



CARL T.C. GUTIERREZ  
GOVERNOR OF GUAM

SEP 16 1996

The Honorable Don Parkinson  
Speaker  
Twenty-Third Guam Legislature  
424 West O'Brien Drive  
Julale Center - Suite 222  
Agana, Guam 96910

From:	9/16/96
Time:	2:10 pm
Received By:	Cheryl Tumaba
Print Name:	Cheryl Tumaba


Dear Speaker Parkinson:

Enclosed please find a copy of Substitute Bill No. 610 (LS), "AN ACT TO ADD A NEW CHAPTER 15 TO TITLE 18 OF THE GUAM CODE ANNOTATED, ENTITLED 'LIMITED LIABILITY COMPANIES', AUTHORIZING THE FORMATION OF BUSINESSES AS LIMITED LIABILITY COMPANIES ON GUAM", vetoed and overridden by the Legislature on September 9, 1996, which I have designated as **Public Law 23-125**.

Very truly yours,

  
Carl T. C. Gutierrez

Attachment  
231465

OFFICE OF THE LEGISLATIVE SECRETARY	
ACKNOWLEDGMENT RECEIPT	
Received By:	
Time:	4:46 pm.
Date:	9-16-96

TWENTY-THIRD GUAM LEGISLATURE  
1996 (SECOND) Regular Session

CERTIFICATION OF PASSAGE OF AN ACT TO THE GOVERNOR

This is to certify that Substitute Bill No. 610 (LS), "AN ACT TO ADD A NEW CHAPTER 15 TO TITLE 18 OF THE GUAM CODE ANNOTATED, ENTITLED "LIMITED LIABILITY COMPANIES", AUTHORIZING THE FORMATION OF BUSINESSES AS LIMITED LIABILITY COMPANIES ON GUAM," returned to the Legislature without approval of the Governor, was reconsidered by the Legislature and after such reconsideration, the Legislature did, on the 9th day of September, 1996, agree to pass said bill notwithstanding the objection of the Governor by a vote of eighteen (18) members.



\_\_\_\_\_  
DON PARKINSON  
Speaker

Attested:



\_\_\_\_\_  
JUDITH WON PAT-BORJA  
Senator and Legislative Secretary

-----  
This Act was received by the Governor this 12th day of September,  
1996, at 4:45 o'clock P.M.



\_\_\_\_\_  
Assistant Staff Officer  
Governor's Office

TWENTY-THIRD GUAM LEGISLATURE  
1996 (SECOND) Regular Session

Bill No. 610 (LS)

As substituted by the author  
and further substituted on the floor

Introduced by:

F. P. Camacho  
A. C. Blaz  
T. C. Ada  
J. P. Aguon  
E. Barrett-Anderson  
J. M. S. Brown  
M. C. Charfauros  
H. A. Cristobal  
M. Forbes  
A. C. Lamorena V  
C. Leon Guerrero  
L. Leon Guerrero  
T. S. Nelson  
S. L. Orsini  
V. C. Pangelinan  
D. Parkinson  
J. T. San Agustin  
A. L. G. Santos  
F. E. Santos  
A. R. Unpingco  
J. Won Pat-Borja

AN ACT TO ADD A NEW CHAPTER 15 TO TITLE 18 OF  
THE GUAM CODE ANNOTATED, ENTITLED  
"LIMITED LIABILITY COMPANIES", AUTHORIZING  
THE FORMATION OF BUSINESSES AS LIMITED  
LIABILITY COMPANIES ON GUAM.

1 BE IT ENACTED BY THE PEOPLE OF THE TERRITORY OF GUAM:

1           **Section 1. Legislative Findings.** Guam law recognizes three main  
2 organizational structures: Corporations, Partnerships, and Limited  
3 Partnerships. The Legislature finds that these three basic organizational  
4 options do not adequately meet the needs of many small and medium-sized  
5 companies on Guam.

6           The Legislature further finds that business and tax planners on Guam  
7 and in the United States have long sought a business entity that delivers the  
8 key advantages of "pass-through taxation" for a business and also provides  
9 limited liability for its owners. Traditionally, the S Corporations and Limited  
10 Partnerships have been drawn on in order to obtain these characteristics for a  
11 business or investment, but neither S Corporations nor Limited Partnerships  
12 can adequately meet these needs. S Corporations have relatively restrictive  
13 and inflexible requirements on the number of owners and types of ownership.  
14 Limited partnerships do not provide 100% limited liability since at least one  
15 general partner must be responsible for entity obligations under law. In  
16 addition, the management participation of limited partners is generally  
17 prohibited or severely restricted. A new alternative in recent years has  
18 emerged: the Limited Liability Company (LLC).

19           The Legislature finds that until 1990, only two states, Wyoming and  
20 Florida, allowed for the formation of an LLC. As of January 1, 1995, however,  
21 47 States have enacted LLC statutes largely due to the Internal Revenue  
22 Service ruling in late 1988 allowing for the taxing of LLC's as partnerships.  
23 Proposals are pending in the other states, and it is possible that all 50 States  
24 will have enacted LLC laws by the end of 1996.

25           The Legislature finds that though most states allow an LLC to be  
26 formed for the transaction of any lawful purpose, certain regulated

1 industries, such as banking and insurance, are prohibited from operating in  
2 LLC form. The same shall apply here on Guam.

3 The Legislature finds that while the LLC is not intended to replace  
4 corporations or partnerships, it does combine the advantages of each. It  
5 combines the structural flexibility of a partnership with the liability protection  
6 of a corporation. The LLC will be formed as an unincorporated business  
7 entity where neither the partners nor the managers are personally liable for  
8 its obligation. Professionals who will organize their business or service as an  
9 LLC will still remain liable for their professional performance.

10 The Legislature finds that it is necessary for the LLC to have at least  
11 two members at the time of formation. This element will preserve the  
12 partnership tax status under federal tax law so as to allow the Department  
13 of Revenue and Taxation to treat the LLC as a partnership for tax purposes.

14 **Section 2. A new Chapter 15 is added to Title 18, Guam Code Annotated**  
15 **to read:**

16 **"Chapter 15**

17 **Limited Liability Companies**

- 18 §15101. Short Title.  
19 §15102. Definitions.  
20 §15103. Purpose.  
21 §15104. Powers.  
22 §15105. Formation.  
23 §15106. Limited Liability Company name.  
24 §15107. Articles of Organization.  
25 §15108. Filing of Articles of Organization.  
26 §15109. Effect of Issuance of Certificate of Organization.  
27 §15110. Amendments to Articles of Organization.

- 1 §15111. Registered Office and Registered Agent.
- 2 §15112. Change of Registered Office or Registered Agent.
- 3 §15113. Finance.
- 4 §15113 (A) Capital contributions of members.
- 5 §15113 (B) Obligation of member to contribute cash or property
- 6 or to perform services; Failure of member to make contribution;
- 7 Enforcement of obligation.
- 8 §15113 (C) Allocation of profits and losses among members.
- 9 §15114. Members.
- 10 §15114 (A) Acquisition of membership interest; Termination of
- 11 interest.
- 12 §15114 (B) Personal liability of members.
- 13 §15114 (C) Creation of classes of members.
- 14 §15114 (D) Voting by members.
- 15 §15114 (E) Meetings; Notice; Quorum; Proxies; Record date of
- 16 members entitled to notice.
- 17 §15114 (F) Issuance of certificate of interest.
- 18 §15114 (G) Access to records and documents by members;
- 19 Inspection and copying.
- 20 §15114 (H) Complaint by members of failure to comply with law
- 21 or articles of organization; Action by Attorney
- 22 General.
- 23 §15115. Management of Limited Liability Company.
- 24 §15115 (A) Business and affairs of company managed by
- 25 members.
- 26 §15115 (B) Management by non-members.

- 1 §15115 (C) Management vested in manager pursuant to  
2 articles of organization: Election; Removal; Resignation.  
3 §15115 (D) Fiduciary duties of manager.  
4 §15115 (E) Appointment of officers; Authority of signing  
5 officers in documents.  
6 §15115 (F) Indemnification of manager, member, officer, and  
7 others; Purchase of insurance.  
8 §15115 (G) More than one manager; Decisions by majority  
9 vote.  
10 §15115 (H) Member as agent of company unless otherwise  
11 provided; Manager as agent.  
12 §15115 (I) Personal liability of manager or officer.  
13 §15115 (J) Office to maintain records; Agent for service of  
14 process.  
15 §15115 (K) Records and documents required to be kept.  
16 §15116. Distributions and Withdrawals.  
17 §15116 (A) Distribution of money or property to members.  
18 §15116 (B) Entitlement of member to receive distributions  
19 prior to withdrawal or dissolution.  
20 §15116 (C) Withdrawal of member; Notice; Entitlement to  
21 distribution.  
22 §15116 (D) Distribution in form other than money; Distribution  
23 of assets.  
24 §15116 (E) Requirement to make distribution.  
25 §15116 (F) Personal liability of manager or member who votes  
26 for unlawful distribution.  
27 §15117. Interest in Limited Liability Company; Assignment of Interests.

- 1           §15117 (A) Membership interest as personal property.
- 2           §15117 (B) Assignment of membership interest or economic  
3                           interest; Pledge or lien against membership  
4                           interest.
- 5           §15117 (C) Unsatisfied amount of judgment to be charged  
6                           against membership interest.
- 7           §15117 (D) Membership of assignee.
- 8           §15117 (E) Deceased member; Member adjudged incompetent  
9                           by court.
- 10         §15118. Liability of Member and Managers.
- 11         §15119. Unauthorized Assumption of Powers.
- 12         §15120. Dissolution.
- 13         §15121. Filing of Statement of Intent to Dissolve.
- 14         §15122. Effect of Filing of Statement of Intent to Dissolve; Procedure  
15                         after Filing Such Statement.
- 16         §15123. Distribution of Assets upon Dissolution.
- 17         §15124. Articles of Dissolution.
- 18         §15125. Filing of Articles of Dissolution.
- 19         §15126. Cancellation of Certificate of Organization.
- 20         §15127. Involuntary Dissolution.
- 21         §15128. Reinstatement after Involuntary Dissolution.
- 22         §15129. Filing by Department of Revenue and Taxation.
- 23         §15130. Fees for Filing Documents and Issuing Certification.
- 24         §15131. Miscellaneous Charges.
- 25         §15132. Waiver of Notice.
- 26         §15133. Jurisdiction of the Superior Court.
- 27         §15134. Parties to Actions by or against Limited Liability Company.



1 §15135. Service of Process.

2 §15136. Tax on Income of Limited Liability Company.

3 §15137. Professional Limited Liability Companies.

4 **§15101. Short Title.** This Act shall be known and may be cited as the  
5 "Guam Limited Liability Company Act".

6 **§15102. Definitions.** As used in this chapter:

7 (1) "Bankrupt" means bankrupt under the federal Bankruptcy Act or  
8 insolvent under any state insolvency act.

9 (2) "Court" includes every court and judge having jurisdiction in the  
10 action.

11 (3) "Limited Liability Company" or "Company" means a limited liability  
12 company organized and existing under this chapter.

13 (4) "Real Property" means land and any interest or estate in land.

14 (5) "Business" means every trade and occupation or profession.

15 (6) "Conveyance" means every assignment, lease, mortgage, or  
16 encumbrance.

17 (7) "Professional Service" means any type of personal service that  
18 requires as a condition precedent to the rendering of the service the obtaining  
19 of a license, permit, registration, or other legal authorization, including but  
20 not limited to the personal service rendered by an architect, attorney-at-law,  
21 certified public accountant, dentist, doctor, physician, public accountant,  
22 surgeon, or veterinarian.

23 (8) "Professional limited liability company" means a limited liability  
24 company that is organized under this act for the sole and specific purpose of  
25 rendering professional service and that has as its members only individuals  
26 licensed or otherwise authorized within Guam to render the same  
27 professional service as the limited liability company.

1 (9) "Transact intrastate business" means to enter into repeated and  
2 successive transactions of business in this territory, other than in interstate or  
3 foreign commerce.

4 (I) Without excluding other activities which may not be  
5 considered to be transacting intrastate business, a foreign limited  
6 liability company shall not be considered to be transacting intrastate  
7 business merely because its subsidiary transacts intrastate business, or  
8 merely because of its status as any one or more of the following:

9 (A) A shareholder of a domestic corporation.

10 (B) A shareholder of a foreign corporation transacting  
11 intrastate business.

12 (C) A limited partner of a foreign limited partnership  
13 transacting intrastate business.

14 (D) A limited partner of a domestic limited partnership.

15 (E) A member or manager of a foreign limited liability  
16 company transacting intrastate business.

17 (F) A member or manager of a domestic limited liability  
18 company.

19 (II) Without excluding other activities which may not be  
20 considered to be transacting intrastate business, a foreign limited  
21 liability company shall not be considered to be transacting intrastate  
22 business within the meaning of this subdivision solely by reason of  
23 carrying on in this territory any one or more of the following activities:

24 (A) Maintaining or defending any action or suit or any  
25 administrative or arbitration proceeding, or effecting the  
26 settlement thereof or the settlement of claims or disputes.

1 (B) Holding meetings of its managers or members or  
2 carrying on any other activities concerning its internal affairs.

3 (C) Maintaining bank accounts.

4 (D) Maintaining offices or agencies for the transfer,  
5 exchange, and registration of the foreign limited liability  
6 company's securities or maintaining trustees or depositories with  
7 respect to those securities.

8 (E) Effecting sales through independent contractors.

9 (F) Soliciting or procuring orders, whether by mail or  
10 through employees or agents or otherwise, where those orders  
11 require acceptance without this state before becoming binding  
12 contracts.

13 (G) Creating or acquiring evidences of debt or mortgages,  
14 liens, or security interests in real or personal property.

15 (H) Securing or collecting debts or enforcing mortgages  
16 and security interests in property securing the debts.

17 (I) Conducting an isolated transaction that is completed  
18 within 180 days.

19 (III) A person shall not be deemed to be transacting intrastate  
20 business in this territory merely because of its status as a member or  
21 manager of a domestic limited liability company or a foreign limited  
22 liability company registered to transact intrastate business in this  
23 territory.

24 (10) "Distribution" means the transfer of money or property by a  
25 limited liability company to its members without consideration.

26 (11) "Economic interest" means a person's right to share in the income,  
27 gains, losses, deductions, credit, or similar items of, and to receive

1 distributions from, the limited liability company, but does not include any  
2 other rights of a member including, without limitation, the right to vote or to  
3 participate in management, or, except as provided by this Chapter, any right  
4 to information concerning the business and affairs of the limited liability  
5 company.

6 (12) "Membership interest" means a member's rights in the limited  
7 liability company, collectively, including the member's economic interest, any  
8 right to vote or participate in management, and any right to information  
9 concerning the business and affairs of the limited liability company provided  
10 by this Chapter.

11 (13) "Proxy" unless otherwise provided in the operating agreement,  
12 means a written authorization signed or an electronic transmission  
13 authorized by a member or the member's attorney in fact giving another  
14 person the power to exercise the voting rights of that member.

15 **§15103. Purpose.** A limited liability company may be organized under  
16 this chapter for any lawful purpose, except that special statutes for the  
17 regulation and control of specific types of business shall control when in  
18 conflict herewith.

19 Subject to any limitations contained in the articles of organization and  
20 to compliance with any other applicable laws, a limited liability company may  
21 engage in any lawful business activity, except the banking, insurance, or trust  
22 company business.

23 **§15104. Powers.** Each limited liability company organized and  
24 existing under this chapter may:

25 (a) Sue or be sued, or complain or defend, in its name.

1 (b) Purchase, take, receive, lease, or otherwise acquire, own, hold,  
2 improve, or use, or otherwise deal in or with, real or personal property, or an  
3 interest in real or personal property, wherever situated.

4 (c) Sell, convey, mortgage, pledge, create a security interest in, lease,  
5 exchange, or transfer, or otherwise dispose of, all or any part of its property  
6 or assets.

7 (d) Purchase, take, receive, subscribe for, or otherwise acquire, own,  
8 hold, vote, use, employ, sell, mortgage, lend, or plead, or otherwise dispose  
9 of, or otherwise use or deal in or with:

10 (1) Shares or other interests in or obligations of other foreign or  
11 domestic limited liability companies, domestic or foreign corporations,  
12 associations, general or limited partnerships, or individual; or

13 (2) Direct or indirect obligations of the United States or any other  
14 government, state, territory, government district, or municipality or of  
15 any instrumentality thereof.

16 (e) Make contracts or guarantees or incur liabilities; borrow money at  
17 such rates of interest as the limited liability company may determine; issue its  
18 notes, bonds, or other obligations; or secure any of its obligations by  
19 mortgage or pledge of all or any part of its property, franchises, and income.

20 (f) Lend money for any lawful purpose, invest or reinvest its funds, or  
21 take and hold real or personal property as security for the payment of funds  
22 so loaned or invested.

23 (g) Conduct its business, carry on its operations and have offices, and  
24 exercise the powers granted by this chapter with or without the territory of  
25 Guam.

26 (h) Elect or appoint managers and agents of the limited liability  
27 company, define their duties, and fix their compensation.

1 (i) Make and alter its regulations, not inconsistent with its articles of  
2 organization or with the laws of Guam, for the administration and  
3 regulation of the affairs of the company.

4 (j) Make donations to the public welfare or for charitable, scientific, or  
5 educational purposes.

6 (k) Indemnify a member or manager or any other person to the same  
7 extent as a corporation may indemnify any of the directors, officers,  
8 employees, or agents of the corporation against expenses actually and  
9 reasonably incurred by him or it in connection with the defense of any action,  
10 suit, or proceeding, whether civil or criminal, in which he or it is made a  
11 party.

12 (l) Cease its activities and surrender its certificate of organization.

13 (m) Have and exercise all powers necessary or convenient to affect any  
14 or all of the purposes for which the company is organized.

15 (n) Transact any lawful business which the members or the managers  
16 find to be in aid of governmental policy.

17 (o) Pay pensions and establish pension plans, profit-sharing plans, and  
18 other incentive plans for any or all of its managers and employees.

19 (p) Be a promoter, incorporator, general partner, limited partner,  
20 member, associate, or manager of any corporation, partnership, limited  
21 partnership, limited liability company, joint venture, trust, or other  
22 enterprise.

23 (q) Have and exercise all powers necessary or convenient to effect its  
24 purposes.

25 **§15105. Formation.** Two or more persons may form a limited liability  
26 company by executing, acknowledging, and delivering to the Department of

1 Revenue and Taxation articles of organization for such limited liability  
2 company.

3       **§15106. Limited Liability Company Name.** (a) The words "limited  
4 company", "limited liability company" , or their abbreviation "L. C.", or  
5 L.L.C. , shall be the last word of the name of every limited liability company  
6 formed under the provisions of this chapter; and, in addition, the limited  
7 liability company name may not be the same as, or deceptively similar to, the  
8 name of a limited liability company, or a foreign limited liability company,  
9 authorized to transact business in this territory, or a name the exclusive right  
10 to which is, at the time, reserved in the manner provided under the laws of  
11 this territory.

12       (b) Omission of the words "limited company", "limited liability  
13 company", or their abbreviation "L.C.", or "L.L.C.", in the use of the name of  
14 the limited company shall render any person who participates in the  
15 omission, or knowingly acquiesces in it, liable for any indebtedness, damage,  
16 or liability occasioned by the omission.

17       **§15107. Articles of Organization.** (a) The Articles of Organization of  
18 a limited liability company shall set forth:

19       (1) The name of the limited liability company.

20       (2) The period of its duration, which may not exceed 30 years from the  
21 date of filing with the Department of Revenue and Taxation.

22       (3) The purpose for which the limited liability company is organized.

23       (4) The address of its place of business in Guam and the name and  
24 address of its initial registered agent in Guam.

25       (5) The total amount of cash and a description and agreed value of  
26 property other than cash contributed.

1 (6) The total additional contributions, if any, agreed to be made by all  
2 members and the times at which, or the events upon the happening of which,  
3 they shall be made.

4 (7) The right, if given, of the members to admit additional members and  
5 the terms and conditions of the admissions.

6 (8) The right, if given, of the remaining members of the limited liability  
7 company to continue the business on the death, retirement, resignation,  
8 expulsion, bankruptcy, or dissolution of a member or the occurrence of any  
9 other event which terminates the continued membership of a member in the  
10 limited liability company.

11 (9) (i) If the limited liability company is to be managed by a manager or  
12 managers, a statement that the company is to be managed by a manager or  
13 managers and the names and addresses of such managers who are to serve  
14 as managers until the first annual meeting of members or until their  
15 successors are elected and qualify. (ii) If the management of a limited liability  
16 company is reserved to the members, the names and addresses of the  
17 members.

18 (10) Any other provisions, not inconsistent with law, which the  
19 members elect to set out in the articles of organization for the regulation of  
20 the internal affairs of the limited liability company, including any other  
21 provisions which under this Chapter are required or permitted to be set out in  
22 the regulations of the limited liability company.

23 (b) It is not necessary to set out in the articles of organization any of the  
24 powers enumerated in this Chapter.

25 **§15108. Filing of Articles of Organization.** The Articles of  
26 Organization shall be delivered to the Department of Revenue and Taxation.  
27 If the Department of Revenue and Taxation finds that the articles of



1 organization conform to law, it shall, when all fees have been paid as  
2 prescribed in this chapter, file the articles of organization in accordance with  
3 this Chapter. The Department of Revenue and Taxation shall then issue a  
4 certificate of organization.

5 **§15109. Effect of Issuance of Certificate of Organization.** (a) Upon  
6 the issuance of the certificate of organization, the limited liability company  
7 shall be considered organized; and such certificate of organization shall be  
8 conclusive evidence that all conditions precedent required to be performed by  
9 the members have been complied with and that the limited liability company  
10 has been legally organized under this Chapter, except as against this territory  
11 in a proceeding to cancel or revoke the certificate of organization or in a  
12 proceeding for involuntary dissolution of the limited liability company.

13 (b) A limited liability company shall not transact intrastate business or  
14 incur indebtedness, except that which is incidental to its organization or to  
15 obtaining subscriptions for or payment of contributions, until the articles of  
16 organization have been filed with the Department of Revenue and Taxation.

17 (c) The date when the existence of the company commences shall be the  
18 date of the filing of the articles of organization by the Department of  
19 Revenue and Taxation, except that the date of commencement of corporate  
20 existence may be specified in the articles of organization:

21 (1) When the date specified in the articles of organization is the  
22 date of subscription and acknowledgment, and the articles of  
23 organization are filed by the Department of Revenue and Taxation  
24 within 5 days, exclusive of legal holidays, after such date.

25 (2) When the date specified in the articles of organization is  
26 subsequent to, and not later than 90 days after the date of filing of the  
27 articles of organizations by the Department of Revenue and Taxation.

1           **§15110. Amendments to Articles of Organization.** (a) The articles of  
2 organization of a limited liability company shall be amended when:

3           (1) There is a change in the name of the limited liability company  
4 or in the amount or character of the contributions to capital.

5           (2) There is a change in the character of the business of the limited  
6 liability company.

7           (3) There is a false or erroneous statement in the articles of  
8 organization.

9           (4) There is a change in the time as stated in the articles of  
10 organization for the dissolution of the limited liability company.

11           (5) A time is fixed for the dissolution of the limited liability  
12 company, if no time is specified in the articles of organization.

13           (6) The members desire to make a change in any other statement  
14 in the articles of organization in order for it to accurately represent the  
15 agreement between them.

16           (b) The form for evidencing an amendment to the articles of  
17 organization of a limited liability company shall be promulgated by the  
18 Department of Revenue and Taxation and shall contain such terms and  
19 provisions consistent with this Chapter as shall be determined by the  
20 Department of Revenue and Taxation. The amendment shall be signed and  
21 sworn to by all members, and an amendment adding a new member shall be  
22 signed also by the member to be added; thereafter the amendment shall be  
23 forwarded to the Department of Revenue and Taxation for filing,  
24 accompanied by the requisite filing fee.

25           **§15111. Registered office and registered agent.** (a) Each limited  
26 liability company shall have and continuously maintain in Guam:

1 (1) A registered office, which may be, but need not be, the same as  
2 its place of business; and

3 (2) A registered agent, which agent may be either: (i) An  
4 individual resident of Guam whose business office is identical with such  
5 registered office; (ii) A domestic corporation having a business office  
6 identical with such registered office; or (iii) A foreign corporation  
7 authorized to transact business on Guam and having a business office  
8 identical with such registered office.

9 (b) Each registered agent and each successor registered agent  
10 appointed pursuant to this Chapter on whom process may be served shall file  
11 a statement in writing with the Department of Revenue and Taxation  
12 accepting the appointment as registered agent simultaneously with being  
13 designated, unless the agent signed the document making the appointment.

14 (c) The Department of Revenue and Taxation shall maintain an  
15 accurate record of the registered agents and registered office for the service  
16 of process and shall furnish any information disclosed thereby promptly upon  
17 request and payment of the required fee.

18 (d) No limited liability company shall maintain any action in any court  
19 until the limited liability company complies with the provisions of this Section  
20 and pays to the Department of Revenue and Taxation a penalty of \$1 for each  
21 day it has failed to comply, or \$250, whichever amount is less.

22 **§15112. Change of registered office or registered agent.** (a) A limited  
23 liability company may change its registered agent or office, or both, upon  
24 filing in the office of the Department of Revenue and Taxation a statement  
25 setting forth:

26 (1) The name of the limited liability company.

1           (2) The address of its then registered office and, if the address of  
2 its registered office is to be changed, the address to which the registered  
3 office is to be changed.

4           (3) The name of its then registered agent and, if its registered  
5 agent is to be changed, the name of its successor registered agent.

6           (4) The fact that the change was authorized by affirmative vote of  
7 a majority of the members of the limited liability company.

8           (b) The statement shall be acknowledged and delivered to the  
9 Department of Revenue and Taxation. If the Department of Revenue and  
10 Taxation finds that the statement conforms to the provisions of this chapter,  
11 it shall file the statement in its office; and, upon filing, the change of address  
12 of the registered office or the appointment of a new registered agent, or both,  
13 as the case may be, shall be effective.

14           (c) Any registered agent of a limited liability company may resign as  
15 agent upon filing a written notice thereof with the Department of Revenue  
16 and Taxation and by mailing a copy thereof to the limited liability company at  
17 its registered office. The appointment of the agent shall terminate upon the  
18 expiration of 30 days after receipt of notice by the Department of Revenue  
19 and Taxation.

20           **§15113. Finance. §15113 (A). Capital contributions of members.** (a)  
21 The articles of organization or the operating agreement may provide for  
22 capital contributions of members. The contribution of a person may be in  
23 money, property, or services, or other obligation to contribute money or  
24 property or to render services.

25           (b) Unless the articles of organization or operating agreement provide  
26 otherwise, no member shall be required to make any additional contribution  
27 to the limited liability company.

1           **§15113 (B). Obligation of member to contribute cash or property or to**  
2 **perform services; Failure of member to make contribution; Enforcement of**  
3 **obligation.** (a) (1) Subject to the terms of the articles of organization or the  
4 operating agreement, a member is not excused from an obligation to the  
5 limited liability company to perform any promise to contribute cash or  
6 property or to perform services because of death, disability, dissolution, or  
7 any other reason.

8           (2) If a member does not make the required contribution of property or  
9 services, that member is obligated, at the option of the limited liability  
10 company, to contribute cash equal to that portion of the fair market value (or  
11 agreed value if stated in writing and signed by the limited liability company  
12 and the member) of the contribution that has not been made. The foregoing  
13 option shall be in addition to, and not in lieu of, any other rights, including the  
14 right to specific performance, that the limited liability company may have  
15 against the member under the articles of organization, operating agreement,  
16 or applicable law.

17           (3) An operating agreement may provide that the interest of a member  
18 who fails to make any contribution or other payment that the member is  
19 required to make shall be subject to specific remedies for, or specific  
20 consequences of, the failure. Any such provision shall be enforceable in  
21 accordance with its terms unless the member seeking to invalidate the  
22 provision establishes that the provision was unreasonable under the  
23 circumstances existing at the time the agreement was made. The specific  
24 remedies or consequences may include: loss of voting, loss of approval or  
25 other rights, loss of the ability by the member to actively participate in the  
26 management and operations of the limited liability company, liquidated  
27 damages, and a reduction of the defaulting member's economic rights. The

1 reduction of the defaulting member's economic rights may include one or  
2 more provisions:

3 (A) Diluting, reducing, or eliminating the defaulting member's  
4 proportionate interest in the limited liability company.

5 (B) Subordinating the defaulting member's interest in the limited  
6 liability company to that of non-defaulting members.

7 (C) Permitting a forced sale of the membership interest.

8 (D) Permitting the lending or contribution by other members of  
9 the amount necessary to meet the defaulting member's commitment.

10 (E) Providing for the adjustment of interest rates or other rates of  
11 return, preferred, priority, or otherwise, with respect to contributions  
12 by or capital accounts of the other members.

13 (F) Providing for a fixing of the value of the defaulting member's  
14 interest in the limited liability company by appraisal or by formula and  
15 redemption or sale of the defaulting member's interest in the limited  
16 liability company at a percentage of that value.

17 (b) (1) Unless otherwise provided in the articles of organization or the  
18 operating agreement, the obligation of a member to make a contribution or  
19 return money or property paid or distributed in violation of this article shall  
20 be compromised only by the unanimous vote of the members.

21 (2) Notwithstanding the compromise of an obligation referred to in  
22 paragraph (1), a person whose claim against a limited liability company  
23 arises before the receipt of notice of the compromise may enforce the original  
24 obligation of a member to make a contribution to the limited liability company  
25 or to return a distribution if the person had knowledge of the original  
26 obligation prior to the time the claim arose and if the compromise occurred  
27 after the time the claim arose. Any other person with a claim against a

1 limited liability company may enforce only the existing obligation of a  
2 member to make a contribution to the limited liability company or to return to  
3 the limited liability company money or other property paid or distributed.

4 (c) A person with a claim against a limited liability company may not  
5 enforce a conditional obligation of a member unless the conditions have been  
6 satisfied or waived. Conditional obligations include, without limitation, a  
7 capital contribution payable upon a discretionary call of the limited liability  
8 company prior to the time the call occurs.

9 (d) Nothing in this section shall be construed to affect the rights of  
10 third-party creditors of the limited liability company to seek equitable  
11 remedies or any rights existing under Guam law.

12 **§15113 (C). Allocation of profits and losses among members.** The  
13 profits and losses of a limited liability company shall be allocated among the  
14 members, and among classes of members, in the manner provided in the  
15 operating agreement. If the operating agreement does not otherwise  
16 provide, profits and losses shall be allocated in proportion to the  
17 contributions of each member.

18 **§15114. Members. §15114 (A). Acquisition of membership interest;**  
19 **Termination of interest.**

20 (a) After formation of a limited liability company, a person may become  
21 a member:

22 (1) In the case of a person acquiring a membership interest  
23 directly from the limited liability company, at the time provided in and  
24 upon compliance with the articles of organization or the operating  
25 agreement or, if the articles of organization or operating agreement do  
26 not so provide, only upon the vote of all the members and when the  
27 person becomes a party to the operating agreement.

1           (2) In the case of an assignee of a membership interest, upon  
2 compliance with subdivision (a) of Subsection 15117 (D) and at the time  
3 provided in and upon compliance with the articles of organization or  
4 the operating agreement or, if the articles of organization or operating  
5 agreement do not so provide, where the assignee becomes a party to the  
6 operating agreement.

7           (b) The operating agreement may provide for the termination in whole  
8 or in part of the membership interest or economic interest of a member in the  
9 limited liability company. If a member's economic interest in the limited  
10 liability company is terminated pursuant to the operating agreement, the  
11 member may demand and shall be entitled to receive a return of that  
12 member's contribution. Any provision in an operating agreement governing  
13 the termination of a member's interest and the return of a member's  
14 contribution shall be enforceable in accordance with its terms unless the  
15 member seeking to invalidate the provision establishes that the provision was  
16 unreasonable under the circumstances existing at the time the agreement was  
17 made.

18           **§15114 (B). Personal liability of members.** (a) Except as otherwise  
19 provided in Subsection 15116 (E), no member of a limited liability company  
20 shall be personally liable under any judgment of a court, or in any other  
21 manner, for any debt, obligation, or liability of the limited liability company,  
22 whether that liability or obligation arises in contract, tort, or otherwise,  
23 solely by reason of being a member of the limited liability company.

24           (b) A member of a limited liability company shall be personally liable  
25 under a judgment of a court or for any debt, obligation, or liability of the  
26 limited liability company, whether that liability or obligation arises in  
27 contract, tort, or otherwise, under the same or similar circumstances and to



1 the same extent as a shareholder of a corporation may be personally liable for  
2 any debt, obligation, or liability of the corporation; except that the failure to  
3 hold meetings of members or managers or the failure to observe formalities  
4 pertaining to the calling or conduct of meetings shall not be considered a  
5 factor tending to establish that the members have personal liability for any  
6 debt, obligation, or liability of the limited liability company where the articles  
7 of organization or operating agreement do not expressly require the holding  
8 of meetings of members or managers.

9 (c) Nothing in this section shall be construed to affect the liability of a  
10 member of a limited liability company to third parties for the member's  
11 participation in tortious conduct.

12 **§15114 (C). Creation of classes of members.** The articles of  
13 organization or the operating agreement may provide for the creation of  
14 classes of members having those relative rights, powers and duties as the  
15 articles of organization or operating agreement may provide, including  
16 rights, powers, and duties senior to other classes of members.

17 **§15114 (D). Voting by members.** (a) The articles of organization or a  
18 written operating agreement may provide to all or certain identified  
19 members or a specified class or group of members the right to vote separately  
20 or with all or any class or group of members on any matter. Voting by  
21 members may be on a per capita, number, financial interest, class, group, or  
22 any other basis. If no voting provision is contained in the articles of  
23 organization or written operating agreement:

24 (1) The members of a limited liability company shall vote in  
25 proportion to their interests in current profits of the limited liability  
26 company or, in the case of a member who has assigned his or her or its  
27 entire economic interest in the limited liability company to a person who

1 has not been admitted as a member, in proportion to the interest in  
2 current profits that the assigning member would have, had the  
3 assignment not been made.

4 (2) The following matters shall require the unanimous vote of all  
5 members:

6 (A) A decision to continue the business of the limited liability  
7 company after dissolution of the limited liability company  
8 pursuant to Section 15132.

9 (B) Approval of the transfer of a membership interest and  
10 admission of the assignee as a member of the limited liability  
11 company.

12 (C) Any amendment of the articles of organization or  
13 operating agreement.

14 (3) In all other matters in which a vote is required, a vote of  
15 a majority in interest of the members shall be sufficient.

16 (b) Notwithstanding any provision to the contrary in the articles of  
17 organization or operating agreement, in no event shall the articles of  
18 organization be amended by a vote of less than a majority in interest of the  
19 members.

20 (c) Notwithstanding any provision to the contrary in the articles of  
21 organization or operating agreement, members shall have the right to vote  
22 on a dissolution of the limited liability company as provided in subdivision (c)  
23 of Section 15132.

24 **§15114 (E). Meetings; Notice; Quorum; Proxies; Record date of**  
25 **members entitled to notice.** (a) Meetings of members may be held at any  
26 place, either within or without this territory, selected by the person or persons  
27 calling the meeting or as may be stated in or fixed in accordance with the

1 articles of organization or a written operating agreement. If no other place is  
2 stated or so fixed, all meetings shall be held at the principal executive office of  
3 the limited liability company.

4 (b) A meeting of the members may be called by any manager or by any  
5 member or members representing more than 10 percent of the interests of  
6 members for the purpose of addressing any matters on which the members  
7 may vote.

8 (c) (1) Whenever members are required or permitted to take any action  
9 at a meeting, a written notice of the meeting shall be given not less than 10  
10 days nor more than 60 days before the date of the meeting to each member  
11 entitled to vote at the meeting. The notice shall state the place, date, and  
12 hour of the meeting and the general nature of the business to be transacted.  
13 No other business may be transacted at this meeting.

14 (2) Any report or any notice of a members' meeting shall be given either  
15 personally or by mail or other means of written communication, addressed to  
16 the member at the address of the member appearing on the books of the  
17 limited liability company or given by the member to the limited liability  
18 company for the purpose of notice, or, if no address appears or is given, at the  
19 place where the principal executive office of the limited liability company is  
20 located or by publication at least once in a newspaper of general circulation in  
21 Guam. The notice or report shall be deemed to have been given at the time  
22 when delivered personally or deposited in the mail or sent by other means of  
23 written communication. An affidavit of mailing of any notice or report in  
24 accordance with the provisions of this article, executed by a manager, shall be  
25 prima facie evidence of the giving of the notice or report.

26 If any notice or report addressed to the member at the address of the member  
27 appearing on the books of the limited liability company is returned to the

1 limited liability company by the United States Postal Service marked to  
2 indicate that the United States Postal Service is unable to deliver the notice or  
3 report to the member at the address, all future notices or reports shall be  
4 deemed to have been duly given without further mailing if they are available  
5 for the member at the principal executive office of the limited liability  
6 company for a period of one year from the date of the giving of the notice or  
7 report to all other members.

8 (3) Upon written request to a manager by any person entitled to call a  
9 meeting of members, the manager shall immediately cause notice to be given  
10 to the members entitled to vote that a meeting will be held at a time requested  
11 by the person calling the meeting, not less than 10 days nor more than 60 days  
12 after the receipt of the request. If the notice is not given within 20 days after  
13 receipt of the request, the person entitled to call the meeting may give the  
14 notice or, upon the application of that person, the Superior Court of Guam  
15 shall summarily order the giving of the notice, after notice to the limited  
16 liability company affording it an opportunity to be heard. The court may issue  
17 any order as may be appropriate, including, without limitation, an order  
18 designating the time and place of the meeting, the record date for determina-  
19 tion of members entitled to vote, and the form of notice.

20 (d) When a members' meeting is adjourned to another time or place,  
21 unless the articles of organization or a written operating agreement  
22 otherwise require and, except as provided in this subdivision, notice need not  
23 be given of the adjourned meeting if the time and place thereof are  
24 announced at the meeting at which the adjournment is taken. At the  
25 adjourned meeting, the limited liability company may transact any business  
26 that may have been transacted at the original meeting. If the adjournment is  
27 for more than 45 days, or if after the adjournment a new record date is fixed

1 for the adjourned meeting, a notice of the adjourned meeting shall be given to  
2 each member of record entitled to vote at the meeting.

3 (e) The actions taken at any meeting of members, however called and  
4 noticed, and wherever held, have the same validity as if taken at a meeting  
5 duly held after regular call and notice, if a quorum is present either in person  
6 or by proxy, and if, either before or after the meeting, each of the members  
7 entitled to vote, not present in person or by proxy, signs a written waiver of  
8 notice or consents to the holding of the meeting or approves the minutes of  
9 the meeting. All waivers, consents, and approvals shall be filed with the  
10 limited liability company records or made a part of the minutes of the  
11 meeting. Attendance of a person at a meeting shall constitute a waiver of  
12 notice of the meeting, except when the person objects, at the beginning of the  
13 meeting, to the transaction of any business because the meeting is not  
14 lawfully called or convened. Attendance at a meeting is not a waiver of any  
15 right to object to the consideration of matters required by this title to be  
16 included in the notice but not so included, if the objection is expressly made at  
17 the meeting. Neither the business to be transacted nor the purpose of any  
18 meeting of members need be specified in any written waiver of notice, unless  
19 otherwise provided in the articles of organization or operating agreement,  
20 except as provided in subdivision (g).

21 (f) Members may participate in a meeting of the limited liability  
22 company through the use of conference telephones or similar communications  
23 equipment, as long as all members participating in the meeting can hear one  
24 another. Participation in a meeting pursuant to this provision constitutes  
25 presence in person at that meeting.

26 (g) Any action approved at a meeting, other than by unanimous  
27 approval of those entitled to vote, shall be valid only if the general nature of

1 the proposal so approved was stated in the notice of meeting or in any  
2 written waiver of notice.

3 (h) (1) A majority in interest of the members represented in person or by  
4 proxy shall constitute a quorum at a meeting of members.

5 (2) The members present at a duly called or held meeting at which a  
6 quorum is present may continue to transact business until adjournment,  
7 notwithstanding the loss of a quorum, if any action taken after loss of a  
8 quorum, other than adjournment, is approved by the requisite percentage of  
9 interests of members specified in this title or in the articles of organization or  
10 a written operating agreement.

11 (3) In the absence of a quorum, any meeting of members may be  
12 adjourned from time to time by the vote of a majority of the interests  
13 represented either in person or by proxy, but no other business may be  
14 transacted, except as provided in paragraph (2).

15 (i) (1) Any action that may be taken at any meeting of the members may  
16 be taken without a meeting if a consent in writing, setting forth the action so  
17 taken, is signed and delivered to the limited liability company within 60 days  
18 of the record date for that action by members having not less than the  
19 minimum number of votes that would be necessary to authorize or take that  
20 action at a meeting at which all members entitled to vote thereon were  
21 present and voted.

22 (2) Unless the consents of all members entitled to vote have been  
23 solicited in writing:

24 (A) Notice of any member approval of an amendment to the  
25 articles of organization or operating agreement, a dissolution of the  
26 limited liability company as provided in Section 15132 without a  
27 meeting by less than unanimous written consent shall be given at least

1 10 days before the consummation of the action authorized by such  
2 approval; and

3 (B) Prompt notice shall be given of the taking of any other action  
4 approved by members without a meeting by less than unanimous  
5 written consent, to those members entitled to vote who have not  
6 consented in writing.

7 (3) Any member giving a written consent, or the member's proxy  
8 holder, may revoke the consent by a writing received by the limited liability  
9 company prior to the time that written consents of members having the  
10 minimum number of votes that would be required to authorize the proposed  
11 action have been filed with the limited liability company, but may not do so  
12 thereafter. This revocation is effective upon its receipt at the office of the  
13 limited liability company required to be maintained pursuant to this Chapter.

14 (j) The use of proxies in connection with this section will be governed in  
15 the same manner as in the case of corporations formed under Title 18, Guam  
16 Code Annotated.

17 (k) In order that the limited liability company may determine the  
18 members of record entitled to notices of any meeting or to vote, or entitled to  
19 receive any distribution or to exercise any rights in respect of any other lawful  
20 action, a manager, or members representing more than 10 percent of the  
21 interests of members, may fix, in advance, a record date, that is not more  
22 than 60 days nor less than 10 days prior to the date of the meeting and not  
23 more than 60 days prior to any other action. If no record date is fixed:

24 (1) The record date for determining members entitled to notice of  
25 or to vote at a meeting of members shall be at the close of business on  
26 the business day next preceding the day on which notice is given or, if

1 notice is waived, at the close of business on the business day next  
2 preceding the day on which the meeting is held.

3 (2) The record date for determining members entitled to give  
4 consent to limited liability company action in writing without a meeting  
5 shall be the day on which the first written consent is given.

6 (3) The record date for determining members for any other  
7 purpose shall be at the close of business on the day on which the  
8 managers adopt the resolution relating thereto, or the 60th day prior to  
9 the date of the other action, whichever is later.

10 (4) The determination of members of record entitled to notice of  
11 or to vote at a meeting of members shall apply to any adjournment of  
12 the meeting unless a manager or the members who called the meeting  
13 fix a new record date for the adjourned meeting, but the manager or the  
14 members who called the meeting shall fix a new record date if the  
15 meeting is adjourned for more than 45 days from the date set for the  
16 original meeting.

17 **§15114 (F). Issuance of certificate of interest.** (a) The operating  
18 agreement may provide that the interest of a member or assignee in a limited  
19 liability company may be evidenced by a certificate of interest issued by the  
20 limited liability company, and may make other provisions not inconsistent  
21 with this Title with respect to the transfer of interests represented by those  
22 certificates or with respect to the form of those certificates.

23 (b) The operating agreement may provide that the certificate may be  
24 signed by a manager or officer of the limited liability company, whose  
25 signature may be a facsimile. In case any manager or officer of the limited  
26 liability company who has signed or whose facsimile signature has been  
27 placed upon a certificate has to be a manager or officer before the certificate



1 is issued, it may be issued by the limited liability company with the same effect  
2 as if the person were a manager or officer at the date of issue. If a certificate  
3 is worn out or lost, it may be renewed on production of the worn out or lost  
4 certificate or on satisfactory proof of its loss together with such indemnity as  
5 may be required by the manager or managers or a resolution of members.

6 **§15114 (G). Access to records and documents by members; Inspection**  
7 **and copying.** (a) Upon the request of a member or a holder of an economic  
8 interest, for purposes reasonably related to the interest of that person as a  
9 member or a holder of an economic interest, a manager shall promptly  
10 deliver to the member or holder of an economic interest, at the expense of the  
11 limited liability company, a copy of the information required to be maintained  
12 by paragraphs (1), (2), and (4) of subdivision (a) of Section 15115 (K), and any  
13 written operating agreement of the limited liability company.

14 (b) Each member, manager, and holder of an economic interest has the  
15 right upon reasonable request, for purposes reasonably related to the interest  
16 of that person as a member, manager, or holder of an economic interest, to  
17 each of the following:

18 (1) To inspect and copy during normal business hours any of the  
19 records required to be maintained by Section 15115 (K).

20 (2) To obtain from a manager promptly after becoming available,  
21 a copy of the limited liability company's federal, state, and local income  
22 tax or information returns for each year.

23 (c) In the case of any limited liability company with more than 35  
24 members:

25 (1) A manager shall cause an annual report to be sent to each of  
26 the members not later than 120 days after the close of the fiscal year.  
27 That report shall contain a balance sheet as of the end of the fiscal year

1 and an income statement and statement of changes in financial position  
2 for the fiscal year.

3 (2) Members representing at least 5 percent of the voting  
4 interests of members, or three or more members, may make a written  
5 request to a manager for an income statement of the limited liability  
6 company for the initial three-month, six-month, or nine-month period  
7 of the current fiscal year ended more than 30 days prior to the date of  
8 the request, and a balance sheet of the limited liability company as of the  
9 end of that period. The statement shall be delivered or mailed to the  
10 members within 30 days thereafter.

11 (3) The financial statements referred to in this section shall be  
12 accompanied by the report thereon, if any, of the independent  
13 accountants engaged by the limited liability company or, if there is no  
14 report, the certificate of a manager of the limited liability company that  
15 the financial statements were prepared without audit from the books  
16 and records of the limited liability company.

17 (d) A manager shall promptly furnish to a member a copy of any  
18 amendment to the articles of organization or operating agreement executed  
19 by a manager pursuant to a power of attorney from the member.

20 (e) The limited liability company shall send or cause to be sent to each  
21 member or holder of an economic interest within 90 days after the end of each  
22 taxable year such information as is necessary to complete federal and state  
23 income tax or information returns, and, in the case of a limited liability  
24 company with 35 or fewer members, a copy of the limited liability company's  
25 federal, state, and local income tax or information returns for the year.

26 (f) In addition to any other remedies, a court of competent jurisdiction  
27 may enforce the duty of making and mailing or delivering the information

1 and all statements required by this section and, for good cause shown, may  
2 extend the time therefor.

3 (g) In any action under this section, if the court finds the failure of the  
4 limited liability company to comply with the requirements of this section is  
5 without justification, the court may award an amount sufficient to reimburse  
6 the person bringing the action for the reasonable expenses incurred by that  
7 person, including attorneys' fees, in connection with the action or proceeding.

8 (h) Any waiver of the rights provided in this section shall be  
9 unenforceable.

10 (i) Any request, inspection, or copying by a member or holder of an  
11 economic interest may be made by that person or by that person's agent or  
12 attorney.

13 **§15114 (H). Complaint by members of failure to comply with law or**  
14 **articles of organization; Action by Attorney General.** (a) Upon complaint  
15 that a limited liability company is failing to comply with the provisions of  
16 Section 15114 (G), or to afford to the members rights given to them in the  
17 articles of organization or operating agreement, the Attorney General may,  
18 in the name of the people of the Territory of Guam, send to the office required  
19 to be maintained pursuant to Section 15115 (J), notice of the complaint.

20 (b) If the answer of the limited liability company is not received within  
21 30 days of the date the notice was transmitted, or if the answer is not  
22 satisfactory, and if the enforcement of the rights of the aggrieved persons by  
23 private civil action, by class action, or otherwise, would be so burdensome or  
24 expensive as to be impracticable, the Attorney General may institute,  
25 maintain, or intervene in any court of competent jurisdiction or before any  
26 administrative agency for relief by way of injunction, the dissolution of  
27 entities, the appointment of receivers, or any other temporary, preliminary,

1 provisional, or final remedies as may be appropriate to protect the rights of  
2 members or to restore the position of the members for the failure to comply  
3 with the requirements of Section 15114 (G) or the articles of organization or  
4 the operating agreement. In any action, suit, or proceeding, there may be  
5 joined as parties all persons and entities responsible for or affected by the  
6 activity.

7 **§15115. Management of Limited Liability Company. §15115 (A).**  
8 **Business and affairs of company managed by members.** Unless the articles of  
9 organization include the statement referred to in subdivision (b) of Section  
10 15115 (B) vesting management of the limited liability company in a manager  
11 or managers, the business and affairs of a limited liability company shall be  
12 managed by the members subject to any provisions of the articles of  
13 organization or operating agreement restricting or enlarging the  
14 management rights and duties of any member or class of members. If  
15 management is vested in the members, each of the members shall have the  
16 same rights and be subject to all duties and obligations of managers as set  
17 forth in this Chapter.

18 **§15115 (B). Management by non-members.** (a) The articles of  
19 organization may provide that the business and affairs of the limited liability  
20 company shall be managed by or under the authority of one or more  
21 managers who may, but need not, be members.

22 (b) If the limited liability company is to be managed by one or more  
23 managers and not by all its members, the articles of organization shall  
24 contain a statement to that effect. But if management is vested in only one  
25 manager, the articles of organization shall so state.

1 (c) The articles of organization or operating agreement may prescribe  
2 the number and qualifications of managers who may, but need not, be natural  
3 persons.

4 **§15115 (C). Management vested in manager pursuant to articles of**  
5 **organization; Election; Removal; Resignation.** If management of the limited  
6 liability company is vested in one or more managers pursuant to a statement  
7 in the articles of organization:

8 (a) Election of managers to fill initial positions or vacancies shall be by  
9 the affirmative vote of a majority in interest of the members.

10 (b) Any or all managers may be removed, with or without cause, by the  
11 vote of a majority in interest of the members at a meeting called expressly for  
12 that purpose. Any removal shall be without prejudice to the rights, if any, of  
13 the manager under any contract of employment.

14 (c) Any manager may resign as a manager at any time upon written  
15 notice to the limited liability company, without prejudice to the rights, if any,  
16 of the limited liability company under any contract to which the manager is a  
17 party.

18 (d) Unless they have earlier resigned or been removed, managers shall  
19 hold office until the expiration of the term for which they were elected or, if  
20 no term was provided, until their successors have been elected and qualified.

21 **§15115 (D). Fiduciary duties of manager.** The fiduciary duties a  
22 manager owes to the limited liability company and to its members are those  
23 of a partner to a partnership and to the partners of the partnership.

24 **§15115 (E). Appointment of officers; Authority of signing officers in**  
25 **documents.** (a) A written operating agreement may provide for the  
26 appointment of officers, including, without limitation, a chairperson or a  
27 president, or both, a secretary, a chief financial officer, and any other officers

1 with such titles, powers, and duties as shall be specified in the articles of  
2 organization or operating agreement, or determined by the managers or  
3 members. An officer may, but need not, be a member or manager of the  
4 limited liability company, and any number of offices may be held by the same  
5 person.

6 (b) Officers, if any, shall be appointed in accordance with the written  
7 operating agreement or, if no such provision is made in the operating  
8 agreement, any officers shall be appointed by the managers and shall serve at  
9 the pleasure of the managers, subject to the rights, if any, of an officer under  
10 any contract of employment. Any officer may resign at any time upon written  
11 notice to the limited liability company without prejudice to the rights, if any,  
12 of the limited liability company under any contract to which the officer is a  
13 party.

14 (c) Subject to the provisions of this Chapter, any note, mortgage,  
15 evidence of indebtedness, contract, certificate, statement, conveyance, or  
16 other instrument in writing, and any assignment or endorsement thereof,  
17 executed or entered into between any limited liability company and any other  
18 person, when signed by the chairman of the board, the president or any vice  
19 president, and any secretary, any assistant secretary, the chief financial  
20 officer, or any assistant treasurer of the limited liability company, is not  
21 invalidated as to the limited liability company by any lack of authority of the  
22 signing officers in the absence of actual knowledge on the part of the other  
23 person that the signing officers had no authority to execute the same.

24 **§15115 (F). Indemnification of manager, member, officer, and others;**  
25 **Purchase of insurance.** (a) Except for a breach of the duty set forth in  
26 Subsection 15115 (D), the articles of organization or written operating  
27 agreement of a limited liability company may provide for indemnification of

1 any person, including, without limitation, any manager, member, officer,  
2 employee, or agent of the limited liability company, against judgments,  
3 settlements, penalties, fines, or expenses of any kind incurred as a result of  
4 acting in that capacity.

5 (b) A limited liability company shall have power to purchase and  
6 maintain insurance on behalf of any manager, member, officer, employee, or  
7 agent of the limited liability company against any liability asserted against or  
8 incurred by the person in that capacity or arising out of the person's status as  
9 a manager, member, officer, employee, or agent of the limited liability  
10 company.

11 **§15115 (G). More than one manager; Decisions by majority vote.**  
12 Except as otherwise provided in the articles of organization or the operating  
13 agreement, if the members have appointed more than one manager, decisions  
14 of the managers shall be made by majority vote of the managers if at a  
15 meeting, or by unanimous written consent.

16 **§15115 (H). Member as agent of company unless otherwise provided;**  
17 **Manager as agent.** (a) Unless the statement referred to in subdivision (b) of  
18 Subsection 15115 (B) is included in the articles of organization, every member  
19 is an agent of the limited liability company for the purpose of its business or  
20 affairs, and the act of any member, including, but not limited to, the execution  
21 in the name of the limited liability company of any instrument, for the  
22 apparent purpose of carrying on in the usual way the business or affairs of  
23 the limited liability company of which that person is a member, binds the  
24 limited liability company, unless the member so acting has, in fact, no  
25 authority to act for the limited liability company in the particular matter, and  
26 the person with whom the member is dealing has actual knowledge of the fact  
27 that the member has no such authority.

1 (b) If the articles of organization contain the statement referred to in  
2 subdivision (b) of Subsection 15115 (B) that management of the limited  
3 liability company is vested in a manager or managers, then:

4 (1) No member, acting solely in the capacity of a member, is an  
5 agent of the limited liability company nor can any member bind, nor  
6 execute any instrument on behalf of, the limited liability company.

7 (2) Every manager is an agent of the limited liability company for  
8 the purpose of its business or affairs, and the act of any manager,  
9 including, but not limited to, the execution in the name of the limited  
10 liability company of any instrument, for apparently carrying on in the  
11 usual way the business or affairs of the limited liability company of  
12 which the person is the manager, binds the limited liability company,  
13 unless the manager so acting has, in fact, no authority to act for the  
14 limited liability company in the particular matter, and the person with  
15 whom the manager is dealing has actual knowledge of the fact that the  
16 manager has no such authority.

17 (c) No act of a manager or member in contravention of a restriction on  
18 authority shall bind the limited liability company to persons having actual  
19 knowledge of the restriction.

20 (d) Notwithstanding the provisions of subdivision (c) of this section,  
21 and subject to the provisions of this Chapter, any note, mortgage, evidence of  
22 indebtedness, contract, certificate, statement, conveyance, or other  
23 instrument in writing, and any assignment or endorsement thereof, executed  
24 or entered into between any limited liability company and any other person,  
25 when signed by at least two managers (or by one manager in the case of a  
26 limited liability company whose articles of organization state that it is  
27 managed by only one manager), is not invalidated as to the limited liability



1 company by any lack of authority of the signing managers or manager in the  
2 absence of actual knowledge on the part of the other person that the signing  
3 managers or manager had no authority to execute the same.

4 **§15115 (I). Personal liability of manager or officer.** No person who is a  
5 manager or officer or both a manager and officer of a limited liability  
6 company shall be personally liable under any judgment of a court, or in any  
7 other manner, for any debt, obligation, or liability of the limited liability  
8 company, whether that liability or obligation arises in contract, tort, or  
9 otherwise, solely by reason of being a manager or officer, or both a manager  
10 and officer of the limited liability company.

11 **§15115 (J). Office to maintain records; Agent for service of process.**  
12 Each limited liability company, through its manager(s), shall continuously  
13 maintain in this territory each of the following:

14 (a) An office at which shall be maintained the records required by  
15 Subsection 15115 (K).

16 (b) An agent in this territory for service of process on the limited liability  
17 company.

18 **§15115 (K). Records and documents required to be kept.** (a) Each  
19 limited liability company, through its manager(s), shall maintain at the office  
20 referred to in subdivision (a) of Subsection 15115 (J) all of the following:

21 (1) A current list of the full name and last known business or  
22 residence address of each member and of each holder of an economic  
23 interest in the limited liability company set forth in alphabetical order,  
24 together with the contribution and the share in profits and losses of  
25 each member and holder of an economic interest.

1           (2) If the articles of organization contain the statement described  
2 in subdivision (b) of Section 15115 (B), a current list of the full name and  
3 business or residence address of each manager.

4           (3) A copy of the articles of organization and all amendments  
5 thereto, together with any powers of attorney pursuant to which the  
6 articles of organization or any amendments thereto were executed.

7           (4) Copies of the limited liability company's federal, state, and  
8 local income tax, or information returns and reports, if any, for the six  
9 most recent taxable years.

10          (5) A copy of the limited liability company's operating agreement,  
11 if in writing, and any amendments thereto, together with any powers of  
12 attorney pursuant to which any written operating agreement or any  
13 amendments thereto were executed.

14          (6) Copies of the financial statements of the limited liability  
15 company, if any, for the six most recent fiscal years.

16          (7) The books and records of the limited liability company as they  
17 relate to the internal affairs of the limited liability company for at least  
18 the current and past four fiscal years.

19          (b) Upon request of an assessor, a domestic or foreign limited liability  
20 company owning, claiming, possessing, or controlling property in this  
21 territory subject to local assessment shall make available at the limited  
22 liability company's principal office in Guam, or at the office required to be  
23 kept pursuant to this Chapter, or at a place mutually acceptable to the  
24 assessor and the limited liability company, a true copy of business records  
25 relevant to the amount, cost, and value of all property that it owns, claims,  
26 possesses, or controls within the territory of Guam.

1           **§15116. Distributions and Withdrawals. §15116 (A). Distributions of**  
2 **money or property to members.** Distributions of the money or property of a  
3 limited liability company shall be made to the members and to any classes of  
4 members in the manner provided in the operating agreement. If the  
5 operating agreement does not otherwise provide, distributions that are a  
6 return of capital shall be made in proportion to the contributions made by  
7 each member and distributions that are not a return of capital shall be made  
8 in proportion to the allocation of profits.

9           **§15116 (B). Entitlement of member to receive distributions prior to**  
10 **withdrawal or dissolution.** Except as provided in this article, a member is  
11 entitled to receive distributions from a limited liability company before the  
12 withdrawal of that member from the limited liability company and before the  
13 dissolution and winding up thereof, subject to the limitations contained in  
14 Section 15116 (E), to the extent and at the times or upon the happening of the  
15 events specified in the operating agreement.

16           **§15116 (C). Withdrawal of member; Notice; Entitlement to distribution.**

17 (a) A member may withdraw from a limited liability company at the time or  
18 upon the happening of events specified in the articles of organization or  
19 operating agreement. A written operating agreement may provide that a  
20 member may not withdraw the member's contribution from the limited  
21 liability company, or may provide specific remedies in the event of a wrongful  
22 withdrawal of a member's contribution, prior to the dissolution and winding  
23 up of the limited liability company. If the articles of organization or a written  
24 operating agreement do not specify the time or the events upon the  
25 happening of which a member may withdraw, a member may withdraw from  
26 the limited liability company either:

1           (1) Upon not less than six months' prior written notice to each  
2 member at the addresses set forth in the list required to be kept pursuant  
3 to this Chapter.

4           (2) If any amendment to the articles of organization or operating  
5 agreement that is adopted over the member's written dissent adversely  
6 affects the rights or preferences of the dissenting member's membership  
7 interest in any of the ways described in subparagraph (A), (B), (C), or (E)  
8 below, in which event the withdrawal shall be deemed to have occurred  
9 as of the effective date of the amendment, if the member gives notice to  
10 the limited liability company not more than 60 days after the date of the  
11 amendment. In valuing the member's distribution pursuant to  
12 subdivision (c), there shall be excluded any depreciation in anticipation  
13 of the amendment. An amendment that does any of the following is  
14 subject to this paragraph:

15                   (A) Altering or amending that member's right to receive a  
16 distribution.

17                   (B) Altering or abolishing that member's right to voluntarily  
18 withdraw or retire.

19                   (C) Altering or abolishing that member's right to vote on  
20 any matter, except as the rights may be altered or abolished  
21 through the acceptance of contributions or the making of  
22 contribution agreements.

23                   (D) Altering or abolishing that member's preemptive right  
24 to make contributions.

25                   (E) Establishing or changing the conditions for or  
26 consequences of expulsion.

1                   No member withdrawing under this paragraph shall be  
2                   liable for damages for the breach of any agreement not to withdraw.

3                   (b) Notwithstanding the provisions of subdivision (a), any member who  
4                   is under an obligation to render services to the limited liability company may  
5                   withdraw as a member at any time upon written notice to the limited liability  
6                   company, without prejudice to the rights, if any, of the limited liability  
7                   company or the other members under any contract to which the withdrawing  
8                   member is a party. Any provision in an operating agreement governing the  
9                   withdrawal of services by a member shall be enforceable in accordance with  
10                  its terms unless the member seeking to invalidate the provision establishes  
11                  that the provision was unreasonable under the circumstances existing at the  
12                  time the agreement was made.

13                  (c) Upon a permitted withdrawal that does not cause dissolution of the  
14                  limited liability company, any withdrawing member is entitled to receive any  
15                  distribution to which that member is entitled under the operating agreement  
16                  and, if not otherwise provided in the operating agreement, the member is  
17                  entitled to receive, within a reasonable time after withdrawal, the fair  
18                  market value of the member's interest in the limited liability company as of  
19                  the date of withdrawal based upon the member's right to share in  
20                  distributions from the limited liability company.

21                  (d) Subject to Subsection 15116 (E) and other provisions of this Chapter,  
22                  at the time a member becomes entitled to receive a distribution, the member  
23                  has the status of, and is entitled to all remedies available to, a creditor of the  
24                  limited liability company with respect to the distribution. An operating  
25                  agreement may provide for the establishment of a record date with respect to  
26                  sharing of profits and distributions from a limited liability company.

27                  **§15116 (D). Distribution in form other than money; Distribution of asset.**

1 (a) A member, regardless of the nature of the member's contribution, has no  
2 right to demand and receive any distribution from a limited liability company  
3 in any form other than money.

4 (b) No member may be compelled to accept from a limited liability  
5 company a distribution of any asset in kind in lieu of a proportionate  
6 distribution of money being made to other members.

7 (c) Except upon a dissolution and winding up of a limited liability  
8 company, no member may be compelled to accept a distribution of any asset in  
9 kind.

10 **§15116 (E). Requirements to make distribution.** (a) No distribution shall  
11 be made if, after giving effect to the distribution:

12 (1) The limited liability company would not be able to pay its  
13 debts as they become due in the usual course of business.

14 (2) The limited liability company's total assets would be less than  
15 the sum of its total liabilities plus, unless the operating agreement  
16 provides otherwise, the amount that would be needed, if the limited  
17 liability company were to be dissolved at the time of the distribution, to  
18 satisfy the preferential rights of other members upon dissolution that  
19 are superior to the rights of the member receiving the distribution.

20 (b) The limited liability company may base a determination that a  
21 distribution is not prohibited under subdivision (a) on any of the following:

22 (1) Financial statements prepared on the basis of accounting  
23 practices and principles that are reasonable in the circumstances.

24 (2) A fair valuation.

25 (3) Any other method that is reasonable in the circumstances.

26 (c) Except as provided in subdivision (e), the effect of a distribution  
27 under subdivision (a) is measured as of (1) the date the distribution is

1 authorized if the payment occurs within 120 days after the date of  
2 authorization, or (2) the date payment is made if it occurs more than 120 days  
3 after the date of authorization.

4 (d) (1) If terms of the indebtedness provide that payment of principal  
5 and interest is to be made only if, and to the extent that, payment of a  
6 distribution to members could then be made under this section, indebtedness  
7 of a limited liability company, including indebtedness issued as a distribution,  
8 is not a liability for purposes of determinations made under subdivision (b).

9 (2) If the indebtedness is issued as a distribution, each payment of  
10 principal or interest on the indebtedness is treated as a distribution, the effect  
11 of which is measured on the date the payment is actually made.

12 (e) A member or assignee of a member is obligated to return a  
13 distribution from a limited liability company to the extent that (1) the member  
14 or assignee had actual knowledge of facts indicating the impropriety of the  
15 distribution, and (2) immediately after giving effect to the distribution, and  
16 notwithstanding the compromise of an obligation referred to in subdivision  
17 (b) of Subsection 15113 (B), all liabilities of the limited liability company, other  
18 than liabilities to members or assignees on account of their interest in the  
19 limited liability company and liabilities as to which recourse of creditors is  
20 limited to specified property of the limited liability company, exceed the fair  
21 market value of the limited liability company's assets, provided that the fair  
22 market value of any property that is subject to a liability as to which recourse  
23 of creditors is so limited shall be included in the limited liability company  
24 assets only to the extent that the fair market value of the property exceeds  
25 this liability.

1 (f) A cause of action with respect to an obligation to return a  
2 distribution pursuant to subdivision (e) is extinguished unless the action is  
3 brought within four years after the distribution is made.

4 **§15116 (F). Personal liability of manager or member who votes for**  
5 **unlawful distribution.** (a) A member or manager who votes for a distribution  
6 in violation of the operating agreement or Subsection 15116 (E) or other  
7 appropriate provisions of this Chapter, is personally liable to the limited  
8 liability company for the amount of the distribution that exceeds what could  
9 have been distributed without violating those sections of this Chapter or the  
10 operating agreement if it is established that the member or manager did not  
11 act in compliance with those sections.

12 (b) Each member or manager held liable under subdivision (a) for an  
13 unlawful distribution is entitled to compel contribution:

14 (1) From each other member or manager who could be held liable  
15 under subdivision (a) for the unlawful distribution.

16 (2) From each member for the amount the member received with  
17 knowledge of facts indicating that the distribution was made in  
18 violation of Subsection 15116 (E) or other appropriate sections of this  
19 Chapter or the operating agreement.

20 (c) A proceeding under this section is barred unless it is commenced  
21 within four years after the date on which the effect of the distribution is  
22 measured under Subsection 15116 (E).

23 **§15117. Interest in Limited Liability Company; Assignment of interests.**

24 **§15117 (A). Membership interest as personal property.** A membership  
25 interest and an economic interest in a limited liability company constitute  
26 personal property of the member or assignee. A member or assignee has no  
27 interest in specific limited liability company property.



1           **§15117 (B). Assignment of membership interest or economic interest;**  
2 **Pledge or lien against membership interest.** (a) Except as provided in the  
3 articles of organization or the operating agreement:

4           (1) A membership interest or an economic interest is assignable in  
5 whole or in part, provided, however, that no membership interest may  
6 be assigned without the unanimous vote of members required pursuant  
7 to Subsection 15117 (D).

8           (2) An assignment of an economic interest does not of itself  
9 dissolve the limited liability company or, other than as set forth in the  
10 articles of organization or operating agreement, entitle the assignee to  
11 vote or participate in the management and affairs of the limited liability  
12 company or to become or exercise any rights of a member.

13           (3) An assignment of an economic interest merely entitles the  
14 assignee to receive, to the extent assigned, the distributions and the  
15 allocations of income, gains, losses, deductions, credit, or similar items  
16 to which the assignor would be entitled.

17           (4) Upon the assignment of all or part of an economic interest, the  
18 assignor shall provide the manager or member of the limited liability  
19 company responsible for maintaining its books and records with the  
20 name and address of the assignee, together with details of the interest  
21 assigned. Upon receipt of that notice, the limited liability company shall  
22 amend the list required by paragraph (1) of subdivision (a) of Section  
23 15115 (K) accordingly. Until the assignee of that interest becomes a  
24 member, the assignor continues to be a member and to have the power  
25 to exercise any rights and powers of a member, including the right to  
26 vote which, in the case of a member who has assigned his entire  
27 economic interest in the limited liability company, shall include the right

1 to vote in proportion to the interest in current profits that the assigning  
2 member would have, had the assignment not been made.

3 (b) Except to the extent assumed by agreement, until an assignee of an  
4 economic interest in a limited liability company becomes a member, the  
5 assignee shall have no liability to the limited liability company under Section  
6 15113 and Section 15116 solely as a result of the assignment. The assignor of  
7 a membership interest is not released from liability as a member solely as a  
8 result of the assignment.

