

pauperis under section 563.01, the court shall waive the fee or direct its payment under section 563.01. The court may not require the parties to attend the same orientation session.

Presented to the governor May 4, 1995

Signed by the governor May 5, 1995, 9:12 a.m.

CHAPTER 128—H.F.No. 399

An act relating to business organizations; clarifying corporate authority with respect to rights to purchase; regulating filings and related matters; providing for service of process; amending Minnesota Statutes 1994, sections 5.22, subdivision 1; 48.185, subdivision 7; 79A.06, subdivision 5; 168.27, subdivision 19a; 221.67; 302A.115, subdivision 1; 302A.121, subdivision 1; 302A.409, subdivision 3; 302A.701; 302A.901, subdivision 1; 303.03; 303.06, subdivision 1; 303.13, subdivision 1; 303.14, subdivision 3; 308A.121, subdivision 1; 309.56, subdivision 1; 317A.115, subdivision 2; 317A.823, subdivision 1; 317A.901, subdivision 1; 319A.03; 319A.06, subdivision 2; 322A.02; 322A.761; 322B.12, subdivision 1; 322B.80, subdivision 1; 322B.876, subdivision 1; 322B.955; 322B.960, subdivisions 1 and 3; 323.02, by adding a subdivision; 323.44, subdivisions 2, 4, 5, and 6; 323.45, subdivisions 1 and 5; 323.46; 323.47, subdivision 1; 325F.70, subdivision 2; 330.11, subdivision 3; 333.001; 333.01; 333.055, subdivision 4; 333.21, subdivision 1; 336.9-403; 336A.11, subdivision 2; 540.152; and 543.08; proposing coding for new law in Minnesota Statutes, chapters 5; and 323; repealing Minnesota Statutes 1994, sections 302A.901, subdivisions 2, 2a, 3, and 4; 303.13, subdivisions 2, 3, 4, and 5; 317A.901, subdivisions 2, 3, and 4; 322B.876, subdivisions 2, 3, and 4; 322B.901; and 323.47, subdivisions 2, 3, and 4.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MINNESOTA:

ARTICLE 1

Section 1. [5.25] SERVICE OF PROCESS.

Subdivision 1. WHO MAY BE SERVED. A process, notice, or demand required or permitted by law to be served upon an entity governed by chapter 221, 302A, 303, 317A, 322A, 322B, 323, 330, 540, or 543 may be served on: (1) the registered agent, if any; (2) if no agent has been appointed then on an officer, manager, or partner of the entity; or (3) if no agent, officer, manager, or partner can be found, on the secretary of state as provided in this section.

Subd. 2. SERVICE ON MOTOR CARRIERS AND UNIONS, GROUPS, OR ASSOCIATIONS. When service of process is to be made on the secretary of state according to section 221.67 or 540.152, the procedure in this subdivision applies. Service must be made by filing the process, notice, or demand with the

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secretary of state along with the payment of a fee of \$35. Within ten days of the filing with the secretary of state, a copy of the process, notice, or demand shall be sent to the defendant's last known address by the person who caused it to be served on the secretary of state.

Subd. 3. SERVICE ON CERTAIN BUSINESS ENTITIES; AUCTIONEERS. When service of process is to be made on the secretary of state for entities governed by chapter 302A, 317A, 322A, 322B, 323, 330, or 543, the procedure in this subdivision applies. Service must be made by filing with the secretary of state two copies of the process, notice, or demand along with payment of a \$35 fee.

Subd. 4. SERVICE ON FOREIGN CORPORATION. (a) Service of a process, notice, or demand may be made on a foreign corporation authorized to transact business in this state by delivering to and leaving with the secretary of state, or with an authorized deputy or clerk in the secretary of state's office, two copies of it and a fee of \$50 in the following circumstances: (1) if the foreign corporation fails to appoint or maintain in this state a registered agent upon whom service of process may be had; (2) whenever a registered agent cannot be found at its registered office in this state, as shown by the return of the sheriff of the county in which the registered office is situated, or by an affidavit of attempted service by a person not a party; (3) whenever a corporation withdraws from the state; or (4) whenever the certificate of authority of a foreign corporation is revoked or canceled.

