

MICHIGAN LIMITED LIABILITY COMPANY ACT (EXCERPT)

Act 23 of 1993

ARTICLE 8

450.4801 Dissolution and winding up; conditions.

Sec. 801. A limited liability company is dissolved and its affairs shall be wound up when the first of the following occurs:

- (a) Automatically, if a time specified in the articles of organization is reached.
- (b) If a vote of the members or other event specified in the articles of organization or in an operating agreement takes place.
- (c) The members entitled to vote unanimously vote for dissolution.
- (d) Automatically, if a decree of judicial dissolution is entered.
- (e) A majority of the organizers of the limited liability company vote for dissolution, if the limited liability company has not commenced business; has not issued any membership interests; has no debts or other liabilities; and has not received any payments, or has returned any payments it has received after deducting any amount disbursed for payment of expenses, for subscriptions for its membership interests.

History: 1993, Act 23, Eff. June 1, 1993;—Am. 1997, Act 52, Imd. Eff. July 1, 1997;—Am. 2002, Act 686, Imd. Eff. Dec. 30, 2002;—Am. 2010, Act 290, Imd. Eff. Dec. 16, 2010.

450.4802 Dissolution; decree by circuit court.

Sec. 802. Upon application by or for a member, the circuit court for the county in which the registered office of a limited liability company is located may decree dissolution of the company whenever the company is unable to carry on business in conformity with the articles of organization or operating agreements.

History: 1993, Act 23, Eff. June 1, 1993.

450.4803 Dissolution; action by attorney general; grounds; other actions not excluded.

Sec. 803. (1) The attorney general may bring an action in the circuit court for the county in which the registered office of a limited liability company is located for dissolution of the limited liability company on the ground that the company has committed any of the following acts:

- (a) Procured its organization through fraud.
- (b) Repeatedly and willfully exceeded the authority conferred on it by law.
- (c) Repeatedly and willfully conducted its business in an unlawful manner.
- (d) If the limited liability company is a low-profit limited liability company, ceased to meet any of the requirements described in section 102(m) and for 60 days after it ceased to meet those requirements failed to file a certificate of amendment amending its name to conform with the requirements of section 204.

(2) This section does not exclude any other statutory or common law action by the attorney general for dissolution of a limited liability company.

History: 1993, Act 23, Eff. June 1, 1993;—Am. 2008, Act 567, Imd. Eff. Jan. 16, 2009.

450.4804 Certificate of dissolution; filing; contents.

Sec. 804. (1) When it begins winding up its affairs, a limited liability company that dissolves under section 801(b) or (c) shall execute a certificate of dissolution as provided in section 103 and file the certificate with the administrator. The certificate of dissolution shall contain all of the following:

- (a) The name of the limited liability company.
 - (b) The reason for the dissolution.
 - (c) The effective date of the dissolution if later than the date of filing of the certificate of dissolution.
- (2) When it begins winding up its affairs, a limited liability company that dissolves under section 801(e) shall execute a certificate of dissolution as provided in section 103 and file the certificate with the administrator. The certificate of dissolution shall contain all of the following:
- (a) The name of the limited liability company.
 - (b) A statement that includes all of the following:
 - (i) That the limited liability company has not commenced business, has not issued any membership interests, and has no debts or other liabilities.
 - (ii) That the limited liability company has not received any payments, or has returned any payments it has received after deducting any amount disbursed for payment of expenses, for subscriptions for its membership interests.
 - (iii) That a majority of the organizers of the limited liability company have approved the dissolution.

History: 1993, Act 23, Eff. June 1, 1993;—Am. 2002, Act 686, Imd. Eff. Dec. 30, 2002;—Am. 2010, Act 290, Imd. Eff. Dec. 16, 2010.

450.4805 Winding up by managers, members, or circuit court; procedures; right to maintain actions.

Sec. 805. (1) Except as otherwise provided in the articles of organization, an operating agreement, or this section, the members or managers that have not wrongfully dissolved a limited liability company may wind up the company's affairs, but the circuit court for the county in which the registered office is located may wind up the limited liability company's affairs on application of, and for good cause shown by, any member or legal representative or assignee of a member.

(2) The members or managers that are winding up a limited liability company's affairs shall continue to function, for the purpose of winding up, in accordance with the procedures established by this act, the articles of organization, and operating agreements, shall not be held to a greater standard of conduct than that described in section 404, and are not subject to any greater liabilities than would apply in the absence of dissolution.

(3) A dissolved limited liability company may sue and be sued in its name and process may issue by and against the company in the same manner as if dissolution had not occurred. An action brought by or against a limited liability company before its dissolution does not abate because of the dissolution.