9 (c) The pledge of, or granting of, a security interest, lien, or other  
10 encumbrance in or against any or all of the membership interest of a member  
11 shall not cause the member to cease to be a member or to grant to anyone else  
12 the power to exercise any rights or powers of a member.

13 **§15117 (C). Unsatisfied amount of judgment to be charged against**  
14 **membership interest.** On application to a court of competent jurisdiction by  
15 any judgment creditor of a member, the court may charge the membership  
16 interest of the member with payment of the unsatisfied amount of the  
17 judgment with interest. To the extent so charged, the judgment creditor has  
18 only the rights of an assignee of the membership interest. This section does  
19 not deprive any member of the benefit of any exemption laws applicable to  
20 the member's membership interest.

21 **§15117 (D). Membership of assignee.** (a) Except as otherwise provided  
22 in the articles of organization or the operating agreement, an assignee of an  
23 interest in a limited liability company may become a member only if the other  
24 members unanimously vote in favor of the assignee's admission to the limited  
25 liability company as a member.

26 (b) An assignee who has become a member has, to the extent assigned,  
27 the rights and powers, and is subject to the restrictions and liabilities, of a

1 member under the articles of organization, any operating agreement, and  
2 this title. An assignee who becomes a member also is liable for the obligations  
3 of the assignor to make contributions as provided in Section 15113, and to  
4 return any unlawful distributions made to the assignee under Section 15116.  
5 However, the assignee is not obligated for liabilities unknown to the assignee  
6 at the time the assignee became a member and that could not be ascertained  
7 from the articles of organization or operating agreement.

8 (c) Whether or not an assignee of a membership interest becomes a  
9 member, the assignor is not released from the assignor's liability to the  
10 limited liability company under Sections 15113 and 15116.

11 **§15117 (E). Deceased member; Member adjudged incompetent by court.**

12 (a) If a member who is an individual dies or is adjudged by a court of  
13 competent jurisdiction to be incompetent to manage the member's person or  
14 property, the member's executor, administrator, guardian, conservator, or  
15 other legal representative may exercise all of the member's rights for the  
16 purpose of settling the member's estate or administering the member's  
17 property, including any power the member had under the articles of organi-  
18 zation or an operating agreement to give an assignee the right to become a  
19 member.

20 (b) If a member is a corporation, trust, or other entity and is dissolved  
21 or terminated, the powers of that member may be exercised by its legal  
22 representative or successor.

23 **§15118. Liability of members and managers.** Neither the members of a  
24 limited liability company nor the managers of a limited liability company  
25 managed by a manager or managers are liable under a judgment, decree, or  
26 order of a court, or in any other manner, for a debt, obligation, or liability of  
27 the limited liability company. If members or managers are professionals who

1 will organize their business or service as a limited liability company, they will  
2 still remain liable for their professional performance.

3       **§15119. Unauthorized assumption of powers.** All persons who assume  
4 to act as a limited liability company without authority to do shall be jointly  
5 and severally liable for all debts and liabilities.

6       **§15120. Dissolution.** (a) A limited liability company organized under  
7 this Chapter shall be dissolved upon the occurrence of any of the following  
8 events:

9               (1) When the period fixed for the duration of the limited liability  
10 company expires.

11               (2) By the unanimous written agreement of all members.

12               (3) Upon the death, retirement, resignation, expulsion,  
13 bankruptcy, or dissolution of a member or upon the occurrence of any  
14 other event which terminates the continued membership of a member in  
15 the limited liability company, unless the business of the limited liability  
16 company is continued by the consent of all the remaining members or  
17 under a right to continue stated in the articles of organization of the  
18 liability company.

19       (b) As soon as possible following the occurrence of any *of* the events  
20 specified in Subsection (a) which effects the dissolution of the limited liability  
21 company, the limited liability company shall execute a statement of intent to  
22 dissolve in the form prescribed by the Department of Revenue and Taxation.

23       **§15121. Filing of statement of intent to dissolve.** The statement of  
24 intent to dissolve a limited liability company shall be delivered to the  
25 Department of Revenue and Taxation. If the Department of Revenue and  
26 Taxation finds that such statement conforms to law, it shall, when all fees

1 and license taxes have been paid as prescribed in this Chapter, file the articles  
2 of dissolution in accordance with this Chapter.

3 **§15122. Effect of filing of statement of intent to dissolve; procedure**  
4 **after filing such statement.** (a) Upon the filing by the Department of Revenue  
5 and Taxation of a statement of intent to dissolve, the limited liability  
6 company shall cease to carry on its business, except insofar as may be  
7 necessary for the winding up of its business, but its separate existence shall  
8 continue until a certificate of dissolution has been issued by the Department  
9 of Revenue and Taxation or until a decree dissolving the limited liability  
10 company has been entered by a court of competent jurisdiction.

11 (b) Within 20 days after the Department of Revenue and Taxation has  
12 filed a statement of intent to dissolve, the limited liability company shall  
13 immediately cause notice thereof to be mailed to each creditor of, and  
14 claimant against, the limited liability company.

15 (c) The limited liability company shall proceed to collect its assets;  
16 convey and dispose of such of its properties as are not to be distributed in kind  
17 to its members; pay, satisfy, or discharge its liabilities and obligations or make  
18 adequate provisions for the payment or discharge thereof; and do all other  
19 acts required to liquidate its business and affairs. After paying or discharging  
20 all its obligations or making the adequate provision for payment or discharge  
21 thereof, the limited liability company may distribute the remainder of its  
22 assets, either in cash or in kind, among its members according to their  
23 respective rights and interests.

24 **§15123. Distribution of assets upon dissolution.** (a) In settling accounts  
25 after dissolution, the liabilities of the limited liability company shall be  
26 entitled to payment in the following order:

1           (1) Those liabilities to creditors, in the order of priority as  
2 provided by law, except those liabilities to members of the limited  
3 liability company on account of their contributions;

4           (2) Those liabilities to members of the limited liability company in  
5 respect of their shares of the profits and other compensation by way of  
6 income on their contributions; and

7           (3) Those liabilities to members of the limited liability company in  
8 respect of their contributions to capital.

9           (b) Subject to any statement in the regulations, members shall share in  
10 the limited liability company assets in respect to their claims for capital and in  
11 respect to their claims for profits or for compensation by way of income on  
12 their contributions, respectively, in proportion to the respective amounts of  
13 the claims.

14           **§15124. Articles of dissolution.** When all debts, liabilities, and  
15 obligations of the limited liability company have been paid or discharged, or  
16 adequate provision has been made therefore, and all of the remaining  
17 property and assets of the limited liability company have been distributed to  
18 the members, articles of dissolution shall be executed and verified by the  
19 person signing the statement, which statement shall set forth:

20           (a) The name of the limited liability company.

21           (b) The fact that the Department of Revenue and Taxation has  
22 therefore filed a statement of intent to dissolve the company and the date on  
23 which such statement was filed.

24           (c) The fact that all debts, obligations, and liabilities have been paid or  
25 discharged, or that adequate provision has been made therefore.

1 (d) The fact that all the remaining property and assets have been  
2 distributed among its members in accordance with their respective rights and  
3 interests.

4 (e) The fact that there are no suits pending against the company in any  
5 court or that adequate provision has been made for the satisfaction of any  
6 judgment, order, or decree which may be entered against it in any pending  
7 suit.

8 **§15125. Filing of articles of dissolution.** (a) The articles of dissolution of  
9 the limited liability company shall be delivered to the Department of Revenue  
10 and Taxation. If the Department of Revenue and Taxation finds that such  
11 articles of dissolution conform to law, it shall, when all fees and license taxes  
12 have been paid as prescribed in this Chapter, file the statement of intent to  
13 dissolve the company in accordance with this Chapter. The Department of  
14 Revenue and Taxation shall then issue a certificate of dissolution.

15 (b) The certificate of dissolution shall be returned to the representative  
16 of the dissolved limited liability company. Upon the issuance of such  
17 certificate of dissolution, the existence of the company shall cease, except for  
18 the purpose of suits, other proceedings in this Chapter. The manager or  
19 managers in office at the time of dissolution, or the survivors of them, or, if  
20 none, the members, shall thereafter be trustees for the members and creditors  
21 of the dissolved limited liability company; and as such the trustees shall have  
22 authority to distribute any company property discovered after dissolution, to  
23 convey real estate, and to take such other action as may be necessary on  
24 behalf of and in the name of such limited liability company.

25 **§15126. Cancellation of certificate of organization.** The certificate of  
26 organization of a limited liability company shall be canceled by the

1 Department of Revenue and Taxation upon issuance of the certificate of  
2 dissolution.

3 **§15127. Involuntary dissolution.** (a) A limited liability company may be  
4 dissolved involuntarily by a decree of the Superior Court of Guam in an  
5 action filed by the Attorney General's Office when it is established that the  
6 limited liability company:

7 (1) Has procured its articles of organization through fraud;

8 (2) Has exceeded the authority conferred upon it by law;

9 (3) Has committed a violation of any provision of law whereby it  
10 has forfeited its charter;

11 (4) Has carried on, conducted, or transacted its business in a  
12 persistently fraudulent or illegal manner; or

13 (5) By the abuse of its powers contrary to the public policy of this  
14 territory, has become liable to be dissolved.

15 (b) A limited liability company may be dissolved involuntarily by order  
16 of the Department of Revenue and Taxation when the Department of  
17 Revenue and Taxation has determined that the limited liability company:

18 (1) Has failed to file its annual report or pay the filing fee for the  
19 annual report within the time required by this Chapter;

20 (2) Has failed for 30 days to appoint and maintain a registered  
21 agent in this territory; or

22 (3) Has failed for 30 days after change of its registered office or  
23 registered agent to file in the office of the Department of Revenue and  
24 Taxation a statement of such change.

25 (c) No limited liability company shall be involuntarily dissolved under  
26 Subsection (b) unless the Department of Revenue and Taxation has given the  
27 limited liability company not less than 90 days notice of the proposed



1 dissolution, stating the reasons therefore and addressed to its registered  
2 office or to its principal place of business, and the limited liability company  
3 has failed prior to such involuntary dissolution to correct the reasons for the  
4 proposed involuntary dissolution.

5 (d) If the Department of Revenue and Taxation involuntarily dissolves  
6 any limited liability company under the provisions of Subsection (b), it shall  
7 issue a certificate to such effect and mail the certificate to the limited liability  
8 company at its registered office or its principal place of business. Upon the  
9 issuance of such certificate of involuntary dissolution, the existence of the  
10 limited liability company shall cease, except as otherwise provided by law.

11 (e) The enumeration in Subsections (a) and (b) of grounds for  
12 involuntary dissolution shall not exclude an action or special proceeding for  
13 the annulment dissolution of a limited liability company for other cause as  
14 provided in any other statute of this territory.

15 **§15128. Reinstatement after involuntary dissolution.** (a) Any limited  
16 liability company which has been dissolved by the Department of Revenue  
17 and Taxation under the provisions of §15124 or prior law may be reinstated  
18 by the Department of Revenue and Taxation at any time upon approval of an  
19 application for reinstatement signed by an officer or director of the dissolved  
20 limited liability company. Such application shall be filed by the Department of  
21 Revenue and Taxation whenever it is established to the satisfaction of the  
22 Department that in fact there was no cause for the dissolution or that the  
23 reasons for the dissolution have been corrected and all fees, computed at the  
24 rate provided by law at the time the limited liability company applies for  
25 reinstatement, have been paid. If the name of the dissolved limited liability  
26 company has been lawfully assumed in the state by another limited liability  
27 company, the Department of Revenue and Taxation shall require the

1 dissolved limited liability company to amend its articles of organization to  
2 change its application for reinstatement.

3 (b) Whenever the application for reinstatement is approved and filed by  
4 the Department of Revenue and Taxation, the existence of the limited  
5 liability company shall be deemed to have continued without interruption  
6 from the date of dissolution. The reinstatement shall have no effect upon any  
7 personal liabilities of the members or managers of the limited liability  
8 company on account of actions taken during the period between dissolution  
9 and reinstatement, but the power of the limited liability company to  
10 indemnify such members or managers shall extend to actions during such  
11 period.

12 **§15129. Filings by the Department of Revenue and Taxation.** All filings  
13 made by the Department of Revenue and Taxation shall be in accordance  
14 with the provisions of §2104 of Article 1 of Chapter 2, Title 18, Guam Code  
15 Annotated.

16 **§15130. Fees for filing documents and issuing certification.** Fees for  
17 filing documents and issuing certification shall be subject to applicable rates  
18 as determined by the Department of Revenue and Taxation.

19 **§15131. Miscellaneous charges.** Miscellaneous charges shall be  
20 determined, charged, and collected by the Department of Revenue and  
21 Taxation.

22 **§15132. Waiver of notice.** When, under the provisions of this Chapter or  
23 under the provisions of the articles of organization or operating agreement  
24 of a limited liability company, notice is required to be given to a member of a  
25 limited liability company or to a manager of a limited liability company  
26 having a manager or managers, a waiver in writing signed by the person or

1 persons entitled to the notice, whether made before or after the time for  
2 notice to be given, is equivalent to the giving of notice.

3 **§15133. Jurisdiction of the Superior Court of Guam.** The Superior  
4 Court of Guam shall have jurisdiction to enforce the provisions of this  
5 Chapter.

6 **§15134. Parties to actions by or against limited liability company.** A  
7 member of a limited liability company is not a proper party to proceedings by  
8 or against a limited liability company, except when the object is to enforce a  
9 member's right against, or liability to, the limited liability company.

10 **§15135. Service of process.** (a) In addition to Part 1 of Title 18, Guam  
11 Code Annotated, process may be served upon limited liability companies and  
12 foreign limited liability companies as provided in this Section.

13 (b) Personal service of a copy of any process against the limited liability  
14 company or the foreign limited liability company by delivery to any person  
15 designated by it as agent shall constitute valid service on the limited liability  
16 company or the foreign limited liability company. No change in the address  
17 of the agent for service of process or appointment of a new agent for service  
18 of process shall be effective until an amendment to the statement described in  
19 Section 15112 is filed. In the case of a foreign limited liability company that  
20 has appointed the Director of the Department of Revenue and Taxation as  
21 agent for service of process by reason of paragraph (i) of this section, process  
22 shall be delivered by hand to the Director, or to any person employed in the  
23 capacity of assistant or deputy, and shall include one copy of the process for  
24 each defendant to be served, together with a copy of the court order  
25 authorizing the service and the fee therefor. The order shall set forth the  
26 address to which the process shall be sent by the Director.

1 (c) (1) If an agent for service of process has resigned and has not been  
2 replaced, or if the designated agent cannot with reasonable diligence be  
3 found at the address designated for personal delivery of the process, and it is  
4 shown by affidavit to the satisfaction of the court that process against a  
5 limited liability company or foreign limited liability company cannot be served  
6 with reasonable diligence upon the designated agent by hand in a manner  
7 provided by law, the court may make an order that the service shall be made  
8 upon a domestic limited liability company or upon a registered foreign limited  
9 liability company by delivering by hand to the Director, or to any person  
10 employed in the Director's office in the capacity of assistant or deputy, one  
11 copy of the process for each defendant to be served, together with a copy of  
12 the order authorizing the service. Service in this manner shall be deemed  
13 complete on the 10th day after delivery of the process to the Director.

14 (2) Upon receipt of the copy of process and the fee therefor, the  
15 Director shall give notice of the service of the process to the limited liability  
16 company or foreign limited liability company, at its principal executive office,  
17 by forwarding to that office, by registered mail with request for return  
18 receipt, the copy of the process; or if the Director's records do not disclose an  
19 address for its principal executive office, by forwarding such copy in the same  
20 manner to the last designated agent for service of process who has not  
21 resigned. If the agent for service of process has resigned and has not been  
22 replaced, and the Director's records do not disclose an address for its  
23 principal executive office, no action need be taken by the Director.

24 (3) The Director shall keep a record of all process served upon the  
25 Director under this title and shall record therein the time of service and the  
26 action taken by the Director. A certificate under the Director's official seal,  
27 certifying to the receipt of process, the giving of notice to the limited liability

1 company or foreign limited liability company, and the forwarding of the  
2 process pursuant to this section, shall be competent and prima facie evidence  
3 of the service of process.

4 (d) (1) The articles of organization of a limited liability company and the  
5 application for registration of a foreign limited liability company shall  
6 designate, as the agent for service of process, an individual residing in this  
7 territory and whose capacity to act as an agent has not terminated. The  
8 statement shall set forth that person's complete business or residence address  
9 in this territory.

10 (2) An agent designated for service of process may file with the Director  
11 a signed and acknowledged written statement of resignation as an agent.  
12 Upon filing of the statement of resignation, the authority of the agent to act  
13 in that capacity shall cease and the Director shall give written notice of the  
14 filing of the statement of resignation by mail to the limited liability company  
15 or foreign limited liability company addressed to its principal executive office.

16 (3) If an individual who has been designated agent for service of  
17 process dies or resigns or no longer resides in the territory, or if the corporate  
18 agent for that purpose resigns, dissolves, withdraws from the territory,  
19 forfeits its right to transact intrastate business, has its corporate rights,  
20 powers, and privileges suspended, or ceases to exist, the limited liability  
21 company or foreign limited liability company shall promptly file an initial or  
22 amended statement described in Section 15112 designating a new agent.

23 (e) In addition to any other discovery rights that may exist, in any case  
24 pending in a Guam court in which a party seeks records from a limited  
25 liability company formed under this title, whether or not the limited liability  
26 company is a party, the court may order the production in this territory of the

1 books and records of the limited liability company on those terms and  
2 conditions that the court deems appropriate.

3 (f) A member may, in a written operating agreement or other writing,  
4 consent to be subject to the non-exclusive jurisdiction of the courts of a  
5 specified jurisdiction, or the exclusive jurisdiction of the courts of this  
6 territory.

7 (g) If a member desires to use the arbitration process, that member  
8 may, in a written operating agreement or other writing, consent to be non-  
9 exclusively subject to arbitration in a specified state, or to be exclusively  
10 subject to arbitration in this territory.

11 (h) Along with the consent to the jurisdiction of courts or to be subject to  
12 arbitration as provided in subdivisions (f) and (g), a member may consent to  
13 be served with legal process in the manner prescribed in a written operating  
14 agreement or other writing.

15 (i) A foreign limited liability company, transacting business in this  
16 territory without registration, appoints the Director of the Department of  
17 Revenue and Taxation as its agent for service of process with respect to  
18 causes of action arising out of the business in this territory.

19 **§15136. Tax on income of limited liability company.** (a) A limited  
20 liability company is a "business" as defined in §26101 of Article I of Chapter 26  
21 of Title 11, Guam Code Annotated, and is subject to the taxes imposed under  
22 Chapter 26 of Title 11, Guam Code Annotated.

23 (b) The income of a limited liability company organized pursuant to this  
24 chapter shall be subject to the Guam's Tax Code and the taxes levied  
25 pursuant to Chapter 26 of Title 11 Guam Code Annotated.

26 **§15137. Professional Limited Liability Companies.** (a) Two or more  
27 persons may organize a professional limited liability company by filing

1 articles of organization with the Department of Revenue and Taxation in  
2 accordance with this Chapter. In addition to other provisions required or  
3 permitted by law, the articles of organization of a professional limited  
4 liability company must include a statement:

5 (1) that the limited liability company is a professional limited  
6 liability company; and

7 (2) describing the one specific kind of professional service to be  
8 rendered by the limited liability company.

9 (b) A professional limited liability company may be organized under this  
10 act only for the purpose of rendering one specific type of professional service  
11 and ancillary services. A professional limited liability company organized  
12 under this act may not render more than one kind of professional service.

13 (c) Name. A professional limited liability company may adopt a name  
14 not contrary to the law or ethics regulating the practice of the professional  
15 service rendered through the professional limited liability company. The  
16 name of the limited liability company must contain the words "Professional  
17 Limited Liability Company" or the abbreviations "P.L.L.C." or "PLLC" and  
18 must contain other words as may be required by law.

19 (d) Restrictions on Members, Managers, and Officers. (1) A person  
20 who is not licensed or otherwise authorized to render the professional service  
21 of the professional limited liability company may not be a member, manager  
22 or officer of the professional limited liability company. A membership interest  
23 in the professional limited liability company may not be transferred to a  
24 person who is not licensed or otherwise authorized to render the professional  
25 service of the professional limited liability company.

26 (2) If a member, manager, or officer of a professional limited liability  
27 company, or an agent or employee of the company who has been rendering

1 professional service for or with the company of the same type for which the  
2 professional limited liability company was organized to render, becomes  
3 legally disqualified to render the professional service, the person shall sever  
4 all employment with the professional limited liability company and  
5 immediately terminate all financial interest in the company. The professional  
6 limited liability company shall purchase or cause to be purchased from the  
7 person all membership interests owned by the person in the professional  
8 limited liability company, at a price and on terms as may be provided in the  
9 articles of organization, the regulations, or any applicable agreement among  
10 the members and the professional limited liability company.

11 (e) Rendering of Professional Services. (1) A professional limited  
12 liability company may render professional service in Guam only through: (i)  
13 an individual member, manager, officer, employee, or agent who is licensed  
14 to render the professional service on Guam; or (ii) an agent of the  
15 professional limited liability company that is a professional limited liability  
16 company, professional corporation, or professional association that is  
17 authorized on Guam to render the professional service of the professional  
18 limited liability company and that renders the professional service only  
19 through a licensed individual member, manager, officer, or employee.

20 (2) This Section does not prohibit employment by a professional limited  
21 liability company of clerks, secretaries, bookkeepers, technicians, nurses,  
22 assistants, and other individuals who are not usually and ordinarily  
23 considered by custom and practice to be rendering professional service for  
24 which a license or other legal authorization is required. A person may not,  
25 under the guise of employment, practice a profession on Guam unless  
26 licensed or otherwise legally authorized to practice that profession under the  
27 laws of Guam.



1 (f) Professional Relationships Not Affected. This Chapter does not alter  
2 or affect the professional relationship between a person rendering  
3 professional service and a person receiving the service, and a confidential  
4 relationship enjoyed on Guam between those persons remains unchanged.  
5 This Chapter does not remove or diminish any rights at law that a person  
6 receiving professional service has against a person rendering the service for  
7 an error, an omission, negligence, incompetence, or malfeasance. A limited  
8 liability company, but not the other individual members, managers, or  
9 officers, is jointly and severally liable with a member, manager, officer,  
10 employee, or agent rendering professional service for an error, omission,  
11 negligence, incompetence, or malfeasance on the part of the member,  
12 manager, officer, employee, or agent when the member, manager, officer,  
13 employee, or agent is rendering professional service in the course of  
14 employment for the limited liability company."

15 **Section 3.** This Act will take effect 180 days after its enactment.

# TWENTY-THIRD GUAM LEGISLATURE

1996 (SECOND) Regular Session

Date: 9/9/96

## VOTING SHEET

*Veto*

Bill No. 610

Resolution No. \_\_\_\_\_

Question: Shall the bill be enacted into law, notwithstanding the Governor's objection?

NAME	YEAS	NAYS	NOT VOTING/ ABSTAINED	ABSENT/ OUT DURING ROLL CALL
ADA, Thomas C.	✓			
AGUON, John P.		✓		
BARRETT-ANDERSON, Elizabeth	✓			
BLAZ, Anthony C.	✓			
BROWN, Joanne S.	✓			
CAMACHO, Felix P.	✓			
CHARFAUROS, Mark C				✓
CRISTOBAL, Hope A.	✓			
FORBES, MARK	✓			
LAMORENA, Alberto C., V	✓			
LEON GUERRERO, Carlotta	✓			
LEON GUERRERO, Lou	✓			
NELSON, Ted S.	✓			
ORSINI, Sonny L.	✓			
PANGELINAN, Vicente C	✓			
PARKINSON, Don	✓			
SAN AGUSTIN, Joe T.		✓		
SANTOS, Angel L. G.	✓			
SANTOS, Francis E.	✓			
UNPINGCO, Antonio R.	✓			
WONPAT-BORJA, Judith	✓			

TOTAL

18    2    0    1

CERTIFIED TRUE AND CORRECT:

\_\_\_\_\_  
Recording Secretary

23-125



CARL T.C. GUTIERREZ  
GOVERNOR OF GUAM

JUL 26 1996

The Honorable Judith Won-Pat Borja  
Acting Lt. Governor and Acting Speaker  
Twenty-Third Guam Legislature  
Guam Legislature Temporary Building  
155 Hesler Street  
Agana, Guam 96910

OFFICE OF THE LEGISLATIVE SECRETARY	
ACKNOWLEDGMENT RECEIPT	
Received By	<u>[Signature]</u>
Time	<u>9:54 am</u>
Date	<u>26 JULY 96</u>

Dear Speaker Won-Pat Borja:

Enclosed please find Substitute Bill No. 610 (LS), "AN ACT TO ADD A NEW CHAPTER 15 TO TITLE 18 OF THE GUAM CODE ANNOTATED, ENTITLED 'LIMITED LIABILITY COMPANIES', AUTHORIZING THE FORMATION OF BUSINESSES AS LIMITED LIABILITY COMPANIES ON GUAM", which I have **vetoed**.

A bill previously passed by the legislature on this subject, Substitute Bill No. 206, was vetoed December 6, 1995 due to a number of deficiencies, most of which were listed in a lengthy veto message. The provisions relative to limited liability companies (LLCs) contained in Substitute Bill Nos. 206 and 610 were derived from California law, however, only portions of California law were used.

The enclosed bill, Substitute Bill No. 610, addresses some of the concerns of vetoed Substitute Bill No. 206. There are some important concerns, however, which have not yet been addressed, and some technical deficiencies were introduced into the current bill. The following is a list of objections to Substitute Bill No. 610:

- 1) Neither the legislative findings of Substitute Bill No. 610, nor the committee report, makes any reference to an analysis by the Legislature of the revenue effects on the coffers of the government of Guam should legislation authorizing limited liability companies be

enacted on Guam. This was a concern for the previous bill, and is still a concern relative to implementing this concept for Guam.

- 2) Substitute Bill No. 206 failed to address the question whether LLCs or their members can be held personally liable for torts committed within the scope of the business. California law contains provisions which protect persons who do business with an LLC by stating that under certain circumstances the LLCs and their members are liable to those who will be injured by the LLC or its members. The author of Substitute Bill No. 610 tried to incorporate the protections contained in California law (California Corporations Code §§17101 and 17158), yet neglected to remove the offending provisions of Substitute Bill No. 206 (§15123), which are still incorporated in Substitute Bill No. 610 in §15118 on pages 49 and 50. This results in inconsistent and confusing language on this subject, which will surely result in unnecessary litigation if enacted.
- 3) There are technical deficiencies relative to drafting in Substitute Bill No. 610. In Subsection (c) of §15114 (D), page 24 lines 22 and 23, a reference is made that members of an LLC may vote on the dissolution of a LLC as provided in "Subdivision (c) of Section 15132". There is no Subdivision (c) of §15132, however, and §15132 refers to a different subject matter than that discussed in §15114(D). The subject matter of §15114(D) refers to dissolution of LLCs. In California law, the Section relative to dissolutions is numbered "§17350". In Substitute Bill No. 610, the Section relative to dissolutions of LLCs is §15120, however, there is no Subsection similar to Subsection (c) of §17350 of the California Corporation Code. This means that is unknown how members of an LLC may vote upon dissolution of the LLC.  
  
In §15114(E), clause (A), Paragraph (2), Subdivision (i) on page 28, line 26, a reference is made again to "§15132". However, this is an incorrect citation. Once again, §15132 does not refer to the subject matter of dissolution.
- 4) §15114(G), Subdivision (e), page 32, lines 22 and 25, makes reference to "federal and state income tax returns or information returns". This phrase should be changed to include "Guam" specifically.
- 5) Substitute Bill No. 206 had used the term "operating agreement" without providing a definition of this term. Substitute Bill No. 206, however, did use the term "regulations" and provided for regulations. The California Corporations Code uses the term "operating agreement". On the other hand, Substitute Bill No. 610 has eliminated the definition

of "regulations", yet continues to use the term in the body of the sections, such as Subsection (i) of §15104, page 12, line 1. The term "operating agreement" is still not given a definition in Substitute Bill No. 610, yet the language is used in various sections of the bill.

- 6) Substitute Bill No. 206 did not provide a clear date upon which to consider an LLC to be "organized". Substitute Bill No. 610 still does not provide for an indisputable point in time when an LLC is considered "organized".
- 7) The term "Guam's Tax Code" is used in Substitute Bill No. 206. This term has no meaning, yet is still being used in Substitute Bill No. 610 in §15136, page 60, line 24.


Substitute Bill No. 206 failed to provide for holding of meetings, notice, or quorums, failed to preserve voting rights for LLC members, or provide for protections of individual LLC members. It also failed to provide that LLC managers have a fiduciary duty to the LLC. These concerns were addressed in the present bill in §§15114(D), 15114(E), and 15114(G), and §§15115 (D) and 15115(K).

Although some of the difficulties previously noted in Substitute Bill No. 206 have been included and improved in Substitute Bill No. 610, there are still too many deficiencies to allow this legislation to pass into law.

The California Corporations Code should be revisited in any future attempt to enact a Guam law for LLCs. Most difficulties with Substitute Bill No. 610 are resolved there.

Copies of the Governor's veto message and the bill have also been delivered to the Office of the Legislative Secretary.

Very truly yours,

  
Carl T. C. Gutierrez  
Governor of Guam

Attachment

231361

TWENTY-THIRD GUAM LEGISLATURE  
1996 (SECOND) Regular Session

CERTIFICATION OF PASSAGE OF AN ACT TO THE GOVERNOR

This is to certify that Substitute Bill No. 610 (LS), "AN ACT TO ADD A NEW CHAPTER 15 TO TITLE 18 OF THE GUAM CODE ANNOTATED, ENTITLED "LIMITED LIABILITY COMPANIES", AUTHORIZING THE FORMATION OF BUSINESSES AS LIMITED LIABILITY COMPANIES ON GUAM," was on the 11th day of July, 1996, duly and regularly passed.



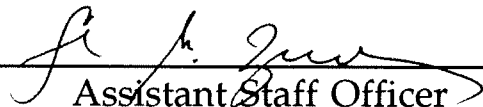
\_\_\_\_\_  
DON PARKINSON  
Speaker

Attested:



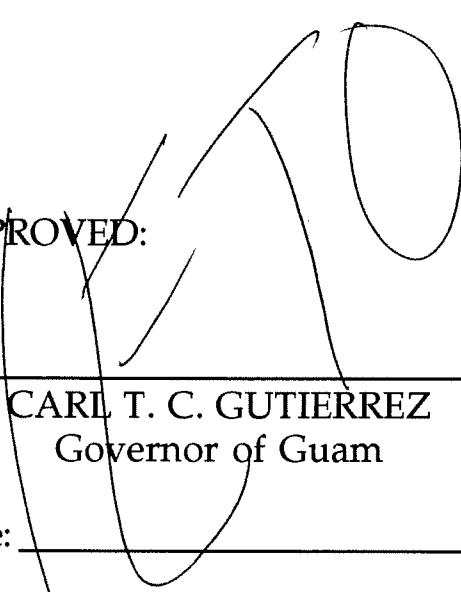
\_\_\_\_\_  
JUDITH WON PAT-BORJA  
Senator and Legislative Secretary

-----  
This Act was received by the Governor this 16<sup>th</sup> day of July,  
1996, at 10:38 o'clock A.M.



\_\_\_\_\_  
Assistant Staff Officer  
Governor's Office

APPROVED:



\_\_\_\_\_  
CARL T. C. GUTIERREZ  
Governor of Guam

Date: \_\_\_\_\_

Public Law No. \_\_\_\_\_

TWENTY-THIRD GUAM LEGISLATURE  
1996 (SECOND) Regular Session

Bill No. 610 (LS)

As substituted by the author  
and further substituted on the floor

Introduced by:

F. P. Camacho  
A. C. Blaz  
T. C. Ada

---

J. P. Aguon  
E. Barrett-Anderson  
J. M. S. Brown  
M. C. Charfauros  
H. A. Cristobal  
M. Forbes  
A. C. Lamorena V  
C. Leon Guerrero  
L. Leon Guerrero  
T. S. Nelson  
S. L. Orsini  
V. C. Pangelinan  
D. Parkinson  
J. T. San Agustin  
A. L. G. Santos  
F. E. Santos  
A. R. Unpingco  
J. Won Pat-Borja

AN ACT TO ADD A NEW CHAPTER 15 TO TITLE 18 OF  
THE GUAM CODE ANNOTATED, ENTITLED  
"LIMITED LIABILITY COMPANIES", AUTHORIZING  
THE FORMATION OF BUSINESSES AS LIMITED  
LIABILITY COMPANIES ON GUAM.

1            **BE IT ENACTED BY THE PEOPLE OF THE TERRITORY OF GUAM:**

1           **Section 1. Legislative Findings.** Guam law recognizes three main  
2 organizational structures: Corporations, Partnerships, and Limited  
3 Partnerships. The Legislature finds that these three basic organizational  
4 options do not adequately meet the needs of many small and medium-sized  
5 companies on Guam.

6           The Legislature further finds that business and tax planners on Guam  
7 and in the United States have long sought a business entity that delivers the  
8 key advantages of "pass-through taxation" for a business and also provides  
9 limited liability for its owners. Traditionally, the S Corporations and Limited  
10 Partnerships have been drawn on in order to obtain these characteristics for a  
11 business or investment, but neither S Corporations nor Limited Partnerships  
12 can adequately meet these needs. S Corporations have relatively restrictive  
13 and inflexible requirements on the number of owners and types of ownership.  
14 Limited partnerships do not provide 100% limited liability since at least one  
15 general partner must be responsible for entity obligations under law. In  
16 addition, the management participation of limited partners is generally  
17 prohibited or severely restricted. A new alternative in recent years has  
18 emerged: the Limited Liability Company (LLC).

19           The Legislature finds that until 1990, only two states, Wyoming and  
20 Florida, allowed for the formation of an LLC. As of January 1, 1995, however,  
21 47 States have enacted LLC statutes largely due to the Internal Revenue  
22 Service ruling in late 1988 allowing for the taxing of LLC's as partnerships.  
23 Proposals are pending in the other states, and it is possible that all 50 States  
24 will have enacted LLC laws by the end of 1996.

25           The Legislature finds that though most states allow an LLC to be  
26 formed for the transaction of any lawful purpose, certain regulated



1 industries, such as banking and insurance, are prohibited from operating in  
2 LLC form. The same shall apply here on Guam.

3 The Legislature finds that while the LLC is not intended to replace  
4 corporations or partnerships, it does combine the advantages of each. It  
5 combines the structural flexibility of a partnership with the liability protection  
6 of a corporation. The LLC will be formed as an unincorporated business  
7 entity where neither the partners nor the managers are personally liable for  
8 its obligation. Professionals who will organize their business or service as an  
9 LLC will still remain liable for their professional performance.

10 The Legislature finds that it is necessary for the LLC to have at least  
11 two members at the time of formation. This element will preserve the  
12 partnership tax status under federal tax law so as to allow the Department  
13 of Revenue and Taxation to treat the LLC as a partnership for tax purposes.

14 **Section 2. A new Chapter 15 is added to Title 18, Guam Code Annotated**  
15 **to read:**

16 **"Chapter 15**

17 **Limited Liability Companies**

18 §15101. Short Title.

19 §15102. Definitions.

20 §15103. Purpose.

21 §15104. Powers.

22 §15105. Formation.

23 §15106. Limited Liability Company name.

24 §15107. Articles of Organization.

25 §15108. Filing of Articles of Organization.

26 §15109. Effect of Issuance of Certificate of Organization.

27 §15110. Amendments to Articles of Organization.

- 1 §15111. Registered Office and Registered Agent.
- 2 §15112. Change of Registered Office or Registered Agent.
- 3 §15113. Finance.
- 4 §15113 (A) Capital contributions of members.
- 5 §15113 (B) Obligation of member to contribute cash or property
- 6 or to perform services; Failure of member to make contribution;
- 7 Enforcement of obligation.
- 8 §15113 (C) Allocation of profits and losses among members.
- 9 §15114. Members.
- 10 §15114 (A) Acquisition of membership interest; Termination of
- 11 interest.
- 12 §15114 (B) Personal liability of members.
- 13 §15114 (C) Creation of classes of members.
- 14 §15114 (D) Voting by members.
- 15 §15114 (E) Meetings; Notice; Quorum; Proxies; Record date of
- 16 members entitled to notice.
- 17 §15114 (F) Issuance of certificate of interest.
- 18 §15114 (G) Access to records and documents by members;
- 19 Inspection and copying.
- 20 §15114 (H) Complaint by members of failure to comply with law
- 21 or articles of organization; Action by Attorney
- 22 General.
- 23 §15115. Management of Limited Liability Company.
- 24 §15115 (A) Business and affairs of company managed by
- 25 members.
- 26 §15115 (B) Management by non-members.

- 1 §15115 (C) Management vested in manager pursuant to  
2 articles of organization: Election; Removal; Resignation.
- 3 §15115 (D) Fiduciary duties of manager.
- 4 §15115 (E) Appointment of officers; Authority of signing  
5 officers in documents.
- 6 §15115 (F) Indemnification of manager, member, officer, and  
7 others; Purchase of insurance.
- 8 §15115 (G) More than one manager; Decisions by majority  
9 vote.
- 10 §15115 (H) Member as agent of company unless otherwise  
11 provided; Manager as agent.
- 12 §15115 (I) Personal liability of manager or officer.
- 13 §15115 (J) Office to maintain records; Agent for service of  
14 process.
- 15 §15115 (K) Records and documents required to be kept.
- 16 §15116. Distributions and Withdrawals.
- 17 §15116 (A) Distribution of money or property to members.
- 18 §15116 (B) Entitlement of member to receive distributions  
19 prior to withdrawal or dissolution.
- 20 §15116 (C) Withdrawal of member; Notice; Entitlement to  
21 distribution.
- 22 §15116 (D) Distribution in form other than money; Distribution  
23 of assets.
- 24 §15116 (E) Requirement to make distribution.
- 25 §15116 (F) Personal liability of manager or member who votes  
26 for unlawful distribution.
- 27 §15117. Interest in Limited Liability Company; Assignment of Interests.

- 1 §15117 (A) Membership interest as personal property.
- 2 §15117 (B) Assignment of membership interest or economic  
3 interest; Pledge or lien against membership  
4 interest.
- 5 §15117 (C) Unsatisfied amount of judgment to be charged  
6 against membership interest.
- 7 §15117 (D) Membership of assignee.
- 8 §15117 (E) Deceased member; Member adjudged incompetent  
9 by court.
- 10 §15118. Liability of Member and Managers.
- 11 §15119. Unauthorized Assumption of Powers.
- 12 §15120. Dissolution.
- 13 §15121. Filing of Statement of Intent to Dissolve.
- 14 §15122. Effect of Filing of Statement of Intent to Dissolve; Procedure  
15 after Filing Such Statement.
- 16 §15123. Distribution of Assets upon Dissolution.
- 17 §15124. Articles of Dissolution.
- 18 §15125. Filing of Articles of Dissolution.
- 19 §15126. Cancellation of Certificate of Organization.
- 20 §15127. Involuntary Dissolution.
- 21 §15128. Reinstatement after Involuntary Dissolution.
- 22 §15129. Filing by Department of Revenue and Taxation.
- 23 §15130. Fees for Filing Documents and Issuing Certification.
- 24 §15131. Miscellaneous Charges.
- 25 §15132. Waiver of Notice.
- 26 §15133. Jurisdiction of the Superior Court.
- 27 §15134. Parties to Actions by or against Limited Liability Company.

1 §15135. Service of Process.

2 §15136. Tax on Income of Limited Liability Company.

3 §15137. Professional Limited Liability Companies.

4 **§15101. Short Title.** This Act shall be known and may be cited as the  
5 "Guam Limited Liability Company Act".

6 **§15102. Definitions.** As used in this chapter:

7 (1) "Bankrupt" means bankrupt under the federal Bankruptcy Act or  
8 insolvent under any state insolvency act.

9 (2) "Court" includes every court and judge having jurisdiction in the  
10 action.

11 (3) "Limited Liability Company" or "Company" means a limited liability  
12 company organized and existing under this chapter.

13 (4) "Real Property" means land and any interest or estate in land.

14 (5) "Business" means every trade and occupation or profession.

15 (6) "Conveyance" means every assignment, lease, mortgage, or  
16 encumbrance.

17 (7) "Professional Service" means any type of personal service that  
18 requires as a condition precedent to the rendering of the service the obtaining  
19 of a license, permit, registration, or other legal authorization, including but  
20 not limited to the personal service rendered by an architect, attorney-at-law,  
21 certified public accountant, dentist, doctor, physician, public accountant,  
22 surgeon, or veterinarian.

23 (8) "Professional limited liability company" means a limited liability  
24 company that is organized under this act for the sole and specific purpose of  
25 rendering professional service and that has as its members only individuals  
26 licensed or otherwise authorized within Guam to render the same  
27 professional service as the limited liability company.

1 (9) "Transact intrastate business" means to enter into repeated and  
2 successive transactions of business in this territory, other than in interstate or  
3 foreign commerce.

4 (I) Without excluding other activities which may not be  
5 considered to be transacting intrastate business, a foreign limited  
6 liability company shall not be considered to be transacting intrastate  
7 business merely because its subsidiary transacts intrastate business, or  
8 merely because of its status as any one or more of the following:

9 (A) A shareholder of a domestic corporation.

10 (B) A shareholder of a foreign corporation transacting  
11 intrastate business.

12 (C) A limited partner of a foreign limited partnership  
13 transacting intrastate business.

14 (D) A limited partner of a domestic limited partnership.

15 (E) A member or manager of a foreign limited liability  
16 company transacting intrastate business.

17 (F) A member or manager of a domestic limited liability  
18 company.

19 (II) Without excluding other activities which may not be  
20 considered to be transacting intrastate business, a foreign limited  
21 liability company shall not be considered to be transacting intrastate  
22 business within the meaning of this subdivision solely by reason of  
23 carrying on in this territory any one or more of the following activities:

24 (A) Maintaining or defending any action or suit or any  
25 administrative or arbitration proceeding, or effecting the  
26 settlement thereof or the settlement of claims or disputes.

1 (B) Holding meetings of its managers or members or  
2 carrying on any other activities concerning its internal affairs.

3 (C) Maintaining bank accounts.

4 (D) Maintaining offices or agencies for the transfer,  
5 exchange, and registration of the foreign limited liability  
6 company's securities or maintaining trustees or depositories with  
7 respect to those securities.

8 (E) Effecting sales through independent contractors.

9 (F) Soliciting or procuring orders, whether by mail or  
10 through employees or agents or otherwise, where those orders  
11 require acceptance without this state before becoming binding  
12 contracts.

13 (G) Creating or acquiring evidences of debt or mortgages,  
14 liens, or security interests in real or personal property.

15 (H) Securing or collecting debts or enforcing mortgages  
16 and security interests in property securing the debts.

17 (I) Conducting an isolated transaction that is completed  
18 within 180 days.

19 (III) A person shall not be deemed to be transacting intrastate  
20 business in this territory merely because of its status as a member or  
21 manager of a domestic limited liability company or a foreign limited  
22 liability company registered to transact intrastate business in this  
23 territory.

24 (10) "Distribution" means the transfer of money or property by a  
25 limited liability company to its members without consideration.

26 (11) "Economic interest" means a person's right to share in the income,  
27 gains, losses, deductions, credit, or similar items of, and to receive

1 distributions from, the limited liability company, but does not include any  
2 other rights of a member including, without limitation, the right to vote or to  
3 participate in management, or, except as provided by this Chapter, any right  
4 to information concerning the business and affairs of the limited liability  
5 company.

6 (12) "Membership interest" means a member's rights in the limited  
7 liability company, collectively, including the member's economic interest, any  
8 right to vote or participate in management, and any right to information  
9 concerning the business and affairs of the limited liability company provided  
10 by this Chapter.

11 (13) "Proxy" unless otherwise provided in the operating agreement,  
12 means a written authorization signed or an electronic transmission  
13 authorized by a member or the member's attorney in fact giving another  
14 person the power to exercise the voting rights of that member.

15 **§15103. Purpose.** A limited liability company may be organized under  
16 this chapter for any lawful purpose, except that special statutes for the  
17 regulation and control of specific types of business shall control when in  
18 conflict herewith.

19 Subject to any limitations contained in the articles of organization and  
20 to compliance with any other applicable laws, a limited liability company may  
21 engage in any lawful business activity, except the banking, insurance, or trust  
22 company business.

23 **§15104. Powers.** Each limited liability company organized and  
24 existing under this chapter may:

25 (a) Sue or be sued, or complain or defend, in its name.



1 (b) Purchase, take, receive, lease, or otherwise acquire, own, hold,  
2 improve, or use, or otherwise deal in or with, real or personal property, or an  
3 interest in real or personal property, wherever situated.

4 (c) Sell, convey, mortgage, pledge, create a security interest in, lease,  
5 exchange, or transfer, or otherwise dispose of, all or any part of its property  
6 or assets.

7 (d) Purchase, take, receive, subscribe for, or otherwise acquire, own,  
8 hold, vote, use, employ, sell, mortgage, lend, or plead, or otherwise dispose  
9 of, or otherwise use or deal in or with:

10 (1) Shares or other interests in or obligations of other foreign or  
11 domestic limited liability companies, domestic or foreign corporations,  
12 associations, general or limited partnerships, or individual; or

13 (2) Direct or indirect obligations of the United States or any other  
14 government, state, territory, government district, or municipality or of  
15 any instrumentality thereof.

16 (e) Make contracts or guarantees or incur liabilities; borrow money at  
17 such rates of interest as the limited liability company may determine; issue its  
18 notes, bonds, or other obligations; or secure any of its obligations by  
19 mortgage or pledge of all or any part of its property, franchises, and income.

20 (f) Lend money for any lawful purpose, invest or reinvest its funds, or  
21 take and hold real or personal property as security for the payment of funds  
22 so loaned or invested.

23 (g) Conduct its business, carry on its operations and have offices, and  
24 exercise the powers granted by this chapter with or without the territory of  
25 Guam.

26 (h) Elect or appoint managers and agents of the limited liability  
27 company, define their duties, and fix their compensation.

1 (i) Make and alter its regulations, not inconsistent with its articles of  
2 organization or with the laws of Guam, for the administration and  
3 regulation of the affairs of the company.

4 (j) Make donations to the public welfare or for charitable, scientific, or  
5 educational purposes.

6 (k) Indemnify a member or manager or any other person to the same  
7 extent as a corporation may indemnify any of the directors, officers,  
8 employees, or agents of the corporation against expenses actually and  
9 reasonably incurred by him or it in connection with the defense of any action,  
10 suit, or proceeding, whether civil or criminal, in which he or it is made a  
11 party.

12 (l) Cease its activities and surrender its certificate of organization.

13 (m) Have and exercise all powers necessary or convenient to affect any  
14 or all of the purposes for which the company is organized.

15 (n) Transact any lawful business which the members or the managers  
16 find to be in aid of governmental policy.

17 (o) Pay pensions and establish pension plans, profit-sharing plans, and  
18 other incentive plans for any or all of its managers and employees.

19 (p) Be a promoter, incorporator, general partner, limited partner,  
20 member, associate, or manager of any corporation, partnership, limited  
21 partnership, limited liability company, joint venture, trust, or other  
22 enterprise.

23 (q) Have and exercise all powers necessary or convenient to effect its  
24 purposes.

25 **§15105. Formation.** Two or more persons may form a limited liability  
26 company by executing, acknowledging, and delivering to the Department of

1 Revenue and Taxation articles of organization for such limited liability  
2 company.

3       **§15106. Limited Liability Company Name.** (a) The words "limited  
4 company", "limited liability company" , or their abbreviation "L. C.", or  
5 L.L.C. , shall be the last word of the name of every limited liability company  
6 formed under the provisions of this chapter; and, in addition, the limited  
7 liability company name may not be the same as, or deceptively similar to, the  
8 name of a limited liability company, or a foreign limited liability company,  
9 authorized to transact business in this territory, or a name the exclusive right  
10 to which is, at the time, reserved in the manner provided under the laws of  
11 this territory.

12       (b) Omission of the words "limited company", "limited liability  
13 company", or their abbreviation "L.C.", or "L.L.C.", in the use of the name of  
14 the limited company shall render any person who participates in the  
15 omission, or knowingly acquiesces in it, liable for any indebtedness, damage,  
16 or liability occasioned by the omission.

17       **§15107. Articles of Organization.** (a) The Articles of Organization of  
18 a limited liability company shall set forth:

19       (1) The name of the limited liability company.

20       (2) The period of its duration, which may not exceed 30 years from the  
21 date of filing with the Department of Revenue and Taxation.

22       (3) The purpose for which the limited liability company is organized.

23       (4) The address of its place of business in Guam and the name and  
24 address of its initial registered agent in Guam.

25       (5) The total amount of cash and a description and agreed value of  
26 property other than cash contributed.

1 (6) The total additional contributions, if any, agreed to be made by all  
2 members and the times at which, or the events upon the happening of which,  
3 they shall be made.

4 (7) The right, if given, of the members to admit additional members and  
5 the terms and conditions of the admissions.

6 (8) The right, if given, of the remaining members of the limited liability  
7 company to continue the business on the death, retirement, resignation,  
8 expulsion, bankruptcy, or dissolution of a member or the occurrence of any  
9 other event which terminates the continued membership of a member in the  
10 limited liability company.

11 (9) (i) If the limited liability company is to be managed by a manager or  
12 managers, a statement that the company is to be managed by a manager or  
13 managers and the names and addresses of such managers who are to serve  
14 as managers until the first annual meeting of members or until their  
15 successors are elected and qualify. (ii) If the management of a limited liability  
16 company is reserved to the members, the names and addresses of the  
17 members.

18 (10) Any other provisions, not inconsistent with law, which the  
19 members elect to set out in the articles of organization for the regulation of  
20 the internal affairs of the limited liability company, including any other  
21 provisions which under this Chapter are required or permitted to be set out in  
22 the regulations of the limited liability company.

23 (b) It is not necessary to set out in the articles of organization any of the  
24 powers enumerated in this Chapter.

25 **§15108. Filing of Articles of Organization.** The Articles of  
26 Organization shall be delivered to the Department of Revenue and Taxation.  
27 If the Department of Revenue and Taxation finds that the articles of

1 organization conform to law, it shall, when all fees have been paid as  
2 prescribed in this chapter, file the articles of organization in accordance with  
3 this Chapter. The Department of Revenue and Taxation shall then issue a  
4 certificate of organization.

5 **§15109. Effect of Issuance of Certificate of Organization.** (a) Upon  
6 the issuance of the certificate of organization, the limited liability company  
7 shall be considered organized; and such certificate of organization shall be  
8 conclusive evidence that all conditions precedent required to be performed by  
9 the members have been complied with and that the limited liability company  
10 has been legally organized under this Chapter, except as against this territory  
11 in a proceeding to cancel or revoke the certificate of organization or in a  
12 proceeding for involuntary dissolution of the limited liability company.

13 (b) A limited liability company shall not transact intrastate business or  
14 incur indebtedness, except that which is incidental to its organization or to  
15 obtaining subscriptions for or payment of contributions, until the articles of  
16 organization have been filed with the Department of Revenue and Taxation.

17 (c) The date when the existence of the company commences shall be the  
18 date of the filing of the articles of organization by the Department of  
19 Revenue and Taxation, except that the date of commencement of corporate  
20 existence may be specified in the articles of organization:

21 (1) When the date specified in the articles of organization is the  
22 date of subscription and acknowledgment, and the articles of  
23 organization are filed by the Department of Revenue and Taxation  
24 within 5 days, exclusive of legal holidays, after such date.

25 (2) When the date specified in the articles of organization is  
26 subsequent to, and not later than 90 days after the date of filing of the  
27 articles of organizations by the Department of Revenue and Taxation.

1           **§15110. Amendments to Articles of Organization.** (a) The articles of  
2 organization of a limited liability company shall be amended when:

3           (1) There is a change in the name of the limited liability company  
4 or in the amount or character of the contributions to capital.

5           (2) There is a change in the character of the business of the limited  
6 liability company.

7           (3) There is a false or erroneous statement in the articles of  
8 organization.

9           (4) There is a change in the time as stated in the articles of  
10 organization for the dissolution of the limited liability company.

11           (5) A time is fixed for the dissolution of the limited liability  
12 company, if no time is specified in the articles of organization.

13           (6) The members desire to make a change in any other statement  
14 in the articles of organization in order for it to accurately represent the  
15 agreement between them.

16           (b) The form for evidencing an amendment to the articles of  
17 organization of a limited liability company shall be promulgated by the  
18 Department of Revenue and Taxation and shall contain such terms and  
19 provisions consistent with this Chapter as shall be determined by the  
20 Department of Revenue and Taxation. The amendment shall be signed and  
21 sworn to by all members, and an amendment adding a new member shall be  
22 signed also by the member to be added; thereafter the amendment shall be  
23 forwarded to the Department of Revenue and Taxation for filing,  
24 accompanied by the requisite filing fee.

25           **§15111. Registered office and registered agent.** (a) Each limited  
26 liability company shall have and continuously maintain in Guam:

1 (1) A registered office, which may be, but need not be, the same as  
2 its place of business; and

3 (2) A registered agent, which agent may be either: (i) An  
4 individual resident of Guam whose business office is identical with such  
5 registered office; (ii) A domestic corporation having a business office  
6 identical with such registered office; or (iii) A foreign corporation  
7 authorized to transact business on Guam and having a business office  
8 identical with such registered office.

9 (b) Each registered agent and each successor registered agent  
10 appointed pursuant to this Chapter on whom process may be served shall file  
11 a statement in writing with the Department of Revenue and Taxation  
12 accepting the appointment as registered agent simultaneously with being  
13 designated, unless the agent signed the document making the appointment.

14 (c) The Department of Revenue and Taxation shall maintain an  
15 accurate record of the registered agents and registered office for the service  
16 of process and shall furnish any information disclosed thereby promptly upon  
17 request and payment of the required fee.

18 (d) No limited liability company shall maintain any action in any court  
19 until the limited liability company complies with the provisions of this Section  
20 and pays to the Department of Revenue and Taxation a penalty of \$1 for each  
21 day it has failed to comply, or \$250, whichever amount is less.

22 **§15112. Change of registered office or registered agent.** (a) A limited  
23 liability company may change its registered agent or office, or both, upon  
24 filing in the office of the Department of Revenue and Taxation a statement  
25 setting forth:

26 (1) The name of the limited liability company.

1 (2) The address of its then registered office and, if the address of  
2 its registered office is to be changed, the address to which the registered  
3 office is to be changed.

4 (3) The name of its then registered agent and, if its registered  
5 agent is to be changed, the name of its successor registered agent.

6 (4) The fact that the change was authorized by affirmative vote of  
7 a majority of the members of the limited liability company.

8 (b) The statement shall be acknowledged and delivered to the  
9 Department of Revenue and Taxation. If the Department of Revenue and  
10 Taxation finds that the statement conforms to the provisions of this chapter,  
11 it shall file the statement in its office; and, upon filing, the change of address  
12 of the registered office or the appointment of a new registered agent, or both,  
13 as the case may be, shall be effective.

14 (c) Any registered agent of a limited liability company may resign as  
15 agent upon filing a written notice thereof with the Department of Revenue  
16 and Taxation and by mailing a copy thereof to the limited liability company at  
17 its registered office. The appointment of the agent shall terminate upon the  
18 expiration of 30 days after receipt of notice by the Department of Revenue  
19 and Taxation.

20 **§15113. Finance. §15113 (A). Capital contributions of members.** (a)  
21 The articles of organization or the operating agreement may provide for  
22 capital contributions of members. The contribution of a person may be in  
23 money, property, or services, or other obligation to contribute money or  
24 property or to render services.

25 (b) Unless the articles of organization or operating agreement provide  
26 otherwise, no member shall be required to make any additional contribution  
27 to the limited liability company.



1           **§15113 (B). Obligation of member to contribute cash or property or to**  
2 **perform services; Failure of member to make contribution; Enforcement of**  
3 **obligation.** (a) (1) Subject to the terms of the articles of organization or the

4 operating agreement, a member is not excused from an obligation to the  
5 limited liability company to perform any promise to contribute cash or  
6 property or to perform services because of death, disability, dissolution, or  
7 any other reason.

8           (2) If a member does not make the required contribution of property or  
9 services, that member is obligated, at the option of the limited liability  
10 company, to contribute cash equal to that portion of the fair market value (or  
11 agreed value if stated in writing and signed by the limited liability company  
12 and the member) of the contribution that has not been made. The foregoing  
13 option shall be in addition to, and not in lieu of, any other rights, including the  
14 right to specific performance, that the limited liability company may have  
15 against the member under the articles of organization, operating agreement,  
16 or applicable law.

17           (3) An operating agreement may provide that the interest of a member  
18 who fails to make any contribution or other payment that the member is  
19 required to make shall be subject to specific remedies for, or specific  
20 consequences of, the failure. Any such provision shall be enforceable in  
21 accordance with its terms unless the member seeking to invalidate the  
22 provision establishes that the provision was unreasonable under the  
23 circumstances existing at the time the agreement was made. The specific  
24 remedies or consequences may include: loss of voting, loss of approval or  
25 other rights, loss of the ability by the member to actively participate in the  
26 management and operations of the limited liability company, liquidated  
27 damages, and a reduction of the defaulting member's economic rights. The

1 reduction of the defaulting member's economic rights may include one or  
2 more provisions:

3 (A) Diluting, reducing, or eliminating the defaulting member's  
4 proportionate interest in the limited liability company.

5 (B) Subordinating the defaulting member's interest in the limited  
6 liability company to that of non-defaulting members.

7 (C) Permitting a forced sale of the membership interest.

8 (D) Permitting the lending or contribution by other members of  
9 the amount necessary to meet the defaulting member's commitment.

10 (E) Providing for the adjustment of interest rates or other rates of  
11 return, preferred, priority, or otherwise, with respect to contributions  
12 by or capital accounts of the other members.

13 (F) Providing for a fixing of the value of the defaulting member's  
14 interest in the limited liability company by appraisal or by formula and  
15 redemption or sale of the defaulting member's interest in the limited  
16 liability company at a percentage of that value.

17 (b) (1) Unless otherwise provided in the articles of organization or the  
18 operating agreement, the obligation of a member to make a contribution or  
19 return money or property paid or distributed in violation of this article shall  
20 be compromised only by the unanimous vote of the members.

21 (2) Notwithstanding the compromise of an obligation referred to in  
22 paragraph (1), a person whose claim against a limited liability company  
23 arises before the receipt of notice of the compromise may enforce the original  
24 obligation of a member to make a contribution to the limited liability company  
25 or to return a distribution if the person had knowledge of the original  
26 obligation prior to the time the claim arose and if the compromise occurred  
27 after the time the claim arose. Any other person with a claim against a

1 limited liability company may enforce only the existing obligation of a  
2 member to make a contribution to the limited liability company or to return to  
3 the limited liability company money or other property paid or distributed.

4 (c) A person with a claim against a limited liability company may not  
5 enforce a conditional obligation of a member unless the conditions have been  
6 satisfied or waived. Conditional obligations include, without limitation, a  
7 capital contribution payable upon a discretionary call of the limited liability  
8 company prior to the time the call occurs.

9 (d) Nothing in this section shall be construed to affect the rights of  
10 third-party creditors of the limited liability company to seek equitable  
11 remedies or any rights existing under Guam law.

12 **§15113 (C). Allocation of profits and losses among members.** The  
13 profits and losses of a limited liability company shall be allocated among the  
14 members, and among classes of members, in the manner provided in the  
15 operating agreement. If the operating agreement does not otherwise  
16 provide, profits and losses shall be allocated in proportion to the  
17 contributions of each member.

18 **§15114. Members. §15114 (A). Acquisition of membership interest;**  
19 **Termination of interest.**

20 (a) After formation of a limited liability company, a person may become  
21 a member:

22 (1) In the case of a person acquiring a membership interest  
23 directly from the limited liability company, at the time provided in and  
24 upon compliance with the articles of organization or the operating  
25 agreement or, if the articles of organization or operating agreement do  
26 not so provide, only upon the vote of all the members and when the  
27 person becomes a party to the operating agreement.

1           (2) In the case of an assignee of a membership interest, upon  
2 compliance with subdivision (a) of Subsection 15117 (D) and at the time  
3 provided in and upon compliance with the articles of organization or  
4 the operating agreement or, if the articles of organization or operating  
5 agreement do not so provide, where the assignee becomes a party to the  
6 operating agreement.

7           (b) The operating agreement may provide for the termination in whole  
8 or in part of the membership interest or economic interest of a member in the  
9 limited liability company. If a member's economic interest in the limited  
10 liability company is terminated pursuant to the operating agreement, the  
11 member may demand and shall be entitled to receive a return of that  
12 member's contribution. Any provision in an operating agreement governing  
13 the termination of a member's interest and the return of a member's  
14 contribution shall be enforceable in accordance with its terms unless the  
15 member seeking to invalidate the provision establishes that the provision was  
16 unreasonable under the circumstances existing at the time the agreement was  
17 made.

18           **§15114 (B). Personal liability of members.** (a) Except as otherwise  
19 provided in Subsection 15116 (E), no member of a limited liability company  
20 shall be personally liable under any judgment of a court, or in any other  
21 manner, for any debt, obligation, or liability of the limited liability company,  
22 whether that liability or obligation arises in contract, tort, or otherwise,  
23 solely by reason of being a member of the limited liability company.

24           (b) A member of a limited liability company shall be personally liable  
25 under a judgment of a court or for any debt, obligation, or liability of the  
26 limited liability company, whether that liability or obligation arises in  
27 contract, tort, or otherwise, under the same or similar circumstances and to

1 the same extent as a shareholder of a corporation may be personally liable for  
2 any debt, obligation, or liability of the corporation; except that the failure to  
3 hold meetings of members or managers or the failure to observe formalities  
4 pertaining to the calling or conduct of meetings shall not be considered a  
5 factor tending to establish that the members have personal liability for any  
6 debt, obligation, or liability of the limited liability company where the articles  
7 of organization or operating agreement do not expressly require the holding  
8 of meetings of members or managers.

9 (c) Nothing in this section shall be construed to affect the liability of a  
10 member of a limited liability company to third parties for the member's  
11 participation in tortious conduct.

12 **§15114 (C). Creation of classes of members.** The articles of  
13 organization or the operating agreement may provide for the creation of  
14 classes of members having those relative rights, powers and duties as the  
15 articles of organization or operating agreement may provide, including  
16 rights, powers, and duties senior to other classes of members.

17 **§15114 (D). Voting by members.** (a) The articles of organization or a  
18 written operating agreement may provide to all or certain identified  
19 members or a specified class or group of members the right to vote separately  
20 or with all or any class or group of members on any matter. Voting by  
21 members may be on a per capita, number, financial interest, class, group, or  
22 any other basis. If no voting provision is contained in the articles of  
23 organization or written operating agreement:

24 (1) The members of a limited liability company shall vote in  
25 proportion to their interests in current profits of the limited liability  
26 company or, in the case of a member who has assigned his or her or its  
27 entire economic interest in the limited liability company to a person who

1 has not been admitted as a member, in proportion to the interest in  
2 current profits that the assigning member would have, had the  
3 assignment not been made.

4 (2) The following matters shall require the unanimous vote of all  
5 members:

6 (A) A decision to continue the business of the limited liability  
7 company after dissolution of the limited liability company  
8 pursuant to Section 15132.

9 (B) Approval of the transfer of a membership interest and  
10 admission of the assignee as a member of the limited liability  
11 company.

12 (C) Any amendment of the articles of organization or  
13 operating agreement.

14 (3) In all other matters in which a vote is required, a vote of  
15 a majority in interest of the members shall be sufficient.

16 (b) Notwithstanding any provision to the contrary in the articles of  
17 organization or operating agreement, in no event shall the articles of  
18 organization be amended by a vote of less than a majority in interest of the  
19 members.

20 (c) Notwithstanding any provision to the contrary in the articles of  
21 organization or operating agreement, members shall have the right to vote  
22 on a dissolution of the limited liability company as provided in subdivision (c)  
23 of Section 15132.

24 **§15114 (E). Meetings; Notice; Quorum; Proxies; Record date of**  
25 **members entitled to notice.** (a) Meetings of members may be held at any  
26 place, either within or without this territory, selected by the person or persons  
27 calling the meeting or as may be stated in or fixed in accordance with the

1 articles of organization or a written operating agreement. If no other place is  
2 stated or so fixed, all meetings shall be held at the principal executive office of  
3 the limited liability company.

4 (b) A meeting of the members may be called by any manager or by any  
5 member or members representing more than 10 percent of the interests of  
6 members for the purpose of addressing any matters on which the members  
7 may vote.

8 (c) (1) Whenever members are required or permitted to take any action  
9 at a meeting, a written notice of the meeting shall be given not less than 10  
10 days nor more than 60 days before the date of the meeting to each member  
11 entitled to vote at the meeting. The notice shall state the place, date, and  
12 hour of the meeting and the general nature of the business to be transacted.  
13 No other business may be transacted at this meeting.

14 (2) Any report or any notice of a members' meeting shall be given either  
15 personally or by mail or other means of written communication, addressed to  
16 the member at the address of the member appearing on the books of the  
17 limited liability company or given by the member to the limited liability  
18 company for the purpose of notice, or, if no address appears or is given, at the  
19 place where the principal executive office of the limited liability company is  
20 located or by publication at least once in a newspaper of general circulation in  
21 Guam. The notice or report shall be deemed to have been given at the time  
22 when delivered personally or deposited in the mail or sent by other means of  
23 written communication. An affidavit of mailing of any notice or report in  
24 accordance with the provisions of this article, executed by a manager, shall be  
25 prima facie evidence of the giving of the notice or report.

26 If any notice or report addressed to the member at the address of the member  
27 appearing on the books of the limited liability company is returned to the

1 limited liability company by the United States Postal Service marked to  
2 indicate that the United States Postal Service is unable to deliver the notice or  
3 report to the member at the address, all future notices or reports shall be  
4 deemed to have been duly given without further mailing if they are available  
5 for the member at the principal executive office of the limited liability  
6 company for a period of one year from the date of the giving of the notice or  
7 report to all other members.

8 (3) Upon written request to a manager by any person entitled to call a  
9 meeting of members, the manager shall immediately cause notice to be given  
10 to the members entitled to vote that a meeting will be held at a time requested  
11 by the person calling the meeting, not less than 10 days nor more than 60 days  
12 after the receipt of the request. If the notice is not given within 20 days after  
13 receipt of the request, the person entitled to call the meeting may give the  
14 notice or, upon the application of that person, the Superior Court of Guam  
15 shall summarily order the giving of the notice, after notice to the limited  
16 liability company affording it an opportunity to be heard. The court may issue  
17 any order as may be appropriate, including, without limitation, an order  
18 designating the time and place of the meeting, the record date for determina-  
19 tion of members entitled to vote, and the form of notice.

20 (d) When a members' meeting is adjourned to another time or place,  
21 unless the articles of organization or a written operating agreement  
22 otherwise require and, except as provided in this subdivision, notice need not  
23 be given of the adjourned meeting if the time and place thereof are  
24 announced at the meeting at which the adjournment is taken. At the  
25 adjourned meeting, the limited liability company may transact any business  
26 that may have been transacted at the original meeting. If the adjournment is  
27 for more than 45 days, or if after the adjournment a new record date is fixed



1 for the adjourned meeting, a notice of the adjourned meeting shall be given to  
2 each member of record entitled to vote at the meeting.

3 (e) The actions taken at any meeting of members, however called and  
4 noticed, and wherever held, have the same validity as if taken at a meeting  
5 duly held after regular call and notice, if a quorum is present either in person  
6 or by proxy, and if, either before or after the meeting, each of the members  
7 entitled to vote, not present in person or by proxy, signs a written waiver of  
8 notice or consents to the holding of the meeting or approves the minutes of  
9 the meeting. All waivers, consents, and approvals shall be filed with the  
10 limited liability company records or made a part of the minutes of the  
11 meeting. Attendance of a person at a meeting shall constitute a waiver of  
12 notice of the meeting, except when the person objects, at the beginning of the  
13 meeting, to the transaction of any business because the meeting is not  
14 lawfully called or convened. Attendance at a meeting is not a waiver of any  
15 right to object to the consideration of matters required by this title to be  
16 included in the notice but not so included, if the objection is expressly made at  
17 the meeting. Neither the business to be transacted nor the purpose of any  
18 meeting of members need be specified in any written waiver of notice, unless  
19 otherwise provided in the articles of organization or operating agreement,  
20 except as provided in subdivision (g).

21 (f) Members may participate in a meeting of the limited liability  
22 company through the use of conference telephones or similar communications  
23 equipment, as long as all members participating in the meeting can hear one  
24 another. Participation in a meeting pursuant to this provision constitutes  
25 presence in person at that meeting.

26 (g) Any action approved at a meeting, other than by unanimous  
27 approval of those entitled to vote, shall be valid only if the general nature of

1 the proposal so approved was stated in the notice of meeting or in any  
2 written waiver of notice.