However, after a foreign corporation withdraws from the state, according to section 303.16, service upon the corporation may be made according to this section only when based upon a liability or obligation of the corporation incurred within this state or arising out of any business done in this state by the corporation before the issuance of a certificate of withdrawal.

(b) A foreign corporation is considered to be doing business in Minnesota if it makes a contract with a resident of Minnesota to be performed in whole or in part by either party in Minnesota, or if it commits a tort in whole or in part in Minnesota against a resident of Minnesota. These acts are considered to be equivalent to the appointment by the foreign corporation of the secretary of state of Minnesota and successors to be its true and lawful attorney upon whom may be served all lawful process in actions or proceedings against the foreign corporation arising from or growing out of the contract or tort. Process must be served in duplicate upon the secretary of state, together with the address to which service is to be sent and a fee of \$50. The making of the contract or the committing of the tort is considered to be the agreement of the foreign corporation that any process against it which is so served upon the secretary of state has the same legal force and effect as if served personally on it within the state of Minnesota.

Subd. 5. SERVICE ON DISSOLVED, WITHDRAWN, OR REVOKED BUSINESS ENTITY. (a) Process, notice, or demand may be served on a dissolved, withdrawn, or revoked business entity that was governed by chapter

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302A, 303, 317A, 322A, 322B, or 323 as provided in this subdivision. The court shall determine if service is proper.

(b) If a business entity has voluntarily dissolved or has withdrawn its request for authority to transact business in this state, or a court has entered a decree of dissolution or revocation of authority to do business, service must be made according to subdivision 3 or 4, so long as claims are not barred under the provisions of the chapter that governed the business entity.

(c) If a business entity has been involuntarily dissolved or its authority to transact business in this state has been revoked, service must be made according to subdivision 3 or 4.

Subd. 6. DUTIES OF SECRETARY OF STATE. In the case of service of process according to subdivision 3 or 4, the secretary of state shall immediately cause one copy of a service of process to be forwarded by certified mail addressed to the business entity:

(1) in care of the agent of the business entity, at its registered office in this state as it appears in the records of the secretary of state;

(2) at the address designated in the application for withdrawal, if the business entity has withdrawn from this state in the manner provided by law;

(3) at the address provided by the party submitting the document for service of process if the business entity's authority to do business in this state has been revoked; or

(4) at the address provided by the party submitting the document for service of process if the business entity has never been authorized to do business in this state.

Subd. 7. TIME TO ANSWER. If a summons is to be served upon the secretary of state according to subdivision 3 or 4, the business entity so served has 30 days from the date of mailing by the secretary of state in which to answer the complaint.

Subd. 8. OTHER METHODS OF SERVICE. Nothing in this section limits the right of a person to serve any process, notice, or demand required or permitted by law to be served upon a business entity in another manner.

Sec. 2. Minnesota Statutes 1994, section 48.185, subdivision 7, is amended to read:

Subd. 7. Any bank or savings bank extending credit in compliance with the provisions of this section, which is injured competitively by violations of this section by another bank or savings bank, may institute a civil action in the district court of this state against that bank or savings bank for an injunction prohibiting any violation of this section. The court, upon proper proof that the defendant has engaged in any practice in violation of this section, may enjoin

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the future commission of that practice. Proof of monetary damage or loss of profits shall not be required. Costs and attorneys' fees may be allowed to the plaintiff, unless the court directs otherwise. The relief provided in this subdivision is in addition to remedies otherwise available against the same conduct under the common law or statutes of this state.

Service of process shall be as in any other civil suit, except that if a defendant in the action is a foreign corporation or a national banking association with its principal place of business in another state, service of process may also be made by personal service outside the state, or in the manner provided by section ~~303.13, subdivision 1, clause (3)~~ 5.25, or in such manner as the court may direct, or in accordance with section 45.028, subdivision 2. Process is valid if it satisfies the requirements of due process of law, whether or not defendant is doing business in Minnesota regularly or habitually.

