

Wisconsin's New Business Entity Law

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Overview

- ▶ April 15, 2022 - Governor Evers signed WI Senate Bill 566 into law as Wis. Act 258 (“Act 258” or the “Act”).
- ▶ January 1, 2023 - Act 258 will go into effect. All newly formed LLCs will be governed by the Act.
- ▶ Purpose - Modernize Wisconsin’s business entity statutes, harmonize them with each other, and make Wisconsin a more attractive place to do business.
- ▶ Changes - Adopts RULPA and RULLCA and updates other business entity chapters accordingly.

Limited Liability Companies

An Introduction to Wisconsin's Revised
Uniform Limited Liability Company Act

Origins of Wisconsin's LLC Law

- ▶ In the late 1970s, Wyoming adopted the first LLC statute allowing entities to combine limited liability and partnership taxation.
- ▶ Sparked the creation of “home-brewed” LLC statutes across the United States throughout the 1990s.
- ▶ These “home-brewed” laws were specifically tailored to each state.

Origins of Wisconsin's LLC Law (cont.)

- ▶ In 1993, Wisconsin drafted its own “home-brewed” LLC statute: Chapter 183.
- ▶ Took inspiration from the existing business entity statutes at the time.
- ▶ For example, the member-management concept came from Wisconsin's partnership statutes.

Original Wisconsin LLC Law Did Not Keep Pace with National Developments

- ▶ Although there were 22 amendments to Wisconsin's original LLC law, there were no major redrafts over a nearly 30-year span.
- ▶ Did not adapt when the Uniform Law Commission began drafting their uniform business laws.
- ▶ Did not adapt to the IRS' "check-the-box" rules.
- ▶ Did not adapt when LLCs became the most popular entity chosen by new businesses.
- ▶ Particularly in Wisconsin where 90% of new entities formed since 2012 have been LLCs.

Wisconsin Entity Formation by the Numbers

Entity Form	1993		1994		2006		2016		2020		2022*	
	#	%	#	%	#	%	#	%	#	%	#	%
LLC	N/A	-	2,317	21%	26,842	79%	34,067	88%	48,160	91%	32,080	93%
LP	200	2%	287	~0%	152	~0%	40	~0%	27	~0%	11	~0%
LLP	N/A	-	N/A	-	222	1%	74	~0%	58	~0%	20	~0%
Non-Profit	***	-	***	-	2,108	6%	1,877	5%	1,733	3%	1,020	3%
Corporation	9,500	95%	8,359	76%	4,544	13%	2,811	7%	2,822	5%	1,201	3%
Total	10,000		10,963		33,880		38,869		52,800		34,332	

Wisconsin LLC Case Law is Sparse

- ▶ Act 258 will provide a breadth of case law to rely upon when interpreting the new statute.
- ▶ This is a critical step forward as there have only been 7 reported cases interpreting Chapter 183 since it initially passed in 1993.
- ▶ Other states, like Delaware, have over 100 cases interpreting their LLC statutes.
- ▶ Act 258 will provide more certainty to business owners, as it will allow attorneys and courts to look to the 24 other States that have adopted some version of the Uniform LLC Act.

Lawyers, Accountants, and Entrepreneurs Helped Craft and Pass Act 258

- ▶ The Business Law Section of the State Bar of Wisconsin, the Wisconsin Institute of Certified Public Accountants, and the Uniform Law Commission were major drivers in passing Act 258.
- ▶ The changes focus on making Wisconsin more competitive with other states like Delaware.
- ▶ Act 258 will help business owners organize a new business, complete business combinations, and expand operations to a national scale.

Effective Date & Transition

- ▶ The changes in the Act applies to LLCs formed on or after January 1, 2023.
- ▶ The Act also became applicable on January 1, 2023, to all LLCs formed before that date unless:
 - ▶ (1) the LLC elected to be governed sooner by filing a Statement of Applicability with the DFI; or
 - ▶ (2) the LLC elected to continue being governed by the existing law applicable before enactment of the Act by filing a Statement of Nonapplicability with the DFI no later than December 31, 2022.

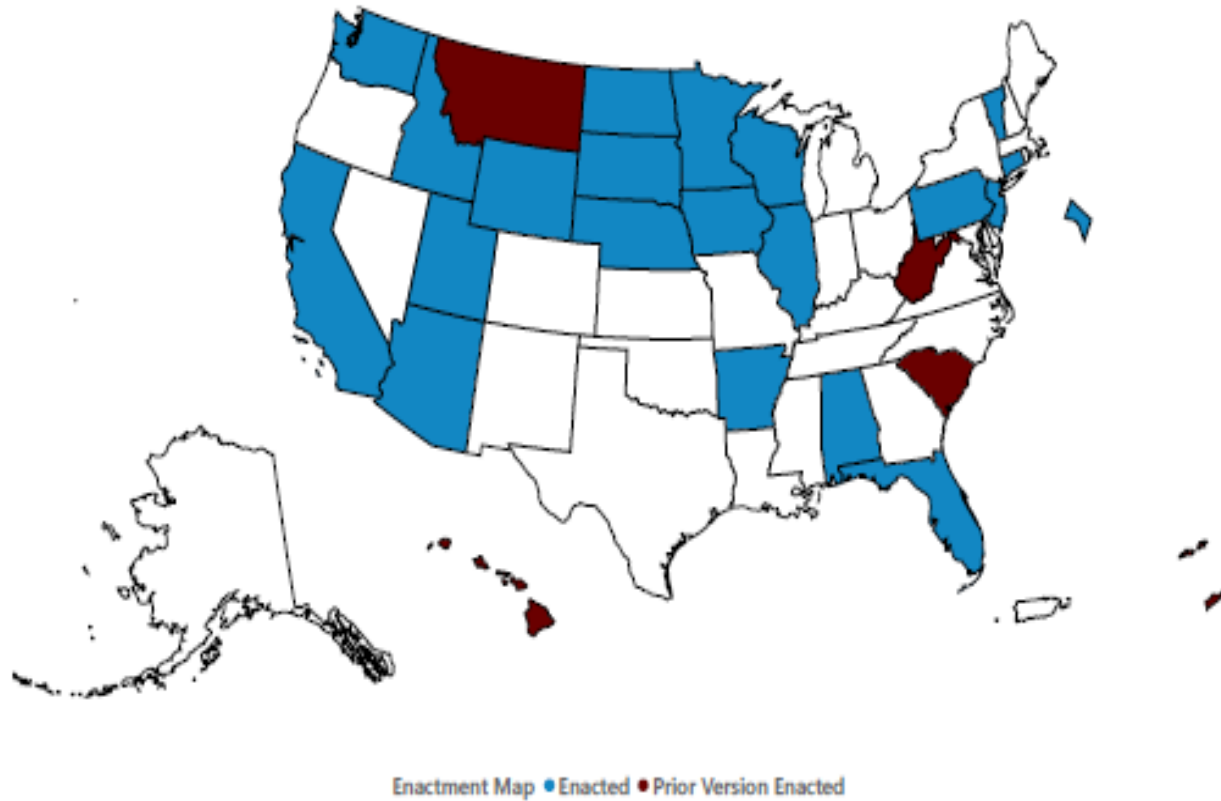
Effective Date & Transition

- ▶ Per the DFI, there were an estimated 17,500 “statements of nonapplicability” that were timely filed by the deadline.
- ▶ There were 409,678 total LLCs active as of the end of November 2022 - so opt-outs represented about 4.27% of the total Wisconsin LLCs in existence as of November 30, 2022.

Effective Date & Transition

- ▶ When the provisions of the Act become applicable to an LLC or LLP, provisions of prior law relating to obligations incurred by the LLC or LLP prior to the Act's enactment continue to apply—and any provisions of an operating agreement or limited partnership agreement that were valid and in effect immediately prior to the applicability of the Act remain valid to the extent allowed under prior law.