3 (h) (1) A majority in interest of the members represented in person or by  
4 proxy shall constitute a quorum at a meeting of members.

5 (2) The members present at a duly called or held meeting at which a  
6 quorum is present may continue to transact business until adjournment,  
7 notwithstanding the loss of a quorum, if any action taken after loss of a  
8 quorum, other than adjournment, is approved by the requisite percentage of  
9 interests of members specified in this title or in the articles of organization or  
10 a written operating agreement.

11 (3) In the absence of a quorum, any meeting of members may be  
12 adjourned from time to time by the vote of a majority of the interests  
13 represented either in person or by proxy, but no other business may be  
14 transacted, except as provided in paragraph (2).

15 (i) (1) Any action that may be taken at any meeting of the members may  
16 be taken without a meeting if a consent in writing, setting forth the action so  
17 taken, is signed and delivered to the limited liability company within 60 days  
18 of the record date for that action by members having not less than the  
19 minimum number of votes that would be necessary to authorize or take that  
20 action at a meeting at which all members entitled to vote thereon were  
21 present and voted.

22 (2) Unless the consents of all members entitled to vote have been  
23 solicited in writing:

24 (A) Notice of any member approval of an amendment to the  
25 articles of organization or operating agreement, a dissolution of the  
26 limited liability company as provided in Section 15132 without a  
27 meeting by less than unanimous written consent shall be given at least

1 10 days before the consummation of the action authorized by such  
2 approval; and

3 (B) Prompt notice shall be given of the taking of any other action  
4 approved by members without a meeting by less than unanimous  
5 written consent, to those members entitled to vote who have not  
6 consented in writing.

7 (3) Any member giving a written consent, or the member's proxy  
8 holder, may revoke the consent by a writing received by the limited liability  
9 company prior to the time that written consents of members having the  
10 minimum number of votes that would be required to authorize the proposed  
11 action have been filed with the limited liability company, but may not do so  
12 thereafter. This revocation is effective upon its receipt at the office of the  
13 limited liability company required to be maintained pursuant to this Chapter.

14 (j) The use of proxies in connection with this section will be governed in  
15 the same manner as in the case of corporations formed under Title 18, Guam  
16 Code Annotated.

17 (k) In order that the limited liability company may determine the  
18 members of record entitled to notices of any meeting or to vote, or entitled to  
19 receive any distribution or to exercise any rights in respect of any other lawful  
20 action, a manager, or members representing more than 10 percent of the  
21 interests of members, may fix, in advance, a record date, that is not more  
22 than 60 days nor less than 10 days prior to the date of the meeting and not  
23 more than 60 days prior to any other action. If no record date is fixed:

24 (1) The record date for determining members entitled to notice of  
25 or to vote at a meeting of members shall be at the close of business on  
26 the business day next preceding the day on which notice is given or, if

1 notice is waived, at the close of business on the business day next  
2 preceding the day on which the meeting is held.

3 (2) The record date for determining members entitled to give  
4 consent to limited liability company action in writing without a meeting  
5 shall be the day on which the first written consent is given.

6 (3) The record date for determining members for any other  
7 purpose shall be at the close of business on the day on which the  
8 managers adopt the resolution relating thereto, or the 60th day prior to  
9 the date of the other action, whichever is later.

10 (4) The determination of members of record entitled to notice of  
11 or to vote at a meeting of members shall apply to any adjournment of  
12 the meeting unless a manager or the members who called the meeting  
13 fix a new record date for the adjourned meeting, but the manager or the  
14 members who called the meeting shall fix a new record date if the  
15 meeting is adjourned for more than 45 days from the date set for the  
16 original meeting.

17 **§15114 (F). Issuance of certificate of interest.** (a) The operating  
18 agreement may provide that the interest of a member or assignee in a limited  
19 liability company may be evidenced by a certificate of interest issued by the  
20 limited liability company, and may make other provisions not inconsistent  
21 with this Title with respect to the transfer of interests represented by those  
22 certificates or with respect to the form of those certificates.

23 (b) The operating agreement may provide that the certificate may be  
24 signed by a manager or officer of the limited liability company, whose  
25 signature may be a facsimile. In case any manager or officer of the limited  
26 liability company who has signed or whose facsimile signature has been  
27 placed upon a certificate has to be a manager or officer before the certificate

1 is issued, it may be issued by the limited liability company with the same effect  
2 as if the person were a manager or officer at the date of issue. If a certificate  
3 is worn out or lost, it may be renewed on production of the worn out or lost  
4 certificate or on satisfactory proof of its loss together with such indemnity as  
5 may be required by the manager or managers or a resolution of members.

6 **§15114 (G). Access to records and documents by members; Inspection**  
7 **and copying.** (a) Upon the request of a member or a holder of an economic  
8 interest, for purposes reasonably related to the interest of that person as a  
9 member or a holder of an economic interest, a manager shall promptly  
10 deliver to the member or holder of an economic interest, at the expense of the  
11 limited liability company, a copy of the information required to be maintained  
12 by paragraphs (1), (2), and (4) of subdivision (a) of Section 15115 (K), and any  
13 written operating agreement of the limited liability company.

14 (b) Each member, manager, and holder of an economic interest has the  
15 right upon reasonable request, for purposes reasonably related to the interest  
16 of that person as a member, manager, or holder of an economic interest, to  
17 each of the following:

18 (1) To inspect and copy during normal business hours any of the  
19 records required to be maintained by Section 15115 (K).

20 (2) To obtain from a manager promptly after becoming available,  
21 a copy of the limited liability company's federal, state, and local income  
22 tax or information returns for each year.

23 (c) In the case of any limited liability company with more than 35  
24 members:

25 (1) A manager shall cause an annual report to be sent to each of  
26 the members not later than 120 days after the close of the fiscal year.  
27 That report shall contain a balance sheet as of the end of the fiscal year

1 and an income statement and statement of changes in financial position  
2 for the fiscal year.

3 (2) Members representing at least 5 percent of the voting  
4 interests of members, or three or more members, may make a written  
5 request to a manager for an income statement of the limited liability  
6 company for the initial three-month, six-month, or nine-month period  
7 of the current fiscal year ended more than 30 days prior to the date of  
8 the request, and a balance sheet of the limited liability company as of the  
9 end of that period. The statement shall be delivered or mailed to the  
10 members within 30 days thereafter.

11 (3) The financial statements referred to in this section shall be  
12 accompanied by the report thereon, if any, of the independent  
13 accountants engaged by the limited liability company or, if there is no  
14 report, the certificate of a manager of the limited liability company that  
15 the financial statements were prepared without audit from the books  
16 and records of the limited liability company.

17 (d) A manager shall promptly furnish to a member a copy of any  
18 amendment to the articles of organization or operating agreement executed  
19 by a manager pursuant to a power of attorney from the member.

20 (e) The limited liability company shall send or cause to be sent to each  
21 member or holder of an economic interest within 90 days after the end of each  
22 taxable year such information as is necessary to complete federal and state  
23 income tax or information returns, and, in the case of a limited liability  
24 company with 35 or fewer members, a copy of the limited liability company's  
25 federal, state, and local income tax or information returns for the year.

26 (f) In addition to any other remedies, a court of competent jurisdiction  
27 may enforce the duty of making and mailing or delivering the information

1 and all statements required by this section and, for good cause shown, may  
2 extend the time therefor.

3 (g) In any action under this section, if the court finds the failure of the  
4 limited liability company to comply with the requirements of this section is  
5 without justification, the court may award an amount sufficient to reimburse  
6 the person bringing the action for the reasonable expenses incurred by that  
7 person, including attorneys' fees, in connection with the action or proceeding.

8 (h) Any waiver of the rights provided in this section shall be  
9 unenforceable.

10 (i) Any request, inspection, or copying by a member or holder of an  
11 economic interest may be made by that person or by that person's agent or  
12 attorney.

13 **§15114 (H). Complaint by members of failure to comply with law or**  
14 **articles of organization; Action by Attorney General.** (a) Upon complaint  
15 that a limited liability company is failing to comply with the provisions of  
16 Section 15114 (G), or to afford to the members rights given to them in the  
17 articles of organization or operating agreement, the Attorney General may,  
18 in the name of the people of the Territory of Guam, send to the office required  
19 to be maintained pursuant to Section 15115 (J), notice of the complaint.

20 (b) If the answer of the limited liability company is not received within  
21 30 days of the date the notice was transmitted, or if the answer is not  
22 satisfactory, and if the enforcement of the rights of the aggrieved persons by  
23 private civil action, by class action, or otherwise, would be so burdensome or  
24 expensive as to be impracticable, the Attorney General may institute,  
25 maintain, or intervene in any court of competent jurisdiction or before any  
26 administrative agency for relief by way of injunction, the dissolution of  
27 entities, the appointment of receivers, or any other temporary, preliminary,

1 provisional, or final remedies as may be appropriate to protect the rights of  
2 members or to restore the position of the members for the failure to comply  
3 with the requirements of Section 15114 (G) or the articles of organization or  
4 the operating agreement. In any action, suit, or proceeding, there may be  
5 joined as parties all persons and entities responsible for or affected by the  
6 activity.

7 **§15115. Management of Limited Liability Company. §15115 (A).**  
8 **Business and affairs of company managed by members.** Unless the articles of  
9 organization include the statement referred to in subdivision (b) of Section  
10 15115 (B) vesting management of the limited liability company in a manager  
11 or managers, the business and affairs of a limited liability company shall be  
12 managed by the members subject to any provisions of the articles of  
13 organization or operating agreement restricting or enlarging the  
14 management rights and duties of any member or class of members. If  
15 management is vested in the members, each of the members shall have the  
16 same rights and be subject to all duties and obligations of managers as set  
17 forth in this Chapter.

18 **§15115 (B). Management by non-members.** (a) The articles of  
19 organization may provide that the business and affairs of the limited liability  
20 company shall be managed by or under the authority of one or more  
21 managers who may, but need not, be members.

22 (b) If the limited liability company is to be managed by one or more  
23 managers and not by all its members, the articles of organization shall  
24 contain a statement to that effect. But if management is vested in only one  
25 manager, the articles of organization shall so state.



1 (c) The articles of organization or operating agreement may prescribe  
2 the number and qualifications of managers who may, but need not, be natural  
3 persons.

4 **§15115 (C). Management vested in manager pursuant to articles of**  
5 **organization; Election; Removal; Resignation.** If management of the limited  
6 liability company is vested in one or more managers pursuant to a statement  
7 in the articles of organization:

8 (a) Election of managers to fill initial positions or vacancies shall be by  
9 the affirmative vote of a majority in interest of the members.

10 (b) Any or all managers may be removed, with or without cause, by the  
11 vote of a majority in interest of the members at a meeting called expressly for  
12 that purpose. Any removal shall be without prejudice to the rights, if any, of  
13 the manager under any contract of employment.

14 (c) Any manager may resign as a manager at any time upon written  
15 notice to the limited liability company, without prejudice to the rights, if any,  
16 of the limited liability company under any contract to which the manager is a  
17 party.

18 (d) Unless they have earlier resigned or been removed, managers shall  
19 hold office until the expiration of the term for which they were elected or, if  
20 no term was provided, until their successors have been elected and qualified.

21 **§15115 (D). Fiduciary duties of manager.** The fiduciary duties a  
22 manager owes to the limited liability company and to its members are those  
23 of a partner to a partnership and to the partners of the partnership.

24 **§15115 (E). Appointment of officers; Authority of signing officers in**  
25 **documents.** (a) A written operating agreement may provide for the  
26 appointment of officers, including, without limitation, a chairperson or a  
27 president, or both, a secretary, a chief financial officer, and any other officers

1 with such titles, powers, and duties as shall be specified in the articles of  
2 organization or operating agreement, or determined by the managers or  
3 members. An officer may, but need not, be a member or manager of the  
4 limited liability company, and any number of offices may be held by the same  
5 person.

6 (b) Officers, if any, shall be appointed in accordance with the written  
7 operating agreement or, if no such provision is made in the operating  
8 agreement, any officers shall be appointed by the managers and shall serve at  
9 the pleasure of the managers, subject to the rights, if any, of an officer under  
10 any contract of employment. Any officer may resign at any time upon written  
11 notice to the limited liability company without prejudice to the rights, if any,  
12 of the limited liability company under any contract to which the officer is a  
13 party.

14 (c) Subject to the provisions of this Chapter, any note, mortgage,  
15 evidence of indebtedness, contract, certificate, statement, conveyance, or  
16 other instrument in writing, and any assignment or endorsement thereof,  
17 executed or entered into between any limited liability company and any other  
18 person, when signed by the chairman of the board, the president or any vice  
19 president, and any secretary, any assistant secretary, the chief financial  
20 officer, or any assistant treasurer of the limited liability company, is not  
21 invalidated as to the limited liability company by any lack of authority of the  
22 signing officers in the absence of actual knowledge on the part of the other  
23 person that the signing officers had no authority to execute the same.

24 **§15115 (F). Indemnification of manager, member, officer, and others;**  
25 **Purchase of insurance.** (a) Except for a breach of the duty set forth in  
26 Subsection 15115 (D), the articles of organization or written operating  
27 agreement of a limited liability company may provide for indemnification of

1 any person, including, without limitation, any manager, member, officer,  
2 employee, or agent of the limited liability company, against judgments,  
3 settlements, penalties, fines, or expenses of any kind incurred as a result of  
4 acting in that capacity.

5 (b) A limited liability company shall have power to purchase and  
6 maintain insurance on behalf of any manager, member, officer, employee, or  
7 agent of the limited liability company against any liability asserted against or  
8 incurred by the person in that capacity or arising out of the person's status as  
9 a manager, member, officer, employee, or agent of the limited liability  
10 company.

11 **§15115 (G). More than one manager; Decisions by majority vote.**  
12 Except as otherwise provided in the articles of organization or the operating  
13 agreement, if the members have appointed more than one manager, decisions  
14 of the managers shall be made by majority vote of the managers if at a  
15 meeting, or by unanimous written consent.

16 **§15115 (H). Member as agent of company unless otherwise provided;**  
17 **Manager as agent.** (a) Unless the statement referred to in subdivision (b) of  
18 Subsection 15115 (B) is included in the articles of organization, every member  
19 is an agent of the limited liability company for the purpose of its business or  
20 affairs, and the act of any member, including, but not limited to, the execution  
21 in the name of the limited liability company of any instrument, for the  
22 apparent purpose of carrying on in the usual way the business or affairs of  
23 the limited liability company of which that person is a member, binds the  
24 limited liability company, unless the member so acting has, in fact, no  
25 authority to act for the limited liability company in the particular matter, and  
26 the person with whom the member is dealing has actual knowledge of the fact  
27 that the member has no such authority.

1 (b) If the articles of organization contain the statement referred to in  
2 subdivision (b) of Subsection 15115 (B) that management of the limited  
3 liability company is vested in a manager or managers, then:

4 (1) No member, acting solely in the capacity of a member, is an  
5 agent of the limited liability company nor can any member bind, nor  
6 execute any instrument on behalf of, the limited liability company.

7 (2) Every manager is an agent of the limited liability company for  
8 the purpose of its business or affairs, and the act of any manager,  
9 including, but not limited to, the execution in the name of the limited  
10 liability company of any instrument, for apparently carrying on in the  
11 usual way the business or affairs of the limited liability company of  
12 which the person is the manager, binds the limited liability company,  
13 unless the manager so acting has, in fact, no authority to act for the  
14 limited liability company in the particular matter, and the person with  
15 whom the manager is dealing has actual knowledge of the fact that the  
16 manager has no such authority.

17 (c) No act of a manager or member in contravention of a restriction on  
18 authority shall bind the limited liability company to persons having actual  
19 knowledge of the restriction.

20 (d) Notwithstanding the provisions of subdivision (c) of this section,  
21 and subject to the provisions of this Chapter, any note, mortgage, evidence of  
22 indebtedness, contract, certificate, statement, conveyance, or other  
23 instrument in writing, and any assignment or endorsement thereof, executed  
24 or entered into between any limited liability company and any other person,  
25 when signed by at least two managers (or by one manager in the case of a  
26 limited liability company whose articles of organization state that it is  
27 managed by only one manager), is not invalidated as to the limited liability

1 company by any lack of authority of the signing managers or manager in the  
2 absence of actual knowledge on the part of the other person that the signing  
3 managers or manager had no authority to execute the same.

4 **§15115 (I). Personal liability of manager or officer.** No person who is a  
5 manager or officer or both a manager and officer of a limited liability  
6 company shall be personally liable under any judgment of a court, or in any  
7 other manner, for any debt, obligation, or liability of the limited liability  
8 company, whether that liability or obligation arises in contract, tort, or  
9 otherwise, solely by reason of being a manager or officer, or both a manager  
10 and officer of the limited liability company.

11 **§15115 (J). Office to maintain records; Agent for service of process.**  
12 Each limited liability company, through its manager(s), shall continuously  
13 maintain in this territory each of the following:

14 (a) An office at which shall be maintained the records required by  
15 Subsection 15115 (K).

16 (b) An agent in this territory for service of process on the limited liability  
17 company.

18 **§15115 (K). Records and documents required to be kept.** (a) Each  
19 limited liability company, through its manager(s), shall maintain at the office  
20 referred to in subdivision (a) of Subsection 15115 (J) all of the following:

21 (1) A current list of the full name and last known business or  
22 residence address of each member and of each holder of an economic  
23 interest in the limited liability company set forth in alphabetical order,  
24 together with the contribution and the share in profits and losses of  
25 each member and holder of an economic interest.

1 (2) If the articles of organization contain the statement described  
2 in subdivision (b) of Section 15115 (B), a current list of the full name and  
3 business or residence address of each manager.

4 (3) A copy of the articles of organization and all amendments  
5 thereto, together with any powers of attorney pursuant to which the  
6 articles of organization or any amendments thereto were executed.

7 (4) Copies of the limited liability company's federal, state, and  
8 local income tax, or information returns and reports, if any, for the six  
9 most recent taxable years.

10 (5) A copy of the limited liability company's operating agreement,  
11 if in writing, and any amendments thereto, together with any powers of  
12 attorney pursuant to which any written operating agreement or any  
13 amendments thereto were executed.

14 (6) Copies of the financial statements of the limited liability  
15 company, if any, for the six most recent fiscal years.

16 (7) The books and records of the limited liability company as they  
17 relate to the internal affairs of the limited liability company for at least  
18 the current and past four fiscal years.

19 (b) Upon request of an assessor, a domestic or foreign limited liability  
20 company owning, claiming, possessing, or controlling property in this  
21 territory subject to local assessment shall make available at the limited  
22 liability company's principal office in Guam, or at the office required to be  
23 kept pursuant to this Chapter, or at a place mutually acceptable to the  
24 assessor and the limited liability company, a true copy of business records  
25 relevant to the amount, cost, and value of all property that it owns, claims,  
26 possesses, or controls within the territory of Guam.

1           **§15116. Distributions and Withdrawals. §15116 (A). Distributions of**  
2 **money or property to members.** Distributions of the money or property of a  
3 limited liability company shall be made to the members and to any classes of  
4 members in the manner provided in the operating agreement. If the  
5 operating agreement does not otherwise provide, distributions that are a  
6 return of capital shall be made in proportion to the contributions made by  
7 each member and distributions that are not a return of capital shall be made  
8 in proportion to the allocation of profits.

9           **§15116 (B). Entitlement of member to receive distributions prior to**  
10 **withdrawal or dissolution.** Except as provided in this article, a member is  
11 entitled to receive distributions from a limited liability company before the  
12 withdrawal of that member from the limited liability company and before the  
13 dissolution and winding up thereof, subject to the limitations contained in  
14 Section 15116 (E), to the extent and at the times or upon the happening of the  
15 events specified in the operating agreement.

16           **§15116 (C). Withdrawal of member; Notice; Entitlement to distribution.**  
17 (a) A member may withdraw from a limited liability company at the time or  
18 upon the happening of events specified in the articles of organization or  
19 operating agreement. A written operating agreement may provide that a  
20 member may not withdraw the member's contribution from the limited  
21 liability company, or may provide specific remedies in the event of a wrongful  
22 withdrawal of a member's contribution, prior to the dissolution and winding  
23 up of the limited liability company. If the articles of organization or a written  
24 operating agreement do not specify the time or the events upon the  
25 happening of which a member may withdraw, a member may withdraw from  
26 the limited liability company either:

1 (1) Upon not less than six months' prior written notice to each  
2 member at the addresses set forth in the list required to be kept pursuant  
3 to this Chapter.

4 (2) If any amendment to the articles of organization or operating  
5 agreement that is adopted over the member's written dissent adversely  
6 affects the rights or preferences of the dissenting member's membership  
7 interest in any of the ways described in subparagraph (A), (B), (C), or (E)  
8 below, in which event the withdrawal shall be deemed to have occurred  
9 as of the effective date of the amendment, if the member gives notice to  
10 the limited liability company not more than 60 days after the date of the  
11 amendment. In valuing the member's distribution pursuant to  
12 subdivision (c), there shall be excluded any depreciation in anticipation  
13 of the amendment. An amendment that does any of the following is  
14 subject to this paragraph:

15 (A) Altering or amending that member's right to receive a  
16 distribution.

17 (B) Altering or abolishing that member's right to voluntarily  
18 withdraw or retire.

19 (C) Altering or abolishing that member's right to vote on  
20 any matter, except as the rights may be altered or abolished  
21 through the acceptance of contributions or the making of  
22 contribution agreements.

23 (D) Altering or abolishing that member's preemptive right  
24 to make contributions.

25 (E) Establishing or changing the conditions for or  
26 consequences of expulsion.



1                   No member withdrawing under this paragraph shall be  
2                   liable for damages for the breach of any agreement not to withdraw.

3                   (b) Notwithstanding the provisions of subdivision (a), any member who  
4                   is under an obligation to render services to the limited liability company may  
5                   withdraw as a member at any time upon written notice to the limited liability  
6                   company, without prejudice to the rights, if any, of the limited liability  
7                   company or the other members under any contract to which the withdrawing  
8                   member is a party. Any provision in an operating agreement governing the  
9                   withdrawal of services by a member shall be enforceable in accordance with  
10                  its terms unless the member seeking to invalidate the provision establishes  
11                  that the provision was unreasonable under the circumstances existing at the  
12                  time the agreement was made.

13                  (c) Upon a permitted withdrawal that does not cause dissolution of the  
14                  limited liability company, any withdrawing member is entitled to receive any  
15                  distribution to which that member is entitled under the operating agreement  
16                  and, if not otherwise provided in the operating agreement, the member is  
17                  entitled to receive, within a reasonable time after withdrawal, the fair  
18                  market value of the member's interest in the limited liability company as of  
19                  the date of withdrawal based upon the member's right to share in  
20                  distributions from the limited liability company.

21                  (d) Subject to Subsection 15116 (E) and other provisions of this Chapter,  
22                  at the time a member becomes entitled to receive a distribution, the member  
23                  has the status of, and is entitled to all remedies available to, a creditor of the  
24                  limited liability company with respect to the distribution. An operating  
25                  agreement may provide for the establishment of a record date with respect to  
26                  sharing of profits and distributions from a limited liability company.

27                  **§15116 (D). Distribution in form other than money; Distribution of asset.**

1 (a) A member, regardless of the nature of the member's contribution, has no  
2 right to demand and receive any distribution from a limited liability company  
3 in any form other than money.

4 (b) No member may be compelled to accept from a limited liability  
5 company a distribution of any asset in kind in lieu of a proportionate  
6 distribution of money being made to other members.

7 (c) Except upon a dissolution and winding up of a limited liability  
8 company, no member may be compelled to accept a distribution of any asset in  
9 kind.

10 **§15116 (E). Requirements to make distribution.** (a) No distribution shall  
11 be made if, after giving effect to the distribution:

12 (1) The limited liability company would not be able to pay its  
13 debts as they become due in the usual course of business.

14 (2) The limited liability company's total assets would be less than  
15 the sum of its total liabilities plus, unless the operating agreement  
16 provides otherwise, the amount that would be needed, if the limited  
17 liability company were to be dissolved at the time of the distribution, to  
18 satisfy the preferential rights of other members upon dissolution that  
19 are superior to the rights of the member receiving the distribution.

20 (b) The limited liability company may base a determination that a  
21 distribution is not prohibited under subdivision (a) on any of the following:

22 (1) Financial statements prepared on the basis of accounting  
23 practices and principles that are reasonable in the circumstances.

24 (2) A fair valuation.

25 (3) Any other method that is reasonable in the circumstances.

26 (c) Except as provided in subdivision (e), the effect of a distribution  
27 under subdivision (a) is measured as of (1) the date the distribution is

1 authorized if the payment occurs within 120 days after the date of  
2 authorization, or (2) the date payment is made if it occurs more than 120 days  
3 after the date of authorization.

4 (d) (1) If terms of the indebtedness provide that payment of principal  
5 and interest is to be made only if, and to the extent that, payment of a  
6 distribution to members could then be made under this section, indebtedness  
7 of a limited liability company, including indebtedness issued as a distribution,  
8 is not a liability for purposes of determinations made under subdivision (b).

9 (2) If the indebtedness is issued as a distribution, each payment of  
10 principal or interest on the indebtedness is treated as a distribution, the effect  
11 of which is measured on the date the payment is actually made.

12 (e) A member or assignee of a member is obligated to return a  
13 distribution from a limited liability company to the extent that (1) the member  
14 or assignee had actual knowledge of facts indicating the impropriety of the  
15 distribution, and (2) immediately after giving effect to the distribution, and  
16 notwithstanding the compromise of an obligation referred to in subdivision  
17 (b) of Subsection 15113 (B), all liabilities of the limited liability company, other  
18 than liabilities to members or assignees on account of their interest in the  
19 limited liability company and liabilities as to which recourse of creditors is  
20 limited to specified property of the limited liability company, exceed the fair  
21 market value of the limited liability company's assets, provided that the fair  
22 market value of any property that is subject to a liability as to which recourse  
23 of creditors is so limited shall be included in the limited liability company  
24 assets only to the extent that the fair market value of the property exceeds  
25 this liability.

1 (f) A cause of action with respect to an obligation to return a  
2 distribution pursuant to subdivision (e) is extinguished unless the action is  
3 brought within four years after the distribution is made.

4 **§15116 (F). Personal liability of manager or member who votes for**  
5 **unlawful distribution.** (a) A member or manager who votes for a distribution  
6 in violation of the operating agreement or Subsection 15116 (E) or other  
7 appropriate provisions of this Chapter, is personally liable to the limited  
8 liability company for the amount of the distribution that exceeds what could  
9 have been distributed without violating those sections of this Chapter or the  
10 operating agreement if it is established that the member or manager did not  
11 act in compliance with those sections.

12 (b) Each member or manager held liable under subdivision (a) for an  
13 unlawful distribution is entitled to compel contribution:

14 (1) From each other member or manager who could be held liable  
15 under subdivision (a) for the unlawful distribution.

16 (2) From each member for the amount the member received with  
17 knowledge of facts indicating that the distribution was made in  
18 violation of Subsection 15116 (E) or other appropriate sections of this  
19 Chapter or the operating agreement.

20 (c) A proceeding under this section is barred unless it is commenced  
21 within four years after the date on which the effect of the distribution is  
22 measured under Subsection 15116 (E).

23 **§15117. Interest in Limited Liability Company; Assignment of interests.**

24 **§15117 (A). Membership interest as personal property.** A membership  
25 interest and an economic interest in a limited liability company constitute  
26 personal property of the member or assignee. A member or assignee has no  
27 interest in specific limited liability company property.

1           **§15117 (B). Assignment of membership interest or economic interest;**  
2 **Pledge or lien against membership interest.** (a) Except as provided in the  
3 articles of organization or the operating agreement:

4           (1) A membership interest or an economic interest is assignable in  
5 whole or in part, provided, however, that no membership interest may  
6 be assigned without the unanimous vote of members required pursuant  
7 to Subsection 15117 (D).

8           (2) An assignment of an economic interest does not of itself  
9 dissolve the limited liability company or, other than as set forth in the  
10 articles of organization or operating agreement, entitle the assignee to  
11 vote or participate in the management and affairs of the limited liability  
12 company or to become or exercise any rights of a member.

13           (3) An assignment of an economic interest merely entitles the  
14 assignee to receive, to the extent assigned, the distributions and the  
15 allocations of income, gains, losses, deductions, credit, or similar items  
16 to which the assignor would be entitled.

17           (4) Upon the assignment of all or part of an economic interest, the  
18 assignor shall provide the manager or member of the limited liability  
19 company responsible for maintaining its books and records with the  
20 name and address of the assignee, together with details of the interest  
21 assigned. Upon receipt of that notice, the limited liability company shall  
22 amend the list required by paragraph (1) of subdivision (a) of Section  
23 15115 (K) accordingly. Until the assignee of that interest becomes a  
24 member, the assignor continues to be a member and to have the power  
25 to exercise any rights and powers of a member, including the right to  
26 vote which, in the case of a member who has assigned his entire  
27 economic interest in the limited liability company, shall include the right

1 to vote in proportion to the interest in current profits that the assigning  
2 member would have, had the assignment not been made.

3 (b) Except to the extent assumed by agreement, until an assignee of an  
4 economic interest in a limited liability company becomes a member, the  
5 assignee shall have no liability to the limited liability company under Section  
6 15113 and Section 15116 solely as a result of the assignment. The assignor of  
7 a membership interest is not released from liability as a member solely as a  
8 result of the assignment.

9 (c) The pledge of, or granting of, a security interest, lien, or other  
10 encumbrance in or against any or all of the membership interest of a member  
11 shall not cause the member to cease to be a member or to grant to anyone else  
12 the power to exercise any rights or powers of a member.

13 **§15117 (C). Unsatisfied amount of judgment to be charged against**  
14 **membership interest.** On application to a court of competent jurisdiction by  
15 any judgment creditor of a member, the court may charge the membership  
16 interest of the member with payment of the unsatisfied amount of the  
17 judgment with interest. To the extent so charged, the judgment creditor has  
18 only the rights of an assignee of the membership interest. This section does  
19 not deprive any member of the benefit of any exemption laws applicable to  
20 the member's membership interest.

21 **§15117 (D). Membership of assignee.** (a) Except as otherwise provided  
22 in the articles of organization or the operating agreement, an assignee of an  
23 interest in a limited liability company may become a member only if the other  
24 members unanimously vote in favor of the assignee's admission to the limited  
25 liability company as a member.

26 (b) An assignee who has become a member has, to the extent assigned,  
27 the rights and powers, and is subject to the restrictions and liabilities, of a

1 member under the articles of organization, any operating agreement, and  
2 this title. An assignee who becomes a member also is liable for the obligations  
3 of the assignor to make contributions as provided in Section 15113, and to  
4 return any unlawful distributions made to the assignee under Section 15116.  
5 However, the assignee is not obligated for liabilities unknown to the assignee  
6 at the time the assignee became a member and that could not be ascertained  
7 from the articles of organization or operating agreement.

8 (c) Whether or not an assignee of a membership interest becomes a  
9 member, the assignor is not released from the assignor's liability to the  
10 limited liability company under Sections 15113 and 15116.

11 **§15117 (E). Deceased member; Member adjudged incompetent by court.**

12 (a) If a member who is an individual dies or is adjudged by a court of  
13 competent jurisdiction to be incompetent to manage the member's person or  
14 property, the member's executor, administrator, guardian, conservator, or  
15 other legal representative may exercise all of the member's rights for the  
16 purpose of settling the member's estate or administering the member's  
17 property, including any power the member had under the articles of organi-  
18 zation or an operating agreement to give an assignee the right to become a  
19 member.

20 (b) If a member is a corporation, trust, or other entity and is dissolved  
21 or terminated, the powers of that member may be exercised by its legal  
22 representative or successor.

23 **§15118. Liability of members and managers.** Neither the members of a  
24 limited liability company nor the managers of a limited liability company  
25 managed by a manager or managers are liable under a judgment, decree, or  
26 order of a court, or in any other manner, for a debt, obligation, or liability of  
27 the limited liability company. If members or managers are professionals who

1 will organize their business or service as a limited liability company, they will  
2 still remain liable for their professional performance.

3       **§15119. Unauthorized assumption of powers.** All persons who assume  
4 to act as a limited liability company without authority to do shall be jointly  
5 and severally liable for all debts and liabilities.

6       **§15120. Dissolution.** (a) A limited liability company organized under  
7 this Chapter shall be dissolved upon the occurrence of any of the following  
8 events:

9           (1) When the period fixed for the duration of the limited liability  
10 company expires.

11           (2) By the unanimous written agreement of all members.

12           (3) Upon the death, retirement, resignation, expulsion,  
13 bankruptcy, or dissolution of a member or upon the occurrence of any  
14 other event which terminates the continued membership of a member in  
15 the limited liability company, unless the business of the limited liability  
16 company is continued by the consent of all the remaining members or  
17 under a right to continue stated in the articles of organization of the  
18 liability company.

19       (b) As soon as possible following the occurrence of any *of* the events  
20 specified in Subsection (a) which effects the dissolution of the limited liability  
21 company, the limited liability company shall execute a statement of intent to  
22 dissolve in the form prescribed by the Department of Revenue and Taxation.

23       **§15121. Filing of statement of intent to dissolve.** The statement of  
24 intent to dissolve a limited liability company shall be delivered to the  
25 Department of Revenue and Taxation. If the Department of Revenue and  
26 Taxation finds that such statement conforms to law, it shall, when all fees



1 and license taxes have been paid as prescribed in this Chapter, file the articles  
2 of dissolution in accordance with this Chapter.

3 **§15122. Effect of filing of statement of intent to dissolve; procedure**  
4 **after filing such statement.** (a) Upon the filing by the Department of Revenue  
5 and Taxation of a statement of intent to dissolve, the limited liability  
6 company shall cease to carry on its business, except insofar as may be  
7 necessary for the winding up of its business, but its separate existence shall  
8 continue until a certificate of dissolution has been issued by the Department  
9 of Revenue and Taxation or until a decree dissolving the limited liability  
10 company has been entered by a court of competent jurisdiction.

11 (b) Within 20 days after the Department of Revenue and Taxation has  
12 filed a statement of intent to dissolve, the limited liability company shall  
13 immediately cause notice thereof to be mailed to each creditor of, and  
14 claimant against, the limited liability company.

15 (c) The limited liability company shall proceed to collect its assets;  
16 convey and dispose of such of its properties as are not to be distributed in kind  
17 to its members; pay, satisfy, or discharge its liabilities and obligations or make  
18 adequate provisions for the payment or discharge thereof; and do all other  
19 acts required to liquidate its business and affairs. After paying or discharging  
20 all its obligations or making the adequate provision for payment or discharge  
21 thereof, the limited liability company may distribute the remainder of its  
22 assets, either in cash or in kind, among its members according to their  
23 respective rights and interests.

24 **§15123. Distribution of assets upon dissolution.** (a) In settling accounts  
25 after dissolution, the liabilities of the limited liability company shall be  
26 entitled to payment in the following order:

1 (1) Those liabilities to creditors, in the order of priority as  
2 provided by law, except those liabilities to members of the limited  
3 liability company on account of their contributions;

4 (2) Those liabilities to members of the limited liability company in  
5 respect of their shares of the profits and other compensation by way of  
6 income on their contributions; and

7 (3) Those liabilities to members of the limited liability company in  
8 respect of their contributions to capital.

9 (b) Subject to any statement in the regulations, members shall share in  
10 the limited liability company assets in respect to their claims for capital and in  
11 respect to their claims for profits or for compensation by way of income on  
12 their contributions, respectively, in proportion to the respective amounts of  
13 the claims.

14 **§15124. Articles of dissolution.** When all debts, liabilities, and  
15 obligations of the limited liability company have been paid or discharged, or  
16 adequate provision has been made therefore, and all of the remaining  
17 property and assets of the limited liability company have been distributed to  
18 the members, articles of dissolution shall be executed and verified by the  
19 person signing the statement, which statement shall set forth:

20 (a) The name of the limited liability company.

21 (b) The fact that the Department of Revenue and Taxation has  
22 therefore filed a statement of intent to dissolve the company and the date on  
23 which such statement was filed.

24 (c) The fact that all debts, obligations, and liabilities have been paid or  
25 discharged, or that adequate provision has been made therefore.

1 (d) The fact that all the remaining property and assets have been  
2 distributed among its members in accordance with their respective rights and  
3 interests.

4 (e) The fact that there are no suits pending against the company in any  
5 court or that adequate provision has been made for the satisfaction of any  
6 judgment, order, or decree which may be entered against it in any pending  
7 suit.

8 **§15125. Filing of articles of dissolution.** (a) The articles of dissolution of  
9 the limited liability company shall be delivered to the Department of Revenue  
10 and Taxation. If the Department of Revenue and Taxation finds that such  
11 articles of dissolution conform to law, it shall, when all fees and license taxes  
12 have been paid as prescribed in this Chapter, file the statement of intent to  
13 dissolve the company in accordance with this Chapter. The Department of  
14 Revenue and Taxation shall then issue a certificate of dissolution.

15 (b) The certificate of dissolution shall be returned to the representative  
16 of the dissolved limited liability company. Upon the issuance of such  
17 certificate of dissolution, the existence of the company shall cease, except for  
18 the purpose of suits, other proceedings in this Chapter. The manager or  
19 managers in office at the time of dissolution, or the survivors of them, or, if  
20 none, the members, shall thereafter be trustees for the members and creditors  
21 of the dissolved limited liability company; and as such the trustees shall have  
22 authority to distribute any company property discovered after dissolution, to  
23 convey real estate, and to take such other action as may be necessary on  
24 behalf of and in the name of such limited liability company.

25 **§15126. Cancellation of certificate of organization.** The certificate of  
26 organization of a limited liability company shall be canceled by the

1 Department of Revenue and Taxation upon issuance of the certificate of  
2 dissolution.

3 **§15127. Involuntary dissolution.** (a) A limited liability company may be  
4 dissolved involuntarily by a decree of the Superior Court of Guam in an  
5 action filed by the Attorney General's Office when it is established that the  
6 limited liability company:

7 (1) Has procured its articles of organization through fraud;

8 (2) Has exceeded the authority conferred upon it by law;

9 (3) Has committed a violation of any provision of law whereby it  
10 has forfeited its charter;

11 (4) Has carried on, conducted, or transacted its business in a  
12 persistently fraudulent or illegal manner; or

13 (5) By the abuse of its powers contrary to the public policy of this  
14 territory, has become liable to be dissolved.

15 (b) A limited liability company may be dissolved involuntarily by order  
16 of the Department of Revenue and Taxation when the Department of  
17 Revenue and Taxation has determined that the limited liability company:

18 (1) Has failed to file its annual report or pay the filing fee for the  
19 annual report within the time required by this Chapter;

20 (2) Has failed for 30 days to appoint and maintain a registered  
21 agent in this territory; or

22 (3) Has failed for 30 days after change of its registered office or  
23 registered agent to file in the office of the Department of Revenue and  
24 Taxation a statement of such change.

25 (c) No limited liability company shall be involuntarily dissolved under  
26 Subsection (b) unless the Department of Revenue and Taxation has given the  
27 limited liability company not less than 90 days notice of the proposed

1 dissolution, stating the reasons therefore and addressed to its registered  
2 office or to its principal place of business, and the limited liability company  
3 has failed prior to such involuntary dissolution to correct the reasons for the  
4 proposed involuntary dissolution.

5 (d) If the Department of Revenue and Taxation involuntarily dissolves  
6 any limited liability company under the provisions of Subsection (b), it shall  
7 issue a certificate to such effect and mail the certificate to the limited liability  
8 company at its registered office or its principal place of business. Upon the  
9 issuance of such certificate of involuntary dissolution, the existence of the  
10 limited liability company shall cease, except as otherwise provided by law.

11 (e) The enumeration in Subsections (a) and (b) of grounds for  
12 involuntary dissolution shall not exclude an action or special proceeding for  
13 the annulment dissolution of a limited liability company for other cause as  
14 provided in any other statute of this territory.

15 **§15128. Reinstatement after involuntary dissolution.** (a) Any limited  
16 liability company which has been dissolved by the Department of Revenue  
17 and Taxation under the provisions of §15124 or prior law may be reinstated  
18 by the Department of Revenue and Taxation at any time upon approval of an  
19 application for reinstatement signed by an officer or director of the dissolved  
20 limited liability company. Such application shall be filed by the Department of  
21 Revenue and Taxation whenever it is established to the satisfaction of the  
22 Department that in fact there was no cause for the dissolution or that the  
23 reasons for the dissolution have been corrected and all fees, computed at the  
24 rate provided by law at the time the limited liability company applies for  
25 reinstatement, have been paid. If the name of the dissolved limited liability  
26 company has been lawfully assumed in the state by another limited liability  
27 company, the Department of Revenue and Taxation shall require the

1 dissolved limited liability company to amend its articles of organization to  
2 change its application for reinstatement.

3 (b) Whenever the application for reinstatement is approved and filed by  
4 the Department of Revenue and Taxation, the existence of the limited  
5 liability company shall be deemed to have continued without interruption  
6 from the date of dissolution. The reinstatement shall have no effect upon any  
7 personal liabilities of the members or managers of the limited liability  
8 company on account of actions taken during the period between dissolution  
9 and reinstatement, but the power of the limited liability company to  
10 indemnify such members or managers shall extend to actions during such  
11 period.

12 **§15129. Filings by the Department of Revenue and Taxation.** All filings  
13 made by the Department of Revenue and Taxation shall be in accordance  
14 with the provisions of §2104 of Article 1 of Chapter 2, Title 18, Guam Code  
15 Annotated.

16 **§15130. Fees for filing documents and issuing certification.** Fees for  
17 filing documents and issuing certification shall be subject to applicable rates  
18 as determined by the Department of Revenue and Taxation.

19 **§15131. Miscellaneous charges.** Miscellaneous charges shall be  
20 determined, charged, and collected by the Department of Revenue and  
21 Taxation.

22 **§15132. Waiver of notice.** When, under the provisions of this Chapter or  
23 under the provisions of the articles of organization or operating agreement  
24 of a limited liability company, notice is required to be given to a member of a  
25 limited liability company or to a manager of a limited liability company  
26 having a manager or managers, a waiver in writing signed by the person or

1 persons entitled to the notice, whether made before or after the time for  
2 notice to be given, is equivalent to the giving of notice.

3 **§15133. Jurisdiction of the Superior Court of Guam.** The Superior  
4 Court of Guam shall have jurisdiction to enforce the provisions of this  
5 Chapter.

6 **§15134. Parties to actions by or against limited liability company.** A  
7 member of a limited liability company is not a proper party to proceedings by  
8 or against a limited liability company, except when the object is to enforce a  
9 member's right against, or liability to, the limited liability company.

10 **§15135. Service of process.** (a) In addition to Part 1 of Title 18, Guam  
11 Code Annotated, process may be served upon limited liability companies and  
12 foreign limited liability companies as provided in this Section.

13 (b) Personal service of a copy of any process against the limited liability  
14 company or the foreign limited liability company by delivery to any person  
15 designated by it as agent shall constitute valid service on the limited liability  
16 company or the foreign limited liability company. No change in the address  
17 of the agent for service of process or appointment of a new agent for service  
18 of process shall be effective until an amendment to the statement described in  
19 Section 15112 is filed. In the case of a foreign limited liability company that  
20 has appointed the Director of the Department of Revenue and Taxation as  
21 agent for service of process by reason of paragraph (i) of this section, process  
22 shall be delivered by hand to the Director, or to any person employed in the  
23 capacity of assistant or deputy, and shall include one copy of the process for  
24 each defendant to be served, together with a copy of the court order  
25 authorizing the service and the fee therefor. The order shall set forth the  
26 address to which the process shall be sent by the Director.

1 (c) (1) If an agent for service of process has resigned and has not been  
2 replaced, or if the designated agent cannot with reasonable diligence be  
3 found at the address designated for personal delivery of the process, and it is  
4 shown by affidavit to the satisfaction of the court that process against a  
5 limited liability company or foreign limited liability company cannot be served  
6 with reasonable diligence upon the designated agent by hand in a manner  
7 provided by law, the court may make an order that the service shall be made  
8 upon a domestic limited liability company or upon a registered foreign limited  
9 liability company by delivering by hand to the Director, or to any person  
10 employed in the Director's office in the capacity of assistant or deputy, one  
11 copy of the process for each defendant to be served, together with a copy of  
12 the order authorizing the service. Service in this manner shall be deemed  
13 complete on the 10th day after delivery of the process to the Director.

14 (2) Upon receipt of the copy of process and the fee therefor, the  
15 Director shall give notice of the service of the process to the limited liability  
16 company or foreign limited liability company, at its principal executive office,  
17 by forwarding to that office, by registered mail with request for return  
18 receipt, the copy of the process; or if the Director's records do not disclose an  
19 address for its principal executive office, by forwarding such copy in the same  
20 manner to the last designated agent for service of process who has not  
21 resigned. If the agent for service of process has resigned and has not been  
22 replaced, and the Director's records do not disclose an address for its  
23 principal executive office, no action need be taken by the Director.

24 (3) The Director shall keep a record of all process served upon the  
25 Director under this title and shall record therein the time of service and the  
26 action taken by the Director. A certificate under the Director's official seal,  
27 certifying to the receipt of process, the giving of notice to the limited liability



1 company or foreign limited liability company, and the forwarding of the  
2 process pursuant to this section, shall be competent and prima facie evidence  
3 of the service of process.

4 (d) (1) The articles of organization of a limited liability company and the  
5 application for registration of a foreign limited liability company shall  
6 designate, as the agent for service of process, an individual residing in this  
7 territory and whose capacity to act as an agent has not terminated. The  
8 statement shall set forth that person's complete business or residence address  
9 in this territory.

10 (2) An agent designated for service of process may file with the Director  
11 a signed and acknowledged written statement of resignation as an agent.  
12 Upon filing of the statement of resignation, the authority of the agent to act  
13 in that capacity shall cease and the Director shall give written notice of the  
14 filing of the statement of resignation by mail to the limited liability company  
15 or foreign limited liability company addressed to its principal executive office.

16 (3) If an individual who has been designated agent for service of  
17 process dies or resigns or no longer resides in the territory, or if the corporate  
18 agent for that purpose resigns, dissolves, withdraws from the territory,  
19 forfeits its right to transact intrastate business, has its corporate rights,  
20 powers, and privileges suspended, or ceases to exist, the limited liability  
21 company or foreign limited liability company shall promptly file an initial or  
22 amended statement described in Section 15112 designating a new agent.

23 (e) In addition to any other discovery rights that may exist, in any case  
24 pending in a Guam court in which a party seeks records from a limited  
25 liability company formed under this title, whether or not the limited liability  
26 company is a party, the court may order the production in this territory of the

1 books and records of the limited liability company on those terms and  
2 conditions that the court deems appropriate.

3 (f) A member may, in a written operating agreement or other writing,  
4 consent to be subject to the non-exclusive jurisdiction of the courts of a  
5 specified jurisdiction, or the exclusive jurisdiction of the courts of this  
6 territory.

7 (g) If a member desires to use the arbitration process, that member  
8 may, in a written operating agreement or other writing, consent to be non-  
9 exclusively subject to arbitration in a specified state, or to be exclusively  
10 subject to arbitration in this territory.

11 (h) Along with the consent to the jurisdiction of courts or to be subject to  
12 arbitration as provided in subdivisions (f) and (g), a member may consent to  
13 be served with legal process in the manner prescribed in a written operating  
14 agreement or other writing.

15 (i) A foreign limited liability company, transacting business in this  
16 territory without registration, appoints the Director of the Department of  
17 Revenue and Taxation as its agent for service of process with respect to  
18 causes of action arising out of the business in this territory.

19 **§15136. Tax on income of limited liability company.** (a) A limited  
20 liability company is a "business" as defined in §26101 of Article I of Chapter 26  
21 of Title 11, Guam Code Annotated, and is subject to the taxes imposed under  
22 Chapter 26 of Title 11, Guam Code Annotated.

23 (b) The income of a limited liability company organized pursuant to this  
24 chapter shall be subject to the Guam's Tax Code and the taxes levied  
25 pursuant to Chapter 26 of Title 11 Guam Code Annotated.

26 **§15137. Professional Limited Liability Companies.** (a) Two or more  
27 persons may organize a professional limited liability company by filing

1 articles of organization with the Department of Revenue and Taxation in  
2 accordance with this Chapter. In addition to other provisions required or  
3 permitted by law, the articles of organization of a professional limited  
4 liability company must include a statement:

5 (1) that the limited liability company is a professional limited  
6 liability company; and

7 (2) describing the one specific kind of professional service to be  
8 rendered by the limited liability company.

9 (b) A professional limited liability company may be organized under this  
10 act only for the purpose of rendering one specific type of professional service  
11 and ancillary services. A professional limited liability company organized  
12 under this act may not render more than one kind of professional service.

13 (c) Name. A professional limited liability company may adopt a name  
14 not contrary to the law or ethics regulating the practice of the professional  
15 service rendered through the professional limited liability company. The  
16 name of the limited liability company must contain the words "Professional  
17 Limited Liability Company" or the abbreviations "P.L.L.C." or "PLLC" and  
18 must contain other words as may be required by law.

19 (d) Restrictions on Members, Managers, and Officers. (1) A person  
20 who is not licensed or otherwise authorized to render the professional service  
21 of the professional limited liability company may not be a member, manager  
22 or officer of the professional limited liability company. A membership interest  
23 in the professional limited liability company may not be transferred to a  
24 person who is not licensed or otherwise authorized to render the professional  
25 service of the professional limited liability company.

26 (2) If a member, manager, or officer of a professional limited liability  
27 company, or an agent or employee of the company who has been rendering

1 professional service for or with the company of the same type for which the  
2 professional limited liability company was organized to render, becomes  
3 legally disqualified to render the professional service, the person shall sever  
4 all employment with the professional limited liability company and  
5 immediately terminate all financial interest in the company. The professional  
6 limited liability company shall purchase or cause to be purchased from the  
7 person all membership interests owned by the person in the professional  
8 limited liability company, at a price and on terms as may be provided in the  
9 articles of organization, the regulations, or any applicable agreement among  
10 the members and the professional limited liability company.

11 (e) Rendering of Professional Services. (1) A professional limited  
12 liability company may render professional service in Guam only through: (i)  
13 an individual member, manager, officer, employee, or agent who is licensed  
14 to render the professional service on Guam; or (ii) an agent of the  
15 professional limited liability company that is a professional limited liability  
16 company, professional corporation, or professional association that is  
17 authorized on Guam to render the professional service of the professional  
18 limited liability company and that renders the professional service only  
19 through a licensed individual member, manager, officer, or employee.

20 (2) This Section does not prohibit employment by a professional limited  
21 liability company of clerks, secretaries, bookkeepers, technicians, nurses,  
22 assistants, and other individuals who are not usually and ordinarily  
23 considered by custom and practice to be rendering professional service for  
24 which a license or other legal authorization is required. A person may not,  
25 under the guise of employment, practice a profession on Guam unless  
26 licensed or otherwise legally authorized to practice that profession under the  
27 laws of Guam.

1 (f) Professional Relationships Not Affected. This Chapter does not alter  
2 or affect the professional relationship between a person rendering  
3 professional service and a person receiving the service, and a confidential  
4 relationship enjoyed on Guam between those persons remains unchanged.  
5 This Chapter does not remove or diminish any rights at law that a person  
6 receiving professional service has against a person rendering the service for  
7 an error, an omission, negligence, incompetence, or malfeasance. A limited  
8 liability company, but not the other individual members, managers, or  
9 officers, is jointly and severally liable with a member, manager, officer,  
10 employee, or agent rendering professional service for an error, omission,  
11 negligence, incompetence, or malfeasance on the part of the member,  
12 manager, officer, employee, or agent when the member, manager, officer,  
13 employee, or agent is rendering professional service in the course of  
14 employment for the limited liability company."

15 **Section 3.** This Act will take effect 180 days after its enactment.

23-125

✓



# Senator Francis E. Santos

Chairperson, Committee on Ways & Means

Phone: (671) 472-3414/5 Fax: (671) 477-3048

## TWENTY-THIRD GUAM LEGISLATURE

155 Hesler St.  
Agana, Guam 96910

April 19, 1996

The Honorable W. Don Parkinson  
Speaker  
Twenty-third Guam legislature  
155 Hesler St.  
Agana, Guam 96910

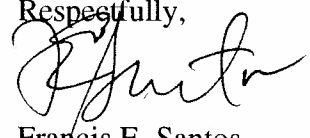
Dear Speaker Parkinson:

The Committee on Ways and Means now reports its finding on **Substitute Bill No. 610 - AN ACT TO ADD A NEW CHAPTER 15 TO TITLE 18, OF THE GUAM CODE ANNOTATED, ENTITLED "LIMITED LIABILITY COMPANIES" AUTHORIZING THE FORMATIONS OF BUSINESSES AS LIMITED LIABILITY COMPANIES ON GUAM,** to the full legislature with the recommendation to **do pass.**

Votes of the Committee members are as follows:

To Pass:	<u>8</u>
Not To Pass	<u>0</u>
To Abstain	<u>0</u>
For the purpose of discussion	<u>0</u>

Copies of the Committee Report and all pertinent documents are attached for your information.

Respectfully,  
  
Francis E. Santos

*Member,*  
Committee on  
Economic-Agricultural  
Development & Insurance

*Member,*  
Committee on  
Electrical Power &  
Consumer Protection

*Member,*  
Committee on Federal  
& Foreign Affairs

*Member,*  
Committee on Rules

*Member,*  
Committee on  
Tourism & Transportation

*Member,*  
Commission on  
Self-Determination

*Member,*  
Guam Finance Commission



**TWENTY-THIRD  
GUAM LEGISLATURE**  
155 Hesler St.  
Agana, Guam 96910

*Member,*  
Committee on  
Economic-Agricultural  
Development & Insurance

*Member,*  
Committee on  
Electrical Power &  
Consumer Protection

*Member,*  
Committee on Federal  
& Foreign Affairs

*Member,*  
Committee on Rules

*Member,*  
Committee on  
Tourism & Transportation

*Member,*  
Commission on  
Self-Determination

*Member,*  
Guam Finance Commission

# Senator Francis E. Santos

Chairperson, Committee on Ways & Means

Phone: (671) 472-3414/5 Fax: (671) 477-3048

## VOTING SHEET

On Bill #610 An act to add a new chapter 15 to title 18, of the Guam Code Annotated, entitled " Limited Liability Companies" authorizing the formations of businesses as Limited Liability Companies on Guam.

<u>COMMITTEE MEMBERS</u>	<u>TO PASS</u>	<u>NOT TO PASS</u>	<u>TO ABSTAIN</u>	<u>FOR THE PURPOSE OF DISCUSSION</u>
 Senator Francis E. SANTOS Chairman	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Senator Joe T. SAN AGUSTIN Vice-Chairman	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Speaker Don PARKINSON Ex-Officio Member	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
 Senator John P. AGUIAR Member	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
 Senator Sonny L. ORSINI Member	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
 Senator Judith WON PAT-BORJA Member	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
 Senator Elizabeth BARRETT-ANDERSON, Member	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
 Senator Anthony C. BLAZ Member	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
 Senator Felix CAMACHO Member	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
 Senator Antonio R. UNPINGCO Member	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>



CARL T.C. GUTIERREZ  
GOVERNOR OF GUAM

OFFICE OF THE LEGISLATIVE SECRETARY  
 ACKNOWLEDGMENT RECEIPT  
 Received By [Signature]  
 Time 3:25  
 Date 12-6-95

received  
12/7 [Signature]

DEC 06 1995

Office of  
 VICE-SPEAKER TED S. NELSON  
 Received by [Signature]  
 Print Name Cathy Initial [Initials]  
 Date: 12-6-95 Time: 3:10 pm

The Honorable Ted S. Nelson  
 Acting Speaker  
 Twenty-Third Guam Legislature  
 Guam Legislature Temporary Building  
 155 Hesler Street  
 Agana, Guam 96910

Dear Speaker Nelson:

Enclosed please find Substitute Bill No. 206 (LS), "AN ACT TO ADD A NEW CHAPTER 15 TO TITLE 18 OF THE GUAM CODE ANNOTATED, ENTITLED 'LIMITED LIABILITY COMPANIES', AUTHORIZING THE FORMATION OF BUSINESSES AS LIMITED LIABILITY COMPANIES ON GUAM", which I have vetoed.

I would rather sign this bill into law than veto it, because it has a great deal of merit. I am concerned that the passage of this bill into law in its present form without further study and amendments may cause a drop in revenues to the territory which are not measured and cannot be anticipated. Additionally, there are other concerns which have not been addressed in this legislation, but which are contained in the statutes of other states which have enacted legislation authorizing limited liability companies. These concerns relate to the protection of persons who transact business with a limited liability company or with its members.

I am favor of authorizing limited liability companies (LLCs) as a form of doing business on Guam, however the revenue consequences, as well as some of the concerns listed below must be first addressed:

- 1) The simplicity of forming an LLC encourages existing corporations or partnerships to become LLCs. This has financial consequences to the government. For example, the LLC would not pay taxes itself, but the individual members would. Those members who are U. S. or CNMI individual income taxpayers would report their income and pay their tax



to the U. S. or to the CNMI. This would result in taxes on Guam activities being siphoned off to other jurisdictions rather than remaining on Guam. There are no recovery methods to retain this lost income. In these times of fiscal restraint, an estimate of the results of this possibility will need to be provided, analyzed, and studied before a bill authorizing LLCs can be signed into law.

2) Certain elemental protections which are provided in other jurisdictions to persons who transact business with LLCs or their members should be included in Guam's LLC legislation. For example, members of LLCs should remain personally liable for torts committed within the scope of business. Such provisions are contained as an example in California Corporations Code §17101. In other words, the doctrine of "piercing the corporate veil" has been extended to LLCs under special circumstances.

3) The legal characteristics of an LLC member's "interest" are not adequately defined. There is no method for creditors to attach such an "interest". Once again, California limited liability company law expressly covers these items.

4) The interests of individual members of an LLC may not be adequately protected, either. The right to vote of a member of an LLC is not defined as a membership right. This may pave the way for an individual member of an LLC to be "frozen out" by other members, especially when the management of an LLC is delegated to a manager.

5) There are no provisions for the holding of meetings, notice, or quorums.

6) There are no provisions establishing the fiduciary obligations of LLC managers.

7) Although the preamble of the legislation states that banking and insurance businesses are not to be done under the LLC form of business, there is no provision within the legislation itself prohibiting this.

8) The legislation attempts to confer jurisdiction over LLCs on the District Court of Guam. This is questionable, since the jurisdiction of the District Court of Guam is established according to federal law. Also, the authority to create LLCs is a matter of local law, not federal law, and should be placed under the jurisdiction of the Superior Court of Guam.

9) There is no "grace period" before the provisions of this legislation go into effect, in order to allow the Department of Revenue and Taxation to gear up to provide the services and duties required under the legislation.

Although adapting legislation from other jurisdictions sometimes seems desirable when importing it for use on Guam, when a comprehensive product is already available within another jurisdiction, such as California, it is better to adopt most of the statute, which has already been judged tried and true, than to create another statute with lessor protections for Guam.

When the above considerations are addressed, I shall be delighted to participate in the enactment of a statute authorizing this new form of doing business for Guam.

Very truly yours,



Carl T. C. Gutierrez

Attachment

**230898**

**TWENTY-THIRD GUAM LEGISLATURE  
1996 (SECOND) Regular Session**

Bill No. 610  
As substituted by the author

Introduced by:

F. P. Camacho

*ACR 6/23*

96 APR 19 AM 9:15

AN ACT TO ADD A NEW CHAPTER 15 TO TITLE 18 OF THE  
GUAM CODE ANNOTATED, ENTITLED "LIMITED LIABILITY  
COMPANIES", AUTHORIZING THE FORMATION OF BUSINESSES  
AS LIMITED LIABILITY COMPANIES ON GUAM.

**BE IT ENACTED BY THE PEOPLE OF THE TERRITORY OF GUAM:**

1

2

1                   **Section 1. Legislative Findings.** Guam law recognizes three main  
2 organizational structures: Corporations, Partnerships, and Limited Partnerships. The  
3 Legislature finds that these three basic organizational options do not adequately meet the  
4 needs of many small and medium-sized companies on Guam.

5                   The Legislature further finds that business and tax planners on Guam and in  
6 the United States have long sought a business entity that delivers the key advantages of  
7 "pass-through taxation" for a business and also provides limited liability for its owners.  
8 Traditionally, the S Corporations and Limited Partnerships have been drawn on in order to  
9 obtain these characteristics for a business or investment, but neither S Corporations nor  
10 Limited Partnerships can adequately meet these needs. S Corporations have relatively  
11 restrictive and inflexible requirements on the number of owners and types of ownership.  
12 Limited partnerships do not provide 100% limited liability since at least one general  
13 partner must be responsible for entity obligations under law. In addition, the management  
14 participation of limited partners is generally prohibited or severely restricted. A new  
15 alternative in recent years has emerged: the Limited Liability Company (LLC).

16                   The Legislature finds that until 1990, only two states, Wyoming and Florida,  
17 allowed for the formation of an LLC. As of January 1, 1995, however, 47 States have  
18 enacted LLC statutes largely due to the Internal Revenue Service ruling in late 1988  
19 allowing for the taxing of LLC's as partnerships. Proposals are pending in the other states,  
20 and it is possible that all 50 States will have enacted LLC laws by the end of 1996.

21                   The Legislature finds that though most states allow an LLC to be formed for  
22 the transaction of any lawful purpose, certain regulated industries, such as banking and  
23 insurance, are prohibited from operating in LLC form. The same shall apply here on Guam.

24                   The Legislature finds that while the LLC is not intended to replace  
25 corporations or partnerships, it does combine the advantages of each. It combines the

1 structural flexibility of a partnership with the liability protection of a corporation. The LLC  
2 will be formed as an unincorporated business entity where neither the partners nor the  
3 managers are personally liable for its obligation. Professionals who will organize their  
4 business or service as an LLC will still remain liable for their professional performance.

5 The Legislature finds that it is necessary for the LLC to have at least two  
6 members at the time of formation. This element will preserve the partnership tax status  
7 under federal tax law so as to allow the Department of Revenue and Taxation to treat the  
8 LLC as a partnership for tax purposes.

9  
10 **Section 2.** A new Chapter 15 is added to Title 18, Guam Code Annotated, to read:

11  
12 **"Chapter 15.**

13 **Limited Liability Companies.**

14 §15101. Short Title.

15 §15102. Definitions.

16 §15103. Purpose.

17 §15104. Powers.

18 §15105. Formation.

19 §15106. Limited Liability Company name.

20 §15107. Articles of Organization.

21 §15108. Filing of Articles.

22 §15109. Effect of Issuance of Certificate of Organization.

23 §15110. Amendments to Articles of Organization.

24 §15111. Registered Office and Registered Agent.

25 §15112. Change of Registered Office or Registered Agent.

- 1        §15113. Finance.
- 2        §15114. Members.
- 3        §15115. Management of Limited Liability Company.
- 4        §15116. Distributions and Withdrawals.
- 5        §15117. Interest in Limited Liability Company; Assignment of Interests.
- 6        §15118. Liability of Member and Managers.
- 7        §15119. Unauthorized Assumption of Powers.
- 8        §15120. Dissolution.
- 9        §15121. Filing of Statement of Intent to Dissolve
- 10       §15122. Effect of Filing of Statement of Intent to Dissolve; Procedure after Filing
- 11                Such Statement.
- 12        §15123. Distribution of Assets upon Dissolution
- 13        §15124. Articles of Dissolution.
- 14        §15125. Filing of Articles of Dissolution.
- 15        §15126. Cancellation of Certificate of Organization.
- 16        §15127. Involuntary Dissolution.
- 17        §15128. Reinstatement after Involuntary Dissolution.
- 18        §15129. Filing by Department of Revenue and Taxation.
- 19        §15130. Fees for Filing Documents and Issuing Certificates.
- 20        §15131. Miscellaneous Charges.
- 21        §15132. Waiver of Notice.
- 22        §15133. Jurisdiction of the Superior Court
- 23        §15134. Parties to Actions by or against Limited Liability Company.
- 24        §15135. Service of Process.
- 25        §15136. Tax on Income of Limited Liability Company.

1        §15137. Professional Limited Liability Companies.

2  
3  
4        **§15101. Short Title.**

5            This Act shall be known and may be cited as the "Guam Limited Liability Company  
6        Act".

7  
8        **§15102. Definitions.**

9            As used in this chapter:

10          (1) "Bankrupt" means bankrupt under the federal Bankruptcy Act or insolvent under any  
11          state insolvency act.

12          (2) "Court" includes every court and judge having jurisdiction in the action.

13          (3) "Limited Liability Company" or "Company" means a limited liability company  
14          organized and existing under this chapter.

15          (4) "Real Property" means land and any interest or estate in land.

16          (5) "Business" means every trade and occupation or profession.

17          (6) "Conveyance" means every assignment, lease, mortgage, or encumbrance.

18          (7) "Professional Service" means any type of personal service that requires as a condition  
19          precedent to the rendering of the service the obtaining of a license, permit, registration, or  
20          other legal authorization, including the personal service rendered by an architect, attorney-  
21          at-law, certified public accountant, dentist, doctor, physician, public accountant, surgeon,  
22          or veterinarian.

23          (8) "Professional limited liability company" means a limited liability company that is  
24          organized under this act for the sole and specific purpose of rendering professional service  
25          and that has as its members only individuals licensed or otherwise authorized within Guam

1 to-render the same professional service as the limited liability company.

2 (9) "Transact intrastate business" means to enter into repeated and successive transactions  
3 of business in this territory, other than in interstate or foreign commerce.

4 (I) Without excluding other activities which may not be considered to be  
5 transacting intrastate business, a foreign limited liability company shall not be considered to  
6 be transacting intrastate business merely because its subsidiary transacts intrastate business,  
7 or merely because of its status as any one or more of the following:

8 (A) A shareholder of a domestic corporation.

9 (B) A shareholder of a foreign corporation transacting intrastate  
10 business.

11 (C) A limited partner of a foreign limited partnership transacting  
12 intrastate business.

13 (D) A limited partner of a domestic limited partnership.

14 (E) A member or manager of a foreign limited liability company  
15 transacting intrastate business.

16 (F) A member or manager of a domestic limited liability company.

17  
18 (II) Without excluding other activities which may not be considered to be  
19 transacting intrastate business, a foreign limited liability company shall not be considered to  
20 be transacting intrastate business within the meaning of this subdivision solely by reason of  
21 carrying on in this territory any one or more of the following activities:

22 (A) Maintaining or defending any action or suit or any administrative or  
23 arbitration proceeding, or effecting the settlement thereof or the  
24 settlement of claims or disputes.

25 (B) Holding meetings of its managers or members or carrying on any  
26 other activities concerning its internal affairs.

27 (C) Maintaining bank accounts.

28 (D) Maintaining offices or agencies for the transfer, exchange, and



1 registration of the foreign limited liability company's securities or  
2 maintaining trustees or depositories with respect to those securities.

3 (E) Effecting sales through independent contractors.

4 (F) Soliciting or procuring orders, whether by mail or through  
5 employees or agents or otherwise, where those orders require  
6 acceptance without this state before becoming binding contracts.

7 (G) Creating or acquiring evidences of debt or mortgages, liens, or  
8 security interests in real or personal property.

9 (H) Securing or collecting debts or enforcing mortgages and security  
10 interests in property securing the debts.

11 (I) Conducting an isolated transaction that is completed within 180 days and  
12 not in the course of a number of repeated transactions of a like nature.

13  
14 (3) A person shall not be deemed to be transacting intrastate business in this  
15 territory merely because of its status as a member or manager of a domestic limited liability  
16 company or a foreign limited liability company registered to transact intrastate business in this  
17 territory.

18 (10) "Distribution" means the transfer of money or property by a limited liability company to its  
19 members without consideration.

20 (11) "Economic interest" means a person's right to share in the income, gains, losses,  
21 deductions, credit, or similar items of, and to receive distributions from, the limited liability  
22 company, but does not include any other rights of a member including, without limitation, the  
23 right to vote or to participate in management, or, except as provided by this Chapter, any right  
24 to information concerning the business and affairs of the limited liability company.

25 (12) "Membership interest" means a member's rights in the limited liability company,  
26 collectively, including the member's economic interest, any right to vote or participate in  
27 management, and any right to information concerning the business and affairs of the  
28 limited liability company provided by this Chapter.

1 (13) "Proxy" unless otherwise provided in the operating agreement, means a written  
2 authorization signed or an electronic transmission authorized by a member or the  
3 member's attorney in fact giving another person the power to exercise the voting rights of  
4 that member.

5  
6 **§15103. Purpose.**

7 A limited liability company may be organized under this chapter for any lawful  
8 purpose, except that special statutes for the regulation and control of specific types of  
9 business shall control when in conflict herewith.

10 Subject to any limitations contained in the articles of organization and to compliance  
11 with any other applicable laws, a limited liability company may engage in any lawful  
12 business activity, except the banking, insurance, or trust company business.

13  
14 **§15104. Powers.**

15 Each limited liability company organized and existing under this chapter may:

16 (a) Sue or be sued, or complain or defend, in its name.

