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HOUSE BILL 1592

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State of Washington

61st Legislature

2009 Regular Session

By Representatives Pedersen, Rodne, Kelley, and Kenney; by request of Secretary of State

Read first time 01/26/09. Referred to Committee on Judiciary.

1 AN ACT Relating to business entities and associations registered  
2 with the secretary of state; amending RCW 25.15.270, 25.15.290,  
3 25.05.500, and 25.05.560; adding a new section to chapter 25.15 RCW;  
4 adding new sections to chapter 24.12 RCW; adding new sections to  
5 chapter 25.05 RCW; and creating a new section.

6 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF WASHINGTON:

7 **Sec. 1.** RCW 25.15.270 and 2006 c 48 s 4 are each amended to read  
8 as follows:

9 A limited liability company is dissolved and its affairs shall be  
10 wound up upon the first to occur of the following:

11 (1)(a) The dissolution date, if any, specified in the certificate  
12 of formation. If a dissolution date is not specified in the  
13 certificate of formation, the limited liability company's existence  
14 will continue until the first to occur of the events described in  
15 subsections (2) through (6) of this section. If a dissolution date is  
16 specified in the certificate of formation, the certificate of formation  
17 may be amended and the existence of the limited liability company may  
18 be extended by vote of all the members((+)).

1 (b) This subsection does not apply to a limited liability company  
2 formed under RCW 30.08.025 or 32.08.025(~~(-)~~);

3 (2) The happening of events specified in a limited liability  
4 company agreement;

5 (3) The written consent of all members;

6 (4) Unless the limited liability company agreement provides  
7 otherwise, ninety days following an event of dissociation of the last  
8 remaining member, unless those having the rights of assignees in the  
9 limited liability company under RCW 25.15.130(1) have, by the ninetieth  
10 day, voted to admit one or more members, voting as though they were  
11 members, and in the manner set forth in RCW 25.15.120(1);

12 (5) The entry of a decree of judicial dissolution under RCW  
13 25.15.275; or

14 (6) The expiration of (~~(two)~~) five years after the effective date  
15 of dissolution under RCW 25.15.285 without the reinstatement of the  
16 limited liability company.

17 **Sec. 2.** RCW 25.15.290 and 1994 c 211 s 805 are each amended to  
18 read as follows:

19 (1) A limited liability company administratively dissolved under  
20 RCW 25.15.285 may apply to the secretary of state for reinstatement  
21 within (~~(two)~~) five years after the effective date of dissolution. The  
22 application must:

23 (a) Recite the name of the limited liability company and the  
24 effective date of its administrative dissolution;

25 (b) State that the ground or grounds for dissolution either did not  
26 exist or have been eliminated; and

27 (c) State that the limited liability company's name satisfies the  
28 requirements of RCW 25.15.010.

29 (2) If the secretary of state determines that the application  
30 contains the information required by subsection (1) of this section and  
31 that the name is available, the secretary of state shall reinstate the  
32 limited liability company and give the limited liability company  
33 written notice, as provided in RCW 25.15.285(1), of the reinstatement  
34 that recites the effective date of reinstatement. If the name is not  
35 available, the limited liability company must file with its application  
36 for reinstatement an amendment to its certificate of formation  
37 reflecting a change of name.

1 (3) When the reinstatement is effective, it relates back to and  
2 takes effect as of the effective date of the administrative dissolution  
3 and the limited liability company may resume carrying on its business  
4 as if the administrative dissolution had never occurred.

5 (4) If an application for reinstatement is not made within the  
6 (~~two-year~~) five-year period set forth in subsection (1) of this  
7 section, or if the application made within this period is not granted,  
8 the (~~secretary of state shall cancel the~~) limited liability company's  
9 certificate of formation is deemed canceled.

10 NEW SECTION. Sec. 3. A new section is added to chapter 25.15 RCW  
11 under the subchapter heading "Article VIII. Dissolution" to read as  
12 follows:

13 (1) A limited liability company voluntarily dissolved under RCW  
14 25.15.270 may apply to the secretary of state for reinstatement within  
15 one hundred twenty days after the effective date of dissolution. The  
16 application must:

17 (a) Recite the name of the limited liability company and the  
18 effective date of its administrative dissolution;

19 (b) State that the ground or grounds for voluntary dissolution have  
20 been eliminated; and

21 (c) State that the limited liability company's name satisfies the  
22 requirements of RCW 25.15.010.

