination thereof*, with  
33 such limited liability company as the agreement shall provide being the  
34 surviving or resulting limited liability company. Unless otherwise provided  
35 in the ~~limited liability company~~ operating agreement, ~~a~~ *an agreement of*  
36 merger or consolidation shall be approved by each domestic limited  
37 liability company which is to merge or consolidate by the members, or if  
38 there is more than one class or group of members, then by each class or  
39 group of members, in either case, by ~~the affirmative vote or consent of not~~  
40 ~~less than a majority in interest of the remaining members who own more~~  
41 *than 50% of the then current percentage or other interest in the profits of*  
42 *the domestic limited liability company owned by all of the members or by*  
43 *the members in each class or group, as appropriate*. In connection with a

1 merger or consolidation hereunder, rights or securities of, or interests in, a  
2 domestic limited liability company which is a constituent party to the  
3 merger or consolidation may be exchanged for or converted into cash,  
4 property, rights or securities of, or interests in, the surviving or resulting  
5 limited liability company or, in addition to or in lieu thereof, may be  
6 exchanged for or converted into cash, property, rights or securities of, or  
7 interests in, a limited liability company which is not the surviving or  
8 resulting limited liability company in the merger or consolidation *or may*  
9 *be canceled*. Notwithstanding prior approval, an agreement of merger or  
10 consolidation may be terminated or amended pursuant to a provision for  
11 such termination or amendment contained in the agreement of merger or  
12 consolidation.

13 (b) The limited liability company surviving or resulting in or from the  
14 merger or consolidation shall file a certificate of merger or consolidation  
15 *executed by one or more authorized persons on behalf of the domestic*  
16 *limited liability company when it is the surviving or resulting entity* with  
17 the secretary of state. The certificate of merger or consolidation shall state:

18 (1) The name and jurisdiction of formation or organization of each of  
19 the limited liability companies which is to merge or consolidate;

20 (2) that an agreement of merger or consolidation has been approved  
21 and executed by each of the limited liability companies which is to merge  
22 or consolidate;

23 (3) the name of the surviving or resulting limited liability company;

24 (4) *in the case of a merger in which a domestic limited liability*  
25 *company is the surviving entity, such amendments, if any, to the articles of*  
26 *organization of the surviving domestic limited liability company to change*  
27 *its name, registered office or resident agent as are desired to be effected by*  
28 *the merger;*

29 ~~(4)~~ (5) the future effective date or time, *which shall be a date certain*,  
30 of the merger or consolidation if it is not to be effective upon the filing of  
31 the certificate of merger or consolidation, which date shall, in no event,  
32 exceed 90 days after the date the certificate is filed ~~in~~ *with* the secretary of  
33 ~~state's office~~ *state*;

34 ~~(5)~~ (6) that the agreement of merger or consolidation is on file at a  
35 place of business of the surviving or resulting limited liability company,  
36 and shall state the address thereof;

37 ~~(6)~~ (7) that a copy of the agreement of merger or consolidation will  
38 be furnished by the surviving or resulting limited liability company, on  
39 request and without cost, to any member of any limited liability company  
40 which is to merge or consolidate; and

41 ~~(7)~~ (8) if the surviving or resulting ~~entity~~ *limited liability company* is  
42 not a domestic limited liability company, a statement that such surviving  
43 ~~entity~~ *or resulting limited liability company* agrees that it may be served

1 with process in the state of Kansas in any action, suit or proceeding for the  
2 enforcement of any obligation of any domestic limited liability company  
3 which is to merge or consolidate, irrevocably appointing the secretary of  
4 state as its agent to accept service of process in any such action, suit or  
5 proceeding and specifying the address to which a copy of such process  
6 shall be mailed to it by the secretary of state.

7 (c) Unless a future effective date or time is provided in a certificate of  
8 merger or consolidation, in which event a merger or consolidation shall be  
9 effective at any such future effective date or time, a merger or  
10 consolidation shall be effective upon the filing with the secretary of state  
11 of a certificate of merger or consolidation. ~~If a certificate of merger or  
12 consolidation provides for a future effective date or time and if an  
13 agreement of merger or consolidation is amended to change the future  
14 effective date or time, or to change any other matter described in the  
15 certificate of merger or consolidation so as to make the certificate of  
16 merger or consolidation false in any material respect, as permitted by  
17 subsection (b) of this section prior to the future effective date or time, the  
18 certificate of merger or consolidation shall be amended by the filing of a  
19 certificate of amendment of a certificate of merger or consolidation which  
20 shall identify the certificate of merger or consolidation and the agreement  
21 of merger or consolidation which has been amended and shall state that the  
22 agreement of merger or consolidation has been amended and shall set forth  
23 the amendment to the certificate of merger or consolidation. If a certificate  
24 of merger or consolidation provides for a future effective date or time and  
25 if an agreement of merger or consolidation is terminated as permitted by  
26 subsection (a) of this section prior to the future effective date or time, the  
27 certificate of merger or consolidation shall be terminated by the filing of a  
28 certificate of termination of a merger or consolidation which shall identify  
29 the certificate of merger or consolidation and the agreement of merger or  
30 consolidation which has been terminated and shall state that the agreement  
31 of merger or consolidation has been terminated.~~

32 (d) A certificate of merger or consolidation shall act as a certificate of  
33 cancellation for a domestic limited liability company which is not the  
34 surviving or resulting ~~entity~~ *limited liability company* in the merger or  
35 consolidation. *A certificate of merger that sets forth any amendment in  
36 accordance with subsection (b)(4) shall be deemed to be an amendment to  
37 the articles of organization of the limited liability company, and the  
38 limited liability company shall not be required to take any further action to  
39 amend its articles of organization under K.S.A. 17-7674, and amendments  
40 thereto, with respect to such amendments set forth in the certificate of  
41 merger. Whenever this section requires the filing of a certificate of merger  
42 or consolidation, such requirement shall be deemed satisfied by the filing  
43 of an agreement of merger or consolidation containing the information*

1 *required by this section to be set forth in the certificate of merger or*  
2 *consolidation.*

3 (e) An agreement of merger or consolidation approved in accordance  
4 with subsection (a) of this section may:

5 (1) Effect any amendment to the operating agreement; or

6 (2) effect the adoption of a new operating agreement, *for a limited*  
7 *liability company if it is the surviving or resulting limited liability*  
8 *company in the merger or consolidation.*

9 Any amendment to an operating agreement or adoption of a new  
10 operating agreement made pursuant to the foregoing ~~provision~~ *sentence*  
11 shall be effective at the effective time or date of the merger or  
12 consolidation *and shall be effective notwithstanding any provision of the*  
13 *operating agreement relating to amendment or adoption of a new*  
14 *operating agreement, other than a provision that by its terms applies to an*  
15 *amendment to the operating agreement or the adoption of a new operating*  
16 *agreement, in either case, in connection with a merger or consolidation.*  
17 The provisions of this subsection shall not be construed to limit the  
18 accomplishment of a merger or of any of the matters referred to herein by  
19 any other means provided for in an operating agreement or other  
20 agreement or as otherwise permitted by law, including that the operating  
21 agreement of any constituent limited liability company to the merger or  
22 consolidation ~~(including a limited liability company formed for the~~  
23 ~~purpose of consummating a merger or consolidation)~~, shall be the  
24 operating agreement of the surviving or resulting limited liability  
25 company.

26 (f) When any merger or consolidation shall have become effective  
27 under this section, for all purposes of the laws of the state of Kansas, all of  
28 the rights, privileges and powers of each of the limited liability companies  
29 that have merged or consolidated, and all property, real, personal and  
30 mixed, and all debts due to any of the limited liability companies, as well  
31 as all other things and causes of action belonging to each of such limited  
32 liability companies, shall be vested in the surviving or resulting limited  
33 liability company, and shall thereafter be the property of the surviving or  
34 resulting limited liability company as they were of each of the limited  
35 liability companies that have merged or consolidated, and the title to any  
36 real property vested by deed or otherwise, under the laws of the state of  
37 Kansas, in any of such limited liability companies, shall not revert or be in  
38 any way impaired by reason of this ~~section~~ *act*, but all rights of creditors  
39 and all liens upon any property of any of the limited liability companies  
40 shall be preserved unimpaired, and all debts, liabilities and duties of each  
41 of the limited liability companies that have merged or consolidated shall  
42 thenceforth attach to the surviving or resulting limited liability company,  
43 and may be enforced against it to the same extent as if the debts, liabilities

1 and duties had been incurred or contracted by it. Unless otherwise agreed,  
2 a merger or consolidation of a *domestic* limited liability company,  
3 including a *domestic* limited liability company which is not the surviving  
4 or resulting entity in the merger or consolidation, shall not require such  
5 *domestic* limited liability company to wind up its affairs under K.S.A. 17-  
6 76,118, and amendments thereto, or pay its liabilities and distribute its  
7 assets under K.S.A. 17-76,119, and amendments thereto, *and the merger*  
8 *or consolidation shall not constitute a dissolution of such limited liability*  
9 *company.*

10 (g) A limited liability company may merge or consolidate with or into  
11 any other entity in accordance with the business entity transactions act,  
12 K.S.A. 2012 Supp. 17-78-101 et seq., and amendments thereto.

13 (h) *An operating agreement may provide that a domestic limited*  
14 *liability company shall not have the power to merge or consolidate as set*  
15 *forth in this section.*

16 Sec. 18. K.S.A. 2012 Supp. 17-7682 is hereby amended to read as  
17 follows: 17-7682. An operating agreement or an agreement of merger or  
18 consolidation may provide that contractual appraisal rights with respect to  
19 a limited liability company interest or another interest in a limited liability  
20 company shall be available for any class, group or series of members or  
21 limited liability company interests in connection with any amendment of  
22 the *an* operating agreement, any merger or consolidation in which the  
23 limited liability company is a constituent party to the merger or  
24 consolidation, or the sale of all or substantially all of the limited liability  
25 company's assets. The district court shall have jurisdiction to hear and  
26 determine any matter relating to any such appraisal rights.

27 Sec. 19. K.S.A. 17-7683 is hereby amended to read as follows: 17-  
28 7683. (a) Whenever any articles *of organization* or certificate authorized to  
29 be filed with the secretary of state under any provision of this act has been  
30 so filed and is *an* inaccurate ~~in any respect~~ *record of the action therein*  
31 *referred to*, or was defectively or erroneously executed, such articles *of*  
32 *organization* or certificate may be corrected by filing with the secretary of  
33 state a certificate of correction of such articles *of organization* or  
34 certificate. The certificate of correction shall specify the inaccuracy or  
35 defect to be corrected, shall set forth the portion of the articles *of*  
36 *organization* or certificate in corrected form and shall be executed and  
37 filed as required by this act. The certificate of correction shall be effective  
38 as of the date the original articles *of organization* or certificate was filed,  
39 except as to those persons who are substantially and adversely affected by  
40 the correction, and as to those persons the certificate of correction shall be  
41 effective from the filing date.

42 (b) In lieu of filing a certificate of correction, articles *of organization*  
43 or a certificate may be corrected by filing with the secretary of state

1 *corrected articles of organization* or a corrected certificate which shall be  
2 executed and filed as if the corrected *articles of organization* or certificate  
3 were the articles *of organization* or certificate being corrected, and a fee  
4 equal to the fee payable to the secretary of state if the articles *of*  
5 *organization* or certificate being corrected were then being filed shall be  
6 paid and collected by the secretary of state for the use of the state of  
7 Kansas in connection with the filing of the corrected *articles of*  
8 *organization* or certificate. The corrected *articles of organization* or  
9 certificate shall be specifically designated as such in *their* or its heading,  
10 shall specify the inaccuracy or defect to be corrected, and shall set forth *all*  
11 *articles of organization* or the entire ~~articles~~ or certificate in corrected  
12 form. Articles *of organization* or a certificate corrected in accordance with  
13 this section shall be effective as of the date the original articles *of*  
14 *organization* or certificate was filed, except as to those persons who are  
15 substantially and adversely affected by the correction and as to those  
16 persons the articles *of organization* or certificate as corrected shall be  
17 effective from the filing date.

18 (c) The secretary of state may correct the secretary's own errors on  
19 the secretary's own motion.

20 Sec. 20. K.S.A. 17-7686 is hereby amended to read as follows: 17-  
21 7686. (a) In connection with the formation of a limited liability company, a  
22 person is admitted as a member of the limited liability company upon the  
23 later to occur of:

24 (1) The formation of the limited liability company; or

25 (2) the time provided in and upon compliance with the operating  
26 agreement or, if the operating agreement does not so provide, when the  
27 person's admission is reflected in the records of the limited liability  
28 company.

29 (b) After the formation of a limited liability company, a person is  
30 admitted as a member of the limited liability company:

31 (1) In the case of a person who is not an assignee of a limited liability  
32 company interest, including a person acquiring a limited liability company  
33 interest directly from the limited liability company and a person to be  
34 admitted as a member of the limited liability company without acquiring a  
35 limited liability company interest in the limited liability company at the  
36 time provided in and upon compliance with the operating agreement or, if  
37 the operating agreement does not so provide, upon the consent of all  
38 members and when the person's admission is reflected in the records of the  
39 limited liability company;

40 (2) in the case of an assignee of a limited liability company interest,  
41 as provided in subsection (a) of K.S.A. 17-76,114, and amendments  
42 thereto, and at the time provided in and upon compliance with the  
43 operating agreement or, if the operating agreement does not so provide,

1 when any such person's permitted admission is reflected in the records of  
2 the limited liability company; or

3 (3) unless otherwise provided in an agreement of merger or  
4 consolidation, in the case of a person acquiring a limited liability company  
5 interest in a surviving or resulting limited liability company pursuant to a  
6 merger or consolidation approved in accordance with subsection-~~(b)~~ (a) of  
7 K.S.A. 17-7681, and amendments thereto, at the time provided in and  
8 upon compliance with the operating agreement of the surviving or  
9 resulting limited liability company; *and in the case of a person being*  
10 *admitted as a member of a limited liability company pursuant to a merger*  
11 *or consolidation in which such limited liability company is not the*  
12 *surviving or resulting limited liability company in the merger or*  
13 *consolidation, as provided in the operating agreement of such limited*  
14 *liability company.*

15 (c) A person may be admitted to a limited liability company as a  
16 member of the limited liability company and may receive a limited  
17 liability company interest in the limited liability company without making  
18 a contribution or being obligated to make a contribution to the limited  
19 liability company. Unless otherwise provided in an operating agreement, a  
20 person may be admitted to a limited liability company as a member of the  
21 limited liability company without acquiring a limited liability company  
22 interest in the limited liability company. Unless otherwise provided in a *an*  
23 operating agreement, a person may be admitted as the sole member of a  
24 limited liability company without making a contribution or being obligated  
25 to make a contribution to the limited liability company or without  
26 acquiring a limited liability company interest in the limited liability  
27 company.