17 (b) Purchase, take, receive, lease, or otherwise acquire, own, hold, improve, or use, or  
18 otherwise deal in or with, real or personal property, or an interest in real or personal  
19 property, wherever situated.

20 (c) Sell, convey, mortgage, pledge, create, a security interest in, lease, exchange, or  
21 transfer, or otherwise dispose of, all or any part of its property or assets.

22 (d) Purchase, take, receive, subscribe for, or otherwise acquire, own, hold, vote, use,  
23 employ, sell, mortgage, lend, or plead, or otherwise dispose of, or otherwise use or deal in  
24 or with:

25 (1) Shares or other interests in or obligations of other foreign or domestic limited

1 liability companies, domestic or foreign corporations, associations, general or limited  
2 partnerships, or individual; or

3 (2) Direct or indirect obligations of the United States or any other government, state,  
4 territory, government district, or municipality or of any instrumentality thereof.

5 (e) Make contracts or guarantees or incur liabilities; borrow money at such rates of interest  
6 as the limited liability company may determine; issue its notes, bonds, or other obligations;  
7 or secure any of its obligations by mortgage or pledge of all or any part of its property,  
8 franchises, and income.

9 (f) Lend money for any lawful purpose, invest or reinvest its funds, or take and hold real or  
10 personal property as security for the payment of funds so loaned or invested.

11 (g) Conduct its business, carry on its operations and have offices, and exercise the powers  
12 granted by this chapter with or without the territory of Guam.

13 (h) Elect or appoint managers and agents of the limited liability company, define their  
14 duties, and fix their compensation.

15 (i) Make and alter its regulations, not inconsistent with its articles of organization or with  
16 the laws of Guam, for the administration and regulation of the affairs of the company.

17 (j) Make donations to the public welfare or for charitable, scientific, or educational  
18 purposes.

19 (k) Indemnify a member or manager or any other person to the same extent as a  
20 corporation may indemnify any of the directors, officers, employees, or agents of the  
21 corporation against expenses actually and reasonably incurred by him or it in connection  
22 with the defense of any action, suit, or proceeding, whether civil or criminal, in which he  
23 or it is made a party.

24 (l) Cease its activities and surrender its certificate of organization.

25 (m) Have and exercise all powers necessary or convenient to affect any or all of the

1 purposes for which the company is organized.

2 (n) Transact any lawful business which the members or the managers find to be in aid of  
3 governmental policy.

4 (o) Pay pensions and establish pension plans, profit-sharing plans, and other incentive  
5 plans for any or all of its managers and employees.

6 (p) Be a promoter, incorporator, general partner, limited partner, member, associate, or  
7 manager of any corporation, partnership, limited partnership, limited liability company,  
8 joint venture, trust, or other enterprise.

9 (q) Have and exercise all powers necessary or convenient effect its purposes.

10  
11 **§15105. Formation.**

12 Two or more persons may form a limited liability company by executing,  
13 acknowledging, and delivering to the Department of Revenue and Taxation articles of  
14 organization for such limited liability company.

15  
16 **§15106. Limited Liability Company Name.**

17 (a) The words "limited company", "limited liability company", or their abbreviation "L.  
18 C.", or "L.L.C.", shall be the last word of the name of every limited liability company  
19 formed under the provisions of this chapter; and, in addition, the limited liability company  
20 name may not be the same as, or deceptively similar to, the name of a limited liability  
21 company, or a foreign limited liability company, authorized to transact business in this  
22 territory, or a name the exclusive right to which is, at the time, reserved in the manner  
23 provided under the laws of this territory.

24  
25 (b) Omission of the words "limited company", "limited liability company", or their

1 abbreviation "L.C.", or "L.L.C.", in the use of the name of the limited company shall  
2 render any person who participates in the omission, or knowingly acquiesces in it, liable  
3 for any indebtedness, damage, or liability occasioned by the omission.  
4

5 **§15107. Articles of Organization.**

6 (a) The Articles of Organization of a limited liability company shall set forth:

7 (1) The name of the limited liability company.

8 (2) The period of its duration, which may not exceed 30 years from the date of filing  
9 with the Department of Revenue and Taxation.

10 (3) The purpose for which the limited liability company is organized.

11 (4) The address of its place of business in Guam and the name and address of its initial  
12 registered agent in Guam.

13 (5) The total amount of cash and a description and agreed value of property other than  
14 cash contributed.

15 (6) The total additional contributions, if any, agreed to be made by all members and the  
16 times at which, or the events upon the happening of which, they shall be made.

17 (7) The right, if given, of the members to admit additional members and the terms and  
18 conditions of the admissions.

19 (8) The right, if given, of the remaining members of the limited liability company to  
20 continue the business on the death, retirement, resignation, expulsion, bankruptcy, or  
21 dissolution of a member or the occurrence of any other event which terminates the continued  
22 membership of a member in the limited liability company.

23 (9) (i) If the limited liability company is to be managed by a manager or managers, a  
24 statement that the company is to be managed by a manager or managers and the names and  
25 addresses of such managers who are to serve as managers until the first annual meeting of

1 members or until their successors are elected and qualify. (ii) If the management of a limited  
2 liability company is reserved to the members, the names and addresses of the members.

3 (10) Any other provisions, not inconsistent with law, which the members elect to set  
4 out in the articles of organization for the regulation of the internal affairs of the limited liability  
5 company, including any other provisions which under this chapter are required or permitted  
6 to be set out in the regulations of the limited liability company.

7  
8 (b) It is not necessary to set out in the articles of organization any of the powers enumerated  
9 in this Chapter.

10  
11 **§15108. Filing of Articles of Organization.**

12 The Articles of Organization shall be delivered to the Department of Revenue and  
13 Taxation. If the Department of Revenue and Taxation finds that the articles of organization  
14 conform to law, it shall, when all fees have been paid as prescribed in this chapter, file the  
15 articles of organization in accordance with this Chapter. The Department of Revenue and  
16 Taxation shall then issue a certificate of organization.

17  
18 **§15109. Effect of Issuance of Certificate of Organization.**

19 (a) Upon the issuance of the certificate of organization, the limited liability company shall be  
20 considered organized; and such certificate of organization shall be conclusive evidence that  
21 all conditions precedent required to be performed by the members have been complied with  
22 and that the limited liability company has been legally organized under this Chapter, except  
23 as against this territory in a proceeding to cancel or revoke the certificate of organization or  
24 in a proceeding for involuntary dissolution of the limited liability company.

1 (b) A limited liability company shall not transact intrastate business or incur indebtedness,  
2 except that which is incidental to its organization or to obtaining subscriptions for or payment  
3 of contributions, until the articles of organization have been filed with the Department of  
4 Revenue and Taxation.

5  
6 (c) The date when the existence of the company commences shall be the date of the filing of  
7 the articles of organization by the Department of Revenue and Taxation, except that the date  
8 of commencement of corporate existence may be specified in the articles of organization:

9 (1) When the date specified in the articles of organization is the date of subscription and  
10 acknowledgment, and the articles of organization are filed by the Department of Revenue and  
11 Taxation within 5 days, exclusive of legal holidays, after such date.

12 (2) When the date specified in the articles of organization is subsequent to, and not later  
13 than 90 days after the date of filing of the articles of organizations by the Department of  
14 Revenue and Taxation.

15  
16 **§15110. Amendments to Articles of Organization.**

17 (a) The articles of organization of a limited liability company shall be amended when:

18 (1) There is a change in the name of the limited liability company or in the amount or  
19 character of the contributions to capital.

20 (2) There is a change in the character of the business of the limited liability company.

21 (3) There is a false or erroneous statement in the articles of organization.

22 (4) There is a change in the time as stated in the articles of organization for the  
23 dissolution of the limited liability company.

24 (5) A time is fixed for the dissolution of the limited liability company, if no time is  
25 specified in the articles of organization.

1 (6) The members desire to make a change in any other statement in the articles of  
2 organization in order for it to accurately represent the agreement between them.

3  
4 (b) The form for evidencing an amendment to the articles of organization of a limited liability  
5 company shall be promulgated by the Department of Revenue and Taxation and shall contain  
6 such terms and provisions consistent with this Chapter as shall be determined by the  
7 Department of Revenue and Taxation. The amendment shall be signed and sworn to by all  
8 members, and an amendment adding a new member shall be signed also by the member to be  
9 added; thereafter the amendment shall be forwarded to the Department of Revenue and  
10 Taxation for filing, accompanied by the requisite filing fee.

11  
12 **§15111. Registered office and registered agent.**

13 (a) Each limited liability company shall have and continuously maintain in Guam:

14 (1) A registered office, which may be, but need not be, the same as its place of  
15 business; and

16 (2) A registered agent, which agent may be either: (i) An individual resident of Guam  
17 whose business office is identical with such registered office; (ii) A domestic corporation  
18 having a business office identical with such registered office; or (iii) A foreign corporation  
19 authorized to transact business on Guam and having a business office identical with such  
20 registered office.

21  
22 (b) Each registered agent and each successor registered agent appointed pursuant to this  
23 Chapter on whom process may be served shall file a statement in writing with the Department  
24 of Revenue and Taxation accepting the appointment as registered agent simultaneously with  
25 being designated, unless the agent signed the document making the appointment.



1  
2 (c) The Department of Revenue and Taxation shall maintain an accurate record of the  
3 registered agents and registered office for the service of process and shall furnish any  
4 information disclosed thereby promptly upon request and payment of the required fee.  
5

6 (d) No limited liability company shall maintain any action in any court until the limited liability  
7 company complies with the provisions of this Section and pays to the Department of Revenue  
8 and Taxation a penalty of \$1 for each day it has failed to comply, or \$250, whichever amount  
9 is less.  
10

11 **§15112. Change of registered office or registered agent.**

12 (a) A limited liability company may change its registered agent or office, or both, upon filing  
13 in the office of the Department of Revenue and Taxation a statement setting forth:

14 (1) The name of the limited liability company.

15 (2) The address of its then registered office and, if the address of its registered office  
16 is to be changed, the address to which the registered office is to be changed.

17 (3) The name of its then registered agent and, if its registered agent is to be changed,  
18 the name of its successor registered agent.

19 (4) The fact that the change was authorized by affirmative vote of a majority of the  
20 members of the limited liability company.  
21

22 (b) The statement shall be acknowledged and delivered to the Department of Revenue and  
23 Taxation. If the Department of Revenue and Taxation finds that the statement conforms to the  
24 provisions of this chapter, it shall file the statement in its office; and, upon filing, the change  
25 of address of the registered office or the appointment of a new registered agent, or both, as

1 the case may be, shall be effective.

2  
3 (c) Any registered agent of a limited liability company may resign as agent upon filing a  
4 written notice thereof with the Department of Revenue and Taxation and by mailing a copy  
5 thereof to the limited liability company at its registered office. The appointment of the agent  
6 shall terminate upon the expiration of 30 days after receipt of notice by the Department of  
7 Revenue and Taxation.

8  
9 **§15113. Finance.**

10 **§ 15113 (A). Capital contributions of members.**

11 (a) The articles of organization or the operating agreement may provide for capital  
12 contributions of members. The contribution of a person may be in money, property, or services,  
13 or other obligation to contribute money or property or to render services.

14  
15 (b) Unless the articles of organization or operating agreement provide other-  
16 wise, no member shall be required to make any additional contribution to the limited liability  
17 company.

18  
19 **§ 15113 (B). Obligation of member to contribute cash or property or to perform**  
20 **services; Failure of member to make contribution; Enforcement of obligation.**

21 (a) (1) Subject to the terms of the articles of organization or the operating agreement, a  
22 member is not excused from an obligation to the limited liability company to perform any promise  
23 to contribute cash or property or to perform services because of death, disability, dissolution, or  
24 any other reason.

25  
26 (2) If a member does not make the required contribution of property or services, that  
27 member is obligated, at the option of the limited liability company, to contribute cash equal to that  
28 portion of the fair market value (or agreed value if stated in writing and signed by the limited

1 liability company and the member) of the contribution that has not been made. The foregoing  
2 option shall be in addition to, and not in lieu of, any other rights, including the right to specific  
3 performance, that the limited liability company may have against the member under the articles  
4 of organization, operating agreement, or applicable law.  
5

6 (3) An operating agreement may provide that the interest of a member who fails to make  
7 any contribution or other payment that the member is required to make shall be subject to specific  
8 remedies for, or specific consequences of, the failure. Any such provision shall be enforceable  
9 in accordance with its terms unless the member seeking to invalidate the provision establishes  
10 that the provision was unreasonable under the circumstances existing at the time the agreement  
11 was made. The specific remedies or consequences may include loss of voting, approval or other  
12 rights, loss of the ability, by a member, to actively participate in the management and operations  
13 of the limited liability company, liquidated damages, or a reduction of the defaulting member's  
14 economic rights. The reduction of the defaulting member's economic rights may include one or  
15 more provisions:

- 16 (A) Diluting, reducing, or eliminating the defaulting member's proportionate  
17 interest in the limited liability company.
- 18 (B) Subordinating the defaulting member's interest in the limited liability  
19 company to that of nondefaulting members.
- 20 (C) Permitting a forced sale of the membership interest.
- 21 (D) Permitting the lending or contribution by other members of the amount  
22 necessary to meet the defaulting member's commitment.
- 23 (E) Providing for the adjustment of interest rates or other rates of return,  
24 preferred, priority, or otherwise, with respect to contributions by or capital  
25 accounts of the other members.
- 26 (F) Providing for a fixing of the value of the defaulting member's interest in  
27 the limited liability company by appraisal or by formula and redemption  
28 or sale of the defaulting member's interest in the limited liability company  
29 at a percentage of that value.

1 (b) (1) Unless otherwise provided in the articles of organization or the operating agreement,  
2 the obligation of a member to make a contribution or return money or property paid or distributed  
3 in violation of this article shall be compromised only by the unanimous vote of the members.

4 (2) Notwithstanding the compromise of an obligation referred to in paragraph (1), a person  
5 whose claim against a limited liability company arises before the receipt of notice of the  
6 compromise may enforce the original obligation of a member to make a contribution to the limited  
7 liability company or to return a distribution if the person had knowledge of the original obligation  
8 prior to the time the claim arose and if the compromise occurred after the time the claim arose.

9 Any other person with a claim against a limited liability company may enforce only the existing  
10 obligation of a member to make a contribution to the limited liability company or to return to the  
11 limited liability company money or other property paid or distributed.

12  
13 (c) A person with a claim against a limited liability company may not enforce a conditional  
14 obligation of a member unless the conditions have been satisfied or waived. Conditional  
15 obligations include, without limitation, a capital contribution payable upon a discretionary call of  
16 the limited liability company prior to the time the call occurs.

17  
18 (d) Nothing in this section shall be construed to affect the rights of third-party creditors of the  
19 limited liability company to seek equitable remedies nor any rights existing under Guam law.

20  
21 **§ 15113 (C). Allocation of profits and losses among members**

22 The profits and losses of a limited liability company shall be allocated among the members, and  
23 among classes of members, in the manner provided in the operating agreement. If the operating  
24 agreement does not otherwise provide, profits and losses shall be allocated in proportion to the  
25 contributions of each member.

26  
27 **§15114. Members.**

28 **§ 15114 (A). Acquisition of membership interest; Termination of interest.**

29 (a) After formation of a limited liability company, a person may become a member:

1 (1) In the case of a person acquiring a membership interest directly from the limited  
2 liability company, at the time provided in and upon compliance with the articles of organization  
3 or the operating agreement or, if the articles of organization or operating agreement do not so  
4 provide, only upon the vote of all the members and when the person becomes a party to the  
5 operating agreement.

6 (2) In the case of an assignee of a membership interest, upon compliance with  
7 subdivision (a) of Subsection 15117 (D) and at the time provided in and upon compliance with  
8 the articles of organization or the operating agreement or, if the articles of organization or  
9 operating agreement do not so provide, where the assignee becomes a party to the operating  
10 agreement.

11  
12 (b) The operating agreement may provide for the termination in whole or in part of the  
13 membership interest or economic interest of a member in the limited liability company. If a  
14 member's economic interest in the limited liability company is terminated pursuant to the  
15 operating agreement, the member may demand and shall be entitled to receive a return of that  
16 member's contribution. Any provision in an operating agreement governing the termination of a  
17 member's interest and the return of a member's contribution shall be enforceable in accordance  
18 with its terms unless the member seeking to invalidate the provision establishes that the provision  
19 was unreasonable under the circumstances existing at the time the agreement was made.

20  
21 **§ 15114 (B). Personal liability of members**

22 (a) Except as otherwise provided in Subsection 15116 (E), no member of a limited liability  
23 company shall be personally liable under any judgment of a court, or in any other manner, for  
24 any debt, obligation, or liability of the limited liability company, whether that liability or  
25 obligation arises in contract, tort, or otherwise, solely by reason of being a member of the  
26 limited liability company.

27  
28 (b) A member of a limited liability company shall be personally liable under a judgment of a  
29 court or for any debt, obligation, or liability of the limited liability company, whether that liability

1 or obligation arises in contract, tort, or otherwise, under the same or similar circumstances  
2 and to the same extent as a shareholder of a corporation may be personally liable for any  
3 debt, obligation, or liability of the corporation; except that the failure to hold meetings of  
4 members or managers or the failure to observe formalities pertaining to the calling or conduct  
5 of meetings shall not be considered a factor tending to establish that the members have  
6 personal liability for any debt, obligation, or liability of the limited liability company where the  
7 articles of organization or operating agreement do not expressly require the holding of  
8 meetings of members or managers.

9  
10 (c) Nothing in this section shall be construed to affect the liability of a member of a limited  
11 liability company to third parties for the member's participation in tortious conduct.

12  
13 **§ 15114 (C). Creation of classes of members**

14 The articles of organization or the operating agreement may provide for the creation of  
15 classes of members having those relative rights, powers and duties as the articles of  
16 organization or operating agreement may provide, including rights, powers, and duties senior  
17 to other classes of members.

18  
19 **§ 15114 (D). Voting by members**

20 (a) The articles of organization or a written operating agreement may provide  
21 to all or certain identified members or a specified class or group of members the right to vote  
22 separately or with all or any class or group of members on any matter. Voting by members may  
23 be on a per capita, number, financial interest, class, group, or any other basis. If no voting  
24 provision is contained in the articles of organization or written operating agreement:

25 (1) The members of a limited liability company shall vote in proportion to their interests  
26 in current profits of the limited liability company or, in the case of a member who has assigned  
27 his or her or its entire economic interest in the limited liability company to a person who has not  
28 been admitted as a member, in proportion to the interest in current profits that the assigning  
29 member would have, had the assignment not been made.

1 (2) The following matters shall require the unanimous vote of all members:

2 (A) A decision to continue the business of the limited liability company  
3 after dissolution of the limited liability company pursuant to Section  
4 15132.

5 (B) Approval of the transfer of a membership interest and admission  
6 of the assignee as a member of the limited liability company.

7 (C) Any amendment of the articles of organization or operating  
8 agreement.

9 (3) In all other matters in which a vote is required, a vote of a majority in  
10 interest of the members shall be sufficient.

11  
12 (b) Notwithstanding any provision to the contrary in the articles of organization or operating  
13 agreement, in no event shall the articles of organization be amended by a vote of less than a  
14 majority in interest of the members.

15  
16 (c) Notwithstanding any provision to the contrary in the articles of organization or operating  
17 agreement, members shall have the right to vote on a dissolution of the limited liability company  
18 as provided in subdivision (c) of Section 15132.

19  
20  
21 **§15114 (E). Meetings; Notice; Quorum; Proxies; Record date of members entitled**  
22 **to notice**

23 (a) Meetings of members may be held at any place, either within or without this territory,  
24 selected by the person or persons calling the meeting or as may be stated in or fixed in  
25 accordance with the articles of organization or a written operating agreement. If no other place  
26 is stated or so fixed, all meetings shall be held at the principal executive office of the limited  
27 liability company.

28  
29 (b) A meeting of the members may be called by any manager or by any member or members

1 representing more than 10 percent of the interests of members for the purpose of addressing any  
2 matters on which the members may vote.

3  
4 (c) (1) Whenever members are required or permitted to take any action at a meeting, a  
5 written notice of the meeting shall be given not less than 10 days nor more than 60 days before  
6 the date of the meeting to each member entitled to vote at the meeting. The notice shall state the  
7 place, date, and hour of the meeting and the general nature of the business to be transacted. No  
8 other business may be transacted at this meeting.

9 (2) Any report or any notice of a members' meeting shall be given either personally or by  
10 mail or other means of written communication, addressed to the member at the address of the  
11 member appearing on the books of the limited liability company or given by the member to the  
12 limited liability company for the purpose of notice, or, if no address appears or is given, at the  
13 place where the principal executive office of the limited liability company is located or by  
14 publication at least once in a newspaper of general circulation in Guam. The notice or report  
15 shall be deemed to have been given at the time when delivered personally or deposited in the  
16 mail or sent by other means of written communication. An affidavit of mailing of any notice or  
17 report in accordance with the provisions of this article, executed by a manager, shall be prima  
18 facie evidence of the giving of the notice or report.

19 If any notice or report addressed to the member at the address of the member appearing on the  
20 books of the limited liability company is returned to the limited liability company by the United  
21 States Postal Service marked to indicate that the United States Postal Service is unable to deliver  
22 the notice or report to the member at the address, all future notices or reports shall be deemed  
23 to have been duly given without further mailing if they are available for the member at the  
24 principal executive office of the limited liability company for a period of one year from the date of  
25 the giving of the notice or report to all other members.

26 (3) Upon written request to a manager by any person entitled to call a meeting of  
27 members, the manager shall immediately cause notice to be given to the members entitled to vote  
28 that a meeting will be held at a time requested by the person calling the meeting, not less than 10  
29 days nor more than 60 days after the receipt of the request. If the notice is not given within 20



1 days after receipt of the request, the person entitled to call the meeting may give the notice or,  
2 upon the application of that person, the Superior Court of Guam shall summarily order the giving  
3 of the notice, after notice to the limited liability company affording it an opportunity to be heard.  
4 The court may issue any order as may be appropriate, including, without limitation, an order  
5 designating the time and place of the meeting, the record date for determination of members  
6 entitled to vote, and the form of notice.

7  
8 (d) When a members' meeting is adjourned to another time or place, unless the articles of  
9 organization or a written operating agreement otherwise require and, except as provided in this  
10 subdivision, notice need not be given of the adjourned meeting if the time and place thereof are  
11 announced at the meeting at which the adjournment is taken. At the adjourned meeting, the  
12 limited liability company may transact any business that may have been transacted at the original  
13 meeting. If the adjournment is for more than 45 days, or if after the adjournment a new record date  
14 is fixed for the adjourned meeting, a notice of the adjourned meeting shall be given to each  
15 member of record entitled to vote at the meeting.

16  
17 (e) The actions taken at any meeting of members, however called and noticed, and wherever  
18 held, have the same validity as if taken at a meeting duly held after regular call and notice, if a  
19 quorum is present either in person or by proxy, and if, either before or after the meeting, each of  
20 the members entitled to vote, not present in person or by proxy, signs a written waiver of notice  
21 or consents to the holding of the meeting or approves the minutes of the meeting. All waivers,  
22 consents, and approvals shall be filed with the limited liability company records or made a part  
23 of the minutes of the meeting. Attendance of a person at a meeting shall constitute a waiver of  
24 notice of the meeting, except when the person objects, at the beginning of the meeting, to the  
25 transaction of any business because the meeting is not lawfully called or convened. Attendance  
26 at a meeting is not a waiver of any right to object to the consideration of matters required by this  
27 title to be included in the notice but not so included, if the objection is expressly made at the  
28 meeting. Neither the business to be transacted nor the purpose of any meeting of members need  
29 be specified in any written waiver of notice, unless otherwise provided in the articles of

1 organization or operating agreement, except as provided in subdivision (g).

2  
3 (f) Members may participate in a meeting of the limited liability company through the use of  
4 conference telephones or similar communications equipment, as long as all members  
5 participating in the meeting can hear one another. Participation in a meeting pursuant to this  
6 provision constitutes presence in person at that meeting.

7  
8 (g) Any action approved at a meeting, other than by unanimous approval of those entitled to vote,  
9 shall be valid only if the general nature of the proposal so approved was stated in the notice of  
10 meeting or in any written waiver of notice.

11  
12 (h) (1) A majority in interest of the members represented in person or by proxy shall  
13 constitute a quorum at a meeting of members.

14 (2) The members present at a duly called or held meeting at which a quorum is present  
15 may continue to transact business until adjournment, notwithstanding the loss of a quorum, if any  
16 action taken after loss of a quorum, other than adjournment, is approved by the requisite  
17 percentage of interests of members specified in this title or in the articles of organization or a  
18 written operating agreement.

19 (3) In the absence of a quorum, any meeting of members may be adjourned from time  
20 to time by the vote of a majority of the interests represented either in person or by proxy, but no  
21 other business may be transacted, except as provided in paragraph (2).

22  
23 (i) (1) Any action that may be taken at any meeting of the members may be taken without  
24 a meeting if a consent in writing, setting forth the action so taken, is signed and delivered to the  
25 limited liability company within 60 days of the record date for that action by members having not  
26 less than the minimum number of votes that would be necessary to authorize or take that action  
27 at a meeting at which all members entitled to vote thereon were present and voted.

28 (2) Unless the consents of all members entitled to vote have been solicited in writing,  
29 (A) notice of any member approval of an amendment to the articles of organization or operating

1 agreement, a dissolution of the limited liability company as provided in Section 15132 without a  
2 meeting by less than unanimous written consent shall be given at least 10 days before the  
3 consummation of the action authorized by such approval, and (B) prompt notice shall be given  
4 of the taking of any other action approved by members without a meeting by less than unanimous  
5 written consent, to those members entitled to vote who have not consented in writing.

6 (3) Any member giving a written consent, or the member's proxyholder, may revoke the  
7 consent by a writing received by the limited liability company prior to the time that written  
8 consents of members having the minimum number of votes that would be required to authorize  
9 the proposed action have been filed with the limited liability company, but may not do so  
10 thereafter. This revocation is effective upon its receipt at the office of the limited liability company  
11 required to be maintained pursuant to this Chapter.

12  
13 (j) The use of proxies in connection with this section will be governed in the same manner as  
14 in the case of corporations formed under Title 18, GCA.

15  
16 (k) In order that the limited liability company may determine the members of record entitled  
17 to notices of any meeting or to vote, or entitled to receive any distribution or to exercise any rights  
18 in respect of any other lawful action, a manager, or members representing more than 10 percent  
19 of the interests of members, may fix, in advance, a record date, that is not more than 60 days nor  
20 less than 10 days prior to the date of the meeting and not more than 60 days prior to any other  
21 action. If no record date is fixed: (1) The record date for determining members entitled to notice  
22 of or to vote at a meeting of members shall be at the close of business on the business day next  
23 preceding the day on which notice is given or, if notice is waived, at the close of business on the  
24 business day next preceding the day on which the meeting is held. (2) The record date for  
25 determining members entitled to give consent to limited liability company action in writing without  
26 a meeting shall be the day on which the first written consent is given. (3) The record date for  
27 determining members for any other purpose shall be at the close of business on the day on which  
28 the managers adopt the resolution relating thereto, or the 60th day prior to the date of the other  
29 action, whichever is later. (4) The determination of members of record entitled to notice of or to

1 vote at a meeting of members shall apply to any adjournment of the meeting unless a manager  
2 or the members who called the meeting fix a new record date for the adjourned meeting, but the  
3 manager or the members who called the meeting shall fix a new record date if the meeting is  
4 adjourned for more than 45 days from the date set for the original meeting.  
5

6 **§ 15114 (F). Issuance of certificate of interest**

7 (a) The operating agreement may provide that the interest of a member or assignee in a limited  
8 liability company may be evidenced by a certificate of interest issued by the limited liability  
9 company, and may make other provisions not inconsistent with this title with respect to the  
10 transfer of interests represented by those certificates or with respect to the form of those  
11 certificates.

12 (b) The operating agreement may provide that the certificate may be signed by a manager or  
13 officer of the limited liability company, whose signature may be a facsimile. In case any manager  
14 or officer of the limited liability company who has signed or whose facsimile signature has been  
15 placed upon a certificate has to be a manager or officer before the certificate is issued, it may be  
16 issued by the limited liability company with the same effect as if the person were a manager or  
17 officer at the date of issue. If a certificate is worn out or lost, it may be renewed on production  
18 of the worn out or lost certificate or on satisfactory proof of its loss together with such indemnity  
19 as may be required by the manager or managers or a resolution of members.  
20

21 **§ 15114 (G). Access to records and documents by members; inspection and copying**

22 (a) Upon the request of a member or a holder of an economic interest, for purposes  
23 reasonably related to the interest of that person as a member or a holder of an economic interest,  
24 a manager shall promptly deliver to the member or holder of an economic interest, at the expense  
25 of the limited liability company, a copy of the information required to be maintained by paragraphs  
26 (1), (2), and (4) of subdivision (a) of Section 15115 (K), and any written operating agreement of  
27 the limited liability company.  
28

29 (b) Each member, manager, and holder of an economic interest has the right upon reasonable

1 request, for purposes reasonably related to the interest of that person as a member, manager,  
2 or holder of an economic interest, to each of the following:

3 (1) - To inspect and copy during normal business hours any of the records required to  
4 be maintained by Section 15115 (K).

5 (2) To obtain from a manager promptly after becoming available, a copy of the limited  
6 liability company's federal, state, and local income tax or information returns for each year.

7  
8 (c) In the case of any limited liability company with more than 35 members:

9 (1) A manager shall cause an annual report to be sent to each of the members  
10 not later than 120 days after the close of the fiscal year. That report shall contain a balance sheet  
11 as of the end of the fiscal year and an income statement and statement of changes in financial  
12 position for the fiscal year.

13 (2) Members representing at least 5 percent of the voting interests of members, or three  
14 or more members, may make a written request to a manager for an income statement of the  
15 limited liability company for the initial three-month, six-month, or nine-month period of the current  
16 fiscal year ended more than 30 days prior to the date of the request, and a balance sheet of the  
17 limited liability company as of the end of that period. The statement shall be delivered or mailed  
18 to the members within 30 days thereafter.

19 (3) The financial statements referred to in this section shall be accompanied by the  
20 report thereon, if any, of the independent accountants engaged by the limited liability company  
21 or, if there is no report, the certificate of a manager of the limited liability company that the  
22 financial statements were prepared without audit from the books and records of the limited liability  
23 company.

24  
25 (d) A manager shall promptly furnish to a member a copy of any amendment to the articles of  
26 organization or operating agreement executed by a manager pursuant to a power of attorney from  
27 the member.

28  
29 (e) The limited liability company shall send or cause to be sent to each member or holder of

1 an economic interest within 90 days after the end of each taxable year such information as is  
2 necessary to complete federal and state income tax or information returns, and, in the case of a  
3 limited liability company with 35 or fewer members, a copy of the limited liability company's  
4 federal, state, and local income tax or information returns for the year.

5  
6 (f) In addition to any other remedies, a court of competent jurisdiction may enforce the duty  
7 of making and mailing or delivering the information and all statements required by this section  
8 and, for good cause shown, may extend the time therefor.

9  
10 (g) In any action under this section, if the court finds the failure of the limited liability  
11 company to comply with the requirements of this section is without justification, the court may  
12 award an amount sufficient to reimburse the person bringing the action for the reasonable  
13 expenses incurred by that person, including attorneys' fees, in connection with the action or  
14 proceeding.

15  
16 (h) Any waiver of the rights provided in this section shall be unenforceable.

17  
18 (i) Any request, inspection, or copying by a member or holder of an economic  
19 interest may be made by that person or by that person's agent or attorney.

20  
21 **§ 15114 (H). Complaint by members of failure to comply with law or articles of**  
22 **organization; Action by Attorney General**

23 (a) Upon complaint that a limited liability company is failing to comply with the provisions of  
24 Section 15114 (G), or to afford to the members rights given to them in the articles of  
25 organization or operating agreement, the Attorney General may, in the name of the people of  
26 the Territory of Guam, send to the office required to be maintained pursuant to Section 15115  
27 (J), notice of the complaint.

28  
29 (b) If the answer of the limited liability company is not received within 30 days of the date

1 the notice was transmitted, or if the answer is not satisfactory, and if the enforcement of the  
2 rights of the aggrieved persons by private civil action, by class action, or otherwise, would be  
3 so burdensome or expensive as to be impracticable, the Attorney General may institute.  
4 maintain, or intervene in any court of competent jurisdiction or before any administrative  
5 agency for relief by way of injunction, the dissolution of entities, the appointment of receivers,  
6 or any other temporary, preliminary, provisional, or final remedies as may be appropriate to  
7 protect the rights of members or to restore the position of the members for the failure to  
8 comply with the requirements of Section 15114 (G) or the articles of organization or the  
9 operating agreement. In any action, suit, or proceeding, there may be joined as parties all  
10 persons and entities responsible for or affected by the activity.

## 11

### 12 **§15115. Management of Limited Liability Company**

#### 13 **§ 15115 (A). Business and affairs of company managed by members**

14 Unless the articles of organization include, the statement referred to, in  
15 subdivision (b) of Section 15115 (B) vesting management of the limited liability company in a  
16 manager or managers, the business and affairs of a limited liability company shall be managed  
17 by the members subject to any provisions of the articles of organization or operating agreement  
18 restricting or enlarging the management rights and duties of any member or class of members.  
19 If management is vested in the members, each of the members shall have the same rights and  
20 be subject to all duties and obligations of managers as set forth in this Chapter.

#### 21

#### 22 **§ 15115 (B). Management by nonmembers**

23 (a) The articles of organization may provide that the business and affairs of the  
24 limited liability company shall be managed by or under the authority of  
25 one or more managers who may, but need not, be members.

26  
27 (b) If the limited liability company is to be managed by one or more managers  
28 and not by all its members, the articles of organization shall contain a statement

1 to that effect. Neither the names of the managers nor the number of managers need be specified  
2 in the articles of organization, but if management is vested in only one manager, the articles of  
3 organization shall so state.

4  
5 (c) The articles of organization or operating agreement may prescribe the number and  
6 qualifications of managers who may, but need not, be natural persons.

7  
8 **§ 15115 (C). Management vested in manager pursuant to articles of organization;**  
9 **Election; Removal; Resignation**

10 If management of the limited liability company is vested in one or more managers pursuant to a  
11 statement in the articles of organization:

12 (a) Election of managers to fill initial positions or vacancies shall be by the affirmative vote of  
13 a majority in interest of the members.

14 (b) Any or all managers may be removed, with or without cause, by the vote of a majority in  
15 interest of the members at a meeting called expressly for that purpose. Any removal shall be  
16 without prejudice to the rights, if any, of the manager under any contract of employment.

17 (c) Any manager may resign as a manager at any time upon written notice to the limited  
18 liability company, without prejudice to the rights, if any, of the limited liability company under any  
19 contract to which the manager is a party.

20 (d) Unless they have earlier resigned or been removed, managers shall hold office until the  
21 expiration of the term for which they were elected or, if no term was provided, until their  
22 successors have been elected and qualified.

23  
24  
25 **§ 15115 (D). Fiduciary duties of manager**

26 The fiduciary duties a manager owes to the limited liability company and to its members are those  
27 of a partner to a partnership and to the partners of the partnership.

28  
29 **§ 15115 (E). Appointment of officers; Authority of signing officers in documents**



1 (a) A written operating agreement may provide for the appointment of officers, including, without  
2 limitation, a chairperson or a president, or both, a secretary, a chief financial officer, and any  
3 other officers with such titles, powers, and duties as shall be specified in the articles of  
4 organization or operating agreement, or determined by the managers or members. An officer  
5 may, but need not, be a member or manager of the limited liability company, and any number of  
6 offices may be held by the same person.

7  
8 (b) Officers, if any, shall be appointed in accordance with the written operating agreement or, if  
9 no such provision is made in the operating agreement, any officers shall be appointed by the  
10 managers and shall serve at the pleasure of the managers, subject to the rights, if any, of an  
11 officer under any contract of employment. Any officer may resign at any time upon written notice  
12 to the limited liability company without prejudice to the rights, if any, of the limited liability  
13 company under any contract to which the officer is a party.

14  
15 (c) Subject to the provisions of this Chapter, any note, mortgage, evidence of indebtedness,  
16 contract, certificate, statement, conveyance, or other instrument in writing, and any assignment  
17 or endorsement thereof, executed or entered into between any limited liability company and any  
18 other person, when signed by the chairman of the board, the president or any vice president, and  
19 any secretary, any assistant secretary, the chief financial officer, or any assistant treasurer of the  
20 limited liability company, is not invalidated as to the limited liability company by any lack of  
21 authority of the signing officers in the absence of actual knowledge on the part of the other person  
22 that the signing officers had no authority to execute the same.

23  
24 **§15115 (F). Indemnification of manager, member, officer, and others; Purchase of**  
25 **insurance**

26 (a) Except for a breach of the duty set forth in Subsection 15115 (D), the articles of  
27 organization or written operating agreement of a limited liability company may provide for  
28 indemnification of any person, including, without limitation, any manager, member, officer,  
29 employee, or agent of the limited liability company, against judgments, settlements, penalties,

1 fines, or expenses of any kind incurred as a result of acting in that capacity.

2  
3 (b) A limited liability company shall have power to purchase and maintain insurance on behalf  
4 of any manager, member, officer, employee, or agent of the limited liability company against any  
5 liability asserted against or incurred by the person in that capacity or arising out of the person's  
6 status as a manager, member, officer, employee, or agent of the limited liability company.

7  
8 **§ 15115 (G). More than one manager; Decisions by majority vote**

9 Except as otherwise provided in the articles of organization or the operating agreement, if the  
10 members have appointed more than one manager, decisions of the managers shall be made by  
11 majority vote of the managers if at a meeting, or by unanimous written consent.

12  
13 **§ 15115 (H). Member as agent of company unless otherwise provided; Manager as**  
14 **agent**

15 (a) Unless the statement referred to in subdivision (b) of Subsection 15115 (B) is included in  
16 the articles of organization, every member is an agent of the limited liability company for the  
17 purpose of its business or affairs, and the act of any member, including, but not limited to, the  
18 execution in the name of the limited liability company of any instrument, for the apparent purpose  
19 of carrying on in the usual way the business or affairs of the limited liability company of which that  
20 person is a member, binds the limited liability company, unless the member so acting has, in fact,  
21 no authority to act for the limited liability company in the particular matter, and the person with  
22 whom the member is dealing has actual knowledge of the fact that the member has no such  
23 authority.

24  
25 (b) If the articles of organization contain the statement referred to in subdivision (b) of  
26 Subsection 15115 (B) that management of the limited liability company is vested in a manager  
27 or managers, then:

28 (1) No member, acting solely in the capacity of a member, is an agent of the limited  
29 liability company nor can any member bind, nor execute any instrument on behalf of, the limited

1 liability company.

2 (2) Every manager is an agent of the limited liability company for the purpose of its  
3 business or affairs, and the act of any manager, including, but not limited to, the execution in the  
4 name of the limited liability company of any instrument, for apparently carrying on in the usual  
5 way the business or affairs of the limited liability company of which the person is the manager,  
6 binds the limited liability company, unless the manager so acting has, in fact, no authority to act  
7 for the limited liability company in the particular matter, and the person with whom the manager  
8 is dealing has actual knowledge of the fact that the manager has no such authority.

9  
10 (c) No act of a manager or member in contravention of a restriction on authority shall bind the  
11 limited liability company to persons having actual knowledge of the restriction.

12  
13 (d) Notwithstanding the provisions of subdivision (c) of this section, and subject to the  
14 provisions of this Chapter, any note, mortgage, evidence of indebtedness, contract, certificate,  
15 statement, conveyance, or other instrument in writing, and any assignment or endorsement  
16 thereof, executed or entered into between any limited liability company and any other person,  
17 when signed by at least two managers (or by one manager in the case of a limited liability  
18 company whose articles of organization state that it is managed by only one manager), is not  
19 invalidated as to the limited liability company by any lack of authority of the signing managers or  
20 manager in the absence of actual knowledge on the part of the other person that the signing  
21 managers or manager had no authority to execute the same.

22  
23 **§ 15115 (l). Personal liability of manager or officer**

24 No person who is a manager or officer or both a manager and officer of a limited liability company  
25 shall be personally liable under any judgment of a court, or in any other manner, for any debt,  
26 obligation, or liability of the limited liability company, whether that liability or obligation arises in  
27 contract, tort, or otherwise, solely by reason of being a manager or officer or both a manager and  
28 officer of the limited liability company.

1        **§ 15115 (J). Office to maintain records; Agent for service of process.**

2        Each limited liability company, through its manager(s), shall continuously maintain in this territory  
3        each of the following:

- 4        (a)     An office at which shall be maintained the records required by Subsection 15115 (K).  
5        (b)     An agent in this territory for service of process on the limited liability company.

6  
7        **§ 15115 (K). Records and documents required to be kept**

8        (a)     Each limited liability company, through its manager(s), shall maintain at the office referred  
9        to in subdivision (a) of Subsection 15115 (J) all of the following:

10            (1)     A current list of the full name and last known business or residence address  
11            of each member and of each holder of an economic interest in the limited liability company set  
12            forth in alphabetical order, together with the contribution and the share in profits and losses of  
13            each member and holder of an economic interest.

14            (2)     If the articles of organization contain the statement described in subdivision  
15            (b) of Section 15115 (B), a current list of the full name and business or residence address of each  
16            manager.

17            (3)     A copy of the articles of organization and all amendments thereto, together  
18            with any powers of attorney pursuant to which the articles of organization or any amendments  
19            thereto were executed.

20            (4)     Copies of the limited liability company's federal, state, and local income tax, or  
21            information returns and reports, if any, for the six most recent taxable years.

22            (5)     A copy of the limited liability company's operating agreement, if in writing, and  
23            any amendments thereto, together with any powers of attorney pursuant to which any written  
24            operating agreement or any amendments thereto were executed.

25            (6)     Copies of the financial statements of the limited liability  
26            company, if any     for the six most recent fiscal years.

27            (7)     The books and records of the limited liability company as they  
28            relate to the internal affairs of the limited liability company for at least the current and past four  
29            fiscal years.

1  
2 (b) Upon request of an assessor, a domestic or foreign limited liability company owning,  
3 claiming, possessing, or controlling property in this territory subject to local assessment shall  
4 make available at the limited liability company's principal office in Guam or at the office required  
5 to be kept pursuant to this Chapter or at a place mutually acceptable to the assessor and the  
6 limited liability company, a true copy of business records relevant to the amount, cost, and value  
7 of all property that it owns, claims, possesses, or controls within the territory of Guam.  
8

9 **§15116. Distributions and Withdrawals.**

10  
11 **§ 15116 (A). Distributions of money or property to members**

12 Distributions of the money or property of a limited liability company shall be made to the members  
13 and to any classes of members in the manner provided in the operating agreement. If the  
14 operating agreement does not otherwise provide, distributions that are a return of capital shall  
15 be made in proportion to the contributions made by each member and distributions that are not  
16 a return of capital shall be made in proportion to the allocation of profits.  
17

18 **§ 15116 (B). Entitlement of member to receive distributions prior to withdrawal or**  
19 **dissolution**

20 Except as provided in this article, a member is entitled to receive distributions from a limited  
21 liability company before the withdrawal of that member from the limited liability company and  
22 before the dissolution and winding up thereof, subject to the limitations contained in Section  
23 15116 (E), to the extent and at the times or upon the happening of the events specified in the  
24 operating agreement.  
25

26 **§ 15116 (C). Withdrawal of member; Notice; Entitlement to distribution**

27 (a) A member may withdraw from a limited liability company at the time or upon the happening  
28 of events specified in the articles of organization or operating agreement. A written operating  
29 agreement may provide that a member may not withdraw the member's contribution from the

1 limited liability company, or may provide specific remedies in the event of a wrongful withdrawal  
2 of a member's contribution, prior to the dissolution and winding up of the limited liability company.  
3 If the articles of organization or a written operating agreement do not specify the time or the  
4 events upon the happening of which a member may withdraw, a member may withdraw from the  
5 limited liability company either:

6 (1) Upon not less than six months' prior written notice to each member at the addresses  
7 set forth in the list required to be kept pursuant to this Chapter.

8 (2) If any amendment to the articles of organization or operating agreement that is  
9 adopted over the member's written dissent adversely affects the rights or preferences of the  
10 dissenting member's membership interest in any of the ways described in subparagraph (A), (B),  
11 (C), or (E), in which event the withdrawal shall be deemed to have occurred as of the effective  
12 date of the amendment, if the member gives notice to the limited liability company not more than  
13 60 days after the date of the amendment. In valuing the member's distribution pursuant to  
14 subdivision (c), there shall be excluded any depreciation in anticipation of the amendment. An  
15 amendment that does any of the following is subject to this paragraph:

- 16 (A) Altering or amending that member's right to receive a distribution.  
17 (B) Altering or abolishing that member's right to voluntarily withdraw or  
18 retire.  
19 (C) Altering or abolishing that member's right to vote on any matter,  
20 except as the rights may be altered or abolished through the  
21 acceptance of contributions or the making of contribution  
22 agreements.  
23 (D) Altering or abolishing that member's preemptive right to make  
24 contributions.  
25 (E) Establishing or changing the conditions for or consequences of  
26 expulsion. No member withdrawing under this paragraph shall be  
27 liable for damages for the breach of any agreement not to  
28 withdraw.  
29

1 (b) Notwithstanding the provisions of subdivision (a), any member who is under an obligation  
2 to render services to the limited liability company may withdraw as a member at any time upon  
3 written notice to the limited liability company, without prejudice to the rights, if any, of the limited  
4 liability company or the other members under any contract to which the withdrawing member is  
5 a party. Any provision in an operating agreement governing the withdrawal of services by a  
6 member shall be enforceable in accordance with its terms unless the member seeking to  
7 invalidate the provision establishes that the provision was unreasonable under the circumstances  
8 existing at the time the agreement was made.

9  
10 (c) Upon a permitted withdrawal that does not cause dissolution of the limited liability company,  
11 any withdrawing member is entitled to receive any distribution to which that member is entitled  
12 under the operating agreement and, if not otherwise provided in the operating agreement, the  
13 member is entitled to receive, within a reasonable time after withdrawal, the fair market value of  
14 the member's interest in the limited liability company as of the date of withdrawal based upon the  
15 member's right to share in distributions from the limited liability company.

16  
17 (d) Subject to Subsection 15116 (E) and other provisions of this Chapter, at the time a member  
18 becomes entitled to receive a distribution, the member has the status of, and is entitled to all  
19 remedies available to, a creditor of the limited liability company with respect to the distribution.  
20 An operating agreement may provide for the establishment of a record date with respect to  
21 sharing of profits and distributions from a limited liability company.

22  
23 **§ 15116 (D). Distribution in form other than money; Distribution of asset**

24 (a) A member, regardless of the nature of the member's contribution, has no right to demand  
25 and receive any distribution from a limited liability company in any form other than money.

26  
27 (b) No member may be compelled to accept from a limited liability company a distribution of any  
28 asset in kind in lieu of a proportionate distribution of money being made to other members.

1 (c) Except upon a dissolution and winding up of a limited liability company, no member may be  
2 compelled to accept a distribution of any asset in kind.

3  
4 **§ 15116 (E). Requirements to make distribution**

5 (a) No distribution shall be made if, after giving effect to the distribution:

6 (1) The limited liability company would not be able to pay its debts as they  
7 become due in the usual course of business.

8 (2) The limited liability company's total assets would be less than the sum of its total  
9 liabilities plus, unless the operating agreement provides otherwise, the amount that would be  
10 needed, if the limited liability company were to be dissolved at the time of the distribution, to  
11 satisfy the preferential rights of other members upon dissolution that are superior to the rights of  
12 the member receiving the distribution.

13  
14 (b) The limited liability company may base a determination that a distribution is not prohibited  
15 under subdivision (a) on any of the following:

16 (1) Financial statements prepared on the basis of accounting practices and principles  
17 that are reasonable in the circumstances.

18 (2) A fair valuation.

19 (3) Any other method that is reasonable in the circumstances.

20  
21 (c) Except as provided in subdivision (e), the effect of a distribution under subdivision (a) is  
22 measured as of (1) the date the distribution is authorized if the payment occurs within 120 days  
23 after the date of authorization, or (2) the date payment is made if it occurs more than 120 days  
24 after the date of authorization.

25  
26 (d) (1) If terms of the indebtedness provide that payment of principal and interest is to be  
27 made only if, and to the extent that, payment of a distribution to members could then be made  
28 under this section, indebtedness of a limited liability company, including indebtedness issued as  
29 a distribution, is not a liability for purposes of determinations made under subdivision (b).



1 (2) If the indebtedness is issued as a distribution, each payment of principal or interest  
2 on the indebtedness is treated as a distribution, the effect of which is measured on the date the  
3 payment is actually made.

4  
5 (e) A member or assignee of a member is obligated to return a distribution from a limited  
6 liability company to the extent that (1) the member or assignee had actual knowledge of facts  
7 indicating the impropriety of the distribution, and (2) immediately after giving effect to the  
8 distribution, and notwithstanding the compromise of an obligation referred to in subdivision (b)  
9 of Subsection 15113 (B), all liabilities of the limited liability company, other than liabilities to  
10 members or assignees on account of their interest in the limited liability company and liabilities as  
11 to which recourse of creditors is limited to specified property of the limited liability company,  
12 exceed the fair market value of the limited liability company's assets, provided that the fair market  
13 value of any property that is subject to a liability as to which recourse of creditors is so limited  
14 shall be included in the limited liability company assets only to the extent that the fair market  
15 value of the property exceeds this liability.

16  
17 (f) A cause of action with respect to an obligation to return a distribution pursuant to  
18 subdivision (e) is extinguished unless the action is brought within four years after the distribution  
19 is made.

20  
21 **§ 15116 (F). Personal liability of manager or member who votes for unlawful**  
22 **distribution.**

23 (a) A member or manager who votes for a distribution in violation of the operating agreement or  
24 Subsection 15116 (E) or other appropriate provisions of this Chapter, is personally liable to the  
25 limited liability company for the amount of the distribution that exceeds what could have been  
26 distributed without violating those sections of this Chapter or the operating agreement if it is  
27 established that the member or manager did not act in compliance with those sections.

28  
29 (b) Each member or manager held liable under subdivision (a) for an unlawful distribution is

1 entitled to compel contribution:

2 (1) From each other member or manager who could be held liable under  
3 subdivision (a) for the unlawful distribution.

4 (2) From each member for the amount the member received with knowledge of facts  
5 indicating that the distribution was made in violation of Subsection 15116 (E) or other appropriate  
6 sections of this Chapter or the operating agreement.

7  
8 (c) A proceeding under this section is barred unless it is commenced within four years after  
9 the date on which the effect of the distribution is measured under Subsection 15116 (E)

10  
11 **§15117. Interest in Limited Liability Company; Assignment of interests.**

12 **§ 15117 (A). Membership interest as personal property**

13 A membership interest and an economic interest in a limited liability company constitute personal  
14 property of the member or assignee. A member or assignee has no interest in specific limited  
15 liability company property.

16  
17 **§15117 (B). Assignment of membership interest or economic interest; Pledge or lien  
18 against membership interest**

19 (a) Except as provided in the articles of organization or the operating agreement:

20 (1) A membership interest or an economic interest is assignable in whole or in part,  
21 provided, however, that no membership interest may be assigned without the unanimous vote of  
22 members required pursuant to Subsection 15117 (D).

23 (2) An assignment of an economic interest does not of itself dissolve the limited liability  
24 company or, other than as set forth in the articles of organization or operating agreement, entitle  
25 the assignee to vote or participate in the management and affairs of the limited liability company  
26 or to become or exercise any rights of a member.

27 (3) An assignment of an economic interest merely entitles the assignee to receive, to  
28 the extent assigned, the distributions and the allocations of income, gains, losses, deductions,  
29 credit, or similar items to which the assignor would be entitled.

1        - -        (4)     Upon the assignment of all or part of an economic interest, the assignor shall  
2 provide the manager or member of the limited liability company responsible for maintaining its  
3 books and records with the name and address of the assignee, together with details of the  
4 interest assigned. Upon receipt of that notice, the limited liability company shall amend the list  
5 required by paragraph (1) of subdivision (a) of Section 15115 (K) accordingly. Until the assignee  
6 of that interest becomes a member, the assignor continues to be a member and to have the power  
7 to exercise any rights and powers of a member, including the right to vote which, in the case of  
8 a member who has assigned his or her or its entire economic interest in the limited liability  
9 company, shall include the right to vote in proportion to the interest in current profits that the  
10 assigning member would have, had the assignment not been made.

11  
12        (b)     Except to the extent assumed by agreement, until an assignee of an economic interest in  
13 a limited liability company becomes a member, the assignee shall have no liability to the limited  
14 liability company under Section 15113 and Section 15116 solely as a result of the assignment.  
15 The assignor of a membership interest is not released from liability as a member solely as a result  
16 of the assignment.

17  
18        (c)     The pledge of, or granting of, a security interest, lien, or other encumbrance in or against  
19 any or all of the membership interest of a member shall not cause the member to cease to be a  
20 member or to grant to anyone else the power to exercise any rights or powers of a member.

21  
22            **§ 15117 (C). Unsatisfied amount of judgment to be charged against membership**  
23 **interest**

24 On application to a court of competent jurisdiction by any judgment creditor of a member, the  
25 court may charge the membership interest of the member with payment of the unsatisfied amount  
26 of the judgment with interest. To the extent so charged, the judgment creditor has only the rights  
27 of an assignee of the membership interest. This section does not deprive any member of the  
28 benefit of any exemption laws applicable to the member's membership interest.

1        **§ 15117 (D). Membership of assignee**

2        (a) Except as otherwise provided in the articles of organization or the operating agreement,  
3        an assignee of an interest in a limited liability company may become a member only if the other  
4        members unanimously vote in favor of the assignee's admission to the limited liability company  
5        as a member.

6  
7        (b) An assignee who has become a member has, to the extent assigned, the rights and  
8        powers, and is subject to the restrictions and liabilities, of a member under the articles of  
9        organization, any operating agreement, and this title. An assignee who becomes a member also  
10       is liable for the obligations of the assignor to make contributions as provided in Section 15113,  
11       and to return any unlawful distributions made to the assignee under Section 15116. However,  
12       the assignee is not obligated for liabilities unknown to the assignee at the time the assignee  
13       became a member and that could not be ascertained from the articles of organization or operating  
14       agreement.

15  
16       (c) Whether or not an assignee of a membership interest becomes a member, the assignor  
17       is not released from the assignor's liability to the limited liability company under Sections 15113  
18       and 15116.

19  
20        **§ 15117 (E). Deceased member; Member adjudged incompetent by court**

21        (a) If a member who is an individual dies or is adjudged by a court of  
22        competent jurisdiction to be incompetent to manage the member's person or property, the  
23        member's executor, administrator, guardian, conservator, or other legal representative may  
24        exercise all of the member's rights for the purpose of settling the member's estate or  
25        administering the member's property, including any power the member had under the articles of  
26        organization or an operating agreement to give an assignee the right to become a member.

27  
28        (b) If a member is a corporation, trust, or other entity and is dissolved or terminated, the  
29        powers of that member may be exercised by its legal representative or successor.

1  
2 **§ 15118. Liability of members and managers.**

3 Neither the members of a limited liability company nor the managers of a limited liability  
4 company managed by a manager or managers are liable under a judgment, decree, or order  
5 of a court, or in any other manner, for a debt, obligation, or liability of the limited liability  
6 company. If members or managers are professionals who will organize their business or  
7 service as a limited liability company, they will still remain liable for their professional  
8 performance.

9  
10 **§ 15119. Unauthorized assumption of powers.**

11 All persons who assume to act as a limited liability company without authority to do shall be  
12 jointly and severally liable for all debts and liabilities.

13  
14 **§ 15120. Dissolution.**

15 (a) A limited liability company organized under this chapter shall be dissolved upon the  
16 occurrence of any of the following events:

17 (1) When the period fixed for the duration of the limited liability company expires.

18 (2) By the unanimous written agreement of all members.

19 (3) Upon the death, retirement, resignation, expulsion, bankruptcy, or dissolution of a  
20 member or upon the occurrence of any other event which terminates the continued  
21 membership of a member in the limited liability company, unless the business of the limited  
22 liability company is continued by the consent of all the remaining members or under a right  
23 to continue stated in the articles of organization of the liability company.

24  
25 (b) As soon as possible following the occurrence of any of the events specified in Subsection

1 (a) which effects the dissolution of the limited liability company, the limited liability company  
2 shall execute a statement of intent to dissolve in the form prescribed by the Department of  
3 Revenue and Taxation.

4  
5 **§ 15121. Filing of statement of intent to dissolve.**

6 The statement of intent to dissolve a limited liability company shall be delivered to the  
7 Department of Revenue and Taxation. If the Department of Revenue and Taxation finds that  
8 such statement conforms to law, it shall, when all fees and license taxes have been paid as  
9 prescribed in this Chapter, file the articles of dissolution in accordance with this Chapter.

10  
11 **§ 15122. Effect of filing of statement of intent to dissolve; procedure after filing such  
12 statement.**

13 (a) Upon the filing by the Department of Revenue and Taxation of a statement of intent to  
14 dissolve, the limited liability company shall cease to carry on its business, except insofar as  
15 may be necessary for the winding up of its business, but its separate existence shall continue  
16 until a certificate of dissolution has been issued by the Department of Revenue and Taxation  
17 or until a decree dissolving the limited liability company has been entered by a court of  
18 competent jurisdiction.

19  
20 (b) Within 20 days after the Department of Revenue and Taxation has filed a statement of  
21 intent to dissolve, the limited liability company shall immediately cause notice thereof to be  
22 mailed to each creditor of, and claimant against, the limited liability company.

23  
24 (c) The limited liability company shall proceed to collect its assets; convey and dispose of  
25 such of its properties as are not to be distributed in kind to its members; pay, satisfy, or

1 discharge its liabilities and obligations or make adequate provisions for the payment or  
2 discharge thereof; and do all other acts required to liquidate its business and affairs. After  
3 paying or discharging all its obligations or making the adequate provision for payment or  
4 discharge thereof, the limited liability company may distribute the remainder of its assets,  
5 either in cash or in kind, among its members according to their respective rights and interests.  
6

7 **§ 15123. Distribution of assets upon dissolution.**

8 (a) In settling accounts after dissolution, the liabilities of the limited liability company shall  
9 be entitled to payment in the following order:

10 (1) Those liabilities to creditors, in the order of priority as provided by law, except those  
11 liabilities to members of the limited liability company on account of their contributions;

12 (2) Those liabilities to members of the limited liability company in respect of their shares of  
13 the profits and other compensation by way of income on their contributions; and

14 (3) Those liabilities to members of the limited liability company in respect of their  
15 contributions to capital.  
16

17 (b) Subject to any statement in the regulations, members shall share in the limited liability  
18 company assets in respect to their claims for capital and in respect to their claims for profits  
19 or for compensation by way of income on their contributions, respectively, in proportion to  
20 the respective amounts of the claims.  
21

22 **§ 15124. Articles of dissolution.**

23 When all debts, liabilities, and obligations of the limited liability company have been paid or  
24 discharged, or adequate provision has been made therefore, and all of the remaining property  
25 and assets of the limited liability company have been distributed to the members, articles of

1 dissolution shall be executed and verified by the person signing the statement, which statement  
2 shall set forth:

3 (a) The name of the limited liability company.

4 (b) The fact that the Department of Revenue and Taxation has therefore filed a statement of  
5 intent to dissolve the company and the date on which such statement was filed.

6 (c) The fact that all debts, obligations, and liabilities have been paid or discharged, or that  
7 adequate provision has been made therefore.

8 (d) The fact that all the remaining property and assets have been distributed among its  
9 members in accordance with their respective rights and interests.

10 (e) The fact that there are no suits pending against the company in any court or that adequate  
11 provision has been made for the satisfaction of any judgment, order, or decree which may be  
12 entered against it in any pending suit.

13  
14 **§ 15125. Filing of articles of dissolution.**

15 (a) The articles of dissolution of the limited liability company shall be delivered to the  
16 Department of Revenue and Taxation. If the Department of Revenue and Taxation finds  
17 that such articles of dissolution conform to law, it shall, when all fees and license taxes  
18 have been paid as prescribed in this Chapter, file the statement of intent to dissolve the  
19 company in accordance with this Chapter. The Department of Revenue and Taxation shall  
20 then issue a certificate of dissolution.

21  
22 (b) The certificate of dissolution shall be returned to the representative of the dissolved  
23 limited liability company. Upon the issuance of such certificate of dissolution, the  
24 existence of the company shall cease, except for the purpose of suits, other proceedings in  
25 this Chapter. The manager or managers in office at the time of dissolution, or the survivors



1 of them, or, if none, the members, shall thereafter be trustees for the members and  
2 creditors of the dissolved limited liability company; and as such the trustees shall have  
3 authority to distribute any company property discovered after dissolution, to convey real  
4 estate, and to take such other action as may be necessary on behalf of and in the name of  
5 such limited liability company.

6  
7 **§ 15126. Cancellation of certificate of organization.**

8 The certificate of organization of a limited liability company shall be canceled by the  
9 Department of Revenue and Taxation upon issuance of the certificate of dissolution.

10  
11 **§ 15127. Involuntary dissolution.**

12 (a) A limited liability company may be dissolved involuntarily by a decree of the Superior  
13 Court of Guam in an action filed by the Attorney General's Office when it is established  
14 that the limited liability company:

15 (1) Has procured its articles of organization through fraud;

16 (2) Has exceeded the authority conferred upon it by law;

17 (3) Has committed a violation of any provision of law whereby it has forfeited its  
18 charter;

19 (4) Has carried on, conducted, or transacted its business in a persistently fraudulent  
20 or illegal manner; or

21 (5) By the abuse of its powers contrary to the public policy of this territory, has  
22 become liable to be dissolved.

23  
24 (b) A limited liability company may be dissolved involuntarily by order of the Department  
25 of Revenue and Taxation when the Department of Revenue and Taxation has determined

1 that the limited liability company:

2 (1) Has failed to file its annual report or pay the filing fee for the annual report  
3 within the time required by this Chapter;

4 (2) Has failed for 30 days to appoint and maintain a registered agent in this territory;  
5 or

6 (3) Has failed for 30 days after change of its registered office or registered agent to  
7 file in the office of the Department of Revenue and Taxation a statement of such change.  
8

9 (c) No limited liability company shall be involuntarily dissolved under Subsection (b)  
10 unless the Department of Revenue and Taxation has given the limited liability company not  
11 less than 90 days notice of the proposed dissolution, stating the reasons therefore and  
12 addressed to its registered office or to its principal place of business, and the limited  
13 liability company has failed prior to such involuntary dissolution to correct the reasons for  
14 the proposed involuntary dissolution.  
15

16 (d) If the Department of Revenue and Taxation involuntarily dissolves any limited liability  
17 company under the provisions of Subsection (b), it shall issue a certificate to such effect  
18 and mail the certificate to the limited liability company at its registered office or its  
19 principal place of business. Upon the issuance of such certificate of involuntary  
20 dissolution, the existence of the limited liability company shall cease, except as otherwise  
21 provided by law.  
22

23 (e) The enumeration in Subsections (a) and (b) of grounds for involuntary dissolution shall  
24 not exclude an action or special proceeding for the annulment dissolution of a limited  
25 liability company for other cause as provided in any other statute of this territory.

1     **§ 15128. Reinstatement after involuntary dissolution.**

2     (a) Any limited liability company which has been dissolved by the Department of Revenue  
3     and Taxation under the provisions of §15124 or prior law may be reinstated by the  
4     Department of Revenue and Taxation at any time upon approval of an application for  
5     reinstatement signed by an officer or director of the dissolved limited liability company.  
6     Such application shall be filed by the Department of Revenue and Taxation whenever it is  
7     established to the satisfaction of the department that in fact there was no cause for the  
8     dissolution or that the reasons for the dissolution have been corrected and all fees,  
9     computed at the rate provided by law at the time the limited liability company applies for  
10    reinstatement, have been paid. If the name of the dissolved limited liability company has  
11    been lawfully assumed in the state by another limited liability company, the Department of  
12    Revenue and Taxation shall require the dissolved limited liability company to amend its  
13    articles of organization to change its application for reinstatement.

14  
15    (b) Whenever the application for reinstatement is approved and filed by the Department of  
16    Revenue and Taxation, the existence of the limited liability company shall be deemed to  
17    have continued without interruption from the date of dissolution. The reinstatement shall  
18    have no effect upon any personal liabilities of the members or managers of the limited  
19    liability company on account of actions taken during the period between dissolution and  
20    reinstatement, but the power of the limited liability company to indemnify such members  
21    or managers shall extend to actions during such period.

22  
23    **§ 15129. Filings by the Department of Revenue and Taxation.**

24    All filings made by the Department of Revenue and Taxation shall be in accordance with  
25    the provisions of §2104 of Article 1 of Chapter 2, Title 18, Guam Code Annotated.

1     **§ 15130. Fees for filing documents and issuing certification.**

2     Fees for filing documents and issuing certification shall be subject to applicable rates as  
3     determined by the Department of Revenue and Taxation.

4  
5     **§ 15131. Miscellaneous charges.**

6     Miscellaneous charges shall be determined, charged, and collected by the Department of  
7     Revenue and Taxation.

8  
9     **§ 15132. Waiver of notice.**

10    When, under the provisions of this Chapter or under the provisions of the articles of  
11    organization or operating agreement of a limited liability company, notice is required to be  
12    given to a member of a limited liability company or to a manager of a limited liability  
13    company having a manager or managers, a waiver in writing signed by the person or  
14    persons entitled to the notice, whether made before or after the time for notice to be given,  
15    is equivalent to the giving of notice.

16  
17    **§ 15133. Jurisdiction of the Superior Court of Guam.**

18    The Superior Court of Guam shall have jurisdiction to enforce the provisions of this  
19    Chapter.

20  
21    **§ 15134. Parties to actions by or against limited liability company.**

22    A member of a limited liability company is not a proper party to proceedings by or against  
23    a limited liability company, except when the object is to enforce a member's right against,  
24    or liability to, the limited liability.

1 **§ 15135. Service of process.**

2 (a) In addition to Part 1 of Title 18, GCA, process may be served upon limited liability  
3 companies and foreign limited liability companies as provided in this section.

4  
5 (b) Personal service of a copy of any process against the limited liability company or the  
6 foreign limited liability company by delivery to any person designated by it as agent shall  
7 constitute valid service on the limited liability company or the foreign limited liability company.  
8 No change in the address of the agent for service of process or appointment of a new agent  
9 for service of process shall be effective until an amendment to the statement described in  
10 Section 15112 is filed. In the case of a foreign limited liability company that has appointed the  
11 Director of the Department of Revenue and Taxation as agent for service of process by  
12 reason of paragraph (i) of this section, process shall be delivered by hand to the Director, or  
13 to any person employed in the capacity of assistant or deputy, and shall include one copy of  
14 the process for each defendant to be served, together with a copy of the court order  
15 authorizing the service and the fee therefor. The order shall set forth the address to which the  
16 process shall be sent by the Director.

17  
18 (c) (1) If an agent for service of process has resigned and has not been replaced, or if the  
19 designated agent cannot with reasonable diligence be found at the address designated for  
20 personal delivery of the process, and it is shown by affidavit to the satisfaction of the court  
21 that process against a limited liability company or foreign limited liability company cannot be  
22 served with reasonable diligence upon the designated agent by hand in a manner provided by  
23 law, the court may make an order that the service shall be made upon a domestic limited  
24 liability company or upon a registered foreign limited liability company by delivering by hand to  
25 the Director, or to any person employed in the Director's office in the capacity of assistant or  
26 deputy, one copy of the process for each defendant to be served, together with a copy of the  
27 order authorizing the service. Service in this manner shall be deemed complete on the 10th  
28 day after delivery of the process to the Director.

29 (2) Upon receipt of the copy of process and the fee therefor, the Director shall give

1 notice of the service of the process to the limited liability company or foreign limited liability  
2 company, at its principal executive office, by forwarding to that office, by registered mail with  
3 request for return receipt, the copy of the process; or if the Director's records do not disclose  
4 an address for its principal executive office, by forwarding such copy in the same manner to  
5 the last designated agent for service of process who has not resigned. If the agent for service  
6 of process has resigned and has not been replaced, and the Director's records do not  
7 disclose an address for its principal executive office, no action need be taken by the Director.

8 (3) The Director shall keep a record of all process served upon the Director under this  
9 title and shall record therein the time of service and the action taken by the Director. A  
10 certificate under the Director's official seal, certifying to the receipt of process, the giving of  
11 notice to the limited liability company or foreign limited liability company, and the forwarding of  
12 the process pursuant to this section, shall be competent and prima facie evidence of the  
13 service of process.

14  
15 (d) (1) The articles of organization of a limited liability company and the application for  
16 registration of a foreign limited liability company shall designate, as the agent for service of  
17 process, an individual residing in this territory and whose capacity to act as an agent has not  
18 terminated. The statement shall set forth that person's complete business or residence  
19 address in this territory.

