

UNIFORM PROTECTED SERIES ACT*

Drafted by the

NATIONAL CONFERENCE OF COMMISSIONERS
ON UNIFORM STATE LAWS

and by it

APPROVED AND RECOMMENDED FOR ENACTMENT
IN ALL THE STATES

at its

ANNUAL CONFERENCE
MEETING IN ITS ONE-HUNDRED-AND-TWENTY-SIXTH YEAR
SAN DIEGO, CALIFORNIA
JULY 14 - JULY 20, 2017

WITHOUT PREFATORY NOTE OR COMMENTS

COPYRIGHT © 2017

By

NATIONAL CONFERENCE OF COMMISSIONERS
ON UNIFORM STATE LAWS

July 19, 2017

*The following text is subject to revision by the Committee on Style of the National Conference of Commissioners on Uniform State Laws.

UNIFORM PROTECTED SERIES ACT

[ARTICLE] 1

GENERAL PROVISIONS

SECTION 101. SHORT TITLE. This [act] may be cited as the Uniform Protected Series Act.

***Legislative Note:** Because this act is intended to be inserted into a state's current limited liability company statute, an enacting state should keep in mind the following three points, as well as the Legislative Note to Section 102 (which explains how this act relies on specified definitions in an enacting state's limited liability company act).*

*1. An enacting state should replace all bracketed references to "this [act]" with the state's term of art for a captioned part of a statute. For example, an enacting state that uses "article" as the term of art will change "[act]" to "article". For example, this section would be revised to be: "**SECTION 101. SHORT TITLE.** This article may be cited as the Uniform Protected Series Act."*

2. Likewise, an enacting state should replace this act's many bracketed reference to "article" with whatever term of art the state uses to refer to a separately captioned subpart of a statute. In a uniform act, the word would be "part".

3. This act includes bracketed instructions to cite specified provisions of an enacting state's limited liability company statute. If an enacting state has adopted a "hub and spoke" approach to business organization statutes, the instructions should be read where appropriate to include reference to the hub and any other centralized provisions. In what instances that reading is appropriate depends on how broad the hub is. Using the Uniform Business Organizations Code as an example, the hub encompasses filing requirements, name requirements, registered agents, foreign entities, and administrative dissolution, and another centralized provision addresses entity transactions (e.g., mergers, conversions).

SECTION 102. DEFINITIONS. In this [act]:

(1) "Asset" means property:

(A) in which a series limited liability company or protected series has rights; or

(B) as to which the company or protected series has the power to transfer rights.

(2) "Associated asset" means an asset that meets the requirements of Section 301.

(3) "Associated member" means a member that meets the requirements of Section 302.

(4) “Foreign protected series” means an arrangement, configuration, or other structure established by a foreign limited liability company which has attributes comparable to a protected series established under this [act]. The term applies whether or not the law under which the foreign company is organized refers to “protected series”.

(5) “Foreign series limited liability company” means a foreign limited liability company that has at least one foreign protected series.

(6) “Non-associated asset” means:

(A) an asset of a series limited liability company which is not an associated asset of the company; or

(B) an asset of a protected series of the company which is not an associated asset of the protected series.

(7) “Person” includes a protected series.

(8) “Protected series”, except in the phrase “foreign protected series”, means a protected series established under Section 201.

(9) “Protected series manager” means a person under whose authority the powers of a protected series are exercised and under whose direction the activities and affairs of the protected series are managed under the operating agreement and [cite this state’s limited liability company statute as amended by this act].

(10) “Protected series transferable interest” means a right to receive a distribution from a protected series.

(11) “Protected series transferee” means a person to which all or part of a protected series transferable interest of a protected series of a series limited liability company has been transferred, other than the company. The term includes a person that owns a protected series

transferable interest as a result of ceasing to be an associated member of a protected series.

(12) “Series limited liability company”, except in the phrase “foreign series limited liability company”, means a limited liability company that has at least one protected series.

Legislative Note: *Because this act is intended to be inserted into a state’s current limited liability company statute, this section does not define terms already defined in the Uniform Limited Liability Company Act (2006) (Last Amended 2013). This act presupposes the following definitions from that act:*

defined term	Uniform Limited Liability Company Act (2006) (Last Amended 2013) Section
Acquired entity	1001(1)
Acquiring entity	1001(2)
Converted entity	1001(4)
Converting entity	1001(5)
Foreign limited liability company	102(5)
Jurisdiction of formation	102(7)
Limited liability company	102(8)
Operating agreement	102(13)
Manager	102(9)
Member	102(11)
Person	102(15)
Property	12(17)
Record	102(18)
Sign	102(21)
State	102(22)
Transfer	102(23)
Transferable interest	102(24)
Transferee	102(25)

Each enacting state should determine whether its limited liability company statute defines the terms listed in this Legislative Note. If a state’s limited liability company statute lacks a particular term entirely, the state should adopt the term as defined in the Uniform Limited Liability Company Act (2006) (Last Amended 2013), Section 102. If a state act defines a particular concept but uses a different label – e.g., “limited liability company interest” instead of “transferable interest” – the state should modify this act accordingly.

In both the 2006 and 2013 versions of the Uniform Limited Liability Company Act, some of the above listed definitions appear in Section 1001, which states that it defines terms for use “[i]n this [article]” (pertaining to entity transactions). When adopting this act, a state that has adopted either the 2006 or 2013 version should revise Section 1001 to begin: “In this [article] and [cite the article containing this act]”. See also Section 101, Legislative Note #3.

SECTION 103. NATURE OF PROTECTED SERIES. A protected series of a series limited liability company is a person distinct from:

- (1) the company, subject to Sections 104(c), 501(1), and 502(d);
- (2) another protected series of the company;
- (3) a member of the company, whether or not the member is an associated member of the protected series;
- (4) a protected series transferee of a protected series of the company; and
- (5) a transferee of a transferable interest of the company.

SECTION 104. POWERS AND DURATION OF PROTECTED SERIES.

(a) A protected series of a series limited liability company has the capacity to sue and be sued in its own name.

(b) Except as otherwise provided in subsections (c) and (d), a protected series of a series limited liability company has the same powers and purposes as the company.

(c) A protected series of a series limited liability company ceases to exist not later than when the company completes its winding up.

(d) A protected series of a series limited liability company may not:

- (1) be a member of the company;
- (2) establish a protected series; [or]
- (3) except as permitted by law of this state other than this [act], have any purpose or power that the law of this state other than this [act] prohibits a limited liability company from doing or having[.]; [or]
- [(4)].

Legislative Note: Section 104(d)(4) is provided in case an enacting state decides that a power, a purpose, or conduct acceptable for a limited liability company is not acceptable for a protected

series.

