IC 23-18-9

Chapter 9. Voluntary Dissolution

IC 23-18-9-1

Circumstances requiring dissolution; companies existing on or before June 30, 1999

Sec. 1. (a) Unless otherwise provided in a written operating agreement, a limited liability company existing under this article on or before June 30, 1999, is governed by this section.

(b) A limited liability company is dissolved and its affairs must be wound up on the first of the following to occur:

(1) At the time or on the occurrence of events specified in writing in the articles of organization or operating agreement.

(2) Written consent of all the members.

(3) An event of dissociation occurs with respect to a member, unless the business of the limited liability company is continued by the consent of all the remaining members not more than ninety (90) days after the occurrence of the event or as otherwise provided in writing in the articles of organization or operating agreement.

(4) Entry of a decree of judicial dissolution under section 2 of this chapter.

As added by P.L.8-1993, SEC.301. Amended by P.L.269-1999, SEC.14.

IC 23-18-9-1.1

Circumstances requiring dissolution; companies formed after June 30, 1999

Sec. 1.1. (a) A limited liability company formed under this article after June 30, 1999, is governed by this section.

(b) A limited liability company is dissolved and the limited liability company's affairs must be wound up when the first of the following occurs:

(1) At the time or on the occurrence of events specified in writing in the articles of organization or operating agreement.

(2) Subject to IC 23-18-4-4(a)(4)(A), for a limited liability company:

(A) formed under this article after June 30, 2013, the unanimous consent of the members, unless a written operating agreement provides that dissolution may be authorized by the vote of members holding fewer than all the interests in the limited liability company or holding fewer than all interests in one (1) or more classes of members; or

(B) formed under this article after June 30, 1999, and before July 1, 2013, if there is:

(i) one (1) class or group of members, written consent of two-thirds (2/3) in interest of the members; or

(ii) more than one (1) class or group of members, written consent of two-thirds (2/3) in interest of each class or group of members.

(3) Entry of a decree of judicial dissolution under section 2 of this chapter.

(c) A limited liability company is dissolved and the limited liability company's affairs must be wound up if there are no members. However, this subsection does not apply if, under a provision in the operating agreement, not more than ninety (90) days after the occurrence of the event that caused the last remaining member to cease to be a member, either:

(1) the personal representative of the last remaining member agrees in writing:

(A) to continue the business of the limited liability company; and

(B) to the admission of the personal representative or the personal representative's nominee or designee to the limited liability company as a member; or

(2) a member is admitted to the limited liability company in the manner provided for in the operating agreement specifically for the admission of a member to the limited liability company after the last remaining member ceases to be a member;

effective as of the time of the event that caused the last remaining member to cease to be a member.

As added by P.L.269-1999, SEC.15. Amended by P.L.130-2006, SEC.32; P.L.40-2013, SEC.12.

IC 23-18-9-2

Court-decreed dissolution

Sec. 2. On application by or for a member, the circuit or superior court of the county in which the limited liability company's principal office, or if there is none in Indiana, in which the registered office is located, may decree dissolution of the limited liability company whenever it is not reasonably practicable to carry on the business in conformity with the articles of organization or operating agreement.

As added by P.L.8-1993, SEC.301.

IC 23-18-9-3

Powers of dissolved company; effect of dissolution

Sec. 3. (a) A dissolved limited liability company may only carry on business that is appropriate to wind up and liquidate its business and affairs, including the following:

(1) Collecting its assets.

(2) Disposing of properties that will not be distributed in kind to members.

(3) Discharging or making provision for discharging liabilities.

(4) Distributing the remaining property among the members.

(5) Doing every other act necessary to wind up and liquidate its business and affairs.

(b) Dissolution of a limited liability company does not do the following:

(1) Transfer title to the limited liability company's property.

(2) Alter the personal liability of members under IC 23-18-3-3.

(3) Subject members or managers to standards of conduct different from those prescribed under IC 23-18-4-2.

(4) Change the:

(A) voting requirements for members or managers;

(B) provisions for appointment, resignation, or removal of managers, if any; or

(C) provisions for amending the operating agreement.

(5) Prevent commencement of a proceeding by or against the limited liability company in its name.