28 (d) *Unless otherwise provided in an operating agreement or another*  
29 *agreement, a member shall have no preemptive right to subscribe to any*  
30 *additional issue of limited liability company interests or another interest in*  
31 *a limited liability company.*

32 Sec. 21. K.S.A. 17-7687 is hereby amended to read as follows: 17-  
33 7687. (a) An operating agreement may provide for classes or groups of  
34 members having such relative rights, powers and duties as the operating  
35 agreement may provide, and may make provision for the future creation in  
36 the manner provided in the operating agreement of additional classes or  
37 groups of members having such relative rights, powers and duties as may  
38 from time to time be established, including rights, powers and duties  
39 senior to existing classes and groups of members. An operating agreement  
40 may provide for the taking of an action, including the amendment of the  
41 operating agreement, without the vote or approval of any member or class  
42 or group of members, including an action to create under the provisions of  
43 the operating agreement a class or group of limited liability company

1 interests that was not previously outstanding. An operating agreement may  
2 provide that any member or class or group of members shall have no  
3 voting rights.

4 (b) An operating agreement may grant to all or certain identified  
5 members or a specified class or group of the members the right to vote  
6 separately or with all or any class or group of the members or managers,  
7 on any matter. Voting by members may be on a per capita, number,  
8 financial interest, class, group or any other basis.

9 (c) An operating agreement ~~which grants a right to vote~~ may set forth  
10 provisions relating to notice of the time, place or purpose of any meeting  
11 at which any matter is to be voted on by any members, waiver of any such  
12 notice, action by consent without a meeting, the establishment of a record  
13 date, quorum requirements, voting in person or by proxy, or any other  
14 matter with respect to the exercise of any such right to vote.

15 (d) Unless otherwise provided in an operating agreement, *meetings of*  
16 *members may be held by means of conference telephone or other*  
17 *communications equipment by means of which all persons participating in*  
18 *the meeting can hear each other, and participation in a meeting pursuant*  
19 *to this subsection shall constitute presence in person at the meeting.*  
20 *Unless otherwise provided in an operating agreement, on any matter that*  
21 *is to be voted on, consented to or approved by members, the members may*  
22 *take such action without a meeting, without prior notice and without a*  
23 *vote, if a consent or consents in writing, setting forth the action so taken,*  
24 *shall be signed by the consented to, in writing or by electronic*  
25 *transmission, by members having not less than the minimum number of*  
26 *votes that would be necessary to authorize or take such action at a meeting*  
27 *which unless otherwise provided in the operating agreement or this act*  
28 *shall be a majority in interest of each class at which all members entitled*  
29 *to vote thereon were present and voted.* Unless otherwise provided in an  
30 operating agreement, on any matter that is to be voted on by members, the  
31 members may vote in person or by proxy, *and such proxy may be granted*  
32 *in writing, by means of electronic transmission or as otherwise permitted*  
33 *by applicable law. Unless otherwise provided in an operating agreement,*  
34 *a consent transmitted by electronic transmission by a member or by a*  
35 *person or persons authorized to act for a member shall be deemed to be*  
36 *written and signed for purposes of this subsection. For purposes of this*  
37 *subsection, the term "electronic transmission" means any form of*  
38 *communication not directly involving the physical transmission of paper*  
39 *that creates a record that may be retained, retrieved and reviewed by a*  
40 *recipient thereof and that may be directly reproduced in paper form by*  
41 *such a recipient through an automated process.*

42 (e) Unless otherwise provided in the operating agreement or in this  
43 act, every member holding *an* interest in profits shall be entitled to vote.



1 (f) ~~When, under the provisions of this act or under the provisions of~~  
2 ~~the articles of organization or operating agreement of a limited liability~~  
3 ~~company, notice is required to be given to a member of a limited liability~~  
4 ~~company a waiver in writing signed by the person or persons entitled to~~  
5 ~~the notice, whether made before or after the time for notice to be given, is~~  
6 ~~equivalent to the giving of notice. If an operating agreement provides for~~  
7 ~~the manner in which it may be amended, including by requiring the~~  
8 ~~approval of a person who is not a party to the operating agreement or the~~  
9 ~~satisfaction of conditions, it may be amended only in that manner or as~~  
10 ~~otherwise permitted by law, including as permitted by subsection (e) of~~  
11 ~~K.S.A. 17-7681, and amendments thereto, provided that the approval of~~  
12 ~~any person may be waived by such person and that any such conditions~~  
13 ~~may be waived by all persons for whose benefit such conditions were~~  
14 ~~intended. Unless otherwise provided in an operating agreement, a~~  
15 ~~supermajority amendment provision shall only apply to provisions of the~~  
16 ~~operating agreement that are expressly included in the operating~~  
17 ~~agreement. As used in this section, "supermajority amendment provision"~~  
18 ~~means any amendment provision set forth in an operating agreement~~  
19 ~~requiring that an amendment to a provision of the operating agreement be~~  
20 ~~adopted by no less than the vote or consent required to take action under~~  
21 ~~such latter provision.~~

22 (g) *If an operating agreement does not provide for the manner in*  
23 *which it may be amended, the operating agreement may be amended with*  
24 *the approval of all of the members or as otherwise permitted by law,*  
25 *including as permitted by subsection (e) of K.S.A. 17-7681, and*  
26 *amendments thereto. This subsection shall only apply to a limited liability*  
27 *company whose original articles of organization were filed with the*  
28 *secretary of state on or after July 1, 2013.*

29 Sec. 22. K.S.A. 17-7688 is hereby amended to read as follows: 17-  
30 7688. (a) Except as otherwise provided by this act, the debts, obligations  
31 and liabilities of a limited liability company, whether arising in contract,  
32 tort or otherwise, shall be solely the debts, obligations and liabilities of the  
33 limited liability company, and no member or manager of a limited liability  
34 company shall be obligated personally for any such debt, obligation or  
35 liability of the limited liability company solely by reason of being a  
36 member or acting as a manager of the limited liability company.

37 (b) Notwithstanding the provisions of subsection (a) ~~of this section,~~  
38 under an operating agreement or under another agreement, a member or  
39 manager may agree to be obligated personally for any or all of the debts,  
40 obligations and liabilities of the limited liability company.

41 ~~(c) A member or manager of a limited liability company is not a~~  
42 ~~proper party to proceedings by or against a limited liability company,~~  
43 ~~except when the object is to enforce a member's or manager's right against,~~

1 ~~or liability to, the limited liability company.~~

2 Sec. 23. K.S.A. 17-7689 is hereby amended to read as follows: 17-  
3 7689. A person ceases to be a member of a limited liability company ~~and~~  
4 ~~shall become an assignee~~ upon the happening of any of the following  
5 events:

6 (a) Unless otherwise provided in an operating agreement, or with the  
7 written consent of all members, a member:

8 (1) Makes an assignment for the benefit of creditors;

9 (2) files a voluntary petition in bankruptcy;

10 (3) is adjudged a bankrupt or insolvent, or has entered against the  
11 member an order for relief, in any bankruptcy or insolvency proceeding;

12 (4) files a petition or answer seeking for the ~~member's own self~~  
13 *member* any reorganization, arrangement, composition, readjustment,  
14 liquidation, dissolution or similar relief under any statute, law or  
15 regulation;

16 (5) files an answer or other pleading admitting or failing to contest  
17 the material allegations of a petition filed against the member in any  
18 proceeding of this nature;

19 (6) seeks, consents to or acquiesces in the appointment of a trustee,  
20 receiver or liquidator of the member or of all or any substantial part of the  
21 member's properties; or

22 (b) unless otherwise provided in an operating agreement, or with the  
23 written consent of all members, 120 days after the commencement of any  
24 proceeding against the member seeking reorganization, arrangement,  
25 composition, readjustment, liquidation, dissolution or similar relief under  
26 any statute, law or regulation, if the proceeding has not been dismissed, or  
27 if within 90 days after the appointment without the member's consent or  
28 acquiescence of a trustee, receiver or liquidator of the member or of all or  
29 any substantial part of the member's properties, the appointment is not  
30 vacated or stayed, or within 90 days after the expiration of any such stay,  
31 the appointment is not vacated.

32 Sec. 24. K.S.A. 17-7690 is hereby amended to read as follows: 17-  
33 7690. (a) Each member of a limited liability company has the right, subject  
34 to such reasonable standards ~~€~~ including standards governing what  
35 information and documents are to be furnished at what time and location  
36 and at whose expense), as may be set forth in an operating agreement or  
37 otherwise established by the manager or, if there is no manager, then by  
38 the members, to obtain from the limited liability company from time to  
39 time upon reasonable demand for any purpose reasonably related to the  
40 member's interest as a member of the limited liability company:

41 (1) True and full information regarding the status of the business and  
42 financial condition of the limited liability company;

43 (2) promptly after becoming available, a copy of the limited liability

1 company's federal, state and local income tax returns for each year;

2 (3) a current list of the name and last known business, residence or  
3 mailing address of each member and manager;

4 (4) a copy of any written operating agreement and articles of  
5 organization and all amendments thereto, together with executed copies of  
6 any written powers of attorney pursuant to which the operating agreement  
7 and any certificate and all amendments thereto have been executed;

8 (5) true and full information regarding the amount of cash and a  
9 description and statement of the agreed value of any other property or  
10 services contributed by each member and which each member has agreed  
11 to contribute in the future, and the date on which each became a member;  
12 and

13 (6) other information regarding the affairs of the limited liability  
14 company as is just and reasonable.

15 (b) Each manager shall have the right to examine all of the  
16 information described in subsection (a) ~~of this section~~ for a purpose  
17 reasonably related to the ~~manager's position as a~~ of manager.

18 (c) The manager of a limited liability company shall have the right to  
19 keep confidential from the members, for such period of time as the  
20 manager deems reasonable, any information which the manager  
21 reasonably believes to be in the nature of trade secrets or other information  
22 the disclosure of which the manager in good faith believes is not in the  
23 best interest of the limited liability company or could damage the limited  
24 liability company or its business or which the limited liability company is  
25 required by law or by agreement with a third party to keep confidential.

26 (d) A limited liability company may maintain its records in other than  
27 a written form if such form is capable of conversion into written form  
28 within a reasonable time.

29 (e) Any demand by a member under this section shall be in writing  
30 and shall state the purpose of such demand.

31 (f) Any action to enforce any right arising under this section shall be  
32 brought in the district court. If the limited liability company refuses to  
33 permit a member to obtain or a manager to examine the information  
34 described in subsection (a) ~~(3) of this section~~ or does not reply to the  
35 demand that has been made within five business days, *or such shorter or*  
36 *longer period of time as is provided for in an operating agreement, but not*  
37 *longer than 30 business days*, after the demand has been made, the  
38 demanding member or manager may apply to the district court for an order  
39 to compel such disclosure. The district court may summarily order the  
40 limited liability company to permit the demanding member to obtain or  
41 manager to examine the information described in subsection (a) ~~(3) of this~~  
42 ~~section~~ and to make copies or abstracts therefrom, or the district court may  
43 summarily order the limited liability company to furnish to the demanding

1 member or manager the information described in subsection (a)(3) of this  
2 section on the condition that the demanding member or manager first pay  
3 to the limited liability company the reasonable cost of obtaining and  
4 furnishing such information and on such other conditions as the district  
5 court deems appropriate. When a demanding member seeks to obtain or a  
6 manager seeks to examine the information described in subsection (a)(3)  
7 of this section, the demanding member or manager shall first establish (1)  
8 that the demanding member or manager has complied with the provisions  
9 of this section respecting the form and manner of making demand for  
10 obtaining or examining of such information, and (2) that the information  
11 the demanding member or manager seeks is reasonably related to the  
12 member's interest as a member or the manager's position as a manager, as  
13 the case may be. The district court may, in its discretion, prescribe any  
14 limitations or conditions with reference to the obtaining or examining of  
15 information, or award such other or further relief as the district court may  
16 deem just and proper. The district court may order books, documents and  
17 records, pertinent extracts therefrom, or duly authenticated copies thereof,  
18 to be brought within the state of Kansas and kept in the state of Kansas  
19 upon such terms and conditions as the order may prescribe.

20 ~~(g) Failure to maintain books and records shall not be grounds for~~  
21 ~~personal liability of any member or manager. The rights of a member or~~  
22 ~~manager to obtain information as provided in this section may be~~  
23 ~~restricted in an original operating agreement or in any subsequent~~  
24 ~~amendment approved or adopted by all of the members or in compliance~~  
25 ~~with any applicable requirements of the operating agreement. The~~  
26 ~~provisions of this subsection shall not be construed to limit the ability to~~  
27 ~~impose restrictions on the rights of a member or manager to obtain~~  
28 ~~information by any other means permitted under this act.~~

29 Sec. 25. K.S.A. 17-7691 is hereby amended to read as follows: 17-  
30 7691. An operating agreement may provide that:

31 (a) A member who fails to perform in accordance with, or to comply  
32 with the terms and conditions of, the operating agreement shall be subject  
33 to specified penalties or specified consequences; and

34 (b) at the time or upon the happening of events specified in the  
35 operating agreement, a member shall be subject to specified penalties or  
36 specified consequences.