Sec. 3. Minnesota Statutes 1994, section 79A.06, subdivision 5, is amended to read:

Subd. 5. **PRIVATE EMPLOYERS WHO HAVE CEASED TO BE SELF-INSURED.** Private employers who have ceased to be private self-insurers shall discharge their continuing obligations to secure the payment of compensation which is accrued during the period of self-insurance, for purposes of Laws 1988, chapter 674, sections 1 to 21, by compliance with all of the following obligations of current certificate holders:

(1) Filing reports with the commissioner to carry out the requirements of this chapter;

(2) Depositing and maintaining a security deposit for accrued liability for the payment of any compensation which may become due, pursuant to chapter 176. However, if a private employer who has ceased to be a private self-insurer purchases an insurance policy from an insurer authorized to transact workers' compensation insurance in this state which provides coverage of all claims for compensation arising out of injuries occurring during the period the employer was self-insured, whether or not reported during that period, the policy will discharge the obligation of the employer to maintain a security deposit for the payment of the claims covered under the policy. The policy may not be issued by an insurer unless it has previously been approved as to form and substance by the commissioner; and

(3) Paying within 30 days all assessments of which notice is sent by the security fund, for a period of seven years from the last day its certificate of self-insurance was in effect. Thereafter, the private employer who has ceased to be a private self-insurer may either: (a) continue to pay within 30 days all assessments of which notice is sent by the security fund until it has no incurred liabilities for the payment of compensation arising out of injuries during the period of self-insurance; or (b) pay the security fund a cash payment equal to four percent of the net present value of all remaining incurred liabilities for the payment of compensation under sections 176.101 and 176.111 as certified by a member of

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the casualty actuarial society. Assessments shall be based on the benefits paid by the employer during the calendar year immediately preceding the calendar year in which the employer's right to self-insure is terminated or withdrawn.

In addition to proceedings to establish liabilities and penalties otherwise provided, a failure to comply may be the subject of a proceeding before the commissioner. An appeal from the commissioner's determination may be taken pursuant to the contested case procedures of chapter 14 within 30 days of the commissioner's written determination.

Any current or past member of the self-insurers' security fund is subject to service of process on any claim arising out of chapter 176 or this chapter in the manner provided by section ~~303.13, subdivision 1, clause (3)~~ 5.25, or as otherwise provided by law. The issuance of a certificate to self-insure to the private self-insured employer shall be deemed to be the agreement that any process which is served in accordance with this section shall be of the same legal force and effect as if served personally within this state.

Sec. 4. Minnesota Statutes 1994, section 168.27, subdivision 19a, is amended to read:

Subd. 19a. **INJUNCTION.** The commissioner or a county attorney may institute a civil action in the name of the state in district court for an injunction prohibiting a violation of this section. The court, upon proper proof that the defendant has engaged in a practice prohibited by this section, may enjoin the future commission of that practice. It is not a defense to an action that the state may have adequate remedies at law. Service of process must be as in any other civil suit, except that where a defendant in the action is a natural person or firm residing outside the state, or is a foreign corporation, service of process may also be made by personal service outside the state; in the manner provided by section ~~303.13, subdivision 1, paragraph (3)~~ 5.25; or as the court may direct. Process is valid if it satisfies the requirements of due process of law, whether or not the defendant is doing business in Minnesota regularly or habitually. Nothing in this subdivision limits the rights or remedies otherwise available to persons under common law or other statutes of this state.

Sec. 5. Minnesota Statutes 1994, section 221.67, is amended to read:

221.67 SERVICE OF PROCESS.

The use of any of the public highways of this state for the transportation of persons or property for compensation by a motor carrier in interstate commerce shall be deemed an irrevocable appointment by the carrier of the secretary of state to be the carrier's true and lawful attorney upon whom may be served all legal process in any action or proceeding brought under this chapter against the carrier or the carrier's executor, administrator, personal representative, heirs, successors or assigns. This use is a signification of agreement by the interstate motor carrier that any process in any action against the carrier or the carrier's executor, administrator, personal representative, heirs, successors, or assigns

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which is so served shall be of the same legal force and validity as if served upon the carrier personally. Service shall be made by servicing a copy thereof upon the secretary of state or by filing a copy in the office of the secretary of state, together with payment of a fee of \$35, and the service shall be sufficient service upon the absent motor carrier if notice of the service and a copy of the process are within ten days thereafter sent by mail by the plaintiff to the defendant at the defendant's last known address according to section 5.25 and the plaintiff's affidavit of compliance with the provisions of this section and sections 221.60, 221.65, and 221.68 is must be attached to the summons.