SECTION 105. GOVERNING LAW. The law of this state governs:

(1) the internal affairs of a protected series, including:

(A) relations among any associated members of the protected series;

(B) relations among the protected series and:

(i) any associated member;

(ii) the protected series manager; or

(iii) any protected series transferee;

(C) relations between any associated member and:

(i) the protected series manager; or

(ii) any protected series transferee;

(D) the rights and duties of a protected series manager;

(E) governance decisions affecting the activities and affairs of the protected series

and the conduct of those activities and affairs; and

(F) procedures and conditions for becoming an associated member or protected series transferee;

(2) the relations between a protected series of a series limited liability company and each of the following:

(A) the company;

(B) another protected series of the company;

(C) a member that is not an associated member of the protected series;

(D) a protected series manager that is not a protected series manager of the protected series; and

(E) a protected series transferee that is not a protected series transferee of the protected series;

(3) the liability of a person for a debt, obligation, or other liability of a protected series of a series limited liability company if the debt, obligation, or liability is asserted solely by reason of the person being or acting as:

(A) an associated member, protected series transferee, or protected series manager of the protected series;

(B) a member of the company which is not an associated member of the protected series;

(C) a protected series manager that is not a protected series manager of the protected series;

(D) a protected series transferee that is not a protected series transferee of the protected series;

(E) a manager of the company; or

(F) a transferee of a transferable interest of the company;

(4) the liability of a series limited liability company for a debt, obligation, or other liability of a protected series of the company if the debt, obligation, or liability is asserted solely by reason of the company:

(A) having delivered to the [Secretary of State] for filing a protected series designation pertaining to the protected series;

(B) being or acting as a protected series manager of the protected series;

(C) having the protected series be or act as a manager of the company; or

(D) owning a protected series transferable interest of the protected series;

(5) the liability of a protected series of a series limited liability company for a debt, obligation, or other liability of the company or of another protected series of the company if the debt, obligation, or liability is asserted solely by reason of:

(A) the protected series:

(i) being a protected series of the company or having as a protected series manager the company or another protected series of the company; or

(ii) being or acting as a protected series manager of another protected series of the company or a manager of the company; or

(B) the company owning a protected series transferable interest of the protected series.

SECTION 106. RELATION OF OPERATING AGREEMENT, THIS [ACT], AND [LIMITED LIABILITY COMPANY STATUTE].

(a) Except as otherwise provided in this section and subject to Sections 107 and 108, the operating agreement of a series limited liability company governs:

(1) the internal affairs of a protected series, including:

(A) relations among any associated members of the protected series;

(B) relations among the protected series and:

(i) any associated member;

(ii) the protected series manager; or

(iii) any protected series transferee;

(C) relations between any associated member and:

(i) the protected series manager; or

(ii) any protected series transferee;

(D) the rights and duties of a protected series manager;

(E) governance decisions affecting the activities and affairs of the protected series and the conduct of those activities and affairs; and

(F) procedures and conditions for becoming an associated member or protected series transferee;

(2) relations among the protected series, the company, and any other protected series of the company;

(3) relations between:

(A) the protected series, its protected series manager, any associated member of the protected series, or any protected series transferee of the protected series; and

(B) a person in the person's capacity as:

(i) a member of the company which is not an associated member of the protected series;

(ii) a protected series transferee or protected series manager of another protected series; or

(iii) a transferee of the company.

(b) If [the limited liability company statute] restricts the power of an operating agreement, the restriction applies to a matter under this [act] in accordance with Section 108.

(c) If law of this state other than this [act] imposes a prohibition, limitation, requirement, condition, obligation, liability, or other constraint on a limited liability company, a member, manager, or other agent of the company, or a transferee of the company, except as otherwise provided in law of this state other than this [act], the constraint applies in accordance with Section 108.

(d) Except as otherwise provided in Section 107, if the operating agreement of a series limited liability company does not provide for a matter described in subsection (a) in a manner permitted by this [act], the matter is determined in accordance with the following rules:

(1) To the extent this [act] addresses the matter, this [act] governs.

(2) To the extent this [act] does not address the matter, [cite this state's limited liability company statute] governs the matter in accordance with Section 108.

SECTION 107. ADDITIONAL LIMITATIONS ON OPERATING AGREEMENT.

(a) An operating agreement may not vary the effect of:

(1) this section;

(2) Section 103;

(3) Section 104(a);

(4) Section 104(b) to provide a protected series a power beyond the powers [cite this state's limited liability company statute] provides a limited liability company;

(5) Section 104(c) or (d);

(6) Section 105;

(7) Section 106;

(8) Section 108;

(9) Section 201, except to vary the manner in which a limited liability company approves establishing a protected series;

(10) Section 202;

(11) Section 301;

(12) Section 302;

(13) Section 303(a) or (b);

(14) Section 304(c) or (f);

(15) Section 401 except to decrease or eliminate a limitation of liability stated in Section 401;

(16) Section 402;

(17) Section 403;

(18) Section 404;

(19) Section 501(1), (4), and (5);

(20) Section 502, except to designate a different person to manage winding up;

(21) Section 503;

(22) [Article] 6;

(23) [Article] 7;

(24) [Article 8], except to change:

(A) the manner in which a series limited liability company may elect under Section 803(a)(2) to be subject to this [act]; or

(B) the person that has the right to sign and deliver to the [Secretary of State] for filing a record under Section 803(b)(2); or

(25) a provision of this [act] pertaining to:

(A) registered agents; or

(B) the [Secretary of State], including provisions pertaining to records authorized or required to be delivered to the [Secretary of State] for filing under this [act].

(b) An operating agreement may not unreasonably restrict the duties and rights under Section 305 but may impose reasonable restrictions on the availability and use of information obtained under Section 305 and may define appropriate remedies, including liquidated damages,

for a breach of any reasonable restriction on use.

**SECTION 108. RULES FOR APPLYING [LIMITED LIABILITY COMPANY
STATUTE] TO SPECIFIED PROVISIONS OF [ACT].**

(a) Subject to subsection (b) and except as otherwise provided in Section 107, the following rules apply in applying Sections 106, 304(c), 304(f), 501(4)(A), 502(a), and 503(2):

(1) A protected series of a series limited liability company is deemed to be a limited liability company that is formed separately from the company and is distinct from the company and any other protected series of the company.

(2) An associated member of the protected series is deemed to be a member of the company deemed to exist under paragraph (1).

(3) A protected series transferee of the protected series is deemed to be a transferee of the company deemed to exist under paragraph (1).

(4) A protected series transferable interest of the protected series is deemed to be a transferable interest of the company deemed to exist under paragraph (1).

(5) A protected series manager is deemed to be a manager of the company deemed to exist under paragraph (1).

(6) Any asset of the protected series is deemed to be an asset of the company deemed to exist under paragraph (1), whether or not the asset is an associated asset of the protected series.

(7) Any creditor or other obligee of the protected series is deemed to be a creditor or obligee of the company deemed to exist under paragraph (1).

(b) Subsection (a) does not apply if its application would:

(1) contravene [cite provision of this state's limited liability company statute

limiting the power of an operating agreement]; or

(2) authorize or require the [Secretary of State] to:

(A) accept for filing a type of record that neither this [act] nor [the limited liability company statute] authorizes or requires a person to deliver to the [Secretary of State] for filing; or

(B) make or deliver a record that neither this [act] nor [the limited liability company statute] authorizes or requires the [Secretary of State] to make or deliver.