23 (2) If the secretary of state determines that the application  
24 contains the information required by subsection (1) of this section and  
25 that the name is available, the secretary of state shall reinstate the  
26 limited liability company and give the limited liability company  
27 written notice of the reinstatement that recites the effective date of  
28 reinstatement. If the name is not available, the limited liability  
29 company must file with its application for reinstatement an amendment  
30 to its certificate of formation reflecting a change of name.

31 (3) When the reinstatement is effective, it relates back to and  
32 takes effect as of the effective date of the voluntary dissolution and  
33 the limited liability company may resume carrying on its business as if  
34 the voluntary dissolution had never occurred.

35 (4) If an application for reinstatement is not made within the one  
36 hundred twenty-day period set forth in subsection (1) of this section,

1 or if the application made within this period is not granted, the  
2 secretary of state shall cancel the limited liability company's  
3 certificate of formation.

4 **Sec. 4.** RCW 25.05.500 and 1998 c 103 s 1101 are each amended to  
5 read as follows:

6 (1) A partnership which is not a limited liability partnership on  
7 June 11, 1998, may become a limited liability partnership upon the  
8 approval of the terms and conditions upon which it becomes a limited  
9 liability partnership by the vote necessary to amend the partnership  
10 agreement except, in the case of a partnership agreement that expressly  
11 considers obligations to contribute to the partnership, the vote  
12 necessary to amend those provisions, and by filing the applications  
13 required by subsection (2) of this section. A partnership which is a  
14 limited liability partnership on June 11, 1998, continues as a limited  
15 liability partnership under this chapter.

16 (2)(a) To become and to continue as a limited liability  
17 partnership, a partnership shall file with the secretary of state an  
18 application stating the name of the partnership; the location of an  
19 office, which need not be a place of its activity in this state; the  
20 address of its principal office; if the partnership's principal office  
21 is not located in this state, the address of a registered office and  
22 the name and address of a registered agent for service of process in  
23 this state which the partnership will be required to continuously  
24 maintain; the number of partners; a brief statement of the business in  
25 which the partnership engages; any other matters that the partnership  
26 determines to include; and that the partnership thereby applies for  
27 status as a limited liability partnership.

28 (b) An agent for service under (a) of this subsection must be an  
29 individual who is a resident of this state or other person authorized  
30 to do business in this state.

31 (3) The application shall be accompanied by a fee of one hundred  
32 seventy-five dollars for each partnership.

33 (4) The secretary of state shall register as a limited liability  
34 partnership any partnership that submits a completed application with  
35 the required fee.

36 (5) A partnership registered under this section shall pay an annual  
37 fee, in each year following the year in which its application is filed,

1 on a date and in an amount specified by the secretary of state. The  
2 fee must be accompanied by a notice, on a form provided by the  
3 secretary of state, of the number of partners currently in the  
4 partnership and of any material changes in the information contained in  
5 the partnership's application for registration.

6 (6) Registration is effective immediately after the date an  
7 application is filed, and remains effective until:

8 (a) It is voluntarily withdrawn by filing with the secretary of  
9 state a written withdrawal notice executed by a majority of the  
10 partners or by one or more partners or other persons authorized to  
11 execute a withdrawal notice; or

12 (b) Thirty days after receipt by the partnership of a notice from  
13 the secretary of state, which notice shall be sent by first-class mail,  
14 postage prepaid, that the partnership has failed to make timely payment  
15 of the annual fee specified in subsection (5) of this section, unless  
16 the fee is paid within such a thirty-day period.

17 (7) The status of a partnership as a limited liability partnership,  
18 and the liability of the partners thereof, shall not be affected by:

19 (a) Errors in the information stated in an application under subsection  
20 (2) of this section or a notice under subsection (6) of this section;  
21 or (b) changes after the filing of such an application or notice in the  
22 information stated in the application or notice.

23 (8) The secretary of state may provide forms for the application  
24 under subsection (2) of this section or a notice under subsection (6)  
25 of this section.