Sec. 6. Minnesota Statutes 1994, section 302A.901, subdivision 1, is amended to read:

Subdivision 1. **WHO MAY BE SERVED.** A process, notice, or demand required or permitted by law to be served upon a corporation may be served either upon the registered agent, if any, of the corporation named in the articles, or upon an officer of the corporation, or upon the secretary of state as provided in this section 5.25.

Sec. 7. Minnesota Statutes 1994, section 303.03, is amended to read:

303.03 FOREIGN CORPORATIONS MUST HAVE CERTIFICATE OF AUTHORITY.

No foreign corporation shall transact business in this state unless it holds a certificate of authority so to do; and no foreign corporation whose certificate of authority has been revoked or canceled pursuant to the provisions of this chapter shall be entitled to obtain a certificate of authority except in accordance with the provisions of section 303.19. This section does not establish standards for those activities that may subject a foreign corporation to taxation under section 290.015 and to the reporting requirements of section 290.371. Without excluding other activities which may not constitute transacting business in this state, and subject to the provisions of sections ~~303.13~~ 5.25 and 543.19, a foreign corporation shall not be considered to be transacting business in this state for the purposes of this chapter solely by reason of carrying on in this state any one or more of the following activities:

(a) Maintaining or defending any action or suit or any administrative or arbitration proceeding, or effecting the settlement thereof or the settlement of claims or disputes;

(b) Holding meetings of its directors or shareholders or carrying on other activities concerning its internal affairs;

(c) Maintaining bank accounts;

(d) Maintaining offices or agencies for the transfer, exchange, and registration of its securities, or appointing and maintaining trustees or depositaries with relation to its securities;

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(e) Holding title to and managing real or personal property, or any interest therein, situated in this state, as executor of the will or administrator of the estate of any decedent, as trustee of any trust, or as guardian or conservator of the person or estate, or both, of any person;

(f) Making, participating in, or investing in loans or creating, as borrower or lender, or otherwise acquiring indebtedness or mortgages or other security interests in real or personal property;

(g) Securing or collecting its debts or enforcing any rights in property securing them; or

(h) Conducting an isolated transaction completed within a period of 30 days and not in the course of a number of repeated transactions of like nature.

Sec. 8. Minnesota Statutes 1994, section 303.06, subdivision 1, is amended to read:

Subdivision 1. **CONTENTS.** In order to procure a certificate of authority to transact business in this state, a foreign corporation shall make application therefor to the secretary of state, which application shall set forth:

(1) the name of the corporation and the state or country under the laws of which it is organized;

(2) if the name of the corporation does not comply with section 303.05, then the name which it agrees to use in this state;

(3) the address of its proposed registered office in this state and the name of its proposed registered agent in this state;

(4) that it irrevocably consents to the service of process upon it as set forth in section ~~303.13~~ 5.25, or any amendment thereto; and

(5) a statement that the officers executing the application have been duly authorized so to do by the board of directors of the corporation.

Sec. 9. Minnesota Statutes 1994, section 303.13, subdivision 1, is amended to read:

Subdivision 1. **FOREIGN CORPORATION.** A foreign corporation shall be subject to service of process, as follows:

(1) by service on its registered agent; or

(2) ~~When any foreign corporation authorized to transact business in this state fails to appoint or maintain in this state a registered agent upon whom service of process may be had, or whenever any registered agent cannot be found at its registered office in this state, as shown by the return of the sheriff of the county in which the registered office is situated, or by an affidavit of attempted service by any person not a party, or whenever any corporation withdraws from the state, or whenever the certificate of authority of any foreign corporation is~~

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revoked or canceled, service may be made by delivering to and leaving with the secretary of state, or with any authorized deputy or clerk in the secretary of state's office, two copies thereof and a fee of \$50; provided, that after a foreign corporation withdraws from the state, pursuant to section 303.16, service upon the corporation may be made pursuant to the provisions of this section only when based upon a liability or obligation of the corporation incurred within this state or arising out of any business done in this state by the corporation prior to the issuance of a certificate of withdrawal.