[ARTICLE] 2

ESTABLISHING PROTECTED SERIES

SECTION 201. PROTECTED SERIES DESIGNATION; AMENDMENT.

(a) With the affirmative vote or consent of all members of a limited liability company, the company may establish a protected series.

(b) To establish a protected series, a limited liability company shall deliver to the [Secretary of State] for filing a protected series designation, signed by the company, stating the name of the company and the name of the protected series to be established.

(c) A protected series is established when the protected series designation takes effect under [cite to provision of this state's limited liability company statute determining when a record delivered for filing takes effect].

(d) To amend a protected series designation, a series limited liability company shall deliver to the [Secretary of State] for filing a statement of designation change, signed by the company, that changes the name of the company, the name of the protected series to which the designation applies, or both. The change takes effect when the statement of designation change takes effect under [cite to provision of this state's limited liability company statute determining

when a record delivered for filing takes effect].

Legislative Note: Subsections (b) and (d) presuppose that an enacting state's limited liability company statute will determine who may sign this record. See, e.g., Uniform Limited Liability Company Act (2006) (Last Amended 2013), Section 203(a)(1) (stating that in general "a record signed by a limited liability company must be signed by a person authorized by the company"). If no such "catch-all" provision exists, either this act or the limited liability company statute should be revised accordingly.

If an enacting state's limited liability company statute requires a limited liability company's certificate of formation (however denominated) to identify a person or persons with governance authority, the same requirement should appear in subsection (b).

SECTION 202. NAME.

(a) Except as otherwise provided in subsection (b), the name of a protected series must comply with [cite the provision of this state's limited liability company statute imposing name requirements on a limited liability company].

(b) The name of a protected series of a series limited liability company must:

(1) begin with the name of the company, including any word or abbreviation required by [cite the provision of this state's limited liability company statute requiring that the name of a limited liability company include a "designator"] to designate that the company is a limited liability company; and

(2) contain the phrase "Protected Series" or "protected series" or the abbreviation "P.S." or "PS".

(c) If a series limited liability company changes its name, the company shall deliver to the [Secretary of State] for filing a statement of designation change for each of the company's protected series, changing the name of each protected series to comply with this section.

Legislative Note: [TBA concerning how a filing office's current computer programs and other information technology resources will affect how efficiently a person will be able to access filed information concerning a protected series.]

SECTION 203. REGISTERED AGENT.

(a) The registered agent in this state for a series limited liability company is the registered agent in this state for each protected series of the company.

(b) Before delivering a protected series designation to the [Secretary of State] for filing, a limited liability company shall contract with a registered agent for the agent to serve as the registered agent in this state for both the company and the protected series.

(c) A person that signs a protected series designation delivered to the [Secretary of State] for filing affirms as a fact that the limited liability company on whose behalf the designation is delivered has complied with subsection (b).

(d) A person that ceases to be the registered agent for a series limited liability company ceases to be the registered agent for each protected series of the company.

(e) A person that ceases to be the registered agent for a protected series of a series limited liability company, other than as a result of the termination of the protected series, ceases to be the registered agent of the company and any other protected series of the company.

(f) Except as otherwise agreed by a series limited liability company and its registered agent, the agent is not obligated to distinguish between a process, notice, demand, or other record concerning the company and a process, notice, demand, or other record concerning a protected series of the company.

SECTION 204. SERVICE OF PROCESS, NOTICE, DEMAND, OR OTHER RECORD.

(a) A protected series of a series limited liability company may be served with a process, notice, demand, or other record required or permitted by law by:

(1) serving the company;

(2) serving the registered agent of the protected series; or

(3) other means authorized by law of this state other than [cite this state's limited liability company statute].

(b) If a protected series of a series limited liability company ceases to have a registered agent, or its registered agent cannot with reasonable diligence be served, the protected series may be served by serving the company under [cite the provision of this state's limited liability company statute that provides for alternative service when a company has no registered agent or the agent cannot be found].

(c) Service of a summons and complaint on a series limited liability company is notice to each protected series of the company of service of the summons and complaint and the contents of the complaint.

(d) Service of a summons and complaint on a protected series of a series limited liability company is notice to the company and any other protected series of the company of service of the summons and complaint and the contents of the complaint.

(e) Service of a summons and complaint on a foreign series limited liability company is notice to each foreign protected series of the foreign company of service of the summons and complaint and the contents of the complaint.

(f) Service of a summons and complaint on a foreign protected series of a foreign series limited liability company is notice to the foreign company and any other foreign protected series of the company of service of the summons and complaint and the contents of the complaint.

(g) Notice to a person under subsection (c), (d), (e), or (f) is effective whether or not the summons and complaint identify the person if the summons and complaint name as a party and identify:

- (1) the series limited liability company or a protected series of the company; or
- (2) the foreign series limited liability company or a foreign protected series of the foreign company.

SECTION 205. CERTIFICATE OF GOOD STANDING FOR PROTECTED SERIES.

(a) On request of any person, the [Secretary of State] shall issue a certificate of good standing for a protected series of a series limited liability company or a certificate of registration for a foreign protected series if:

(1) in the case of a protected series:

(A) no statement of dissolution, termination, or relocation pertaining to the protected series has been filed; and

(B) the company has delivered to the [Secretary of State] for filing the most recent [annual] [biennial] report required by [cite the provision of this state's limited liability company statute requiring an annual or biennial report] and the report includes the name of the protected series, unless:

(i) when the company delivered the report for filing the protective series designation pertaining to the protected series had not yet taken effect; or

(ii) after the company delivered the report for filing, the company delivered to the [Secretary of State] for filing a statement of designation change changing the name of the protected series.

(2) in the case of a foreign protected series, it is registered to do business in this state.

(b) A certificate issued under subsection (a) must state:

(1) in the case of a protected series:

(A) the name of the protected series of the series limited liability company and the name of the company;

(B) that the requirements of subsection (a) are met;

(C) the date the protected series designation pertaining to the protected series took effect; and

(D) if a statement of designation change pertaining to the protected series has been filed, the effective date and contents of the statement;

(2) in the case of a foreign protected series, that it is registered to do business in this state;

(3) that the fees, taxes, interest, and penalties owed to this state by the protected series or foreign protected series and collected through the [Secretary of State] have been paid, if:

(A) payment is reflected in the records of the [Secretary of State]; and

(B) nonpayment affects the good standing of the protected series; and

(4) other facts reflected in the records of the [Secretary of State] pertaining to the protected series or foreign protected series which the person requesting the certificate reasonably requests.

(c) Subject to any qualification stated by the [Secretary of State] in a certificate issued under subsection (a), the certificate may be relied on as conclusive evidence of the facts stated in the certificate.

Legislative Note: This section parallels Uniform Limited Liability Company Act (2006) (Last Amended 2013), Section 211 (Certificate of Good Standing or Registration). An enacting state should revise this section as necessary to parallel the comparable provision in the state's limited liability company statute. In some states, a filing office's current computer programs and other

information technology resources may also require revisions to this section.