26 NEW SECTION. **Sec. 5.** CHANGE OF DESIGNATED OFFICE OR AGENT FOR  
27 SERVICE OF PROCESS. (1) In order to change its designated office,  
28 agent for service of process, or the address of its agent for service  
29 of process, a limited liability partnership must deliver to the  
30 secretary of state for filing a statement of change containing:

31 (a) The name of the limited liability partnership;

32 (b) The street and mailing address of its current designated  
33 office;

34 (c) If the current designated office is to be changed, the street  
35 and mailing address of the new designated office;

36 (d) The name and street and mailing address of its current agent  
37 for service of process; and

1 (e) If the current agent for service of process or an address of  
2 the agent is to be changed, the new information.

3 (2) A statement of change is effective when filed by the secretary  
4 of state.

5 NEW SECTION. **Sec. 6.** RESIGNATION OF AGENT FOR SERVICE OF PROCESS.

6 (1) In order to resign as an agent for service of process of a limited  
7 liability partnership, the agent must deliver to the secretary of state  
8 for filing a statement of resignation containing the name of the  
9 limited liability partnership.

10 (2) After receiving a statement of resignation, the secretary of  
11 state shall file it and mail a copy to the designated office of the  
12 limited liability partnership and another copy to the principal office  
13 if the address of the office appears in the records of the secretary of  
14 state and is different from the address of the designated office.

15 (3) An agent for service of process is terminated on the thirty-  
16 first day after the secretary of state files the statement of  
17 resignation.

18 NEW SECTION. **Sec. 7.** SERVICE OF PROCESS. (1) An agent for

19 service of process appointed by a limited liability partnership is an  
20 agent of the limited liability partnership for service of any process,  
21 notice, or demand required or permitted by law to be served upon the  
22 limited liability.

23 (2) If a limited liability partnership does not appoint or maintain  
24 an agent for service of process in this state or the agent for service  
25 of process cannot with reasonable diligence be found at the agent's  
26 address, the secretary of state is an agent of the limited liability  
27 partnership upon whom process, notice, or demand may be served.

28 (3) Service of any process, notice, or demand on the secretary of  
29 state may be made by delivering to and leaving with the secretary of  
30 state duplicate copies of the process, notice, or demand. If a  
31 process, notice, or demand is served on the secretary of state, the  
32 secretary of state shall forward one of the copies by registered or  
33 certified mail, return receipt requested, to the limited liability  
34 partnership at its designated office.

35 (4) Service is effected under subsection (3) of this section at the  
36 earliest of:

- 1 (a) The date the limited liability receives the process, notice, or  
2 demand;
- 3 (b) The date shown on the return receipt, if signed on behalf of  
4 the limited liability partnership; or
- 5 (c) Five days after the process, notice, or demand is deposited in  
6 the mail, if mailed postpaid and correctly addressed.
- 7 (5) The secretary of state shall keep a record of each process,  
8 notice, and demand served pursuant to this section and record the time  
9 of, and the action taken regarding, the service.
- 10 (6) This section does not affect the right to serve process,  
11 notice, or demand in any other manner provided by law.

12 NEW SECTION. **Sec. 8.** OFFICE AND AGENT FOR SERVICE OF PROCESS.

13 (1) A foreign limited liability partnership shall designate and  
14 continuously maintain in this state:

15 (a) An office, which need not be a place of its activity in this  
16 state; and

17 (b) An agent for service of process.

18 (2) An agent for service of process of a foreign limited liability  
19 partnership must be an individual who is a resident of this state or  
20 other person authorized to do business in this state.

21 NEW SECTION. **Sec. 9.** CHANGE OF DESIGNATED OFFICE OR AGENT FOR  
22 SERVICE OF PROCESS. (1) In order to change its designated office,

23 agent for service of process, or the address of its agent for service  
24 of process, a foreign limited liability partnership must deliver to the  
25 secretary of state for filing a statement of change containing:

26 (a) The name of the foreign limited liability partnership;

27 (b) The street and mailing address of its current designated  
28 office;

29 (c) If the current designated office is to be changed, the street  
30 and mailing address of the new designated office;

31 (d) The name and street and mailing address of its current agent  
32 for service of process; and

33 (e) If the current agent for service of process or an address of  
34 the agent is to be changed, the new information.

35 (2) A statement of change is effective when filed by the secretary  
36 of state.