RULLCA Enactment Map



LLC Operating Agreement

- ▶ Current law defines “operating agreement” to include only a *written* document and allows for the possibility that an LLC could be formed and operate *without* an operating agreement.
- ▶ New § 183.0102(13) defines an “operating agreement” to include any agreement “whether oral, in a record, implied, or in any combination thereof” of all of the members of a limited liability company (including a sole member) concerning the matters described in § 183.0105(1).
- ▶ While a limited liability company is not strictly required to have an operating agreement, RULLCA’s broad definition makes it functionally inevitable.

LLC Operating Agreement

- ▶ However, certain provisions otherwise permitted to be made in an operating agreement are of such a character that, for a variety of reasons—both philosophical and prudential—are properly required to be set forth in a writing approved by all of the members.
- ▶ New § 183.0102(26) creates the defined term “written operating agreement” —meaning an operating agreement, or any part thereof, that is “set forth in writing.”

LLC Operating Agreement

- ▶ A “written operating agreement” does not need to be a single, integrated instrument.
- ▶ A “written operating agreement” does not need to be “signed” or “subscribed” by a member in order to be considered agreed by and effective against such member.
- ▶ Instead, the common law of contracts and the laws of evidence will determine if a particular document or written communication (or series of documents or written communications) are sufficient to constitute an agreement of the members that is “set forth in writing.”

LLC Formation

- ▶ Under current law, an organizer files articles of organization with DFI to form an LLC. The articles of organization must contain specified information and may not contain any additional information. However, the new LLC Act modifies the information required in articles of organization filed with DFI and allows additional information to be included in the articles of organization. See Wis. Stat. § 183.0201(3)
- ▶ Additionally, the new LLC Act eliminates the current requirement that the form of management (that is, member-managed or manager-managed) be specified in the articles of organization.
 - ▶ Removing this requirement obviates the need for an LLC to amend its articles of organization if the members decide among themselves to change the form of management through their operating agreement.
 - ▶ The form of management could still be made a matter of public record on the LLC's annual report, "statement of authority," or both.

Authority of Members

- ▶ The new LLC Act eliminates the concept of “apparent authority” in connection with LLCs and makes clear that a member is not an agent of an LLC solely by reason of being a member.
- ▶ An LLC may file with DFI a “Statement of Authority” identifying the authority of any position with the LLC (which covers all persons holding that position), identifying the authority of any specific person, or identifying limitations on the authority of any position or person.

Authority of Members

- ▶ The Statement of Authority is effective for five years from its original filing or its most recent amendment/renewal. See Wis. Stat. § 183.0302.
- ▶ Any person named in a statement of authority to file with DFI a statement of denial of authority. See Wis. Stat. § 183.0303.

Statement of Authority



State of Wisconsin
DEPARTMENT OF FINANCIAL INSTITUTIONS
Division of Corporate & Consumer Services

FILING FEE \$100.00

Please check box to request
Optional Expedited Service + \$25.00

FORM **601**
Mandatory

Statement of Partnership Authority General or Limited Liability Partnership

Sec. 178.0303 Wis. Stats.

Executed by the undersigned to make known that the following partnership has elected to file with the Department of Financial Institutions a Statement of Partnership Authority:

1. Name of the partnership:
2. Jurisdiction under who's laws this partnership is formed (state or country):
3. Street and mailing addresses of its principal office (General Partnership):
4. Registered agent name registered office address in Wisconsin (Limited Liability Partnership):

5. Statements on authority, or limitations on authority, per sec. 178.0303(1)(c) and/or (d). Please attach such statement(s) labeled Article 5.
6. This document is to be signed by a person(s) authorized by the partnership:

Execution date: _____

(Authorized person's signature)

(Authorized person's signature)

(Typed or printed name and title)

(Typed or printed name and title)

LLC Internal Affairs

- ▶ New §183.0104(1)(2m), which is not contained in RULLCA, clarifies that the election of an LLC to be taxed under the Internal Revenue Code as a partnership or corporation (and in such latter event as either an S corporation or C corporation) is not intended to have any impact on the governing law applicable to the internal affairs of the LLC and the interest-holder liability of its members.
- ▶ However, a tax election may still be a fact that is relevant in the application of those rules.

Non-Economic Members

- ▶ The new LLC Act allows the admission of “non-economic” members: persons who may become members without acquiring a transferable interest and without making or being obligated to make a contribution. See Wis. Stat. § 183.0401(5).
- ▶ This provision is intended to accommodate business practices and to reflect the fact that an LLC need not have a business purpose. Among other things, this would facilitate the use of LLCs as 501(c)(3) organizations (much like nonstock corporations under Wis. Stat. Chapter 181).

Distributions

- ▶ In a significant departure from the RULLCA default, the new LLC Act retains the provisions of current Chapter 183 that state that, absent a written operating agreement providing otherwise, distributions must be made proportionally on the basis of the value of the contributions made by each member.
- ▶ However, the new LLC Act modifies the existing rule with respect to LLCs treated as partnerships for tax purposes. The new LLC Act states that the value of members' relative contributions will be measured by using partnership capital accounts (as maintained for tax purposes, not book or other accounting purposes) - rather than the initial contribution reflected in the company's records - because a capital account will be the most recent and accurate measure.
- ▶ See Wis. Stat. §§ 183.0404(1), 183.01075(7); see also LLC Committee Report at p. 11.

Voting & Management

- ▶ Similarly, the new LLC Act retains the provisions of current Chapter 183 that, absent a written operating agreement providing otherwise, the voting power of membership interests is allocated proportionally on the basis of the value of the contributions made by each member. This, too, will be measured with reference to partnership capital accounts (as maintained for tax purposes, not book or other accounting purposes) if the LLC is a partnership for tax purposes. See Wis. Stat. § 183.0407(2)(b); see also LLC Committee Report at p. 12.
- ▶ The new LLC Act further requires that, if manager-management is intended, provision must be made in a written operating agreement. See Wis. Stat. § 183.0407(1).

Fiduciary and Other Duties of Members and Managers of LLC

- ▶ Unless permissibly modified in the LLC's operating agreement, a member of a member-managed LLC, or a manager of a manager-managed LLC, owes to the LLC, and to its members, fiduciary duties of loyalty and care.
- ▶ A member or manager must also discharge its duties and obligations, whether statutory or arising under the operating agreement, and exercise its rights, consistently with the contractual obligation of good faith and fair dealing.
- ▶ However, a member does not violate a duty or obligation solely because the member's conduct furthers the member's own interest.

LLC Duty of Loyalty

- ▶ The duty of loyalty includes the following duties:
 - ▶ (1) to account to the LLC and hold as trustee for it any property, profit, or benefit derived by the member or manager in the conduct or winding up of the LLC's business, from use of the LLC's property, or from the appropriation of an LLC opportunity;
 - ▶ (2) to refrain from dealing with the LLC, in the conduct or winding up of the LLC's business, adversely or on behalf of a person having an adverse interest; and
 - ▶ (3) to refrain from competing with the LLC in the conduct of the LLC's business.

See Wis. Stat. § 183.0409(2).

- ▶ However, all the members of an LLC may authorize or ratify, after disclosure of all material facts, a specific act or transaction that otherwise would violate the duty of loyalty. Also, it is a defense to a claim of dealing adversely with the LLC (item 2, above) that the transaction was fair to the LLC. See Wis. Stat. § 183.0409(6).

LLC Duty of Care

- ▶ The duty of care, in the conduct or winding up of the LLC's business, includes refraining from:
 - ▶ (1) willfully failing to deal fairly with the LLC or its members when the person has a material conflict of interest;
 - ▶ (2) violating the criminal law;
 - ▶ (3) engaging in a transaction in which the person derives an improper personal profit; or
 - ▶ (4) engaging in willful misconduct.

See Wis. Stat. § 183.0409(3).