**SECTION 206. INFORMATION REQUIRED IN [ANNUAL] [BIENNIAL]
REPORT; EFFECT OF FAILURE TO PROVIDE.**

(a) In the [annual][biennial] report required by [cite the provision of this state's limited liability company statute pertaining to annual or biennial report] a series limited liability company shall include the name of each protected series of the company for which the company has previously delivered to the [Secretary of State] for filing a protected series designation and which has not dissolved and completed winding up.

(b) A failure by a series limited liability company to comply with subsection (a) with regard to a protected series prevents issuance of a certificate of good standing pertaining to the protected series but does not otherwise affect the protected series.

[ARTICLE] 3

**ASSOCIATED ASSET; ASSOCIATED MEMBER; PROTECTED SERIES
TRANSFERABLE INTEREST; MANAGEMENT; RIGHT OF INFORMATION**

SECTION 301. ASSOCIATED ASSET.

(a) Only an asset of a protected series may be an associated asset of the protected series.
Only an asset of a series limited liability company may be an associated asset of the company.

(b) An asset of a protected series of a series limited liability company is an associated asset of the protected series only if the protected series creates and maintains records that state the name of the protected series and describe the asset with sufficient specificity to permit a disinterested, reasonable individual to:

(1) identify the asset and distinguish it from any other assets of the protected series, any assets of the company, and any assets of any other protected series of the company;

(2) determine when and from what person the protected series acquired the asset or how the asset otherwise became an asset of the protected series; and

(3) if the protected series acquired the asset from the company or another protected series of the company, determine any consideration paid, the payor, and the payee.

(c) An asset of a series limited liability company is an associated asset of the company only if the company creates and maintains records that state the name of the company and describe the asset with sufficient specificity to permit a disinterested, reasonable individual to:

(1) identify the asset and distinguish it from any other assets of the company and any assets of any protected series of the company;

(2) determine when and from what person the company acquired the asset or how the asset otherwise became an asset of the company; and

(3) if the company acquired the asset from a protected series of the company, determine any consideration paid, the payor, and the payee.

(d) The records and recordkeeping required by subsections (b) and (c) may be organized by specific listing, category, type, quantity, computational or allocational formula or procedure, including a percentage or share of any asset or assets, or in any other reasonable manner.

(e) To the extent permitted by this section and law of this state other than this [act], a series limited liability company or protected series of the company may hold an associated asset directly or indirectly, through a representative, nominee, or similar arrangement, except that:

(1) a protected series may not hold an associated asset in the name of the company or another protected series of the company; and

(2) the company may not hold an associated asset in the name of a protected series of the company.

SECTION 302. ASSOCIATED MEMBER.

(a) Only a member of a series limited liability company may be an associated member of a protected series of the company.

(b) A member of a series limited liability company becomes an associated member of a protected series of the company when the operating agreement or a procedure established by the agreement:

(1) identifies the member as an associated member of the protected series; and

(2) states any protected series transferable interest the associated member has in connection with becoming or being an associated member.

(c) If a person that is an associated member of a protected series of a series limited liability company is dissociated from the company, the person ceases to be an associated member of the protected series.

***Legislative Note:** Following Uniform Limited Liability Company Act (2006) (Last Amended 2013), Section 401(d), Section 302(b)(2) of this act permits a member to be an associated member of a protected series without having an economic interest in the protected series. If an enacting state's limited liability company statute does not permit "non-economic members," the state should: (i) revise Section 302(b)(2) by substituting "the" for "any"; and (ii) determine whether a person has a sufficient economic interest to be a member of a series limited liability company solely by reason being an associated member of a protected series of the company provide accordingly.*

SECTION 303. PROTECTED SERIES TRANSFERABLE INTEREST.

(a) A protected series transferable interest of a protected series of a series limited liability company must be owned initially by an associated member of the protected series or the company.

(b) If a protected series of a series limited liability company has no associated members when established, the company owns the protected series transferable interests in the protected series.

(c) In addition to acquiring a protected series transferable series interest under subsection (b), a series limited liability company may acquire a series transferable interest through a transfer from another person or as provided in the operating agreement.

(d) If a series limited liability company owns a protected series transferable interest of a protected series of the company, a provision of this [act], except Section 108(a)(3), or the company's operating agreement which applies to a protected series transferee of the protected series applies to the company in its capacity as an owner of the protected series transferable interest.

SECTION 304. MANAGEMENT.

(a) A protected series may have more than one protected series manager.

(b) Whenever a protected series has no associated members, the series limited liability company is the protected series manager.

(c) Any duties of a series manager of a protected series of a series limited liability company to the protected series, any associated member of the protected series, or any protected series transferee of the protected series are determined in accordance with Section 108.

(d) Solely by reason of being or acting as a protected series manager of a protected series of a series limited liability company, a person owes no duty to:

(1) the company;

(2) another protected series of the company; or

(3) another person in that person's capacity as:

(A) a member of the company which is not an associated member of the protected series;

(B) a protected series transferee or protected series manager of another

protected series; or

(C) a transferee of the company.

(e) An associated member of a protected series of a series limited liability company has the same rights as any other member of the company to vote on or consent to an amendment to the company's operating agreement or any other matter being decided by the members, whether or not the amendment or matter affects the interests of the protected series or the associated member.

(f) [Cite the derivative claim provisions of this state's limited liability company statute] apply to a protected series in accordance with Section 108.

[(g) An associated member of a protected series is an agent for the protected series with power to bind the protected series to the same extent that a member of a limited liability company is an agent for the company with power to bind the company under [cite the statutory apparent authority provision of this state's limited liability company statute].]

Legislative Note: *Uniform Limited Liability Company Act (2006), Section 301 eliminated "statutory apparent authority", and the 2013 amendments took the same approach. For an enacting state whose limited liability company statute retains the concept of statutory apparent authority, Section 304(g) provides an associated member the same statutory apparent authority to bind a protected series that the limited liability company statute provides for a member to bind a limited liability company. A state that enacts Section 304(g) should also include the provision in the list in Section 107(a) (provisions of this act whose effects the operating agreement may not vary).*

SECTION 305. RIGHT OF PERSON NOT ASSOCIATED MEMBER OF PROTECTED SERIES TO INFORMATION CONCERNING PROTECTED SERIES.

(a) A member of a series limited liability company which is not an associated member of a protected series of the company has a right to information concerning the protected series to the same extent, in the same manner, and under the same conditions that a member that is not a manager of a manager-managed limited liability company has a right to information concerning the company under [cite provisions of the limited liability company statute which provide information rights for non-manager members of a manager-managed limited liability company].

(b) A person formerly an associated member of a protected series has a right to information concerning the protected series to the same extent, in the same manner, and under the same conditions that a person dissociated as a member of a manager-managed limited liability company has a right to information concerning the company under [cite provisions of the limited liability company statute which provide information rights for dissociated members of a manager-managed limited liability company].