(6) Abate or suspend a proceeding pending by or against the limited liability company on the effective date of dissolution.

(7) Terminate the authority of the registered agent of the limited liability company.

As added by P.L.8-1993, SEC.301.

IC 23-18-9-4

Entities entitled to wind up company's business or affairs

Sec. 4. Unless otherwise provided in a written operating agreement, the following may wind up the business or affairs of the limited liability company:

(1) The members or managers with authority to manage the limited liability company under IC 23-18-4-1.

(2) If a member or manager has engaged in wrongful conduct or upon other cause shown, the circuit or superior court of:

(A) the county in which the limited liability company's principal office is located; or

(B) if there is none in Indiana the county in which its registered office is located;

on application by a member or the member's legal representative or assignee.

As added by P.L.8-1993, SEC.301.

IC 23-18-9-5

Binding acts of members following dissolution

Sec. 5. (a) Except as provided in subsections (c), (d), and (e), following dissolution a member may bind the limited liability company:

(1) by an act appropriate for winding up the affairs of the limited liability company or completing transactions unfinished at the time of dissolution; and

(2) in a transaction that would have been binding on the limited liability company had the limited liability company not been dissolved if each party to the transaction does not have notice of the dissolution.

(b) The filing of articles of dissolution under section 7 of this chapter constitutes notice of dissolution for purposes of subsection (a)(2).

(c) An act of a member that is not binding on the limited liability company under subsection (a) is binding if the act is authorized by the limited liability company.

(d) An act of a member that would be binding under subsection (a) or would be authorized except for a restriction on authority does not bind the limited liability company to persons having knowledge of the restriction.

(e) If the articles of organization provide for a manager or managers and the manager or managers have delegated the exclusive authority to manage the affairs of the limited liability company, then a manager has the authority of a member under subsection (a), and a member does not have authority while acting solely in the capacity of a member.

As added by P.L.8-1993, SEC.301.

IC 23-18-9-6

Distribution of assets

Sec. 6. Upon the winding up of a limited liability company, the assets must be distributed as follows:

(1) To creditors, including members and managers who are creditors to the extent permitted by law, to satisfy the liabilities of the limited liability company whether by payment or by the establishment of adequate reserves except for liabilities for distributions to members under IC 23-18-5-4, and IC 23-18-5-5 or IC 23-18-5-5.1.

(2) Unless otherwise provided in a written operating agreement, to members and former members to satisfy the liabilities for distributions under IC 23-18-5-4 and IC 23-18-5-5.

(3) Unless otherwise provided in a written operating agreement, to members in proportion to the returned contribution.

As added by P.L.8-1993, SEC.301. Amended by P.L.269-1999, SEC.16.

IC 23-18-9-7

Articles of dissolution; filing

Sec. 7. At any time after a limited liability company dissolves, the limited liability company may deliver to the secretary of state for filing articles of dissolution setting forth the following:

(1) The name of the limited liability company.

(2) The date of filing of the articles of organization.

(3) The address of the principal office of the limited liability company.

(4) The date dissolution occurred.

(5) Other information the members or managers filing the articles determine.

As added by P.L.8-1993, SEC.301.

IC 23-18-9-7.5

Revocation of dissolution

Sec. 7.5. (a) A limited liability company may revoke its dissolution within one hundred twenty (120) days of its effective date.

(b) Revocation of dissolution must be authorized in the same

manner as the dissolution was authorized unless the authorization for dissolution permitted revocation of the dissolution by action of the managers alone. If the authorization for dissolution permitted revocation of the dissolution by action of the managers alone, the managers may revoke the dissolution without member action.

(c) After the revocation of dissolution is authorized, the limited liability company may revoke the dissolution by delivering to the secretary of state for filing articles of dissolution and articles of revocation of dissolution. The articles of revocation of dissolution must set forth the following:

(1) The name of the limited liability company.

(2) The effective date of the revocation of dissolution.

(3) The date that the revocation of dissolution was authorized.

(4) If applicable, a statement that the limited liability company's members or managers revoked the dissolution.

(5) If the limited liability company's members or managers revoked a dissolution authorized by the members or managers, a statement that the authorization permitted revocation of the dissolution by action of the members or of the managers alone.

