

HOUSE BILL NO. 80

INTRODUCED BY W. CURDY

BY REQUEST OF THE SECRETARY OF STATE

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5 A BILL FOR AN ACT ENTITLED: "AN ACT REVISING PROVISIONS RELATED TO BUSINESS SERVICES
6 UNDER THE OFFICE OF THE SECRETARY OF STATE; REVISING HOW LONG AN ASSUMED BUSINESS
7 NAME REMAINS IN EFFECT; ELIMINATING THE REQUIREMENT FOR AN AFFIDAVIT TO CANCEL A
8 BUSINESS NAME OR A LIMITED LIABILITY PARTNERSHIP; EXPANDING THE DEFINITION OF THE TERM
9 "DELIVER"; ALLOWING THE SECRETARY OF STATE TO PROVIDE NOTICE TO BUSINESS ENTITIES
10 ELECTRONICALLY; REQUIRING A DISSOLVED LIMITED PARTNERSHIP TO MAINTAIN AN AGENT FOR
11 SERVICE OF PROCESS; AMENDING SECTIONS 30-13-204, 30-13-213, 35-1-113, 35-1-1039, 35-2-833,
12 35-6-104, 35-7-110, 35-8-208, 35-8-913, 35-8-1001, 35-8-1012, 35-10-721, 35-12-1201, AND 35-12-1313, MCA;
13 AND PROVIDING AN IMMEDIATE EFFECTIVE DATE."

14
15 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:
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Section 1. Section 30-13-204, MCA, is amended to read:

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18 **"30-13-204. Filing application for registration -- issuance of certificate.** (1) The applicant shall
19 complete and submit an application for registration of an assumed business name along with all applicable fees
20 to the secretary of state. If the secretary of state finds that the application complies with the provisions of this part,
21 the secretary of state shall:

- 22 (a) endorse on the application the word "filed" and the date on which the application was filed;
- 23 (b) file the application in the secretary of state's office; and
- 24 (c) issue a certificate of registration to the applicant.

25 (2) The registration of an assumed business name remains in effect ~~until~~ for 5 years unless canceled
26 earlier."

Section 2. Section 30-13-213, MCA, is amended to read:

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28 **"30-13-213. Voluntary cancellation of registration of assumed business name.** (1) When the
29 registrant of record of a registered assumed business name wishes to cancel the registration, the registrant shall
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1 deliver to the secretary of state ~~an executed and verified original affidavit of a~~ cancellation of registration of an
 2 assumed business name form, which must include but not be limited to the following information:

3 (a) the complete registered assumed business name to be canceled; and

4 (b) the name and business mailing address of the registrant of record.

5 (2) If the secretary of state finds the affidavit form complies with the provisions of this section, the
 6 secretary of state shall file it and ~~mail~~ deliver a letter acknowledging cancellation of the filing to the registrant of
 7 record."

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9 **Section 3.** Section 35-1-113, MCA, is amended to read:

10 **"35-1-113. Definitions.** As used in this chapter, the following definitions apply:

11 (1) "Articles of incorporation" include amended and restated articles of incorporation and articles of
 12 merger.

13 (2) "Authorized agent" means any individual granted permission by an entity to execute a document on
 14 behalf of the entity. The entity is responsible for maintaining a record of the permission granted to an authorized
 15 agent.

16 (3) "Authorized shares" means the shares of all classes that a domestic or foreign corporation is
 17 authorized to issue.

18 (4) "Conspicuous" means written so that a reasonable person against whom the writing is to operate
 19 should have noticed it. For example, printing in italics, boldface, or contrasting color or typing in capitals or
 20 underlining is conspicuous.

21 (5) "Corporation" or "domestic corporation" means a corporation for profit that is not a foreign corporation
 22 and that is incorporated under or subject to the provisions of this chapter.

23 (6) "Deliver" ~~includes mail~~ or "delivery" means any method of delivery used in conventional commercial
 24 practice, including delivery by hand, mail, commercial delivery, and electronic transmission.