37 *Such specified penalties or specified consequences may include and*  
38 *take the form of any penalty or consequence set forth in subsection (c) of*  
39 *K.S.A. 17-76,100, and amendments thereto.*

40 Sec. 26. K.S.A. 17-7693 is hereby amended to read as follows: 17-  
41 7693. ~~(a)~~ Unless otherwise provided in an operating agreement, the  
42 management of a limited liability company shall be vested in its members  
43 in proportion to the then current percentage or other interest of members in

1 the profits of the limited liability company owned by all of the members,  
2 the decision of members owning more than 50% of the *then current*  
3 percentage or other interest in the profits controlling; ~~provided however,~~  
4 *except* that if an operating agreement provides for the management, in  
5 whole or in part, of a limited liability company by a manager, the  
6 management of the limited liability company, to the extent so provided,  
7 shall be vested in the manager who shall be chosen ~~by the members~~ in the  
8 manner provided in the operating agreement. The manager shall also hold  
9 the offices and have the responsibilities accorded to the manager ~~by the~~  
10 ~~members and set forth or in the manner provided~~ in an operating  
11 agreement. Subject to K.S.A. 17-76,105, and amendments thereto, a  
12 manager shall cease to be a manager as provided in an operating  
13 agreement. A limited liability company may have more than one manager.  
14 ~~Unless otherwise provided in an operating agreement, each member in a~~  
15 ~~member managed LLC has the authority to bind the limited liability~~  
16 ~~company, and each manager, in a manager managed LLC has the authority~~  
17 ~~to bind the LLC.~~

18 ~~(b) If the articles of organization provide that management of the~~  
19 ~~limited liability company is vested in one or more managers: (1) No~~  
20 ~~member acting solely in the member's capacity as a member, is an agent of~~  
21 ~~the limited liability company; and (2) every manager is an agent of the~~  
22 ~~limited liability company for the purpose of its business and affairs, and~~  
23 ~~the act of any manager for apparently carrying on the usual way of the~~  
24 ~~business or affairs of the limited liability of which the manager is a~~  
25 ~~manager binds the limited liability company, unless the manager so acting~~  
26 ~~has, in fact, no authority to act for the limited liability company in the~~  
27 ~~particular matter, and the person with whom the manager is dealing has~~  
28 ~~knowledge of the fact that the manager has no such authority.~~

29 ~~(c) An act of a member or manager which apparently is not for~~  
30 ~~carrying on the usual way of the business or affairs of the limited liability~~  
31 ~~company does not bind the limited liability company unless authorized in~~  
32 ~~accordance with the terms of the articles of organization or operating~~  
33 ~~agreement, at the time of the transaction or at any other time. Unless~~  
34 ~~otherwise provided in the articles of organization or operating agreement,~~  
35 ~~a transaction not in the ordinary course of the business or affairs of the~~  
36 ~~limited liability company must be approved by a majority, by number, of~~  
37 ~~the members of the limited liability company.~~

38 Sec. 27. K.S.A. 17-7695 is hereby amended to read as follows: 17-  
39 7695. (a) An operating agreement may provide for classes or groups of  
40 managers having such relative rights, powers and duties as the operating  
41 agreement may provide, and may make provision for the future creation in  
42 the manner provided in the operating agreement of additional classes or  
43 groups of managers having such relative rights, powers and duties as may

1 from time to time be established, including rights, powers and duties  
2 senior to existing classes and groups of managers. An operating agreement  
3 may provide for the taking of an action, including the amendment of the  
4 operating agreement, without the vote or approval of any manager or class  
5 or group of managers, including an action to create under the provisions of  
6 the operating agreement a class or group of limited liability company  
7 interests that was not previously outstanding.

8 (b) An operating agreement may grant to all or certain identified  
9 managers or a specified class or group of the managers the right to vote,  
10 separately or with all or any class or group of managers or members, on  
11 any matter. Voting by managers may be on a per capita, number, financial  
12 interest, class, group or any other basis. Unless otherwise provided in ~~the~~  
13 *an* operating agreement, if more than one manager is appointed, all  
14 managers shall have an equal vote per capita.

15 (c) An operating agreement ~~which grants a right to vote~~ may set forth  
16 provisions relating to notice of the time, place or purpose of any meeting  
17 at which any matter is to be voted on by any manager or class or group of  
18 managers, waiver of any such notice, action by consent without a meeting,  
19 the establishment of a record date, quorum requirements, voting in person  
20 or by proxy, or any other matter with respect to the exercise of any such  
21 right to vote.

22 (d) Unless otherwise provided in an operating agreement, *meetings of*  
23 *managers may be held by means of conference telephone or other*  
24 *communications equipment by means of which all persons participating in*  
25 *the meeting can hear each other, and participation in a meeting pursuant*  
26 *to this subsection shall constitute presence in person at the meeting.*  
27 *Unless otherwise provided in an operating agreement, on any matter that*  
28 *is to be voted on, consented to or approved by the managers, the managers*  
29 *may take such action without a meeting, without prior notice and without a*  
30 *vote, if a consent or consents in writing, setting forth the action so taken,*  
31 ~~*shall be signed by the*~~ *if consented to, in writing or by electronic*  
32 *transmission, by managers having not less than the minimum number of*  
33 *votes that would be necessary to authorize or take such action at a meeting*  
34 *at which all managers entitled to vote thereon were present and voted.*  
35 *Unless otherwise provided in an operating agreement, on any matter that is*  
36 *to be voted on by managers, the managers may vote in person or by proxy,*  
37 *and such proxy may be granted in writing, by means of electronic*  
38 *transmission or as otherwise permitted by applicable law. Unless*  
39 *otherwise provided in an operating agreement, a consent transmitted by*  
40 *electronic transmission by a manager or by a person or persons*  
41 *authorized to act for a manager shall be deemed to be written and signed*  
42 *for purposes of this subsection. For purposes of this subsection, the term*  
43 *"electronic transmission" means any form of communication not directly*

1 *involving the physical transmission of paper that creates a record that may*  
2 *be retained, retrieved and reviewed by a recipient thereof and that may be*  
3 *directly reproduced in paper form by such a recipient through an*  
4 *automated process.*

5 ~~(e) When, under the provisions of the Kansas revised limited liability~~  
6 ~~company act or under the provisions of the articles of organization or~~  
7 ~~operating agreement of a limited liability company, notice is required to be~~  
8 ~~given to a manager of a limited liability company having a manager or~~  
9 ~~managers, a waiver in writing signed by the person or persons entitled to~~  
10 ~~the notice, whether made before or after the time for notice to be given, is~~  
11 ~~equivalent to the giving of notice.~~

12 Sec. 28. K.S.A. 17-7697 is hereby amended to read as follows: 17-  
13 7697. A member ~~or~~, *manager or liquidating trustee* of a limited liability  
14 company shall be fully protected in relying in good faith upon the records  
15 of the limited liability company and upon ~~such~~ information, opinions,  
16 reports or statements presented ~~to~~ *by another manager, member or*  
17 *liquidating trustee, an officer or employee* of the limited liability company  
18 ~~by any of its other managers, members, officers, employees, or committees~~  
19 ~~of the limited liability company, members or managers, or by any other~~  
20 ~~person;~~ as to matters the member ~~or~~, *manager or liquidating trustee*  
21 reasonably believes are within such other person's professional or expert  
22 competence and who has been selected with reasonable care by or on  
23 behalf of the limited liability company, including information, opinions,  
24 reports or statements as to the value and amount of the assets, liabilities,  
25 profits or losses of the limited liability company, or *the value and amount*  
26 *of assets or reserves or contracts, agreements or other undertakings that*  
27 *would be sufficient to pay claims and obligations of the limited liability*  
28 *company or to make reasonable provision to pay such claims and*  
29 *obligations, or any other facts pertinent to the existence and amount of*  
30 *assets from which distributions to members or creditors might properly be*  
31 *paid.*

32 Sec. 29. K.S.A. 17-7698 is hereby amended to read as follows: 17-  
33 7698. Unless otherwise provided in the operating agreement, a member or  
34 manager of a limited liability company has the power and authority to  
35 delegate to one or more other persons the member's or manager's, as the  
36 case may be, rights and powers to manage and control the business and  
37 affairs of the limited liability company, including to delegate to agents,  
38 officers and employees of a member or manager or the limited liability  
39 company, and to delegate by a management agreement or another  
40 agreement with, or otherwise to, other persons. Unless otherwise provided  
41 in the operating agreement, such delegation by a member or manager of a  
42 limited liability company shall not cause the member or manager to cease  
43 to be a member or manager, *as the case may be, of the limited liability*

1 *company or cause the person to whom any such rights and powers have*  
2 *been delegated to be a member or manager, as the case may be, of the*  
3 *limited liability company.*

4 Sec. 30. K.S.A. 17-76,100 is hereby amended to read as follows: 17-  
5 76,100. (a) Except as provided in an operating agreement, a member is  
6 obligated to a limited liability company to perform any promise to  
7 contribute cash or property or to perform services, even if the member is  
8 unable to perform because of death, disability or any other reason. If a  
9 member does not make the required contribution of property or services,  
10 the member is obligated at the option of the limited liability company to  
11 contribute cash equal to that portion of the agreed value~~}, as stated in the~~  
12 ~~records of the limited liability company),~~ of the contribution that has not  
13 been made. The foregoing option shall be in addition to, and not in lieu of,  
14 any other rights, including the right to specific performance, that the  
15 limited liability company may have against such member under the  
16 operating agreement or applicable law.

17 (b) Unless otherwise provided in an operating agreement, the  
18 obligation of a member to make a contribution or return money or other  
19 property paid or distributed in violation of this act may be compromised  
20 only by consent of all the members. Notwithstanding the compromise, a  
21 creditor of a limited liability company who extends credit, after the  
22 entering into of an operating agreement or an amendment thereto which, in  
23 either case, reflects the obligation, and before the amendment thereof to  
24 reflect the compromise, may enforce the original obligation to the extent  
25 that, in extending credit, the creditor reasonably relied on the obligation of  
26 a member to make a contribution or return. A conditional obligation of a  
27 member to make a contribution or return money or other property to a  
28 limited liability company may not be enforced unless the conditions of the  
29 obligation have been satisfied or waived as to or by such member.  
30 Conditional obligations include contributions payable upon a discretionary  
31 call of a limited liability company prior to the time the call occurs.

32 (c) An operating agreement may provide that the interest of any  
33 member who fails to make any contribution that the member is obligated  
34 to make shall be subject to specified penalties for, or specified  
35 consequences of, such failure. Such penalty or consequence may take the  
36 form of reducing or eliminating the defaulting member's proportionate  
37 interest in a limited liability company, subordinating the member's limited  
38 liability company interest to that of nondefaulting members, a forced sale  
39 ~~of the member's~~ *that* limited liability company interest, forfeiture of the  
40 *defaulting* member's limited liability company interest, the lending by  
41 other members of the amount necessary to meet the *defaulting* member's  
42 commitment, a fixing of the value of the *defaulting* member's limited  
43 liability company interest by appraisal or by formula and redemption or



1 sale of the ~~member's~~ limited liability company interest at such value, or  
2 other penalty or consequence.

3 Sec. 31. K.S.A. 17-76,103 is hereby amended to read as follows: 17-  
4 76,103. No obligation of a member or manager of a limited liability  
5 company to the limited liability company, *or to a member or manager of*  
6 *the limited liability company*, arising under the operating agreement or a  
7 separate agreement or writing, and no note, instrument or other writing  
8 evidencing any such obligation of a member or manager, shall be subject  
9 to the defense of usury, and no member or manager shall interpose the  
10 defense of usury with respect to any such obligation in any action.

11 Sec. 32. K.S.A. 17-76,104 is hereby amended to read as follows: 17-  
12 76,104. Except as provided in ~~this act~~ *K.S.A. 17-76,104 through 17-*  
13 *76,110, and amendments thereto*, to the extent and at the times or upon the  
14 happening of the events specified in an operating agreement, a member is  
15 entitled to receive from a limited liability company distributions before the  
16 member's resignation from the limited liability company and before the  
17 dissolution and winding up thereof.

18 Sec. 33. K.S.A. 17-76,105 is hereby amended to read as follows: 17-  
19 76,105. A manager may resign as a manager of a limited liability company  
20 at the time or upon the happening of events specified in *an operating*  
21 *agreement* and in accordance with the ~~limited liability company operating~~  
22 *agreement*. An operating agreement may provide that a manager shall not  
23 have the right to resign as a manager of a limited liability company.  
24 Notwithstanding that an operating agreement provides that a manager does  
25 not have the right to resign as a manager of a limited liability company, a  
26 manager may resign as a manager of a limited liability company at any  
27 time by giving written notice to the members and other managers. If the  
28 resignation of a manager violates an operating agreement, in addition to  
29 any remedies otherwise available under applicable law, a limited liability  
30 company may recover from the resigning manager damages for breach of  
31 the operating agreement and offset the damages against the amount  
32 otherwise distributable to the resigning manager.

33 Sec. 34. K.S.A. 17-76,106 is hereby amended to read as follows: 17-  
34 76,106. (a) A member may resign from a limited liability company only at  
35 the time or upon the happening of events specified in *an operating*  
36 *agreement* and in accordance with the operating agreement.  
37 Notwithstanding anything to the contrary under applicable law, unless ~~the~~  
38 *an operating agreement* provides otherwise, a member may *not* resign  
39 from a limited liability company prior to the dissolution and winding up of  
40 the limited liability company. ~~Upon resignation the member shall be~~  
41 ~~deemed to be an assignee and shall have only the rights of an assignee.~~  
42 ~~The resigned member is not released from the member's liability, if any, to~~  
43 ~~a limited liability company. Notwithstanding anything to the contrary~~

1 under applicable law, the operating agreement may provide that a limited  
2 liability company interest may not be assigned prior to the dissolution and  
3 winding up of the limited liability company.

4 (b) *Unless otherwise provided in an operating agreement, a limited*  
5 *liability company whose original articles of organization were filed with*  
6 *the secretary of state and effective on or prior to June 30, 2013, shall*  
7 *continue to be governed by this section as in effect on June 30, 2013, and*  
8 *shall not be governed by this section.*

9 Sec. 35. K.S.A. 17-76,107 is hereby amended to read as follows: 17-  
10 76,107. (a) Except as provided in ~~this act~~ K.S.A. 17-76,104 through 17-  
11 76,110, and amendments thereto, upon resignation any resigning member  
12 is entitled to receive any distribution to which ~~the~~ such member is entitled  
13 under ~~the~~ an operating agreement; and, if not otherwise provided in ~~the~~ an  
14 operating agreement, ~~the~~ resigning such member is not entitled to receive,  
15 within a reasonable time after resignation, the fair value of ~~the~~ such  
16 member's limited liability company interest ~~until the dissolution and~~  
17 ~~winding up of~~ as of the date of resignation based upon such member's  
18 right to share in distributions from the limited liability company. ~~All~~  
19 ~~distributions to a resigned member shall be subject to the provisions of~~  
20 ~~K.S.A. 17-76,108, 17-76,109 and 17-76,110, and amendments thereto.~~

21 (b) *Unless otherwise provided in an operating agreement, a limited*  
22 *liability company whose original articles of organization were filed with*  
23 *the secretary of state and effective on or prior to June 30, 2013, shall*  
24 *continue to be governed by this section in effect on June 30, 2013, and*  
25 *shall not be governed by this section.*

26 Sec. 36. K.S.A. 17-76,110 is hereby amended to read as follows: 17-  
27 76,110. (a) A limited liability company shall not make a distribution to a  
28 member to the extent that at the time of the distribution, after giving effect  
29 to the distribution, all liabilities of the limited liability company, other than  
30 liabilities to members on account of their limited liability company  
31 interests and liabilities for which the recourse of creditors is limited to  
32 specified property of the limited liability company, exceed the fair value of  
33 the assets of the limited liability company, except that the fair value of  
34 property that is subject to a liability for which the recourse of creditors is  
35 limited shall be included in the assets of the limited liability company only  
36 to the extent that the fair value of that property exceeds that liability. *For*  
37 *purposes of this subsection, "distribution" shall not include amounts*  
38 *constituting reasonable compensation for present or past services or*  
39 *reasonable payments made in the ordinary course of business pursuant to*  
40 *a bona fide retirement plan or other benefits program.*

41 (b) A member who receives a distribution in violation of subsection  
42 (a) of this section, and who knew at the time of the distribution that the  
43 distribution ~~violates~~ violated subsection (a) ~~of this section~~, shall be liable

1 to a limited liability company for the amount of the distribution. A member  
2 who receives a distribution in violation of subsection (a) ~~of this section~~,  
3 and who did not know at the time of the distribution that the distribution  
4 violated subsection (a) ~~of this section~~, shall not be liable for the amount of  
5 the distribution. Subject to subsection (c) ~~of this section~~, this subsection  
6 shall not affect any obligation or liability of a member under an agreement  
7 or other applicable law for the amount of a distribution.