Alteration of Duties by Agreement

- ▶ An operating agreement may not eliminate, or restrict remedies for the breach of, the contractual obligation of good faith and fair dealing. See Wis. Stat. § 183.0105(3)(e).
- ▶ However, a “written operating agreement” may prescribe standards, if not manifestly unreasonable, by which performance of the obligations are measured. See Wis. Stat. § 183.0105(3)(f).

Alteration of Duties by Agreement

- ▶ An operating agreement may not relieve a person from liability for conduct that violates the duty of care's prohibition on:
 - ▶ (1) willfully failing to deal fairly with the LLC or its members when the person has a material conflict of interest;
 - ▶ (2) violating the criminal law;
 - ▶ (3) engaging in a transaction in which the person derives an improper personal profit; or
 - ▶ (4) engaging in willful misconduct.

See Wis. Stat. § 183.0105(3)(g).

Alteration of Duties by Agreement

- ▶ An operating agreement may specify the method by which an act or transaction that would otherwise violate the duty of loyalty may be authorized or ratified after the disclosure of all material facts. See Wis. Stat. § 183.0105(4)(a)(1).
- ▶ In a member-managed LLC, a “written operating agreement” may also eliminate or limit a member’s fiduciary duty if it also relieves the member of a responsibility and imposes it on another member. See Wis. Stat. § 183.0105(4)(b).
- ▶ A written operating agreement may also alter or eliminate, or restrict remedies with respect to, certain aspects of the duty of loyalty; identify specific types or categories of activities that do not violate the duty of loyalty or the contractual obligation of good faith and fair dealing; alter the duty of care, if it does not authorize prohibited conduct; or alter or eliminate any other fiduciary duty. See Wis. Stat. § 183.0105(4)(c).

Sample Modification Clause

_____. Directors Have No Exclusive Duty to Company. The Directors shall not be required to manage the Company as their sole and exclusive function, and the Directors may have other business interests and may engage in other activities in addition to those relating to the Company. Neither the Company nor any Member shall have any right, by virtue of this Agreement, to share or participate in such other investments or activities of the Directors or to the income or proceeds derived therefrom. In furtherance of the foregoing, to the fullest extent permitted by applicable law, except as set forth in this Section, the doctrine of corporate opportunity or any analogous doctrine shall not apply with respect to any Covered Person (as defined below), and the Company renounces any interest or expectancy of the Company in, or in being offered an opportunity to participate in, any Excluded Opportunity. An “ Excluded Opportunity ” is any activity or line of business that is the same as or similar to those conducted by the Company or that may be competitive with the Company, that is presented to, or acquired by, created or developed by, or which otherwise comes into possession of, (i) any Director of the Company who is not an employee of the Company or any of its Subsidiaries, or (ii) any Member or any affiliate, partner, member, director, stockholder, employee or agent of any such holder (collectively, “ Covered Person ”), other than someone who is an employee of the Company or any subsidiary, unless such Excluded Opportunity is presented to, or acquired, created or developed by, or otherwise comes into the possession of, a Covered Person expressly and solely in such Covered Person’s capacity as a Director.

[Adapted from the Limited Liability Company Operating Agreement of OSH Management Holdings LLC, an Illinois LLC]

Sample Ratification Clause

_____. Transactions between the Company and the Manager.
The Manager may cause the Company to contract and deal with the Manager, or any Affiliate of the Manager, but only if such contracts and dealings are first approved by the Members after full disclosure of all material facts, including disclosure of (1) the terms of the proposed contract or deal, (2) the nature of the Manager's interest, and (3) how the Manager will protect the Company's interests in the performance of that contract or deal.

Sample Exculpation Clause

_____. Neither the Manager nor any officer, employee, or agent of the Company (collectively, the “Covered Persons”) is liable to the Company, any Member, or any other Person that is a party to or is otherwise bound by this Agreement, for any loss, damage or claim incurred by reason of any act or omission performed or omitted by such Covered Person in good faith on behalf of the Company and in a manner reasonably believed to be within the scope of the authority conferred on such Covered Person by this Agreement, except that a Covered Person is liable for any such loss, damage or claim incurred by reason of such Covered Person’s (1) willfully failure to deal fairly with the LLC or its members when the person has a material conflict of interest; (2) violation of criminal law, (3) engaging in a transaction in which the Covered Person derives an improper personal profit; or (4) engaging in willful misconduct.

Sample Forum Clause

_____. Unless the Company consents in writing to the selection of an alternative forum, the sole and exclusive forum for all of the following types of claims will be a state court located within [State] or, if no state court located within [State] has subject matter jurisdiction, the federal district court for the District of [State]):

- (1) any derivative action or proceeding brought on behalf of the Company,
- (2) any action asserting a claim of breach of fiduciary duty owed by any manager or officer or other employee of the Company to the Company or the Company's members,
- (3) any action asserting a claim against the Company or any manager or officer or other employee of the Company arising pursuant to any provision of state law, the Articles of Organization or this Operating Agreement (in each case, as they may be amended from time to time), or
- (4) any action asserting a claim against the Company or any manager or officer or other employee of the Company governed by the internal affairs doctrine.

Transferable Interests & Rights of Creditors

- ▶ The new LLC Act's provisions related to foreclosure of "charging-order liens" now make a distinction between multi-member LLCs and single-member LLCs. Under current law, a creditor of an LLC member (as opposed to the LLC itself), cannot generally foreclose on the LLC membership interest of that member. Instead, the creditor may obtain a "charging order lien" on the economics (e.g., rights to distributions and allocation of profits and losses) associated with that membership interest.
- ▶ By contrast, the new Act provides for the transfer of the entire membership interest of a sole member upon the foreclosure of a charging-order lien - not just a "transferrable interest" - as well as the dissociation of the person whose interest was the subject of the foreclosure .
- ▶ Compare Section 183.0503(6) of the new LLC Act with Section 183.0705 of current Chapter 183.

Transferable Interests & Rights of Creditors

- ▶ This is consistent with tax authority, which treats the purchase by a buyer of all the interests in a disregarded entity as a purchaser of its assets. See Rev. Rul. 99-5, 1999-1 C.B. 434 (situation 1); see also, Judge Halpern’s dissent in Suzanne J. Pierre, 133 T.C. 24, 44 (2009) (describing the evolution of this conclusion).
- ▶ It is also consistent with the fact that the “pick-your-partner” principle - which animated the concept of the charging order in the first place - is not germane in the single-member-LLC context.

Dissociation

- ▶ The new LLC Act introduces the concept of a “wrongful” dissociation, which does not exist under current Chapter 183. See Wis. Stat. § 183.0601(2).
- ▶ However, certain changes were made to the RULLCA language to avoid creating default statutory rules that would run contrary to the expectations of members in existing LLCs and that would apply in situations that would be better left to the parties involved to address.
- ▶ As modified, a person’s dissociation from an LLC is only wrongful when it is in breach of a written operating agreement. See Wis. Stat. § 183.0601(2)(a).

Dissociation

- ▶ The new LLC Act provides that an LLC or LLC member may seek a judicial order for a member's expulsion (thus resulting in dissociation) when a member 1) has engaged in, or is engaging, in wrongful conduct that has (or will) adversely and materially affect the LLC's activities or affairs; or 2) has willfully or persistently committed a material breach of the operating agreement or other duties or obligations. See Wis. Stat. § 183.0602(6).
- ▶ Deadlock or other matters that make it not practicable to carry on business – but are not otherwise wrongful or a breach of the operating agreement themselves – remain grounds for judicial dissolution of the LLC. However, they would not be grounds for a particular member's expulsion. See Wis. Stat. § 183.0701(1)(d)2.

Actions by Members

- ▶ The new LLC Act departs from current Chapter 183 in a number of significant respects, but it is not entirely unfamiliar.
- ▶ The new provisions that concern actions by members are akin to the procedures applicable to derivative actions in the context of business corporations under Wis. Stat. Chapter 180.