25 (7) "Distribution" means a direct or indirect transfer of money or other property, except its own shares,
 26 or an incurrence of indebtedness, by a corporation to or for the benefit of its shareholders in respect of any of its
 27 shares. A distribution may be in the form of a declaration or payment of a dividend; a purchase, redemption, or
 28 other acquisition of shares; a distribution of indebtedness; or other form.

29 (8) "Effective date of notice" means the date determined as provided in 35-1-116.

30 (9) "Electronic transmission" or "electronically transmitted" means any process of communication not

1 directly involving the physical transfer of paper that is suitable for the retention, retrieval, and reproduction of
2 information by the recipient.

3 ~~(9)~~(10) "Employee" includes an officer but not a director. A director may accept duties that make that
4 director an employee.

5 ~~(10)~~(11) "Entity" includes:

6 (a) a corporation and a foreign corporation;

7 (b) a not-for-profit corporation;

8 (c) a profit and a not-for-profit unincorporated association;

9 (d) a business trust, estate, partnership, trust, and two or more persons having a joint or common
10 economic interest; and

11 (e) a state, the United States, or a foreign government.

12 ~~(11)~~(12) "Foreign corporation" means a corporation for profit incorporated under a law other than the law
13 of this state, including the laws of a federally recognized Indian tribe.

14 ~~(12)~~(13) "Governmental subdivision" includes an authority, county, district, and city or town.

15 ~~(13)~~(14) "Includes" denotes a partial definition.

16 ~~(14)~~(15) "Individual" includes the estate of an incompetent or deceased individual.

17 ~~(15)~~(16) "Means" denotes an exhaustive definition.

18 ~~(16)~~(17) "Notice" means notice as provided in 35-1-116.

19 ~~(17)~~(18) "Person" includes an individual and an entity.

20 ~~(18)~~(19) "Principal office" means the office, whether in-state or out-of-state, that is designated in the
21 annual report as the office where the principal executive offices of a domestic or foreign corporation are located.

22 ~~(19)~~(20) "Proceeding" includes a civil suit and a criminal, administrative, and investigatory action.

23 ~~(20)~~(21) "Record date" means the date established under 35-1-535, 35-1-618 through 35-1-630, and
24 35-1-712 or under 35-1-516 through 35-1-533 and 35-1-541 through 35-1-548 on which a corporation determines
25 the identity of its shareholders and their shareholdings for purposes of this chapter. The determination must be
26 made as of the close of business on the record date unless another time for determination is specified when the
27 record date is fixed.

28 ~~(21)~~(22) "Secretary" means the corporate officer to whom the board of directors has delegated
29 responsibility under 35-1-441 for custody of the minutes of the meetings of the board of directors, for custody of
30 the minutes of the shareholders' meetings, and for authenticating records of the corporation.

- 1 ~~(22)~~(23) "Share" means the unit into which the proprietary interests in a corporation are divided.
- 2 ~~(23)~~(24) "Shareholder" means the person in whose name shares are registered in the records of a
3 corporation or the beneficial owner of shares to the extent of the rights granted by a nominee certificate on file
4 with a corporation.
- 5 ~~(24)~~(25) "State", when referring to a part of the United States, includes a state, commonwealth, territory,
6 or insular possession of the United States and the agencies and governmental subdivisions of the entities listed.
- 7 ~~(25)~~(26) "Subscriber" means a person who subscribes for shares in a corporation, whether before or after
8 incorporation.
- 9 ~~(26)~~(27) "United States" includes a district, an authority, a bureau, a commission, a department, and any
10 other agency of the United States.
- 11 ~~(27)~~(28) "Voting group" means shares of one or more classes or series that under the articles of
12 incorporation of this chapter are entitled to vote and be counted together collectively on a matter at a meeting of
13 shareholders. All shares entitled by the articles of incorporation or this chapter to vote generally on the matter
14 are for that purpose a single voting group."

15

16 **Section 4.** Section 35-1-1039, MCA, is amended to read:

17 **"35-1-1039. Procedure for and effect of revocation.** (1) If the secretary of state determines that one
18 or more grounds exist under 35-1-1038 for revocation of a certificate of authority, the secretary of state shall ~~mail~~
19 deliver to the foreign corporation the written notice of the determination.