8 (c) Unless otherwise agreed, a member who receives a distribution  
9 from a limited liability company shall have no liability under this act or  
10 other applicable law for the amount of the distribution after the expiration  
11 of three years from the date of the distribution unless an action to recover  
12 the distribution from such member is commenced prior to the expiration of  
13 ~~such~~ *the* three-year period and an adjudication of liability against such  
14 member is made in the action.

15 Sec. 37. K.S.A. 17-76,112 is hereby amended to read as follows: 17-  
16 76,112. (a) A limited liability company interest is assignable in whole or in  
17 part except as provided in an operating agreement. The assignee of a  
18 member's limited liability company interest shall have no right to  
19 participate in the management of the business and affairs of a limited  
20 liability company, except as provided in an operating agreement ~~and upon:~~

21 ~~(1) The approval of all of the members of the limited liability~~  
22 ~~company other than the member assigning the member's limited liability~~  
23 ~~company interest; or~~

24 ~~(2) compliance with any procedure provided for in the operating~~  
25 ~~agreement or, unless otherwise provided in the operating agreement, upon~~  
26 ~~the affirmative vote or written consent of all of the members of the limited~~  
27 ~~liability company. Notwithstanding anything to the contrary under~~  
28 ~~applicable law, an operating agreement may provide that a limited~~  
29 ~~liability company interest may not be assigned prior to the dissolution and~~  
30 ~~winding up of the limited liability company.~~

31 (b) Unless otherwise provided in an operating agreement:

32 (1) An assignment of a limited liability company interest does not  
33 entitle the assignee to become or to exercise any rights or powers of a  
34 member;

35 (2) an assignment of a limited liability company interest entitles the  
36 assignee to share in such profits and losses, to receive such distribution or  
37 distributions, and to receive such allocation of income, gain, loss,  
38 deduction, or credit or similar item to which the assignor was entitled, to  
39 the extent assigned; and

40 (3) a member ceases to be a member and to have the power to  
41 exercise any rights or powers of a member upon assignment of all of the  
42 member's limited liability company interest. Unless otherwise provided in  
43 an operating agreement, the pledge of, or granting of a security interest,

1 lien or other encumbrance in or against, any or all of the limited liability  
2 company interest of a member shall not cause the member to cease to be a  
3 member or to have the power to exercise any rights or powers of a  
4 member.

5 (c) *Unless otherwise provided in an operating agreement may provide*  
6 ~~that~~, a member's interest in a limited liability company may be evidenced  
7 by a certificate of limited liability company interest issued by the limited  
8 liability company. *An operating agreement may provide for the assignment*  
9 *or transfer of any limited liability company interest represented by such a*  
10 *certificate and make other provisions with respect to such certificates. A*  
11 *limited liability company shall not have the power to issue a certificate of*  
12 *limited liability company interest in bearer form.*

13 (d) Unless otherwise provided in an operating agreement and except  
14 to the extent assumed by agreement, until an assignee of a limited liability  
15 company interest becomes a member, the assignee shall have no liability  
16 as a member solely as a result of the assignment.

17 (e) Unless otherwise provided in the operating agreement, a limited  
18 liability company may acquire, by purchase, redemption or otherwise, any  
19 limited liability company interest or other interest of a member or manager  
20 in the limited liability company. Unless otherwise provided in the  
21 operating agreement, any such interest so acquired by the limited liability  
22 company shall be deemed canceled.

23 ~~(f) If the assignor of a limited liability company interest is the only~~  
24 ~~member of the limited liability company at the time of the assignment, the~~  
25 ~~assignee shall have the right to participate in the management of the~~  
26 ~~business and affairs of the limited liability company as a member.~~

27 Sec. 38. K.S.A. 17-76,113 is hereby amended to read as follows: 17-  
28 76,113. *(a) On application to a court of competent jurisdiction by any by a*  
29 *judgment creditor of a member or of a member's assignee, the a court*  
30 *having jurisdiction may charge the limited liability company interest of the*  
31 *member with payment of the unsatisfied amount of the judgment with*  
32 *interest. To the extent so charged, the judgment creditor has only the rights*  
33 *of an assignee of the limited liability company interest. This act does not*  
34 *deprive any member of the benefit of any exemption laws applicable to the*  
35 *member's limited liability company interest. The rights provided by this*  
36 *section to the judgment creditor shall be the sole and exclusive remedy of*  
37 *a judgment creditor with respect to the member's limited liability company*  
38 *interest: judgment debtor to satisfy the judgment. To the extent so charged,*  
39 *the judgment creditor has only the right to receive any distribution or*  
40 *distributions to which the judgment debtor would otherwise have been*  
41 *entitled in respect of such limited liability company interest.*

42 *(b) A charging order constitutes a lien on the judgment debtor's*  
43 *limited liability company interest.*

1       (c) *This act does not deprive a member or member's assignee of a*  
 2 *right under exemption laws with respect to the judgment debtor's limited*  
 3 *liability company interest.*

4       (d) *The entry of a charging order is the exclusive remedy by which a*  
 5 *judgment creditor of a member or of a member's assignee may satisfy a*  
 6 *judgment out of the judgment debtor's limited liability company interest.*

7       (e) *No creditor of a member or of a member's assignee shall have any*  
 8 *right to obtain possession of, or otherwise exercise legal or equitable*  
 9 *remedies with respect to, the property of the limited liability company.*

10       (f) *The district court shall have jurisdiction to hear and determine*  
 11 *any matter relating to any such charging order.*

12       Sec. 39. K.S.A. 17-76,114 is hereby amended to read as follows: 17-  
 13 76,114. (a) An assignee of a limited liability company interest may become  
 14 a member ~~as provided in an operating agreement and upon:~~

15       ~~(1) The approval of all of the members of the limited liability~~  
 16 ~~company other than the member assigning the member's limited liability~~  
 17 ~~company interest; or~~

18       ~~(2) compliance with any procedure provided for in the operating~~  
 19 ~~agreement.:~~

20       (1) *As provided in the operating agreement; or*

21       (2) *unless otherwise provided in the operating agreement, upon the*  
 22 *affirmative vote or written consent of all of the members of the limited*  
 23 *liability company.*

24       (b) An assignee who has become a member has, to the extent  
 25 assigned, the rights and powers, and is subject to the restrictions and  
 26 liabilities, of a member under an operating agreement and this act.  
 27 Notwithstanding the foregoing, unless otherwise provided in an operating  
 28 agreement, an assignee who becomes a member is liable for the  
 29 obligations of the assignee's assignor to make contributions as provided in  
 30 K.S.A. 17-76,100, and amendments thereto, but shall not be liable for the  
 31 obligations of the assignee's assignor under ~~any other provision of this act~~  
 32 *K.S.A. 17-76,104 through 17-76,110, and amendments thereto.* However,  
 33 the assignee is not obligated for liabilities, including the obligations of the  
 34 assignee's assignor to make contributions as provided in K.S.A. 17-76,100,  
 35 and amendments thereto, unknown to the assignee at the time the assignee  
 36 became a member and which could not be ascertained from an operating  
 37 agreement.

38       (c) Whether or not an assignee of a limited liability company interest  
 39 becomes a member, the assignor is not released from ~~the assignor's~~  
 40 liability to a limited liability company under ~~any other provision of this act~~  
 41 *K.S.A. 17-7699 through 17-76,110, and amendments thereto.*

42       Sec. 40. K.S.A. 17-76,115 is hereby amended to read as follows: 17-  
 43 76,115. If a member who is an individual dies or a court of competent

1 jurisdiction adjudges the member to be incompetent to manage the  
2 member's person or property, the member's personal representative shall  
3 ~~have~~ *may exercise* all of the *member's* rights ~~of an assignee of the~~  
4 ~~member's interest, unless the deceased or incompetent member is the only~~  
5 ~~member of the limited liability company, in which case the member's~~  
6 ~~personal representative shall have the right to participate in the~~  
7 ~~management of the business and the affairs of the limited liability~~  
8 ~~company as a member.~~ *for the purpose of settling the member's estate or*  
9 *administering the member's property, including any power under an*  
10 *operating agreement of an assignee to become a member. If a member is a*  
11 *corporation, trust or other entity and is dissolved or terminated, the*  
12 *powers of that member may be exercised by its personal representative.*

13 Sec. 41. K.S.A. 17-76,116 is hereby amended to read as follows: 17-  
14 76,116. (a) A limited liability company is dissolved and its affairs shall be  
15 wound up upon the first to occur of the following:

16 (1) At the time specified in an operating agreement, but if no such  
17 time is set forth in the operating agreement, then the limited liability  
18 company shall have a perpetual existence;

19 (2) upon the happening of events specified in an operating agreement;

20 (3) unless otherwise provided in an operating agreement, upon the  
21 *affirmative vote or* written consent of the members of the limited liability  
22 company; or, if there is more than one class or group of members, then by  
23 each class or group of members, in either case, by members who own  
24 more than ~~50%~~  $\frac{2}{3}$  of the then-current percentage or other interest in the  
25 profits of the limited liability company owned by all of the members or by  
26 the members in each class or group, as appropriate;

27 (4) at any time there are no members, provided that, *the limited*  
28 *liability company is not dissolved and is not required to be wound up if:*

29 (A) Unless otherwise provided in an operating agreement, ~~the limited~~  
30 ~~liability company is not dissolved and is not required to be wound up if,~~  
31 within 90 days or such other period as is provided for in the operating  
32 agreement after the occurrence of the event that terminated the continued  
33 membership of the last remaining member, the personal representative of  
34 the last remaining member agrees in writing to continue the limited  
35 liability company and to the admission of the personal representative of  
36 such member or ~~the personal representative's~~ *its* nominee or designee to  
37 the limited liability company as a member, effective as of the occurrence  
38 of the event that terminated the continued membership of the last  
39 remaining member, *except that an operating agreement may provide that*  
40 *the personal representative of the last remaining member shall be*  
41 *obligated to agree in writing to continue the limited liability company and*  
42 *to the admission of the personal representative of such member or its*  
43 *nominee or designee to the limited liability company as a member;*

1 *effective as of the occurrence of the event that terminated the continued*  
2 *membership of the last remaining member; or*

3 *(B) a member is admitted to the limited liability company in the*  
4 *manner provided for in the operating agreement, effective as of the*  
5 *occurrence of the event that terminated the continued membership of the*  
6 *last remaining member, within 90 days or such other period as is provided*  
7 *for in the operating agreement after the occurrence of the event that*  
8 *terminated the continued membership of the last remaining member;*  
9 *pursuant to a provision of the operating agreement that specifically*  
10 *provides for the admission of a member to the limited liability company*  
11 *after there is no longer a remaining member of the limited liability*  
12 *company; or*

13 (5) the entry of a decree of judicial dissolution under K.S.A. 17-  
14 76,117, and amendments thereto.

15 (b) Unless otherwise provided in an operating agreement, the death,  
16 retirement, *resignation*, expulsion, bankruptcy or dissolution of any  
17 member or the occurrence of any other event that terminates the continued  
18 membership of any member shall not cause the limited liability company  
19 to be dissolved or its affairs to be wound up, and upon the occurrence of  
20 any such event, the limited liability company shall be continued without  
21 dissolution, ~~unless within 90 days following the occurrence of any such~~  
22 ~~event, the remaining members of the limited liability company or, if there~~  
23 ~~is more than one class or group of members, then the remaining members~~  
24 ~~in each class or group of members, in either case, by members who own~~  
25 ~~more than 50% of the then-current percentage or other interest in the~~  
26 ~~profits of the limited liability company owned by all of the members or by~~  
27 ~~the members in each class or group, as appropriate, agree in writing to~~  
28 ~~dissolve the limited liability company.~~

29 Sec. 42. K.S.A. 17-76,117 is hereby amended to read as follows: 17-  
30 76,117. (a) A limited liability company may be dissolved involuntarily by  
31 order of the district court for the county in which the registered office of  
32 the limited liability company is located in an action filed by the attorney  
33 general when it is established that the limited liability company:

34 (1) Has procured its articles of organization through fraud;

35 (2) has exceeded the authority conferred upon it by law;

36 (3) has committed a violation of any provision of law whereby it has  
37 forfeited its articles of organization;

38 (4) has carried on, conducted or transacted its business in a  
39 persistently fraudulent or illegal manner; or

40 (5) by the abuse of its powers contrary to the public policy of the  
41 state, has become liable to be dissolved.

42 (b) If the business of the limited liability company is suffering or is  
43 threatened with irreparable injury because the members of a limited

1 liability company, or the managers of a limited liability company having  
2 more than one manager, are so deadlocked respecting the management of  
3 the affairs of the limited liability company that the requisite vote for action  
4 cannot be obtained and the members are unable to terminate such  
5 deadlock, then any member or members in the aggregate owning at least  
6 25% of the outstanding interests in either capital or profits and losses in  
7 the limited liability company may file with the district court a petition  
8 stating that such member or members desire to dissolve the limited  
9 liability company and to dispose of the assets thereof in accordance with a  
10 plan to be agreed upon by the members or as determined by the district  
11 court in the absence of such agreement. Such petition shall have attached  
12 thereto a copy of a proposed plan of dissolution and distribution and a  
13 certificate stating that copies of such petition and plan have been  
14 transmitted in writing to all of the other members of the limited liability  
15 company at least 30 days before the filing of the petition and that the  
16 members having the requisite vote required to cause dissolution under the  
17 operating agreement have failed or refused to consent to such plan. Unless  
18 ~~a majority in interest of the members (who own more than  $\frac{1}{3}$  of the then~~  
19 ~~current percentage or other interest in profits of the limited liability~~  
20 ~~company owned by all members, or if there is more than one class or~~  
21 ~~group of members, then by each class or group, or such other number of~~  
22 members having the requisite vote to cause dissolution as the operating  
23 agreement may provide), file with the district court within the time period  
24 for the answer date of the petition, an answer and a certificate stating that  
25 they have agreed on either the petitioner's plan, or a modification or  
26 alternative thereof, then the district court shall order that such limited  
27 liability company be dissolved, if the district court determines that such  
28 irreparable injury and deadlock exists. In any proceeding under this  
29 section, the court may appoint one or more trustees or receivers with all  
30 the powers and title of a trustee or receiver appointed under K.S.A. 17-  
31 6808, and amendments thereto, to administer and wind up the limited  
32 liability company's affairs and may grant such other relief as the court  
33 deems equitable.