(c) If an associated member of a protected series dies, the legal representative of the deceased associated member has a right to information concerning the protected series to the same extent, in the same manner, and under the same conditions that the legal representative of a deceased member of a limited liability company has a right to information concerning the company under [cite provisions of the limited liability company statute providing information rights in these circumstances].

(d) A protected series manager of a protected series has a right to information concerning the protected series to the same extent, in the same manner, and under the same conditions that a manager of a manager-managed limited liability company has a right to information concerning

the company under [cite provisions of the limited liability company statute which provide information rights for dissociated members of a manager-managed limited liability company].

[ARTICLE] 4

LIMITATION ON LIABILITY AND ENFORCEMENT OF CLAIMS

SECTION 401. LIMITATIONS ON LIABILITY.

(a) A person is not liable, directly or indirectly, by way of contribution or otherwise, for a debt, obligation, or other liability of:

(1) a protected series of a series limited liability company solely by reason of being or acting as:

(A) an associated member, series manager, or protected series transferee of the protected series;

(B) a member, manager, or a transferee of the company; or

(2) a series limited liability company solely by reason of being or acting as an associated member, protected series manager, or protected series transferee of a protected series of the company.

(b) Subject to Section 404:

(1) a debt, obligation, or other liability of a series limited liability company is solely the debt, obligation, or liability of the company;

(2) a debt, obligation, or other liability of a protected series is solely the debt, obligation, or liability of the protected series;

(3) a series limited liability company is not liable, directly or indirectly, by way of contribution or otherwise, for a debt, obligation, or other liability of a protected series of the company solely by reason of the protected series being a protected series of the company or the

company:

- (A) being or acting as a protected series manager of the protected series;
- (B) having the protected series manage the company; or
- (C) owning a protected series transferable interest of the protected series;

and

(4) a protected series of a series limited liability company is not liable, directly or indirectly, by way of contribution or otherwise, for a debt, obligation, or other liability of the company or another protected series of the company solely by reason of:

- (A) being a protected series of the company;
- (B) being or acting as a manager of the company or a protected series manager of another protected series of the company; or
- (C) having the company or another protected series of the company be or act as a protected series manager of the protected series.

SECTION 402. CLAIM SEEKING TO DISREGARD LIMITATION OF LIABILITY.

(a) Except as otherwise provided in subsection (b), a claim seeking to disregard a limitation in Section 401 is governed by the principles of law and equity, including a principle providing rights to creditors or holding a person liable for a debt, obligation, or other liability of another person, which would apply if each protected series of the series limited liability company were a limited liability company that is formed separately from the company and distinct from the company and any other protected series of the company.

(b) The failure of a limited liability company or a protected series to observe formalities relating to the exercise of its powers or management of its activities and affairs is not a ground to

disregard a limitation in Section 401(a) but may be a ground to disregard a limitation in Section 401(b).

(c) This section applies to a foreign protected series or foreign series limited liability company in accordance with Section 703.

Legislative Note: Subsection (b) parallels Uniform Limited Liability Company Act (2006) (Last Amended 2013), Section 304(b) but solely with regard to vertical shields. If an enacting state's limited liability company statute contains a comparable concept but uses different language, the state should revise subsection (b) accordingly. If an enacting state's limited liability company statute does not contain a comparable concept, the state should omit subsection (b). See also the Legislative Note to Section 703.

SECTION 403. REMEDIES OF JUDGMENT CREDITOR OF ASSOCIATED MEMBER OR PROTECTED SERIES TRANSFEREE. [Cite provisions of this state's limited liability company statute providing or restricting remedies available to a judgment creditor of a member of a limited liability company or transferee] applies to a judgment creditor of:

- (1) an associated member or protected series transferee of a protected series; or
- (2) a series limited liability company, to the extent the company owns a protected series transferable interest of a protected series.

SECTION 404. ENFORCEMENT OF JUDGMENT AGAINST NON-ASSOCIATED ASSET.

(a) In this section:

(1) "Enforcement date" means 12:01 AM on the date on which a claimant first serves process on a series limited liability company or protected series seeking to enforce under this section a claim against an asset of the company or protected series by attachment, levy, or the like.

(2) "Incurrence date" means the date on which a series limited liability company

or protected series incurred the liability giving rise to a claim that a claimant seeks to enforce under this section.

(b) If a claim against a series limited liability company or a protected series of the company has been reduced to judgment, in addition to any other remedy provided by law or equity, the judgment may be enforced in accordance with the following rules:

(1) A judgment against the company may be enforced against an asset of a protected series of the company if the asset:

(A) was a non-associated asset of the protected series on the incurrence date; or

(B) is a non-associated asset of the protected series on the enforcement date.

(2) A judgment against a protected series may be enforced against an asset of the company if the asset:

(A) was a non-associated asset of the company on the incurrence date; or

(B) is a non-associated asset of the company on the enforcement date.

(3) A judgment against a protected series may be enforced against an asset of another protected series of the company if the asset:

(A) was a non-associated asset of the other protected series on the incurrence date; or

(B) is a non-associated asset of the other protected series on the enforcement date.

(c) In addition to any other remedy provided by law or equity, if a claim against a series limited liability company or a protected series has not been reduced to a judgment and law other

than this [act] permits a prejudgment remedy by attachment, levy, or the like, a court may apply subsection (b) as a prejudgment remedy.

(d) In a proceeding under this section, the party asserting that an asset is or was an associated asset of a series limited liability company or a protected series of the company has the burden of proof on the issue.

(e) Except as otherwise provided in subsection (c), a proceeding under this section is to enforce a judgment.

(f) This section applies to a foreign protected series or foreign series limited liability company in accordance with Section 703.

[ARTICLE] 5

DISSOLUTION AND WINDING UP OF PROTECTED SERIES

SECTION 501. EVENTS CAUSING DISSOLUTION OF PROTECTED SERIES.

A protected series of a series limited liability company is dissolved, and its activities and affairs must be wound up, only on the:

- (1) dissolution of the company;
- (2) occurrence of an event or circumstance the operating agreement states causes dissolution of the protected series;
- (3) affirmative vote or consent of all members; or
- (4) entry by the [appropriate court] of an order dissolving the protected series on application by an associated member or protected series manager of the protected series:
 - (A) in accordance with Section 108; and
 - (B) to the same extent, in the same manner, and on the same grounds the court would enter an order dissolving a limited liability company on application by a member or

manager of the company; or

(5) Entry by the [appropriate court] of an order dissolving the protected series on application by the company or a member of the company on the ground that the conduct of all or substantially all the activities and affairs of the protected series is illegal.

SECTION 502. WINDING UP DISSOLVED PROTECTED SERIES.

(a) Subject to subsections (b) and (c) and in accordance with Section 108:

(1) a dissolved protected series shall wind up its activities and affairs in the same manner that a limited liability company winds up its activities and affairs under [cite the winding up provisions of this state's limited liability company statute], subject to the same requirements and conditions and with the same effects; and

(2) judicial supervision or another judicial remedy is available in the winding up of the protected series to the same extent, in the same manner, under the same conditions, and with the same effects that apply under [cite the judicial supervision provision of this state's limited liability company statute].