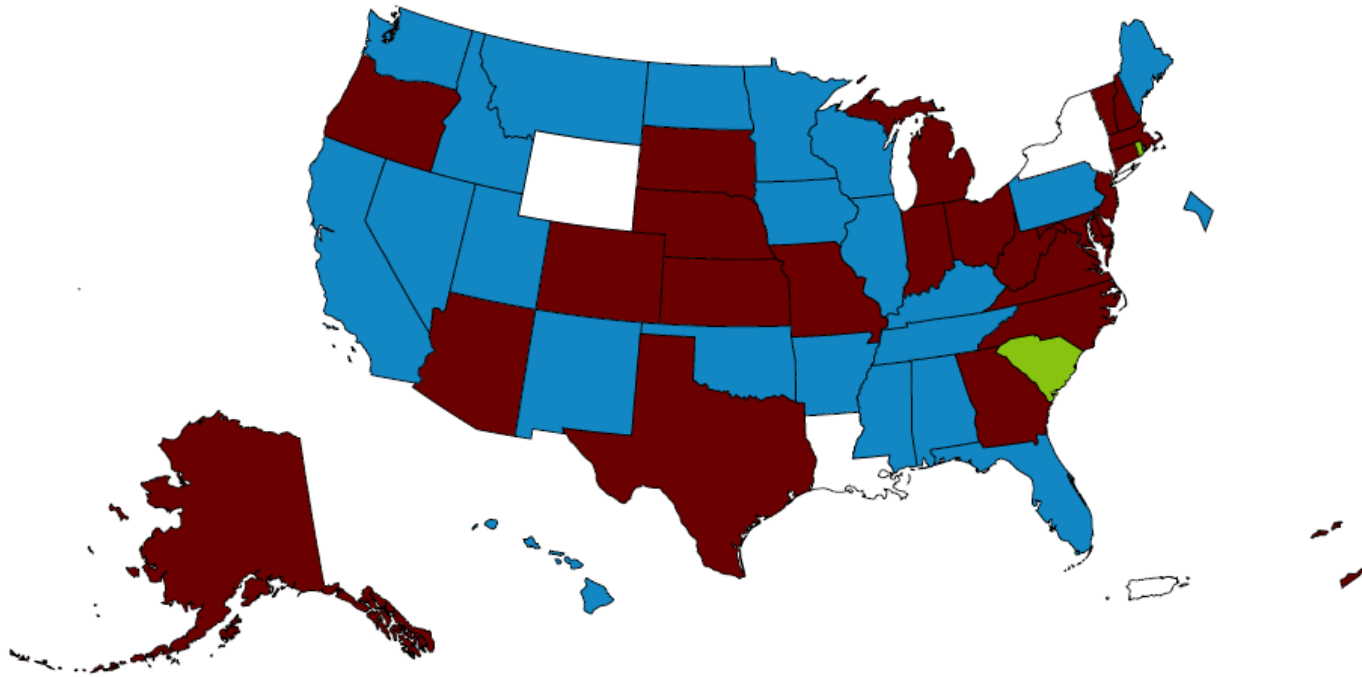
Limited Partnerships

An Introduction to Wisconsin's Revised
Uniform Limited Partnership Act

Chapter 179

- ▶ Unlike limited liability companies, whose flexible structure is amenable to many different business enterprises, limited partnerships are much more "special purpose" entities, typically utilized in more individualized circumstances, including the following:
 - ▶ (1) Centralized management situations where the founders or others want to maintain control over governance
 - ▶ (2) Profitable business enterprises where entrepreneurs want to avoid the additional imposition of self-employment taxes, but also want to avoid the single class of stock, shareholder eligibility and other strictures of S corporation status
 - ▶ (3) Minority, liquidity, lack of control, etc. discounts for estate planning purposes

RULPA Enactment MAP



Enactment Map ● Introduced ● Enacted ● Prior Version Enacted

Centralized Management Situations

- ▶ An act of a general partner . . . for apparently carrying on in the ordinary course the partnership's activities and affairs or activities and affairs of the kind carried on by the partnership binds the partnership, unless the general partner did not have authority to act for the partnership in the particular matter and the person with which the general partner was dealing knew or had notice that the general partner lacked authority.” Wis. Stat. § 179.0402(1). “Except as otherwise provided in this chapter, any matter relating to the activities and affairs of the partnership is decided exclusively by the general partner or, if there is more than one general partner, by a majority of the general partners.
- ▶ Wis. Stat. § 179.0406(1).

Self-Employment Tax

- ▶ The term “net earnings from self-employment” means the gross income derived by an individual from any trade or business carried on by such individual . . . plus his distributive share (whether or not distributed) of income or loss described in section 702(a)(8) from any trade or business carried on by a partnership of which he is a member; except that in computing . . . such distributive share of partnership ordinary income or loss— . . .
- ▶ (13) there shall be excluded the distributive share of any item of income or loss of a limited partner, as such, other than guaranteed payments described in section 707(c) to that partner for services actually rendered to or on behalf of the partnership to the extent that those payments are established to be in the nature of remuneration for those services.
- ▶ I.R.C. § 1402(a)(13).

Limited Partner Withdrawal Right/Power

179.0601 Dissociation as limited partner. (1) A person does not have a right to dissociate as a limited partner before the completion of the winding up of the limited partnership.

(2) A person is dissociated as a limited partner when any of the following applies:

(a) The limited partnership knows or has notice of the person's express will to withdraw as a limited partner, but, if the person has specified a withdrawal date later than the date the partnership knew or had notice, on that later date.

179.0602 Effect of dissociation as limited partner. (1) If a person is dissociated as a limited partner, all of the following apply:

- ▶ (a) Subject to § 179.0704, the person does not have further rights as a limited partner.
- ▶ (b) The person's contractual obligation of good faith and fair dealing as a limited partner under § 179.0305 (1) ends with regard to matters arising and events occurring after the person's dissociation.
- ▶ (c) Subject to § 179.0704 and subch. XI, any transferable interest owned by the person in the person's capacity as a limited partner immediately before dissociation is owned by the person solely as a transferee.

(2) A person's dissociation as a limited partner does not of itself discharge the person from any debt, obligation, or other liability to the limited partnership or the other partners which the person incurred while a limited partner.

General Partner Withdrawal Right/Power

179.0604 Power to dissociate as general partner; wrongful dissociation. (1) A person has the power to dissociate as a general partner at any time, rightfully or wrongfully, by withdrawing as a general partner by express will under § 179.0603 (1).

(2) A person's dissociation as a general partner is wrongful only if any of the following applies:

- ▶ (a) The dissociation is in breach of an express provision of the partnership agreement.
- ▶ (b) The dissociation occurs before the completion of the winding up of the limited partnership and any of the following applies:
 - ▶ 1. The person withdraws as a general partner by express will.
 - ▶ 2. The person is expelled as a general partner by judicial order under § 179.0603 (5).
 - ▶ 3. The person is dissociated as a general partner under § 179.0603 (7).
 - ▶ 4. In the case of a person that is not a trust other than a business trust, an estate, or an individual, the person is expelled or otherwise dissociated as a general partner because it willfully dissolved or terminated.

(3) A person that wrongfully dissociates as a general partner is liable to the limited partnership and, subject to § 179.0901, to the other partners for damages caused by the dissociation. The liability is in addition to any debt, obligation, or other liability of the general partner to the partnership or the other partners.

General Partner General Partner Withdrawal Right/Power (cont'd)

(3) A partnership agreement may not do any of the following: . . .

- ▶ (k) Unless the partnership is a limited liability limited partnership, vary the power of a person to dissociate as a general partner under § 179.0604 (1), except to require that the notice under § 179.0603 (1) be in a record and to not unreasonably specify how the notice must be given.

Wis. Stat. § 179.0105(3)(h).