20 (2) If the foreign corporation does not correct each ground for revocation or demonstrate to the
21 reasonable satisfaction of the secretary of state that each ground determined by the secretary of state does not
22 exist within 60 days after the notice is ~~mailed~~ delivered, the secretary of state may revoke the foreign
23 corporation's certificate of authority by signing a certificate of revocation that states the ground or grounds for
24 revocation and the effective date of the revocation. The secretary of state shall file the original of the certificate
25 and ~~mail~~ deliver a copy to the foreign corporation.

26 (3) The authority of a foreign corporation to transact business in this state ceases on the date shown on
27 the certificate revoking its certificate of authority.

28 (4) The secretary of state's revocation of a foreign corporation's certificate of authority appoints the
29 secretary of state as the foreign corporation's agent for service of process in any proceeding based on a cause
30 of action that arose during the time the foreign corporation was authorized to transact business in this state.

1 Service of process on the secretary of state under this subsection is service on the foreign corporation. Upon
 2 receipt of process, the secretary of state shall ~~mail~~ deliver a copy of the process to the secretary of the foreign
 3 corporation at its principal office shown in its most recent annual report or in any subsequent communication
 4 received from the corporation stating the current mailing address of its principal office or, if a report or
 5 communication is not on file, in its application for a certificate of authority.

6 (5) Revocation of a foreign corporation's certificate of authority does not terminate the authority of the
 7 registered agent of the corporation."
 8

9 **Section 5.** Section 35-2-833, MCA, is amended to read:

10 **"35-2-833. Procedure for and effect of revocation.** (1) The secretary of state, upon determining that
 11 one or more grounds exist under 35-2-832 for revocation of a certificate of authority, shall ~~mail~~ deliver to the
 12 foreign corporation written notice of that determination under 35-2-830.

13 (2) The attorney general, upon determining that one or more grounds exist under 35-2-832(2) for
 14 revocation of a certificate of authority, shall request the secretary of state to serve, and the secretary of state shall
 15 serve, the foreign corporation with written notice of that determination under 35-2-830.

16 (3) If the foreign corporation does not correct each ground for revocation or demonstrate to the
 17 reasonable satisfaction of the secretary of state or attorney general that each ground for revocation determined
 18 by the secretary of state or attorney general does not exist within 60 days after ~~mailing~~ delivering the notice or
 19 after service of the notice is perfected under 35-2-830, the secretary of state may revoke the foreign corporation's
 20 certificate of authority by signing a certificate of revocation that states the ground or grounds for revocation and
 21 the effective date of the revocation. The secretary of state shall file the original of the certificate and ~~mail~~ deliver
 22 a copy to the foreign corporation.

23 (4) The authority of a foreign corporation to transact business in this state ceases on the date shown on
 24 the certificate revoking its certificate of authority.

25 (5) Revocation of a foreign corporation's certificate of authority does not terminate the authority of the
 26 registered agent of the corporation."
 27

28 **Section 6.** Section 35-6-104, MCA, is amended to read:

29 **"35-6-104. Involuntary dissolution -- procedure.** (1) On or before September 1 of each year, the
 30 secretary of state shall compile a list of defaulting corporations, together with the amount of any filing fee, penalty,

1 or costs remaining unpaid.

2 (2) The secretary of state shall give notice to the defaulting corporations by:

3 (a) ~~mailing~~ delivering a letter addressed to the corporation in care of its registered agent or any director
4 or officer; or

5 (b) publication of a general notice to all Montana corporations once a month for 3 consecutive months
6 in a newspaper of general circulation in Lewis and Clark County.

7 (3) The notice referred to in subsection (2) shall specify the fact of the proposed dissolution and state
8 that unless the grounds for dissolution described in 35-6-102 have been rectified within 90 days following the
9 mailing delivery or publication of notice:

10 (a) the secretary of state will dissolve defaulting corporations;

11 (b) defaulting corporations will forfeit the amount of any tax, penalty, or costs to the state of Montana;
12 and

13 (c) defaulting corporations will forfeit their rights to carry on business within the state.