20 (2) An agent designated for service of process may file with the Director a signed  
21 and acknowledged written statement of resignation as an agent. Upon filing of the statement  
22 of resignation, the authority of the agent to act in that capacity shall cease and the Director  
23 shall give written notice of the filing of the statement of resignation by mail to the limited  
24 liability company or foreign limited liability company addressed to its principal executive office.

25 (3) If an individual who has been designated agent for service of process dies or  
26 resigns or no longer resides in the territory, or if the corporate agent for that purpose resigns,  
27 dissolves, withdraws from the territory, forfeits its right to transact intrastate business, has its  
28 corporate rights, powers, and privileges suspended, or ceases to exist, the limited liability  
29 company or foreign limited liability company shall promptly file an initial or amended statement

1 described in Section 15112 designating a new agent.

2  
3 (e) In addition to any other discovery rights that may exist, in any case pending in a Guam  
4 court in which a party seeks records from a limited liability company formed under this title,  
5 whether or not the limited liability company is a party, the court may order the production in  
6 this territory of the books and records of the limited liability company on those terms and  
7 conditions that the court deems appropriate.

8  
9 (f) A member may, in a written operating agreement or other writing, consent to be subject  
10 to the nonexclusive jurisdiction of the courts of a specified jurisdiction, or the exclusive  
11 jurisdiction of the courts of this territory.

12  
13 (g) If a member desires to use the arbitration process, that member may, in a written  
14 operating agreement or other writing, consent to be nonexclusively subject to arbitration in a  
15 specified state, or to be exclusively subject to arbitration in this territory.

16  
17 (h) Along with the consent to the jurisdiction of courts or to be subject to arbitration as  
18 provided in subdivisions (f) and (g), a member may consent to be served with legal process in  
19 the manner prescribed in a written operating agreement or other writing.

20  
21 (i) A foreign limited liability company, transacting business in this territory without  
22 registration, appoints the Director of the Department of Revenue and Taxation as its agent  
23 for service of process with respect to causes of action arising out of the business in this  
24 territory.

25  
26 **§ 15136. Tax on income of limited liability company.**

27 (a) A limited liability company is a "business" as defined in §26101 of Article I of Chapter  
28 26 of Title 11, Guam Code Annotated, and is subject to the taxes imposed under Chapter

1 26 of Title 11, Guam Code Annotated.

2  
3 (b) The income of a limited liability company organized pursuant to this chapter shall be  
4 subject to the Guam's Tax Code and the taxes levied pursuant to Chapter 26 of Title 11  
5 Guam Code Annotated.

6  
7 **§ 15137. Professional Limited Liability Companies.**

8 (a) Two or more persons may organize a professional limited liability company by filing  
9 articles of organization with the Department of Revenue and Taxation in accordance with  
10 this Act. In addition to other provisions required or permitted by law, the articles of  
11 organization of a professional limited liability company must include a statement:

12 (1) that the limited liability company is a professional limited liability company; and

13 (2) describing the one specific kind of professional service to be rendered by the  
14 limited liability company.

15  
16 (b) A professional limited liability company may be organized under this act only for the  
17 purpose of rendering one specific type of professional service and ancillary services. A  
18 professional limited liability company organized under this act may not render more than one  
19 kind of professional service.

20  
21 (c) Name.

22 A professional limited liability company may adopt a name not contrary to the law or ethics  
23 regulating the practice of the professional service rendered through the professional limited  
24 liability company. The name of the limited liability company must contain the words  
25 "Professional Limited Liability Company" or the abbreviations "P.L.L.C." or "PLLC" and



1 must contain other words as may be required by law.

2  
3 (d) Restrictions on Members, Managers, and Officers.

4 (1) A person who is not licensed or otherwise authorized to render the professional  
5 service of the professional limited liability company may not be a member, manager or officer  
6 of the professional limited liability company. A membership interest in the professional limited  
7 liability company may not be transferred to a person who is not licensed or otherwise  
8 authorized to render the professional service of the professional limited liability company.

9 (2) If a member, manager, or officer of a professional limited liability company, or an  
10 agent or employee of the company who has been rendering professional service for or with  
11 the company of the same type for which the professional limited liability company was  
12 organized to render, becomes legally disqualified to render the professional service, the person  
13 shall sever all employment with the professional limited liability company and immediately  
14 terminate all financial interest in the company. The professional limited liability company shall  
15 purchase or cause to be purchased from the person all membership interests owned by the  
16 person in the professional limited liability company, at a price and on terms as may be  
17 provided in the articles of organization, the regulations, or any applicable agreement among  
18 the members and the professional limited liability company.

19  
20 (e) Rendering of Professional Services.

21 (1) A professional limited liability company may render professional service in Guam  
22 only through: (i) an individual member, manager, officer, employee, or agent who is licensed  
23 to render the professional service on Guam; or (ii) an agent of the professional limited liability  
24 company that is a professional limited liability company, professional corporation, or  
25 professional association that is authorized on Guam to render the professional service of the

1 professional limited liability company and that renders the professional service only through  
2 a licensed individual member, manager, officer, or employee.

3 (2) This Article does not prohibit employment by a professional limited liability  
4 company of clerks, secretaries, bookkeepers, technicians, nurses, assistants, and other  
5 individuals who are not usually and ordinarily considered by custom and practice to be  
6 rendering professional service for which a license or other legal authorization is required. A  
7 person may not, under the guise of employment, practice a profession on Guam unless  
8 licensed or otherwise legally authorized to practice that profession under the laws of Guam.

9  
10 (f) Professional Relationships Not Affected.

11 This Act does not alter or affect the professional relationship between a person rendering  
12 professional service and a person receiving the service, and a confidential relationship enjoyed  
13 on Guam between those persons remains unchanged. This Act does not remove or diminish  
14 any rights at law that a person receiving professional service has against a person rendering the service  
15 for an error, an omission, negligence, incompetence, or malfeasance. A limited liability company,  
16 but not the other individual members, managers, or officers, is jointly and severally liable with  
17 a member, manager, officer, employee, or agent rendering professional service for an error,  
18 omission, negligence, incompetence, or malfeasance on the part of the member, manager,  
19 officer, employee, or agent when the member, manager, officer, employee, or agent is  
20 rendering professional service in the course of employment for the limited liability company."

21  
22  
23 **Section 3.** This Act will take effect 180 days after its enactment.

24  
25 **Section 4.** Immediately after the enactment of this legislation, The Director of the Department  
26 of Revenue and Taxation shall conduct a complete and comprehensive study, not to exceed 90

1 days, of the impact of this Act and of its financial consequences to the government and to the  
2 people of Guam.

3 If the Director, after his study, deems the impact of this legislation and of its financial  
4 consequences to be adverse to the territorial government and to the people of Guam, he shall  
5 prepare a complete and comprehensive report to be made available to the Speaker of the  
6 Legislature and to the Governor of Guam which shall state his reasons as to the adverse effects  
7 and adverse financial consequences which will result from this Act. The report shall also state  
8 his recommendations as to how such effects can be countered or alleviated.

9 If the Director deems the impact and the financial consequences to be not adverse to the  
10 territorial government and to the people of Guam, he shall immediately initiate action to provide  
11 to the people and businesses of Guam the services and duties as are required and provided  
12 under this Act.

13

TMO

6 7/11/96

TWENTY-THIRD GUAM LEGISLATURE  
1996 (SECOND) Regular Session

Bill No. 610 (LS)

As substituted by the author  
and further substituted on the floor

Introduced by:

- F. P. Camacho
- A. C. Blaz
- T. C. Ada
- J. P. Aguon
- E. Barrett-Anderson
- J. M. S. Brown
- M. C. Charfauros
- H. A. Cristobal
- M. Forbes
- A. C. Lamorena V
- C. Leon Guerrero
- L. Leon Guerrero
- T. S. Nelson
- S. L. Orsini
- V. C. Pangelinan
- D. Parkinson
- J. T. San Agustin
- A. L. G. Santos
- F. E. Santos
- A. R. Unpingco
- J. Won Pat-Borja

AN ACT TO ADD A NEW CHAPTER 15 TO TITLE 18 OF  
THE GUAM CODE ANNOTATED, ENTITLED  
"LIMITED LIABILITY COMPANIES", AUTHORIZING  
THE FORMATION OF BUSINESSES AS LIMITED  
LIABILITY COMPANIES ON GUAM.

1

BE IT ENACTED BY THE PEOPLE OF THE TERRITORY OF GUAM:

1           **Section 1. Legislative Findings.** Guam law recognizes three main  
2 organizational structures: Corporations, Partnerships, and Limited  
3 Partnerships. The Legislature finds that these three basic organizational  
4 options do not adequately meet the needs of many small and medium-sized  
5 companies on Guam.

6           The Legislature further finds that business and tax planners on Guam  
7 and in the United States have long sought a business entity that delivers the  
8 key advantages of "pass-through taxation" for a business and also provides  
9 limited liability for its owners. Traditionally, the S Corporations and Limited  
10 Partnerships have been drawn on in order to obtain these characteristics for a  
11 business or investment, but neither S Corporations nor Limited Partnerships  
12 can adequately meet these needs. S Corporations have relatively restrictive  
13 and inflexible requirements on the number of owners and types of ownership.  
14 Limited partnerships do not provide 100% limited liability since at least one  
15 general partner must be responsible for entity obligations under law. In  
16 addition, the management participation of limited partners is generally  
17 prohibited or severely restricted. A new alternative in recent years has  
18 emerged: the Limited Liability Company (LLC).

19           The Legislature finds that until 1990, only two states, Wyoming and  
20 Florida, allowed for the formation of an LLC. As of January 1, 1995, however,  
21 47 States have enacted LLC statutes largely due to the Internal Revenue  
22 Service ruling in late 1988 allowing for the taxing of LLC's as partnerships.  
23 Proposals are pending in the other states, and it is possible that all 50 States  
24 will have enacted LLC laws by the end of 1996.

25           The Legislature finds that though most states allow an LLC to be  
26 formed for the transaction of any lawful purpose, certain regulated

1 industries, such as banking and insurance, are prohibited from operating in  
2 LLC form. The same shall apply here on Guam.

3 The Legislature finds that while the LLC is not intended to replace  
4 corporations or partnerships, it does combine the advantages of each. It  
5 combines the structural flexibility of a partnership with the liability protection  
6 of a corporation. The LLC will be formed as an unincorporated business  
7 entity where neither the partners nor the managers are personally liable for  
8 its obligation. Professionals who will organize their business or service as an  
9 LLC will still remain liable for their professional performance.

10 The Legislature finds that it is necessary for the LLC to have at least  
11 two members at the time of formation. This element will preserve the  
12 partnership tax status under federal tax law so as to allow the Department  
13 of Revenue and Taxation to treat the LLC as a partnership for tax purposes.

14 **Section 2. A new Chapter 15 is added to Title 18, Guam Code Annotated**  
15 **to read:**

16 **"Chapter 15**

17 **Limited Liability Companies**

- 18 §15101. Short Title.  
19 §15102. Definitions.  
20 §15103. Purpose.  
21 §15104. Powers.  
22 §15105. Formation.  
23 §15106. Limited Liability Company name.  
24 §15107. Articles of Organization.  
25 §15108. Filing of Articles of Organization.  
26 §15109. Effect of Issuance of Certificate of Organization.  
27 §15110. Amendments to Articles of Organization.

1 §15111. Registered Office and Registered Agent.

2 §15112. Change of Registered Office or Registered Agent.

3 §15113. Finance.

4 §15113 (A) Capital contributions of members.

5 §15113 (B) Obligation of member to contribute cash or property  
6 or to perform services; Failure of member to make contribution;  
7 Enforcement of obligation.

8 §15113 (C) Allocation of profits and losses among members.

9 §15114. Members.

10 §15114 (A) Acquisition of membership interest; Termination of  
11 interest.

12 §15114 (B) Personal liability of members.

13 §15114 (C) Creation of classes of members.

14 §15114 (D) Voting by members.

15 §15114 (E) Meetings; Notice; Quorum; Proxies; Record date of  
16 members entitled to notice.

17 §15114 (F) Issuance of certificate of interest.

18 §15114 (G) Access to records and documents by members;  
19 Inspection and copying.

20 §15114 (H) Complaint by members of failure to comply with law  
21 or articles of organization; Action by Attorney  
22 General.

23 §15115. Management of Limited Liability Company.

24 §15115 (A) Business and affairs of company managed by  
25 members.

26 §15115 (B) Management by non-members.

- 1 §15115 (C) Management vested in manager pursuant to  
2 articles of organization: Election; Removal; Resignation.  
3 §15115 (D) Fiduciary duties of manager.  
4 §15115 (E) Appointment of officers; Authority of signing  
5 officers in documents.  
6 §15115 (F) Indemnification of manager, member, officer, and  
7 others; Purchase of insurance.  
8 §15115 (G) More than one manager; Decisions by majority  
9 vote.  
10 §15115 (H) Member as agent of company unless otherwise  
11 provided; Manager as agent.  
12 §15115 (I) Personal liability of manager or officer.  
13 §15115 (J) Office to maintain records; Agent for service of  
14 process.  
15 §15115 (K) Records and documents required to be kept.  
16 §15116. Distributions and Withdrawals.  
17 §15116 (A) Distribution of money or property to members.  
18 §15116 (B) Entitlement of member to receive distributions  
19 prior to withdrawal or dissolution.  
20 §15116 (C) Withdrawal of member; Notice; Entitlement to  
21 distribution.  
22 §15116 (D) Distribution in form other than money; Distribution  
23 of assets.  
24 §15116 (E) Requirement to make distribution.  
25 §15116 (F) Personal liability of manager or member who votes  
26 for unlawful distribution.  
27 §15117. Interest in Limited Liability Company; Assignment of Interests.



- 1           §15117 (A) Membership interest as personal property.  
2           §15117 (B) Assignment of membership interest or economic  
3                           interest; Pledge or lien against membership  
4                           interest.  
5           §15117 (C) Unsatisfied amount of judgment to be charged  
6                           against membership interest.  
7           §15117 (D) Membership of assignee.  
8           §15117 (E) Deceased member; Member adjudged incompetent  
9                           by court.  
10         §15118. Liability of Member and Managers.  
11         §15119. Unauthorized Assumption of Powers.  
12         §15120. Dissolution.  
13         §15121. Filing of Statement of Intent to Dissolve.  
14         §15122. Effect of Filing of Statement of Intent to Dissolve; Procedure  
15                       after Filing Such Statement.  
16         §15123. Distribution of Assets upon Dissolution.  
17         §15124. Articles of Dissolution.  
18         §15125. Filing of Articles of Dissolution.  
19         §15126. Cancellation of Certificate of Organization.  
20         §15127. Involuntary Dissolution.  
21         §15128. Reinstatement after Involuntary Dissolution.  
22         §15129. Filing by Department of Revenue and Taxation.  
23         §15130. Fees for Filing Documents and Issuing Certification.  
24         §15131. Miscellaneous Charges.  
25         §15132. Waiver of Notice.  
26         §15133. Jurisdiction of the Superior Court.  
27         §15134. Parties to Actions by or against Limited Liability Company.

1 §15135. Service of Process.

2 §15136. Tax on Income of Limited Liability Company.

3 §15137. Professional Limited Liability Companies.

4 §15101. **Short Title.** This Act shall be known and may be cited as the  
5 "Guam Limited Liability Company Act".

6 §15102. **Definitions.** As used in this chapter:

7 (1) "Bankrupt" means bankrupt under the federal Bankruptcy Act or  
8 insolvent under any state insolvency act.

9 (2) "Court" includes every court and judge having jurisdiction in the  
10 action.

11 (3) "Limited Liability Company" or "Company" means a limited liability  
12 company organized and existing under this chapter.

13 (4) "Real Property" means land and any interest or estate in land.

14 (5) "Business" means every trade and occupation or profession.

15 (6) "Conveyance" means every assignment, lease, mortgage, or  
16 encumbrance.

17 (7) "Professional Service" means any type of personal service that  
18 requires as a condition precedent to the rendering of the service the obtaining  
19 of a license, permit, registration, or other legal authorization, including but  
20 not limited to the personal service rendered by an architect, attorney-at-law,  
21 certified public accountant, dentist, doctor, physician, public accountant,  
22 surgeon, or veterinarian.

23 (8) "Professional limited liability company" means a limited liability  
24 company that is organized under this act for the sole and specific purpose of  
25 rendering professional service and that has as its members only individuals  
26 licensed or otherwise authorized within Guam to render the same  
27 professional service as the limited liability company.

1 (9) "Transact intrastate business" means to enter into repeated and  
2 successive transactions of business in this territory, other than in interstate or  
3 foreign commerce.

4 (I) Without excluding other activities which may not be  
5 considered to be transacting intrastate business, a foreign limited  
6 liability company shall not be considered to be transacting intrastate  
7 business merely because its subsidiary transacts intrastate business, or  
8 merely because of its status as any one or more of the following:

9 (A) A shareholder of a domestic corporation.

10 (B) A shareholder of a foreign corporation transacting  
11 intrastate business.

12 (C) A limited partner of a foreign limited partnership  
13 transacting intrastate business.

14 (D) A limited partner of a domestic limited partnership.

15 (E) A member or manager of a foreign limited liability  
16 company transacting intrastate business.

17 (F) A member or manager of a domestic limited liability  
18 company.

19 (II) Without excluding other activities which may not be  
20 considered to be transacting intrastate business, a foreign limited  
21 liability company shall not be considered to be transacting intrastate  
22 business within the meaning of this subdivision solely by reason of  
23 carrying on in this territory any one or more of the following activities:

24 (A) Maintaining or defending any action or suit or any  
25 administrative or arbitration proceeding, or effecting the  
26 settlement thereof or the settlement of claims or disputes.

1 (B) Holding meetings of its managers or members or  
2 carrying on any other activities concerning its internal affairs.

3 (C) Maintaining bank accounts.

4 (D) Maintaining offices or agencies for the transfer,  
5 exchange, and registration of the foreign limited liability  
6 company's securities or maintaining trustees or depositories with  
7 respect to those securities.

8 (E) Effecting sales through independent contractors.

9 (F) Soliciting or procuring orders, whether by mail or  
10 through employees or agents or otherwise, where those orders  
11 require acceptance without this state before becoming binding  
12 contracts.

13 (G) Creating or acquiring evidences of debt or mortgages,  
14 liens, or security interests in real or personal property.

15 (H) Securing or collecting debts or enforcing mortgages  
16 and security interests in property securing the debts.

17 (I) Conducting an isolated transaction that is completed  
18 within 180 days.

19 (III) A person shall not be deemed to be transacting intrastate  
20 business in this territory merely because of its status as a member or  
21 manager of a domestic limited liability company or a foreign limited  
22 liability company registered to transact intrastate business in this  
23 territory.

24 (10) "Distribution" means the transfer of money or property by a  
25 limited liability company to its members without consideration.

26 (11) "Economic interest" means a person's right to share in the income,  
27 gains, losses, deductions, credit, or similar items of, and to receive

1 distributions from, the limited liability company, but does not include any  
2 other rights of a member including, without limitation, the right to vote or to  
3 participate in management, or, except as provided by this Chapter, any right  
4 to information concerning the business and affairs of the limited liability  
5 company.

6 (12) "Membership interest" means a member's rights in the limited  
7 liability company, collectively, including the member's economic interest, any  
8 right to vote or participate in management, and any right to information  
9 concerning the business and affairs of the limited liability company provided  
10 by this Chapter.

11 (13) "Proxy" unless otherwise provided in the operating agreement,  
12 means a written authorization signed or an electronic transmission  
13 authorized by a member or the member's attorney in fact giving another  
14 person the power to exercise the voting rights of that member.

15 **§15103. Purpose.** A limited liability company may be organized under  
16 this chapter for any lawful purpose, except that special statutes for the  
17 regulation and control of specific types of business shall control when in  
18 conflict herewith.

19 Subject to any limitations contained in the articles of organization and  
20 to compliance with any other applicable laws, a limited liability company may  
21 engage in any lawful business activity, except the banking, insurance, or trust  
22 company business.

23 **§15104. Powers.** Each limited liability company organized and  
24 existing under this chapter may:

25 (a) Sue or be sued, or complain or defend, in its name.

1 (b) Purchase, take, receive, lease, or otherwise acquire, own, hold,  
2 improve, or use, or otherwise deal in or with, real or personal property, or an  
3 interest in real or personal property, wherever situated.

4 (c) Sell, convey, mortgage, pledge, create a security interest in, lease,  
5 exchange, or transfer, or otherwise dispose of, all or any part of its property  
6 or assets.

7 (d) Purchase, take, receive, subscribe for, or otherwise acquire, own,  
8 hold, vote, use, employ, sell, mortgage, lend, or plead, or otherwise dispose  
9 of, or otherwise use or deal in or with:

10 (1) Shares or other interests in or obligations of other foreign or  
11 domestic limited liability companies, domestic or foreign corporations,  
12 associations, general or limited partnerships, or individual; or

13 (2) Direct or indirect obligations of the United States or any other  
14 government, state, territory, government district, or municipality or of  
15 any instrumentality thereof.

16 (e) Make contracts or guarantees or incur liabilities; borrow money at  
17 such rates of interest as the limited liability company may determine; issue its  
18 notes, bonds, or other obligations; or secure any of its obligations by  
19 mortgage or pledge of all or any part of its property, franchises, and income.

20 (f) Lend money for any lawful purpose, invest or reinvest its funds, or  
21 take and hold real or personal property as security for the payment of funds  
22 so loaned or invested.

23 (g) Conduct its business, carry on its operations and have offices, and  
24 exercise the powers granted by this chapter with or without the territory of  
25 Guam.

26 (h) Elect or appoint managers and agents of the limited liability  
27 company, define their duties, and fix their compensation.

1 (i) Make and alter its regulations, not inconsistent with its articles of  
2 organization or with the laws of Guam, for the administration and  
3 regulation of the affairs of the company.

4 (j) Make donations to the public welfare or for charitable, scientific, or  
5 educational purposes.

6 (k) Indemnify a member or manager or any other person to the same  
7 extent as a corporation may indemnify any of the directors, officers,  
8 employees, or agents of the corporation against expenses actually and  
9 reasonably incurred by him or it in connection with the defense of any action,  
10 suit, or proceeding, whether civil or criminal, in which he or it is made a  
11 party.

12 (l) Cease its activities and surrender its certificate of organization.

13 (m) Have and exercise all powers necessary or convenient to affect any  
14 or all of the purposes for which the company is organized.

15 (n) Transact any lawful business which the members or the managers  
16 find to be in aid of governmental policy.

17 (o) Pay pensions and establish pension plans, profit-sharing plans, and  
18 other incentive plans for any or all of its managers and employees.

19 (p) Be a promoter, incorporator, general partner, limited partner,  
20 member, associate, or manager of any corporation, partnership, limited  
21 partnership, limited liability company, joint venture, trust, or other  
22 enterprise.

23 (q) Have and exercise all powers necessary or convenient to effect its  
24 purposes.

25 **§15105. Formation.** Two or more persons may form a limited liability  
26 company by executing, acknowledging, and delivering to the Department of

1 Revenue and Taxation articles of organization for such limited liability  
2 company.

3       **§15106. Limited Liability Company Name.** (a) The words "limited  
4 company", "limited liability company" , or their abbreviation "L. C.", or  
5 L.L.C. , shall be the last word of the name of every limited liability company  
6 formed under the provisions of this chapter; and, in addition, the limited  
7 liability company name may not be the same as, or deceptively similar to, the  
8 name of a limited liability company, or a foreign limited liability company,  
9 authorized to transact business in this territory, or a name the exclusive right  
10 to which is, at the time, reserved in the manner provided under the laws of  
11 this territory.

12       (b) Omission of the words "limited company", "limited liability  
13 company", or their abbreviation "L.C.", or "L.L.C.", in the use of the name of  
14 the limited company shall render any person who participates in the  
15 omission, or knowingly acquiesces in it, liable for any indebtedness, damage,  
16 or liability occasioned by the omission.

17       **§15107. Articles of Organization.** (a) The Articles of Organization of  
18 a limited liability company shall set forth:

19       (1) The name of the limited liability company.

20       (2) The period of its duration, which may not exceed 30 years from the  
21 date of filing with the Department of Revenue and Taxation.

22       (3) The purpose for which the limited liability company is organized.

23       (4) The address of its place of business in Guam and the name and  
24 address of its initial registered agent in Guam.

25       (5) The total amount of cash and a description and agreed value of  
26 property other than cash contributed.



1 (6) The total additional contributions, if any, agreed to be made by all  
2 members and the times at which, or the events upon the happening of which,  
3 they shall be made.

4 (7) The right, if given, of the members to admit additional members and  
5 the terms and conditions of the admissions.

6 (8) The right, if given, of the remaining members of the limited liability  
7 company to continue the business on the death, retirement, resignation,  
8 expulsion, bankruptcy, or dissolution of a member or the occurrence of any  
9 other event which terminates the continued membership of a member in the  
10 limited liability company.

11 (9) (i) If the limited liability company is to be managed by a manager or  
12 managers, a statement that the company is to be managed by a manager or  
13 managers and the names and addresses of such managers who are to serve  
14 as managers until the first annual meeting of members or until their  
15 successors are elected and qualify. (ii) If the management of a limited liability  
16 company is reserved to the members, the names and addresses of the  
17 members.

18 (10) Any other provisions, not inconsistent with law, which the  
19 members elect to set out in the articles of organization for the regulation of  
20 the internal affairs of the limited liability company, including any other  
21 provisions which under this Chapter are required or permitted to be set out in  
22 the regulations of the limited liability company.

23 (b) It is not necessary to set out in the articles of organization any of the  
24 powers enumerated in this Chapter.

25 **§15108. Filing of Articles of Organization.** The Articles of  
26 Organization shall be delivered to the Department of Revenue and Taxation.  
27 If the Department of Revenue and Taxation finds that the articles of

1 organization conform to law, it shall, when all fees have been paid as  
2 prescribed in this chapter, file the articles of organization in accordance with  
3 this Chapter. The Department of Revenue and Taxation shall then issue a  
4 certificate of organization.

5       **§15109. Effect of Issuance of Certificate of Organization.** (a) Upon  
6 the issuance of the certificate of organization, the limited liability company  
7 shall be considered organized; and such certificate of organization shall be  
8 conclusive evidence that all conditions precedent required to be performed by  
9 the members have been complied with and that the limited liability company  
10 has been legally organized under this Chapter, except as against this territory  
11 in a proceeding to cancel or revoke the certificate of organization or in a  
12 proceeding for involuntary dissolution of the limited liability company.

13       (b) A limited liability company shall not transact intrastate business or  
14 incur indebtedness, except that which is incidental to its organization or to  
15 obtaining subscriptions for or payment of contributions, until the articles of  
16 organization have been filed with the Department of Revenue and Taxation.

17       (c) The date when the existence of the company commences shall be the  
18 date of the filing of the articles of organization by the Department of  
19 Revenue and Taxation, except that the date of commencement of corporate  
20 existence may be specified in the articles of organization:

21           (1) When the date specified in the articles of organization is the  
22 date of subscription and acknowledgment, and the articles of  
23 organization are filed by the Department of Revenue and Taxation  
24 within 5 days, exclusive of legal holidays, after such date.

25           (2) When the date specified in the articles of organization is  
26 subsequent to, and not later than 90 days after the date of filing of the  
27 articles of organizations by the Department of Revenue and Taxation.

1           **§15110. Amendments to Articles of Organization.** (a) The articles of  
2 organization of a limited liability company shall be amended when:

3           (1) There is a change in the name of the limited liability company  
4 or in the amount or character of the contributions to capital.

5           (2) There is a change in the character of the business of the limited  
6 liability company.

7           (3) There is a false or erroneous statement in the articles of  
8 organization.

9           (4) There is a change in the time as stated in the articles of  
10 organization for the dissolution of the limited liability company.

11           (5) A time is fixed for the dissolution of the limited liability  
12 company, if no time is specified in the articles of organization.

13           (6) The members desire to make a change in any other statement  
14 in the articles of organization in order for it to accurately represent the  
15 agreement between them.

16           (b) The form for evidencing an amendment to the articles of  
17 organization of a limited liability company shall be promulgated by the  
18 Department of Revenue and Taxation and shall contain such terms and  
19 provisions consistent with this Chapter as shall be determined by the  
20 Department of Revenue and Taxation. The amendment shall be signed and  
21 sworn to by all members, and an amendment adding a new member shall be  
22 signed also by the member to be added; thereafter the amendment shall be  
23 forwarded to the Department of Revenue and Taxation for filing,  
24 accompanied by the requisite filing fee.

25           **§15111. Registered office and registered agent.** (a) Each limited  
26 liability company shall have and continuously maintain in Guam:

1 (1) A registered office, which may be, but need not be, the same as  
2 its place of business; and

3 (2) A registered agent, which agent may be either: (i) An  
4 individual resident of Guam whose business office is identical with such  
5 registered office; (ii) A domestic corporation having a business office  
6 identical with such registered office; or (iii) A foreign corporation  
7 authorized to transact business on Guam and having a business office  
8 identical with such registered office.

9 (b) Each registered agent and each successor registered agent  
10 appointed pursuant to this Chapter on whom process may be served shall file  
11 a statement in writing with the Department of Revenue and Taxation  
12 accepting the appointment as registered agent simultaneously with being  
13 designated, unless the agent signed the document making the appointment.

14 (c) The Department of Revenue and Taxation shall maintain an  
15 accurate record of the registered agents and registered office for the service  
16 of process and shall furnish any information disclosed thereby promptly upon  
17 request and payment of the required fee.

18 (d) No limited liability company shall maintain any action in any court  
19 until the limited liability company complies with the provisions of this Section  
20 and pays to the Department of Revenue and Taxation a penalty of \$1 for each  
21 day it has failed to comply, or \$250, whichever amount is less.

22 **§15112. Change of registered office or registered agent.** (a) A limited  
23 liability company may change its registered agent or office, or both, upon  
24 filing in the office of the Department of Revenue and Taxation a statement  
25 setting forth:

26 (1) The name of the limited liability company.

1           (2) The address of its then registered office and, if the address of  
2 its registered office is to be changed, the address to which the registered  
3 office is to be changed.

4           (3) The name of its then registered agent and, if its registered  
5 agent is to be changed, the name of its successor registered agent.

6           (4) The fact that the change was authorized by affirmative vote of  
7 a majority of the members of the limited liability company.

8           (b) The statement shall be acknowledged and delivered to the  
9 Department of Revenue and Taxation. If the Department of Revenue and  
10 Taxation finds that the statement conforms to the provisions of this chapter,  
11 it shall file the statement in its office; and, upon filing, the change of address  
12 of the registered office or the appointment of a new registered agent, or both,  
13 as the case may be, shall be effective.

14           (c) Any registered agent of a limited liability company may resign as  
15 agent upon filing a written notice thereof with the Department of Revenue  
16 and Taxation and by mailing a copy thereof to the limited liability company at  
17 its registered office. The appointment of the agent shall terminate upon the  
18 expiration of 30 days after receipt of notice by the Department of Revenue  
19 and Taxation.

20           **§15113. Finance. §15113 (A). Capital contributions of members.** (a)  
21 The articles of organization or the operating agreement may provide for  
22 capital contributions of members. The contribution of a person may be in  
23 money, property, or services, or other obligation to contribute money or  
24 property or to render services.

25           (b) Unless the articles of organization or operating agreement provide  
26 otherwise, no member shall be required to make any additional contribution  
27 to the limited liability company.

1           **§15113 (B). Obligation of member to contribute cash or property or to**  
2 **perform services; Failure of member to make contribution; Enforcement of**  
3 **obligation.** (a) (1) Subject to the terms of the articles of organization or the  
4 operating agreement, a member is not excused from an obligation to the  
5 limited liability company to perform any promise to contribute cash or  
6 property or to perform services because of death, disability, dissolution, or  
7 any other reason.

8           (2) If a member does not make the required contribution of property or  
9 services, that member is obligated, at the option of the limited liability  
10 company, to contribute cash equal to that portion of the fair market value (or  
11 agreed value if stated in writing and signed by the limited liability company  
12 and the member) of the contribution that has not been made. The foregoing  
13 option shall be in addition to, and not in lieu of, any other rights, including the  
14 right to specific performance, that the limited liability company may have  
15 against the member under the articles of organization, operating agreement,  
16 or applicable law.

17           (3) An operating agreement may provide that the interest of a member  
18 who fails to make any contribution or other payment that the member is  
19 required to make shall be subject to specific remedies for, or specific  
20 consequences of, the failure. Any such provision shall be enforceable in  
21 accordance with its terms unless the member seeking to invalidate the  
22 provision establishes that the provision was unreasonable under the  
23 circumstances existing at the time the agreement was made. The specific  
24 remedies or consequences may include: loss of voting, loss of approval or  
25 other rights, loss of the ability by the member to actively participate in the  
26 management and operations of the limited liability company, liquidated  
27 damages, and a reduction of the defaulting member's economic rights. The

1 reduction of the defaulting member's economic rights may include one or  
2 more provisions:

3 (A) Diluting, reducing, or eliminating the defaulting member's  
4 proportionate interest in the limited liability company.

5 (B) Subordinating the defaulting member's interest in the limited  
6 liability company to that of non-defaulting members.

7 (C) Permitting a forced sale of the membership interest.

8 (D) Permitting the lending or contribution by other members of  
9 the amount necessary to meet the defaulting member's commitment.

10 (E) Providing for the adjustment of interest rates or other rates of  
11 return, preferred, priority, or otherwise, with respect to contributions  
12 by or capital accounts of the other members.

13 (F) Providing for a fixing of the value of the defaulting member's  
14 interest in the limited liability company by appraisal or by formula and  
15 redemption or sale of the defaulting member's interest in the limited  
16 liability company at a percentage of that value.

17 (b) (1) Unless otherwise provided in the articles of organization or the  
18 operating agreement, the obligation of a member to make a contribution or  
19 return money or property paid or distributed in violation of this article shall  
20 be compromised only by the unanimous vote of the members.

21 (2) Notwithstanding the compromise of an obligation referred to in  
22 paragraph (1), a person whose claim against a limited liability company  
23 arises before the receipt of notice of the compromise may enforce the original  
24 obligation of a member to make a contribution to the limited liability company  
25 or to return a distribution if the person had knowledge of the original  
26 obligation prior to the time the claim arose and if the compromise occurred  
27 after the time the claim arose. Any other person with a claim against a

1 limited liability company may enforce only the existing obligation of a  
2 member to make a contribution to the limited liability company or to return to  
3 the limited liability company money or other property paid or distributed.

4 (c) A person with a claim against a limited liability company may not  
5 enforce a conditional obligation of a member unless the conditions have been  
6 satisfied or waived. Conditional obligations include, without limitation, a  
7 capital contribution payable upon a discretionary call of the limited liability  
8 company prior to the time the call occurs.

9 (d) Nothing in this section shall be construed to affect the rights of  
10 third-party creditors of the limited liability company to seek equitable  
11 remedies or any rights existing under Guam law.

12 **§15113 (C). Allocation of profits and losses among members.** The  
13 profits and losses of a limited liability company shall be allocated among the  
14 members, and among classes of members, in the manner provided in the  
15 operating agreement. If the operating agreement does not otherwise  
16 provide, profits and losses shall be allocated in proportion to the  
17 contributions of each member.

18 **§15114. Members. §15114 (A). Acquisition of membership interest;**  
19 **Termination of interest.**

20 (a) After formation of a limited liability company, a person may become  
21 a member:

22 (1) In the case of a person acquiring a membership interest  
23 directly from the limited liability company, at the time provided in and  
24 upon compliance with the articles of organization or the operating  
25 agreement or, if the articles of organization or operating agreement do  
26 not so provide, only upon the vote of all the members and when the  
27 person becomes a party to the operating agreement.



1 (2) In the case of an assignee of a membership interest, upon  
2 compliance with subdivision (a) of Subsection 15117 (D) and at the time  
3 provided in and upon compliance with the articles of organization or  
4 the operating agreement or, if the articles of organization or operating  
5 agreement do not so provide, where the assignee becomes a party to the  
6 operating agreement.

7 (b) The operating agreement may provide for the termination in whole  
8 or in part of the membership interest or economic interest of a member in the  
9 limited liability company. If a member's economic interest in the limited  
10 liability company is terminated pursuant to the operating agreement, the  
11 member may demand and shall be entitled to receive a return of that  
12 member's contribution. Any provision in an operating agreement governing  
13 the termination of a member's interest and the return of a member's  
14 contribution shall be enforceable in accordance with its terms unless the  
15 member seeking to invalidate the provision establishes that the provision was  
16 unreasonable under the circumstances existing at the time the agreement was  
17 made.

18 **§15114 (B). Personal liability of members.** (a) Except as otherwise  
19 provided in Subsection 15116 (E), no member of a limited liability company  
20 shall be personally liable under any judgment of a court, or in any other  
21 manner, for any debt, obligation, or liability of the limited liability company,  
22 whether that liability or obligation arises in contract, tort, or otherwise,  
23 solely by reason of being a member of the limited liability company.

24 (b) A member of a limited liability company shall be personally liable  
25 under a judgment of a court or for any debt, obligation, or liability of the  
26 limited liability company, whether that liability or obligation arises in  
27 contract, tort, or otherwise, under the same or similar circumstances and to

1 the same extent as a shareholder of a corporation may be personally liable for  
2 any debt, obligation, or liability of the corporation; except that the failure to  
3 hold meetings of members or managers or the failure to observe formalities  
4 pertaining to the calling or conduct of meetings shall not be considered a  
5 factor tending to establish that the members have personal liability for any  
6 debt, obligation, or liability of the limited liability company where the articles  
7 of organization or operating agreement do not expressly require the holding  
8 of meetings of members or managers.

9 (c) Nothing in this section shall be construed to affect the liability of a  
10 member of a limited liability company to third parties for the member's  
11 participation in tortious conduct.

12 **§15114 (C). Creation of classes of members.** The articles of  
13 organization or the operating agreement may provide for the creation of  
14 classes of members having those relative rights, powers and duties as the  
15 articles of organization or operating agreement may provide, including  
16 rights, powers, and duties senior to other classes of members.

17 **§15114 (D). Voting by members.** (a) The articles of organization or a  
18 written operating agreement may provide to all or certain identified  
19 members or a specified class or group of members the right to vote separately  
20 or with all or any class or group of members on any matter. Voting by  
21 members may be on a per capita, number, financial interest, class, group, or  
22 any other basis. If no voting provision is contained in the articles of  
23 organization or written operating agreement:

24 (1) The members of a limited liability company shall vote in  
25 proportion to their interests in current profits of the limited liability  
26 company or, in the case of a member who has assigned his or her or its  
27 entire economic interest in the limited liability company to a person who

1 has not been admitted as a member, in proportion to the interest in  
2 current profits that the assigning member would have, had the  
3 assignment not been made.

4 (2) The following matters shall require the unanimous vote of all  
5 members:

6 (A) A decision to continue the business of the limited liability  
7 company after dissolution of the limited liability company  
8 pursuant to Section 15132.

9 (B) Approval of the transfer of a membership interest and  
10 admission of the assignee as a member of the limited liability  
11 company.

12 (C) Any amendment of the articles of organization or  
13 operating agreement.

14 (3) In all other matters in which a vote is required, a vote of  
15 a majority in interest of the members shall be sufficient.

16 (b) Notwithstanding any provision to the contrary in the articles of  
17 organization or operating agreement, in no event shall the articles of  
18 organization be amended by a vote of less than a majority in interest of the  
19 members.

20 (c) Notwithstanding any provision to the contrary in the articles of  
21 organization or operating agreement, members shall have the right to vote  
22 on a dissolution of the limited liability company as provided in subdivision (c)  
23 of Section 15132.

24 **§15114 (E). Meetings; Notice; Quorum; Proxies; Record date of**  
25 **members entitled to notice.** (a) Meetings of members may be held at any  
26 place, either within or without this territory, selected by the person or persons  
27 calling the meeting or as may be stated in or fixed in accordance with the

1 articles of organization or a written operating agreement. If no other place is  
2 stated or so fixed, all meetings shall be held at the principal executive office of  
3 the limited liability company.

4 (b) A meeting of the members may be called by any manager or by any  
5 member or members representing more than 10 percent of the interests of  
6 members for the purpose of addressing any matters on which the members  
7 may vote.

8 (c) (1) Whenever members are required or permitted to take any action  
9 at a meeting, a written notice of the meeting shall be given not less than 10  
10 days nor more than 60 days before the date of the meeting to each member  
11 entitled to vote at the meeting. The notice shall state the place, date, and  
12 hour of the meeting and the general nature of the business to be transacted.  
13 No other business may be transacted at this meeting.

14 (2) Any report or any notice of a members' meeting shall be given either  
15 personally or by mail or other means of written communication, addressed to  
16 the member at the address of the member appearing on the books of the  
17 limited liability company or given by the member to the limited liability  
18 company for the purpose of notice, or, if no address appears or is given, at the  
19 place where the principal executive office of the limited liability company is  
20 located or by publication at least once in a newspaper of general circulation in  
21 Guam. The notice or report shall be deemed to have been given at the time  
22 when delivered personally or deposited in the mail or sent by other means of  
23 written communication. An affidavit of mailing of any notice or report in  
24 accordance with the provisions of this article, executed by a manager, shall be  
25 prima facie evidence of the giving of the notice or report.

26 If any notice or report addressed to the member at the address of the member  
27 appearing on the books of the limited liability company is returned to the

1 limited liability company by the United States Postal Service marked to  
2 indicate that the United States Postal Service is unable to deliver the notice or  
3 report to the member at the address, all future notices or reports shall be  
4 deemed to have been duly given without further mailing if they are available  
5 for the member at the principal executive office of the limited liability  
6 company for a period of one year from the date of the giving of the notice or  
7 report to all other members.

8 (3) Upon written request to a manager by any person entitled to call a  
9 meeting of members, the manager shall immediately cause notice to be given  
10 to the members entitled to vote that a meeting will be held at a time requested  
11 by the person calling the meeting, not less than 10 days nor more than 60 days  
12 after the receipt of the request. If the notice is not given within 20 days after  
13 receipt of the request, the person entitled to call the meeting may give the  
14 notice or, upon the application of that person, the Superior Court of Guam  
15 shall summarily order the giving of the notice, after notice to the limited  
16 liability company affording it an opportunity to be heard. The court may issue  
17 any order as may be appropriate, including, without limitation, an order  
18 designating the time and place of the meeting, the record date for determina-  
19 tion of members entitled to vote, and the form of notice.

20 (d) When a members' meeting is adjourned to another time or place,  
21 unless the articles of organization or a written operating agreement  
22 otherwise require and, except as provided in this subdivision, notice need not  
23 be given of the adjourned meeting if the time and place thereof are  
24 announced at the meeting at which the adjournment is taken. At the  
25 adjourned meeting, the limited liability company may transact any business  
26 that may have been transacted at the original meeting. If the adjournment is  
27 for more than 45 days, or if after the adjournment a new record date is fixed

1 for the adjourned meeting, a notice of the adjourned meeting shall be given to  
2 each member of record entitled to vote at the meeting.

3 (e) The actions taken at any meeting of members, however called and  
4 noticed, and wherever held, have the same validity as if taken at a meeting  
5 duly held after regular call and notice, if a quorum is present either in person  
6 or by proxy, and if, either before or after the meeting, each of the members  
7 entitled to vote, not present in person or by proxy, signs a written waiver of  
8 notice or consents to the holding of the meeting or approves the minutes of  
9 the meeting. All waivers, consents, and approvals shall be filed with the  
10 limited liability company records or made a part of the minutes of the  
11 meeting. Attendance of a person at a meeting shall constitute a waiver of  
12 notice of the meeting, except when the person objects, at the beginning of the  
13 meeting, to the transaction of any business because the meeting is not  
14 lawfully called or convened. Attendance at a meeting is not a waiver of any  
15 right to object to the consideration of matters required by this title to be  
16 included in the notice but not so included, if the objection is expressly made at  
17 the meeting. Neither the business to be transacted nor the purpose of any  
18 meeting of members need be specified in any written waiver of notice, unless  
19 otherwise provided in the articles of organization or operating agreement,  
20 except as provided in subdivision (g).

21 (f) Members may participate in a meeting of the limited liability  
22 company through the use of conference telephones or similar communications  
23 equipment, as long as all members participating in the meeting can hear one  
24 another. Participation in a meeting pursuant to this provision constitutes  
25 presence in person at that meeting.

26 (g) Any action approved at a meeting, other than by unanimous  
27 approval of those entitled to vote, shall be valid only if the general nature of

1 the proposal so approved was stated in the notice of meeting or in any  
2 written waiver of notice.

3 (h) (1) A majority in interest of the members represented in person or by  
4 proxy shall constitute a quorum at a meeting of members.

5 (2) The members present at a duly called or held meeting at which a  
6 quorum is present may continue to transact business until adjournment,  
7 notwithstanding the loss of a quorum, if any action taken after loss of a  
8 quorum, other than adjournment, is approved by the requisite percentage of  
9 interests of members specified in this title or in the articles of organization or  
10 a written operating agreement.

11 (3) In the absence of a quorum, any meeting of members may be  
12 adjourned from time to time by the vote of a majority of the interests  
13 represented either in person or by proxy, but no other business may be  
14 transacted, except as provided in paragraph (2).

15 (i) (1) Any action that may be taken at any meeting of the members may  
16 be taken without a meeting if a consent in writing, setting forth the action so  
17 taken, is signed and delivered to the limited liability company within 60 days  
18 of the record date for that action by members having not less than the  
19 minimum number of votes that would be necessary to authorize or take that  
20 action at a meeting at which all members entitled to vote thereon were  
21 present and voted.

22 (2) Unless the consents of all members entitled to vote have been  
23 solicited in writing:

24 (A) Notice of any member approval of an amendment to the  
25 articles of organization or operating agreement, a dissolution of the  
26 limited liability company as provided in Section 15132 without a  
27 meeting by less than unanimous written consent shall be given at least

1 10 days before the consummation of the action authorized by such  
2 approval; and

3 (B) Prompt notice shall be given of the taking of any other action  
4 approved by members without a meeting by less than unanimous  
5 written consent, to those members entitled to vote who have not  
6 consented in writing.

7 (3) Any member giving a written consent, or the member's proxy  
8 holder, may revoke the consent by a writing received by the limited liability  
9 company prior to the time that written consents of members having the  
10 minimum number of votes that would be required to authorize the proposed  
11 action have been filed with the limited liability company, but may not do so  
12 thereafter. This revocation is effective upon its receipt at the office of the  
13 limited liability company required to be maintained pursuant to this Chapter.

14 (j) The use of proxies in connection with this section will be governed in  
15 the same manner as in the case of corporations formed under Title 18, Guam  
16 Code Annotated.

17 (k) In order that the limited liability company may determine the  
18 members of record entitled to notices of any meeting or to vote, or entitled to  
19 receive any distribution or to exercise any rights in respect of any other lawful  
20 action, a manager, or members representing more than 10 percent of the  
21 interests of members, may fix, in advance, a record date, that is not more  
22 than 60 days nor less than 10 days prior to the date of the meeting and not  
23 more than 60 days prior to any other action. If no record date is fixed:

24 (1) The record date for determining members entitled to notice of  
25 or to vote at a meeting of members shall be at the close of business on  
26 the business day next preceding the day on which notice is given or, if



1 notice is waived, at the close of business on the business day next  
2 preceding the day on which the meeting is held.

3 (2) The record date for determining members entitled to give  
4 consent to limited liability company action in writing without a meeting  
5 shall be the day on which the first written consent is given.

6 (3) The record date for determining members for any other  
7 purpose shall be at the close of business on the day on which the  
8 managers adopt the resolution relating thereto, or the 60th day prior to  
9 the date of the other action, whichever is later.

10 (4) The determination of members of record entitled to notice of  
11 or to vote at a meeting of members shall apply to any adjournment of  
12 the meeting unless a manager or the members who called the meeting  
13 fix a new record date for the adjourned meeting, but the manager or the  
14 members who called the meeting shall fix a new record date if the  
15 meeting is adjourned for more than 45 days from the date set for the  
16 original meeting.

17 **§15114 (F). Issuance of certificate of interest.** (a) The operating  
18 agreement may provide that the interest of a member or assignee in a limited  
19 liability company may be evidenced by a certificate of interest issued by the  
20 limited liability company, and may make other provisions not inconsistent  
21 with this Title with respect to the transfer of interests represented by those  
22 certificates or with respect to the form of those certificates.

23 (b) The operating agreement may provide that the certificate may be  
24 signed by a manager or officer of the limited liability company, whose  
25 signature may be a facsimile. In case any manager or officer of the limited  
26 liability company who has signed or whose facsimile signature has been  
27 placed upon a certificate has to be a manager or officer before the certificate

1 is issued, it may be issued by the limited liability company with the same effect  
2 as if the person were a manager or officer at the date of issue. If a certificate  
3 is worn out or lost, it may be renewed on production of the worn out or lost  
4 certificate or on satisfactory proof of its loss together with such indemnity as  
5 may be required by the manager or managers or a resolution of members.

6 **§15114 (G). Access to records and documents by members; Inspection**  
7 **and copying.** (a) Upon the request of a member or a holder of an economic  
8 interest, for purposes reasonably related to the interest of that person as a  
9 member or a holder of an economic interest, a manager shall promptly  
10 deliver to the member or holder of an economic interest, at the expense of the  
11 limited liability company, a copy of the information required to be maintained  
12 by paragraphs (1), (2), and (4) of subdivision (a) of Section 15115 (K), and any  
13 written operating agreement of the limited liability company.

14 (b) Each member, manager, and holder of an economic interest has the  
15 right upon reasonable request, for purposes reasonably related to the interest  
16 of that person as a member, manager, or holder of an economic interest, to  
17 each of the following:

18 (1) To inspect and copy during normal business hours any of the  
19 records required to be maintained by Section 15115 (K).

20 (2) To obtain from a manager promptly after becoming available,  
21 a copy of the limited liability company's federal, state, and local income  
22 tax or information returns for each year.

23 (c) In the case of any limited liability company with more than 35  
24 members:

25 (1) A manager shall cause an annual report to be sent to each of  
26 the members not later than 120 days after the close of the fiscal year.  
27 That report shall contain a balance sheet as of the end of the fiscal year

1 and an income statement and statement of changes in financial position  
2 for the fiscal year.

3 (2) Members representing at least 5 percent of the voting  
4 interests of members, or three or more members, may make a written  
5 request to a manager for an income statement of the limited liability  
6 company for the initial three-month, six-month, or nine-month period  
7 of the current fiscal year ended more than 30 days prior to the date of  
8 the request, and a balance sheet of the limited liability company as of the  
9 end of that period. The statement shall be delivered or mailed to the  
10 members within 30 days thereafter.

11 (3) The financial statements referred to in this section shall be  
12 accompanied by the report thereon, if any, of the independent  
13 accountants engaged by the limited liability company or, if there is no  
14 report, the certificate of a manager of the limited liability company that  
15 the financial statements were prepared without audit from the books  
16 and records of the limited liability company.

17 (d) A manager shall promptly furnish to a member a copy of any  
18 amendment to the articles of organization or operating agreement executed  
19 by a manager pursuant to a power of attorney from the member.

20 (e) The limited liability company shall send or cause to be sent to each  
21 member or holder of an economic interest within 90 days after the end of each  
22 taxable year such information as is necessary to complete federal and state  
23 income tax or information returns, and, in the case of a limited liability  
24 company with 35 or fewer members, a copy of the limited liability company's  
25 federal, state, and local income tax or information returns for the year.

26 (f) In addition to any other remedies, a court of competent jurisdiction  
27 may enforce the duty of making and mailing or delivering the information

1 and all statements required by this section and, for good cause shown, may  
2 extend the time therefor.

3 (g) In any action under this section, if the court finds the failure of the  
4 limited liability company to comply with the requirements of this section is  
5 without justification, the court may award an amount sufficient to reimburse  
6 the person bringing the action for the reasonable expenses incurred by that  
7 person, including attorneys' fees, in connection with the action or proceeding.

8 (h) Any waiver of the rights provided in this section shall be  
9 unenforceable.

10 (i) Any request, inspection, or copying by a member or holder of an  
11 economic interest may be made by that person or by that person's agent or  
12 attorney.

13 **§15114 (H). Complaint by members of failure to comply with law or**  
14 **articles of organization; Action by Attorney General.** (a) Upon complaint  
15 that a limited liability company is failing to comply with the provisions of  
16 Section 15114 (G), or to afford to the members rights given to them in the  
17 articles of organization or operating agreement, the Attorney General may,  
18 in the name of the people of the Territory of Guam, send to the office required  
19 to be maintained pursuant to Section 15115 (J), notice of the complaint.

20 (b) If the answer of the limited liability company is not received within  
21 30 days of the date the notice was transmitted, or if the answer is not  
22 satisfactory, and if the enforcement of the rights of the aggrieved persons by  
23 private civil action, by class action, or otherwise, would be so burdensome or  
24 expensive as to be impracticable, the Attorney General may institute,  
25 maintain, or intervene in any court of competent jurisdiction or before any  
26 administrative agency for relief by way of injunction, the dissolution of  
27 entities, the appointment of receivers, or any other temporary, preliminary,

1 provisional, or final remedies as may be appropriate to protect the rights of  
2 members or to restore the position of the members for the failure to comply  
3 with the requirements of Section 15114 (G) or the articles of organization or  
4 the operating agreement. In any action, suit, or proceeding, there may be  
5 joined as parties all persons and entities responsible for or affected by the  
6 activity.

7       **§15115. Management of Limited Liability Company. §15115 (A).**  
8 **Business and affairs of company managed by members.** Unless the articles of  
9 organization include the statement referred to in subdivision (b) of Section  
10 15115 (B) vesting management of the limited liability company in a manager  
11 or managers, the business and affairs of a limited liability company shall be  
12 managed by the members subject to any provisions of the articles of  
13 organization or operating agreement restricting or enlarging the  
14 management rights and duties of any member or class of members. If  
15 management is vested in the members, each of the members shall have the  
16 same rights and be subject to all duties and obligations of managers as set  
17 forth in this Chapter.

18       **§15115 (B). Management by non-members.** (a) The articles of  
19 organization may provide that the business and affairs of the limited liability  
20 company shall be managed by or under the authority of one or more  
21 managers who may, but need not, be members.

22       (b) If the limited liability company is to be managed by one or more  
23 managers and not by all its members, the articles of organization shall  
24 contain a statement to that effect. But if management is vested in only one  
25 manager, the articles of organization shall so state.

1 (c) The articles of organization or operating agreement may prescribe  
2 the number and qualifications of managers who may, but need not, be natural  
3 persons.

4 **§15115 (C). Management vested in manager pursuant to articles of**  
5 **organization; Election; Removal; Resignation.** If management of the limited  
6 liability company is vested in one or more managers pursuant to a statement  
7 in the articles of organization:

8 (a) Election of managers to fill initial positions or vacancies shall be by  
9 the affirmative vote of a majority in interest of the members.

10 (b) Any or all managers may be removed, with or without cause, by the  
11 vote of a majority in interest of the members at a meeting called expressly for  
12 that purpose. Any removal shall be without prejudice to the rights, if any, of  
13 the manager under any contract of employment.

14 (c) Any manager may resign as a manager at any time upon written  
15 notice to the limited liability company, without prejudice to the rights, if any,  
16 of the limited liability company under any contract to which the manager is a  
17 party.

18 (d) Unless they have earlier resigned or been removed, managers shall  
19 hold office until the expiration of the term for which they were elected or, if  
20 no term was provided, until their successors have been elected and qualified.

21 **§15115 (D). Fiduciary duties of manager.** The fiduciary duties a  
22 manager owes to the limited liability company and to its members are those  
23 of a partner to a partnership and to the partners of the partnership.

24 **§15115 (E). Appointment of officers; Authority of signing officers in**  
25 **documents.** (a) A written operating agreement may provide for the  
26 appointment of officers, including, without limitation, a chairperson or a  
27 president, or both, a secretary, a chief financial officer, and any other officers

1 with such titles, powers, and duties as shall be specified in the articles of  
2 organization or operating agreement, or determined by the managers or  
3 members. An officer may, but need not, be a member or manager of the  
4 limited liability company, and any number of offices may be held by the same  
5 person.

6 (b) Officers, if any, shall be appointed in accordance with the written  
7 operating agreement or, if no such provision is made in the operating  
8 agreement, any officers shall be appointed by the managers and shall serve at  
9 the pleasure of the managers, subject to the rights, if any, of an officer under  
10 any contract of employment. Any officer may resign at any time upon written  
11 notice to the limited liability company without prejudice to the rights, if any,  
12 of the limited liability company under any contract to which the officer is a  
13 party.

14 (c) Subject to the provisions of this Chapter, any note, mortgage,  
15 evidence of indebtedness, contract, certificate, statement, conveyance, or  
16 other instrument in writing, and any assignment or endorsement thereof,  
17 executed or entered into between any limited liability company and any other  
18 person, when signed by the chairman of the board, the president or any vice  
19 president, and any secretary, any assistant secretary, the chief financial  
20 officer, or any assistant treasurer of the limited liability company, is not  
21 invalidated as to the limited liability company by any lack of authority of the  
22 signing officers in the absence of actual knowledge on the part of the other  
23 person that the signing officers had no authority to execute the same.

24 **§15115 (F). Indemnification of manager, member, officer, and others;**  
25 **Purchase of insurance.** (a) Except for a breach of the duty set forth in  
26 Subsection 15115 (D), the articles of organization or written operating  
27 agreement of a limited liability company may provide for indemnification of

1 any person, including, without limitation, any manager, member, officer,  
2 employee, or agent of the limited liability company, against judgments,  
3 settlements, penalties, fines, or expenses of any kind incurred as a result of  
4 acting in that capacity.

5 (b) A limited liability company shall have power to purchase and  
6 maintain insurance on behalf of any manager, member, officer, employee, or  
7 agent of the limited liability company against any liability asserted against or  
8 incurred by the person in that capacity or arising out of the person's status as  
9 a manager, member, officer, employee, or agent of the limited liability  
10 company.

11 **§15115 (G). More than one manager; Decisions by majority vote.**  
12 Except as otherwise provided in the articles of organization or the operating  
13 agreement, if the members have appointed more than one manager, decisions  
14 of the managers shall be made by majority vote of the managers if at a  
15 meeting, or by unanimous written consent.

16 **§15115 (H). Member as agent of company unless otherwise provided;**  
17 **Manager as agent.** (a) Unless the statement referred to in subdivision (b) of  
18 Subsection 15115 (B) is included in the articles of organization, every member  
19 is an agent of the limited liability company for the purpose of its business or  
20 affairs, and the act of any member, including, but not limited to, the execution  
21 in the name of the limited liability company of any instrument, for the  
22 apparent purpose of carrying on in the usual way the business or affairs of  
23 the limited liability company of which that person is a member, binds the  
24 limited liability company, unless the member so acting has, in fact, no  
25 authority to act for the limited liability company in the particular matter, and  
26 the person with whom the member is dealing has actual knowledge of the fact  
27 that the member has no such authority.



1 (b) If the articles of organization contain the statement referred to in  
2 subdivision (b) of Subsection 15115 (B) that management of the limited  
3 liability company is vested in a manager or managers, then:

4 (1) No member, acting solely in the capacity of a member, is an  
5 agent of the limited liability company nor can any member bind, nor  
6 execute any instrument on behalf of, the limited liability company.

7 (2) Every manager is an agent of the limited liability company for  
8 the purpose of its business or affairs, and the act of any manager,  
9 including, but not limited to, the execution in the name of the limited  
10 liability company of any instrument, for apparently carrying on in the  
11 usual way the business or affairs of the limited liability company of  
12 which the person is the manager, binds the limited liability company,  
13 unless the manager so acting has, in fact, no authority to act for the  
14 limited liability company in the particular matter, and the person with  
15 whom the manager is dealing has actual knowledge of the fact that the  
16 manager has no such authority.

17 (c) No act of a manager or member in contravention of a restriction on  
18 authority shall bind the limited liability company to persons having actual  
19 knowledge of the restriction.

20 (d) Notwithstanding the provisions of subdivision (c) of this section,  
21 and subject to the provisions of this Chapter, any note, mortgage, evidence of  
22 indebtedness, contract, certificate, statement, conveyance, or other  
23 instrument in writing, and any assignment or endorsement thereof, executed  
24 or entered into between any limited liability company and any other person,  
25 when signed by at least two managers (or by one manager in the case of a  
26 limited liability company whose articles of organization state that it is  
27 managed by only one manager), is not invalidated as to the limited liability

1 company by any lack of authority of the signing managers or manager in the  
2 absence of actual knowledge on the part of the other person that the signing  
3 managers or manager had no authority to execute the same.

4 **§15115 (I). Personal liability of manager or officer.** No person who is a  
5 manager or officer or both a manager and officer of a limited liability  
6 company shall be personally liable under any judgment of a court, or in any  
7 other manner, for any debt, obligation, or liability of the limited liability  
8 company, whether that liability or obligation arises in contract, tort, or  
9 otherwise, solely by reason of being a manager or officer, or both a manager  
10 and officer of the limited liability company.

11 **§15115 (J). Office to maintain records; Agent for service of process.**  
12 Each limited liability company, through its manager(s), shall continuously  
13 maintain in this territory each of the following:

14 (a) An office at which shall be maintained the records required by  
15 Subsection 15115 (K).

16 (b) An agent in this territory for service of process on the limited liability  
17 company.

18 **§15115 (K). Records and documents required to be kept.** (a) Each  
19 limited liability company, through its manager(s), shall maintain at the office  
20 referred to in subdivision (a) of Subsection 15115 (J) all of the following:

21 (1) A current list of the full name and last known business or  
22 residence address of each member and of each holder of an economic  
23 interest in the limited liability company set forth in alphabetical order,  
24 together with the contribution and the share in profits and losses of  
25 each member and holder of an economic interest.

1 (2) If the articles of organization contain the statement described  
2 in subdivision (b) of Section 15115 (B), a current list of the full name and  
3 business or residence address of each manager.

4 (3) A copy of the articles of organization and all amendments  
5 thereto, together with any powers of attorney pursuant to which the  
6 articles of organization or any amendments thereto were executed.

7 (4) Copies of the limited liability company's federal, state, and  
8 local income tax, or information returns and reports, if any, for the six  
9 most recent taxable years.

10 (5) A copy of the limited liability company's operating agreement,  
11 if in writing, and any amendments thereto, together with any powers of  
12 attorney pursuant to which any written operating agreement or any  
13 amendments thereto were executed.

14 (6) Copies of the financial statements of the limited liability  
15 company, if any, for the six most recent fiscal years.

16 (7) The books and records of the limited liability company as they  
17 relate to the internal affairs of the limited liability company for at least  
18 the current and past four fiscal years.

19 (b) Upon request of an assessor, a domestic or foreign limited liability  
20 company owning, claiming, possessing, or controlling property in this  
21 territory subject to local assessment shall make available at the limited  
22 liability company's principal office in Guam, or at the office required to be  
23 kept pursuant to this Chapter, or at a place mutually acceptable to the  
24 assessor and the limited liability company, a true copy of business records  
25 relevant to the amount, cost, and value of all property that it owns, claims,  
26 possesses, or controls within the territory of Guam.

1       **§15116. Distributions and Withdrawals. §15116 (A). Distributions of**  
2 **money or property to members.** Distributions of the money or property of a  
3 limited liability company shall be made to the members and to any classes of  
4 members in the manner provided in the operating agreement. If the  
5 operating agreement does not otherwise provide, distributions that are a  
6 return of capital shall be made in proportion to the contributions made by  
7 each member and distributions that are not a return of capital shall be made  
8 in proportion to the allocation of profits.

9       **§15116 (B). Entitlement of member to receive distributions prior to**  
10 **withdrawal or dissolution.** Except as provided in this article, a member is  
11 entitled to receive distributions from a limited liability company before the  
12 withdrawal of that member from the limited liability company and before the  
13 dissolution and winding up thereof, subject to the limitations contained in  
14 Section 15116 (E), to the extent and at the times or upon the happening of the  
15 events specified in the operating agreement.

16       **§15116 (C). Withdrawal of member; Notice; Entitlement to distribution.**

17 (a) A member may withdraw from a limited liability company at the time or  
18 upon the happening of events specified in the articles of organization or  
19 operating agreement. A written operating agreement may provide that a  
20 member may not withdraw the member's contribution from the limited  
21 liability company, or may provide specific remedies in the event of a wrongful  
22 withdrawal of a member's contribution, prior to the dissolution and winding  
23 up of the limited liability company. If the articles of organization or a written  
24 operating agreement do not specify the time or the events upon the  
25 happening of which a member may withdraw, a member may withdraw from  
26 the limited liability company either:

1 (1) Upon not less than six months' prior written notice to each  
2 member at the addresses set forth in the list required to be kept pursuant  
3 to this Chapter.

4 (2) If any amendment to the articles of organization or operating  
5 agreement that is adopted over the member's written dissent adversely  
6 affects the rights or preferences of the dissenting member's membership  
7 interest in any of the ways described in subparagraph (A), (B), (C), or (E)  
8 below, in which event the withdrawal shall be deemed to have occurred  
9 as of the effective date of the amendment, if the member gives notice to  
10 the limited liability company not more than 60 days after the date of the  
11 amendment. In valuing the member's distribution pursuant to  
12 subdivision (c), there shall be excluded any depreciation in anticipation  
13 of the amendment. An amendment that does any of the following is  
14 subject to this paragraph:

15 (A) Altering or amending that member's right to receive a  
16 distribution.

17 (B) Altering or abolishing that member's right to voluntarily  
18 withdraw or retire.

19 (C) Altering or abolishing that member's right to vote on  
20 any matter, except as the rights may be altered or abolished  
21 through the acceptance of contributions or the making of  
22 contribution agreements.

23 (D) Altering or abolishing that member's preemptive right  
24 to make contributions.

25 (E) Establishing or changing the conditions for or  
26 consequences of expulsion.

1                   No member withdrawing under this paragraph shall be  
2                   liable for damages for the breach of any agreement not to withdraw.

3                   (b) Notwithstanding the provisions of subdivision (a), any member who  
4                   is under an obligation to render services to the limited liability company may  
5                   withdraw as a member at any time upon written notice to the limited liability  
6                   company, without prejudice to the rights, if any, of the limited liability  
7                   company or the other members under any contract to which the withdrawing  
8                   member is a party. Any provision in an operating agreement governing the  
9                   withdrawal of services by a member shall be enforceable in accordance with  
10                  its terms unless the member seeking to invalidate the provision establishes  
11                  that the provision was unreasonable under the circumstances existing at the  
12                  time the agreement was made.

13                  (c) Upon a permitted withdrawal that does not cause dissolution of the  
14                  limited liability company, any withdrawing member is entitled to receive any  
15                  distribution to which that member is entitled under the operating agreement  
16                  and, if not otherwise provided in the operating agreement, the member is  
17                  entitled to receive, within a reasonable time after withdrawal, the fair  
18                  market value of the member's interest in the limited liability company as of  
19                  the date of withdrawal based upon the member's right to share in  
20                  distributions from the limited liability company.

21                  (d) Subject to Subsection 15116 (E) and other provisions of this Chapter,  
22                  at the time a member becomes entitled to receive a distribution, the member  
23                  has the status of, and is entitled to all remedies available to, a creditor of the  
24                  limited liability company with respect to the distribution. An operating  
25                  agreement may provide for the establishment of a record date with respect to  
26                  sharing of profits and distributions from a limited liability company.

27                  **§15116 (D). Distribution in form other than money; Distribution of asset.**

1 (a) A member, regardless of the nature of the member's contribution, has no  
2 right to demand and receive any distribution from a limited liability company  
3 in any form other than money.

4 (b) No member may be compelled to accept from a limited liability  
5 company a distribution of any asset in kind in lieu of a proportionate  
6 distribution of money being made to other members.

7 (c) Except upon a dissolution and winding up of a limited liability  
8 company, no member may be compelled to accept a distribution of any asset in  
9 kind.

10 **§15116 (E). Requirements to make distribution.** (a) No distribution shall  
11 be made if, after giving effect to the distribution:

12 (1) The limited liability company would not be able to pay its  
13 debts as they become due in the usual course of business.

14 (2) The limited liability company's total assets would be less than  
15 the sum of its total liabilities plus, unless the operating agreement  
16 provides otherwise, the amount that would be needed, if the limited  
17 liability company were to be dissolved at the time of the distribution, to  
18 satisfy the preferential rights of other members upon dissolution that  
19 are superior to the rights of the member receiving the distribution.

20 (b) The limited liability company may base a determination that a  
21 distribution is not prohibited under subdivision (a) on any of the following:

22 (1) Financial statements prepared on the basis of accounting  
23 practices and principles that are reasonable in the circumstances.

24 (2) A fair valuation.

25 (3) Any other method that is reasonable in the circumstances.

26 (c) Except as provided in subdivision (e), the effect of a distribution  
27 under subdivision (a) is measured as of (1) the date the distribution is

1 authorized if the payment occurs within 120 days after the date of  
2 authorization, or (2) the date payment is made if it occurs more than 120 days  
3 after the date of authorization.