(b) When a protected series of a series limited liability company dissolves, the company may deliver to the [Secretary of State] for filing a statement of protected series dissolution stating the name of the company and of the protected series and that the protected series is dissolved. The filing of the statement by the [Secretary of State] has the same effect as the filing by the [Secretary of State] of a statement of dissolution under [cite the provisions of this state's limited liability company statute stating the constructive notice effect of the filing of a statement of dissolution pertaining to a limited liability company].

(c) When a protected series of a series limited liability company has completed winding up, the company may deliver to the [Secretary of State] for filing a statement of designation

cancellation stating the name of the company and of the protected series and that the protected series is terminated. The filing of the statement by the [Secretary of State] has the same effect as the filing by the [secretary of state] of a statement of termination under [cite the provisions of this state's limited liability company statute stating the constructive notice effect of the filing of a statement of termination pertaining to a limited liability company].

(d) A series limited liability company has not completed its winding up until each of the protected series of the company has completed its winding up.

***Legislative Note:** If the limited liability company statute of this state does not provide for constructive notice for a statement of dissolution or termination filed regarding a limited liability company, the state should revise subsections (b) and (c) accordingly. Revision is also necessary (albeit in the form of deleting one or both subsections) if the statute provides for only one of the statements or provides for neither.*

SECTION 503. EFFECT OF REINSTATEMENT OF SERIES LIMITED LIABILITY COMPANY OR REVOCATION OF VOLUNTARY DISSOLUTION. If a series limited liability company that has been administratively dissolved is reinstated, or a company that voluntarily dissolved rescinds its dissolution:

- (1) each protected series of the company ceases winding up; and
- (2) [Cite the provisions of this state's limited liability company statute stating the results of the reinstatement or rescission] apply to each protected series of the company in accordance with Section 108.

[ARTICLE] 6

ENTITY TRANSACTIONS RESTRICTED

SECTION 601. DEFINITIONS. In this [article]:

- (1) “After a merger” or “after the merger” means when a merger under Section 604 becomes effective and afterwards.

(2) “Before a merger” or “before the merger” means before a merger under Section 604 becomes effective.

(3) “Continuing protected series” means a protected series of a surviving company which continues in uninterrupted existence after a merger under Section 604.

(4) “Merging company” means a limited liability company that is party to a merger under Section 604.

(5) “Non-surviving company” means a merging company that does not continue in existence after a merger under Section 604.

(6) “Relocated protected series” means a protected series of a non-surviving company which, after a merger under Section 604, continues in uninterrupted existence as a protected series of the surviving company.

(7) “Surviving company” means a merging company that continues in existence after a merger under Section 604.

Legislative Note: In addition to the definitions in this section, Article 6 also depends on the several definitions in Uniform Limited Liability Company Act (2006) (Last Amended 2013), Section 1001. See the Legislative Note to Section 102.

SECTION 602. PROTECTED SERIES MAY NOT BE PARTY TO ENTITY

TRANSACTION. A protected series may not:

(1) be an acquiring, acquired, converting, converted, merging, or surviving entity;

(2) participate in a domestication; or

(3) be a party to or be formed, organized, established, or created in a transaction

substantially like a merger, interest exchange, conversion, or domestication.

Legislative Note: If the limited liability company statute of an enacting state provides for divisions, see, e.g. 15 PA C.S. §§361-368, paragraphs (1) and (3) should be revised accordingly.

SECTION 603. RESTRICTIONS ON ENTITY TRANSACTION INVOLVING PROTECTED SERIES. A series limited liability company may not be:

- (1) an acquiring, acquired, converting, converted, domesticating, or domesticated entity;
- or
- (2) except as otherwise provided in Section 604, a party to or the surviving company of a merger.

SECTION 604. MERGER AUTHORIZED; PARTIES RESTRICTED. A series limited liability company may be party to a merger in accordance with [cite the provisions of this state's limited liability company statute pertaining to merger], this section, and Sections 605 through 608 only if:

- (1) each other party to the merger is a limited liability company; and
- (2) the surviving company is not created in the merger.

***Legislative Note:** Section 604(1) refers to a "limited liability company," which Uniform Limited Liability Company Act (2006) (Last Amended 2013), Section 102(8) defines to be a domestic company. If an enacting state's limited liability company act defines the term to include both domestic and foreign companies, Section 604 should be revised to refer to domestic limited liability companies.*

SECTION 605. PLAN OF MERGER. In a merger under Section 604, the plan of merger must:

- (1) comply with [cite the provisions of this state's limited liability company statute pertaining to the contents of a plan of merger]; and
- (2) state:
 - (A) for any protected series of a non-surviving company, whether after the merger the protected series will be a relocated protected series or be dissolved, wound up, and terminated;

(B) for any protected series of the surviving company which exists before the merger, whether after the merger the protected series will be a continuing protected series or be dissolved, wound up, and terminated;

(C) for each relocated protected series or continuing protected series:

(i) the name of any person that becomes an associated member or protected series transferee of the protected series after the merger, any consideration to be paid by, on behalf of, or in respect of the person, the name of the payor, and the name of the payee;

(ii) the name of any person whose rights or obligations in the person's capacity as an associated member or protected series transferee will change after the merger;

(iii) any consideration to be paid to a person who before the merger was an associated member or protected series transferee of the protected series and the name of the payor; and

(iv) if after the merger the protected series will be a relocated protected series, its new name;

(D) for any protected series to be established by the surviving company as a result of the merger:

(i) the name of the protected series;

(ii) any transferable interest to be owned by the surviving company when the protected series is established; and

(iii) the name and transferable interest owned by any person that will be an associated member of the protected series when the protected series is established; and

(E) for any person that is an associated member of a relocated protected series and will remain a member after the merger, any amendments to the operating agreement of the

surviving company which are or are proposed to be in a record and are necessary or appropriate to state the rights and obligations of the person as a member of the surviving company.

SECTION 606. STATEMENT OF MERGER. In a merger under Section 604, the statement of merger must:

(1) comply with [cite the provisions of this state's limited liability company statute pertaining to the contents of a statement of merger]; and

(2) include as an attachment the following records, each to become effective when the merger becomes effective:

(A) for a protected series of a merging company being terminated as a result of the merger, a statement of termination signed by the company;

(B) for a protected series of a non-surviving company which after the merger will be a relocated protected series:

(i) a statement of relocation signed by the non-surviving company which contains the name of the company and the name of the protected series before the merger and afterwards; and

(ii) a statement of protected series designation signed by the surviving company; and

(C) for a protected series being established by the surviving company as a result of the merger, a statement of designation signed by the company.