Effect of General Partner Withdrawal

§ 179.0605 Effect of dissociation as general partner. (1) If a person is dissociated as a general partner, all of the following apply:

- ▶ (a) The person's right to participate as a general partner in the management and conduct of the limited partnership's activities and affairs terminates.
- ▶ (b) The person's duties and obligations as a general partner under § 179.0409 end with regard to matters arising and events occurring after the person's dissociation.
- ▶ (c) 1. The person may sign and deliver to the department for filing a statement of dissociation pertaining to the person and, at the request of the limited partnership, shall sign an amendment to the certificate of limited partnership which states that the person has dissociated as a general partner.
- ▶ 2. The statement of dissociation or amendment under subd. 1. is a limitation on the authority of a person dissociated as a partner for the purposes of § 179.04023.
- ▶ (d) Subject to § 179.0704 and subch. XI, any transferable interest owned by the person in the person's capacity as a general partner immediately before dissociation is owned by the person solely as a transferee.

(2) A person's dissociation as a general partner does not of itself discharge the person from any debt, obligation, or other liability to the limited partnership or the other partners which the person incurred while a general partner.

(3m) Continued use of a limited partnership name, or the name of a person dissociated as a partner as part of the partnership name, by partners continuing the partnership's activities and affairs does not of itself make the person dissociated as a partner liable for an obligation of the partners or the partnership continuing the partnership's activities and affairs.

Explicit Standards of Conduct

(1) A general partner owes to the limited partnership and, subject to § 179.0901, the other partners the duties of loyalty and care stated in subs. (2) and (3).

(2) The fiduciary duty of loyalty of a general partner includes all of the following duties:

- ▶ (a) The duty to account to the limited partnership and hold as trustee for it any property, profit, or benefit derived by the general partner in or from any of the following:
 - ▶ 1. The conduct or winding up of the partnership's activities and affairs.
 - ▶ 2. A use by the general partner of the partnership's property.
 - ▶ 3. The appropriation of a partnership opportunity.
- ▶ (b) The duty to refrain from dealing with the partnership in the conduct or winding up of the partnership's activities and affairs as or on behalf of a person having an interest adverse to the partnership.
- ▶ (c) The duty to refrain from competing with the partnership in the conduct or winding up of the partnership's activities and affairs.

Wis. Stat. § 179.0409(1) & (2).

General Partner Duty Standards

- ▶ (3) The duty of care of a general partner in the conduct or winding up of the limited partnership's activities and affairs is to refrain from engaging in grossly negligent or reckless conduct or in conduct for which relief or exoneration from liability is not permitted under § 179.0105 (3) (h).
- ▶ (4) A general partner shall discharge the duties and obligations under this chapter or under the partnership agreement and exercise any rights thereunder consistently with the contractual obligation of good faith and fair dealing.
- ▶ (5) A general partner does not violate a duty or obligation under this chapter or under the partnership agreement solely because the general partner's conduct furthers the general partner's own interest.

Wis. Stat. § 179.0409(3), (4) & (5).

General Partner Duty Standards

- ▶ (6) All the partners of a limited partnership, or one or more disinterested partners with authority to act in the matter, may authorize or ratify, after full disclosure of all material facts, a specific act or transaction by a general partner that otherwise would violate the duty of loyalty.
- ▶ (7) It is a defense to a claim under sub. (2) (b) and any comparable claim in equity or at common law that the transaction was fair to the limited partnership.
- ▶ (8) If, as permitted by sub. (6) or the partnership agreement, a general partner enters into a transaction with the limited partnership which otherwise would be prohibited by sub. (2) (b), the general partner's rights and obligations arising from the transaction are the same as those of a person that is not a general partner.

Wis. Stat. § 179.0409 (6), (7) & (8).

Prohibited Modification of Standards

- ▶ A partnership agreement may not do any of the following: . . .
 - ▶ (f) Alter or eliminate, or restrict remedies for the breach of, the duty of loyalty or the duty of care, except as otherwise provided in sub. (4).
 - ▶ (g) Eliminate the contractual obligation of good faith and fair dealing under § 179.0305 (1) and 179.0409 (4), but the partnership agreement may, if not manifestly unreasonable, prescribe the standards by which the performance of the obligation is to be measured or restrict remedies for breach of the obligation.
 - ▶ (h) Relieve or exonerate a partner from liability for conduct that constitutes any of the following:
 - ▶ 1. A willful failure to deal fairly with the limited partnership or its partners in connection with a matter in which the partner has a material conflict of interest.
 - ▶ 2. A violation of the criminal law, unless the partner had reasonable cause to believe that the partner's conduct was lawful or no reasonable cause to believe that the partner's conduct was unlawful.
 - ▶ 3. A transaction from which the partner derived an improper personal profit.
 - ▶ 4. Willful misconduct.

Wis. Stat. § 179.0105(3)(f)-(h).

Allowed Modification of Standards

- ▶ (4) Subject to sub. (3) (h), without limiting other terms that may be included in a partnership agreement, the following rules apply:
 - ▶ (a) The partnership agreement may do any of the following:
 - ▶ 1. Specify the method by which a specific act or transaction that would otherwise violate the duty of loyalty may be authorized or ratified by one or more disinterested and independent persons after full disclosure of all material facts.
 - ▶ 2. Alter the prohibition in § 179.0504 (1) (b) so that the prohibition requires only that the partnership's total assets not be less than the sum of its total liabilities.
 - ▶ (b) If not manifestly unreasonable, the partnership agreement may do any of the following:
 - ▶ 1. Alter or eliminate the aspects of, or restrict remedies with respect to, the duty of loyalty stated in § 179.0409 (2).
 - ▶ 2. Identify specific types or categories of activities that do not violate the duty of loyalty or the contractual obligation of good faith and fair dealing.
 - ▶ 3. Alter the duty of care.
 - ▶ 4. Alter or eliminate any other fiduciary duty.
- ▶ (5) The court shall decide as a matter of law whether a term of a partnership agreement is manifestly unreasonable under sub. (3) (g) or (4) (b). The court shall make its determination as of the time the challenged term became part of the partnership agreement and by considering only circumstances existing at that time. The court may invalidate the term only if, in light of the purposes and activities and affairs of the limited partnership, it is readily apparent that the objective of the term is unreasonable or that the term is an unreasonable means to achieve the term's objective.

Limited Partner Duties

(1) A limited partner shall discharge any duties to the partnership and the other partners under the partnership agreement and exercise any rights under this chapter or the partnership agreement consistently with the contractual obligation of good faith and fair dealing.

(2) Except as otherwise provided in sub. (1), a limited partner does not have any duty to the limited partnership or to any other partner solely by reason of acting as a limited partner.

(3) If a limited partner enters into a transaction with the limited partnership, the limited partner's rights and obligations arising from the transaction are the same as those of a person that is not a partner.

- ▶ Wis. Stat. § 179.305.

Confirms Availability of Limited Liability Limited Partnerships

- ▶ A debt, obligation, or other liability of a limited partnership incurred while the partnership is a limited liability limited partnership is solely the debt, obligation, or other liability of the limited liability limited partnership. A general partner is not personally liable, directly or indirectly, by way of contribution or otherwise, for a debt, obligation, or other liability of the limited liability limited partnership solely by reason of being or acting as a general partner.

Wis. Stat. § 179.0404 (3)(a).

New Clear Nonliability Language for Limited Partners

- ▶ A debt, obligation, or other liability of a limited partnership is not the debt, obligation, or other liability of a limited partner. A limited partner is not personally liable, directly or indirectly, by way of contribution or otherwise, for a debt, obligation, or other liability of the partnership solely by reason of being or acting as a limited partner, even if the limited partner participates in the management and control of the limited partnership. This subsection applies regardless of the dissolution of the partnership.

See Wis. Stat. §179.0303(1).