1           NEW SECTION.     **Sec. 10.**     RESIGNATION OF AGENT FOR SERVICE OF  
2 PROCESS. (1) In order to resign as an agent for service of process of  
3 a foreign limited liability partnership, the agent must deliver to the  
4 secretary of state for filing a statement of resignation containing the  
5 name of the foreign limited liability partnership.

6           (2) After receiving a statement of resignation, the secretary of  
7 state shall file it and mail a copy to the designated office of the  
8 foreign limited liability partnership and another copy to the principal  
9 office if the address of the office appears in the records of the  
10 secretary of state and is different from the address of the designated  
11 office.

12           (3) An agent for service of process is terminated on the thirty-  
13 first day after the secretary of state files the statement of  
14 resignation.

15           NEW SECTION.     **Sec. 11.**     SERVICE OF PROCESS. (1) An agent for  
16 service of process appointed by a foreign limited liability partnership  
17 is an agent of the foreign limited liability partnership for service of  
18 any process, notice, or demand required or permitted by law to be  
19 served upon the foreign limited liability partnership.

20           (2) If a foreign limited liability partnership does not appoint or  
21 maintain an agent for service of process in this state or the agent for  
22 service of process cannot with reasonable diligence be found at the  
23 agent's address, the secretary of state is an agent of the foreign  
24 limited liability partnership upon whom process, notice, or demand may  
25 be served.

26           (3) Service of any process, notice, or demand on the secretary of  
27 state may be made by delivering to and leaving with the secretary of  
28 state duplicate copies of the process, notice, or demand. If a  
29 process, notice, or demand is served on the secretary of state, the  
30 secretary of state shall forward one of the copies by registered or  
31 certified mail, return receipt requested, to the foreign limited  
32 liability partnership at its designated office.

33           (4) Service is effected under subsection (3) of this section at the  
34 earliest of:

35           (a) The date the foreign limited liability partnership receives the  
36 process, notice, or demand;

1 (b) The date shown on the return receipt, if signed on behalf of  
2 the foreign limited liability partnership; or

3 (c) Five days after the process, notice, or demand is deposited in  
4 the mail, if mailed postpaid and correctly addressed.

5 (5) The secretary of state shall keep a record of each process,  
6 notice, and demand served pursuant to this section and record the time  
7 of, and the action taken regarding, the service.

8 (6) This section does not affect the right to serve process,  
9 notice, or demand in any other manner provided by law.

10 **Sec. 12.** RCW 25.05.560 and 1998 c 103 s 1203 are each amended to  
11 read as follows:

12 (1) A foreign limited liability partnership transacting business in  
13 this state may not maintain an action or proceeding in this state  
14 unless it has in effect a registration as a foreign limited liability  
15 partnership.

16 (2) The failure of a foreign limited liability partnership to have  
17 in effect a registration as a foreign limited liability partnership  
18 does not impair the validity of a contract or act of the foreign  
19 limited liability partnership or preclude it from defending an action  
20 or proceeding in this state.

21 (3) A limitation on personal liability of a partner is not waived  
22 solely by transacting business in this state without registration as a  
23 foreign limited liability partnership.

24 (4) If a foreign limited liability partnership transacts business  
25 in this state without a registration as a foreign limited liability  
26 partnership, the secretary of state is its agent, as set forth under  
27 section 11 of this act, for service of process with respect to a right  
28 of action arising out of the transaction of business in this state.

29 NEW SECTION. **Sec. 13.** A new section is added to chapter 24.12 RCW  
30 to read as follows:

31 (1) Each corporation sole registered in this state shall file, with  
32 a ten dollar filing fee and within the time prescribed by this chapter,  
33 an annual report in the form prescribed by the secretary of state. The  
34 report shall set forth:

35 (a) The name of the corporation sole and the state or country under  
36 the laws of which it is incorporated;

1 (b) The address of the principal place of business of the  
2 corporation sole in this state including street and number;

3 (c) The names and respective addresses of the directors and  
4 officers of the corporation sole; and

5 (d) The corporation sole's unified business identifier number.

6 (2)(a) The information shall be given as of the date of the  
7 execution of the report. It shall be executed by the corporation sole  
8 by an officer of the corporation sole or, if the corporation sole is in  
9 the hands of a receiver or trustee, it shall be executed on behalf of  
10 the corporation sole by such receiver or trustee.

