

FINAL BILL REPORT

SHB 2657

C 196 L 10
Synopsis as Enacted

Brief Description: Addressing the dissolution of limited liability companies.

Sponsors: House Committee on Judiciary (originally sponsored by Representative Pedersen).

House Committee on Judiciary
Senate Committee on Judiciary

Background:

A limited liability company (LLC) is a business entity that possesses some of the attributes of a corporation and some of the attributes of a partnership. Domestic LLCs are entities formed under the Washington LLC Act. Foreign LLCs are entities formed under the laws of a state other than Washington or a foreign country.

Dissolution of an LLC.

An LLC may be dissolved voluntarily, administratively, or judicially. Dissolution begins a period in which the affairs of the LLC must be wound up. Dissolution of an LLC does not eliminate any cause of action against the LLC that was incurred prior to or after the dissolution if an action on the claim is filed within three years after the effective date of dissolution.

Revocation of Dissolution.

A voluntarily-dissolved LLC may file for reinstatement by filing an application with the Office of the Secretary of State (OSOS). The OSOS is required to cancel a voluntarily-dissolved LLC's certificate of formation if the dissolved LLC fails to file for reinstatement within 120 days after the effective date of dissolution.

Winding Up the Affairs of a Dissolved LLC.

After dissolution of an LLC, but before cancellation of the LLC's certificate of formation, a manager or member of the LLC or a court-appointed receiver may wind up the business of the LLC. Winding up involves liquidating assets, paying creditors, and distributing proceeds to the members of the LLC.

This analysis was prepared by non-partisan legislative staff for the use of legislative members in their deliberations. This analysis is not a part of the legislation nor does it constitute a statement of legislative intent.

Cancellation of Certificate.

After an LLC is dissolved, the certificate of formation that created the LLC is canceled. In 2009 the Washington Supreme Court held that cancellation of an LLC's certificate of formation bars the LLC from filing or continuing a lawsuit and bars a claimant from filing or continuing a lawsuit against the LLC. Under this decision, an LLC ceases to exist as a legal entity once its certificate of formation is canceled.

Summary:

Certificate of Dissolution.

A dissolved LLC may file a certificate of dissolution with the OSOS to provide notice that the LLC is dissolved. Provisions are created to address what information must be contained in a certificate of dissolution and who is authorized to sign the certificate.

The dissolution of an LLC does not eliminate any cause of action by or against the LLC that was incurred prior to or after the dissolution, unless the LLC has filed a certificate of dissolution that has not been revoked, and an action is not filed within three years after the filing of the certificate of dissolution. This provision does not apply if the dissolved LLC has disposed of known claims.

Revocation of Dissolution.

An LLC that has dissolved and filed a certificate of dissolution with the OSOS may revoke its dissolution within 120 days of filing its certificate of dissolution. To revoke its voluntary dissolution, an LLC must file a certificate of revocation of dissolution with the OSOS. Procedures are created to address how a revocation of dissolution must be approved by the LLC's managers or members.

Winding Up the Affairs of a Dissolved LLC.

The persons responsible for managing the business and affairs of the LLC are responsible for winding up the activities of the dissolved LLC. Upon certain conditions, a superior court may order judicial supervision of the winding up of a dissolved LLC. For the purposes of winding up, a dissolved LLC may:

- preserve the LLC's activities and property as a going concern for a reasonable time;
- prosecute and defend actions and proceedings;
- transfer the LLC's property;
- settle disputes; and
- perform other acts necessary or appropriate to the winding up.

Disposing of Known Claims.

A dissolved LLC that has filed a certificate of dissolution with the OSOS may dispose of the known claims against it by providing notice to known claimants. Procedures are created to address what the notice to known claimants must contain and how claimants must notify a

dissolved LLC of a claim. If a known claimant fails to follow these procedures, a known claim against a dissolved LLC is barred.

Certificate of Cancellation.

All references to a "certificate of cancellation" for domestic LLCs are removed. The issuance of a certificate of cancellation of a foreign LLC's registration does not impair the ability of a party to maintain an action, suit, or proceeding against the foreign LLC.

Votes on Final Passage:

House	96	0	
Senate	46	0	(Senate amended)
House	95	0	(House concurred)

Effective: June 10, 2010