Deletion of Troublesome Limited Partner Management Language

- ▶ The original Uniform Limited Partnership Act contained problematic language suggesting that a limited partner could lose limited liability protection in certain circumstances:

“Except as provided in sub. (4), a limited partner is not liable for the obligations of a limited partnership unless he or she is also a general partner or, in addition to the exercise of his or her rights and powers as a limited partner, **he or she participates in the control of the business**. If the limited partner participates in the control of the business, he or she is liable only to persons who transact business with the limited partnership reasonably believing, based upon the limited partner’s conduct, that the limited partner is a general partner.”

Wis. Stat. § 179.23 (2019-20) (emphasis added).

Deletion of Troublesome Limited Partner Management Language (cont'd)

- ▶ Since that original statutory formulation, modifications were made to specify numerous situations in which such loss of liability would not occur, but the underlying problem still remained. In short, limited partners could not freely participate in management in the same manner as, for example, officers in a corporation
- ▶ The new uniform law language incorporated into Act 258 makes clear that “[a] limited partner is not personally liable, directly or indirectly, by way of contribution or otherwise, for a debt, obligation, or other liability of the partnership solely by reason of being or acting as a limited partner, *even if the limited partner participates in the management and control of the limited partnership*”, without risking the loss of their liability protection as limited partners. Wis. Stat. § 179.0303(1) (emphasis added).

Limited Partner Information Rights

(1) On 10 days' demand made in a record received by the limited partnership, a limited partner may inspect and copy required information during regular business hours in the limited partnership's principal office. The limited partner need not have any particular purpose for seeking the information.

(2) During regular business hours and at a reasonable location specified by the limited partnership, a limited partner may inspect and copy information regarding the activities and affairs, financial condition, and other circumstances of the limited partnership as is just and reasonable if all of the following apply:

- ▶ (a) The limited partner seeks the information for a purpose reasonably related to the partner's interest as a limited partner.
- ▶ (b) The limited partner makes a demand in a record received by the limited partnership, describing with reasonable particularity the information sought and the purpose for seeking the information.
- ▶ (c) The information sought is directly connected to the limited partner's purpose.

(3) Not later than 10 days after receiving a demand pursuant to sub. (2), the limited partnership shall inform, in a record, the limited partner that made the demand of all of the following:

- ▶ (a) What information the partnership will provide in response to the demand and when and where the partnership will provide the information.
- ▶ (b) The partnership's reasons for declining, if the partnership declines to provide any demanded information.

(4) Whenever this chapter or a partnership agreement provides for a limited partner to vote on or give or withhold consent to a matter, before the vote is cast or consent is given or withheld, the limited partnership shall, without demand, provide the limited partner with all information that is known to the partnership and that is material to the limited partner's decision. . . .

(7) A limited partnership may charge a person that makes a demand under this section reasonable costs of copying, limited to the costs of labor and material. . . .

(10) In addition to any restriction or condition stated in its partnership agreement, a limited partnership, as a matter within the ordinary course of its activities and affairs, may impose reasonable restrictions and conditions on access to and use of information to be furnished under this section, including designating information confidential and imposing nondisclosure and safeguarding obligations on the recipient. In a dispute concerning the reasonableness of a restriction under this subsection, the partnership has the burden of proving reasonableness.

Former Limited Partner Information Rights

(5) On 10 days' demand made in a record received by a limited partnership, a person dissociated as a limited partner may have access to information to which the person was entitled while a limited partner if all of the following apply:

- ▶ (a) The information pertains to the period during which the person was a limited partner.
- ▶ (b) The person seeks the information in good faith.
- ▶ (c) The person satisfies the requirements imposed on a limited partner by sub. (2).

(6) A limited partnership shall respond to a demand made pursuant to sub. (5) in the manner provided in sub. (3). . . .

(8) A limited partner or person dissociated as a limited partner may exercise the rights under this section through an agent or, in the case of an individual under legal disability, a legal representative. Any restriction or condition imposed by the partnership agreement or under sub. (10) applies both to the agent or legal representative and to the limited partner or person dissociated as a limited partner.

(9) Subject to § 179.0704, the rights under this section do not extend to a person as transferee.

- ▶ Wis. Stat. § 179.0304 (5)-(6), (8)-(9).

General Partner Information Rights

(1) A general partner may inspect and copy required information during regular business hours in the limited partnership's principal office, without having any particular purpose for seeking the information.

(2) On reasonable notice, a general partner may inspect and copy during regular business hours, at a reasonable location specified by the limited partnership, any record maintained by the partnership regarding the partnership's activities, affairs, financial condition, and other circumstances, to the extent the information is material to the general partner's rights and duties under the partnership agreement or this chapter.

(3) A limited partnership shall furnish to each general partner all of the following:

- ▶ (a) Without demand, any information concerning the partnership's activities, affairs, financial condition, and other circumstances which the partnership knows and is material to the proper exercise of the general partner's rights and duties under the partnership agreement or this chapter, except to the extent the partnership can establish that it reasonably believes the general partner already knows the information.
- ▶ (b) On demand, any other information concerning the partnership's activities, affairs, financial condition, and other circumstances, except to the extent the demand or the information demanded is unreasonable or otherwise improper under the circumstances.

(4) The duty to furnish information under sub. (3) also applies to each general partner on whom a demand is made to the extent the general partner knows any of the information described in sub. (2). . . .

(7) A limited partnership may charge a person that makes a demand under this section the reasonable costs of copying, limited to the costs of labor and material. . . .

(10) In addition to any restriction or condition stated in its partnership agreement, a limited partnership, as a matter within the ordinary course of its activities and affairs, may impose reasonable restrictions and conditions on access to and use of information to be furnished under this section, including designating information confidential and imposing nondisclosure and safeguarding obligations on the recipient. In a dispute concerning the reasonableness of a restriction under this subsection, the partnership has the burden of proving reasonableness.

- ▶ Wis. Stat. § 179.0407 (1)-(4), (7), (10).

Former General Partner Information Rights

(5) On 10 days' demand made in a record received by a limited partnership, a person dissociated as a general partner may have access to the information and records described in subs. (1) and (2) at the locations specified in those subsections if all of the following apply:

- ▶ (a) The information or record pertains to the period during which the person was a general partner.
- ▶ (b) The person seeks the information or record in good faith.
- ▶ (c) The person satisfies the requirements imposed on a limited partner by § 179.0304 (2).

(6) A limited partnership shall respond to a demand made pursuant to sub. (5) in the manner provided in § 179.0304 (3). . . .

(8) A general partner or person dissociated as a general partner may exercise the rights under this section through an agent or, in the case of an individual under legal disability, a legal representative. Any restriction or condition imposed by the partnership agreement or under sub. (10) applies both to the agent or legal representative and to the general partner or person dissociated as a general partner.

(9) (a) Subject to pars. (b) and (c), the rights under this section do not extend to a person as transferee.

(b) If a general partner dies, § 179.0704 applies.

(c) If an individual dissociates as a general partner under § 179.0603 (6) (b) or (c), the legal representative of the individual may exercise the rights under sub. (5) of a person dissociated as a general partner.

Wis. Stat. § 179.0407 (5)-(6), (8)-(9).

General Partner Authority

Subject to the effect of a statement of partnership authority under § 179.04023, the following rules apply:

- ▶ (1) Each general partner is an agent of the limited partnership for the purposes of its activities and affairs. An act of a general partner, including the signing of a record in the partnership's name, for apparently carrying on in the ordinary course the partnership's activities and affairs or activities and affairs of the kind carried on by the partnership binds the partnership, unless the general partner did not have authority to act for the partnership in the particular matter and the person with which the general partner was dealing knew or had notice that the general partner lacked authority.
- ▶ (2) An act of a general partner which is not apparently for carrying on in the ordinary course the limited partnership's activities and affairs or activities and affairs of the kind carried on by the partnership binds the partnership only if the act was actually authorized by all the other partners.

Wis. Stat. § 179.0807.