11 (b) The secretary of state may provide that correcting or updating  
12 information appearing on previous annual or biennial filings is  
13 sufficient to constitute the current filing.

14 (3) The secretary may administratively dissolve a corporation sole  
15 that does not comply with this section as provided in RCW 23B.14.203.  
16 However, the secretary is not required to reinstate a corporation sole  
17 administratively dissolved for not complying with this section.

18 NEW SECTION. **Sec. 14.** A new section is added to chapter 24.12 RCW  
19 to read as follows:

20 (1) Not less than thirty days prior to a corporation sole's renewal  
21 date, the secretary of state shall mail to each corporation sole, by  
22 first-class mail addressed to its registered office, a notice that its  
23 annual report must be filed as required by this chapter, and stating  
24 that if it fails to file its annual report it shall be dissolved or its  
25 certificate of authority revoked, as the case may be. Failure of the  
26 secretary of state to mail the notice does not relieve a corporation  
27 sole from its obligation to file the annual reports required by this  
28 chapter.

29 (2)(a) The report of a corporation sole shall be delivered to the  
30 secretary of state on an annual renewal date as the secretary of state  
31 may establish. The secretary of state may adopt rules to establish  
32 biennial reporting dates and to stagger reporting dates.

33 (b) If the secretary of state finds that the report substantially  
34 conforms to the requirements of this chapter, the secretary of state  
35 shall file that report.

1        NEW SECTION.    **Sec. 15.**    A new section is added to chapter 24.12 RCW  
2 to read as follows:

3        (1)    The secretary of state may, when exigent or mitigating  
4 circumstances are presented, reinstate to full active status any  
5 corporation sole previously in good standing that would otherwise be  
6 penalized or lose its active status. Any corporation sole desiring to  
7 seek relief under this section shall, within fifteen days of discovery  
8 by corporate sole officials of the missed filing or lapse, notify the  
9 secretary of state in writing. The notification must include the name  
10 and mailing address of the corporation sole, the corporate sole officer  
11 to whom correspondence should be sent, and a statement under oath by a  
12 responsible corporate sole officer, setting forth the nature of the  
13 missed filing or lapse, the circumstances giving rise to the missed  
14 filing or lapse, and the relief sought.

15        (2)    Upon receipt of the notice under subsection (1) of this  
16 section, the secretary of state shall investigate the circumstances of  
17 the missed filing or lapse.

18        (a)    If the secretary of state is satisfied that sufficient exigent  
19 or mitigating circumstances exist; that the corporation sole has  
20 demonstrated good faith and a reasonable attempt to comply with the  
21 applicable corporate sole license statutes of this state; that  
22 disproportionate harm would occur to the corporation sole if relief  
23 were not granted; and that relief would not be contrary to the public  
24 interest expressed in this title, the secretary may issue an order  
25 reinstating the corporation sole and specifying any terms and  
26 conditions of the relief. Reinstatement may relate back to the date of  
27 lapse or dissolution.

28        (b)    If the secretary of state determines the request does not  
29 comply with the requirements for relief, the secretary shall issue an  
30 order denying the requested relief and stating the reasons for the  
31 denial. Any denial of relief by the secretary of state is final and is  
32 not appealable.

33        (c)    The secretary of state shall keep records of all requests for  
34 relief and the disposition of the requests. The secretary of state  
35 shall annually report to the legislature the number of relief requests  
36 received in the preceding year and a summary of the secretary's  
37 disposition of the requests.

1        NEW SECTION.   **Sec. 16.**   A new section is added to chapter 24.12 RCW  
2   to read as follows:

3        Effective August 1, 2009, a corporation sole may not be formed or  
4   incorporated under this chapter.

5        NEW SECTION.   **Sec. 17.**   Sections 5 through 7 of this act are each  
6   added to chapter 25.05 RCW under the subchapter heading "Article 11  
7   Limited Liability Partnership."

8        NEW SECTION.   **Sec. 18.**   Sections 8 through 11 of this act are each  
9   added to chapter 25.05 RCW under the subchapter heading "Article 12  
10   Foreign Limited Liability Partnership."

11       NEW SECTION.   **Sec. 19.**   Captions used in this act are not any part  
12   of the law.

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