34 Sec. 43. K.S.A. 17-76,118 is hereby amended to read as follows: 17-  
35 76,118. (a) Unless otherwise provided in the operating agreement, a  
36 manager who has not wrongfully dissolved a limited liability company or,  
37 if none, the members or a person approved by the members or, if there is  
38 more than one class or group of members, then by each class or group of  
39 members, in either case, by members who own more than 50% of the then  
40 current percentage or other interest in the profits of the limited liability  
41 company owned by all of the members or by the members in each class or  
42 group, as appropriate, may wind up the limited liability company's affairs;  
43 but the district court upon cause shown, may wind up the limited liability



1 company's affairs upon application of any member or manager, *or the*  
2 *member's* personal representative or assignee, and in connection therewith,  
3 may appoint a liquidating trustee.

4 (b) Upon dissolution of a limited liability company and until the  
5 filing of a certificate of ~~dissolution~~ *cancellation* as provided in K.S.A. 17-  
6 7675, and amendments thereto, the persons winding up the limited liability  
7 company's affairs may, in the name of, and for and on behalf of, the  
8 limited liability company, prosecute and defend suits, whether civil,  
9 criminal or administrative, gradually settle and close the limited liability  
10 company's business, dispose of and convey the limited liability company's  
11 property, discharge or make reasonable provision for the limited liability  
12 company's liabilities, and distribute to the members any remaining assets  
13 of the limited liability company, all without affecting the liability of  
14 ~~member~~ *members* and managers *and* without imposing liability on a  
15 liquidating trustee.

16 Sec. 44. K.S.A. 17-76,119 is hereby amended to read as follows: 17-  
17 76,119. (a) Upon the winding up of a limited liability company, the assets  
18 shall be distributed as follows:

19 (1) To creditors, including members and managers who are creditors,  
20 to the extent otherwise permitted by law, in satisfaction of liabilities of the  
21 limited liability company—(, whether by payment or the making of  
22 reasonable provision for payment thereof), other than liabilities for which  
23 reasonable provision for payment has been made and liabilities for  
24 distributions to members and former members under K.S.A. 17-76,104 or  
25 17-76,107, and amendments thereto;

26 (2) unless otherwise provided in an operating agreement, to members  
27 and former members in satisfaction of liabilities for distributions under  
28 K.S.A. 17-76,104 or 17-76,107, and amendments thereto;

29 (3) unless otherwise provided in an operating agreement, to members  
30 first for the return of their contributions and second respecting their limited  
31 liability company interests, in the proportions in which the members share  
32 in distributions.

33 (b) A limited liability company which has dissolved shall:

34 (1) Pay or make reasonable provision to pay all claims and  
35 obligations, including all contingent, conditional or unmatured ~~claims and~~  
36 ~~obligations~~ *contractual claims*, known to the limited liability company ~~and~~  
37 ~~all claims and obligations which are known to the limited liability~~  
38 ~~company but for which the identity of the claimant is unknown;~~

39 (2) *make such provision as will be reasonably likely to be sufficient to*  
40 *provide compensation for any claim against the limited liability company*  
41 *which is the subject of a pending action, suit or proceeding to which the*  
42 *limited liability company is a party; and*

43 (3) *make such provision as will be reasonably likely to be sufficient to*

1 *provide compensation for claims that have not been made known to the*  
2 *limited liability company or that have not arisen but that, based on facts*  
3 *known to the limited liability company, are likely to arise or to become*  
4 *known to the limited liability company within 10 years after the date of*  
5 *dissolution.*

6 If there are sufficient assets, such claims and obligations shall be paid  
7 in full and any such provision for payment made shall be made in full. If  
8 there are insufficient assets, such claims and obligations shall be paid or  
9 provided for according to their priority and, among claims ~~and obligations~~  
10 of equal priority, ratably to the extent of assets available therefor. Unless  
11 otherwise provided in ~~an~~ the operating agreement, any remaining assets  
12 shall be distributed as provided in this act. Any liquidating trustee winding  
13 up a limited liability company's affairs who has complied with this section  
14 shall not be personally liable to the claimants of the dissolved limited  
15 liability company by ~~reasons~~ reason of such person's actions in winding up  
16 the limited liability company.

17 (c) *A member who receives a distribution in violation of subsection*  
18 *(a) and who knew at the time of the distribution that the distribution*  
19 *violated subsection (a), shall be liable to the limited liability company for*  
20 *the amount of the distribution. For purposes of the immediately preceding*  
21 *sentence, the term "distribution" shall not include amounts constituting*  
22 *reasonable compensation for present or past services or reasonable*  
23 *payments made in the ordinary course of business pursuant to a bona fide*  
24 *retirement plan or other benefits program. A member who receives a*  
25 *distribution in violation of subsection (a) and who did not know at the time*  
26 *of the distribution that the distribution violated subsection (a), shall not be*  
27 *liable for the amount of the distribution. Subject to subsection (d), this*  
28 *subsection shall not affect any obligation or liability of a member under*  
29 *an agreement or other applicable law for the amount of a distribution.*

30 (d) *Unless otherwise agreed, a member who receives a distribution*  
31 *from a limited liability company to which this section applies shall have*  
32 *no liability under this act or other applicable law for the amount of the*  
33 *distribution after the expiration of three years from the date of the*  
34 *distribution unless an action to recover the distribution from such member*  
35 *is commenced prior to the expiration of the three-year period and an*  
36 *adjudication of liability against such member is made in the action.*

37 (e) *K.S.A. 17 76,110, and amendments thereto, shall not apply to a*  
38 *distribution to which this section applies.*

39 Sec. 45. K.S.A. 17-76,121 is hereby amended to read as follows: 17-  
40 76,121. Before doing business in the state of Kansas, a foreign limited  
41 liability company shall register with the secretary of state. In order to  
42 register, a foreign limited liability company shall submit to the secretary of  
43 state, together with payment of the fee required by this act, an original

1 copy executed by a member or manager, together with a duplicate copy, of  
2 an application for registration as a foreign limited liability company,  
3 setting forth:

4 (a) The name of the foreign limited liability company;

5 (b) the state or other jurisdiction or country where organized, the date  
6 of its organization and a statement issued by an appropriate authority in  
7 that jurisdiction or by a third-party agent authorized by the secretary of  
8 state that the foreign limited liability company exists in good standing  
9 under the laws of the jurisdiction of its organization;

10 (c) the nature of the business or purposes to be conducted or  
11 promoted in the state of Kansas;

12 (d) the address of the registered office and the name and address of  
13 the resident agent for service of process required to be maintained by this  
14 act;

15 (e) an irrevocable written consent of the foreign limited liability  
16 company that actions may be commenced against it in the proper court of  
17 any county where there is proper venue by the service of process on the  
18 secretary of state as provided for in K.S.A. 60-304, and amendments  
19 thereto, and stipulating and agreeing that such service shall be taken and  
20 held, in all courts, to be as valid and binding as if due service had been  
21 made upon ~~the general partners~~ *a member of the foreign limited liability*  
22 *company, if such foreign limited liability company is member-managed, or*  
23 *upon a manager of the foreign limited liability company, if such foreign*  
24 *limited liability company is manager-managed;*

25 (f) the name and business, residence or mailing address of each of the  
26 members or, if managed by managers, the name and business, residence or  
27 mailing address of each of the managers; and

28 (g) the date on which the foreign limited liability company first did,  
29 or intends to do, business in the state of Kansas.

30 ~~A person shall not be deemed to be doing business in the state of~~  
31 ~~Kansas solely by reason of being a member or manager of a domestic~~  
32 ~~limited liability company or a foreign limited liability company.~~

33 Sec. 46. K.S.A. 17-76,121a is hereby amended to read as follows: 17-  
34 76,121a. (a) Activities of a foreign limited liability company which do not  
35 constitute doing business within the meaning of K.S.A. 17-76,121, and  
36 amendments thereto, include:

37 (1) Maintaining, defending or settling an action or proceeding;

38 (2) holding meetings *of its members or managers* or carrying on any  
39 other activity concerning its internal affairs;

40 (3) maintaining bank accounts;

41 (4) maintaining offices or agencies for the transfer, exchange ~~and~~ *or*  
42 registration of the company's own securities or maintaining trustees or  
43 depositories with respect to those securities;

1 (5) selling through independent contractors;

2 (6) soliciting or obtaining orders, whether by mail or through  
3 employees or agents or otherwise, if the orders require acceptance outside  
4 this state before they become contracts;

5 (7) *selling, by contract consummated outside the state of Kansas, and*  
6 *agreeing, by the contract, to deliver into the state of Kansas machinery,*  
7 *plants or equipment, the construction, erection or installation of which*  
8 *within the state requires the supervision of technical engineers or skilled*  
9 *employees performing services not generally available, and as part of the*  
10 *contract of sale agreeing to furnish such services, and such services only,*  
11 *to the vendee at the time of construction, erection or installation;*

12 ~~(7) (8) creating, as borrower or lender, or acquiring indebtedness,~~  
13 ~~mortgages or security interests with or without a mortgage or other~~  
14 ~~security interest in real or personal property;~~

15 ~~(8) securing or~~ (9) collecting debts or foreclosing mortgages or  
16 other security interests in property securing the debts, and holding,  
17 protecting and maintaining property so acquired;

18 ~~(9) (10) conducting an isolated transaction that is completed within~~  
19 ~~30 days and is not one in the course of similar transactions of like nature;~~  
20 and

21 ~~(10) (11) transacting business in interstate commerce.~~

22 (b) ~~The ownership in this state of income producing real property or~~  
23 ~~tangible personal property, other than property excluded under subsection~~  
24 ~~(a), constitutes doing business in this state. A person shall not be deemed~~  
25 ~~to be doing business in the state of Kansas solely by reason of being a~~  
26 ~~member or manager of a domestic limited liability company or a foreign~~  
27 ~~limited liability company.~~

28 (c) This section does not apply in determining ~~the contacts or~~  
29 ~~activities that may subject~~ *whether* a foreign limited liability company *is*  
30 *subject* to service of process, taxation or regulation under any other law of  
31 this state.

32 ~~(d) The provisions of this section shall be part of and supplemental to~~  
33 ~~the Kansas revised limited liability company act.~~

34 Sec. 47. K.S.A. 17-76,122 is hereby amended to read as follows: 17-  
35 76,122. (a) If the secretary of state finds that an application for registration  
36 conforms to law and all requisite fees have been paid, the secretary of state  
37 shall:

38 (1) Certify that the application has been filed in the secretary of  
39 state's office by endorsing upon the original application the word "filed"  
40 and the date and hour of the filing, and the endorsement is conclusive of  
41 the date and time of its filing in the absence of actual fraud; and

42 (2) file and index the endorsed application.

43 ~~(b) The duplicate~~ *A copy* of the application, similarly certified, shall

1 be returned to the person who filed the application or that person's  
2 representative.

3 Sec. 48. K.S.A. 17-76,123 is hereby amended to read as follows: 17-  
4 76,123. (a) The secretary of state shall not issue a registration to a foreign  
5 limited liability company unless the name of such limited liability  
6 company is such as to distinguish it upon the records of the office of the  
7 secretary of state from the names of other limited liability companies,  
8 corporations or limited partnerships organized under the laws of this state  
9 or reserved or registered as a foreign limited liability company, foreign  
10 corporation or foreign limited partnership under the laws of this state,  
11 except that a foreign limited liability company may register under a name  
12 which is not such as to distinguish it upon the records of the office of the  
13 secretary of state from the name of other limited liability companies,  
14 corporations or limited partnerships organized under the laws of this state  
15 or reserved or registered as a foreign limited liability company, foreign  
16 corporation or foreign limited partnership under the laws of this state if:

17 (1) Written consent is obtained from the other *domestic or foreign*  
18 limited liability company, corporation or limited partnership and filed with  
19 the secretary of state; or

20 (2) it indicates as a means of identification and in its advertising  
21 within this state, the state in which the *foreign* limited liability company  
22 was formed, and the application sets forth this condition.

23 (b) Each foreign limited liability company shall have and maintain in  
24 the state of Kansas:

25 (1) A registered office which may but need not be its place of  
26 business in the state of Kansas; and

27 (2) a resident agent for service of process on the limited liability  
28 company, which agent may be an individual resident of the state of  
29 Kansas, a domestic corporation, a domestic limited partnership, a domestic  
30 limited liability company, a domestic business trust, or a foreign  
31 corporation, foreign limited partnership, foreign limited liability company  
32 or foreign business trust authorized to do business in the state of Kansas  
33 whose business office is identical with the limited liability company's  
34 registered office.

35 (c) A resident agent may change the address of the registered office of  
36 the foreign limited liability companies for which the resident agent is  
37 resident agent to another address in the state of Kansas by: (1) Paying the  
38 fee required by this act; (2) filing with the secretary of state a certificate  
39 executed by the resident agent, setting forth the names of all the foreign  
40 limited liability companies represented by the resident agent and the  
41 address at which the resident agent has maintained the registered office for  
42 each of such foreign limited liability companies; and (3) certifying to the  
43 new address to which each such registered office will be changed on a

1 given day and at which the resident agent will thereafter maintain the  
2 registered office for each of the foreign limited liability companies recited  
3 in the certificate. Upon the filing of the certificate, the secretary of state  
4 shall furnish to the resident agent a certified copy of such certificate.  
5 Thereafter, or until further change of address, as authorized by law, the  
6 registered office in the state of Kansas of each of the foreign limited  
7 liability companies recited in the certificate shall be located at the new  
8 address of the resident agent of the company given in the certificate. Filing  
9 of the certificate shall be considered an amendment of the application of  
10 each foreign limited liability company affected by the certificate, and the  
11 foreign limited liability company shall not be required to take any further  
12 action with respect thereto, to amend its application. Any resident agent  
13 filing a certificate under this section, upon such filing, shall deliver  
14 promptly a copy of such certificate to each foreign limited liability  
15 company affected thereby. The resident agent shall furnish the secretary of  
16 state one additional copy of the certificate for each limited liability  
17 company affected.