14 (4) After 90 days following mailing delivery or publication of each notice, the secretary of state may, by
15 order, dissolve all corporations which have not satisfied the requirements of applicable law and compile a full and
16 complete list containing the names of all corporations that have been so dissolved. The secretary of state shall
17 immediately give notice to the dissolved corporation as specified in subsection (2).

18 (5) In the case of involuntary dissolution, all the property and assets of the dissolved corporation must
19 be held in trust by the directors of the corporation and 35-1-938 through 35-1-943 or 35-2-729, whichever is
20 appropriate, is applicable to liquidate the property and assets if necessary."

21

22 **Section 7.** Section 35-7-110, MCA, is amended to read:

23 **"35-7-110. Change of name, address, or type of organization by commercial registered agent. (1)**

24 If a commercial registered agent changes its name as a result of a merger, conversion, exchange, sale,
25 reorganization, or amendment, its address as currently listed under 35-7-106(1), or its type or jurisdiction of
26 organization, the agent shall file with the secretary of state a statement of change signed by or on behalf of the
27 agent that states:

28 (a) the name of the agent as currently listed under 35-7-106(1);

29 (b) if the name of the agent has changed, its new name;

30 (c) if the address of the agent has changed, the new address; and

1 (d) if the type or jurisdiction of organization of the agent has changed, the new type or jurisdiction of
2 organization.

3 (2) The filing of a statement of change under subsection (1) is effective to change the information
4 regarding the commercial registered agent with respect to each entity represented by the agent.

5 (3) A statement of change filed under this section takes effect on filing.

6 (4) A commercial registered agent shall promptly furnish each entity represented by it with notice in a
7 record of the filing of a statement of change relating to the name or address of the agent and the changes made
8 by the filing.

9 (5) If a commercial registered agent changes its address without filing a statement of change as required
10 by this section, the secretary of state may cancel the listing of the agent under 35-7-106. A cancellation under
11 this subsection has the same effect as a termination under 35-7-107. Promptly after canceling the listing of an
12 agent, the secretary of state shall ~~serve~~ deliver notice in a record in the manner provided in 35-7-113(2) or (3)
13 on:

14 (a) each entity represented by the agent, stating that the agent has ceased to be an agent for service
15 of process on the entity and that, until the entity appoints a new registered agent, service of process may be made
16 on the entity as provided in 35-7-113; and

17 (b) the agent, stating that the listing of the agent has been canceled under this section.

18 (6) The secretary of state shall note the filing of the commercial registered agent change statement in
19 the index of filings maintained by the secretary of state for each entity represented by the registered agent at the
20 time of filing."

21
22 **NEW SECTION. Section 8. Involuntary dissolution -- procedure.** (1) A limited liability company that
23 is guilty of any of the actions or omissions described in 35-8-209(1) is in default. By reason of the default, the
24 limited liability company may be involuntarily dissolved by order of the secretary of state, thereby forfeiting its right
25 to transact any business in this state.

26 (2) On or before September 1 of each year, the secretary of state shall compile a list of defaulting limited
27 liability companies, together with the amount of any filing fee, penalty, or costs remaining unpaid.

28 (3) The secretary of state shall give notice to the defaulting limited liability companies by:

29 (a) delivering a letter addressed to the limited liability company in care of its registered agent or any
30 director or officer; or

1 (b) publication of a general notice to all Montana limited liability companies once a month for 3
2 consecutive months in a newspaper of general circulation in Lewis and Clark County.

3 (4) The notice referred to in subsection (3) must specify the fact of the proposed dissolution and state
4 that unless the grounds for dissolution described in 35-8-209 have been rectified within 90 days following the
5 delivery or publication of notice:

6 (a) the secretary of state will dissolve the defaulting limited liability company;

7 (b) a defaulting limited liability company will forfeit the amount of any tax, penalty, or costs to the state
8 of Montana; and

9 (c) a defaulting limited liability company will forfeit its right to carry on business within the state.