Statement of Authority

(1) (a) A limited partnership may deliver to the department for filing a statement of partnership authority.

(b) The statement of authority must include all of the following:

- ▶ 1. The name of the partnership.
- ▶ 2. The street address of the partnership's registered office in this state and the name and e-mail address of its registered agent at that office.

(c) With respect to any position that exists in or with respect to the partnership, the statement of authority may state the authority, or limitations on the authority, of all persons holding the position to do any of the following:

- ▶ 1. Sign an instrument transferring real property held in the name of the partnership.
- ▶ 2. Enter into other transactions on behalf of, or otherwise act for or bind, the partnership.

(d) The statement of authority may state the authority, or limitations on the authority, of a specific person to do any of the following:

- ▶ 1. Sign an instrument transferring real property held in the name of the partnership.
- ▶ 2. Enter into other transactions on behalf of, or otherwise act for or bind, the partnership.

Wis. Stat. § 179.04023(1).

Statement of Authority (cont'd)

(2) To amend or cancel a statement of authority filed by the department, a limited partnership must deliver to the department for filing an amendment or cancellation stating all of the following:

- ▶ (a) The name of the partnership.
- ▶ (b) The street address of the partnership's registered office in this state and the name and e-mail address of its registered agent at that office.
- ▶ (c) The date the statement being affected became effective.
- ▶ (d) The contents of the amendment or a declaration that the statement is canceled.

(2m) (a) A statement of authority is renewable for successive 5-year periods. To renew a statement of authority filed by the department, a partnership must deliver to the department for filing, during the 3 months before the cancellation would occur under sub. (10), a statement of renewal that includes all of the following:

- ▶ 1. The name of the partnership.
- ▶ 2. The street address of the partnership's registered office in this state and the name and e-mail address of its registered agent at that office.
- ▶ 3. The statement of authority being affected.
- ▶ 4. A declaration that the statement of authority is being renewed.
- ▶ (b) When filed, a statement of renewal that complies with par. (a) renews the statement of authority for a 5-year period commencing with the date of filing of the statement of renewal.

Wis. Stat. § 179.04023(2)-(2m).

Statement of Authority (cont'd)

(3) A statement of authority affects only the power of a person to bind a partnership to persons that are not partners.

(4) Subject to sub. (3) and § 179.0103 (4) (cr), and except as otherwise provided in subs. (6) to (8), a limitation on the authority of a person or a position contained in an effective statement of authority is not by itself evidence of any person's knowledge or notice of the limitation.

(5) Subject to sub. (3), a grant of authority not pertaining to transfers of real property and contained in an effective statement of authority is conclusive in favor of a person that gives value in reliance on the grant, except to the extent that when the person gives value any of the following applies:

- ▶ (a) The person has knowledge to the contrary.
- ▶ (b) The statement has been canceled or restrictively amended under sub. (2).
- ▶ (c) A limitation on the grant is contained in another statement of authority that became effective after the statement containing the grant became effective.

(6) Subject to sub. (3), an effective statement of authority that grants authority to transfer real property held in the name of the partnership, a certified copy of which statement is recorded in the office of the register of deeds for the county in which the property is located, is conclusive in favor of a person that gives value in reliance on the grant without knowledge to the contrary, except to the extent that when the person gives value any of the following applies:

- ▶ (a) The statement has been canceled or restrictively amended under sub. (2), and a certified copy of the cancellation or restrictive amendment has been recorded in the office of the register of deeds for the county in which the property is located.
- ▶ (b) A limitation on the grant is contained in another statement of authority that became effective after the statement containing the grant became effective, and a certified copy of the later-effective statement is recorded in the office of the register of deeds for the county in which the property is located.

Statement of Authority (cont'd)

(7) Subject to sub. (3), if a certified copy of an effective statement containing a limitation on the authority to transfer real property held in the name of a partnership is recorded in the office of the register of deeds for the county in which the property is located, all persons are deemed to know of the limitation.

(8) Subject to sub. (9), an effective statement of dissolution is a cancellation of any filed statement of authority for the purposes of sub. (6) and is a limitation on authority for purposes of sub. (7).

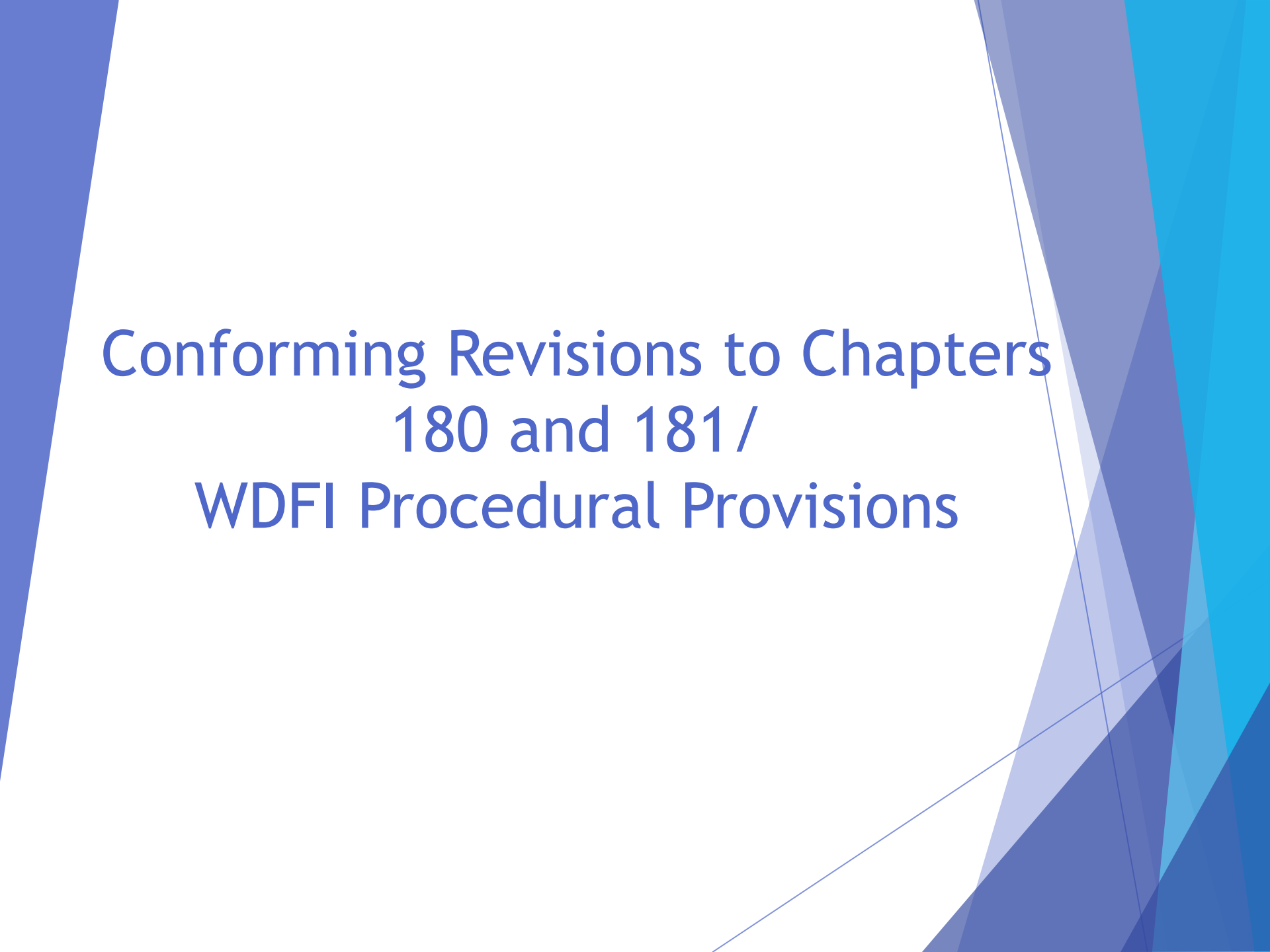
(9) After a statement of dissolution becomes effective, a limited partnership may deliver to the department for filing and, if appropriate, may record a statement of authority that is designated as a post-dissolution statement of authority. The statement operates as provided in subs. (6) and (7).