4 (d) (1) If terms of the indebtedness provide that payment of principal  
5 and interest is to be made only if, and to the extent that, payment of a  
6 distribution to members could then be made under this section, indebtedness  
7 of a limited liability company, including indebtedness issued as a distribution,  
8 is not a liability for purposes of determinations made under subdivision (b).

9 (2) If the indebtedness is issued as a distribution, each payment of  
10 principal or interest on the indebtedness is treated as a distribution, the effect  
11 of which is measured on the date the payment is actually made.

12 (e) A member or assignee of a member is obligated to return a  
13 distribution from a limited liability company to the extent that (1) the member  
14 or assignee had actual knowledge of facts indicating the impropriety of the  
15 distribution, and (2) immediately after giving effect to the distribution, and  
16 notwithstanding the compromise of an obligation referred to in subdivision  
17 (b) of Subsection 15113 (B), all liabilities of the limited liability company, other  
18 than liabilities to members or assignees on account of their interest in the  
19 limited liability company and liabilities as to which recourse of creditors is  
20 limited to specified property of the limited liability company, exceed the fair  
21 market value of the limited liability company's assets, provided that the fair  
22 market value of any property that is subject to a liability as to which recourse  
23 of creditors is so limited shall be included in the limited liability company  
24 assets only to the extent that the fair market value of the property exceeds  
25 this liability.



1 (f) A cause of action with respect to an obligation to return a  
2 distribution pursuant to subdivision (e) is extinguished unless the action is  
3 brought within four years after the distribution is made.

4 **§15116 (F). Personal liability of manager or member who votes for**  
5 **unlawful distribution.** (a) A member or manager who votes for a distribution  
6 in violation of the operating agreement or Subsection 15116 (E) or other  
7 appropriate provisions of this Chapter, is personally liable to the limited  
8 liability company for the amount of the distribution that exceeds what could  
9 have been distributed without violating those sections of this Chapter or the  
10 operating agreement if it is established that the member or manager did not  
11 act in compliance with those sections.

12 (b) Each member or manager held liable under subdivision (a) for an  
13 unlawful distribution is entitled to compel contribution:

14 (1) From each other member or manager who could be held liable  
15 under subdivision (a) for the unlawful distribution.

16 (2) From each member for the amount the member received with  
17 knowledge of facts indicating that the distribution was made in  
18 violation of Subsection 15116 (E) or other appropriate sections of this  
19 Chapter or the operating agreement.

20 (c) A proceeding under this section is barred unless it is commenced  
21 within four years after the date on which the effect of the distribution is  
22 measured under Subsection 15116 (E).

23 **§15117. Interest in Limited Liability Company; Assignment of interests.**

24 **§15117 (A). Membership interest as personal property.** A membership  
25 interest and an economic interest in a limited liability company constitute  
26 personal property of the member or assignee. A member or assignee has no  
27 interest in specific limited liability company property.

1       **§15117 (B). Assignment of membership interest or economic interest;**  
2 **Pledge or lien against membership interest.** (a) Except as provided in the  
3 articles of organization or the operating agreement:

4           (1) A membership interest or an economic interest is assignable in  
5 whole or in part, provided, however, that no membership interest may  
6 be assigned without the unanimous vote of members required pursuant  
7 to Subsection 15117 (D).

8           (2) An assignment of an economic interest does not of itself  
9 dissolve the limited liability company or, other than as set forth in the  
10 articles of organization or operating agreement, entitle the assignee to  
11 vote or participate in the management and affairs of the limited liability  
12 company or to become or exercise any rights of a member.

13           (3) An assignment of an economic interest merely entitles the  
14 assignee to receive, to the extent assigned, the distributions and the  
15 allocations of income, gains, losses, deductions, credit, or similar items  
16 to which the assignor would be entitled.

17           (4) Upon the assignment of all or part of an economic interest, the  
18 assignor shall provide the manager or member of the limited liability  
19 company responsible for maintaining its books and records with the  
20 name and address of the assignee, together with details of the interest  
21 assigned. Upon receipt of that notice, the limited liability company shall  
22 amend the list required by paragraph (1) of subdivision (a) of Section  
23 15115 (K) accordingly. Until the assignee of that interest becomes a  
24 member, the assignor continues to be a member and to have the power  
25 to exercise any rights and powers of a member, including the right to  
26 vote which, in the case of a member who has assigned his entire  
27 economic interest in the limited liability company, shall include the right

1 to vote in proportion to the interest in current profits that the assigning  
2 member would have, had the assignment not been made.

3 (b) Except to the extent assumed by agreement, until an assignee of an  
4 economic interest in a limited liability company becomes a member, the  
5 assignee shall have no liability to the limited liability company under Section  
6 15113 and Section 15116 solely as a result of the assignment. The assignor of  
7 a membership interest is not released from liability as a member solely as a  
8 result of the assignment.

9 (c) The pledge of, or granting of, a security interest, lien, or other  
10 encumbrance in or against any or all of the membership interest of a member  
11 shall not cause the member to cease to be a member or to grant to anyone else  
12 the power to exercise any rights or powers of a member.

13 **§15117 (C). Unsatisfied amount of judgment to be charged against**  
14 **membership interest.** On application to a court of competent jurisdiction by  
15 any judgment creditor of a member, the court may charge the membership  
16 interest of the member with payment of the unsatisfied amount of the  
17 judgment with interest. To the extent so charged, the judgment creditor has  
18 only the rights of an assignee of the membership interest. This section does  
19 not deprive any member of the benefit of any exemption laws applicable to  
20 the member's membership interest.

21 **§15117 (D). Membership of assignee.** (a) Except as otherwise provided  
22 in the articles of organization or the operating agreement, an assignee of an  
23 interest in a limited liability company may become a member only if the other  
24 members unanimously vote in favor of the assignee's admission to the limited  
25 liability company as a member.

26 (b) An assignee who has become a member has, to the extent assigned,  
27 the rights and powers, and is subject to the restrictions and liabilities, of a

1 member under the articles of organization, any operating agreement, and  
2 this title. An assignee who becomes a member also is liable for the obligations  
3 of the assignor to make contributions as provided in Section 15113, and to  
4 return any unlawful distributions made to the assignee under Section 15116.  
5 However, the assignee is not obligated for liabilities unknown to the assignee  
6 at the time the assignee became a member and that could not be ascertained  
7 from the articles of organization or operating agreement.

8 (c) Whether or not an assignee of a membership interest becomes a  
9 member, the assignor is not released from the assignor's liability to the  
10 limited liability company under Sections 15113 and 15116.

11 **§15117 (E). Deceased member; Member adjudged incompetent by court.**

12 (a) If a member who is an individual dies or is adjudged by a court of  
13 competent jurisdiction to be incompetent to manage the member's person or  
14 property, the member's executor, administrator, guardian, conservator, or  
15 other legal representative may exercise all of the member's rights for the  
16 purpose of settling the member's estate or administering the member's  
17 property, including any power the member had under the articles of organi-  
18 zation or an operating agreement to give an assignee the right to become a  
19 member.

20 (b) If a member is a corporation, trust, or other entity and is dissolved  
21 or terminated, the powers of that member may be exercised by its legal  
22 representative or successor.

23 **§15118. Liability of members and managers.** Neither the members of a  
24 limited liability company nor the managers of a limited liability company  
25 managed by a manager or managers are liable under a judgment, decree, or  
26 order of a court, or in any other manner, for a debt, obligation, or liability of  
27 the limited liability company. If members or managers are professionals who

1 will organize their business or service as a limited liability company, they will  
2 still remain liable for their professional performance.

3 **§15119. Unauthorized assumption of powers.** All persons who assume  
4 to act as a limited liability company without authority to do shall be jointly  
5 and severally liable for all debts and liabilities.

6 **§15120. Dissolution.** (a) A limited liability company organized under  
7 this Chapter shall be dissolved upon the occurrence of any of the following  
8 events:

9 (1) When the period fixed for the duration of the limited liability  
10 company expires.

11 (2) By the unanimous written agreement of all members.

12 (3) Upon the death, retirement, resignation, expulsion,  
13 bankruptcy, or dissolution of a member or upon the occurrence of any  
14 other event which terminates the continued membership of a member in  
15 the limited liability company, unless the business of the limited liability  
16 company is continued by the consent of all the remaining members or  
17 under a right to continue stated in the articles of organization of the  
18 liability company.

19 (b) As soon as possible following the occurrence of any of the events  
20 specified in Subsection (a) which effects the dissolution of the limited liability  
21 company, the limited liability company shall execute a statement of intent to  
22 dissolve in the form prescribed by the Department of Revenue and Taxation.

23 **§15121. Filing of statement of intent to dissolve.** The statement of  
24 intent to dissolve a limited liability company shall be delivered to the  
25 Department of Revenue and Taxation. If the Department of Revenue and  
26 Taxation finds that such statement conforms to law, it shall, when all fees

1 and license taxes have been paid as prescribed in this Chapter, file the articles  
2 of dissolution in accordance with this Chapter.

3 **§15122. Effect of filing of statement of intent to dissolve; procedure**  
4 **after filing such statement.** (a) Upon the filing by the Department of Revenue  
5 and Taxation of a statement of intent to dissolve, the limited liability  
6 company shall cease to carry on its business, except insofar as may be  
7 necessary for the winding up of its business, but its separate existence shall  
8 continue until a certificate of dissolution has been issued by the Department  
9 of Revenue and Taxation or until a decree dissolving the limited liability  
10 company has been entered by a court of competent jurisdiction.

11 (b) Within 20 days after the Department of Revenue and Taxation has  
12 filed a statement of intent to dissolve, the limited liability company shall  
13 immediately cause notice thereof to be mailed to each creditor of, and  
14 claimant against, the limited liability company.

15 (c) The limited liability company shall proceed to collect its assets;  
16 convey and dispose of such of its properties as are not to be distributed in kind  
17 to its members; pay, satisfy, or discharge its liabilities and obligations or make  
18 adequate provisions for the payment or discharge thereof; and do all other  
19 acts required to liquidate its business and affairs. After paying or discharging  
20 all its obligations or making the adequate provision for payment or discharge  
21 thereof, the limited liability company may distribute the remainder of its  
22 assets, either in cash or in kind, among its members according to their  
23 respective rights and interests.

24 **§15123. Distribution of assets upon dissolution.** (a) In settling accounts  
25 after dissolution, the liabilities of the limited liability company shall be  
26 entitled to payment in the following order:

1 (1) Those liabilities to creditors, in the order of priority as  
2 provided by law, except those liabilities to members of the limited  
3 liability company on account of their contributions;

4 (2) Those liabilities to members of the limited liability company in  
5 respect of their shares of the profits and other compensation by way of  
6 income on their contributions; and

7 (3) Those liabilities to members of the limited liability company in  
8 respect of their contributions to capital.

9 (b) Subject to any statement in the regulations, members shall share in  
10 the limited liability company assets in respect to their claims for capital and in  
11 respect to their claims for profits or for compensation by way of income on  
12 their contributions, respectively, in proportion to the respective amounts of  
13 the claims.

14 **§15124. Articles of dissolution.** When all debts, liabilities, and  
15 obligations of the limited liability company have been paid or discharged, or  
16 adequate provision has been made therefore, and all of the remaining  
17 property and assets of the limited liability company have been distributed to  
18 the members, articles of dissolution shall be executed and verified by the  
19 person signing the statement, which statement shall set forth:

20 (a) The name of the limited liability company.

21 (b) The fact that the Department of Revenue and Taxation has  
22 therefore filed a statement of intent to dissolve the company and the date on  
23 which such statement was filed.

24 (c) The fact that all debts, obligations, and liabilities have been paid or  
25 discharged, or that adequate provision has been made therefore.

1 (d) The fact that all the remaining property and assets have been  
2 distributed among its members in accordance with their respective rights and  
3 interests.

4 (e) The fact that there are no suits pending against the company in any  
5 court or that adequate provision has been made for the satisfaction of any  
6 judgment, order, or decree which may be entered against it in any pending  
7 suit.

8 **§15125. Filing of articles of dissolution.** (a) The articles of dissolution of  
9 the limited liability company shall be delivered to the Department of Revenue  
10 and Taxation. If the Department of Revenue and Taxation finds that such  
11 articles of dissolution conform to law, it shall, when all fees and license taxes  
12 have been paid as prescribed in this Chapter, file the statement of intent to  
13 dissolve the company in accordance with this Chapter. The Department of  
14 Revenue and Taxation shall then issue a certificate of dissolution.

15 (b) The certificate of dissolution shall be returned to the representative  
16 of the dissolved limited liability company. Upon the issuance of such  
17 certificate of dissolution, the existence of the company shall cease, except for  
18 the purpose of suits, other proceedings in this Chapter. The manager or  
19 managers in office at the time of dissolution, or the survivors of them, or, if  
20 none, the members, shall thereafter be trustees for the members and creditors  
21 of the dissolved limited liability company; and as such the trustees shall have  
22 authority to distribute any company property discovered after dissolution, to  
23 convey real estate, and to take such other action as may be necessary on  
24 behalf of and in the name of such limited liability company.

25 **§15126. Cancellation of certificate of organization.** The certificate of  
26 organization of a limited liability company shall be canceled by the



1 Department of Revenue and Taxation upon issuance of the certificate of  
2 dissolution.

3 **§15127. Involuntary dissolution.** (a) A limited liability company may be  
4 dissolved involuntarily by a decree of the Superior Court of Guam in an  
5 action filed by the Attorney General's Office when it is established that the  
6 limited liability company:

7 (1) Has procured its articles of organization through fraud;

8 (2) Has exceeded the authority conferred upon it by law;

9 (3) Has committed a violation of any provision of law whereby it  
10 has forfeited its charter;

11 (4) Has carried on, conducted, or transacted its business in a  
12 persistently fraudulent or illegal manner; or

13 (5) By the abuse of its powers contrary to the public policy of this  
14 territory, has become liable to be dissolved.

15 (b) A limited liability company may be dissolved involuntarily by order  
16 of the Department of Revenue and Taxation when the Department of  
17 Revenue and Taxation has determined that the limited liability company:

18 (1) Has failed to file its annual report or pay the filing fee for the  
19 annual report within the time required by this Chapter;

20 (2) Has failed for 30 days to appoint and maintain a registered  
21 agent in this territory; or

22 (3) Has failed for 30 days after change of its registered office or  
23 registered agent to file in the office of the Department of Revenue and  
24 Taxation a statement of such change.

25 (c) No limited liability company shall be involuntarily dissolved under  
26 Subsection (b) unless the Department of Revenue and Taxation has given the  
27 limited liability company not less than 90 days notice of the proposed

1 dissolution, stating the reasons therefore and addressed to its registered  
2 office or to its principal place of business, and the limited liability company  
3 has failed prior to such involuntary dissolution to correct the reasons for the  
4 proposed involuntary dissolution.

5 (d) If the Department of Revenue and Taxation involuntarily dissolves  
6 any limited liability company under the provisions of Subsection (b), it shall  
7 issue a certificate to such effect and mail the certificate to the limited liability  
8 company at its registered office or its principal place of business. Upon the  
9 issuance of such certificate of involuntary dissolution, the existence of the  
10 limited liability company shall cease, except as otherwise provided by law.

11 (e) The enumeration in Subsections (a) and (b) of grounds for  
12 involuntary dissolution shall not exclude an action or special proceeding for  
13 the annulment dissolution of a limited liability company for other cause as  
14 provided in any other statute of this territory.

15 **§15128. Reinstatement after involuntary dissolution.** (a) Any limited  
16 liability company which has been dissolved by the Department of Revenue  
17 and Taxation under the provisions of §15124 or prior law may be reinstated  
18 by the Department of Revenue and Taxation at any time upon approval of an  
19 application for reinstatement signed by an officer or director of the dissolved  
20 limited liability company. Such application shall be filed by the Department of  
21 Revenue and Taxation whenever it is established to the satisfaction of the  
22 Department that in fact there was no cause for the dissolution or that the  
23 reasons for the dissolution have been corrected and all fees, computed at the  
24 rate provided by law at the time the limited liability company applies for  
25 reinstatement, have been paid. If the name of the dissolved limited liability  
26 company has been lawfully assumed in the state by another limited liability  
27 company, the Department of Revenue and Taxation shall require the

1 dissolved limited liability company to amend its articles of organization to  
2 change its application for reinstatement.

3 (b) Whenever the application for reinstatement is approved and filed by  
4 the Department of Revenue and Taxation, the existence of the limited  
5 liability company shall be deemed to have continued without interruption  
6 from the date of dissolution. The reinstatement shall have no effect upon any  
7 personal liabilities of the members or managers of the limited liability  
8 company on account of actions taken during the period between dissolution  
9 and reinstatement, but the power of the limited liability company to  
10 indemnify such members or managers shall extend to actions during such  
11 period.

12 **§15129. Filings by the Department of Revenue and Taxation.** All filings  
13 made by the Department of Revenue and Taxation shall be in accordance  
14 with the provisions of §2104 of Article 1 of Chapter 2, Title 18, Guam Code  
15 Annotated.

16 **§15130. Fees for filing documents and issuing certification.** Fees for  
17 filing documents and issuing certification shall be subject to applicable rates  
18 as determined by the Department of Revenue and Taxation.

19 **§15131. Miscellaneous charges.** Miscellaneous charges shall be  
20 determined, charged, and collected by the Department of Revenue and  
21 Taxation.

22 **§15132. Waiver of notice.** When, under the provisions of this Chapter or  
23 under the provisions of the articles of organization or operating agreement  
24 of a limited liability company, notice is required to be given to a member of a  
25 limited liability company or to a manager of a limited liability company  
26 having a manager or managers, a waiver in writing signed by the person or

1 persons entitled to the notice, whether made before or after the time for  
2 notice to be given, is equivalent to the giving of notice.

3 **§15133. Jurisdiction of the Superior Court of Guam.** The Superior  
4 Court of Guam shall have jurisdiction to enforce the provisions of this  
5 Chapter.

6 **§15134. Parties to actions by or against limited liability company.** A  
7 member of a limited liability company is not a proper party to proceedings by  
8 or against a limited liability company, except when the object is to enforce a  
9 member's right against, or liability to, the limited liability company.

10 **§15135. Service of process.** (a) In addition to Part 1 of Title 18, Guam  
11 Code Annotated, process may be served upon limited liability companies and  
12 foreign limited liability companies as provided in this Section.

13 (b) Personal service of a copy of any process against the limited liability  
14 company or the foreign limited liability company by delivery to any person  
15 designated by it as agent shall constitute valid service on the limited liability  
16 company or the foreign limited liability company. No change in the address  
17 of the agent for service of process or appointment of a new agent for service  
18 of process shall be effective until an amendment to the statement described in  
19 Section 15112 is filed. In the case of a foreign limited liability company that  
20 has appointed the Director of the Department of Revenue and Taxation as  
21 agent for service of process by reason of paragraph (i) of this section, process  
22 shall be delivered by hand to the Director, or to any person employed in the  
23 capacity of assistant or deputy, and shall include one copy of the process for  
24 each defendant to be served, together with a copy of the court order  
25 authorizing the service and the fee therefor. The order shall set forth the  
26 address to which the process shall be sent by the Director.

1 (c) (1) If an agent for service of process has resigned and has not been  
2 replaced, or if the designated agent cannot with reasonable diligence be  
3 found at the address designated for personal delivery of the process, and it is  
4 shown by affidavit to the satisfaction of the court that process against a  
5 limited liability company or foreign limited liability company cannot be served  
6 with reasonable diligence upon the designated agent by hand in a manner  
7 provided by law, the court may make an order that the service shall be made  
8 upon a domestic limited liability company or upon a registered foreign limited  
9 liability company by delivering by hand to the Director, or to any person  
10 employed in the Director's office in the capacity of assistant or deputy, one  
11 copy of the process for each defendant to be served, together with a copy of  
12 the order authorizing the service. Service in this manner shall be deemed  
13 complete on the 10th day after delivery of the process to the Director.

14 (2) Upon receipt of the copy of process and the fee therefor, the  
15 Director shall give notice of the service of the process to the limited liability  
16 company or foreign limited liability company, at its principal executive office,  
17 by forwarding to that office, by registered mail with request for return  
18 receipt, the copy of the process; or if the Director's records do not disclose an  
19 address for its principal executive office, by forwarding such copy in the same  
20 manner to the last designated agent for service of process who has not  
21 resigned. If the agent for service of process has resigned and has not been  
22 replaced, and the Director's records do not disclose an address for its  
23 principal executive office, no action need be taken by the Director.

24 (3) The Director shall keep a record of all process served upon the  
25 Director under this title and shall record therein the time of service and the  
26 action taken by the Director. A certificate under the Director's official seal,  
27 certifying to the receipt of process, the giving of notice to the limited liability

1 company or foreign limited liability company, and the forwarding of the  
2 process pursuant to this section, shall be competent and prima facie evidence  
3 of the service of process.

4 (d) (1) The articles of organization of a limited liability company and the  
5 application for registration of a foreign limited liability company shall  
6 designate, as the agent for service of process, an individual residing in this  
7 territory and whose capacity to act as an agent has not terminated. The  
8 statement shall set forth that person's complete business or residence address  
9 in this territory.

10 (2) An agent designated for service of process may file with the Director  
11 a signed and acknowledged written statement of resignation as an agent.  
12 Upon filing of the statement of resignation, the authority of the agent to act  
13 in that capacity shall cease and the Director shall give written notice of the  
14 filing of the statement of resignation by mail to the limited liability company  
15 or foreign limited liability company addressed to its principal executive office.

16 (3) If an individual who has been designated agent for service of  
17 process dies or resigns or no longer resides in the territory, or if the corporate  
18 agent for that purpose resigns, dissolves, withdraws from the territory,  
19 forfeits its right to transact intrastate business, has its corporate rights,  
20 powers, and privileges suspended, or ceases to exist, the limited liability  
21 company or foreign limited liability company shall promptly file an initial or  
22 amended statement described in Section 15112 designating a new agent.

23 (e) In addition to any other discovery rights that may exist, in any case  
24 pending in a Guam court in which a party seeks records from a limited  
25 liability company formed under this title, whether or not the limited liability  
26 company is a party, the court may order the production in this territory of the

1 books and records of the limited liability company on those terms and  
2 conditions that the court deems appropriate.

3 (f) A member may, in a written operating agreement or other writing,  
4 consent to be subject to the non-exclusive jurisdiction of the courts of a  
5 specified jurisdiction, or the exclusive jurisdiction of the courts of this  
6 territory.

7 (g) If a member desires to use the arbitration process, that member  
8 may, in a written operating agreement or other writing, consent to be non-  
9 exclusively subject to arbitration in a specified state, or to be exclusively  
10 subject to arbitration in this territory.

11 (h) Along with the consent to the jurisdiction of courts or to be subject to  
12 arbitration as provided in subdivisions (f) and (g), a member may consent to  
13 be served with legal process in the manner prescribed in a written operating  
14 agreement or other writing.

15 (i) A foreign limited liability company, transacting business in this  
16 territory without registration, appoints the Director of the Department of  
17 Revenue and Taxation as its agent for service of process with respect to  
18 causes of action arising out of the business in this territory.

19 **§15136. Tax on income of limited liability company.** (a) A limited  
20 liability company is a "business" as defined in §26101 of Article I of Chapter 26  
21 of Title 11, Guam Code Annotated, and is subject to the taxes imposed under  
22 Chapter 26 of Title 11, Guam Code Annotated.

23 (b) The income of a limited liability company organized pursuant to this  
24 chapter shall be subject to the Guam's Tax Code and the taxes levied  
25 pursuant to Chapter 26 of Title 11 Guam Code Annotated.

26 **§15137. Professional Limited Liability Companies.** (a) Two or more  
27 persons may organize a professional limited liability company by filing

1 articles of organization with the Department of Revenue and Taxation in  
2 accordance with this Chapter. In addition to other provisions required or  
3 permitted by law, the articles of organization of a professional limited  
4 liability company must include a statement:

5 (1) that the limited liability company is a professional limited  
6 liability company; and

7 (2) describing the one specific kind of professional service to be  
8 rendered by the limited liability company.

9 (b) A professional limited liability company may be organized under this  
10 act only for the purpose of rendering one specific type of professional service  
11 and ancillary services. A professional limited liability company organized  
12 under this act may not render more than one kind of professional service.

13 (c) Name. A professional limited liability company may adopt a name  
14 not contrary to the law or ethics regulating the practice of the professional  
15 service rendered through the professional limited liability company. The  
16 name of the limited liability company must contain the words "Professional  
17 Limited Liability Company" or the abbreviations "P.L.L.C." or "PLLC" and  
18 must contain other words as may be required by law.

19 (d) Restrictions on Members, Managers, and Officers. (1) A person  
20 who is not licensed or otherwise authorized to render the professional service  
21 of the professional limited liability company may not be a member, manager  
22 or officer of the professional limited liability company. A membership interest  
23 in the professional limited liability company may not be transferred to a  
24 person who is not licensed or otherwise authorized to render the professional  
25 service of the professional limited liability company.

26 (2) If a member, manager, or officer of a professional limited liability  
27 company, or an agent or employee of the company who has been rendering



1 professional service for or with the company of the same type for which the  
2 professional limited liability company was organized to render, becomes  
3 legally disqualified to render the professional service, the person shall sever  
4 all employment with the professional limited liability company and  
5 immediately terminate all financial interest in the company. The professional  
6 limited liability company shall purchase or cause to be purchased from the  
7 person all membership interests owned by the person in the professional  
8 limited liability company, at a price and on terms as may be provided in the  
9 articles of organization, the regulations, or any applicable agreement among  
10 the members and the professional limited liability company.

11 (e) Rendering of Professional Services. (1) A professional limited  
12 liability company may render professional service in Guam only through: (i)  
13 an individual member, manager, officer, employee, or agent who is licensed  
14 to render the professional service on Guam; or (ii) an agent of the  
15 professional limited liability company that is a professional limited liability  
16 company, professional corporation, or professional association that is  
17 authorized on Guam to render the professional service of the professional  
18 limited liability company and that renders the professional service only  
19 through a licensed individual member, manager, officer, or employee.

20 (2) This Section does not prohibit employment by a professional limited  
21 liability company of clerks, secretaries, bookkeepers, technicians, nurses,  
22 assistants, and other individuals who are not usually and ordinarily  
23 considered by custom and practice to be rendering professional service for  
24 which a license or other legal authorization is required. A person may not,  
25 under the guise of employment, practice a profession on Guam unless  
26 licensed or otherwise legally authorized to practice that profession under the  
27 laws of Guam.

1           (f) Professional Relationships Not Affected. This Chapter does not alter  
2 or affect the professional relationship between a person rendering  
3 professional service and a person receiving the service, and a confidential  
4 relationship enjoyed on Guam between those persons remains unchanged.  
5 This Chapter does not remove or diminish any rights at law that a person  
6 receiving professional service has against a person rendering the service for  
7 an error, an omission, negligence, incompetence, or malfeasance. A limited  
8 liability company, but not the other individual members, managers, or  
9 officers, is jointly and severally liable with a member, manager, officer,  
10 employee, or agent rendering professional service for an error, omission,  
11 negligence, incompetence, or malfeasance on the part of the member,  
12 manager, officer, employee, or agent when the member, manager, officer,  
13 employee, or agent is rendering professional service in the course of  
14 employment for the limited liability company."

15           **Section 3.** This Act will take effect 180 days after its enactment.



**TWENTY-THIRD  
GUAM LEGISLATURE**  
155 Hesler St.  
Agana, Guam 96910

*Member,*  
Committee on  
Economic-Agricultural  
Development & Insurance

*Member,*  
Committee on  
Electrical Power &  
Consumer Protection

*Member,*  
Committee on Federal  
& Foreign Affairs

*Member,*  
Committee on Rules

*Member,*  
Committee on  
Tourism & Transportation

*Member,*  
Commission on  
Self-Determination

*Member,*  
Guam Finance Commission

# Senator Francis E. Santos

Chairperson, Committee on Ways & Means

Phone: (671) 472-3414/5 Fax: (671) 477-3048

June 23, 1995

Honorable W. Don Parkinson  
Speaker,  
Twenty - Third Guam Legislature  
155 Hesler Street  
Agana, Guam 96910

Dear Speaker Parkinson:

The Committee on Way and Means, now reports its findings on Substitute Bill #206 An act to add a new chapter 15 to title 18 of the Government Code Annotated entitled limited liability companies (LLC's) on Guam, to the full legislature with the recommendation to do Pass.

Votes of the Committee members are as follows:

To Pass:	<u>9</u>
Not To Pass:	<u>0</u>
Abstain:	<u>0</u>
Inactive File:	<u>0</u>
Off Island:	<u>0</u>
Unavailable	<u>1</u>
Report out only	<u>0</u>

Copies of the Committee Report and all pertinent documents are attached for your information.

Respectfully,

Francis E. Santos



**TWENTY-THIRD  
GUAM LEGISLATURE**  
155 Hesler St.  
Agana, Guam 96910

# Senator Francis E. Santos

Chairperson, Committee on Ways & Means

Phone: (671) 472-3414/5 Fax: (671) 477-3048

## VOTING SHEET

**ON SUBSTITUTE BILL #206 ANACT TO ADD A NEW CHAPTER 15 TO TITLE 18 OF THE GUAM CODE ANNOTATED ENTITLED LIMITED LIABILITY COMPANIES (LLC'S) ON GUAM.**

*Member,*  
Committee on  
Economic-Agricultural  
Development & Insurance

*Member,*  
Committee on  
Electrical Power &  
Consumer Protection

*Member,*  
Committee on Federal  
& Foreign Affairs

*Member,*  
Committee on Rules

*Member,*  
Committee on  
Tourism & Transportation

*Member,*  
Commission on  
Self-Determination

*Member,*  
Guam Finance Commission

<u>COMMITTEE MEMBERS</u>	<u>TO PASS</u>	<u>NOT TO PASS</u>	<u>TO ABSTAIN</u>	<u>TO PLACE IN THE INACTIVE</u>
 <b>Senator Francis E. SANTOS</b> Chairman	✓			
 <b>Senator Joe T. SAN AGUSTIN</b> Vice-Chairman	✓			
 <b>Speaker Don PARKINSON</b> Ex-Officio Member				
 <b>Senator John P. AGUON</b> Member	✓			
 <b>Senator Sonny L. ORSINI</b> Member				
 <b>Senator Judy WON PAT-BORJA</b> Member	✓			
 <b>Senator Elizabeth BARRETT-ANDERSON</b> , Member	✓			
 <b>Senator Anthony C. BLAZ</b> Member	✓			
 <b>Senator Felix CAMACHO</b> Member	✓			
 <b>Senator Antonio R. UNPINGCO</b> Member	✓			

# **TWENTY-THIRD GUAM LEGISLATURE**

Committee on Ways & Means  
Chairperson, Senator Francis E. Santos

## **COMMITTEE REPORT**

**On Bill # 206 An Act to add a new chapter 15 to Title 18 of the Guam Code Annotated entitled Limited Liability Companies authorizing the formation of businesses as Limited Liability Companies (LLC's) on Guam.**

A Public Hearing was held on Tuesday, August 8, 1995, at 1:30 p.m. by the Committee on Ways & Means to discuss Bill # 206. The hearing was held in the Public Hearing Room in the Legislative Building in Agana.

### **COMMITTEE MEMBERS PRESENT**

Senator Francis E. Santos, Chairman; Senator Felix P. Camacho; Senator Anthony C. Blaz; Senator Sonny Lujan Orsini; Senator Judith Won Pat Borja.

### **WITNESSES PRESENT**

None.

### **TESTIMONY/QUESTIONS/COMMENTS**

Written Testimony in favor of Bill # 206 has been submitted by Mr. Ovidio R.A. Calvo Jr., Chairman of the Board of the Guam Chamber of Commerce. Senator Anthony C. Blaz announced that he would like to co-sponsor Bill # 206.

## **RECOMMENDATION**

Based on these findings the Committee on Ways and Means recommends that the Bill # 206 be reported out to the full Legislature for discussion.

Attachments to this report:

- Committee on Rules Memorandum to Committee on Ways & Means transmitting referral of Bill # 206
- Bill # 206
- Public Hearing Notice as published in the Pacific Daily News
- Written Testimony submitted by Mr. Ovidio R.A. Calvo Jr., Chairman of the Board for the Guam Chamber of Commerce

**TWENTY-THIRD GUAM  
LEGISLATURE**

Committee on Ways & Means  
Chairperson,  
Senator Francis E. Santos

**COMMITTEE REPORT**

**ON**

**BILL #610**

**AN ACT TO ADD A NEW CHAPTER 15  
TO TITLE 18 OF THE GUAM CODE  
ANNOTATED, ENTITLED "LIMITED  
LIABILITY COMPANIES" AUTHORIZING  
THE FORMATION OF BUSINESSES AS  
LIMITED LIABILITY COMPANIES ON  
GUAM.**

## INTRODUCTION

Bill #610 is a reintroduction of bill #206 which was vetoed by the Governor on December 6, 1995. Because this bill is a reintroduction of a bill that has already been publicly heard and due to the fact that no significant changes have been made except for the issues that were addressed in the veto message.

## FINDINGS

The author of bill has addressed each of the nine issues raised by the Governor in his veto message.

Section 4 of Bill #610 addresses issue number 1

§15114 titled **Members**, of the new Chapter 15, Title 18 created by section 2 directly addresses issue number 2.

§15117 titled **Assignment of Interests**, of the new Chapter 15, Title 18 created by section 2 directly addresses issues numbers 3 and 4.

§15114(E) titled **Assignment of Interests; Meetings, Notice, Quorum, Proxies, Record Date of Members Entitles to notice**, of the new Chapter 15, Title 18 created by section 2 directly addresses issue number 5.

§15115(D) titled **Fiduciary duties of Manager**, of the new Chapter 15, Title 18 created by section 2 directly deals with issue number 6.

§15103 titled **Purpose**, of the new Chapter 15, Title 18 created by section 2 directly addresses issue number 7.

§15133 titled **Jurisdiction of the Superior Court**, of the new Chapter 15, Title 18 created by section 2 directly addresses issue number 8.

Section 3 of Bill #610 directly addresses issue number 9.



## RECOMMENDATION

Based on the above information the Committee on Ways and Means now recommends that Bill #610 be reported out to the entire legislature with the recommendations to do pass.

### **Attachments to this report:**

- Bill #610
- Veto Message of Bill #206
- Bill #206 as transmitted to the Governor
- Committee report on Bill #206

# TWENTY-THIRD GUAM LEGISLATURE

1996 (SECOND) Regular Session

Date: 7/11/96

## VOTING SHEET

Bill No. 610  
 Resolution No. \_\_\_\_\_  
 Question: \_\_\_\_\_

NAME	<u>YEAS</u>	<u>NAYS</u>	<u>NOT VOTING/ ABSTAINED</u>	<u>ABSENT/ OUT DURING ROLL CALL</u>
ADA, Thomas C.	✓			
AGUON, John P.	✓			
BARRETT-ANDERSON, Elizabeth	✓			
BLAZ, Anthony C.	✓			
BROWN, Joanne S.				✓
CAMACHO, Felix P.	✓			
CHARFAUROS, Mark C	✓			
CRISTOBAL, Hope A.	✓			
FORBES, MARK	✓			
LAMORENA, Alberto C., V	✓			
LEON GUERRERO, Carlotta	✓			
LEON GUERRERO, Lou	✓			
NELSON, Ted S.	✓			
ORSINI, Sonny L.	✓			
PANGELINAN, Vicente C	✓			
PARKINSON, Don	✓			
SAN AGUSTIN, Joe T.	✓			
SANTOS, Angel L. G.	✓			
SANTOS, Francis E.	✓			
UNPINGCO, Antonio R.	✓			
WONPAT-BORJA, Judith	✓			

TOTAL

20   0   0   1

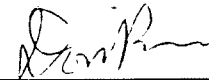
CERTIFIED TRUE AND CORRECT:

\_\_\_\_\_  
 Recording Secretary

TWENTY-THIRD GUAM LEGISLATURE  
1995 (FIRST) Regular Session

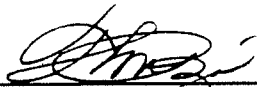
CERTIFICATION OF PASSAGE OF AN ACT TO THE GOVERNOR

This is to certify that Substitute Bill No. 206 (LS), "AN ACT TO ADD A NEW CHAPTER 15 TO TITLE 18 OF THE GUAM CODE ANNOTATED, ENTITLED "LIMITED LIABILITY COMPANIES", AUTHORIZING THE FORMATION OF BUSINESSES AS LIMITED LIABILITY COMPANIES ON GUAM," was on the 22nd day of November, 1995, duly and regularly passed.



\_\_\_\_\_  
DON PARKINSON  
Speaker

Attested:



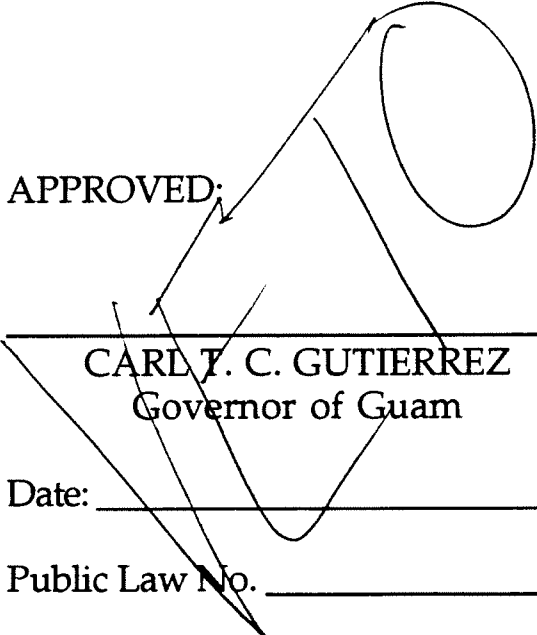
\_\_\_\_\_  
JUDITH WON PAT-BORJA  
Senator and Legislative Secretary

-----  
This Act was received by the Governor this 22 day of November,  
1995, at \_\_\_\_\_ o'clock 2.M.



\_\_\_\_\_  
Assistant Staff Officer  
Governor's Office

APPROVED:



\_\_\_\_\_  
CARL T. C. GUTIERREZ  
Governor of Guam

Date: \_\_\_\_\_

Public Law No. \_\_\_\_\_

TWENTY-THIRD GUAM LEGISLATURE  
1995 (FIRST) Regular Session

Bill No. 206 (LS)  
As substituted by the author

Introduced by:

F. P. Camacho  
A. C. Blaz  
J. T. San Agustin  
T. S. Nelson  
T. C. Ada  
J. P. Aguon  
E. Barrett-Anderson  
J. M. S. Brown  
M. C. Charfauros  
H. A. Cristobal  
M. Forbes  
A. C. Lamorena V  
C. Leon Guerrero  
L. Leon Guerrero  
S. L. Orsini  
V. C. Pangelinan  
D. Parkinson  
A. L. G. Santos  
F. E. Santos  
A. R. Unpingco  
J. Won Pat-Borja

AN ACT TO ADD A NEW CHAPTER 15 TO TITLE 18 OF  
THE GUAM CODE ANNOTATED, ENTITLED  
"LIMITED LIABILITY COMPANIES", AUTHORIZING  
THE FORMATION OF BUSINESSES AS LIMITED  
LIABILITY COMPANIES ON GUAM.

- 1           **BE IT ENACTED BY THE PEOPLE OF THE TERRITORY OF GUAM:**  
2           **Section 1. Legislative Findings.** Guam law recognizes three main  
3           organizational structures: Corporations, Partnerships, and Limited

1 Partnerships. The Legislature finds that these three basic organizational  
2 options do not adequately meet the needs of many small and medium-sized  
3 companies on Guam.

4       The Legislature further finds that business and tax planners on Guam  
5 and in the United States have long sought a business entity that delivers the  
6 key advantages of "pass-through taxation" for a business and also provides  
7 limited liability for its owners. Traditionally, the S Corporations and Limited  
8 Partnerships have been drawn on in order to obtain these characteristics for a  
9 business or investment, but neither S Corporations nor Limited Partnerships  
10 can adequately meet these needs. S Corporations have relatively restrictive  
11 and inflexible requirements on the number of owners and types of ownership.  
12 Limited partnerships do not provide 100% limited liability since at least one  
13 general partner must be responsible for entity obligations under law. In  
14 addition, the management participation of limited partners is generally  
15 prohibited or severely restricted. A new alternative in recent years has  
16 emerged: the Limited Liability Company (LLC).

17       The Legislature finds that until 1990, only two states, Wyoming and  
18 Florida, allowed for the formation of an LLC. As of January 1, 1995, however,  
19 47 States have enacted LLC statutes largely due to the Internal Revenue  
20 Service ruling in late 1988 allowing for the taxing of LLC's as partnerships.  
21 Proposals are pending in the other states, and it is possible that all 50 States  
22 will have enacted LLC laws by the end of 1995.

23       The Legislature finds that though most states allow an LLC to be  
24 formed for the transaction of any lawful purpose, certain regulated  
25 industries, such as banking and insurance, are prohibited from operating in  
26 LLC form. The same shall apply here on Guam.

1 The Legislature finds that while the LLC is not intended to replace  
2 corporations or partnerships, it does combine the advantages of each. It  
3 combines the structural flexibility of a partnership with the liability protection  
4 of a corporation. The LLC will be formed as an unincorporated business  
5 entity where neither the partners nor the managers are personally liable for  
6 its obligation. Professionals who will organize their business or service as an  
7 LLC will still remain liable for their professional performance.

8 The Legislature finds that it is necessary for the LLC to have at least  
9 two members at the time of formation. This element will preserve the  
10 partnership tax status under federal tax law so as to allow the Department  
11 of Revenue and Taxation to treat the LLC as a partnership for tax purposes.

12 Section 2. A new Chapter 15 is added to Title 18, Guam Code  
13 Annotated, to read:

14 **"Chapter 15.**

15 **Limited Liability Companies.**

16 **§15101. Short Title.**

17 **§15102. Definitions.**

18 **§15103. Purpose.**

19 **§15104. Powers.**

20 **§15105. Formation.**

21 **§15106. Limited Liability Company name.**

22 **§15107. Articles of Organization.**

23 **§15108. Filing of Articles.**

24 **§15109. Effect of Issuance of Certificate of Organization.**

25 **§15110. Amendments to Articles of Organization.**

26 **§15111. Registered Office and Registered Agent.**

27 **§15112. Change of Registered Office or Registered Agent.**

- 1           **§15113. Contributions to Capital.**
- 2           **§15114. Management of Limited Liability Company.**
- 3           **§15115. Regulations of Company.**
- 4           **§15116. Contracting Debts.**
- 5           **§15117. Limited Liability Company Property.**
- 6           **§15118. Distribution of Property; Impairment of Capital.**
- 7           **§15119. Withdrawal or Reduction of Members Contributions to**  
8           **Capital.**
- 9           **§15120. Nature of Interest of Members in Limited Liability**  
10           **Company.**
- 11           **§15121. Transferability of Member's Interest.**
- 12           **§15122. Liability of Member to Limited Company.**
- 13           **§15123. Liability of Member and Managers.**
- 14           **§15124. Unauthorized Assumption of Powers.**
- 15           **§15125. Dissolution.**
- 16           **§15126. Filing of Statement of Intent to Dissolve.**
- 17           **§15127. Effect of Filing of Statement of Intent to Dissolve;**  
18           **Procedure after Filing such statement.**
- 19           **§15128. Distribution of Assets upon Dissolution.**
- 20           **§15129. Articles of Dissolution.**
- 21           **§15130. Filing of Articles of Dissolution.**
- 22           **§15131. Cancellation of Certificate of Organization.**
- 23           **§15132. Involuntary Dissolution.**
- 24           **§15133. Reinstatement after Involuntary Dissolution.**
- 25           **§15134. Filing by Department of Revenue and Taxation.**
- 26           **§15135. Fees for Filing Documents and Issuing Certificates.**
- 27           **§15136. Miscellaneous Charges.**

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27

§15137. Waiver of Notice.

§15138. Jurisdiction of the District Court.

§15139. Parties to Actions by or against Limited Liability Company.

§15140. Service of Process.

§15141. Tax on Income of Limited Liability Company.

§15142. Professional Limited Liability Companies.

§15101. Short Title.

This Act shall be known and may be cited as the "Guam Limited Liability Company Act".

§15102. Definitions.

As used in this chapter:

(1) "Bankrupt" means bankrupt under the federal Bankruptcy Act or insolvent under any state insolvency act.

(2) "Court" includes every court and judge having jurisdiction in the action.

(3) "Limited Liability Company" or "Company" means a limited liability company organized and existing under this chapter.

(4) "Real Property" means land and any interest or estate in land.

(5) "Business" means every trade and occupation or profession.

(6) "Conveyance" means every assignment, lease, mortgage, or encumbrance.

(7) "Professional Service" means any type of personal service that requires as a condition precedent to the rendering



1 of the service the obtaining of a license, permit, certificate of  
2 registration, or other legal authorization, including the  
3 personal service rendered by an architect, attorney-at-law,  
4 certified public accountant, dentist, doctor, physician, public  
5 accountant, surgeon, or veterinarian.

6 (8) "Professional limited liability company" means a  
7 limited liability company that is organized under this act for the  
8 sole and specific purpose of rendering professional service and  
9 that has as its members only individuals licensed or otherwise  
10 authorized within Guam to render the same professional  
11 service as the limited liability company.

12 **§15103. Purpose.**

13 A limited liability company may be organized under this chapter for any  
14 lawful purpose, except that special statutes for the regulation and control of  
15 specific types of business shall control when in conflict herewith.

16 **§15104. Powers.**

17 Each limited liability company organized and existing under this  
18 chapter may:

19 (a) Sue or be sued, or complain or defend, in its name.

20 (b) Purchase, take, receive, lease, or otherwise acquire, own,  
21 hold, improve, or use, or otherwise deal in or with, real or  
22 personal property, or an interest in real or personal property,  
23 wherever situated.

24 (c) Sell, convey, mortgage, pledge, create, a security interest  
25 in, lease, exchange, or transfer, or otherwise dispose of, all or  
26 any part of its property or assets.

1 (d) Purchase, take, receive, subscribe for, or otherwise acquire,  
2 own, hold, vote, use, employ, sell, mortgage, lend, or plead, or  
3 otherwise dispose of, or otherwise use or deal in or with:

4 (1) Shares or other interests in or obligations of  
5 other foreign or domestic limited liability  
6 companies, domestic or foreign corporations,  
7 associations, general or limited partnerships, or  
8 individual; or

9 (2) Direct or indirect obligations of the United  
10 States or any other government, state, territory,  
11 government district, or municipality or of any  
12 instrumentality thereof.

13 (e) Make contracts or guarantees or incur liabilities; borrow  
14 money at such rates of interest as the limited liability company  
15 may determine; issue its notes, bonds, or other obligations; or  
16 secure any of its obligations by mortgage or pledge of all or any  
17 part of its property, franchises, and income.

18 (f) Lend money for any lawful purpose, invest or reinvest its  
19 funds, or take and hold real or personal property as security for  
20 the payment of funds so loaned or invested.

21 (g) Conduct its business, carry on its operations and have  
22 offices, and exercise the powers granted by this chapter with or  
23 without the territory of Guam.

24 (h) Elect or appoint managers and agents of the limited  
25 liability company, define their duties, and fix their  
26 compensation.

- 1 (i) make and alter its regulations, not inconsistent with its  
2 articles of organization or with the laws of Guam, for the  
3 administration and regulation of the affairs of the company.
- 4 (j) Make donations to the public welfare or for charitable,  
5 scientific, or educational purposes.
- 6 (k) Indemnify a member or manager or any other person to the  
7 same extent as a corporation may indemnify any of the  
8 directors, officers, employees, or agents of the corporation  
9 against expenses actually and reasonably incurred by him or it  
10 in connection with the defense of any action, suit, or  
11 proceeding, whether civil or criminal, in which he or it is made  
12 a party.
- 13 (l) Cease its activities and surrender its certificate of  
14 organization.
- 15 (m) Have and exercise all powers necessary or convenient to  
16 affect any or all of the purposes for which the company is  
17 organized.
- 18 (n) Transact any lawful business which the members or the  
19 managers find to be in aid of governmental policy.
- 20 (o) Pay pensions and establish pension plans, profit-sharing  
21 plans, and other incentive plans for any or all of its managers  
22 and employees.
- 23 (p) Be a promoter, incorporator, general partner, limited  
24 partner, member, associate, or manager of any corporation,  
25 partnership, limited partnership, limited liability company,  
26 joint venture, trust, or other enterprise.

1 (q) Have and exercise all powers necessary or convenient to  
2 effect its purposes.

3 **§15105. Formation.**

4 Two or more persons may form a limited liability company by  
5 executing, acknowledging, and delivering to the Department of Revenue and  
6 Taxation articles of organization for such limited liability company.

7 **§15106. Limited Liability Company Name.**

8 (a) The words "limited company" or their abbreviation "L. C.", shall be  
9 the last word of the name of every limited liability company formed under the  
10 provisions of this chapter; and, in addition, the limited liability company  
11 name may not be the same as, or deceptively similar to, the name of a limited  
12 liability company, or a foreign limited liability company, authorized to  
13 transact business in this territory, or a name the exclusive right to which is, at  
14 the time, reserved in the manner provided under the laws of this territory.

15 (b) Omission of the words "limited company", or their abbreviation "L.  
16 C.", in the use of the name of the limited company shall render any person  
17 who participates in the omission, or knowingly acquiesces in it, liable for any  
18 indebtedness, damage, or liability occasioned by the omission.

19 **§15107. Articles of Organization.**

20 (a) The Articles of Organization of a limited liability company shall set  
21 forth:

22 (1) The name of the limited liability company.

23 (2) The period of its duration, which may not exceed 30 years  
24 from the date of filing with the Department of Revenue and  
25 Taxation.

26 (3) The purpose for which the limited liability company is  
27 organized.

- 1 (4) The address of its place of business in Guam and the name  
2 and address of its initial registered agent in Guam.
- 3 (5) The total amount of cash and a description and agreed  
4 value of property other than cash contributed.
- 5 (6) The total additional contributions, if any, agreed to be  
6 made by all members and the times at which, or the events  
7 upon the happening of which, they shall be made.
- 8 (7) The right, if given, of the members to admit additional  
9 members and the terms and conditions of the admissions.
- 10 (8) The right, if given, of the remaining members of the limited  
11 liability company to continue the business on the death,  
12 retirement, resignation, expulsion, bankruptcy, or dissolution  
13 of a member or the occurrence of any other event which  
14 terminates the continued membership of a member in the  
15 limited liability company.
- 16 (9) (i) If the limited liability company is to be managed by a  
17 manager or managers, a statement that the company is to be  
18 managed by a manager or managers and the names and  
19 addresses of such managers who are to serve as managers  
20 until the first annual meeting of members or until their  
21 successors are elected and qualify. (ii) If the management of a  
22 limited liability company is reserved to the members, the names  
23 and addresses of the members.
- 24 (10) Any other provisions, not inconsistent with law, which the  
25 members elect to set out in the articles of organization for the  
26 regulation of the internal affairs of the limited liability  
27 company, including any other provisions which under this

1 chapter are required or permitted to be set out in the  
2 regulations of the limited liability company.

3 (b) It is not necessary to set out in the articles of organization any of the  
4 powers enumerated in this Chapter.

5 **§15108. Filing of Articles of Organization.**

6 The Articles of Organization shall be delivered to the Department of  
7 Revenue and Taxation. If the Department of Revenue and Taxation finds  
8 that the articles of organization conform to law, it shall, when all fees have  
9 been paid as prescribed in this chapter, file the articles of organization in  
10 accordance with this Chapter. The Department of Revenue and Taxation  
11 shall then issue a certificate of organization.

12 **§15109. Effect of Issuance of Certificate of Organization.**

13 (a) Upon the issuance of the certificate of organization, the limited  
14 liability company shall be considered organized; and such certificate of  
15 organization shall be conclusive evidence that all conditions precedent  
16 required to be performed by the members have been complied with and that  
17 the limited liability company has been legally organized under this Chapter,  
18 except as against this territory in a proceeding to cancel or revoke the  
19 certificate of organization or in a proceeding for involuntary dissolution of  
20 the limited liability company.

21 (b) A limited liability company shall not transact business or incur  
22 indebtedness, except that which is incidental to its organization or to  
23 obtaining subscriptions for or payment of contributions, until the articles of  
24 organization have been filed with the Department of Revenue and Taxation.

25 (c) The date when the existence of the company commences shall be the  
26 date of the filing of the articles of organization by the Department of

1 Revenue and Taxation, except that the date of commencement of corporate  
2 existence may be specified in the articles of organization:

3 (1) When the date specified in the articles of organization is the  
4 date of subscription and acknowledgment, and the articles of  
5 organization are filed by the Department of Revenue and  
6 Taxation within 5 days, exclusive of legal holidays, after such  
7 date.

8 (2) When the date specified in the articles of organization is  
9 subsequent to, and not later than 90 days after the date of filing  
10 of the articles of organizations by the Department of Revenue  
11 and Taxation.

12 **§15110. Amendments to Articles of Organization.**

13 (a) The articles of organization of a limited liability company shall be  
14 amended when:

15 (1) There is a change in the name of the limited liability  
16 company or in the amount or character of the contributions to  
17 capital.

18 (2) There is a change in the character of the business of the  
19 limited liability company.

20 (3) There is a false or erroneous statement in the articles of  
21 organization.

22 (4) There is a change in the time as stated in the articles of  
23 organization for the dissolution of the limited liability  
24 company.

25 (5) A time is fixed for the dissolution of the limited liability  
26 company, if no time is specified in the articles of organization.

1 (6) The members desire to make a change in any other  
2 statement in the articles of organization in order for it to  
3 accurately represent the agreement between them.

4 (b) The form for evidencing an amendment to the articles of  
5 organization of a limited liability company shall be promulgated by the  
6 Department of Revenue and Taxation and shall contain such terms and  
7 provisions consistent with this Chapter as shall be determined by the  
8 Department of Revenue and Taxation. The amendment shall be signed and  
9 sworn to by all members, and an amendment adding a new member shall be  
10 signed also by the member to be added; thereafter the amendment shall be  
11 forwarded to the Department of Revenue and Taxation for filing,  
12 accompanied by the requisite filing fee.

13 **§15111. Registered office and registered agent.**

14 (a) Each limited liability company shall have and continuously maintain  
15 in Guam:

16 (1) A registered office, which may be, but need not be, the  
17 same as its place of business; and

18 (2) A registered agent, which agent may be either:

19 (i) An individual resident of Guam whose business  
20 office is identical with such registered office;

21 (ii) A domestic corporation having a business office  
22 identical with such registered office; or

23 (iii) A foreign corporation authorized to transact  
24 business on Guam and having a business office  
25 identical with such registered office.

26 (b) Each registered agent and each successor registered agent  
27 appointed pursuant to Section 15109 on whom process may be served shall



1 file a statement in writing with the Department of Revenue and Taxation  
2 accepting the appointment as registered agent simultaneously with being  
3 designated, unless the agent signed the document making the appointment.

4 (c) The Department of Revenue and Taxation shall maintain an  
5 accurate record of the registered agents and registered office for the service  
6 of process and shall furnish any information disclosed thereby promptly upon  
7 request and payment of the required fee.

8 (d) No limited liability company shall maintain any action in any court  
9 until the limited liability company complies with the provisions of this Section  
10 and pays to the Department of Revenue and Taxation a penalty of \$1 for each  
11 day it has failed to comply, or \$250, whichever amount is less.

12 **§15112. Change of registered office or registered agent.**

13 (a) A limited liability company may change its registered agent or  
14 office, or both, upon filing in the office of the Department of Revenue and  
15 Taxation a statement setting forth:

16 (1) The name of the limited liability company.

17 (2) The address of its then registered office and, if the address  
18 of its registered office is to be changed, the address to which  
19 the registered office is to be changed.

20 (3) The name of its then registered agent and, if its registered  
21 agent is to be changed, the name of its successor registered  
22 agent.

23 (4) The fact that the change was authorized by affirmative  
24 vote of a majority of the members of the limited liability  
25 company.

26 (b) The statement shall be acknowledged and delivered to the  
27 Department of Revenue and Taxation. If the Department of Revenue and

1 Taxation finds that the statement conforms to the provisions of this chapter,  
2 it shall file the statement in its office; and, upon filing, the change of address  
3 of the registered office or the appointment of a new registered agent, or both,  
4 as the case may be, shall be effective.

5 (c) Any registered agent of a limited liability company may resign as  
6 agent upon filing a written notice thereof with the Department of Revenue  
7 and Taxation and by mailing a copy thereof to the limited liability company at  
8 its registered office. The appointment of the agent shall terminate upon the  
9 expiration of 30 days after receipt of notice by the Department of Revenue  
10 and Taxation.

11 **§15113. Contributions to Capital.**

12 The contributions to capital by a member to the limited liability company  
13 may consist of cash or other property, but not services.

14 **§15114. Management of limited liability company.**

15 The management of the limited liability company, unless otherwise  
16 provided in the articles of organization, shall be vested in its members in  
17 proportion to their contributions to the capital of the limited liability  
18 company, as adjusted from time to time to properly reflect any additional  
19 contributions or withdrawals by the members; however, if the articles of  
20 organization provide for the management of the limited liability company by  
21 a manager or managers, the management of the limited liability company  
22 may be vested in a manager or managers who shall be elected annually by the  
23 members in the manner prescribed by and provided in the regulations of the  
24 limited liability company. The manager or managers shall also hold the  
25 offices and have the responsibilities accorded to them by the members and set  
26 out in the operating agreement of the limited liability company.

27 **§15115. Regulations of company.**

1           The power to adopt, alter, amend, or repeal the regulations of a limited  
2 liability company shall be vested in the members of the company unless vested  
3 in the manager or managers of the company by the articles of organization.  
4 Regulations adopted by the members or by the manager may be repealed or  
5 altered; new regulations may be adopted by the members; and the members  
6 may prescribe in any regulations made by them that such regulations may not  
7 be altered, amended, or repealed by the manager. The regulations may  
8 contain any provisions for the regulation and management of the affairs of  
9 the limited liability company not inconsistent with law or the articles of  
10 organization.

11           **§15116. Contracting debts.**

12           Except as otherwise provided in this Chapter or the articles of  
13 organization, no debt shall be contracted nor liability incurred by or on behalf  
14 of a limited liability company, except by:

15           (a) One or more of its managers, if management of the limited liability  
16 company has been vested by the members in a manager or managers; or

17           (b) Any member, if management of the limited liability company is  
18 retained by the members.

19           **§15117. Limited liability company property.**

20           Real or personal property owned or purchased by a limited liability  
21 company shall be held and owned, and conveyance shall be made, in the name  
22 of the limited liability company. Instruments and documents providing for the  
23 acquisition, mortgage, or disposition of property of the limited liability  
24 company shall be valid and binding upon the company, if they are executed by  
25 one or more managers of a limited liability company having a manager or  
26 managers, or if they are executed by one or more members of a limited  
27 liability company in which management has been retained in the members.

1           **§15118. Distribution of property; impairment of capital.**

2           The Limited liability company may, from time to time, distribute its  
3 property to the members of the limited liability company upon the basis  
4 stipulated in the regulations, provided that, after distribution is made, the  
5 assets of the limited liability company are in excess of all liabilities of the  
6 limited liability company except liabilities to members on account of their  
7 contributions. A distribution shall be deemed a "dividend" under section 316 of  
8 the Internal Revenue code.

9           **§15119. Withdrawal or reduction of members' contributions to capital.**

10          (a) A member shall not receive out of limited liability company property  
11 any part of his or its contribution to capital until:

12               (1) All liabilities of the limited liability company, except  
13 liabilities to members on account of their contributions to  
14 capital, have been paid or sufficient property of the company  
15 remains to pay them.

16               (2) The consent of all members is had, unless the return of the  
17 contribution to capital may be rightfully demanded as provided  
18 in this Chapter.

19               (3) The articles of organization are canceled or so amended as  
20 to set out the withdrawal reduction.

21          (b) Subject to the provisions of Subsection (a), a member may rightfully  
22 demand the return of his or its contribution:

23               (1) On the dissolution of the limited liability company;

24               (2) When the date an event specified in the articles of  
25 organization for the return of the contribution has arrived; or

26               (3) After the member has given all other members of the  
27 limited liability company 6 months prior notice in writing, if no

1 time is specified in the articles of organization for the  
2 dissolution of the limited liability company.

3 (c) In the absence of a statement in the articles of organization to the  
4 contrary or the consent of all members of the limited liability company, a  
5 member, irrespective of the nature of his or its contribution, has only the right  
6 to demand and receive cash in return for his or its contribution to capital.

7 (d) A member of a limited liability company may have the limited  
8 liability company dissolved and its affairs wound up when:

9 (1) The member rightfully but unsuccessfully has demanded the  
10 return of his or its contribution; or

11 (2) The other liabilities of the limited liability company have  
12 not been paid or the limited liability company property is  
13 insufficient for their payment, and the member otherwise  
14 would be entitled to the return of his or its contribution.

15 **§15120. Nature of interest of member in limited liability company.**

16 An interest of a member in a limited liability company is personal  
17 property.

18 **§15121. Transferability of a member's interest.**

19 An interest of a member in a limited liability company may be  
20 transferred or assigned as provided in the operating agreement. However, if  
21 all of the other members of the limited liability company other than the  
22 member proposing to dispose of his or its interest do not approve of the  
23 proposed transfer or assignment by unanimous written consent, the  
24 transferee of the interest of the member shall have no right to participate in  
25 the management of the business and affairs of the limited liability company or  
26 to become a member. The transferee shall be entitled to receive only the share

1 of profits or other compensation by way of income and the return of  
2 contributions to which that member otherwise would be entitled.

3 **§15122. Liability of member to limited company.**

4 (a) A member of a limited liability company is liable to the company:

5 (1) For the difference between the amount of his or its  
6 contributions to capital which have been actually made and the  
7 amount which is stated in the articles of organization as  
8 having been made; and

9 (2) For any unpaid contribution to capital which he or it  
10 agreed in the articles of organization to make in the future at  
11 the time and on the conditions stated in the articles of  
12 organization.

13 (b) A member holds as trustee for the limited liability company:

14 (1) Specific property which is stated in the articles of  
15 organization as having been contributed by such member, but  
16 which property was not contributed or which property has  
17 been wrongfully or erroneously returned; and

18 (2) Money or other property wrongfully paid or conveyed to  
19 such member on account of his or its contribution.

20 (c) The liabilities of a member as set out in this Section may be waived  
21 or compromised only by the consent of all members, but a waiver of  
22 compromise shall not affect the right of a creditor of the limited liability  
23 company who extended credit or whose claim arose after the filing and  
24 before a cancellation or amendment of the articles of organization to enforce  
25 such liabilities.

26 (d) When a contributor has rightfully received the return in whole or in  
27 part of the capital of his or its contribution, the contributor is nevertheless

1 liable to the limited liability company for any sum, not in excess of the return  
2 with interest, necessary to discharge its liability to all creditors of the limited  
3 liability company who extended credit or whose claims arose before such  
4 return.

5 **§15123. Liability of members and managers.**

6 Neither the members of a limited liability company nor the managers of  
7 a limited liability company managed by a manager or managers are liable  
8 under a judgment, decree, or order of a court, or in any other manner, for a  
9 debt, obligation, or liability of the limited liability company. If members or  
10 managers are professionals who will organize their business or service as a  
11 limited liability company, they will still remain liable for their professional  
12 performance.

13 **§15124. Unauthorized assumption of powers.**

14 All persons who assume to act as a limited liability company without  
15 authority to do shall be jointly and severally liable for all debts and liabilities.

16 **§15125. Dissolution.**

17 (a) A limited liability company organized under this chapter shall be  
18 dissolved upon the occurrence of any of the following events:

19 (1) When the period fixed for the duration of the limited  
20 liability company expires.

21 (2) By the unanimous written agreement of all members.

22 (3) Upon the death, retirement, resignation, expulsion,  
23 bankruptcy, or dissolution of a member or upon the occurrence  
24 of any other event which terminates the continued membership  
25 of a member in the limited liability company, unless the  
26 business of the limited liability company is continued by the  
27 consent of all the remaining members or under a right to

1 continue stated in the articles of organization of the limited  
2 liability company.

3 (b) As soon as possible following the occurrence of any of the events  
4 specified in Subsection (a) which effects the dissolution of the limited liability  
5 company, the limited liability company shall execute a statement of intent to  
6 dissolve in the form prescribed by the Department of Revenue and Taxation.

7 **§15126. Filing of statement of intent to dissolve.**

8 The statement of intent to dissolve a limited liability company shall be  
9 delivered to the Department of Revenue and Taxation. If the Department of  
10 Revenue and Taxation finds that such statement conforms to law, it shall,  
11 when all fees and license taxes have been paid as prescribed in this Chapter,  
12 file the articles of dissolution in accordance with this Chapter.

13 **§15127. Effect of filing of statement of intent to dissolve; procedure**  
14 **after filing such statement.**

15 (a) Upon the filing by the Department of Revenue and Taxation of a  
16 statement of intent to dissolve, the limited liability company shall cease to  
17 carry on its business, except insofar as may be necessary for the winding up of  
18 its business, but its separate existence shall continue until a certificate of  
19 dissolution has been issued by the Department of Revenue and Taxation or  
20 until a decree dissolving the limited liability company has been entered by a  
21 court of competent jurisdiction.

22 (b) Within 20 days after the Department of Revenue and Taxation has  
23 filed a statement of intent to dissolve, the limited liability company shall  
24 immediately cause notice thereof to be mailed to each creditor of, and  
25 claimant against, the limited liability company.

26 (c) The limited liability company shall proceed to collect its assets;  
27 convey and dispose of such of its properties as are not to be distributed in kind



1 to its members; pay, satisfy, or discharge its liabilities and obligations or make  
2 adequate provisions for the payment or discharge thereof; and do all other  
3 acts required to liquidate its business and affairs. After paying or discharging  
4 all its obligations or making the adequate provision for payment or discharge  
5 thereof, the limited liability company may distribute the remainder of its  
6 assets, either in cash or in kind, among its members according to their  
7 respective rights and interests.

8 **§15128. Distribution of assets upon dissolution.**

9 (a) In settling accounts after dissolution, the liabilities of the limited  
10 liability company shall be entitled to payment in the following order:

- 11 (1) Those liabilities to creditors, in the order of priority as  
12 provided by law, except those liabilities to members of the  
13 limited liability company on account of their contributions;
- 14 (2) Those liabilities to members of the limited liability company  
15 in respect of their shares of the profits and other compensation  
16 by way of income on their contributions; and
- 17 (3) Those liabilities to members of the limited liability company  
18 in respect of their contributions to capital.

19 (b) Subject to any statement in the regulations, members shall share in  
20 the limited liability company assets in respect to their claims for capital and in  
21 respect to their claims for profits or for compensation by way of income on  
22 their contributions, respectively, in proportion to the respectively, in  
23 proportion to the respective amounts of the claims.

24 **§15129. Articles of dissolution.**

25 When all debts, liabilities, and obligations of the limited liability  
26 company have been paid or discharged, or adequate provision has been made  
27 therefore, and all of the remaining property and assets of the limited liability

1 company have been distributed to the members, articles of dissolution shall be  
2 executed and verified by the person signing the statement, which statement  
3 shall set forth:

4 (a) The name of the limited liability company.

5 (b) The fact that the Department of Revenue and Taxation has  
6 therefore filed a statement of intent to dissolve the company and the date on  
7 which such statement was filed.

8 (c) The fact that all debts, obligations, and liabilities have been paid or  
9 discharged, or that adequate provision has been made therefore.

10 (d) The fact that all the remaining property and assets have been  
11 distributed among its members in accordance with their respective rights and  
12 interests.

13 (e) The fact that there are no suits pending against the company in any  
14 court or that adequate provision has been made for the satisfaction of any  
15 judgment, order, or decree which may be entered against it in any pending  
16 suit.

17 **§15130. Filing of articles of dissolution.**

18 (a) The articles of dissolution of the limited liability company shall be  
19 delivered to the Department of Revenue and Taxation. If the Department of  
20 Revenue and Taxation finds that such articles of dissolution conform to law,  
21 it shall, when all fees and license taxes have been paid as prescribed in this  
22 Chapter, file the statement of intent to dissolve the company in accordance  
23 with this Chapter. The Department of Revenue and Taxation shall then issue  
24 a certificate of dissolution.

25 (b) The certificate of dissolution shall be returned to the representative  
26 of the dissolved limited liability company. Upon the issuance of such  
27 certificate of dissolution, the existence of the company shall cease, except for

1 the purpose of suits, other proceedings, and appropriate action as provided in  
2 this Chapter. The manager or managers in office at the time of dissolution, or  
3 the survivors of them, or, if none, the members, shall thereafter be trustees  
4 for the members and creditors of the dissolved limited liability company; and  
5 as such the trustees shall have authority to distribute any company property  
6 discovered after dissolution, to convey real estate, and to take such other  
7 action as may be necessary on behalf of and in the name of such limited  
8 liability company.