10 (5) After 90 days following delivery or publication of each notice, the secretary of state may, by order,
11 dissolve a limited liability company that has not satisfied the requirements of applicable law and compile a full and
12 complete list containing the names of all limited liability companies that have been so dissolved. The secretary
13 of state shall immediately give notice to the dissolved limited liability companies as specified in subsection (3).

14 (6) In the case of involuntary dissolution, all the property and assets of a dissolved limited liability
15 company must be held in trust by the members or managers of the limited liability company and the limited liability
16 company may carry on business only as necessary to wind up and liquidate its business and affairs under
17 35-8-901 and to notify claimants under 35-8-908 and 35-8-909.

18 (7) The administrative dissolution of a limited liability company does not terminate the authority of its
19 registered agent for service of process.

20

21 **Section 9.** Section 35-8-208, MCA, is amended to read:

22 **"35-8-208. Annual report for secretary of state.** (1) A limited liability company or a foreign limited
23 liability company authorized to transact business in this state shall deliver to the secretary of state, for filing, an
24 annual report that sets forth:

25 (a) the name of the limited liability company and the jurisdiction under whose law it is organized;

26 (b) the information required by 35-7-105(1);

27 (c) the business mailing address of its principal office, wherever located;

28 (d) (i) if the limited liability company is managed by a manager or managers, a statement that the
29 company is managed in that fashion and the names and business mailing addresses of the managers;

30 (ii) if the management of a limited liability company is reserved to the members, a statement to that effect

1 and the names and business mailing addresses of the members;

2 (e) that the management of a series of members is vested in the members associated with the series
3 of members;

4 (f) if the limited liability company is a professional limited liability company, a statement that all of its
5 members and not less than one-half of its managers are qualified persons with respect to the limited liability
6 company.

7 (2) Information in the annual report must be current as of the date the annual report is executed on behalf
8 of the limited liability company.

9 (3) The first annual report must be delivered to the secretary of state between January 1 and April 15
10 of the year following the calendar year in which a domestic limited liability company is organized or a foreign
11 limited liability company is authorized to transact business. Subsequent annual reports must be delivered to the
12 secretary of state between January 1 and April 15.

13 (4) If an annual report does not contain the information required by this section, the secretary of state
14 shall promptly ~~notify~~ deliver a notice to the reporting domestic or foreign limited liability company ~~in writing~~ and
15 return the report to the limited liability company for correction.

16 (5) The annual report must be executed by at least one member of the limited liability company or by the
17 authorized agent.

18 (6) A domestic professional limited liability company or a foreign professional limited liability company
19 authorized to transact business in this state shall annually file before April 15, with each licensing authority having
20 jurisdiction over a professional service of a type described in its articles of organization, a statement of
21 qualification setting forth the names and addresses of the members and managers of the company and additional
22 information that the licensing authority may by rule prescribe as appropriate in determining whether the company
23 is complying with the provisions of part 13 of this chapter and rules promulgated under part 13 of this chapter.
24 The licensing authority may charge a fee to cover the cost of filing a statement of qualification."
25

26 **Section 10.** Section 35-8-913, MCA, is amended to read:

27 **"35-8-913. Appeal from denial of reinstatement.** (1) If the secretary of state denies a limited liability
28 company's application for reinstatement following administrative dissolution, the secretary of state shall ~~serve the~~
29 ~~company with a record~~ deliver a notice to the company that explains the reason or reasons for the denial.

30 (2) The company may appeal the denial of reinstatement to a district court within 30 days after ~~service~~

1 delivery of the notice of denial. The company shall appeal by petitioning the court to set aside the dissolution and
2 attaching to the petition copies of the secretary of state's certificate of dissolution, the company's application for
3 reinstatement, and the secretary of state's notice of denial.

4 (3) The court may summarily order the secretary of state to reinstate the dissolved company or may take
5 other action that the court considers appropriate.

6 (4) The court's final decision may be appealed as in other civil proceedings."
7

8 **Section 11.** Section 35-8-1001, MCA, is amended to read:

9 **"35-8-1001. Authority to transact business required.** (1) A foreign limited liability company may not
10 transact business in this state until it obtains a certificate of authority from the secretary of state.