SECTION 607. EFFECT OF MERGER. When a merger under Section 604 becomes effective, in addition to the effects stated in [cite the provisions of this state's limited liability company statute stating the effect of a merger]:

(1) as provided in the plan of merger, each protected series of each merging company

which was established before the merger:

(A) is a relocated protected series or continuing protected series; or

(B) is dissolved, and then wound up and terminated;

(2) any protected series to be established as a result of the merger is established;

(3) any relocated protected series or continuing protected series is the same person

without interruption as it was before the merger;

(4) all property of a relocated protected series or continuing protected series continues to be vested in the protected series without transfer, reversion, or impairment;

(5) all debts, obligations, and other liabilities of a relocated protected series or continuing protected series continue as debts, obligations, and other liabilities of the protected series;

(6) except as otherwise provided by law or the plan of merger, all the rights, privileges, immunities, powers, and purposes of a relocated protected series or continuing protected series remain in the protected series;

(7) the new name of a relocated protected series may be substituted for the former name of the protected series in any pending action or proceeding;

(8) if provided in the plan of merger:

(A) a person becomes an associated member or protected series transferee of a relocated protected series or continuing protected series;

(B) a person becomes an associated member of a protected series established by the surviving company as a result of the merger;

(C) any change in the rights or obligations of a person in the person's capacity as an associated member or protected series transferee of a relocated protected series or continuing protected series take effect; and

(D) any consideration to be paid to a person that before the merger was an associated member or protected series transferee of a relocated protected series or continuing protected series is due; and

(9) any person that is a member of a relocated protected series becomes a member of the surviving company, if not already a member.

SECTION 608. APPLICATION OF SECTION 404 AFTER MERGER.

(a) A creditor's right that existed under Section 404 immediately before a merger under Section 604 may be enforced after the merger in accordance with the following rules:

(1) A creditor's right that existed immediately before the merger against the surviving company, a continuing protected series, or a relocated protected series continues without change after the merger.

(2) A creditor's right that existed immediately before the merger against a non-surviving company:

(A) may be asserted against an asset of the non-surviving company which vested in the surviving company as a result of the merger; and

(B) does not otherwise change.

(3) Subject to subsection (b):

(A) In addition to the remedy stated in paragraph (1), a creditor with a right that existed immediately before the merger against a non-surviving company or a relocated protected series may assert the right against:

(i) an asset of the surviving company, other than an asset of the non-surviving company which vested in the surviving company as a result of the merger;

(ii) an asset of a continuing protected series; or

(iii) an asset of a protected series established by the surviving company as a result of the merger.

(B) In addition to the remedy stated in paragraph (2), a creditor with a right that existed immediately before the merger against the surviving company or a continuing protected series may assert the right against:

(i) an asset of a relocated protected series; or

(ii) an asset of a non-surviving company which vested in the surviving company as a result of the merger.

(b) Solely for the purposes of subsection (a)(3) and Section 404(b)(1)(A, 404(b) (2)(A), and 404(b)(3)(A), the incurrence date is deemed be the date on which the merger becomes effective.

(c) The merger does not affect the manner in which Section 404 applies to a liability incurred after the merger.

[ARTICLE] 7

FOREIGN PROTECTED SERIES

SECTION 701. GOVERNING LAW. The law of the jurisdiction of formation of a foreign series limited liability company governs:

(1) the internal affairs of a foreign protected series of the company, including:

(A) relations among any associated members of the foreign protected series;

(B) relations among the foreign protected series and:

(i) any associated member;

(ii) the protected series manager; or

(iii) any protected series transferee;

(C) relations between any associated member and:

(i) the protected series manager:

(ii) any protected series transferee;

(D) the rights and duties of a protected series manager;

(E) governance decisions affecting the activities and affairs of the foreign

protected series and the conduct of those activities and affairs; and

(F) procedures and conditions for becoming an associated member or protected series transferee;

(2) relations between the foreign protected series and:

(A) the company;

(B) another foreign protected series of the company;

(C) a member of the company which is not an associated member of the foreign protected series;

(D) a foreign protected series transferee of another foreign protected series of the company; and

(E) a transferee of a transferable interest of the company;

(3) except as otherwise provided in Section 703, the liability of a person for a debt, obligation, or other liability of a foreign protected series of a foreign series limited liability company if the debt, obligation, or liability is asserted solely by reason of the person being or acting as:

(A) an associated member, protected series transferee, or protected series manager of the foreign protected series;

(B) a member of the company not an associated member of the foreign protected

series;

(C) a series transferee of another foreign protected series of the company;

(D) a protected series manager of another foreign protected series of the company;

(E) a manager of the company; or

(F) a transferee of a transferable interest of the company; and

(4) except as otherwise provided in Section 703:

(A) the liability of the series limited liability company for a debt, obligation, or other liability of a protected series of the company if the debt, obligation, or liability is asserted solely by reason of the protected series being a protected series of the company or the company:

(i) being or acting as a protected series manager of the protected series;

(ii) having the protected series manage the company; or

(iii) owning a protected series transferable interest of the protected series;

and

(B) the liability of a foreign protected series for a debt, obligation, or other liability of the company or another foreign protected series of the company if the debt, obligation, or liability is asserted solely by reason of the protected series:

(i) being a protected series of the company or having the company or another protected series of the company be or act as protected series manager of the protected series; or

(ii) managing the company or being or acting as a series manager of another protected series of the company.

Legislative Note: Section 703 applies the law of an enacting state to shield and asset-by-asset exposure issues in some circumstances and therefore arguably conflicts in part with Uniform Limited Liability Company Act (2006) (Last Amended 2013), Section 901(a) (2) (providing that “[t]he law of the jurisdiction of formation of a foreign limited liability company governs the

liability of a member as member and a manager as manager for a debt, obligation, or other liability of the company”) and does partially contradict Section 901(a)(3) (providing that “[t]he law of the jurisdiction of formation of a foreign limited liability company governs... the liability of a series of the company”). An enacting state should amend Uniform Limited Liability Company Act (2006) (Last Amended 2013), Section 901(a)(2) and (3) (or any comparable provisions in the state’s limited liability company statute) to be subject to Section 703. For an explanation of “asset-by-asset exposure”, see Prefatory Note, Part 7-C and Section 404, comment.

SECTION 702. NO ATTRIBUTION OF ACTIVITIES CONSTITUTING DOING BUSINESS OR FOR ESTABLISHING JURISDICTION. In determining whether a foreign series limited liability company or foreign protected series of the company does business in this state or is subject to the jurisdiction of the courts of this state:

(1) the activities and affairs of the company are not attributable to a protected series of the company solely by reason of the protected series being a protected series of the company; and

(2) the activities and affairs of a protected series are not attributable to the company or another protected series of the company solely by reason of the protected series being a protected series of the company.

SECTION 703. APPLICATION OF SECTIONS 401 AND 404 TO FOREIGN SERIES LIMITED LIABILITY COMPANY AND FOREIGN PROTECTED SERIES.

(a) Section 402 applies to a claim seeking to disregard a limitation of liability applicable to a foreign series limited liability company or foreign protected series which is comparable to a limitation stated in Section 401, if:

(1) the claimant is a resident of this state or doing business or registered to do business in this state; or

(2) the claim is to establish or enforce a liability arising under law of this state or

from an act or omission in this state.