18 (d) The resident agent of one or more foreign limited liability  
19 companies may resign and appoint a successor resident agent by paying  
20 the fee required by this act and filing a certificate with the secretary of  
21 state, stating that the resident agent resigns as resident agent for the foreign  
22 limited liability company identified in the certificate and giving the name  
23 and address of the successor resident agent. There shall be attached to the  
24 certificate a statement executed by each affected foreign limited liability  
25 company ratifying and approving the change of resident agent. Upon the  
26 filing, the successor resident agent shall become the resident agent of those  
27 foreign limited liability companies that have ratified and approved the  
28 substitution and the successor resident agent's address, as stated in the  
29 certificate, shall become the address of each such foreign limited liability  
30 company's registered office in the state of Kansas. Filing of the certificate  
31 of resignation shall be deemed to be an amendment of the application of  
32 each foreign limited liability company affected by the certificate, and the  
33 foreign limited liability company shall not be required to take any further  
34 action with respect thereto, to amend its application. The resident agent  
35 shall furnish the secretary of state one additional copy of the certificate for  
36 each limited liability company affected.

37 (e) The resident agent of one or more foreign limited liability  
38 companies may resign without appointing a successor resident agent by  
39 paying the fee required by this act and filing a certificate with the secretary  
40 of state stating that the resident agent resigns as resident agent for the  
41 foreign limited liability companies identified in the certificate, but the  
42 resignation shall not become effective until 60 days after the certificate is  
43 filed. There shall be attached to the certificate an affidavit that, at least 30

1 days prior to the date of the filing of the certificate, notice that the  
2 resignation of the resident agent was sent by certified or registered mail to  
3 each foreign limited liability company for which the resident agent is  
4 resigning as resident agent. The affidavit shall be sworn to by the resident  
5 agent, if an individual, or the president, a vice-president or the secretary of  
6 the resident agent, if a corporation. The affidavit shall state that the notice  
7 was sent to the principal office of each of the foreign limited liability  
8 companies within or outside the state of Kansas, if known to the resident  
9 agent or, if not, to the last known address of the attorney or other  
10 individual at whose request the resident agent was appointed for the  
11 foreign limited liability company. After receipt of the notice of the  
12 resignation of its resident agent, the foreign limited liability company for  
13 which the resident agent was acting shall obtain and designate a new  
14 resident agent, to take the place of the resident agent resigning. If a foreign  
15 limited liability company fails to obtain and designate a new resident agent  
16 within 60 days after the filing by the resident agent of the certificate of  
17 resignation, that foreign limited liability company shall not be permitted to  
18 do business in the state of Kansas and its registration shall be considered  
19 canceled.

20 Sec. 49. K.S.A. 17-76,124 is hereby amended to read as follows: 17-  
21 76,124. If any statement in the application for registration of a foreign  
22 limited liability company was false *in any material respect* when made or  
23 any arrangements or other facts described have changed, making the  
24 application inaccurate in any *material* respect, the foreign limited liability  
25 company shall file promptly with the secretary of state a certificate,  
26 executed by an authorized person, correcting the statement, together with  
27 the fee required by this act.

28 Sec. 50. K.S.A. 17-76,125 is hereby amended to read as follows: 17-  
29 76,125. A foreign limited liability company may cancel its registration by  
30 filing with the secretary of state a certificate of cancellation executed by  
31 ~~the members~~ *an authorized person*, together with the fee required by this  
32 act and the annual report and annual report fee for any tax period which  
33 has ended. A cancellation does not terminate the authority of the secretary  
34 of state to accept service of process on the foreign limited liability  
35 company with respect to causes of action arising out of the doing of  
36 business in the state of Kansas.

37 Sec. 51. K.S.A. 17-76,126 is hereby amended to read as follows: 17-  
38 76,126. (a) A foreign limited liability company doing business in the state  
39 of Kansas may not maintain any action, suit or proceeding in the state of  
40 Kansas until it has registered in this state and has paid to the state all fees  
41 and penalties for the years, or parts thereof, during which it did business in  
42 the state without having registered.

43 (b) The failure of a foreign limited liability company to register in the

1 state of Kansas does not:

2 (1) Impair the validity of any contract or act of the foreign limited  
3 liability company;

4 (2) impair the right of any other party to the contract to maintain any  
5 action, suit or proceeding on the contract; or

6 (3) prevent the foreign limited liability company from defending any  
7 action, suit or proceeding in any court of the state of Kansas.

8 (c) A member *or a manager* of a foreign limited liability company is  
9 not ~~personally~~ liable for the *obligations of the* foreign limited liability  
10 company solely by reason of the limited liability company's having done  
11 business in the state of Kansas without registration.

12 Sec. 52. K.S.A. 17-76,127 is hereby amended to read as follows: 17-  
13 76,127. The district court shall have jurisdiction to enjoin any foreign  
14 limited liability company, or any agent of a foreign limited liability  
15 company, from doing any business in the state of Kansas if the foreign  
16 limited liability company has failed to register under ~~this act~~ K.S.A. 17-  
17 76,120 through 17-76,129, and amendments thereto, or if such foreign  
18 limited liability company has secured a certificate from the secretary of  
19 state under K.S.A. 17-76,122, and amendments thereto, on the basis of  
20 false or misleading representations. The attorney general, upon the  
21 attorney general's own motion or upon the relation of proper parties, shall  
22 proceed for this purpose by petition in any county in which the foreign  
23 limited liability company is doing or has done business.

24 Sec. 53. K.S.A. 17-76,128 is hereby amended to read as follows: 17-  
25 76,128. Subsection ~~(e)~~ (d) of K.S.A. 17-7676, and amendments thereto,  
26 shall be applicable to foreign limited liability companies as if they were  
27 domestic limited liability companies.

28 Sec. 54. K.S.A. 17-76,130 is hereby amended to read as follows: 17-  
29 76,130. A member *or an assignee of a limited liability company interest*  
30 may bring an action in the district court in the right of a limited liability  
31 company to recover a judgment in its favor if managers or members with  
32 authority to do so have refused to bring the action or if an effort to cause  
33 those managers or members to bring the action is not likely to succeed.

34 Sec. 55. K.S.A. 17-76,131 is hereby amended to read as follows: 17-  
35 76,131. In a derivative action, the plaintiff must be a member *or an*  
36 *assignee of a limited liability company interest* at the time of bringing the  
37 action and:

38 (a) At the time of the transaction of which the ~~member~~ *plaintiff*  
39 complains; or

40 (b) the ~~member's~~ *plaintiff's* status as a member *or an assignee of a*  
41 *limited liability company interest* had devolved upon the ~~member~~ *plaintiff*  
42 by operation of law or pursuant to the terms of an operating agreement  
43 from a person who was a member *or an assignee of a limited liability*



1 *company interest* at the time of the transaction.

2 Sec. 56. K.S.A. 17-76,133 is hereby amended to read as follows: 17-  
3 76,133. If a derivative action is successful, in whole or in part, as a result  
4 of a judgment, compromise or settlement of any such action, the ~~district~~  
5 court may award the plaintiff reasonable expenses, including reasonable  
6 ~~attorney~~ *attorney's* fees, from any recovery in any such action or from a  
7 limited liability company.

8 Sec. 57. K.S.A. 17-76,134 is hereby amended to read as follows: 17-  
9 76,134. (a) The rule that statutes in derogation of the common law are to  
10 be strictly construed shall have no application to this act.

11 (b) It is the policy of this act to give the maximum effect to the  
12 principle of freedom of contract and to the enforceability of operating  
13 agreements.

14 (c) To the extent that, at law or in equity, a member or manager or  
15 other person has duties ~~(including fiduciary duties) and liabilities relating~~  
16 ~~thereto~~, to a limited liability company or to; another member or manager-  
17 *or to another person that is a party to or is otherwise bound by an*  
18 *operating agreement, the member's or manager's or other person's duties*  
19 *may be expanded or restricted or eliminated by provisions in the operating*  
20 *agreement, except that the operating agreement may not eliminate the*  
21 *implied contractual covenant of good faith and fair dealing.*

22 ~~(1) any such~~ (d) *Unless otherwise provided in an operating*  
23 *agreement, a member or manager or other person ~~acting under an~~*  
24 *operating agreement shall not be liable to the a limited liability company*  
25 *or to any such other another member or; manager or to another person*  
26 *who is a party to or is otherwise bound by an operating agreement for*  
27 *breach of fiduciary duty for the member's or manager's or other person's*  
28 *good faith reliance on the provisions of the operating agreement; and*

29 ~~(2) The member's or manager's or other person's duties and liabilities~~  
30 ~~may be expanded or restricted by provisions in an operating agreement.~~

31 (e) *An operating agreement may provide for the limitation or*  
32 *elimination of any and all liabilities for breach of contract and breach of*  
33 *duties, including fiduciary duties, of a member, manager or other person*  
34 *to a limited liability company or to another member or manager or to*  
35 *another person that is a party to or is otherwise bound by an operating*  
36 *agreement, except that an operating agreement may not limit or eliminate*  
37 *liability for any act or omission that constitutes a bad faith violation of the*  
38 *implied contractual covenant of good faith and fair dealing.*

39 (f) *Unless the context otherwise requires, as used herein, the singular*  
40 *shall include the plural and the plural may refer to only the singular.*

41 (g) *K.S.A. 84-9-406 and 84-9-408, and amendments thereto, do not*  
42 *apply to any interest in a limited liability company, including all rights,*  
43 *powers and interests arising under an operating agreement or this act.*

1 *This provision prevails over K.S.A. 84-9-406 and 84-9-408, and*  
2 *amendments thereto.*

3 *(h) Action validly taken pursuant to one provision of this act shall not*  
4 *be deemed invalid solely because it is identical or similar in substance to*  
5 *an action that could have been taken pursuant to some other provision of*  
6 *this act but fails to satisfy one or more requirements prescribed by such*  
7 *other provision.*

8 *(i) An operating agreement that provides for the application of*  
9 *Kansas law shall be governed by and construed under the laws of the state*  
10 *of Kansas in accordance with its terms.*

11 Sec. 58. K.S.A. 17-76,136 is hereby amended to read as follows: 17-  
12 76,136. (a) The secretary of state shall charge each domestic and foreign  
13 limited liability company the following fees:

14 (1) A fee of \$20 for issuing or filing and indexing any of the  
15 following documents:

16 (A) A certificate of amendment of articles of organization;

17 (B) ~~a~~ restated articles of organization;

18 (C) a certificate of cancellation;

19 (D) a certificate of change of location of registered office or resident  
20 agent;

21 (E) a certificate of merger; ~~or consolidation or conversion~~; and

22 (F) any certificate, affidavit, agreement or any other paper provided  
23 for in this act, for which no different fee is specifically prescribed;

24 (2) a fee of \$7.50 for each certified copy plus a fee per page, if the  
25 secretary of state supplies the copies, in an amount fixed by the secretary  
26 of state and approved by the director of accounts and reports for copies of  
27 corporate documents under K.S.A. 45-204, and amendments thereto;

28 (3) a fee of \$7.50 for each certificate of good standing and certificate  
29 of fact issued by the secretary of state;

30 (4) a fee of \$5 for a report of record search, but furnishing the  
31 following information shall not be considered a record search and no  
32 charge shall be made therefor: Name of the limited liability company and  
33 the address of its registered office; name and address of the resident agent;  
34 the state of the limited liability company's formation; the date of filing of  
35 its articles of organization or annual report; and date of expiration; and

36 (5) for photocopies of instruments on file or prepared by the secretary  
37 of state's office and which are not certified, a fee per page in an amount  
38 fixed by the secretary of state and approved by the director of accounts and  
39 reports for copies of corporate documents under K.S.A. 45-204, and  
40 amendments thereto.

41 (b) Every limited liability company hereafter formed in this state shall  
42 pay to the secretary of state, at the time of filing its articles of organization,  
43 an application and recording fee of \$150.

1 (c) At the time of filing its application to do business, every foreign  
2 limited liability company shall pay to the secretary of state an application  
3 and recording fee of \$150.

4 (d) *The fee for filing a certificate of reinstatement shall be the same*  
5 *as that prescribed by K.S.A. 17-7506, and amendments thereto, for filing a*  
6 *certificate of reinstatement of a corporation's articles of incorporation.*

7 Sec. 59. K.S.A. 17-76,137 is hereby amended to read as follows: 17-  
8 76,137. All provisions of this act may be ~~amended~~ altered from time to  
9 time or repealed and all rights of members and managers are subject to this  
10 reservation. *Unless expressly stated to the contrary in this act, all*  
11 *amendments of this act shall apply to limited liability companies and*  
12 *members and managers whether or not existing as such at the time of the*  
13 *enactment of any such amendment.*

14 Sec. 60. K.S.A. 17-76,139 is hereby amended to read as follows: 17-  
15 76,139. (a) Every limited liability company organized under the laws of  
16 this state shall make an annual report in writing to the secretary of state,  
17 stating the prescribed information concerning the limited liability company  
18 at the close of business on the last day of its tax period next preceding the  
19 date of filing. If the limited liability company's tax period is other than the  
20 calendar year, it shall give notice of its different tax period in writing to the  
21 secretary of state prior to December 31 of the year it commences the  
22 different tax period. The annual report shall be filed at the time prescribed  
23 by law for filing the limited liability company's annual Kansas income tax  
24 return. The annual report shall be made on a form prescribed by the  
25 secretary of state. The report shall contain the following information:

26 (1) The name of the limited liability company; and

27 (2) a list of the members owning at least 5% of the capital of the  
28 *limited liability* company, with the post office address of each.

29 (b) Every foreign limited liability company shall make an annual  
30 report in writing to the secretary of state, stating the prescribed  
31 information concerning the limited liability company at the close of  
32 business on the last day of its tax period next preceding the date of filing.  
33 If the limited liability company's tax period is other than the calendar year,  
34 it shall give notice in writing of its different tax period to the secretary of  
35 state prior to December 31 of the year it commences the different tax  
36 period. The annual report shall be filed at the time prescribed by law for  
37 filing the limited liability company's annual Kansas income tax return. The  
38 annual report shall be made on a form prescribed by the secretary of state.  
39 The report shall contain the name of the limited liability company.

40 (c) The annual report required by this section shall be dated, ~~signed~~  
41 ~~by a member of the limited liability company under penalty of perjury and~~  
42 ~~forwarded to the~~ *executed by one or more authorized persons, and filed*  
43 *with the secretary of state. The execution of such annual report by a*

1 *person who is authorized by this act to execute such annual report, upon*  
2 *filing such annual report with the secretary of state, constitutes an oath or*  
3 *affirmation, under penalties of perjury that, to the best of such person's*  
4 *knowledge and belief, the facts stated therein are true.* At the time of filing  
5 the report, the limited liability company shall pay to the secretary of state  
6 an annual report fee in an amount equal to \$40.