9 **§15131. Cancellation of certificate of organization.**

10 The certificate of organization of a limited liability company shall be  
11 canceled by the Department of Revenue and Taxation upon issuance of the  
12 certificate of dissolution.

13 **§15132. Involuntary dissolution.**

14 (a) A limited liability company may be dissolved involuntarily by a  
15 decree of the District Court of Guam in an action filed by the Attorney  
16 General's Office when it is established that the limited liability company:

- 17 (1) Has procured its articles of organization through fraud;  
18 (2) Has exceeded the authority conferred upon it by law;  
19 (3) Has committed a violation of any provision of law whereby  
20 it has forfeited its charter;  
21 (4) Has carried on, conducted, or transacted its business in a  
22 persistently fraudulent or illegal manner; or  
23 (5) By the abuse of its powers contrary to the public policy of  
24 this territory, has become liable to be dissolved.

25 (b) A limited liability company may be dissolved involuntarily by order  
26 of the Department of Revenue and Taxation when the Department of  
27 Revenue and Taxation has determined that the limited liability company:

- 1 (1) Has failed to file its annual report or pay the filing fee for
- 2 the annual report within the tie required by this Chapter;
- 3 (2) Has failed for 30 days to appoint and maintain a registered
- 4 agent in this territory; or
- 5 (3) Has failed for 30 days after change of its registered office
- 6 or registered agent to file in the office of the Department of
- 7 Revenue and Taxation a statement of such change.

8 (c) No limited liability company shall be involuntarily dissolved under  
9 Subsection (b) unless the Department of Revenue and Taxation has given the  
10 limited liability company not less than 90 days notice of the proposed  
11 dissolution, stating the reasons therefore and addressed to its registered  
12 office or to its principal place of business, and the limited liability company  
13 has failed prior to such involuntary dissolution to correct the reasons for the  
14 proposed involuntary dissolution.

15 (d) If the Department of Revenue and Taxation involuntarily dissolves  
16 any limited liability company under the provisions of Subsection (b), it shall  
17 issue a certificate to such effect and mail the certificate to the limited liability  
18 company at its registered office or its principal place of business. Upon the  
19 issuance of such certificate of involuntary dissolution, the existence of the  
20 limited liability company shall cease, except as otherwise provided by law.

21 (e) The enumeration in Subsections (a) and (b) of grounds for  
22 involuntary dissolution shall not exclude an action or special proceeding for  
23 the annulment dissolution of a limited liability company for other cause as  
24 provided in any other statute of this territory.

25 **§15133. Reinstatement after involuntary dissolution.**

26 (a) Any limited liability company which has been dissolved by the  
27 Department of Revenue and Taxation under the provisions of §15129 or prior

1 law may be reinstated by the Department of Revenue and Taxation at any  
2 time upon approval of an application for reinstatement signed by an officer  
3 or director of the dissolved limited liability company. Such application shall  
4 be filed by the Department of Revenue and Taxation whenever it is  
5 established to the satisfaction of the department that in fact there was no  
6 cause for the dissolution or that the reasons for the dissolution have been  
7 corrected and all fees, computed at the rate provided by law at the time the  
8 limited liability company applies for reinstatement, have been paid. If the  
9 name of the dissolved limited liability company has been lawfully assumed in  
10 the state by another limited liability company, the Department of Revenue  
11 and Taxation shall require the dissolved limited liability company to amend  
12 its articles of organization to change its application for reinstatement.

13 (b) Whenever the application for reinstatement is approved and filed by  
14 the Department of Revenue and Taxation, the existence of the limited  
15 liability company shall be deemed to have continued without interruption  
16 from the date of dissolution. The reinstatement shall have no effect upon any  
17 personal liabilities of the members or managers of the limited liability  
18 company on account of actions taken during the period between dissolution  
19 and reinstatement, but the power of the limited liability company to  
20 indemnify such members or managers shall extend to actions during such  
21 period.

22 **§15134. Filings by the Department of Revenue and Taxation.**

23 All filings made by the Department of Revenue and Taxation shall be in  
24 accordance with the provisions of §2104 of Article 1 of Chapter 2, Title 18,  
25 Guam Code Annotated.

26 **§15135. Fees for filing documents and issuing certification.**

1 Fees for filing documents and issuing certification shall be subject to  
2 applicable rates as determined by the Department of Revenue and Taxation.

3 **§15136. Miscellaneous charges.**

4 Miscellaneous charges shall be determined, charged, and collected by  
5 the Department of Revenue and Taxation.

6 **§15137. Waiver of notice.**

7 When, under the provisions of this Chapter or under the provisions of  
8 the articles of organization or operating agreement of a limited liability  
9 company, notice is required to be given to a member of a limited liability  
10 company or to a manager of a limited liability company having a manager or  
11 manages, a waiver in writing signed by the person or persons entitled to the  
12 notice, whether made before or after the time for notice to be given, is  
13 equivalent to the giving of notice.

14 **§15138. Jurisdiction of the District Court of Guam.**

15 The District Court of Guam shall have jurisdiction to enforce the  
16 provisions of this Chapter.

17 **§15139. Parties to actions by or against limited liability company.**

18 A member of a limited liability company is not a proper party to  
19 proceedings by or against a limited liability company, except when the object  
20 is to enforce a member's right against, or liability to, the limited liability.

21 **§15140. Service of process.**

22 (a) Process against a limited liability company may be served:

23 (1) In accordance with Chapter 25 and Chapter 27 of Title 18,  
24 Guam Code Annotated, as if the company were a partnership.

25 (2) Upon the registered agent at his business address.

26 (b) Any notice to or demand on a company organized pursuant to this  
27 Chapter may be made:

1 (1) By delivering to a manager of the company, if the  
2 management is vested in a manager, or deliver to any member,  
3 if the management is vested in the members.

4 (2) By writing, which notice or demand in writing is mailed to  
5 the registered office of the company in Guam or to another  
6 address in Guam which is the principal office of the company.

7 (c) Nothing contained in this Section shall limit or affect the right to  
8 serve, in any other manner now or hereafter permitted by law, any process,  
9 notice, or demand required or permitted by law to be served upon a limited  
10 liability company.

11 **§15141. Tax on income of limited liability company.**

12 (a) A limited liability company is a "business" as defined in §26101 of  
13 Article I of Chapter 26 of Title 11, Guam Code Annotated, and is subject to the  
14 taxes imposed under Chapter 26 of Title 11, Guam Code Annotated.

15 (b) The income of a limited liability company organized pursuant to this  
16 chapter shall be subject to the Guam's Tax Code and the taxes levied  
17 pursuant to Chapter 26 of Title 11 Guam Code Annotated.

18 **§15142. Professional Limited Liability Companies.**

19 (a) Two or more persons may organize a professional limited liability  
20 company by filing articles of organization with the Department of Revenue  
21 and Taxation in accordance with this Act. In addition to other provisions  
22 required or permitted by law, the articles of organization of a professional  
23 limited liability company must include a statement:

24 (1) that the limited liability company is a professional limited  
25 liability company; and

26 (2) describing the one specific kind of professional service to be  
27 rendered by the limited liability company.

1 (b) A professional limited liability company may be organized under  
2 this act only for the purpose of rendering one specific type of professional  
3 service and ancillary services. A professional limited liability company  
4 organized under this act may not render more than one kind of professional  
5 service.

6 (c) Name.

7 A professional limited liability company may adopt a name not contrary  
8 to the law or ethics regulating the practice of the professional service  
9 rendered through the professional limited liability company. The name of the  
10 limited liability company must contain the words "Professional Limited  
11 Liability Company" or the abbreviations "P.L.L.C." or "PLLC" and must  
12 contain other words as may be required by law.

13 (d) Restrictions on Members, Managers, and Officers.

14 (1) A person who is not licensed or otherwise authorized to  
15 render the professional service of the professional limited  
16 liability company may not be a member, manager or officer of  
17 the professional limited liability company. A membership  
18 interest in the professional limited liability company may not be  
19 transferred to a person who is not licensed or otherwise  
20 authorized to render the professional service of the  
21 professional limited liability company.

22 (2) If a member, manager, or officer of a professional limited  
23 liability company, or an agent or employee of the company who  
24 has been rendering professional service for or with the  
25 company of the same type for which the professional limited  
26 liability company was organized to render, becomes legally  
27 disqualified to render the professional service, the person shall



1 sever all employment with the professional limited liability  
2 company and immediately terminate all financial interest in the  
3 company. The professional limited liability company shall  
4 purchase or cause to be purchased from the person all  
5 membership interests owned by the person in the professional  
6 limited liability company, at a price and on terms as may be  
7 provided in the articles of organization, the regulations, or any  
8 applicable agreement among the members and the professional  
9 limited liability company.

10 (e) Rendering of Professional Services.

11 (1) A professional limited liability company may render  
12 professional service in Guam only through:

13 (i) an individual member, manager, officer,  
14 employee, or agent who is licensed to render the  
15 professional service on Guam; or

16 (ii) an agent of the professional limited liability  
17 company that is a professional limited liability  
18 company, professional corporation, or professional  
19 association that is authorized on Guam to render  
20 the professional service of the professional limited  
21 liability company and that renders the professional  
22 service only through a licensed individual member,  
23 manager, officer, or employee.

24 (2) This Article does not prohibit employment by a professional  
25 limited liability company of clerks, secretaries, bookkeepers,  
26 technicians, nurses, assistants, and other individuals who are  
27 not usually and ordinarily considered by custom and practice to


1 be rendering professional service for which a license or other  
2 legal authorization is required. A person may not, under the  
3 guise of employment, practice a profession on Guam unless  
4 licensed or otherwise legally authorized to practice that  
5 profession under the laws of Guam.

6 (f) Professional Relationships Not Affected.

7 This Act does not alter or affect the professional relationship between a  
8 person rendering professional service and a person receiving the service, and  
9 a confidential relationship enjoyed on Guam between those persons remains  
10 unchanged. This Act does not remove or diminish any rights at law that a  
11 person receiving professional service has against a person rendering the  
12 service for an error, an omission, negligence, incompetence, or malfeasance.  
13 A limited liability company, but not the other individual members, managers,  
14 or officers, is jointly and severally liable with a member, manager, officer,  
15 employee, or agent rendering professional service for an error, omission,  
16 negligence, incompetence, or malfeasance on the part of the member,  
17 manager, officer, employee, or agent when the member, manager, officer,  
18 employee, or agent is rendering professional service in the course of  
19 employment for the limited liability company."

TWENTY-THIRD GUAM LEGISLATURE  
1995 (FIRST) Regular Session

Bill No. 206  
As substituted by the Author  
Introduced by:

F. P. Camacho   
A.C. Blaz

**An Act to add a new Chapter 15 to Title 18 of the Guam Code Annotated entitled "Limited Liability Companies" authorizing the formation of businesses as Limited Liability Companies on Guam.**

1 BE IT ENACTED BY THE PEOPLE OF THE TERRITORY OF GUAM:

2 **Section 1: Legislative finding.** Guam law recognizes three main organizational  
3 structures: corporations, partnerships, and limited partnerships. The Legislature finds that  
4 these three basic organizational options do not adequately meet the needs of many small and  
5 medium- sized companies on Guam.

6 The legislature further finds that business and tax planners on Guam and in the United  
7 States have long sought a business entity that delivers the key advantages of "pass-through  
8 taxation" for a business and also provides limited liability for its owners. Traditionally, the S  
9 corporations and limited partnerships have been drawn on in order to obtain these  
10 characteristics for a business or investment, but neither S corporations nor limited partnerships  
11 can adequately meet these needs. S corporations have relatively restrictive and inflexible  
12 requirements on the number of owners and types of ownership. Limited partnerships do not  
13 provide 100% limited liability since at least one general partner must be responsible for entity  
14 obligations under law. In addition, the management participation of limited partners is

1 generally prohibited or severely restricted. A new alternative in recent years has emerged:  
2 the Limited Liability Company (LLC).

3 The legislature finds that until 1990, only two states, Wyoming and Florida, allowed  
4 for the formation of a LLC. As of January 1, 1995, however, 47 states have enacted LLC  
5 statutes largely due to the Internal Revenue Service ruling in late 1988 allowing for the taxing  
6 of LLC's as partnerships. Proposals are pending in the other states, and it is possible that all  
7 50 states will have enacted LLC laws by the end of 1995.

8 The legislature finds that though most states allow an LLC to be formed for the  
9 transaction of any lawful purpose, certain regulated industries, such as banking and insurance,  
10 are prohibited from operating in LLC form. The same shall apply here on Guam.

11 The legislature finds that while the LLC is not intended to replace corporations or  
12 partnerships, it does combine the advantages of each. It combines the structural flexibility of a  
13 partnership with the liability protection of a corporation. The LLC will be formed as an  
14 unincorporated business entity where neither the partners nor the managers are personally liable  
15 for its obligation. Professionals who will organize their business or service as an LLC will still  
16 remain liable for their professional performance.

17 The legislature finds that it is necessary for the LLC to have at least two members at the  
18 time of formation. This element will preserve the partnership tax status under federal tax law so  
19 as to allow the Department of Revenue and Taxation to treat the LLC as a partnership for tax  
20 purposes.

21 **Section 2. A New Chapter 15 is added to Title 18 Guam Code Annotated to read:**

22 Chapter 15. Limited Liability Companies.

1 Section:  
2 15101. Short Title.  
3 15102. Definitions.  
4 15103. Purpose.  
5 15104. Powers.  
6 15105. Formation.  
7 15106. Limited Liability Company name.  
8 15107. Articles of Organization.  
9 15108. Filing of Articles.  
10 15109. Effect of Issuance of Certificate of  
11 Organization.  
12 15110. Amendments to Articles of  
13 Organization.  
14 15111. Registered Office and Registered  
15 Agent.  
16 15112. Change of Registered Office or Registered Agent  
17 15113. Contributions to Capital.  
18 15114. Management of Limited Liability  
19 Company.  
20 15115. Regulations of Company.  
21 15116. Contracting Debts.  
22 15117. Limited Liability Company Property

- 1 15118. Distribution of Property; Impairment of Capital.
- 2 15119. Withdrawal or Reduction of Members Contributions to Capital.
- 3 15120. Nature of Interest of Members in Limited Liability Company.
- 4 15121. Transferability of Member's Interest.
- 5 15122. Liability of Member to Limited Company
- 6 15123. Liability of Member and Managers.
- 7 15124. Unauthorized Assumption of Powers.
- 8 15125. Dissolution.
- 9 15126. Filing of Statement of Intent to Dissolve.
- 10 15127. Effect of Filing of Statement of Intent to Dissolve; Procedure after Filing
- 11 Such Statement.
- 12 15128. Distribution of Assets Upon Dissolution.
- 13 15129. Articles of Dissolution.
- 14 15130. Filing of Articles of Dissolution.
- 15 15131. Cancellation of Certificate of Organization.
- 16 15132. Involuntary Dissolution.
- 17 15133. Reinstatement after Involuntary Dissolution.
- 18 15134. Filing By Department of Revenue and Taxation.
- 19 15135. Fees for Filing Documents and Issuing Certificates.
- 20 15136. Miscellaneous Charges.
- 21 15137. Waiver of Notice.
- 22 15138. Jurisdiction of the District Court.

1 15139. Parties to Actions by or against Limited Liability Company.

2 15140. Service of Process.

3 15141. Tax on Income of Limited Liability Company.

4 15142. Professional Limited Liability Companies

5 15101. Short Title

6 This Act shall be known and may be cited as the "Guam Limited Liability  
7 Company Act."

8 15102. Definitions

9 As used in this chapter:

10 (1) "Bankrupt" means bankrupt under the federal Bankruptcy Act or  
11 insolvent under any state insolvency act.

12 (2) "Court" includes every court and judge having jurisdiction in the  
13 action.

14 (3) "Limited liability company" or "company" means a limited liability  
15 company organized and existing under this chapter.

16 (4) "Real Property" means land and any interest or estate in land.

17 (5) "Business" means every trade and occupation or profession.

18 (6) "Conveyance" means every assignment, lease, mortgage, or  
19 encumbrance.

20 (7) "Professional Service" means any type of personal service that  
21 requires as a condition precedent to the rendering of the service the obtaining of a license, permit,  
22 certificate of registration, or other legal authorization, including the personal service rendered by

1 an architect, attorney-at-law, certified public accountant, dentist, doctor, physician, public  
2 accountant, surgeon, or veterinarian.

3 (8) "Professional limited liability company" means a limited liability  
4 company that is organized under this act for the sole and specific purpose of rendering  
5 professional service and that has as its members only individuals licensed or otherwise  
6 authorized within Guam to render the same professional service as the limited liability company.

7 15103. Purpose

8 A limited liability company may be organized under this chapter for any lawful  
9 purpose, except that special statutes for the regulation and control of specific types of business  
10 shall control when in conflict herewith.

11 15104. Powers

12 Each limited liability company organized and existing under this chapter may:

13 (1) Sue or be sued, or complain or defend, in its name.

14 (2) Purchase, take, receive, lease, or otherwise acquire, own, hold,  
15 improve, or use, or otherwise deal in or with, real or personal property, or an interest in real or  
16 personal property, wherever situated.

17 (3) Sell, convey, mortgage, pledge, create, a security interest in, lease,  
18 exchange, or transfer, or otherwise dispose of, all or any part of its property or assets.

19 (4) Purchase, take, receive, subscribe for, or otherwise acquire, own, hold,  
20 vote, use, employ, sell, mortgage, lend, or pledge, or otherwise dispose of, or otherwise use or  
21 deal in or with:

22 a. Shares or other interests in or obligations of other foreign or



1 domestic limited liability companies, domestic or foreign corporations, associations, general or  
2 limited partnerships, or individual; or

3 b. Direct or indirect obligations of the United States or any other  
4 government, state, territory, government district, or municipality or of any instrumentality  
5 thereof.

6 (5) Make contracts or guarantees or incur liabilities; borrow money at  
7 such rates of interest as the limited liability company may determine; issue its notes, bonds, or  
8 other obligations; or secure any of its obligations by mortgage or pledge of all or any part of its  
9 property, franchises, and income.

10 (6) Lend money for any lawful purpose, invest or reinvest its funds, or  
11 take and hold real or personal property as security for the payment of funds so loaned or  
12 invested.

13 (7) Conduct its business, carry on its operations and have offices, and  
14 exercise the powers granted by this chapter within or without the territory of Guam.

15 (8) Elect or appoint managers and agents of the limited liability company,  
16 define their duties, and fix their compensation.

17 (9) Make and alter its regulations, not inconsistent with its articles of  
18 organization or with the laws of Guam, for the administration and regulation of the affairs of the  
19 company.

20 (10) Make donations to the public welfare or for charitable, scientific, or  
21 educational purposes.

22 (11) Indemnify a member or manager or any other person to the same

1 extent as a corporation may indemnify any of the directors, officers, employees, or agents of the  
2 corporation against expenses actually and reasonably incurred by him or it in connection with the  
3 defense of any action, suit, or proceeding, whether civil or criminal, in which he or it is made a  
4 party.

5 (12) Cease its activities and surrender its certificate of organization.

6 (13) Have and exercise all powers necessary or convenient to effect any or  
7 all of the purposes for which the company is organized.

8 (14) Transact any lawful business which the members or the managers  
9 find to be in aid of governmental policy.

10 (15) Pay pensions and establish pension plans, profit-sharing plans, and  
11 other incentive plans for any or all of its managers and employees.

12 (16) Be a promoter, incorporator, general partner, limited partner,  
13 member, associate, or manager of any corporation, partnership, limited partnership, limited  
14 liability company, joint venture, trust, or other enterprise.

15 (17) Have and exercise all powers necessary or convenient to effect its  
16 purposes.

17 15105. Formation

18 Two or more persons may form a limited liability company by executing,  
19 acknowledging, and delivering to the Department of Revenue and Taxation articles of  
20 organization for such limited liability company.

21 15106. Limited Liability Company Name

22 (1) The words "limited company," or their abbreviation "L.C.," shall be the last

1 word of the name of every limited liability company formed under the provisions of this chapter;  
2 and, in addition, the limited liability company name may not be the same as, or deceptively  
3 similar to, the name of a limited liability company, or a foreign limited liability company,  
4 authorized to transact business in this territory, or a name the exclusive right to which is, at the  
5 time, reserved in the manner provided under the laws of this territory.

6 (2) Omission of the words "limited company," or their abbreviation "L.C.," in the  
7 use of the name of the limited liability company shall render any person who participates in the  
8 omission, or knowingly acquiesces in it, liable for any indebtedness, damage, or liability  
9 occasioned by the omission.

10 15107. Articles of Organization

11 (1) the articles of organization of a limited liability company shall set forth:

- 12 a. The name of the limited liability company.
- 13 b. The period of its duration, which may not exceed 30 years from the date  
14 of filing with the Department of Revenue and Taxation.
- 15 c. The purpose for which the limited liability company is organized.
- 16 d. The address of its place of business in Guam and the name and address  
17 of its initial registered agent in Guam.
- 18 e. The total amount of cash and a description and agreed value of property  
19 other than cash contributed.
- 20 f. The total additional contributions, if any, agreed to be made by all  
21 members and the times at which, or the events upon the happening of which, they shall be made.
- 22 g. The right, if given, of the members to admit additional members and the

1 terms and conditions of the admissions.

2 h. The right, if given, of the remaining members of the limited liability  
3 company to continue the business on the death, retirement, resignation, expulsion, bankruptcy, or  
4 dissolution of a member or the occurrence of any other event which terminates the continued  
5 membership of a member in the limited liability company.

6 i. 1. If the limited liability company is to be managed by a manager or  
7 managers, a statement that the company is to be managed by a manager or managers and the  
8 names and addresses of such managers who are to serve as managers until the first annual  
9 meeting of members or until their successors are elected and qualify. 2. If the management of a  
10 limited liability company is reserved to the members, the names and addresses of the members.

11 j. Any other provisions, not inconsistent with law, which the members  
12 elect to set out in the articles of organization for the regulation of the internal affairs of the  
13 limited liability company, including any other provisions which under this chapter are required  
14 or permitted to be set out in the regulations of the limited liability company.

15 (2) It is not necessary to set out in the articles of organization any of the powers enumerated in  
16 this chapter.

17 15018 Filing of Articles of Organization

18 The articles of organization shall be delivered to the Department of Revenue and  
19 Taxation. If the Department of Revenue and Taxation finds that the articles of organization  
20 conform to law, it shall, when all fees have been paid as prescribed in this chapter, file the  
21 articles of organization in accordance with this chapter. The Department of Revenue and  
22 Taxation shall then issue a certificate of organization.

1           15109. Effect of Issuance of Certificate of Organization

2                   (1) Upon the issuance of the certificate of organization, the limited liability  
3 company shall be considered organized; and such certificate of organization shall be conclusive  
4 evidence that all conditions precedent required to be performed by the members have been  
5 complied with and that the limited liability company has been legally organized under this  
6 chapter, except as against this territory in a proceeding to cancel or revoke the certificate of  
7 organization or in a proceeding for involuntary dissolution of the limited liability company.

8                   (2) A limited liability company shall not transact business or incur indebtedness,  
9 except that which is incidental to its organization or to obtaining subscriptions for or payment of  
10 contributions, until the articles of organization have been filed with the Department of Revenue  
11 and Taxation.

12                   (3) The date when the existence of the company commences shall be the date of  
13 the filing of the articles of organization by the Department of Revenue and Taxation, except that  
14 the date of commencement of corporate existence may be specified in the articles of  
15 organization:

16                           a. When the date specified in the articles of organization is the date of  
17 subscription and acknowledgement, and the articles of organization are filed by the Department  
18 of Revenue and Taxation within 5 days, exclusive of legal holidays, after such date.

19                           b. When the date specified in the articles of organization is subsequent to,  
20 and not later than 90 days after, the date of filing of the articles of organizations by the  
21 Department of Revenue and Taxation.

22           15110. Amendments to articles of organization

1 (1) The articles of organization of a limited liability company shall be amended

2 when:

3 a. There is a change in the name of the limited liability company or in the  
4 amount or character of the contributions to capital.

5 b. There is a change in the character of the business of the limited liability  
6 company.

7 c. There is a false or erroneous statement in the articles of organization.

8 d. There is a change in the time as stated in the articles of organization for  
9 the dissolution of the limited liability company.

10 e. A time is fixed for the dissolution of the limited liability company, if no  
11 time is specified in the articles of organization.

12 f. The members desire to make a change in any other statement in the  
13 articles of organization in order for it to accurately represent the agreement between them.

14 (2) The form for evidencing an amendment to the articles of organization of a limited liability  
15 company shall be promulgated by the Department of Revenue and Taxation and shall contain  
16 such terms and provisions consistent with this chapter as shall be determined by the Department  
17 of Revenue and Taxation. The amendment shall be signed and sworn to by all members, and an  
18 amendment adding a new member shall be signed also by the member to be added; thereafter the  
19 amendment shall be forwarded to the Department of Revenue and Taxation for filing,  
20 accompanied by the requisite filing fee.

21 15111. Registered office and registered agent

22 (1) Each limited liability company shall have and continuously maintain in

1 Guam:

2 a. A registered office, which may be, but need not be, the same as its place  
3 of business; and

4 b. A registered agent, which agent may be either:

5 1. An individual resident of Guam whose business office is  
6 identical with such registered office;

7 2. A domestic corporation having a business office identical with  
8 such registered office; or

9 3. A foreign corporation authorized to transact business on Guam  
10 and having a business office identical with such registered office.

11 (2) Each registered agent and each successor registered agent appointed pursuant  
12 to section 15109 on whom process may be served shall file a statement in writing with the  
13 Department of Revenue and Taxation accepting the appointment as registered agent  
14 simultaneously with being designated, unless the agent signed the document making the  
15 appointment.

16 (3) The Department of Revenue and Taxation shall maintain an accurate record of  
17 the registered agents and registered office for the service of process and shall furnish any  
18 information disclosed thereby promptly upon request and payment of the required fee.

19 (4) No limited liability company shall maintain any action in any court until the  
20 limited liability company complies with the provisions of this section and pays to the Department  
21 of Revenue and Taxation a penalty of \$1 fort each day it has failed to comply, or \$250,  
22 whichever amount is less.

1           15112. Change of registered office or registered agent

2           (1) A limited liability company may change its registered agent or office, or both,  
3 upon filing in the office of the Department of Revenue and Taxation a statement setting forth:

4                   a. The name of the limited liability company.

5                   b. The address of its then registered office and, if the address of its  
6 registered office is to be changed, the address to which the registered office is to be changed.

7                   c. The name of its then registered agent and, if its registered agent is to be  
8 changed, the name of its successor registered agent.

9                   d. The fact that the change was authorized by affirmative vote of a  
10 majority of the members of the limited liability company.

11           (2) The statement shall be acknowledged and delivered to the Department of  
12 Revenue and Taxation. If the Department of Revenue and Taxation finds that the statement  
13 conforms to the provisions of this chapter, it shall file the statement in its office; and, upon  
14 filing, the change of address of the registered office or the appointment of a new registered agent,  
15 or both, as the case may be, shall be effective.

16           (3) Any registered agent of a limited liability company may resign as agent upon  
17 filing a written notice thereof with the Department of Revenue and Taxation and by mailing a  
18 copy thereof to the limited liability company at its registered office. The appointment of the  
19 agent shall terminate upon the expiration of 30 days after receipt of notice by the Department of  
20 Revenue and Taxation.

21           15113. Contributions to Capital

22           The contributions to capital by a member to the limited liability company may



1 consist of cash or other property, but not services.

2 15114. Management of limited liability company

3 The management of the limited liability company, unless otherwise provided in  
4 the articles of organization, shall be vested in its members in proportion to their contributions to  
5 the capital of the limited liability company, as adjusted from time to time to properly reflect any  
6 additional contributions or withdrawals by the members; however, if the articles of organization  
7 provide for the management of the limited liability company by a manager or managers, the  
8 management of the limited liability company may be vested in a manager or managers who shall  
9 be elected annually by the members in the manner prescribed by and provided in the regulations  
10 of the limited liability company. The manager or managers shall also hold the offices and have  
11 the responsibilities accorded to them by the members and set out in the operating agreement of  
12 the limited liability company.

13 15115. Regulations of company

14 The power to adopt, alter, amend, or repeal the regulations of a limited liability  
15 company shall be vested in the members of the company unless vested in the manager or  
16 managers of the company by the articles of organization. Regulations adopted by the members  
17 or by the manager may be repealed or altered; new regulations may be adopted by the members;  
18 and the members may prescribe in any regulations made by them that such regulations may not  
19 be altered, amended, or repealed by the manager. The regulations may contain any provisions  
20 for the regulation and management of the affairs of the limited liability company not inconsistent  
21 with law or the articles of organization.

22 15116. Contracting debts

1 Except as otherwise provided in this chapter or the articles of organization, no  
2 debt shall be contracted nor liability incurred by or on behalf of a limited liability company,  
3 except by:

4 (1) One or more of its managers, if management of the limited liability company  
5 has been vested by the members in a manager or managers; or

6 (2) Any member, if management of the limited liability company is retained by  
7 the members.

8 15117. Limited liability company property

9 Real or personal property owned or purchased by a limited liability company shall  
10 be held and owned, and conveyance shall be made, in the name of the limited liability company.  
11 Instruments and documents providing for the acquisition, mortgage, or disposition of property of  
12 the limited liability company shall be valid and binding upon the company, if they are executed  
13 by one or more managers of a limited liability company having a manager or managers, or if they  
14 are executed by one or more members of a limited liability company in which management has  
15 been retained in the members.

16 15118. Distribution of property; impairment of capital

17 The limited liability company may, from time to time, distribute its property to  
18 the members of the limited liability company upon the basis stipulated in the regulations,  
19 provided that, after distribution is made, the assets of the limited liability company are in excess  
20 of all liabilities of the limited liability company except liabilities to members on account of their  
21 contributions. A distribution shall be deemed a "dividend" under section 316 of the Internal  
22 Revenue Code.

1 15119. Withdrawal or reduction of members' contributions to capital

2 (1) A member shall not receive out of limited liability company property any part  
3 of his or its contribution to capital until:

4 a. All liabilities of the limited liability company, except liabilities to  
5 members on account of their contributions to capital, have been paid or sufficient property of the  
6 company remains to pay them.

7 b. The consent of all members is had, unless the return of the contribution  
8 to capital may be rightfully demanded as provided in this chapter.

9 c. The articles of organization are canceled or so amended as to set out the  
10 withdrawal reduction.

11 (2) Subject to the provisions of subsection (1), a member may rightfully demand  
12 the return of his or its contribution:

13 a. On the dissolution of the limited liability company;

14 b. When the date an event specified in the articles of organization for the  
15 return of the contribution has arrived; or

16 c. After the member has given all other members of the limited liability  
17 company 6 months prior notice in writing, if no time is specified in the articles of organization  
18 for the dissolution of the limited liability company.

19 (3) In the absence of a statement in the articles of organization to the contrary or  
20 the consent of all members of the limited liability company, a member, irrespective of the nature  
21 of his or its contribution, has only the right to demand and receive cash in return for his or its  
22 contribution to capital.

1 (4) A member of a limited liability company may have the limited liability  
2 company dissolved and its affairs wound up when:

3 a. The member rightfully but unsuccessfully has demanded the return of  
4 his or its contribution; or

5 b. The other liabilities of the limited liability company have not been paid  
6 or the limited liability company property is insufficient for their payment, and the member  
7 otherwise would be entitled to the return of his or its contribution.

8 15120. Nature of interest of member in limited liability company

9 An interest of a member in a limited liability company is personal property.

10 15121. Transferability of a member's interest

11 An interest of a member in a limited liability company may be transferred or  
12 assigned as provided in the operating agreement. However, if all of the other members of the  
13 limited liability company other than the member proposing to dispose of his or its interest do not  
14 approve of the proposed transfer or assignment by unanimous written consent, the transferee of  
15 the interest of the member shall have no right to participate in the management of the business  
16 and affairs of the limited liability company or to become a member. The transferee shall be  
17 entitled to receive only the share of profits or other compensation by way of income and the  
18 return of contributions to which that member otherwise would be entitled.

19 15122. Liability of member to limited company

20 (1) A member of a limited liability company is liable to the company:

21 (a) For the difference between the amount of his or its contributions to  
22 capital which have been actually made and the amount which is stated in the articles of

1 organization as having been made; and

2 (b) For any unpaid contribution to capital which he or it agreed in the  
3 articles of organization to make in the future at the time and on the conditions stated in the  
4 articles of organization.

5 (2) A member holds as trustee for the limited liability company:

6 (a) Specific property which is stated in the articles of organization as  
7 having been contributed by such member, but which property was not contributed or which  
8 property has been wrongfully or erroneously returned; and

9 (b) Money or other property wrongfully paid or conveyed to such member  
10 on account of his or its contribution.

11 (3) The liabilities of a member as set out in this section may be waived or  
12 compromised only by the consent of all members, but a waiver of compromise shall not affect  
13 the right of a creditor of the limited liability company who extended credit or whose claim arose  
14 after the filing and before a cancellation or amendment of the articles of organization to enforce  
15 such liabilities.

16 (4) When a contributor has rightfully received the return in whole or in part of  
17 the capital of his or its contribution, the contributor is nevertheless liable to the limited liability  
18 company for any sum, not in excess of the return with interest, necessary to discharge its liability  
19 to all creditors of the limited liability company who extended credit or whose claims arose before  
20 such return.

21 15123. Liability of members and managers

22 Neither the members of a limited liability company nor the managers of a limited

1 liability company managed by a manager or managers are liable under a judgment, decree, or  
2 order of a court, or in any other manner, for a debt, obligation, or liability of the limited liability  
3 company. If members or managers are professionals who will organize their business or service  
4 as a limited liability company, they will still remain liable for their professional performance.

5  
6 15124. Unauthorized assumption of powers

7 All persons who assume to act as a limited liability company without authority to  
8 do so shall be jointly and severally liable for all debts and liabilities.

9 15125. Dissolution

10 (1) A limited liability company organized under this chapter shall be dissolved  
11 upon the occurrence of any of the following events:

12 (a) When the period fixed for the duration of the limited liability company  
13 expires.

14 (b) By the unanimous written agreement of all members.

15 (c) Upon the death, retirement, resignation, expulsion, bankruptcy, or  
16 dissolution of a member or upon the occurrence of any other event which terminates the  
17 continued membership of a member in the limited liability company, unless the business of the  
18 limited liability company is continued by the consent of all the remaining members or under a  
19 right to continue stated in the articles of organization of the limited liability company.

20 (2) As soon as possible following the occurrence of any of the events specified in  
21 subsection (1) which effects the dissolution of the limited liability company, the limited liability  
22 company shall execute a statement of intent to dissolve in the form prescribed by the Department

1 of Revenue and Taxation.

2 15126. Filing of statement of intent to dissolve

3 The statement of intent to dissolve a limited liability company shall be delivered  
4 to the Department of Revenue and Taxation. If the Department of Revenue and Taxation finds  
5 that such statement conforms to law, it shall, when all fees and license taxes have been paid as  
6 prescribed in this chapter, file the articles of dissolution in accordance with this chapter.

7 15127. Effect of filing of statement of intent to dissolve; procedure after filing such  
8 statement

9 (1) Upon the filing by the Department of Revenue and Taxation of a statement of  
10 intent to dissolve, the limited liability company shall cease to carry on its business, except insofar  
11 as may be necessary for the winding up of its business, but its separate existence shall continue  
12 until a certificate of dissolution has been issued by the Department of Revenue and Taxation or  
13 until a decree dissolving the limited liability company has been entered by a court of competent  
14 jurisdiction.

15 (2) Within 20 days after the Department of Revenue and Taxation has filed a  
16 statement of intent to dissolve, the limited liability company shall immediately cause notice  
17 thereof to be mailed to each creditor of, and claimant against, the limited liability company.

18 (3) The limited liability company shall proceed to collect its assets; convey and  
19 dispose of such of its properties as are not to be distributed in kind to its members; pay, satisfy,  
20 or discharge its liabilities and obligations or make adequate provisions for the payment or  
21 discharge thereof; and do all other acts required to liquidate its business and affairs. After paying  
22 or discharging all its obligations or making adequate provision for payment or discharge thereof,

1 the limited liability company may distribute the remainder of its assets, either in cash or in kind,  
2 among its members according to their respective rights and interests.

3 15128. Distribution of assets upon dissolution

4 (1) In settling accounts after dissolution, the liabilities of the limited liability  
5 company shall be entitled to payment in the following order:

6 (a) Those liabilities to creditors, in the order of priority as provided by  
7 law, except those liabilities to members of the limited liability company on account of their  
8 contributions;

9 (b) Those liabilities to members of the limited liability company in  
10 respect of their shares of the profits and other compensation by way of income on their  
11 contributions; and

12 (c) Those liabilities to members of the limited liability company in respect  
13 of their contributions to capital.

14 (2) Subject to any statement in the regulations, members shall share in the limited  
15 liability company assets in respect to their claims for capital and in respect to their claims for  
16 profits or for compensation by way of income on their contributions, respectively, in proportion  
17 to the respectively, in proportion to the respective amounts of the claims.

18 15129. Articles of dissolution

19 When all debts, liabilities, and obligations of the limited liability company have  
20 been paid or discharged, or adequate provision has been made therefor, and all of the remaining  
21 property and assets of the limited liability company have been distributed to the members,  
22 articles of dissolution shall be executed and verified by the person signing the statement, which



1 statement shall set, forth:

2 (1) The name of the limited liability company.

3 (2) The fact that the Department of Revenue and Taxation has theretofore  
4 filed a statement of intent to dissolve the company and the date on which such statement was  
5 filed.

6 (3) The fact that all debts, obligations, and liabilities have been paid or  
7 discharged, or that adequate provision has been made therefore.

8 (4) The fact that all the remaining property and assets have been  
9 distributed among its members in accordance with their respective rights and interests.

10 (5) The fact that there are no suits pending against the company in any  
11 court or that adequate provision has been made for the satisfaction of any judgement, order, or  
12 decree which may be entered against it in any pending suit.

13 15130. Filing of articles of dissolution

14 (1) The articles of dissolution of the limited liability company shall be delivered  
15 to the Department of Revenue and Taxation. If the Department of Revenue and Taxation finds  
16 that such articles of dissolution conform to law, it shall, when all fees and license taxes have  
17 been paid as prescribed in this chapter, file the statement of intent to dissolve the company in  
18 accordance with this chapter. The Department of Revenue and Taxation shall then issue a  
19 certificate of dissolution.

20 (2) The certificate of dissolution shall be returned to the representative of the  
21 dissolved limited liability company. Upon the issuance of such certificate of dissolution, the  
22 existence of the company shall cease, except for the purpose of suits, other proceedings, and

1 appropriate action as provided in this chapter. The manager or managers in office at the time of  
2 dissolution, or the survivors of them, or, if none, the members, shall thereafter be trustees for the  
3 members and creditors of the dissolved limited liability company; and as such the trustees shall  
4 have authority to distribute any company property discovered after dissolution, to convey real  
5 estate, and to take such other action as may be necessary on behalf of and in the name of such  
6 limited liability company.

7  
8 15131. Cancellation of certificate of organization

9 The certificate of organization of a limited liability company shall be canceled by  
10 the Department of Revenue and Taxation upon issuance of the certificate of dissolution.

11 15132. Involuntary dissolution

12 (1) A limited liability company may be dissolved involuntarily by a decree of the  
13 District Court of Guam in an action filed by the Attorney General's Office when it is established  
14 that the limited liability company:

- 15 (a) Has procured its articles of organization through fraud;
- 16 (b) Has exceeded the authority conferred upon it by law;
- 17 (c) Has committed a violation of any provision of law whereby it has  
18 forfeited its charter,
- 19 (d) Has carried on, conducted, or transacted its business in a persistently  
20 fraudulent or illegal manner; or
- 21 (e) By the abuse of its powers contrary to the public policy of this  
22 Territory, has become liable to be dissolved.

1 (2) A limited liability company may be dissolved involuntarily by order of the  
2 Department of Revenue and Taxation when the Department of Revenue and Taxation has  
3 determined that the limited liability company;

4 (a) Has failed to file its annual report or pay the filing fee for the annual  
5 report within the time required by this chapter.

6 (b) Has failed for 30 days to appoint and maintain a registered agent in  
7 this Territory; or

8 (c) Has failed for 30 days after change of its registered office or registered  
9 agent to file in the office of the Department of Revenue and Taxation a statement of such change.

10 (3) No limited liability company shall be involuntarily dissolved under  
11 subsection (2) unless the Department of Revenue and Taxation has given the limited liability  
12 company not less than 90 days notice of the proposed dissolution, stating the reasons therefore  
13 and addressed to its registered office or to its principal place of business, and the limited liability  
14 company has failed prior to such involuntary dissolution to correct the reasons for the proposed  
15 involuntary dissolution.

16 (4) If the Department of Revenue and Taxation involuntarily dissolves any  
17 limited liability company under the provisions of subsection (2), it shall issue a certificate to such  
18 effect and mail the certificate to the limited liability company at its registered office or its  
19 principal place of business. Upon the issuance of such certificate of involuntary dissolution, the  
20 existence of the limited liability company shall cease, except as otherwise provided by law.

21 (5) The enumeration in subsections (1) and (2) of grounds for involuntary  
22 dissolution shall not exclude an action or special proceeding for the annulment dissolution of a

1 limited liability company for other cause as provided in any other statute of this Territory.

2 15133. Reinstatement after involuntary dissolution

3 (1) Any limited liability company which has been dissolved by the Department of  
4 Revenue and Taxation under the provisions of §15129 or prior law may be reinstated by the  
5 Department of Revenue and Taxation at any time upon approval of an application for  
6 reinstatement signed by an officer or director of the dissolved limited liability company. Such  
7 application shall be filed by the Department of Revenue and Taxation whenever it is established  
8 to the satisfaction of the department that in fact there was no cause for the dissolution or that the  
9 reasons for the dissolution have been corrected and all fees, computed at the rate provided by law  
10 at the time the limited liability company applies for reinstatement, have been paid. If the name  
11 of the dissolved limited liability company has been lawfully assumed in the state by another  
12 limited liability company, the Department of Revenue and Taxation shall require the dissolved  
13 limited liability company to amend its articles of organization to change its application for  
14 reinstatement.

15 (2) Whenever the application for reinstatement is approved and filed by the  
16 Department of Revenue and Taxation, the existence of the limited liability company shall be  
17 deemed to have continued without interruption from the date of dissolution. The reinstatement  
18 shall have no effect upon any personal liabilities of the members or managers of the limited  
19 liability company on account of actions taken during the period between dissolution and  
20 reinstatement, but the power of the limited liability company to indemnify such members or  
21 managers shall extend to actions taken during such period.

22 15134. Filings by the Department of Revenue and Taxation

1 All filings made by the Department of Revenue and Taxation shall be in  
2 accordance with the provisions of §2104 of Article I of Chapter 2 Title 18 Guam Code  
3 Annotated.

4 15135. Fees for filing documents and issuing certification

5 Fees for filing documents and issuing certification shall be subject to applicable rates as  
6 determined by the Department of Revenue and Taxation.

7 15136. Miscellaneous charges

8 Miscellaneous charges shall be determined, charged, and collected by the  
9 Department of Revenue and Taxation.

10 15137. Waiver of notice

11 When, under the provisions of this chapter or under the provisions of the articles  
12 of organization or operating agreement of a limited liability company, notice is required to be  
13 given to a member of a limited liability company or to a manager of a limited liability company  
14 having a manager or manages, a waiver in writing signed by the person or persons entitled to the  
15 notice, whether made before or after the time for notice to be given, is equivalent to the giving of  
16 notice.

17 15138. Jurisdiction of the District Court of Guam

18 The District Court of Guam shall have jurisdiction to enforce the provisions of  
19 this chapter.

20 15139. Parties to actions by or against limited liability company

21 A member of a limited liability company is not a proper party to proceedings by  
22 or against a limited liability company, except when the object is to enforce a member's right

1 against, or liability to, the limited liability.

2 15140. Service of process

3 (1) Process against a limited liability company may be served:

4 (a) In accordance with Chapter 25 and Chapter 27 of Title 18 Guam Code  
5 Annotated, as if the company were a partnership.

6 (b) Upon the registered agent at his business address.

7 (2) Any notice to or demand on a company organized pursuant to this chapter may  
8 be made:

9 (a) By delivering to a manager of the company, if the management is  
10 vested in a manager, or deliver to any member, if the management is vested in the members.

11 (b) By writing, which notice or demand in writing is mailed to the  
12 registered office of the company in Guam or to another address in Guam which is the principal  
13 office of the company.

14 (3) Nothing contained in this section shall limit or affect the right to serve, in any  
15 other manner now or hereafter permitted by law, any process, notice, or demand required or  
16 permitted by law to be served upon a limited liability company.

17 15141. Tax on income of limited liability company

18 (1) A limited liability company is an "business" as defined in §26101 of Article I  
19 of Chapter 26 of Title 11 Guam Code Annotated and is subject to the taxes imposed under  
20 Chapter 26 of Title 11 Guam Code Annotated.

21 (2) The income of a limited liability company organized pursuant to this chapter  
22 shall be subject to the Guam's Tax Code and the taxes levied pursuant to Chapter 26 of Title 11

1 Guam Code Annotated.

2 15142. Professional Limited Liability Companies

3 (1) Two or more persons may organize a professional limited liability company  
4 by filing articles of organization with the Department of Revenue and Taxation in accordance  
5 with this act. In addition to other provisions required or permitted by law, the articles of  
6 organization of a professional limited liability company must include a statement:

7 a. that the limited liability company is a professional limited liability  
8 company; and

9  
10 b. describing the one specific kind of professional service to be rendered  
11 by the limited liability company.

12 (2) A professional limited liability company may be organized under this act only  
13 for the purpose of rendering one specific type of professional service and ancillary services. A  
14 professional limited liability company organized under this act may not render more than one  
15 kind of professional service.

16 (3) Name

17 A professional limited liability company may adopt a name not contrary to  
18 the law or ethics regulating the practice of the professional service rendered through the  
19 professional limited liability company. The name of the limited liability company must contain  
20 the words "Professional Limited Liability Company" or the abbreviations "P.L.L.C." or "PLLC"  
21 and must contain other words as may be required by law.

22 (4) Restrictions on Members, Managers, and Officers

1 a. A person who is not licensed or otherwise authorized to render the  
2 professional service of the professional limited liability company may not be a member, manager  
3 or officer of the professional limited liability company. A membership interest in the  
4 professional limited liability company may not be transferred to a person who is not licensed or  
5 otherwise authorized to render the professional service of the professional limited liability  
6 company.

7 b. If a member, manager, or officer of a professional limited liability  
8 company, or an agent or employee of the company who has been rendering professional service  
9 for or with the company of the same type for which the professional limited liability company  
10 was organized to render, becomes legally disqualified to render the professional service, the  
11 person shall sever all employment with the professional limited liability company and  
12 immediately terminate all financial interest in the company. The professional limited liability  
13 company shall purchase or cause to be purchased from the person all membership interests  
14 owned by the person in the professional limited liability company, at a price and on terms as may  
15 be provided in the articles of organization, the regulations, or any applicable agreement among  
16 the members and the professional limited liability company.

17 (5) Rendering of Professional Services

18 a. A professional limited liability company may render professional  
19 service in Guam only through:

- 20 1. an individual member, manager, officer, employee, or agent  
21 who is licensed to render the professional service on Guam; or  
22 2. an agent of the professional limited liability company that is a



1 professional limited liability company, professional corporation, or professional association that  
2 is authorized on Guam to render the professional service of the professional limited liability  
3 company and that renders the professional service only through a licensed individual member.  
4 manager, officer, or employee.

5 b. This Article does not prohibit employment by a professional limited  
6 liability company of clerks, secretaries, bookkeepers, technicians, nurses, assistants, and other  
7 individuals who are not usually and ordinarily considered by custom and practice to be rendering  
8 professional service for which a license or other legal authorization is required. A person may  
9 not, under the guise of employment, practice a profession on Guam unless licensed or otherwise  
10 legally authorized to practice that profession under the laws of Guam.

11  
12 (6) Professional Relationships Not Affected

13 This Act does not alter or affect the professional relationship between a  
14 person rendering professional service and a person receiving the service, and a confidential  
15 relationship enjoyed on Guam between those persons remains unchanged. This Act does not  
16 remove or diminish any rights at law that a person receiving professional service has against a  
17 person rendering the service for an error, an omission, negligence, incompetence, or malfeasance.  
18 A limited liability company, but not the other individual members, managers, or officers, is  
19 jointly and severally liable with a member, manager, officer, employee, or agent rendering  
20 professional service for an error, omission, negligence, incompetence, or malfeasance on the part  
21 of the member, manager, officer, employee, or agent when the member, manager, officer,  
22 employee, or agent is rendering professional service in the course of employment for the limited

1 liability company.

2

3

4



**GUAM CHAMBER OF COMMERCE**  
**PARTNERS IN PROGRESS**

May 10, 1995

Senator Felix P. Camacho  
23rd Guam Legislature  
155 Hesler Street  
Agana, Guam 96910


Dear Senator Camacho:

I am writing to provide you with the Guam Chamber of Commerce's comments and recommendations on Bill No. 206 which will allow for the formation of Limited Liability Companies in Guam.

The Chamber's Board of Directors recently discussed your bill and expressed support of its intent and provisions. In fact, we are seeking your consideration to expand the scope of the bill to include partnerships as well. We look forward to passage of Bill No. 206 with the inclusion of the suggestion noted herein.

Thank you for providing us with an advance copy of Bill No. 206 and look forward to more of this form of dialogue with you. Si Yuus Maase.

Sincerely yours,

  
OVIDIO R.A. CALVO, JR.  
Chairman of the Board

Post-it* Fax Note	7671	Date	5-17-95	# of pages	1
To	DENAIS MALIKY	From	REINA LADDY		
Co./Dept.		Co.			
Phone #		Phone #			
Fax #	472-6202	Fax #	472-9747		

FISCAL NOTE  
BUREAU OF BUDGET AND MANAGEMENT RESEARCH

AUG 07 1995

BBMR-F7

Bill No.: 206  
Amendatory Bill: No

Date Received: July 26, 1995  
Date Reviewed: August 1, 1995

Department/Agency Affected: Department of Revenue & Taxation  
Department/Agency Head: Joseph Duenas, Director  
Total FY Appropriation to Date: \$13,000,644

Bill Title (preamble): AN ACT TO ADD A NEW CHAPTER 15 TO TITLE 18 OF THE GUAM CODE ANNOTATED ENTITLED "LIMITED LIABILITY COMPANIES" AUTHORIZING THE FORMATION OF BUSINESSES AS LIMITED LIABILITY COMPANIES ON GUAM.

Change in Law: N/A

Bill's Impact on Present Program Funding:  
Increase        Decrease        Reallocation XXX No Change       

Bill is for:  
Operations        Capital Improvement        Other XXX

**FINANCIAL/PROGRAM IMPACT**

ESTIMATED SINGLE-YEAR FUND REQUIREMENTS (Per Bill)			
PROGRAM CATEGORY	GENERAL FUND	OTHER	TOTAL
Economics & Finance	1/		

ESTIMATED MULTI-YEAR FUND REQUIREMENTS (Per Bill)						
FUND	1st	2nd	3rd	4th	5th	TOTAL
GENERAL	1/					
OTHER						
TOTAL						

FUNDS ADEQUATE TO COVER INTENT OF THE BILL? N/A -- IF NO, ADD'L AMOUNT REQUIRED \$  
AGENCY/PERSON/DATE CONTACTED: Dept. of Revenue & Taxation, Antonio Aguon, August 3, 1995

ESTIMATED POTENTIAL MULTI-YEAR REVENUES						
FUND	1st	2nd	3rd	4th	5th	TOTAL
GENERAL FUND	1/					
OTHER						
TOTAL						

ANALYST Maerica M. Dizon DATE       

DIRECTOR <sup>pl</sup> Joseph E. Rivera, Acting DATE AUG 07 1995

FOOTNOTES: See attached.

1/ Bill 206 proposes to establish Limited Liability Companies (LLC's) as an alternate business entity on Guam. Currently, the fiscal impact of such a proposal is undeterminable. However, it is noted that in order to ensure that LLC's are assessed the proper Business Privilege Taxes, LLC's must be specifically included in the general provisions of the Business Privilege Tax Law.

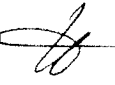
**TWENTY-THIRD GUAM LEGISLATURE**  
**1996 (SECOND) Regular Session**

**Introduced**

APR 19 1996

Bill No. 610 (LS)  
As substituted by the author

Introduced by:

F. P. Camacho 

AN ACT TO ADD A NEW CHAPTER 15 TO TITLE 18 OF THE  
GUAM CODE ANNOTATED, ENTITLED "LIMITED LIABILITY  
COMPANIES", AUTHORIZING THE FORMATION OF BUSINESSES  
AS LIMITED LIABILITY COMPANIES ON GUAM.

**BE IT ENACTED BY THE PEOPLE OF THE TERRITORY OF GUAM:**

1  
2

1                   **Section 1. Legislative Findings.** Guam law recognizes three main  
2 organizational structures: Corporations, Partnerships, and Limited Partnerships. The  
3 Legislature finds that these three basic organizational options do not adequately meet the  
4 needs of many small and medium-sized companies on Guam.

5                   The Legislature further finds that business and tax planners on Guam and in  
6 the United States have long sought a business entity that delivers the key advantages of  
7 "pass-through taxation" for a business and also provides limited liability for its owners.  
8 Traditionally, the S Corporations and Limited Partnerships have been drawn on in order to  
9 obtain these characteristics for a business or investment, but neither S Corporations nor  
10 Limited Partnerships can adequately meet these needs. S Corporations have relatively  
11 restrictive and inflexible requirements on the number of owners and types of ownership.  
12 Limited partnerships do not provide 100% limited liability since at least one general  
13 partner must be responsible for entity obligations under law. In addition, the management  
14 participation of limited partners is generally prohibited or severely restricted. A new  
15 alternative in recent years has emerged: the Limited Liability Company (LLC).

16                  The Legislature finds that until 1990, only two states, Wyoming and Florida,  
17 allowed for the formation of an LLC. As of January 1, 1995, however, 47 States have  
18 enacted LLC statutes largely due to the Internal Revenue Service ruling in late 1988  
19 allowing for the taxing of LLC's as partnerships. Proposals are pending in the other states,  
20 and it is possible that all 50 States will have enacted LLC laws by the end of 1996.

21                  The Legislature finds that though most states allow an LLC to be formed for  
22 the transaction of any lawful purpose, certain regulated industries, such as banking and  
23 insurance, are prohibited from operating in LLC form. The same shall apply here on Guam.

24                  The Legislature finds that while the LLC is not intended to replace  
25 corporations or partnerships, it does combine the advantages of each. It combines the

1 structural flexibility of a partnership with the liability protection of a corporation. The LLC  
2 will be formed as an unincorporated business entity where neither the partners nor the  
3 managers are personally liable for its obligation. Professionals who will organize their  
4 business or service as an LLC will still remain liable for their professional performance.

5 The Legislature finds that it is necessary for the LLC to have at least two  
6 members at the time of formation. This element will preserve the partnership tax status  
7 under federal tax law so as to allow the Department of Revenue and Taxation to treat the  
8 LLC as a partnership for tax purposes.

9  
10 **Section 2.** A new Chapter 15 is added to Title 18, Guam Code Annotated, to read:

11  
12 **"Chapter 15.**

13 **Limited Liability Companies.**

14 §15101. Short Title.

15 §15102. Definitions.

16 §15103. Purpose.

17 §15104. Powers.

18 §15105. Formation.

19 §15106. Limited Liability Company name.

20 §15107. Articles of Organization.

21 §15108. Filing of Articles.

22 §15109. Effect of Issuance of Certificate of Organization.

23 §15110. Amendments to Articles of Organization.

24 §15111. Registered Office and Registered Agent.

25 §15112. Change of Registered Office or Registered Agent.



1	§15113. Finance.
2	§15114. Members.
3	§15115. Management of Limited Liability Company.
4	§15116. Distributions and Withdrawals.
5	§15117. Interest in Limited Liability Company; Assignment of Interests.
6	§15118. Liability of Member and Managers.
7	§15119. Unauthorized Assumption of Powers.
8	§15120. Dissolution.
9	§15121. Filing of Statement of Intent to Dissolve
10	§15122. Effect of Filing of Statement of Intent to Dissolve; Procedure after Filing
11	Such Statement.
12	§15123. Distribution of Assets upon Dissolution
13	§15124. Articles of Dissolution.
14	§15125. Filing of Articles of Dissolution.
15	§15126. Cancellation of Certificate of Organization.
16	§15127. Involuntary Dissolution.
17	§15128. Reinstatement after Involuntary Dissolution.
18	§15129. Filing by Department of Revenue and Taxation.
19	§15130. Fees for Filing Documents and Issuing Certificates.
20	§15131. Miscellaneous Charges.
21	§15132. Waiver of Notice.
22	§15133. Jurisdiction of the Superior Court
23	§15134. Parties to Actions by or against Limited Liability Company.
24	§15135. Service of Process.
25	§15136. Tax on Income of Limited Liability Company.

1 §15137. Professional Limited Liability Companies.

2  
3  
4 **§15101. Short Title.**

5 This Act shall be known and may be cited as the "Guam Limited Liability Company  
6 Act".

7  
8 **§15102. Definitions.**

9 As used in this chapter:

10 (1) "Bankrupt" means bankrupt under the federal Bankruptcy Act or insolvent under any  
11 state insolvency act.

12 (2) "Court" includes every court and judge having jurisdiction in the action.

13 (3) "Limited Liability Company" or "Company" means a limited liability company  
14 organized and existing under this chapter.

15 (4) "Real Property" means land and any interest or estate in land.

16 (5) "Business" means every trade and occupation or profession.

17 (6) "Conveyance" means every assignment, lease, mortgage, or encumbrance.

18 (7) "Professional Service" means any type of personal service that requires as a condition  
19 precedent to the rendering of the service the obtaining of a license, permit, registration, or  
20 other legal authorization, including the personal service rendered by an architect, attorney-  
21 at-law, certified public accountant, dentist, doctor, physician, public accountant, surgeon,  
22 or veterinarian.

23 (8) "Professional limited liability company" means a limited liability company that is  
24 organized under this act for the sole and specific purpose of rendering professional service  
25 and that has as its members only individuals licensed or otherwise authorized within Guam

1 to-render the same professional service as the limited liability company.

2 (9) "Transact intrastate business" means to enter into repeated and successive transactions  
3 of business in this territory, other than in interstate or foreign commerce.

4 (I) Without excluding other activities which may not be considered to be  
5 transacting intrastate business, a foreign limited liability company shall not be considered to  
6 be transacting intrastate business merely because its subsidiary transacts intrastate business,  
7 or merely because of its status as any one or more of the following:

8 (A) A shareholder of a domestic corporation.

9 (B) A shareholder of a foreign corporation transacting intrastate  
10 business.

11 (C) A limited partner of a foreign limited partnership transacting  
12 intrastate business.

13 (D) A limited partner of a domestic limited partnership.

14 (E) A member or manager of a foreign limited liability company  
15 transacting intrastate business.

16 (F) A member or manager of a domestic limited liability company.  
17

18 (II) Without excluding other activities which may not be considered to be  
19 transacting intrastate business, a foreign limited liability company shall not be considered to  
20 be transacting intrastate business within the meaning of this subdivision solely by reason of  
21 carrying on in this territory any one or more of the following activities:

22 (A) Maintaining or defending any action or suit or any administrative or  
23 arbitration proceeding, or effecting the settlement thereof or the  
24 settlement of claims or disputes.

25 (B) Holding meetings of its managers or members or carrying on any  
26 other activities concerning its internal affairs.

27 (C) Maintaining bank accounts.

28 (D) Maintaining offices or agencies for the transfer, exchange, and

1 registration of the foreign limited liability company's securities or  
2 maintaining trustees or depositories with respect to those securities.

3 (E) Effecting sales through independent contractors.

4 (F) Soliciting or procuring orders, whether by mail or through  
5 employees or agents or otherwise, where those orders require  
6 acceptance without this state before becoming binding contracts.

7 (G) Creating or acquiring evidences of debt or mortgages, liens, or  
8 security interests in real or personal property.

9 (H) Securing or collecting debts or enforcing mortgages and security  
10 interests in property securing the debts.

11 (I) Conducting an isolated transaction that is completed within 180 days and  
12 not in the course of a number of repeated transactions of a like nature.

13  
14 (3) A person shall not be deemed to be transacting intrastate business in this  
15 territory merely because of its status as a member or manager of a domestic limited liability  
16 company or a foreign limited liability company registered to transact intrastate business in this  
17 territory.

18 (10) "Distribution" means the transfer of money or property by a limited liability company to its  
19 members without consideration.

20 (11) "Economic interest" means a person's right to share in the income, gains, losses,  
21 deductions, credit, or similar items of, and to receive distributions from, the limited liability  
22 company, but does not include any other rights of a member including, without limitation, the  
23 right to vote or to participate in management, or, except as provided by this Chapter, any right  
24 to information concerning the business and affairs of the limited liability company.

25 (12) "Membership interest" means a member's rights in the limited liability company,  
26 collectively, including the member's economic interest, any right to vote or participate in  
27 management, and any right to information concerning the business and affairs of the  
28 limited liability company provided by this Chapter.

1 (13) "Proxy" unless otherwise provided in the operating agreement, means a written  
2 authorization signed or an electronic transmission authorized by a member or the  
3 member's attorney in fact giving another person the power to exercise the voting rights of  
4 that member.  
5

6 **§15103. Purpose.**

7 A limited liability company may be organized under this chapter for any lawful  
8 purpose, except that special statutes for the regulation and control of specific types of  
9 business shall control when in conflict herewith.

10 Subject to any limitations contained in the articles of organization and to compliance  
11 with any other applicable laws, a limited liability company may engage in any lawful  
12 business activity, except the banking, insurance, or trust company business.  
13

14 **§15104. Powers.**

15 Each limited liability company organized and existing under this chapter may:

16 (a) Sue or be sued, or complain or defend, in its name.

17 (b) Purchase, take, receive, lease, or otherwise acquire, own, hold, improve, or use, or  
18 otherwise deal in or with, real or personal property, or an interest in real or personal  
19 property, wherever situated.

20 (c) Sell, convey, mortgage, pledge, create, a security interest in, lease, exchange, or  
21 transfer, or otherwise dispose of, all or any part of its property or assets.

22 (d) Purchase, take, receive, subscribe for, or otherwise acquire, own, hold, vote, use,  
23 employ, sell, mortgage, lend, or plead, or otherwise dispose of, or otherwise use or deal in  
24 or with:

25 (1) Shares or other interests in or obligations of other foreign or domestic limited

1 liability companies, domestic or foreign corporations, associations, general or limited  
2 partnerships, or individual; or

3 (2) Direct or indirect obligations of the United States or any other government, state,  
4 territory, government district, or municipality or of any instrumentality thereof.

5 (e) Make contracts or guarantees or incur liabilities; borrow money at such rates of interest  
6 as the limited liability company may determine; issue its notes, bonds, or other obligations;  
7 or secure any of its obligations by mortgage or pledge of all or any part of its property,  
8 franchises, and income.

9 (f) Lend money for any lawful purpose, invest or reinvest its funds, or take and hold real or  
10 personal property as security for the payment of funds so loaned or invested.

11 (g) Conduct its business, carry on its operations and have offices, and exercise the powers  
12 granted by this chapter with or without the territory of Guam.

13 (h) Elect or appoint managers and agents of the limited liability company, define their  
14 duties, and fix their compensation.

15 (i) Make and alter its regulations, not inconsistent with its articles of organization or with  
16 the laws of Guam, for the administration and regulation of the affairs of the company.

17 (j) Make donations to the public welfare or for charitable, scientific, or educational  
18 purposes.

19 (k) Indemnify a member or manager or any other person to the same extent as a  
20 corporation may indemnify any of the directors, officers, employees, or agents of the  
21 corporation against expenses actually and reasonably incurred by him or it in connection  
22 with the defense of any action, suit, or proceeding, whether civil or criminal, in which he  
23 or it is made a party.

24 (l) Cease its activities and surrender its certificate of organization.

25 (m) Have and exercise all powers necessary or convenient to affect any or all of the

1 purposes for which the company is organized.

2 (n) Transact any lawful business which the members or the managers find to be in aid of  
3 governmental policy.

4 (o) Pay pensions and establish pension plans, profit-sharing plans, and other incentive  
5 plans for any or all of its managers and employees.

6 (p) Be a promoter, incorporator, general partner, limited partner, member, associate, or  
7 manager of any corporation, partnership, limited partnership, limited liability company,  
8 joint venture, trust, or other enterprise.

9 (q) Have and exercise all powers necessary or convenient effect its purposes.

10  
11 **§15105. Formation.**

12 Two or more persons may form a limited liability company by executing,  
13 acknowledging, and delivering to the Department of Revenue and Taxation articles of  
14 organization for such limited liability company.

15  
16 **§15106. Limited Liability Company Name.**

17 (a) The words "limited company", "limited liability company", or their abbreviation "L.  
18 C.", or "L.L.C.", shall be the last word of the name of every limited liability company  
19 formed under the provisions of this chapter; and, in addition, the limited liability company  
20 name may not be the same as, or deceptively similar to, the name of a limited liability  
21 company, or a foreign limited liability company, authorized to transact business in this  
22 territory, or a name the exclusive right to which is, at the time, reserved in the manner  
23 provided under the laws of this territory.

24  
25 (b) Omission of the words "limited company", "limited liability company", or their

1 abbreviation "L.C.", or "L.L.C.", in the use of the name of the limited company shall  
2 render any person who participates in the omission, or knowingly acquiesces in it, liable  
3 for any indebtedness, damage, or liability occasioned by the omission.  
4

5 **§15107. Articles of Organization.**

6 (a) The Articles of Organization of a limited liability company shall set forth:

7 (1) The name of the limited liability company.

8 (2) The period of its duration, which may not exceed 30 years from the date of filing  
9 with the Department of Revenue and Taxation.

10 (3) The purpose for which the limited liability company is organized.

11 (4) The address of its place of business in Guam and the name and address of its initial  
12 registered agent in Guam.

13 (5) The total amount of cash and a description and agreed value of property other than  
14 cash contributed.

15 (6) The total additional contributions, if any, agreed to be made by all members and the  
16 times at which, or the events upon the happening of which, they shall be made.

17 (7) The right, if given, of the members to admit additional members and the terms and  
18 conditions of the admissions.

19 (8) The right, if given, of the remaining members of the limited liability company to  
20 continue the business on the death, retirement, resignation, expulsion, bankruptcy, or  
21 dissolution of a member or the occurrence of any other event which terminates the continued  
22 membership of a member in the limited liability company.

23 (9) (i) If the limited liability company is to be managed by a manager or managers, a  
24 statement that the company is to be managed by a manager or managers and the names and  
25 addresses of such managers who are to serve as managers until the first annual meeting of



1 members or until their successors are elected and qualify. (ii) If the management of a limited  
2 liability company is reserved to the members, the names and addresses of the members.

3 (10) Any other provisions, not inconsistent with law, which the members elect to set  
4 out in the articles of organization for the regulation of the internal affairs of the limited liability  
5 company, including any other provisions which under this chapter are required or permitted  
6 to be set out in the regulations of the limited liability company.

7  
8 (b) It is not necessary to set out in the articles of organization any of the powers enumerated  
9 in this Chapter.

10  
11 **§15108. Filing of Articles of Organization.**

12 The Articles of Organization shall be delivered to the Department of Revenue and  
13 Taxation. If the Department of Revenue and Taxation finds that the articles of organization  
14 conform to law, it shall, when all fees have been paid as prescribed in this chapter, file the  
15 articles of organization in accordance with this Chapter. The Department of Revenue and  
16 Taxation shall then issue a certificate of organization.

17  
18 **§15109. Effect of Issuance of Certificate of Organization.**

19 (a) Upon the issuance of the certificate of organization, the limited liability company shall be  
20 considered organized; and such certificate of organization shall be conclusive evidence that  
21 all conditions precedent required to be performed by the members have been complied with  
22 and that the limited liability company has been legally organized under this Chapter, except  
23 as against this territory in a proceeding to cancel or revoke the certificate of organization or  
24 in a proceeding for involuntary dissolution of the limited liability company.

1 (b) A limited liability company shall not transact intrastate business or incur indebtedness,  
2 except that which is incidental to its organization or to obtaining subscriptions for or payment  
3 of contributions, until the articles of organization have been filed with the Department of  
4 Revenue and Taxation.

5  
6 (c) The date when the existence of the company commences shall be the date of the filing of  
7 the articles of organization by the Department of Revenue and Taxation, except that the date  
8 of commencement of corporate existence may be specified in the articles of organization:

9 (1) When the date specified in the articles of organization is the date of subscription and  
10 acknowledgment, and the articles of organization are filed by the Department of Revenue and  
11 Taxation within 5 days, exclusive of legal holidays, after such date.

12 (2) When the date specified in the articles of organization is subsequent to, and not later  
13 than 90 days after the date of filing of the articles of organizations by the Department of  
14 Revenue and Taxation.