(d) Unless otherwise specified, a revocation of dissolution is effective when articles of revocation of dissolution are filed.

(e) A revocation of dissolution relates back to and takes effect as of the effective date of the dissolution. A limited liability company whose dissolution is revoked resumes carrying on business as if there had been no dissolution.

As added by P.L.130-2006, SEC.33. Amended by P.L.1-2007, SEC.164.

IC 23-18-9-8

Claims

Sec. 8. (a) As used in this section, "claim" does not include a contingent liability or a claim based on an event occurring after the date of dissolution.

(b) A dissolved limited liability company may dispose of the known claims against it by following the procedure described in this section.

(c) The dissolved limited liability company shall notify known claimants in writing of the dissolution at any time after the dissolution. The written notice must contain the following:

(1) The amount that the dissolved limited liability company believes will satisfy the claim.

(2) A statement that the creditor has the right to dispute the amount of the claim and a description of the procedure for disputing the amount of the claim.

(3) A mailing address where a dispute of the amount of the claim may be sent.

(4) The deadline for receiving disputing claims. The deadline may not be less than sixty (60) days after the effective date of the written notice.

(5) A statement that the claim will be fixed at the amount

specified by the dissolved limited liability company if a dispute of the amount of the claim is not received by the deadline.

(d) If the amount of the claim is disputed, the claimant must notify the dissolved limited liability company of the dispute by the deadline. If the dissolved limited liability company rejects the disputed amount, the claimant must commence a proceeding to enforce the claim not more than ninety (90) days after the effective date of the limited liability company's rejection notice.

(e) The amount of the claim is fixed under one (1) of the following conditions:

(1) The claimant does not notify the dissolved limited liability company by the deadline.

(2) The claimant has notified the dissolved limited liability company of a dispute and has received a rejection notice and does not commence a proceeding within ninety (90) days from the effective date of the rejection notice.

(f) Regardless of a dispute in the amount of the claim, the dissolved limited liability company must tender to the claimant the amount of the claim specified in the notice of the claim given under subsection (c) not more than thirty (30) days after the earlier of the following dates:

(1) The date that the claim becomes fixed.

(2) The date that the claimant commences the proceeding to enforce the claim.

As added by P.L.8-1993, SEC.301.

IC 23-18-9-9

Notice of dissolution

Sec. 9. (a) A dissolved limited liability company may publish notice of its dissolution and request that persons with claims against the limited liability company present them in accordance with the notice.

(b) The notice must meet the following requirements:

(1) Be published one (1) time in a newspaper of general circulation in the county where the dissolved limited liability company's principal office, or if there is none in Indiana its registered office, is or was last located.

(2) Describe the information that must be included in a claim and provide a mailing address where the claim may be sent.

(3) State that a claim against the limited liability company will be barred unless a proceeding to enforce the claim is commenced not more than two (2) years after the publication of the notice.

(c) If the dissolved limited liability company publishes a notice in accordance with subsection (b), the claim of each of the following claimants is barred unless the claimant commences a proceeding to enforce the claim against the dissolved limited liability company not more than two (2) years after the publication date of the notice:

(1) A claimant who did not receive written notice under section 8 of this chapter.

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

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

(d) A claim may be enforced under this section:

(1) against the dissolved limited liability company to the extent of its undistributed assets; or

(2) if the assets have been distributed in liquidation, against a member of the dissolved limited liability company to the extent of the member's pro rata share of the claim or the assets distributed to the member in liquidation, whichever is less, but a member's total liability for all claims under this section may not exceed the total amount of assets distributed to the member.

As added by P.L.8-1993, SEC.301.

IC 23-18-9-10

Claimants not found or incompetent to receive assets; deposits for safekeeping; disbursement upon proof of entitlement

Sec. 10. Assets of a dissolved limited liability company that should be transferred to a creditor, claimant, or member of the limited liability company who cannot be found or who is not competent to receive the assets must be reduced to cash and deposited with the treasurer of state or other appropriate state official for safekeeping. When the creditor, claimant, or member furnishes satisfactory proof of entitlement to the amount deposited, the treasurer of state or other appropriate state official must pay to the creditor, claimant, or member or a representative of the creditor, claimant, or member that amount.

As added by P.L.8-1993, SEC.301.