7 (d) The provisions of K.S.A. 17-7509, and amendments thereto,  
8 relating to penalties for failure of a corporation to file an annual report or  
9 pay the required annual report fee, and the provisions of subsection (a) of  
10 K.S.A. 17-7510, and amendments thereto, relating to penalties for failure  
11 of a corporation to file an annual report or pay the required annual report  
12 fee, shall be applicable to the articles of organization of any domestic  
13 limited liability company or to the authority of any foreign limited liability  
14 company which fails to file its annual report or pay the annual report fee  
15 within 90 days of the time prescribed in this section for filing and paying  
16 the same. Whenever the articles of organization of a domestic limited  
17 liability company or the authority of any foreign limited liability company  
18 are forfeited for failure to file an annual report or to pay the required  
19 annual report fee, the domestic limited liability company or the authority  
20 of a foreign limited liability company may be reinstated by filing a  
21 certificate of reinstatement, ~~in the manner and form to be prescribed by the~~  
22 ~~secretary of state pursuant to section 65, and amendments thereto, and~~  
23 ~~paying to the secretary of state all fees, including any penalties thereon,~~  
24 ~~due to the state. The fee for filing a certificate of reinstatement shall be the~~  
25 ~~same as that prescribed by K.S.A. 17-7506, and amendments thereto, for~~  
26 ~~filing a certificate of reinstatement of a corporation's articles of~~  
27 ~~incorporation.~~

28 ~~(e) When reinstatement is effective, it relates back to and takes effect~~  
29 ~~as of the effective date of the forfeiture and the company may resume its~~  
30 ~~business as if the forfeiture had never occurred.~~

31 ~~(f)~~ (e) No limited liability company shall be required to file its first  
32 annual report under this act, or pay any annual report fee required to  
33 accompany such report, unless such limited liability company has filed its  
34 articles of organization or application for authority at least six months  
35 prior to the last day of its tax period.

36 ~~(g)~~ (f) All copies of applications for extension of the time for filing  
37 income tax returns submitted to the secretary of state pursuant to law shall  
38 be maintained by the secretary of state in a confidential file and shall not  
39 be disclosed to any person except as authorized pursuant to the provisions  
40 of K.S.A. 79-3234, and amendments thereto, a proper judicial order, or  
41 subsection ~~(h)~~ (g). All copies of such applications shall be preserved for  
42 one year and thereafter until the secretary of state orders that they be  
43 destroyed.

1        ~~(h)~~ (g) A copy of such application shall be open to inspection by or  
2 disclosure to any person who was a member of such limited liability  
3 company during any part of the period covered by the extension.

4        Sec. 61. K.S.A. 17-76,140 is hereby amended to read as follows: 17-  
5 76,140. From and after ~~January 1, 2000~~ *July 1, 2013*, this act shall be  
6 applicable to all limited liability companies formed in Kansas, whether  
7 formed before or after such date.

8        Sec. 62. K.S.A. 2012 Supp. 17-76,143 is hereby amended to read as  
9 follows: 17-76,143. (a) An operating agreement may establish or provide  
10 for the establishment of one or more designated series of members,  
11 managers or limited liability company interests having separate rights,  
12 powers or duties with respect to specified property or obligations of the  
13 limited liability company or profits and losses associated with specified  
14 property or obligations, and to the extent provided in the operating  
15 agreement, any such series may have a separate business purpose or  
16 investment objective.

17        (b) Notwithstanding anything to the contrary set forth in this section  
18 or under other applicable law, in the event that an operating agreement  
19 establishes or provides for the establishment of one or more series, and if  
20 the records maintained for any such series account for the assets associated  
21 with such series separately from the other assets of the limited liability  
22 company, or any other series thereof, and if the operating agreement so  
23 provides, and if notice of the limitation on liabilities of a series as  
24 referenced in this subsection is set forth in the articles of organization of  
25 the limited liability company and if the limited liability company has filed  
26 a certificate of designation for each series which is to have limited liability  
27 under this section, then the debts, liabilities, obligations and expenses  
28 incurred, contracted for or otherwise existing with respect to a particular  
29 series shall be enforceable against the assets of such series only, and not  
30 against the assets of the limited liability company generally or any other  
31 series thereof, and, unless otherwise provided in the operating agreement,  
32 none of the debts, liabilities, obligations and expenses incurred, contracted  
33 for or otherwise existing with respect to the limited liability company  
34 generally or any other series thereof shall be enforceable against the assets  
35 of such series. The fact that the articles of organization contain the  
36 foregoing notice of the limitation on liabilities of a series and a certificate  
37 of designation for a series is on file in the office of the secretary of state  
38 shall constitute notice of such limitation on liabilities of a series. A series  
39 with limited liability shall be treated as a separate entity to the extent set  
40 forth in the articles of organization. Each series with limited liability may,  
41 in its own name, contract, hold title to assets, grant security interests, sue  
42 and be sued and otherwise conduct business and exercise the powers of a  
43 limited liability company under this act. The limited liability company and

1 any of its series may elect to consolidate their operations as a single  
2 taxpayer to the extent permitted under applicable law, elect to work  
3 cooperatively, elect to contract jointly or elect to be treated as a single  
4 business for purposes of qualification to do business in this or any other  
5 state. Such elections shall not affect the limitation of liability set forth in  
6 this section except to the extent that the series have specifically accepted  
7 joint liability by contract.

8 (c) Except in the case of a foreign limited liability company that has  
9 adopted an assumed name pursuant to K.S.A. 17-76,123, and amendments  
10 thereto, the name of the series with limited liability must contain the entire  
11 name of the limited liability company and be distinguishable from the  
12 names of the other series set forth in the articles of organization. In the  
13 case of a foreign limited liability company that has adopted an assumed  
14 name pursuant to K.S.A. 17-76,123, and amendments thereto, the name of  
15 the series with limited liability must contain the entire name under which  
16 the foreign limited liability company has been admitted to transact  
17 business in this state.

18 (d) Upon the filing of the certificate of designation with the secretary  
19 of state setting forth the name of each series with limited liability, the  
20 series' existence shall begin, and copies of the filed certificate of  
21 designation marked with the filing date shall be conclusive evidence,  
22 except as against the state, that all conditions precedent required to be  
23 performed have been complied with and that the series has been or shall be  
24 legally organized and formed under this act. If different from the limited  
25 liability company, the certificate of designation for each series shall list the  
26 names of the members if the series is member managed or the names of  
27 the managers if the series is manager managed. The name of a series with  
28 limited liability under subsection (b) may be changed by filing with the  
29 secretary of state a certificate of designation identifying the series whose  
30 name is being changed and the new name of such series. If not the same as  
31 the limited liability company, the names of the members of a member  
32 managed series or of the managers of a manager managed series may be  
33 changed by filing a new certificate of designation with the secretary of  
34 state. A series with limited liability under subsection (b) may be dissolved  
35 by filing with the secretary of state a certificate of designation identifying  
36 the series being dissolved or by the dissolution of the limited liability  
37 company as provided in subsection (m). Certificates of designation may be  
38 executed by the limited liability company or any manager, person or entity  
39 designated in the operating agreement for the limited liability company.

40 (e) A series of a limited liability company will be deemed to be in  
41 good standing as long as the limited liability company is in good standing.

42 (f) The ~~registered~~ *resident* agent and registered office for the limited  
43 liability company in Kansas shall serve as the agent and office for service

1 of process in Kansas for each series.

2 (g) An operating agreement may provide for classes or groups of  
3 members or managers associated with a series having such relative rights,  
4 powers and duties as the operating agreement may provide, and may make  
5 provision for the future creation of additional classes or groups of  
6 members or managers associated with the series having such relative  
7 rights, powers and duties as may from time to time be established,  
8 including rights, powers and duties senior to existing classes and groups of  
9 members or managers associated with the series.

10 (h) A series may be managed by either the member or members  
11 associated with the series or by a manager or managers chosen by the  
12 members of such series, as provided in the operating agreement. Unless  
13 otherwise provided in an operating agreement, the management of a series  
14 shall be vested in the members associated with such series.

15 (i) An operating agreement may grant to all or certain identified  
16 members or managers or a specified class or group of the members or  
17 managers associated with a series the right to vote separately or with all or  
18 any class or group of the members or managers associated with the series,  
19 on any matter. An operating agreement may provide that any member or  
20 class or group of members associated with a series shall have no voting  
21 rights.

22 (j) Except to the extent modified in this section, the provisions of this  
23 act which are generally applicable to limited liability companies, their  
24 managers, members and transferees shall be applicable to each particular  
25 series with respect to the operation of such series.

26 (k) Except as otherwise provided in an operating agreement, any  
27 event under this act or in an operating agreement that causes a manager to  
28 cease to be a manager with respect to a series shall not, in itself, cause  
29 such manager to cease to be a manager of the limited liability company or  
30 with respect to any other series thereof.

31 (l) Except as otherwise provided in an operating agreement, any event  
32 under this act or an operating agreement that causes a member to cease to  
33 be associated with a series shall not, in itself, cause such member to cease  
34 to be associated with any other series or terminate the continued  
35 membership of a member in the limited liability company or cause the  
36 termination of the series, regardless of whether such member was the last  
37 remaining member associated with such series.

38 (m) Except to the extent otherwise provided in the operating  
39 agreement, a series may be dissolved and its affairs wound up without  
40 causing the dissolution of the limited liability company. The dissolution of  
41 a series established in accordance with subsection (b) shall not affect the  
42 limitation on liabilities of such series provided by subsection (b). A series  
43 is terminated and its affairs shall be wound up upon the dissolution of the

1 limited liability company under article 76 of chapter 17 of the Kansas  
2 Statutes Annotated, and amendments thereto.

3 (n) If a limited liability company with the ability to establish a series  
4 does not register to do business in a foreign jurisdiction for itself and  
5 certain of its series, a series of a limited liability company may itself  
6 register to do business as a limited liability company in the foreign  
7 jurisdiction in accordance with the laws of the foreign jurisdiction.

8 (o) If a foreign limited liability company, as permitted in the  
9 jurisdiction of its organization, has established a series having separate  
10 rights, powers or duties and has limited the liabilities of such series so that  
11 the debts, liabilities and obligations incurred, contracted for or otherwise  
12 existing with respect to a particular series are enforceable against the  
13 assets of such series only, and not against the assets of the limited liability  
14 company generally or any other series thereof, or so that the debts,  
15 liabilities, obligations and expenses incurred, contracted for or otherwise  
16 existing with respect to the limited liability company generally or any  
17 other series thereof are not enforceable against the assets of such series,  
18 then the limited liability company, on behalf of itself or any of its series, or  
19 any of its series on their own behalf may register to do business in the state  
20 in accordance with the provisions of K.S.A. 17-76,121, and amendments  
21 thereto. The limitation of liability shall be so stated on the application for  
22 admission as a foreign limited liability company and a certificate of  
23 designation shall be filed for each series being registered to do business in  
24 the state by the limited liability company. Unless otherwise provided in the  
25 operating agreement, the debts, liabilities and obligations incurred,  
26 contracted for or otherwise existing with respect to a particular series of  
27 such a foreign limited liability company shall be enforceable against the  
28 assets of such series only, and not against the assets of the foreign limited  
29 liability company generally or any other series thereof and none of the  
30 debts, liabilities, obligations and expenses incurred, contracted for or  
31 otherwise existing with respect to such a foreign limited liability company  
32 generally or any other series thereof shall be enforceable against the assets  
33 of such series.

34 New Sec. 63. When the articles of organization of any limited  
35 liability company formed under this act shall be canceled by the filing of a  
36 certificate of cancellation pursuant to K.S.A. 17-7675, and amendments  
37 thereto, the district court, on application of any creditor, member or  
38 manager of the limited liability company, or any other person who shows  
39 good cause therefor, at any time, may either appoint one or more of the  
40 managers of the limited liability company to be trustees, or appoint one or  
41 more persons to be receivers, of and for the limited liability company, to  
42 take charge of the limited liability company's property, and to collect the  
43 debts and property due and belonging to the limited liability company,



1 with the power to prosecute and defend, in the name of the limited liability  
2 company, or otherwise, all such suits as may be necessary or proper for the  
3 purposes aforesaid, and to appoint an agent or agents under them, and to  
4 do all other acts which might be done by the limited liability company, if  
5 in being, that may be necessary for the final settlement of the unfinished  
6 business of the limited liability company. The powers of the trustees or  
7 receivers may be continued as long as the district court shall think  
8 necessary for the purposes aforesaid.

9 New Sec. 64. Notwithstanding the occurrence of an event set forth in  
10 subsections (a)(1) through (a)(4) of K.S.A. 17-76,116, and amendments  
11 thereto, the limited liability company shall not be dissolved and its affairs  
12 shall not be wound up if, prior to the filing of a certificate of cancellation  
13 with the secretary of state, the limited liability company is continued,  
14 effective as of the occurrence of such event, pursuant to the affirmative  
15 vote or written consent of all remaining members of the limited liability  
16 company or the personal representative of the last remaining member of  
17 the limited liability company if there is no remaining member, and any  
18 other person whose approval is required under the operating agreement to  
19 revoke a dissolution pursuant to this section, except that if the dissolution  
20 was caused by a vote or written consent, the dissolution shall not be  
21 revoked unless each member and other person, or their respective personal  
22 representatives, who voted in favor of, or consented to, the dissolution has  
23 voted or consented in writing to continue the limited liability company. If  
24 there is no remaining member of the limited liability company and the  
25 personal representative of the last remaining member votes in favor of or  
26 consents to the continuation of the limited liability company, such personal  
27 representative shall be required to agree in writing to the admission of the  
28 personal representative of such member or its nominee or designee to the  
29 limited liability company as a member, effective as of the occurrence of  
30 the event that terminated the continued membership of the last remaining  
31 member.