History: 1993, Act 23, Eff. June 1, 1993;—Am. 2010, Act 290, Imd. Eff. Dec. 16, 2010.

450.4806 Dissolution; notice to existing claimants; contents; validity of claim not recognized; claims barred under certain conditions; "existing claim" defined; effective date of notice.

Sec. 806. (1) The dissolved limited liability company may notify its existing claimants in writing of the dissolution at any time after the effective date of the dissolution. The written notice shall include all of the following:

(a) A description of the information that must be included in a claim. The limited liability company may demand sufficient information to permit it to make a reasonable judgment whether the claim should be accepted or rejected.

(b) A mailing address where a claim may be sent.

(c) The deadline, which may not be less than 6 months after the effective date of the written notice, by which the dissolved limited liability company must receive the claim.

(d) A statement that the claim will be barred if not received by the deadline.

(2) The giving of notice provided for in subsection (1) does not constitute recognition that a person to whom the notice is directed has a valid claim against the limited liability company.

(3) A claim against the dissolved limited liability company is barred if either of the following applies:

(a) If a claimant who was given written notice under subsection (1) does not deliver the claim to the dissolved limited liability company by the deadline.

(b) If a claimant whose claim was rejected by a written notice of rejection by the dissolved limited liability company does not commence a proceeding to enforce the claim within 90 days after the effective date of the written notice of rejection.

(4) For purposes of this section and section 807, "existing claim" means any claim or right against the limited liability company, liquidated or unliquidated. "Existing claim" does not mean a contingent liability or a claim based on an event occurring after the effective date of dissolution.

(5) For purposes of this section, the effective date of the written notice is the earliest of the following:

(a) The date it is received.

(b) Five days after its deposit in the United States mail, as evidenced by the postmark, if it is mailed postpaid and correctly addressed.

(c) The date shown on the return receipt, if the notice is sent by registered or certified mail, return receipt requested, and the receipt is signed by or on behalf of the addressee.

History: 1993, Act 23, Eff. June 1, 1993.

450.4807 Dissolution; publication of notice; requirements; commencing proceeding to enforce claims; claimants with known existing claims not receiving notice.

Sec. 807. (1) A dissolved limited liability company may also publish notice of dissolution and request that persons with claims against the company present them in accordance with the notice.

(2) The notice shall be in accord with all the following:

(a) Be published 1 time in a newspaper of general circulation in the county in which the dissolved limited

liability company's principal place of business, or if none in this state, its registered office, is or was located.

(b) Describe the information that must be included in a claim and provide a mailing address where the claim may be sent. The limited liability company may demand sufficient information to permit it to make a reasonable judgment whether the claim should be accepted or rejected.

(c) State that a claim against the limited liability company will be barred unless a proceeding to enforce the claim is commenced within 1 year after the publication date of the newspaper notice.

(3) If the dissolved limited liability company publishes a newspaper notice in accordance with subsection (2), the claim of each of the following claimants is barred unless the claimant commences a proceeding to enforce the claim against the dissolved company within 1 year after the publication date of the newspaper:

(a) A claimant who did not receive written notice under section 806.

(b) A claimant whose claim was timely sent to the dissolved limited liability company but not acted on.

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

(4) Notwithstanding subsection (3), a claimant having an existing claim known to the limited liability company at the time of publication in accordance with subsection (2) and who did not receive written notice under section 806 is not barred from suit until 6 months after the claimant has actual notice of the dissolution.

History: 1993, Act 23, Eff. June 1, 1993.

450.4808 Winding up; distribution of assets; order; filing tax returns and paying tax obligations.

Sec. 808. (1) Upon the winding up of a limited liability company, the assets shall be distributed in the following order:

(a) To creditors, including members who are creditors, to the extent permitted by law, in satisfaction of liabilities of the limited liability company other than liabilities for distributions to members under section 304 or 305. Reasonable provision shall be made for debts, liabilities, and obligations that are not liquidated but will not be barred under section 806 or 807.

(b) Except as provided in an operating agreement, to members and former members in satisfaction of liabilities for distributions under sections 304 and 305.

(c) Except as provided in an operating agreement, all remaining assets to members and former members in accordance with their shares of distributions as determined under section 303.

(2) Before the assets of a limited liability company are distributed pursuant to subsection (1), the limited liability company shall file tax returns and pay tax obligations as required by Act No. 122 of the Public Acts of 1941, being sections 205.1 to 205.31 of the Michigan Compiled Laws.

History: 1993, Act 23, Eff. June 1, 1993.