11 (2) The following activities, among others, do not constitute transacting business within the meaning of
12 subsection (1):

13 (a) maintaining, defending, or settling any proceeding;

14 (b) holding meetings of the members or managers or carrying on other activities concerning internal
15 affairs of the limited liability company;

16 (c) maintaining bank accounts;

17 (d) maintaining offices or agencies for the transfer, exchange, and registration of the limited liability
18 company's own securities or maintaining trustees or depositaries with respect to those securities;

19 (e) selling through independent contractors;

20 (f) soliciting or obtaining orders, whether by mail or through employees or agents or otherwise, if the
21 orders require acceptance outside this state before they become contracts;

22 (g) creating or acquiring indebtedness, mortgages, and security interests in real or personal property;

23 (h) securing or collecting debts or enforcing mortgages and security interests in property securing the
24 debts;

25 (i) owning real or personal property that is acquired incident to activities described in subsection (2)(h)
26 if the property is disposed of within 5 years after the date of acquisition, does not produce income, or is not used
27 in the performance of a function of the limited liability company;

28 (j) conducting an isolated transaction that is completed within 30 days and that is not a transaction in the
29 course of repeated transactions of a similar nature; or

30 (k) transacting business in interstate commerce.

1 (3) The list of activities in subsection (2) is not exhaustive.

2 (4) Except as provided in subsection (2), a foreign limited liability company is transacting business within
3 the meaning of subsection (1) if it enters into a contract, including a contract entered into pursuant to Title 18, with
4 the state of Montana, an agency of the state, or a political subdivision of the state and must apply for and receive
5 a certificate of authority to transact business before entering into the contract. The secretary of state shall ~~provide~~
6 ~~written~~ deliver a notice to the contracting parties regarding the requirement that a foreign limited liability company
7 obtain a certificate of authority. The foreign limited liability company must be allowed 30 days from the date of
8 the notice to obtain the certificate of authority, and an existing contract may not be voided prior to the expiration
9 of the 30 days. This subsection does not apply to goods or services prepared out of state for delivery or use in
10 this state."

11

12 **Section 12.** Section 35-8-1012, MCA, is amended to read:

13 **"35-8-1012. Procedure for and effect of revocation.** (1) If the secretary of state determines that one
14 or more grounds exist under 35-8-1011 for revocation of a certificate of authority, the secretary of state shall ~~serve~~
15 deliver a notice to the foreign limited liability company ~~with written notice~~ of the secretary of state's determination.

16 (2) If the foreign limited liability company does not correct each ground for revocation or demonstrate
17 to the reasonable satisfaction of the secretary of state that each ground determined by the secretary of state does
18 not exist within 60 days after ~~service delivery~~ service delivery of the notice ~~is mailed~~, the secretary of state may revoke the foreign
19 limited liability company's certificate of authority by signing a certificate of revocation that states the ground or
20 grounds for revocation and the effective date of the revocation. The secretary of state shall file the original of the
21 certificate and ~~mail~~ deliver a copy to the foreign limited liability company.

22 (3) The authority of a foreign limited liability company to transact business in this state ceases on the
23 date shown on the certificate revoking its certificate of authority.

24 (4) The secretary of state's revocation of a foreign limited liability company's certificate of authority
25 appoints the secretary of state as the foreign limited liability company's agent for service of process in any
26 proceeding based on a cause of action that arose during the time the foreign limited liability company was
27 authorized to transact business in this state. Service of process on the secretary of state under this subsection
28 is service on the foreign limited liability company. Upon receipt of process, the secretary of state shall ~~mail~~ deliver
29 a copy of the process to the secretary of the foreign limited liability company at its principal office shown in its
30 most recent annual report or in any subsequent communication received from the foreign limited liability company,

1 stating the current mailing address of its principal office or, if no report or communication is on file, in its
2 application for a certificate of authority.

3 (5) Revocation of a foreign limited liability company's certificate of authority does not terminate the
4 authority of the registered agent of the foreign limited liability company."