(b) Section 404 applies to an asset of a foreign series limited liability company or foreign protected series if:

(1) the asset is real or tangible property located in this state;

(2) the claimant is a resident of this state or doing business or registered to do business in this state, or the claim under Section 404 is to enforce a judgment, or to seek a pre-judgment remedy, pertaining to a liability arising from the law of this state or an act or omission in this state; and

(3) the asset is not identified in the records of the foreign company or foreign protected series in a manner comparable to the manner required by Section 301.

***Legislative Note:** This section raises several issues, one of which is discussed in the Legislative Note to Section 701 and another in the Legislative Note to Section 803. In addition, if an enacting state has omitted Section 402(b), the state should revise Section 703(a) accordingly. For further discussion of this point, see the Legislative Note to Section 402.*

SECTION 704. REGISTRATION OF FOREIGN PROTECTED SERIES.

(a) Except as otherwise provided in this section and subject to Section 703, the law of this state governing the registration of a foreign limited liability company to do business in this state, including the consequences of not complying with that law, applies to a foreign protected series of foreign series limited liability company as if the foreign protected series were a foreign limited liability company that is formed separately from the actual foreign company and distinct from the actual foreign company and any other foreign protected series of the actual foreign company.

(b) An application by a foreign protected series of a foreign series limited liability company for registration to do business in this state must include:

(1) the name and jurisdiction of formation of the foreign company; and

(2) if the company has other foreign protected series, the name and street and mailing address of an individual who knows the name and street and mailing address of each other foreign protected series of the company and the protected series manager of and agent for service of process for each other foreign protected series of the company.

(c) The name of a foreign protected series applying for registration or registered to do business in this state must comply with Section 202. A foreign protected series may comply with Section 202 using [cite this state's fictitious name statute], if the [fictitious] name complies with Section 202.

(d) The requirement in [cite to the provision of this state's limited liability company statute pertaining to updating registration information] to amend a statement of registration to update information applies to the information required by subsection (b).

Legislative Note: Under the Uniform Limited Liability Company Act (2006) (Last Amended 2013), Section 903, a foreign registration statement does not include a certificate of good standing from the filing office of the foreign limited liability company's jurisdiction of formation. Accordingly, this act does not refer to any analogous certificate pertaining to a foreign protected series. If an enacting state's limited liability company statute does require a certificate of good standing at the limited liability company level, the state should consider an analogous requirement at the foreign protected series level. An enacting state that imposes an analogous requirement will have to decide how to deal with a would-be registrant established under the law of a jurisdiction in which a protected series is established without the filing of any public record pertaining to the protected series.

SECTION 705. DISCLOSURE REQUIRED WHEN FOREIGN SERIES LIMITED LIABILITY COMPANY OR FOREIGN PROTECTED SERIES PARTY TO PROCEEDING.

(a) Not later than [30] days after becoming a party to a proceeding before a civil, administrative, or other adjudicative tribunal of or located in this state or a tribunal of the United States located in this state:

(1) a foreign series limited liability company shall disclose to each other party the

name and street and mailing address of:

(A) each foreign protected series of the company; and

(B) each protected series manager of and a registered agent for service of process for each foreign protected series of the company; and

(2) a foreign protected series of a foreign series limited liability company shall disclose to each other party the name and street and mailing address of:

(A) the company, each manager of the company, and an agent for service of process for the company; and

(B) any other foreign protected series of the company and each protected series manager of and an agent for service of process for any other foreign protected series.

(b) The time to make disclosure under subsection (a) is tolled if the foreign series limited liability company or foreign protected series challenges the personal jurisdiction of the tribunal.

(c) If a foreign series limited liability company or foreign protected series does not comply with subsection (a), a party to the proceeding may:

(1) move the tribunal to treat the noncompliance as a failure to comply with the tribunal's discovery rules; or

(2) bring a separate proceeding in [appropriate court] to enforce the requirements stated in subsection (a).

[ARTICLE] 8

MISCELLANEOUS PROVISIONS

SECTION 801. UNIFORMITY OF APPLICATION AND CONSTRUCTION. In applying and construing this uniform act, consideration must be given to the need to promote uniformity of the law with respect to its subject matter among states that enact it.

SECTION 802. RELATION TO ELECTRONIC SIGNATURES IN GLOBAL AND NATIONAL COMMERCE ACT. This [act] modifies, limits, or supersedes the Electronic Signatures in Global and National Commerce Act, 15 U.S.C. Section 7001 et seq., but does not modify, limit, or supersede Section 101(c) of that act, 15 U.S.C. Section 7001(c), or authorize electronic delivery of any of the notices described in Section 103(b) of that act, 15 U.S.C. Section 7003(b).

[SECTION 803. TRANSITIONAL PROVISIONS.

(a) Before [all-inclusive date], this [act] governs only:

(1) a series limited liability company formed, or a protected series established, on or after [the effective date of this [act]]; and

(2) a limited liability company that is a series limited liability company before [the effective date of this [act]] and elects, in the manner provided in its operating agreement or by law for amending the operating agreement, to be subject to this [act].

(b) If a series limited liability company elects under subsection (a)(2) to be subject to this [act]:

(1) the election applies to each protected series of the company, whenever established; and

(2) a manager of the company has the right to sign and deliver to the [Secretary of

State] for filing any record necessary to comply with this [act], whether the record pertains to the company, a protected series of the company, or both.

(c) On and after [all-inclusive date], this [act] governs all series limited liability companies and protected series.

[(d) Until [one year after the effective date of this [act] [the date on which this act was enacted]], Section 703 does not apply to a foreign protected series that was established before [the effective date of this [act] [the date on which this act was enacted] or a foreign limited liability company that became a foreign series limited liability company before [the effective date of this [act] [the date on which this act was enacted]].

Legislative Note: At first glance, subsection (d) may seem anomalous. As a general proposition, statutory changes applicable to foreign business organizations take effect when the relevant enactment takes effect – i.e., no delayed effective date. Typically, however, such changes establish or modify rules to which an organization cannot respond proactively; most often the changes involve formalities. Section 703 is decidedly atypical; it imposes important substantive requirements that necessitate a proactive response. Giving Section 703 immediate effect might be seen as unfair if this act takes effect immediately in an enacting state that has previously countenanced foreign series limited liability companies and foreign protected series under far less demanding rules.

SECTION 804. SAVINGS CLAUSE. This [act] does not affect an action commenced, proceeding brought, or right accrued before [the effective date of this [act]].

[SECTION 805. SEVERABILITY CLAUSE. If any provision of this [act] or its application to any person or circumstance is held invalid, the invalidity does not affect other provisions or applications of this [act] which can be given effect without the invalid provision or application, and to this end the provisions of this [act] are severable.]

Legislative Note: Include this section only if this state lacks a general severability statute or decision by the highest court of this state stating a general rule of severability.

SECTION 806. REPEALS; CONFORMING AMENDMENTS.

(a) ...

(b) ...

(c) ...

SECTION 807. EFFECTIVE DATE. This [act] takes effect