15  
16 **§15110. Amendments to Articles of Organization.**

17 (a) The articles of organization of a limited liability company shall be amended when:

18 (1) There is a change in the name of the limited liability company or in the amount or  
19 character of the contributions to capital.

20 (2) There is a change in the character of the business of the limited liability company.

21 (3) There is a false or erroneous statement in the articles of organization.

22 (4) There is a change in the time as stated in the articles of organization for the  
23 dissolution of the limited liability company.

24 (5) A time is fixed for the dissolution of the limited liability company, if no time is  
25 specified in the articles of organization.

1 (6) The members desire to make a change in any other statement in the articles of  
2 organization in order for it to accurately represent the agreement between them.

3  
4 (b) The form for evidencing an amendment to the articles of organization of a limited liability  
5 company shall be promulgated by the Department of Revenue and Taxation and shall contain  
6 such terms and provisions consistent with this Chapter as shall be determined by the  
7 Department of Revenue and Taxation. The amendment shall be signed and sworn to by all  
8 members, and an amendment adding a new member shall be signed also by the member to be  
9 added; thereafter the amendment shall be forwarded to the Department of Revenue and  
10 Taxation for filing, accompanied by the requisite filing fee.

11  
12 **§15111. Registered office and registered agent.**

13 (a) Each limited liability company shall have and continuously maintain in Guam:

14 (1) A registered office, which may be, but need not be, the same as its place of  
15 business; and

16 (2) A registered agent, which agent may be either: (i) An individual resident of Guam  
17 whose business office is identical with such registered office; (ii) A domestic corporation  
18 having a business office identical with such registered office; or (iii) A foreign corporation  
19 authorized to transact business on Guam and having a business office identical with such  
20 registered office.

21  
22 (b) Each registered agent and each successor registered agent appointed pursuant to this  
23 Chapter on whom process may be served shall file a statement in writing with the Department  
24 of Revenue and Taxation accepting the appointment as registered agent simultaneously with  
25 being designated, unless the agent signed the document making the appointment.

1  
2 (c) The Department of Revenue and Taxation shall maintain an accurate record of the  
3 registered agents and registered office for the service of process and shall furnish any  
4 information disclosed thereby promptly upon request and payment of the required fee.  
5

6 (d) No limited liability company shall maintain any action in any court until the limited liability  
7 company complies with the provisions of this Section and pays to the Department of Revenue  
8 and Taxation a penalty of \$1 for each day it has failed to comply, or \$250, whichever amount  
9 is less.  
10

11 **§15112. Change of registered office or registered agent.**

12 (a) A limited liability company may change its registered agent or office, or both, upon filing  
13 in the office of the Department of Revenue and Taxation a statement setting forth:

14 (1) The name of the limited liability company.

15 (2) The address of its then registered office and, if the address of its registered office  
16 is to be changed, the address to which the registered office is to be changed.

17 (3) The name of its then registered agent and, if its registered agent is to be changed,  
18 the name of its successor registered agent.

19 (4) The fact that the change was authorized by affirmative vote of a majority of the  
20 members of the limited liability company.  
21

22 (b) The statement shall be acknowledged and delivered to the Department of Revenue and  
23 Taxation. If the Department of Revenue and Taxation finds that the statement conforms to the  
24 provisions of this chapter, it shall file the statement in its office; and, upon filing, the change  
25 of address of the registered office or the appointment of a new registered agent, or both, as

1 the case may be, shall be effective.

2  
3 (c) Any registered agent of a limited liability company may resign as agent upon filing a  
4 written notice thereof with the Department of Revenue and Taxation and by mailing a copy  
5 thereof to the limited liability company at its registered office. The appointment of the agent  
6 shall terminate upon the expiration of 30 days after receipt of notice by the Department of  
7 Revenue and Taxation.

8  
9 **§15113. Finance.**

10 **§ 15113 (A). Capital contributions of members.**

11 (a) The articles of organization or the operating agreement may provide for capital  
12 contributions of members. The contribution of a person may be in money, property, or services,  
13 or other obligation to contribute money or property or to render services.

14  
15 (b) Unless the articles of organization or operating agreement provide other-  
16 wise, no member shall be required to make any additional contribution to the limited liability  
17 company.

18  
19 **§ 15113 (B). Obligation of member to contribute cash or property or to perform**  
20 **services; Failure of member to make contribution; Enforcement of obligation.**

21 (a) (1) Subject to the terms of the articles of organization or the operating agreement, a  
22 member is not excused from an obligation to the limited liability company to perform any promise  
23 to contribute cash or property or to perform services because of death, disability, dissolution, or  
24 any other reason.

25  
26 (2) If a member does not make the required contribution of property or services, that  
27 member is obligated, at the option of the limited liability company, to contribute cash equal to that  
28 portion of the fair market value (or agreed value if stated in writing and signed by the limited

1 liability company and the member) of the contribution that has not been made. The foregoing  
2 option shall be in addition to, and not in lieu of, any other rights, including the right to specific  
3 performance, that the limited liability company may have against the member under the articles  
4 of organization, operating agreement, or applicable law.  
5

6 (3) An operating agreement may provide that the interest of a member who fails to make  
7 any contribution or other payment that the member is required to make shall be subject to specific  
8 remedies for, or specific consequences of, the failure. Any such provision shall be enforceable  
9 in accordance with its terms unless the member seeking to invalidate the provision establishes  
10 that the provision was unreasonable under the circumstances existing at the time the agreement  
11 was made. The specific remedies or consequences may include loss of voting, approval or other  
12 rights, loss of the ability, by a member, to actively participate in the management and operations  
13 of the limited liability company, liquidated damages, or a reduction of the defaulting member's  
14 economic rights. The reduction of the defaulting member's economic rights may include one or  
15 more provisions:

- 16 (A) Diluting, reducing, or eliminating the defaulting member's proportionate  
17 interest in the limited liability company.
- 18 (B) Subordinating the defaulting member's interest in the limited liability  
19 company to that of nondefaulting members.
- 20 (C) Permitting a forced sale of the membership interest.
- 21 (D) Permitting the lending or contribution by other members of the amount  
22 necessary to meet the defaulting member's commitment.
- 23 (E) Providing for the adjustment of interest rates or other rates of return,  
24 preferred, priority, or otherwise, with respect to contributions by or capital  
25 accounts of the other members.
- 26 (F) Providing for a fixing of the value of the defaulting member's interest in  
27 the limited liability company by appraisal or by formula and redemption  
28 or sale of the defaulting member's interest in the limited liability company  
29 at a percentage of that value.

1 (b) (1) Unless otherwise provided in the articles of organization or the operating agreement,  
2 the obligation of a member to make a contribution or return money or property paid or distributed  
3 in violation of this article shall be compromised only by the unanimous vote of the members.

4 (2) Notwithstanding the compromise of an obligation referred to in paragraph (1), a person  
5 whose claim against a limited liability company arises before the receipt of notice of the  
6 compromise may enforce the original obligation of a member to make a contribution to the limited  
7 liability company or to return a distribution if the person had knowledge of the original obligation  
8 prior to the time the claim arose and if the compromise occurred after the time the claim arose.  
9 Any other person with a claim against a limited liability company may enforce only the existing  
10 obligation of a member to make a contribution to the limited liability company or to return to the  
11 limited liability company money or other property paid or distributed.

12  
13 (c) A person with a claim against a limited liability company may not enforce a conditional  
14 obligation of a member unless the conditions have been satisfied or waived. Conditional  
15 obligations include, without limitation, a capital contribution payable upon a discretionary call of  
16 the limited liability company prior to the time the call occurs.

17  
18 (d) Nothing in this section shall be construed to affect the rights of third-party creditors of the  
19 limited liability company to seek equitable remedies nor any rights existing under Guam law.

20  
21 **§ 15113 (C). Allocation of profits and losses among members**

22 The profits and losses of a limited liability company shall be allocated among the members, and  
23 among classes of members, in the manner provided in the operating agreement. If the operating  
24 agreement does not otherwise provide, profits and losses shall be allocated in proportion to the  
25 contributions of each member.

26  
27 **§15114. Members.**

28 **§ 15114 (A). Acquisition of membership interest; Termination of interest.**

29 (a) After formation of a limited liability company, a person may become a member:

1 (1) In the case of a person acquiring a membership interest directly from the limited  
2 liability company, at the time provided in and upon compliance with the articles of organization  
3 or the operating agreement or, if the articles of organization or operating agreement do not so  
4 provide, only upon the vote of all the members and when the person becomes a party to the  
5 operating agreement.

6 (2) In the case of an assignee of a membership interest, upon compliance with  
7 subdivision (a) of Subsection 15117 (D) and at the time provided in and upon compliance with  
8 the articles of organization or the operating agreement or, if the articles of organization or  
9 operating agreement do not so provide, where the assignee becomes a party to the operating  
10 agreement.

11  
12 (b) The operating agreement may provide for the termination in whole or in part of the  
13 membership interest or economic interest of a member in the limited liability company. If a  
14 member's economic interest in the limited liability company is terminated pursuant to the  
15 operating agreement, the member may demand and shall be entitled to receive a return of that  
16 member's contribution. Any provision in an operating agreement governing the termination of a  
17 member's interest and the return of a member's contribution shall be enforceable in accordance  
18 with its terms unless the member seeking to invalidate the provision establishes that the provision  
19 was unreasonable under the circumstances existing at the time the agreement was made.  
20

21 **§ 15114 (B). Personal liability of members**

22 (a) Except as otherwise provided in Subsection 15116 (E), no member of a limited liability  
23 company shall be personally liable under any judgment of a court, or in any other manner, for  
24 any debt, obligation, or liability of the limited liability company, whether that liability or  
25 obligation arises in contract, tort, or otherwise, solely by reason of being a member of the  
26 limited liability company.  
27

28 (b) A member of a limited liability company shall be personally liable under a judgment of a  
29 court or for any debt, obligation, or liability of the limited liability company, whether that liability



1 or obligation arises in contract, tort, or otherwise, under the same or similar circumstances  
2 and to the same extent as a shareholder of a corporation may be personally liable for any  
3 debt, obligation, or liability of the corporation; except that the failure to hold meetings of  
4 members or managers or the failure to observe formalities pertaining to the calling or conduct  
5 of meetings shall not be considered a factor tending to establish that the members have  
6 personal liability for any debt, obligation, or liability of the limited liability company where the  
7 articles of organization or operating agreement do not expressly require the holding of  
8 meetings of members or managers.

9  
10 (c) Nothing in this section shall be construed to affect the liability of a member of a limited  
11 liability company to third parties for the member's participation in tortious conduct.

12  
13 **§ 15114 (C). Creation of classes of members**

14 The articles of organization or the operating agreement may provide for the creation of  
15 classes of members having those relative rights, powers and duties as the articles of  
16 organization or operating agreement may provide, including rights, powers, and duties senior  
17 to other classes of members.

18  
19 **§ 15114 (D). Voting by members**

20 (a) The articles of organization or a written operating agreement may provide  
21 to all or certain identified members or a specified class or group of members the right to vote  
22 separately or with all or any class or group of members on any matter. Voting by members may  
23 be on a per capita, number, financial interest, class, group, or any other basis. If no voting  
24 provision is contained in the articles of organization or written operating agreement:

25 (1) The members of a limited liability company shall vote in proportion to their interests  
26 in current profits of the limited liability company or, in the case of a member who has assigned  
27 his or her or its entire economic interest in the limited liability company to a person who has not  
28 been admitted as a member, in proportion to the interest in current profits that the assigning  
29 member would have, had the assignment not been made.

1 (2) The following matters shall require the unanimous vote of all members:

2 (A) A decision to continue the business of the limited liability company  
3 after dissolution of the limited liability company pursuant to Section  
4 15132.

5 (B) Approval of the transfer of a membership interest and admission  
6 of the assignee as a member of the limited liability company.

7 (C) Any amendment of the articles of organization or operating  
8 agreement.

9 (3) In all other matters in which a vote is required, a vote of a majority in  
10 interest of the members shall be sufficient.

11  
12 (b) Notwithstanding any provision to the contrary in the articles of organization or operating  
13 agreement, in no event shall the articles of organization be amended by a vote of less than a  
14 majority in interest of the members.

15  
16 (c) Notwithstanding any provision to the contrary in the articles of organization or operating  
17 agreement, members shall have the right to vote on a dissolution of the limited liability company  
18 as provided in subdivision (c) of Section 15132.

19  
20  
21 **§15114 (E). Meetings; Notice; Quorum; Proxies; Record date of members entitled**  
22 **to notice**

23 (a) Meetings of members may be held at any place, either within or without this territory,  
24 selected by the person or persons calling the meeting or as may be stated in or fixed in  
25 accordance with the articles of organization or a written operating agreement. If no other place  
26 is stated or so fixed, all meetings shall be held at the principal executive office of the limited  
27 liability company.

28  
29 (b) A meeting of the members may be called by any manager or by any member or members

1 representing more than 10 percent of the interests of members for the purpose of addressing any  
2 matters on which the members may vote.

3  
4 (c) (1) Whenever members are required or permitted to take any action at a meeting, a  
5 written notice of the meeting shall be given not less than 10 days nor more than 60 days before  
6 the date of the meeting to each member entitled to vote at the meeting. The notice shall state the  
7 place, date, and hour of the meeting and the general nature of the business to be transacted. No  
8 other business may be transacted at this meeting.

9 (2) Any report or any notice of a members' meeting shall be given either personally or by  
10 mail or other means of written communication, addressed to the member at the address of the  
11 member appearing on the books of the limited liability company or given by the member to the  
12 limited liability company for the purpose of notice, or, if no address appears or is given, at the  
13 place where the principal executive office of the limited liability company is located or by  
14 publication at least once in a newspaper of general circulation in Guam. The notice or report  
15 shall be deemed to have been given at the time when delivered personally or deposited in the  
16 mail or sent by other means of written communication. An affidavit of mailing of any notice or  
17 report in accordance with the provisions of this article, executed by a manager, shall be prima  
18 facie evidence of the giving of the notice or report.

19 If any notice or report addressed to the member at the address of the member appearing on the  
20 books of the limited liability company is returned to the limited liability company by the United  
21 States Postal Service marked to indicate that the United States Postal Service is unable to deliver  
22 the notice or report to the member at the address, all future notices or reports shall be deemed  
23 to have been duly given without further mailing if they are available for the member at the  
24 principal executive office of the limited liability company for a period of one year from the date of  
25 the giving of the notice or report to all other members.

26 (3) Upon written request to a manager by any person entitled to call a meeting of  
27 members, the manager shall immediately cause notice to be given to the members entitled to vote  
28 that a meeting will be held at a time requested by the person calling the meeting, not less than 10  
29 days nor more than 60 days after the receipt of the request. If the notice is not given within 20

1 days after receipt of the request, the person entitled to call the meeting may give the notice or,  
2 upon the application of that person, the Superior Court of Guam shall summarily order the giving  
3 of the notice, after notice to the limited liability company affording it an opportunity to be heard.  
4 The court may issue any order as may be appropriate, including, without limitation, an order  
5 designating the time and place of the meeting, the record date for determination of members  
6 entitled to vote, and the form of notice.

7  
8 (d) When a members' meeting is adjourned to another time or place, unless the articles of  
9 organization or a written operating agreement otherwise require and, except as provided in this  
10 subdivision, notice need not be given of the adjourned meeting if the time and place thereof are  
11 announced at the meeting at which the adjournment is taken. At the adjourned meeting, the  
12 limited liability company may transact any business that may have been transacted at the original  
13 meeting. If the adjournment is for more than 45 days, or if after the adjournment a new record date  
14 is fixed for the adjourned meeting, a notice of the adjourned meeting shall be given to each  
15 member of record entitled to vote at the meeting.

16  
17 (e) The actions taken at any meeting of members, however called and noticed, and wherever  
18 held, have the same validity as if taken at a meeting duly held after regular call and notice, if a  
19 quorum is present either in person or by proxy, and if, either before or after the meeting, each of  
20 the members entitled to vote, not present in person or by proxy, signs a written waiver of notice  
21 or consents to the holding of the meeting or approves the minutes of the meeting. All waivers,  
22 consents, and approvals shall be filed with the limited liability company records or made a part  
23 of the minutes of the meeting. Attendance of a person at a meeting shall constitute a waiver of  
24 notice of the meeting, except when the person objects, at the beginning of the meeting, to the  
25 transaction of any business because the meeting is not lawfully called or convened. Attendance  
26 at a meeting is not a waiver of any right to object to the consideration of matters required by this  
27 title to be included in the notice but not so included, if the objection is expressly made at the  
28 meeting. Neither the business to be transacted nor the purpose of any meeting of members need  
29 be specified in any written waiver of notice, unless otherwise provided in the articles of

1 organization or operating agreement, except as provided in subdivision (g).

2  
3 (f) Members may participate in a meeting of the limited liability company through the use of  
4 conference telephones or similar communications equipment, as long as all members  
5 participating in the meeting can hear one another. Participation in a meeting pursuant to this  
6 provision constitutes presence in person at that meeting.

7  
8 (g) Any action approved at a meeting, other than by unanimous approval of those entitled to vote,  
9 shall be valid only if the general nature of the proposal so approved was stated in the notice of  
10 meeting or in any written waiver of notice.

11  
12 (h) (1) A majority in interest of the members represented in person or by proxy shall  
13 constitute a quorum at a meeting of members.

14 (2) The members present at a duly called or held meeting at which a quorum is present  
15 may continue to transact business until adjournment, notwithstanding the loss of a quorum, if any  
16 action taken after loss of a quorum, other than adjournment, is approved by the requisite  
17 percentage of interests of members specified in this title or in the articles of organization or a  
18 written operating agreement.

19 (3) In the absence of a quorum, any meeting of members may be adjourned from time  
20 to time by the vote of a majority of the interests represented either in person or by proxy, but no  
21 other business may be transacted, except as provided in paragraph (2).

22  
23 (i) (1) Any action that may be taken at any meeting of the members may be taken without  
24 a meeting if a consent in writing, setting forth the action so taken, is signed and delivered to the  
25 limited liability company within 60 days of the record date for that action by members having not  
26 less than the minimum number of votes that would be necessary to authorize or take that action  
27 at a meeting at which all members entitled to vote thereon were present and voted.

28 (2) Unless the consents of all members entitled to vote have been solicited in writing,  
29 (A) notice of any member approval of an amendment to the articles of organization or operating

1 agreement, a dissolution of the limited liability company as provided in Section 15132 without a  
2 meeting by less than unanimous written consent shall be given at least 10 days before the  
3 consummation of the action authorized by such approval, and (B) prompt notice shall be given  
4 of the taking of any other action approved by members without a meeting by less than unanimous  
5 written consent, to those members entitled to vote who have not consented in writing.

6 (3) Any member giving a written consent, or the member's proxyholder, may revoke the  
7 consent by a writing received by the limited liability company prior to the time that written  
8 consents of members having the minimum number of votes that would be required to authorize  
9 the proposed action have been filed with the limited liability company, but may not do so  
10 thereafter. This revocation is effective upon its receipt at the office of the limited liability company  
11 required to be maintained pursuant to this Chapter.

12  
13 (j) The use of proxies in connection with this section will be governed in the same manner as  
14 in the case of corporations formed under Title 18, GCA.

15  
16 (k) In order that the limited liability company may determine the members of record entitled  
17 to notices of any meeting or to vote, or entitled to receive any distribution or to exercise any rights  
18 in respect of any other lawful action, a manager, or members representing more than 10 percent  
19 of the interests of members, may fix, in advance, a record date, that is not more than 60 days nor  
20 less than 10 days prior to the date of the meeting and not more than 60 days prior to any other  
21 action. If no record date is fixed: (1) The record date for determining members entitled to notice  
22 of or to vote at a meeting of members shall be at the close of business on the business day next  
23 preceding the day on which notice is given or, if notice is waived, at the close of business on the  
24 business day next preceding the day on which the meeting is held. (2) The record date for  
25 determining members entitled to give consent to limited liability company action in writing without  
26 a meeting shall be the day on which the first written consent is given. (3) The record date for  
27 determining members for any other purpose shall be at the close of business on the day on which  
28 the managers adopt the resolution relating thereto, or the 60th day prior to the date of the other  
29 action, whichever is later. (4) The determination of members of record entitled to notice of or to

1 vote at a meeting of members shall apply to any adjournment of the meeting unless a manager  
2 or the members who called the meeting fix a new record date for the adjourned meeting, but the  
3 manager or the members who called the meeting shall fix a new record date if the meeting is  
4 adjourned for more than 45 days from the date set for the original meeting.  
5

6 **§ 15114 (F). Issuance of certificate of interest**

7 (a) The operating agreement may provide that the interest of a member or assignee in a limited  
8 liability company may be evidenced by a certificate of interest issued by the limited liability  
9 company, and may make other provisions not inconsistent with this title with respect to the  
10 transfer of interests represented by those certificates or with respect to the form of those  
11 certificates.

12 (b) The operating agreement may provide that the certificate may be signed by a manager or  
13 officer of the limited liability company, whose signature may be a facsimile. In case any manager  
14 or officer of the limited liability company who has signed or whose facsimile signature has been  
15 placed upon a certificate has to be a manager or officer before the certificate is issued, it may be  
16 issued by the limited liability company with the same effect as if the person were a manager or  
17 officer at the date of issue. If a certificate is worn out or lost, it may be renewed on production  
18 of the worn out or lost certificate or on satisfactory proof of its loss together with such indemnity  
19 as may be required by the manager or managers or a resolution of members.  
20

21 **§ 15114 (G). Access to records and documents by members; inspection and copying**

22 (a) Upon the request of a member or a holder of an economic interest, for purposes  
23 reasonably related to the interest of that person as a member or a holder of an economic interest,  
24 a manager shall promptly deliver to the member or holder of an economic interest, at the expense  
25 of the limited liability company, a copy of the information required to be maintained by paragraphs  
26 (1), (2), and (4) of subdivision (a) of Section 15115 (K), and any written operating agreement of  
27 the limited liability company.  
28

29 (b) Each member, manager, and holder of an economic interest has the right upon reasonable

1 request, for purposes reasonably related to the interest of that person as a member, manager,  
2 or holder of an economic interest, to each of the following:

3 (1) - To inspect and copy during normal business hours any of the records required to  
4 be maintained by Section 15115 (K).

5 (2) To obtain from a manager promptly after becoming available, a copy of the limited  
6 liability company's federal, state, and local income tax or information returns for each year.

7  
8 (c) In the case of any limited liability company with more than 35 members:

9 (1) A manager shall cause an annual report to be sent to each of the members  
10 not later than 120 days after the close of the fiscal year. That report shall contain a balance sheet  
11 as of the end of the fiscal year and an income statement and statement of changes in financial  
12 position for the fiscal year.

13 (2) Members representing at least 5 percent of the voting interests of members, or three  
14 or more members, may make a written request to a manager for an income statement of the  
15 limited liability company for the initial three-month, six-month, or nine-month period of the current  
16 fiscal year ended more than 30 days prior to the date of the request, and a balance sheet of the  
17 limited liability company as of the end of that period. The statement shall be delivered or mailed  
18 to the members within 30 days thereafter.

19 (3) The financial statements referred to in this section shall be accompanied by the  
20 report thereon, if any, of the independent accountants engaged by the limited liability company  
21 or, if there is no report, the certificate of a manager of the limited liability company that the  
22 financial statements were prepared without audit from the books and records of the limited liability  
23 company.

24  
25 (d) A manager shall promptly furnish to a member a copy of any amendment to the articles of  
26 organization or operating agreement executed by a manager pursuant to a power of attorney from  
27 the member.

28  
29 (e) The limited liability company shall send or cause to be sent to each member or holder of



1 an economic interest within 90 days after the end of each taxable year such information as is  
2 necessary to complete federal and state income tax or information returns, and, in the case of a  
3 limited liability company with 35 or fewer members, a copy of the limited liability company's  
4 federal, state, and local income tax or information returns for the year.

5  
6 (f) In addition to any other remedies, a court of competent jurisdiction may enforce the duty  
7 of making and mailing or delivering the information and all statements required by this section  
8 and, for good cause shown, may extend the time therefor.

9  
10 (g) In any action under this section, if the court finds the failure of the limited liability  
11 company to comply with the requirements of this section is without justification, the court may  
12 award an amount sufficient to reimburse the person bringing the action for the reasonable  
13 expenses incurred by that person, including attorneys' fees, in connection with the action or  
14 proceeding.

15  
16 (h) Any waiver of the rights provided in this section shall be unenforceable.

17  
18 (i) Any request, inspection, or copying by a member or holder of an economic  
19 interest may be made by that person or by that person's agent or attorney.

20  
21 **§ 15114 (H). Complaint by members of failure to comply with law or articles of**  
22 **organization; Action by Attorney General**

23 (a) Upon complaint that a limited liability company is failing to comply with the provisions of  
24 Section 15114 (G), or to afford to the members rights given to them in the articles of  
25 organization or operating agreement, the Attorney General may, in the name of the people of  
26 the Territory of Guam, send to the office required to be maintained pursuant to Section 15115  
27 (J), notice of the complaint.

28  
29 (b) If the answer of the limited liability company is not received within 30 days of the date

1 the notice was transmitted, or if the answer is not satisfactory, and if the enforcement of the  
2 rights of the aggrieved persons by private civil action, by class action, or otherwise, would be  
3 so burdensome or expensive as to be impracticable, the Attorney General may institute,  
4 maintain, or intervene in any court of competent jurisdiction or before any administrative  
5 agency for relief by way of injunction, the dissolution of entities, the appointment of receivers,  
6 or any other temporary, preliminary, provisional, or final remedies as may be appropriate to  
7 protect the rights of members or to restore the position of the members for the failure to  
8 comply with the requirements of Section 15114 (G) or the articles of organization or the  
9 operating agreement. In any action, suit, or proceeding, there may be joined as parties all  
10 persons and entities responsible for or affected by the activity.  
11

## 12 **§15115. Management of Limited Liability Company**

### 13 **§ 15115 (A). Business and affairs of company managed by members**

14 Unless the articles of organization include, the statement referred to, in  
15 subdivision (b) of Section 15115 (B) vesting management of the limited liability company in a  
16 manager or managers, the business and affairs of a limited liability company shall be managed  
17 by the members subject to any provisions of the articles of organization or operating agreement  
18 restricting or enlarging the management rights and duties of any member or class of members.  
19 If management is vested in the members, each of the members shall have the same rights and  
20 be subject to all duties and obligations of managers as set forth in this Chapter.  
21

### 22 **§ 15115 (B). Management by nonmembers**

23 (a) The articles of organization may provide that the business and affairs of the  
24 limited liability company shall be managed by or under the authority of  
25 one or more managers who may, but need not, be members.  
26

27 (b) If the limited liability company is to be managed by one or more managers  
28 and not by all its members, the articles of organization shall contain a statement

1 to that effect. Neither the names of the managers nor the number of managers need be specified  
2 in the articles of organization, but if management is vested in only one manager, the articles of  
3 organization shall so state.

4  
5 (c) The articles of organization or operating agreement may prescribe the number and  
6 qualifications of managers who may, but need not, be natural persons.

7  
8 **§ 15115 (C). Management vested in manager pursuant to articles of organization;**  
9 **Election; Removal; Resignation**

10 If management of the limited liability company is vested in one or more managers pursuant to a  
11 statement in the articles of organization:

12 (a) Election of managers to fill initial positions or vacancies shall be by the affirmative vote of  
13 a majority in interest of the members.

14 (b) Any or all managers may be removed, with or without cause, by the vote of a majority in  
15 interest of the members at a meeting called expressly for that purpose. Any removal shall be  
16 without prejudice to the rights, if any, of the manager under any contract of employment.

17 (c) Any manager may resign as a manager at any time upon written notice to the limited  
18 liability company, without prejudice to the rights, if any, of the limited liability company under any  
19 contract to which the manager is a party.

20 (d) Unless they have earlier resigned or been removed, managers shall hold office until the  
21 expiration of the term for which they were elected or, if no term was provided, until their  
22 successors have been elected and qualified.

23  
24  
25 **§ 15115 (D). Fiduciary duties of manager**

26 The fiduciary duties a manager owes to the limited liability company and to its members are those  
27 of a partner to a partnership and to the partners of the partnership.

28  
29 **§ 15115 (E). Appointment of officers; Authority of signing officers in documents**

1 (a) A written operating agreement may provide for the appointment of officers, including, without  
2 limitation, a chairperson or a president, or both, a secretary, a chief financial officer, and any  
3 other officers with such titles, powers, and duties as shall be specified in the articles of  
4 organization or operating agreement, or determined by the managers or members. An officer  
5 may, but need not, be a member or manager of the limited liability company, and any number of  
6 offices may be held by the same person.

7  
8 (b) Officers, if any, shall be appointed in accordance with the written operating agreement or, if  
9 no such provision is made in the operating agreement, any officers shall be appointed by the  
10 managers and shall serve at the pleasure of the managers, subject to the rights, if any, of an  
11 officer under any contract of employment. Any officer may resign at any time upon written notice  
12 to the limited liability company without prejudice to the rights, if any, of the limited liability  
13 company under any contract to which the officer is a party.

14  
15 (c) Subject to the provisions of this Chapter, any note, mortgage, evidence of indebtedness,  
16 contract, certificate, statement, conveyance, or other instrument in writing, and any assignment  
17 or endorsement thereof, executed or entered into between any limited liability company and any  
18 other person, when signed by the chairman of the board, the president or any vice president, and  
19 any secretary, any assistant secretary, the chief financial officer, or any assistant treasurer of the  
20 limited liability company, is not invalidated as to the limited liability company by any lack of  
21 authority of the signing officers in the absence of actual knowledge on the part of the other person  
22 that the signing officers had no authority to execute the same.

23  
24 **§15115 (F). Indemnification of manager, member, officer, and others; Purchase of**  
25 **insurance**

26 (a) Except for a breach of the duty set forth in Subsection 15115 (D), the articles of  
27 organization or written operating agreement of a limited liability company may provide for  
28 indemnification of any person, including, without limitation, any manager, member, officer,  
29 employee, or agent of the limited liability company, against judgments, settlements, penalties,

1 fines, or expenses of any kind incurred as a result of acting in that capacity.  
2

3 (b) A limited liability company shall have power to purchase and maintain insurance on behalf  
4 of any manager, member, officer, employee, or agent of the limited liability company against any  
5 liability asserted against or incurred by the person in that capacity or arising out of the person's  
6 status as a manager, member, officer, employee, or agent of the limited liability company.  
7

8 **§ 15115 (G). More than one manager; Decisions by majority vote**

9 Except as otherwise provided in the articles of organization or the operating agreement, if the  
10 members have appointed more than one manager, decisions of the managers shall be made by  
11 majority vote of the managers if at a meeting, or by unanimous written consent.  
12

13 **§ 15115 (H). Member as agent of company unless otherwise provided; Manager as**  
14 **agent**

15 (a) Unless the statement referred to in subdivision (b) of Subsection 15115 (B) is included in  
16 the articles of organization, every member is an agent of the limited liability company for the  
17 purpose of its business or affairs, and the act of any member, including, but not limited to, the  
18 execution in the name of the limited liability company of any instrument, for the apparent purpose  
19 of carrying on in the usual way the business or affairs of the limited liability company of which that  
20 person is a member, binds the limited liability company, unless the member so acting has, in fact,  
21 no authority to act for the limited liability company in the particular matter, and the person with  
22 whom the member is dealing has actual knowledge of the fact that the member has no such  
23 authority.  
24

25 (b) If the articles of organization contain the statement referred to in subdivision (b) of  
26 Subsection 15115 (B) that management of the limited liability company is vested in a manager  
27 or managers, then:

28 (I) No member, acting solely in the capacity of a member, is an agent of the limited  
29 liability company nor can any member bind, nor execute any instrument on behalf of, the limited

1 liability company.

2 (2) Every manager is an agent of the limited liability company for the purpose of its  
3 business or affairs, and the act of any manager, including, but not limited to, the execution in the  
4 name of the limited liability company of any instrument, for apparently carrying on in the usual  
5 way the business or affairs of the limited liability company of which the person is the manager,  
6 binds the limited liability company, unless the manager so acting has, in fact, no authority to act  
7 for the limited liability company in the particular matter, and the person with whom the manager  
8 is dealing has actual knowledge of the fact that the manager has no such authority.

9  
10 (c) No act of a manager or member in contravention of a restriction on authority shall bind the  
11 limited liability company to persons having actual knowledge of the restriction.

12  
13 (d) Notwithstanding the provisions of subdivision (c) of this section, and subject to the  
14 provisions of this Chapter, any note, mortgage, evidence of indebtedness, contract, certificate,  
15 statement, conveyance, or other instrument in writing, and any assignment or endorsement  
16 thereof, executed or entered into between any limited liability company and any other person,  
17 when signed by at least two managers (or by one manager in the case of a limited liability  
18 company whose articles of organization state that it is managed by only one manager), is not  
19 invalidated as to the limited liability company by any lack of authority of the signing managers or  
20 manager in the absence of actual knowledge on the part of the other person that the signing  
21 managers or manager had no authority to execute the same.

22  
23 **§ 15115 (l). Personal liability of manager or officer**

24 No person who is a manager or officer or both a manager and officer of a limited liability company  
25 shall be personally liable under any judgment of a court, or in any other manner, for any debt,  
26 obligation, or liability of the limited liability company, whether that liability or obligation arises in  
27 contract, tort, or otherwise, solely by reason of being a manager or officer or both a manager and  
28 officer of the limited liability company.

1           **§ 15115 (J). Office to maintain records; Agent for service of process.**

2           Each limited liability company, through its manager(s), shall continuously maintain in this territory  
3           each of the following:

- 4           (a)    An office at which shall be maintained the records required by Subsection 15115 (K).  
5           (b)    An agent in this territory for service of process on the limited liability company.

6  
7           **§ 15115 (K). Records and documents required to be kept**

8           (a)    Each limited liability company, through its manager(s), shall maintain at the office referred  
9           to in subdivision (a) of Subsection 15115 (J) all of the following:

10                  (1)    A current list of the full name and last known business or residence address  
11                  of each member and of each holder of an economic interest in the limited liability company set  
12                  forth in alphabetical order, together with the contribution and the share in profits and losses of  
13                  each member and holder of an economic interest.

14                  (2)    If the articles of organization contain the statement described in subdivision  
15                  (b) of Section 15115 (B), a current list of the full name and business or residence address of each  
16                  manager.

17                  (3)    A copy of the articles of organization and all amendments thereto, together  
18                  with any powers of attorney pursuant to which the articles of organization or any amendments  
19                  thereto were executed.

20                  (4)    Copies of the limited liability company's federal, state, and local income tax, or  
21                  information returns and reports, if any, for the six most recent taxable years.

22                  (5)    A copy of the limited liability company's operating agreement, if in writing, and  
23                  any amendments thereto, together with any powers of attorney pursuant to which any written  
24                  operating agreement or any amendments thereto were executed.

25                  (6)    Copies of the financial statements of the limited liability  
26                  company, if any       for the six most recent fiscal years.

27                  (7)    The books and records of the limited liability company as they  
28                  relate to the internal affairs of the limited liability company for at least the current and past four  
29                  fiscal years.

1  
2 (b) Upon request of an assessor, a domestic or foreign limited liability company owning,  
3 claiming, possessing, or controlling property in this territory subject to local assessment shall  
4 make available at the limited liability company's principal office in Guam or at the office required  
5 to be kept pursuant to this Chapter or at a place mutually acceptable to the assessor and the  
6 limited liability company, a true copy of business records relevant to the amount, cost, and value  
7 of all property that it owns, claims, possesses, or controls within the territory of Guam.  
8

9 **§15116. Distributions and Withdrawals.**

10  
11 **§ 15116 (A). Distributions of money or property to members**

12 Distributions of the money or property of a limited liability company shall be made to the members  
13 and to any classes of members in the manner provided in the operating agreement. If the  
14 operating agreement does not otherwise provide, distributions that are a return of capital shall  
15 be made in proportion to the contributions made by each member and distributions that are not  
16 a return of capital shall be made in proportion to the allocation of profits.  
17

18 **§ 15116 (B). Entitlement of member to receive distributions prior to withdrawal or**  
19 **dissolution**

20 Except as provided in this article, a member is entitled to receive distributions from a limited  
21 liability company before the withdrawal of that member from the limited liability company and  
22 before the dissolution and winding up thereof, subject to the limitations contained in Section  
23 15116 (E), to the extent and at the times or upon the happening of the events specified in the  
24 operating agreement.  
25

26 **§ 15116 (C). Withdrawal of member; Notice; Entitlement to distribution**

27 (a) A member may withdraw from a limited liability company at the time or upon the happening  
28 of events specified in the articles of organization or operating agreement. A written operating  
29 agreement may provide that a member may not withdraw the member's contribution from the



1 limited liability company, or may provide specific remedies in the event of a wrongful withdrawal  
2 of a member's contribution, prior to the dissolution and winding up of the limited liability company.  
3 If the articles of organization or a written operating agreement do not specify the time or the  
4 events upon the happening of which a member may withdraw, a member may withdraw from the  
5 limited liability company either:

6 (1) Upon not less than six months' prior written notice to each member at the addresses  
7 set forth in the list required to be kept pursuant to this Chapter.

8 (2) If any amendment to the articles of organization or operating agreement that is  
9 adopted over the member's written dissent adversely affects the rights or preferences of the  
10 dissenting member's membership interest in any of the ways described in subparagraph (A), (B),  
11 (C), or (E), in which event the withdrawal shall be deemed to have occurred as of the effective  
12 date of the amendment, if the member gives notice to the limited liability company not more than  
13 60 days after the date of the amendment. In valuing the member's distribution pursuant to  
14 subdivision (c), there shall be excluded any depreciation in anticipation of the amendment. An  
15 amendment that does any of the following is subject to this paragraph:

- 16 (A) Altering or amending that member's right to receive a distribution.  
17 (B) Altering or abolishing that member's right to voluntarily withdraw or  
18 retire.  
19 (C) Altering or abolishing that member's right to vote on any matter,  
20 except as the rights may be altered or abolished through the  
21 acceptance of contributions or the making of contribution  
22 agreements.  
23 (D) Altering or abolishing that member's preemptive right to make  
24 contributions.  
25 (E) Establishing or changing the conditions for or consequences of  
26 expulsion. No member withdrawing under this paragraph shall be  
27 liable for damages for the breach of any agreement not to  
28 withdraw.  
29

1 (b) Notwithstanding the provisions of subdivision (a), any member who is under an obligation  
2 to render services to the limited liability company may withdraw as a member at any time upon  
3 written notice to the limited liability company, without prejudice to the rights, if any, of the limited  
4 liability company or the other members under any contract to which the withdrawing member is  
5 a party. Any provision in an operating agreement governing the withdrawal of services by a  
6 member shall be enforceable in accordance with its terms unless the member seeking to  
7 invalidate the provision establishes that the provision was unreasonable under the circumstances  
8 existing at the time the agreement was made.  
9

10 (c) Upon a permitted withdrawal that does not cause dissolution of the limited liability company,  
11 any withdrawing member is entitled to receive any distribution to which that member is entitled  
12 under the operating agreement and, if not otherwise provided in the operating agreement, the  
13 member is entitled to receive, within a reasonable time after withdrawal, the fair market value of  
14 the member's interest in the limited liability company as of the date of withdrawal based upon the  
15 member's right to share in distributions from the limited liability company.  
16

17 (d) Subject to Subsection 15116 (E) and other provisions of this Chapter, at the time a member  
18 becomes entitled to receive a distribution, the member has the status of, and is entitled to all  
19 remedies available to, a creditor of the limited liability company with respect to the distribution.  
20 An operating agreement may provide for the establishment of a record date with respect to  
21 sharing of profits and distributions from a limited liability company.  
22

23 **§ 15116 (D). Distribution in form other than money; Distribution of asset**

24 (a) A member, regardless of the nature of the member's contribution, has no right to demand  
25 and receive any distribution from a limited liability company in any form other than money.  
26

27 (b) No member may be compelled to accept from a limited liability company a distribution of any  
28 asset in kind in lieu of a proportionate distribution of money being made to other members.  
29

1 (c) Except upon a dissolution and winding up of a limited liability company, no member may be  
2 compelled to accept a distribution of any asset in kind.

3  
4 **§ 15116 (E). Requirements to make distribution**

5 (a) No distribution shall be made if, after giving effect to the distribution:

6 (1) The limited liability company would not be able to pay its debts as they  
7 become due in the usual course of business.

8 (2) The limited liability company's total assets would be less than the sum of its total  
9 liabilities plus, unless the operating agreement provides otherwise, the amount that would be  
10 needed, if the limited liability company were to be dissolved at the time of the distribution, to  
11 satisfy the preferential rights of other members upon dissolution that are superior to the rights of  
12 the member receiving the distribution.

13  
14 (b) The limited liability company may base a determination that a distribution is not prohibited  
15 under subdivision (a) on any of the following:

16 (1) Financial statements prepared on the basis of accounting practices and principles  
17 that are reasonable in the circumstances.

18 (2) A fair valuation.

19 (3) Any other method that is reasonable in the circumstances.

20  
21 (c) Except as provided in subdivision (e), the effect of a distribution under subdivision (a) is  
22 measured as of (1) the date the distribution is authorized if the payment occurs within 120 days  
23 after the date of authorization, or (2) the date payment is made if it occurs more than 120 days  
24 after the date of authorization.

25  
26 (d) (1) If terms of the indebtedness provide that payment of principal and interest is to be  
27 made only if, and to the extent that, payment of a distribution to members could then be made  
28 under this section, indebtedness of a limited liability company, including indebtedness issued as  
29 a distribution, is not a liability for purposes of determinations made under subdivision (b).

1 (2) If the indebtedness is issued as a distribution, each payment of principal or interest  
2 on the indebtedness is treated as a distribution, the effect of which is measured on the date the  
3 payment is actually made.

4  
5 (e) A member or assignee of a member is obligated to return a distribution from a limited  
6 liability company to the extent that (1) the member or assignee had actual knowledge of facts  
7 indicating the impropriety of the distribution, and (2) immediately after giving effect to the  
8 distribution, and notwithstanding the compromise of an obligation referred to in subdivision (b)  
9 of Subsection 15113 (B), all liabilities of the limited liability company, other than liabilities to  
10 members or assignees on account of their interest in the limited liability company and liabilities as  
11 to which recourse of creditors is limited to specified property of the limited liability company,  
12 exceed the fair market value of the limited liability company's assets, provided that the fair market  
13 value of any property that is subject to a liability as to which recourse of creditors is so limited  
14 shall be included in the limited liability company assets only to the extent that the fair market  
15 value of the property exceeds this liability.

16  
17 (f) A cause of action with respect to an obligation to return a distribution pursuant to  
18 subdivision (e) is extinguished unless the action is brought within four years after the distribution  
19 is made.

20  
21 **§ 15116 (F). Personal liability of manager or member who votes for unlawful**  
22 **distribution.**

23 (a) A member or manager who votes for a distribution in violation of the operating agreement or  
24 Subsection 15116 (E) or other appropriate provisions of this Chapter, is personally liable to the  
25 limited liability company for the amount of the distribution that exceeds what could have been  
26 distributed without violating those sections of this Chapter or the operating agreement if it is  
27 established that the member or manager did not act in compliance with those sections.

28  
29 (b) Each member or manager held liable under subdivision (a) for an unlawful distribution is

1 entitled to compel contribution:

2 (1) From each other member or manager who could be held liable under  
3 subdivision (a) for the unlawful distribution.

4 (2) From each member for the amount the member received with knowledge of facts  
5 indicating that the distribution was made in violation of Subsection 15116 (E) or other appropriate  
6 sections of this Chapter or the operating agreement.

7  
8 (c) A proceeding under this section is barred unless it is commenced within four years after  
9 the date on which the effect of the distribution is measured under Subsection 15116 (E)  
10

11 **§15117. Interest in Limited Liability Company; Assignment of interests.**

12 **§ 15117 (A). Membership interest as personal property**

13 A membership interest and an economic interest in a limited liability company constitute personal  
14 property of the member or assignee. A member or assignee has no interest in specific limited  
15 liability company property.

16  
17 **§15117 (B). Assignment of membership interest or economic interest; Pledge or lien**  
18 **against membership interest**

19 (a) Except as provided in the articles of organization or the operating agreement:

20 (1) A membership interest or an economic interest is assignable in whole or in part,  
21 provided, however, that no membership interest may be assigned without the unanimous vote of  
22 members required pursuant to Subsection 15117 (D).

23 (2) An assignment of an economic interest does not of itself dissolve the limited liability  
24 company or, other than as set forth in the articles of organization or operating agreement, entitle  
25 the assignee to vote or participate in the management and affairs of the limited liability company  
26 or to become or exercise any rights of a member.

27 (3) An assignment of an economic interest merely entitles the assignee to receive, to  
28 the extent assigned, the distributions and the allocations of income, gains, losses, deductions,  
29 credit, or similar items to which the assignor would be entitled.

1 (4) Upon the assignment of all or part of an economic interest, the assignor shall  
2 provide the manager or member of the limited liability company responsible for maintaining its  
3 books and records with the name and address of the assignee, together with details of the  
4 interest assigned. Upon receipt of that notice, the limited liability company shall amend the list  
5 required by paragraph (1) of subdivision (a) of Section 15115 (K) accordingly. Until the assignee  
6 of that interest becomes a member, the assignor continues to be a member and to have the power  
7 to exercise any rights and powers of a member, including the right to vote which, in the case of  
8 a member who has assigned his or her or its entire economic interest in the limited liability  
9 company, shall include the right to vote in proportion to the interest in current profits that the  
10 assigning member would have, had the assignment not been made.

11  
12 (b) Except to the extent assumed by agreement, until an assignee of an economic interest in  
13 a limited liability company becomes a member, the assignee shall have no liability to the limited  
14 liability company under Section 15113 and Section 15116 solely as a result of the assignment.  
15 The assignor of a membership interest is not released from liability as a member solely as a result  
16 of the assignment.

17  
18 (c) The pledge of, or granting of, a security interest, lien, or other encumbrance in or against  
19 any or all of the membership interest of a member shall not cause the member to cease to be a  
20 member or to grant to anyone else the power to exercise any rights or powers of a member.

21  
22 **§ 15117 (C). Unsatisfied amount of judgment to be charged against membership**  
23 **interest**

24 On application to a court of competent jurisdiction by any judgment creditor of a member, the  
25 court may charge the membership interest of the member with payment of the unsatisfied amount  
26 of the judgment with interest. To the extent so charged, the judgment creditor has only the rights  
27 of an assignee of the membership interest. This section does not deprive any member of the  
28 benefit of any exemption laws applicable to the member's membership interest.

1           -     **§ 15117 (D). Membership of assignee**

2           (a)     Except as otherwise provided in the articles of organization or the operating agreement,  
3           an assignee of an interest in a limited liability company may become a member only if the other  
4           members unanimously vote in favor of the assignee's admission to the limited liability company  
5           as a member.

6  
7           (b)     An assignee who has become a member has, to the extent assigned, the rights and  
8           powers, and is subject to the restrictions and liabilities, of a member under the articles of  
9           organization, any operating agreement, and this title. An assignee who becomes a member also  
10          is liable for the obligations of the assignor to make contributions as provided in Section 15113,  
11          and to return any unlawful distributions made to the assignee under Section 15116. However,  
12          the assignee is not obligated for liabilities unknown to the assignee at the time the assignee  
13          became a member and that could not be ascertained from the articles of organization or operating  
14          agreement.

15  
16          (c)     Whether or not an assignee of a membership interest becomes a member, the assignor  
17          is not released from the assignor's liability to the limited liability company under Sections 15113  
18          and 15116.

19  
20                 **§ 15117 (E). Deceased member; Member adjudged incompetent by court**

21          (a)     If a member who is an individual dies or is adjudged by a court of  
22          competent jurisdiction to be incompetent to manage the member's person or property, the  
23          member's executor, administrator, guardian, conservator, or other legal representative may  
24          exercise all of the member's rights for the purpose of settling the member's estate or  
25          administering the member's property, including any power the member had under the articles of  
26          organization or an operating agreement to give an assignee the right to become a member.

27  
28          (b)     If a member is a corporation, trust, or other entity and is dissolved or terminated, the  
29          powers of that member may be exercised by its legal representative or successor.

1  
2 **§ 15118. Liability of members and managers.**

3 Neither the members of a limited liability company nor the managers of a limited liability  
4 company managed by a manager or managers are liable under a judgment, decree, or order  
5 of a court, or in any other manner, for a debt, obligation, or liability of the limited liability  
6 company. If members or managers are professionals who will organize their business or  
7 service as a limited liability company, they will still remain liable for their professional  
8 performance.

9  
10 **§ 15119. Unauthorized assumption of powers.**

11 All persons who assume to act as a limited liability company without authority to do shall be  
12 jointly and severally liable for all debts and liabilities.

13  
14 **§ 15120. Dissolution.**

15 (a) A limited liability company organized under this chapter shall be dissolved upon the  
16 occurrence of any of the following events:

17 (1) When the period fixed for the duration of the limited liability company expires.

18 (2) By the unanimous written agreement of all members.

19 (3) Upon the death, retirement, resignation, expulsion, bankruptcy, or dissolution of a  
20 member or upon the occurrence of any other event which terminates the continued  
21 membership of a member in the limited liability company, unless the business of the limited  
22 liability company is continued by the consent of all the remaining members or under a right  
23 to continue stated in the articles of organization of the liability company.

24  
25 (b) As soon as possible following the occurrence of any *of* the events specified in Subsection



1 (a) which effects the dissolution of the limited liability company, the limited liability company  
2 shall execute a statement of intent to dissolve in the form prescribed by the Department of  
3 Revenue and Taxation.  
4

5 **§ 15121. Filing of statement of intent to dissolve.**

6 The statement of intent to dissolve a limited liability company shall be delivered to the  
7 Department of Revenue and Taxation. If the Department of Revenue and Taxation finds that  
8 such statement conforms to law, it shall, when all fees and license taxes have been paid as  
9 prescribed in this Chapter, file the articles of dissolution in accordance with this Chapter.  
10

11 **§ 15122. Effect of filing of statement of intent to dissolve; procedure after filing such  
12 statement.**

13 (a) Upon the filing by the Department of Revenue and Taxation of a statement of intent to  
14 dissolve, the limited liability company shall cease to carry on its business, except insofar as  
15 may be necessary for the winding up of its business, but its separate existence shall continue  
16 until a certificate of dissolution has been issued by the Department of Revenue and Taxation  
17 or until a decree dissolving the limited liability company has been entered by a court of  
18 competent jurisdiction.  
19

20 (b) Within 20 days after the Department of Revenue and Taxation has filed a statement of  
21 intent to dissolve, the limited liability company shall immediately cause notice thereof to be  
22 mailed to each creditor of, and claimant against, the limited liability company.  
23

24 (c) The limited liability company shall proceed to collect its assets; convey and dispose of  
25 such of its properties as are not to be distributed in kind to its members; pay, satisfy, or

1 discharge its liabilities and obligations or make adequate provisions for the payment or  
2 discharge thereof; and do all other acts required to liquidate its business and affairs. After  
3 paying or discharging all its obligations or making the adequate provision for payment or  
4 discharge thereof, the limited liability company may distribute the remainder of its assets,  
5 either in cash or in kind, among its members according to their respective rights and interests.  
6

7 **§ 15123. Distribution of assets upon dissolution.**

8 (a) In settling accounts after dissolution, the liabilities of the limited liability company shall  
9 be entitled to payment in the following order:

10 (1) Those liabilities to creditors, in the order of priority as provided by law, except those  
11 liabilities to members of the limited liability company on account of their contributions;

12 (2) Those liabilities to members of the limited liability company in respect of their shares of  
13 the profits and other compensation by way of income on their contributions; and

14 (3) Those liabilities to members of the limited liability company in respect of their  
15 contributions to capital.  
16

17 (b) Subject to any statement in the regulations, members shall share in the limited liability  
18 company assets in respect to their claims for capital and in respect to their claims for profits  
19 or for compensation by way of income on their contributions, respectively, in proportion to  
20 the respective amounts of the claims.  
21

22 **§ 15124. Articles of dissolution.**

23 When all debts, liabilities, and obligations of the limited liability company have been paid or  
24 discharged, or adequate provision has been made therefore, and all of the remaining property  
25 and assets of the limited liability company have been distributed to the members, articles of

1 dissolution shall be executed and verified by the person signing the statement, which statement  
2 shall set forth:

3 (a) The name of the limited liability company.

4 (b) The fact that the Department of Revenue and Taxation has therefore filed a statement of  
5 intent to dissolve the company and the date on which such statement was filed.

6 (c) The fact that all debts, obligations, and liabilities have been paid or discharged, or that  
7 adequate provision has been made therefore.

8 (d) The fact that all the remaining property and assets have been distributed among its  
9 members in accordance with their respective rights and interests.

10 (e) The fact that there are no suits pending against the company in any court or that adequate  
11 provision has been made for the satisfaction of any judgment, order, or decree which may be  
12 entered against it in any pending suit.

13  
14 **§ 15125. Filing of articles of dissolution.**

15 (a) The articles of dissolution of the limited liability company shall be delivered to the  
16 Department of Revenue and Taxation. If the Department of Revenue and Taxation finds  
17 that such articles of dissolution conform to law, it shall, when all fees and license taxes  
18 have been paid as prescribed in this Chapter, file the statement of intent to dissolve the  
19 company in accordance with this Chapter. The Department of Revenue and Taxation shall  
20 then issue a certificate of dissolution.

21  
22 (b) The certificate of dissolution shall be returned to the representative of the dissolved  
23 limited liability company. Upon the issuance of such certificate of dissolution, the  
24 existence of the company shall cease, except for the purpose of suits, other proceedings in  
25 this Chapter. The manager or managers in office at the time of dissolution, or the survivors

1 of them, or, if none, the members, shall thereafter be trustees for the members and  
2 creditors of the dissolved limited liability company; and as such the trustees shall have  
3 authority to distribute any company property discovered after dissolution, to convey real  
4 estate, and to take such other action as may be necessary on behalf of and in the name of  
5 such limited liability company.

6  
7 **§ 15126. Cancellation of certificate of organization.**

8 The certificate of organization of a limited liability company shall be canceled by the  
9 Department of Revenue and Taxation upon issuance of the certificate of dissolution.

10  
11 **§ 15127. Involuntary dissolution.**

12 (a) A limited liability company may be dissolved involuntarily by a decree of the Superior  
13 Court of Guam in an action filed by the Attorney General's Office when it is established  
14 that the limited liability company:

15 (1) Has procured its articles of organization through fraud;

16 (2) Has exceeded the authority conferred upon it by law;

17 (3) Has committed a violation of any provision of law whereby it has forfeited its  
18 charter;

19 (4) Has carried on, conducted, or transacted its business in a persistently fraudulent  
20 or illegal manner; or

21 (5) By the abuse of its powers contrary to the public policy of this territory, has  
22 become liable to be dissolved.

23  
24 (b) A limited liability company may be dissolved involuntarily by order of the Department  
25 of Revenue and Taxation when the Department of Revenue and Taxation has determined

1 that the limited liability company:

2 (1) Has failed to file its annual report or pay the filing fee for the annual report  
3 within the time required by this Chapter;

4 (2) Has failed for 30 days to appoint and maintain a registered agent in this territory;  
5 or

6 (3) Has failed for 30 days after change of its registered office or registered agent to  
7 file in the office of the Department of Revenue and Taxation a statement of such change.  
8

9 (c) No limited liability company shall be involuntarily dissolved under Subsection (b)  
10 unless the Department of Revenue and Taxation has given the limited liability company not  
11 less than 90 days notice of the proposed dissolution, stating the reasons therefore and  
12 addressed to its registered office or to its principal place of business, and the limited  
13 liability company has failed prior to such involuntary dissolution to correct the reasons for  
14 the proposed involuntary dissolution.  
15

16 (d) If the Department of Revenue and Taxation involuntarily dissolves any limited liability  
17 company under the provisions of Subsection (b), it shall issue a certificate to such effect  
18 and mail the certificate to the limited liability company at its registered office or its  
19 principal place of business. Upon the issuance of such certificate of involuntary  
20 dissolution, the existence of the limited liability company shall cease, except as otherwise  
21 provided by law.  
22

23 (e) The enumeration in Subsections (a) and (b) of grounds for involuntary dissolution shall  
24 not exclude an action or special proceeding for the annulment dissolution of a limited  
25 liability company for other cause as provided in any other statute of this territory.

1     **§ 15128. Reinstatement after involuntary dissolution.**

2     (a) Any limited liability company which has been dissolved by the Department of Revenue  
3     and Taxation under the provisions of §15124 or prior law may be reinstated by the  
4     Department of Revenue and Taxation at any time upon approval of an application for  
5     reinstatement signed by an officer or director of the dissolved limited liability company.  
6     Such application shall be filed by the Department of Revenue and Taxation whenever it is  
7     established to the satisfaction of the department that in fact there was no cause for the  
8     dissolution or that the reasons for the dissolution have been corrected and all fees,  
9     computed at the rate provided by law at the time the limited liability company applies for  
10    reinstatement, have been paid. If the name of the dissolved limited liability company has  
11    been lawfully assumed in the state by another limited liability company, the Department of  
12    Revenue and Taxation shall require the dissolved limited liability company to amend its  
13    articles of organization to change its application for reinstatement.

14  
15   (b) Whenever the application for reinstatement is approved and filed by the Department of  
16   Revenue and Taxation, the existence of the limited liability company shall be deemed to  
17   have continued without interruption from the date of dissolution. The reinstatement shall  
18   have no effect upon any personal liabilities of the members or managers of the limited  
19   liability company on account of actions taken during the period between dissolution and  
20   reinstatement, but the power of the limited liability company to indemnify such members  
21   or managers shall extend to actions during such period.

22  
23   **§ 15129. Filings by the Department of Revenue and Taxation.**

24   All filings made by the Department of Revenue and Taxation shall be in accordance with  
25   the provisions of §2104 of Article 1 of Chapter 2, Title 18, Guam Code Annotated.

1     **§ 15130. Fees for filing documents and issuing certification.**

2     Fees for filing documents and issuing certification shall be subject to applicable rates as  
3     determined by the Department of Revenue and Taxation.

4  
5     **§ 15131. Miscellaneous charges.**

6     Miscellaneous charges shall be determined, charged, and collected by the Department of  
7     Revenue and Taxation.

8  
9     **§ 15132. Waiver of notice.**

10    When, under the provisions of this Chapter or under the provisions of the articles of  
11    organization or operating agreement of a limited liability company, notice is required to be  
12    given to a member of a limited liability company or to a manager of a limited liability  
13    company having a manager or managers, a waiver in writing signed by the person or  
14    persons entitled to the notice, whether made before or after the time for notice to be given,  
15    is equivalent to the giving of notice.

16  
17    **§ 15133. Jurisdiction of the Superior Court of Guam.**

18    The Superior Court of Guam shall have jurisdiction to enforce the provisions of this  
19    Chapter.

20  
21    **§ 15134. Parties to actions by or against limited liability company.**

22    A member of a limited liability company is not a proper party to proceedings by or against  
23    a limited liability company, except when the object is to enforce a member's right against,  
24    or liability to, the limited liability.

1     **§ 15135. Service of process.**

2     (a)    In addition to Part 1 of Title 18, GCA, process may be served upon limited liability  
3     companies and foreign limited liability companies as provided in this section.

4  
5     (b)    Personal service of a copy of any process against the limited liability company or the  
6     foreign limited liability company by delivery to any person designated by it as agent shall  
7     constitute valid service on the limited liability company or the foreign limited liability company.  
8     No change in the address of the agent for service of process or appointment of a new agent  
9     for service of process shall be effective until an amendment to the statement described in  
10    Section 15112 is filed. In the case of a foreign limited liability company that has appointed the  
11    Director of the Department of Revenue and Taxation as agent for service of process by  
12    reason of paragraph (i) of this section, process shall be delivered by hand to the Director, or  
13    to any person employed in the capacity of assistant or deputy, and shall include one copy of  
14    the process for each defendant to be served, together with a copy of the court order  
15    authorizing the service and the fee therefor. The order shall set forth the address to which the  
16    process shall be sent by the Director.

17  
18    (c)    (1) If an agent for service of process has resigned and has not been replaced, or if the  
19    designated agent cannot with reasonable diligence be found at the address designated for  
20    personal delivery of the process, and it is shown by affidavit to the satisfaction of the court  
21    that process against a limited liability company or foreign limited liability company cannot be  
22    served with reasonable diligence upon the designated agent by hand in a manner provided by  
23    law, the court may make an order that the service shall be made upon a domestic limited  
24    liability company or upon a registered foreign limited liability company by delivering by hand to  
25    the Director, or to any person employed in the Director's office in the capacity of assistant or  
26    deputy, one copy of the process for each defendant to be served, together with a copy of the  
27    order authorizing the service. Service in this manner shall be deemed complete on the 10th  
28    day after delivery of the process to the Director.

29           (2) Upon receipt of the copy of process and the fee therefor, the Director shall give



1 notice of the service of the process to the limited liability company or foreign limited liability  
2 company, at its principal executive office, by forwarding to that office, by registered mail with  
3 request for return receipt, the copy of the process; or if the Director's records do not disclose  
4 an address for its principal executive office, by forwarding such copy in the same manner to  
5 the last designated agent for service of process who has not resigned. If the agent for service  
6 of process has resigned and has not been replaced, and the Director's records do not  
7 disclose an address for its principal executive office, no action need be taken by the Director.

8 (3) The Director shall keep a record of all process served upon the Director under this  
9 title and shall record therein the time of service and the action taken by the Director. A  
10 certificate under the Director's official seal, certifying to the receipt of process, the giving of  
11 notice to the limited liability company or foreign limited liability company, and the forwarding of  
12 the process pursuant to this section, shall be competent and prima facie evidence of the  
13 service of process.

14  
15 (d) (1) The articles of organization of a limited liability company and the application for  
16 registration of a foreign limited liability company shall designate, as the agent for service of  
17 process, an individual residing in this territory and whose capacity to act as an agent has not  
18 terminated. The statement shall set forth that person's complete business or residence  
19 address in this territory.

20 (2) An agent designated for service of process may file with the Director a signed  
21 and acknowledged written statement of resignation as an agent. Upon filing of the statement  
22 of resignation, the authority of the agent to act in that capacity shall cease and the Director  
23 shall give written notice of the filing of the statement of resignation by mail to the limited  
24 liability company or foreign limited liability company addressed to its principal executive office.

25 (3) If an individual who has been designated agent for service of process dies or  
26 resigns or no longer resides in the territory, or if the corporate agent for that purpose resigns,  
27 dissolves, withdraws from the territory, forfeits its right to transact intrastate business, has its  
28 corporate rights, powers, and privileges suspended, or ceases to exist, the limited liability  
29 company or foreign limited liability company shall promptly file an initial or amended statement

1 described in Section 15112 designating a new agent.

2  
3 (e) In addition to any other discovery rights that may exist, in any case pending in a Guam  
4 court in which a party seeks records from a limited liability company formed under this title,  
5 whether or not the limited liability company is a party, the court may order the production in  
6 this territory of the books and records of the limited liability company on those terms and  
7 conditions that the court deems appropriate.

8  
9 (f) A member may, in a written operating agreement or other writing, consent to be subject  
10 to the nonexclusive jurisdiction of the courts of a specified jurisdiction, or the exclusive  
11 jurisdiction of the courts of this territory.

12  
13 (g) If a member desires to use the arbitration process, that member may, in a written  
14 operating agreement or other writing, consent to be nonexclusively subject to arbitration in a  
15 specified state, or to be exclusively subject to arbitration in this territory.

16  
17 (h) Along with the consent to the jurisdiction of courts or to be subject to arbitration as  
18 provided in subdivisions (f) and (g), a member may consent to be served with legal process in  
19 the manner prescribed in a written operating agreement or other writing.

20  
21 (i) A foreign limited liability company, transacting business in this territory without  
22 registration, appoints the Director of the Department of Revenue and Taxation as its agent  
23 for service of process with respect to causes of action arising out of the business in this  
24 territory.

25  
26 **§ 15136. Tax on income of limited liability company.**

27 (a) A limited liability company is a "business" as defined in §26101 of Article I of Chapter  
28 26 of Title 11, Guam Code Annotated, and is subject to the taxes imposed under Chapter

1 26 of Title 11, Guam Code Annotated.

2  
3 (b) The income of a limited liability company organized pursuant to this chapter shall be  
4 subject to the Guam's Tax Code and the taxes levied pursuant to Chapter 26 of Title 11  
5 Guam Code Annotated.

6  
7 **§ 15137. Professional Limited Liability Companies.**

8 (a) Two or more persons may organize a professional limited liability company by filing  
9 articles of organization with the Department of Revenue and Taxation in accordance with  
10 this Act. In addition to other provisions required or permitted by law, the articles of  
11 organization of a professional limited liability company must include a statement:

12 (1) that the limited liability company is a professional limited liability company; and

13 (2) describing the one specific kind of professional service to be rendered by the  
14 limited liability company.

15  
16 (b) A professional limited liability company may be organized under this act only for the  
17 purpose of rendering one specific type of professional service and ancillary services. A  
18 professional limited liability company organized under this act may not render more than one  
19 kind of professional service.

20  
21 (c) Name.

22 A professional limited liability company may adopt a name not contrary to the law or ethics  
23 regulating the practice of the professional service rendered through the professional limited  
24 liability company. The name of the limited liability company must contain the words  
25 "Professional Limited Liability Company" or the abbreviations "P.L.L.C." or "PLLC" and

1 must contain other words as may be required by law.

2  
3 (d) Restrictions on Members, Managers, and Officers.

4 (1) A person who is not licensed or otherwise authorized to render the professional  
5 service of the professional limited liability company may not be a member, manager or officer  
6 of the professional limited liability company. A membership interest in the professional limited  
7 liability company may not be transferred to a person who is not licensed or otherwise  
8 authorized to render the professional service of the professional limited liability company.

9 (2) If a member, manager, or officer of a professional limited liability company, or an  
10 agent or employee of the company who has been rendering professional service for or with  
11 the company of the same type for which the professional limited liability company was  
12 organized to render, becomes legally disqualified to render the professional service, the person  
13 shall sever all employment with the professional limited liability company and immediately  
14 terminate all financial interest in the company. The professional limited liability company shall  
15 purchase or cause to be purchased from the person all membership interests owned by the  
16 person in the professional limited liability company, at a price and on terms as may be  
17 provided in the articles of organization, the regulations, or any applicable agreement among  
18 the members and the professional limited liability company.

19  
20 (e) Rendering of Professional Services.

21 (1) A professional limited liability company may render professional service in Guam  
22 only through: (i) an individual member, manager, officer, employee, or agent who is licensed  
23 to render the professional service on Guam; or (ii) an agent of the professional limited liability  
24 company that is a professional limited liability company, professional corporation, or  
25 professional association that is authorized on Guam to render the professional service of the

1 professional limited liability company and that renders the professional service only through  
2 a licensed individual member, manager, officer, or employee.

3 (2) This Article does not prohibit employment by a professional limited liability  
4 company of clerks, secretaries, bookkeepers, technicians, nurses, assistants, and other  
5 individuals who are not usually and ordinarily considered by custom and practice to be  
6 rendering professional service for which a license or other legal authorization is required. A  
7 person may not, under the guise of employment, practice a profession on Guam unless  
8 licensed or otherwise legally authorized to practice that profession under the laws of Guam.  
9

10 (f) Professional Relationships Not Affected.

11 This Act does not alter or affect the professional relationship between a person rendering  
12 professional service and a person receiving the service, and a confidential relationship enjoyed  
13 on Guam between those persons remains unchanged. This Act does not remove or diminish  
14 any rights at law that a person receiving professional service has against a person rendering the service  
15 for an error, an omission, negligence, incompetence, or malfeasance. A limited liability company,  
16 but not the other individual members, managers, or officers, is jointly and severally liable with  
17 a member, manager, officer, employee, or agent rendering professional service for an error,  
18 omission, negligence, incompetence, or malfeasance on the part of the member, manager,  
19 officer, employee, or agent when the member, manager, officer, employee, or agent is  
20 rendering professional service in the course of employment for the limited liability company."  
21  
22

23 **Section 3.** This Act will take effect 180 days after its enactment.  
24

25 **Section 4.** Immediately after the enactment of this legislation, The Director of the Department  
26 of Revenue and Taxation shall conduct a complete and comprehensive study, not to exceed 90

1 days, of the impact of this Act and of its financial consequences to the government and to the  
2 people of Guam.

3 If the Director, after his study, deems the impact of this legislation and of its financial  
4 consequences to be adverse to the territorial government and to the people of Guam, he shall  
5 prepare a complete and comprehensive report to be made available to the Speaker of the  
6 Legislature and to the Governor of Guam which shall state his reasons as to the adverse effects  
7 and adverse financial consequences which will result from this Act. The report shall also state  
8 his recommendations as to how such effects can be countered or alleviated.

9 If the Director deems the impact and the financial consequences to be not adverse to the  
10 territorial government and to the people of Guam, he shall immediately initiate action to provide  
11 to the people and businesses of Guam the services and duties as are required and provided  
12 under this Act.

13