5

6 **Section 13.** Section 35-10-721, MCA, is amended to read:

7 **"35-10-721. Voluntary cancellation of registration of limited liability partnership.** (1) When a limited
8 liability partnership wishes to cancel its registration, two or more partners shall deliver to the secretary of state
9 ~~an executed and verified original affidavit of a~~ cancellation of registration of a limited liability partnership form,
10 which must include but is not limited to the following information:

11 (a) the complete name of the registered limited liability partnership to be canceled;

12 (b) the business mailing address of the limited liability partnership; and

13 (c) the names and business mailing addresses of the partners.

14 (2) If the secretary of state finds the affidavit form complies with the provisions of this section, the
15 secretary of state shall file it and ~~mail~~ deliver a letter acknowledging cancellation of the registration to the limited
16 liability partnership."

17

18 **Section 14.** Section 35-12-1201, MCA, is amended to read:

19 **"35-12-1201. Nonjudicial dissolution.** Except as otherwise provided in 35-12-1201, a limited
20 partnership is dissolved and its affairs may be wound up only upon the occurrence of of any the following:

21 (1) on the happening of an event specified in the partnership agreement;

22 (2) the consent of all general partners and of limited partners owning a majority of the rights to receive
23 distributions as limited partners at the time the consent is to be effective;

24 (3) after the dissociation of a person as a general partner:

25 (a) if the limited partnership has at least one remaining general partner, the consent to dissolve the
26 limited partnership given within 90 days after the dissociation by partners owning a majority of the rights to receive
27 distributions as partners at the time the consent is to be effective; or

28 (b) if the limited partnership does not have a remaining general partner, the filing of the dissolution with
29 the secretary of state unless before the end of the period:

30 (i) consent to continue the activities of the limited partnership and admit at least one general partner is

1 given by limited partners owning a majority of the rights to receive distributions as limited partners at the time the
2 consent is to be effective; and

3 (ii) at least one person is admitted as a general partner in accordance with the consent;

4 (4) the passage of 90 days after the dissociation of the limited partnership's last limited partner unless
5 before the end of the period the limited partnership admits at least one limited partner; or

6 (5) the signing and filing of a declaration of dissolution by the secretary of state.

7 (6) A dissolved limited partnership shall appoint and maintain an agent for service of process as required
8 by 35-7-105 or deliver for filing a statement of change under 35-7-108 within 30 days after a change has occurred
9 in the name or address of agent."

10

11 **Section 15.** Section 35-12-1313, MCA, is amended to read:

12 **"35-12-1313. Revocation of certificate of authority.** (1) A certificate of authority of a foreign limited
13 partnership to transact business in this state may be revoked by the secretary of state in the manner provided
14 in subsections (2) and (3) if the foreign limited partnership does not:

15 (a) pay any fee, tax, or penalty due to the secretary of state under this chapter or other law;

16 (b) appoint and maintain an agent for service of process as required by 35-7-105; or

17 (c) deliver for filing a statement of a change under 35-7-108 within 30 days after a change has occurred
18 in the name or address of the agent.

19 (2) In order to revoke a certificate of authority, the secretary of state shall prepare, sign, and file a notice
20 of revocation and ~~send~~ deliver a copy to the foreign limited partnership's agent for service of process in this state
21 or, if the foreign limited partnership does not appoint and maintain a proper agent in this state, to the foreign
22 limited partnership's designated office. The notice must state:

23 (a) the revocation's effective date, which must be at least 60 days after the date the secretary of state
24 sends the copy; and

25 (b) the foreign limited partnership's failures to comply with subsection (1) that are the reason for the
26 revocation.

27 (3) The authority of the foreign limited partnership to transact business in this state ceases on the
28 effective date of the notice of revocation unless before that date the foreign limited partnership cures each failure
29 to comply with subsection (1) stated in the notice. If the foreign limited partnership cures the failures, the secretary
30 of state shall so indicate on the filed notice."

1

2 NEW SECTION. **Section 16. Codification instruction.** [Section 8] is intended to be codified as an
3 integral part of Title 35, chapter 8, part 9, and the provisions of Title 35, chapter 8, part 9, apply to [section 8].

4

5 NEW SECTION. **Section 17. Effective date.** [This act] is effective on passage and approval.

6

- END -