(10) Unless canceled earlier, an effective statement of authority is canceled by operation of law 5 years after the date on which the statement, or its most recent amendment or renewal, was filed. The cancellation is effective without recording under sub. (6) or (7).

(11) An effective statement of denial operates as a restrictive amendment under this section and may be recorded by certified copy for purposes of sub. (6) (a).

(11m) Certified copies to be recorded in the office of the register of deeds are to be sent by the person desiring the copies to be recorded and the department is not obligated to send the copies to the office of the register of deeds unless it chooses to undertake this responsibility.

Wis. Stat. § 179.04023((3)-(11m)).

The background features abstract, overlapping geometric shapes in various shades of blue, ranging from light to dark, creating a modern and professional look. The shapes are primarily triangles and polygons, some with thin white lines intersecting them.

Conforming Revisions to Chapters 180 and 181 / WDFI Procedural Provisions

Revisions Pertaining to Chapters 180 (Business Corporations) & 181 (Nonstock Corporations)

- ▶ The primary thrust of the Act's amendments to Chapters 180 and 181 is to harmonize those Chapters with changes made to Chapters 178 (partnerships), 179 (limited partnerships) and 183 (limited liability companies) to achieve consistency as to common provisions across all five business entity Chapters.
- ▶ Chief among such harmonizing revisions in Chapters 180 and 181 are those relating to provisions for cross-species merger, interest exchange, conversion, and domestication transactions, providing for common structure and terminology for cross-species transactions throughout all five business entity Chapters.

Wisconsin-Specific Approach to Chapters 180 and 181 Harmonizing Provisions

- ▶ Although the Act generally follows the substantive lead of the ULC uniform law language in many key respects, as to the harmonizing provisions in Chapters 180 and 181 (as well as the other business entity Chapters), the Act varies from the ULC approach as to provisions for **cross-species transactions provisions**, as well as for provisions **establishing uniform WDFI procedures across all five business entity Chapters**.

Wisconsin-Specific Approach to Chapters 180 and 181 Harmonizing Provisions

- ▶ Inasmuch as the Wisconsin Statutes, prior to the Act, already contained modern and flexible provisions relating to cross-species transactions, the provisions of the Act pertaining to such transactions depart somewhat from the ULC uniform law approach and retain the approach and structure already found in the Wisconsin law--the notion being to continue the already-existing flexibility of the Wisconsin statutes as to provisions for cross-species transactions across all five business entity Chapters and thereby minimize disruption to current Wisconsin law and practice.

Wisconsin-Specific Approach to Chapters 180 and 181 Harmonizing Provisions

- ▶ The Act also harmonizes **WDFI procedural provisions** across all five business entity Chapters, which include procedures pertaining to, for instance, required entity formation documents; forms; filing fees, dates and other requirements; certificates of status; statements of authority; administrative dissolution procedures; appointment of agents for services of process, establishment and change of registered agents and officers; foreign entity registration; and procedures for authorizing and effecting mergers, interest, exchanges, conversions and domestication transactions, etc.
- ▶ A “Cross-Species/DFI Procedures Crosswalk” summary is attached to the State Bar Partnership Committee and LLC Committee Reports supporting the Act, each of which lists and correlates common WDFI procedural provisions as well as cross-species transactions provisions for all five business entity Chapters.
- ▶ WDFI provided input in the updating and coordination of the Act’s statutory procedural provisions.

Cross-Species Transactions: Procedural Provisions

- ▶ The Act prescribes common procedural provisions across all five business entity Chapters pertaining to:
 - ▶ Authorizing each type of cross-species transaction;
 - ▶ Requirements for a plan of merger, interest exchange, conversion or domestication;
 - ▶ Amendment or abandonment of such plan;
 - ▶ Filings required to effect a merger, interest exchange, conversion or domestication;
 - ▶ Effective date of the transaction; and
 - ▶ Protective provisions for dissenters in merger, interest exchange or conversion transactions.
- ▶ See “Crosswalk” summary in Committee Reports for citations.

Cross-Species Transactions: Protective Provisions

- ▶ The Act provides that surviving entities in merger, interest exchange and conversion transactions must timely honor, not only dissenters rights as to business corporations under Chapter 180 (*see*, § 180.1301, *et. seq.*), but also comparable protective provisions with respect to the other types of domestic business entities.
- ▶ In the case of nonstock corporations under Chapter 181, the Act includes provisions which would provide protections for nonconsenting members analogous to business corporation dissenters rights. (*see* § § 181.11055(2)(b), 181.1135(4)(b) and 181.1165(2)(b)).
- ▶ For comparable protective provisions in the cross-species transaction provisions for partnerships, limited partnerships and LLCs, see citations in “Crosswalk” summary.

Domestication

- ▶ The Act changes and expands the definition of "domestication" in Chapters 180 and 181 (see §§ 180.1171-.1174, *et. seq.*; §§ 180.1171-.1174, *et. seq.*) as well as the other business entity Chapters; previously, this term referred only to a change of domicile to or from Wisconsin by a business entity, a transaction that would have been treated as a "conversion" under prior law.
- ▶ A "domestication" is now defined in the Act as a transaction whereby a business entity can be simultaneously governed both by Wisconsin law and the law applicable to a non-United States entity.
- ▶ The Act's updated domestication provisions are based on (and generally similar to) the domestication provisions of the Delaware General Corporation Law.

Other Notable Changes

▶ Forum Selection for Internal Corporate Claims:

- ▶ New § 180.0145 provides that the Articles of incorporation or the bylaws of a Wisconsin corporation may require that any “internal corporate claims”(e.g., derivative lawsuits, actions asserting breaches of fiduciary duty, and actions arising pursuant to any provision of the state’s corporation law), shall be brought solely and exclusively in Wisconsin courts.
- ▶ This new provision is based on its counterpart under Delaware law.
- ▶ New § 181.0163 provides for a parallel provision applicable to Wisconsin nonstock corporations.

Other Notable Changes

- ▶ Registered agent email addresses must be included in annual reports and new business registration filings
- ▶ DFI may serve notices on the organization via email (likely beginning in 2024)
- ▶ Over \$130,000 in estimated annual savings for taxpayers
- ▶ Authorizes an additional fee for filings made on paper where an electronic filing option is available.

Tools for Law Enforcement

- ▶ Makes it a felony to file a false document with the DFI, across all business organization chapters
 - ▶ Previously only applied in chs. 178, 180, and 181
 - ▶ Important for deterring and prosecuting incidents of business identity theft
- ▶ Additional information in annual reports may assist law enforcement investigations
 - ▶ Ch. 179 annual reports must include the name of at least one general partner
 - ▶ Ch. 183 annual reports must include the name of the manager or, if member-managed, at least one member

Standardization Across Entity Types

- ▶ Standardizes most types of filings and filing requirements across entity types
 - ▶ Same transactions (merger, conversion, domestication, interest exchange) available across entity types, generally with the same filing requirements
 - ▶ Annual reports now required for all entity types, generally with the same filing requirements
 - ▶ Statements of withdrawal/correction now available across entity types, added language allowing for correction of defectively transmitted documents
- ▶ Standardizes filing fees for most documents across entity types

Links to Materials

- ▶ [Act 258](#)
- ▶ [SB 566 \(with LRB Commentary\)](#)
- ▶ [LLC Committee Report](#)
- ▶ [Partnership Committee Report](#)
- ▶ [Limited Partnership Committee Report](#)
- ▶ [Corporation Committee Report](#)
- ▶ [RULLCA Text from ULC \(with Comments\)](#)
- ▶ [RULPA Text from ULD \(with Comments\)](#)