32 New Sec. 65. (a) A domestic limited liability company whose articles  
33 of organization or a foreign limited liability company whose authority to  
34 do business has been canceled pursuant to subsection (d) or (e) of K.S.A.  
35 17-7666 or subsection (e) of 17-76,123, and amendments thereto, or whose  
36 articles of organization or authority to do business has been forfeited  
37 pursuant to subsection (d) of K.S.A. 17-76,139, and amendments thereto,  
38 may be reinstated by filing with the secretary of state a certificate of  
39 reinstatement accompanied by the payment of the fee required by  
40 subsection (d) of K.S.A. 17-76,136, and amendments thereto, and payment  
41 of the annual report fees due under subsection (c) of K.S.A. 17-76,139,  
42 and amendments thereto, and all penalties and interest thereon due at the  
43 time of the cancellation or forfeiture of its articles of organization or

1 authority to do business. The certificate of reinstatement shall set forth:

2 (1) The name of the limited liability company at the time its articles  
3 of organization or authority to do business was canceled or forfeited and, if  
4 such name is not available at the time of reinstatement, the name under  
5 which the limited liability company is to be reinstated;

6 (2) the date of filing of the original articles of organization or  
7 application for registration of the limited liability company;

8 (3) the address of the limited liability company's registered office in  
9 the state of Kansas and the name and address of the limited liability  
10 company's resident agent in the state of Kansas;

11 (4) a statement that the certificate of reinstatement is filed by one or  
12 more persons authorized to execute and file the certificate of reinstatement  
13 to reinstate the limited liability company; and

14 (5) any other matters the persons executing the certificate of  
15 reinstatement determine to include therein.

16 (b) The certificate of reinstatement shall be deemed to be an  
17 amendment to the articles of organization or application for registration of  
18 the limited liability company, and the limited liability company shall not  
19 be required to take any further action to amend its articles of organization  
20 or application for registration under K.S.A. 17-7674 or 17-76,124, and  
21 amendments thereto, with respect to the matters set forth in the certificate  
22 of reinstatement.

23 (c) Upon the filing of a certificate of reinstatement, a limited liability  
24 company shall be reinstated with the same force and effect as if its articles  
25 of organization or authority to do business had not been canceled or  
26 forfeited pursuant to subsection (d) or (e) of K.S.A. 17-7666, and  
27 amendments thereto, subsection (e) of K.S.A. 17-76,123, and amendments  
28 thereto, or subsection (d) of K.S.A. 17-76,139, and amendments thereto.  
29 Such reinstatement shall validate all contracts, acts, matters and things  
30 made, done and performed by the limited liability company, its members,  
31 managers, employees and agents during the time when its articles of  
32 organization or authority to do business was canceled or forfeited pursuant  
33 to subsection (d) or (e) of K.S.A. 17-7666, and amendments thereto,  
34 subsection (e) of K.S.A. 17-76,123, and amendments thereto, or subsection  
35 (d) of K.S.A. 17-76,139, and amendments thereto, with the same force and  
36 effect and to all intents and purposes as if the articles of organization or  
37 authority to do business had remained in full force and effect. All real and  
38 personal property, and all rights and interests, which belonged to the  
39 limited liability company at the time its articles of organization or  
40 authority to do business was canceled or forfeited pursuant to subsection  
41 (d) or (e) of K.S.A. 17-7666, and amendments thereto, subsection (e) of  
42 K.S.A. 17-76,123, and amendments thereto, or subsection (d) of K.S.A.  
43 17-76,139, and amendments thereto, or which were acquired by the limited

1 liability company following the cancellation or forfeiture of its articles of  
2 organization or authority to do business pursuant to subsection (d) or (e) of  
3 K.S.A. 17-7666, and amendments thereto, subsection (e) of K.S.A. 17-  
4 76,123, and amendments thereto, or subsection (d) of K.S.A. 17-76,139,  
5 and amendments thereto, and which were not disposed of prior to the time  
6 of its reinstatement, shall be vested in the limited liability company after  
7 its reinstatement as fully as they were held by the limited liability  
8 company at, and after, as the case may be, the time its articles of  
9 organization or authority to do business was canceled or forfeited pursuant  
10 to subsection (d) or (e) of K.S.A. 17-7666, and amendments thereto,  
11 subsection (e) of K.S.A. 17-76,123, and amendments thereto, or subsection  
12 (d) of K.S.A. 17-76,139, and amendments thereto. After its reinstatement,  
13 the limited liability company shall be as exclusively liable for all contracts,  
14 acts, matters and things made, done or performed in its name and on its  
15 behalf by its members, managers, employees and agents prior to its  
16 reinstatement as if its articles of organization or authority to do business  
17 had at all times remained in full force and effect.

18 Sec. 66. K.S.A. 2011 Supp. 84-9-406, as amended by section 8 of  
19 chapter 84 of the 2012 Session Laws of Kansas, is hereby amended to read  
20 as follows: 84-9-406. (a) **Discharge of account debtor; effect of**  
21 **notification.** Subject to subsections (b) through (i), an account debtor on  
22 an account, chattel paper, or a payment intangible may discharge the  
23 account debtor's obligation by paying the assignor until, but not after, the  
24 account debtor receives a notification, authenticated by the assignor or the  
25 assignee, that the amount due or to become due has been assigned and that  
26 payment is to be made to the assignee. After receipt of the notification, the  
27 account debtor may discharge the account debtor's obligation by paying  
28 the assignee and may not discharge the obligation by paying the assignor.

29 (b) **When notification ineffective.** Subject to subsection (h),  
30 notification is ineffective under subsection (a):

31 (1) If it does not reasonably identify the rights assigned;

32 (2) to the extent that an agreement between an account debtor and a  
33 seller of a payment intangible limits the account debtor's duty to pay a  
34 person other than the seller and the limitation is effective under law other  
35 than this article; or

36 (3) at the option of an account debtor, if the notification notifies the  
37 account debtor to make less than the full amount of any installment or  
38 other periodic payment to the assignee, even if:

39 (A) Only a portion of the account, chattel paper, or payment  
40 intangible has been assigned to that assignee;

41 (B) a portion has been assigned to another assignee; or

42 (C) the account debtor knows that the assignment to that assignee is  
43 limited.

1 (c) **Proof of assignment.** Subject to subsection (h), if requested by  
2 the account debtor, an assignee shall seasonably furnish reasonable proof  
3 that the assignment has been made. Unless the assignee complies, the  
4 account debtor may discharge its obligation by paying the assignor, even if  
5 the account debtor has received a notification under subsection (a).

6 (d) **Term restricting assignment generally ineffective.** Except as  
7 otherwise provided in subsection (e), *subsection (g) of K.S.A. 17-76,134,*  
8 *and amendments thereto, K.S.A. 84-2a-303, and amendments thereto,* and  
9 K.S.A. 2012 Supp. 84-9-407, and amendments thereto, and subject to  
10 subsection (h), a term in an agreement between an account debtor and an  
11 assignor or in a promissory note is ineffective to the extent that it:

12 (1) Prohibits, restricts, or requires the consent of the account debtor  
13 or person obligated on the promissory note to the assignment or transfer  
14 of, or the creation, attachment, perfection, or enforcement of a security  
15 interest in, the account, chattel paper, payment intangible, or promissory  
16 note; or

17 (2) provides that the assignment or transfer or the creation,  
18 attachment, perfection, or enforcement of the security interest may give  
19 rise to a default, breach, right of recoupment, claim, defense, termination,  
20 right of termination, or remedy under the account, chattel paper, payment  
21 intangible, or promissory note.

22 (e) **Inapplicability of subsection (d) to certain sales.** Subsection (d)  
23 does not apply to the sale of a payment intangible or promissory note,  
24 other than a sale pursuant to a disposition under K.S.A. 2012 Supp. 84-9-  
25 610, and amendments thereto, or an acceptance of collateral under K.S.A.  
26 2012 Supp. 84-9-620, and amendments thereto.

27 (f) **Legal restrictions on assignment generally ineffective.** Except  
28 as otherwise provided in *subsection (g) of K.S.A. 17-76,134, and*  
29 *amendments thereto, K.S.A. 84-2a-303, and amendments thereto,* and  
30 K.S.A. 2012 Supp. 84-9-407, and amendments thereto, and subject to  
31 subsections (h) and (i), a rule of law, statute, or regulation that prohibits,  
32 restricts, or requires the consent of a government, governmental body or  
33 official, or account debtor to the assignment or transfer of, or creation of a  
34 security interest in, an account or chattel paper is ineffective to the extent  
35 that the rule of law, statute, or regulation:

36 (1) Prohibits, restricts, or requires the consent of the government,  
37 governmental body or official, or account debtor to the assignment or  
38 transfer of, or the creation, attachment, perfection, or enforcement of a  
39 security interest in the account or chattel paper; or

40 (2) provides that the assignment or transfer or the creation,  
41 attachment, perfection, or enforcement of the security interest may give  
42 rise to a default, breach, right of recoupment, claim, defense, termination,  
43 right of termination, or remedy under the account or chattel paper.

1 (g) **Subsection (b)(3) not waivable.** Subject to subsection (h), an  
2 account debtor may not waive or vary its option under subsection (b)(3).

3 (h) **Rule for individual under other law.** This section is subject to  
4 law other than this article which establishes a different rule for an account  
5 debtor who is an individual and who incurred the obligation primarily for  
6 personal, family, or household purposes.

7 (i) **Inapplicability to health-care-insurance receivable.** This section  
8 does not apply to an assignment of a health-care-insurance receivable.

9 (j) **Section prevails over specified inconsistent law.** This section  
10 prevails over any inconsistent provisions of any laws, rules, and  
11 regulations.

12 Sec. 67. K.S.A. 2011 Supp. 84-9-408, as amended by section 9 of  
13 chapter 84 of the 2012 Session Laws of Kansas, is hereby amended to read  
14 as follows: 84-9-408. (a) **Term restricting assignment generally**  
15 **ineffective.** Except as otherwise provided in subsection (b) *and subsection*  
16 *(g) of K.S.A. 17-76,134, and amendments thereto*, a term in a promissory  
17 note or in an agreement between an account debtor and a debtor which  
18 relates to a health-care-insurance receivable or a general intangible,  
19 including a contract, permit, license, or franchise, and which term  
20 prohibits, restricts, or requires the consent of the person obligated on the  
21 promissory note or the account debtor to, the assignment or transfer of, or  
22 creation, attachment, or perfection of a security interest in, the promissory  
23 note, health-care-insurance receivable, or general intangible, is ineffective  
24 to the extent that the term:

25 (1) Would impair the creation, attachment, or perfection of a security  
26 interest; or

27 (2) provides that the assignment or transfer or the creation,  
28 attachment, or perfection of the security interest may give rise to a default,  
29 breach, right of recoupment, claim, defense, termination, right of  
30 termination, or remedy under the promissory note, health-care-insurance  
31 receivable, or general intangible.

32 (b) **Applicability of subsection (a) to sales of certain rights to**  
33 **payment.** Subsection (a) applies to a security interest in a payment  
34 intangible or promissory note only if the security interest arises out of a  
35 sale of the payment intangible or promissory note, other than a sale  
36 pursuant to a disposition under K.S.A. 2012 Supp. 84-9-610, and  
37 amendments thereto, or an acceptance of collateral under K.S.A. 2012  
38 Supp. 84-9-620, and amendments thereto.

39 (c) **Legal restrictions on assignment generally ineffective.** *Except*  
40 *as otherwise provided in subsection (g) of K.S.A. 17-76,134, and*  
41 *amendments thereto*, a rule of law, statute, or regulation that prohibits,  
42 restricts, or requires the consent of a government, governmental body or  
43 official, person obligated on a promissory note, or account debtor to the

1 assignment or transfer of, or creation of a security interest in, a promissory  
2 note, health-care-insurance receivable, or general intangible, including a  
3 contract, permit, license, or franchise between an account debtor and a  
4 debtor, is ineffective to the extent that the rule of law, statute, or  
5 regulation:

6 (1) Would impair the creation, attachment, or perfection of a security  
7 interest; or

8 (2) provides that the assignment or transfer or the creation,  
9 attachment, or perfection of the security interest may give rise to a default,  
10 breach, right of recoupment, claim, defense, termination, right of  
11 termination, or remedy under the promissory note, health-care-insurance  
12 receivable, or general intangible.

13 (d) **Limitation on ineffectiveness under subsections (a) and (c).** To  
14 the extent that a term in a promissory note or in an agreement between an  
15 account debtor and a debtor which relates to a health-care-insurance  
16 receivable or general intangible or a rule of law, statute, or regulation  
17 described in subsection (c) would be effective under law other than this  
18 article but is ineffective under subsection (a) or (c), the creation,  
19 attachment, or perfection of a security interest in the promissory note,  
20 health-care-insurance receivable, or general intangible:

21 (1) Is not enforceable against the person obligated on the promissory  
22 note or the account debtor;

23 (2) does not impose a duty or obligation on the person obligated on  
24 the promissory note or the account debtor;

25 (3) does not require the person obligated on the promissory note or  
26 the account debtor to recognize the security interest, pay or render  
27 performance to the secured party, or accept payment or performance from  
28 the secured party;

29 (4) does not entitle the secured party to use or assign the debtor's  
30 rights under the promissory note, health-care-insurance receivable, or  
31 general intangible, including any related information or materials  
32 furnished to the debtor in the transaction giving rise to the promissory  
33 note, health-care-insurance receivable, or general intangible;

34 (5) does not entitle the secured party to use, assign, possess, or have  
35 access to any trade secrets or confidential information of the person  
36 obligated on the promissory note or the account debtor; and

37 (6) does not entitle the secured party to enforce the security interest in  
38 the promissory note, health-care-insurance receivable, or general  
39 intangible.

40 (e) **Section prevails over specified inconsistent law.** This section  
41 prevails over any inconsistent provisions of any laws, rules, and  
42 regulations of this state.

43 Sec. 68. K.S.A. 17-7662, 17-7664, 17-7666, 17-7668, 17-7670, 17-

1 7671, 17-7672, 17-7673, 17-7674, 17-7676, 17-7677, 17-7679, 17-7680,  
2 17-7683, 17-7686, 17-7687, 17-7688, 17-7689, 17-7690, 17-7691, 17-  
3 7693, 17-7695, 17-7697, 17-7698, 17-76,100, 17-76,103, 17-76,104, 17-  
4 76,105, 17-76,106, 17-76,107, 17-76,110, 17-76,112, 17-76,113, 17-  
5 76,114, 17-76,115, 17-76,116, 17-76,117, 17-76,118, 17-76,119, 17-  
6 76,121, 17-76,121a, 17-76,122, 17-76,123, 17-76,124, 17-76,125, 17-  
7 76,126, 17-76,127, 17-76,128, 17-76,130, 17-76,131, 17-76,133, 17-  
8 76,134, 17-76,136, 17-76,137, 17-76,139 and 17-76,140; K.S.A. 2011  
9 Supp. 84-9-406, as amended by section 8 of chapter 84 of the 2012  
10 Session Laws of Kansas, and 84-9-408, as amended by section 9 of  
11 chapter 84 of the 2012 Session Laws of Kansas, and K.S.A. 2012 Supp.  
12 17-7663, 17-7675, 17-7678, 17-7681, 17-7682 and 17-76,143 are hereby  
13 repealed.

14 Sec. 69. This act shall take effect and be in force from and after its  
15 publication in the statute book.