(3) If a foreign corporation makes a contract with a resident of Minnesota to be performed in whole or in part by either party in Minnesota, or if a foreign corporation commits a tort in whole or in part in Minnesota against a resident of Minnesota, such acts shall be deemed to be doing business in Minnesota by the foreign corporation and shall be deemed equivalent to the appointment by the foreign corporation of the secretary of the state of Minnesota and successors to be its true and lawful attorney upon whom may be served all lawful process in any actions or proceedings against the foreign corporation arising from or growing out of the contract or tort. Process shall be served in duplicate upon the secretary of state, together with the address to which service is to be sent and a fee of \$50 and the secretary of state shall mail one copy thereof to the corporation at the last address listed on the records of the secretary of state or the address provided by the party requesting service, and the corporation shall have 30 days within which to answer from the date of the mailing, notwithstanding any other provision of the law. The making of the contract or the committing of the tort shall be deemed to be the agreement of the foreign corporation that any process against it which is so served upon the secretary of state shall be of the same legal force and effect as if served personally on it within the state of Minnesota as provided in section 5.25.

Sec. 10. Minnesota Statutes 1994, section 309.56, subdivision 1, is amended to read:

Subdivision 1. Any charitable organization or professional fund raiser which solicits contributions in this state, but does not maintain an office within the state shall be subject to service of process, as follows:

(a) By service thereof on its registered agent within the state, or if there be no such registered agent, then upon the person, if any, who has been designated in the registration statement as having custody of books and records within this state; where service is effected upon the person so designated in the registration statement a copy of the process shall, in addition, be mailed to the charitable organization or professional fund raiser at its last known address;

(b) When a charitable organization or professional fund raiser has solicited contributions in this state, but maintains no office within the state, has no registered agent within the state, and no designated person having custody of its books and records within the state, or when a registered agent or person having custody of its books and records within the state cannot be found as shown by

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the return of the sheriff of the county in which such registered agent or person having custody of books and records has been represented by the charitable organization or professional fund raiser as maintaining an office, service may be made as in any other civil suit, or in the manner provided by section ~~303.13~~, subdivision 1, clause (3) 5.25, or in a manner as the court may direct.

Sec. 11. Minnesota Statutes 1994, section 317A.901, subdivision 1, is amended to read:

Subdivision 1. **WHO MAY BE SERVED.** A process, notice, or demand required or permitted by law to be served upon a corporation may be served upon the registered agent, if any, of the corporation named in the articles, upon an officer of the corporation, or upon the secretary of state as provided in ~~this~~ section 5.25.

Sec. 12. Minnesota Statutes 1994, section 322A.761, is amended to read:

322A.761 SERVICE OF PROCESS ON LIMITED PARTNERSHIP OR FOREIGN LIMITED PARTNERSHIP.

A process, notice, or demand required or permitted by law to be served upon a limited partnership or foreign limited partnership may be served either upon the registered agent, if any, of the limited partnership or foreign limited partnership named in the certificate or registration, or upon a general partner of the limited partnership or foreign limited partnership, or upon the secretary of state as provided in section ~~302A.901~~ 5.25.

Sec. 13. Minnesota Statutes 1994, section 322B.876, subdivision 1, is amended to read:

Subdivision 1. **WHO MAY BE SERVED.** A process, notice, or demand required or permitted by law to be served upon a limited liability company may be served either upon the registered agent, if any, of the limited liability company named in the articles of organization, or upon a manager of the limited liability company, or upon the secretary of state as provided in ~~this~~ section 5.25.

Sec. 14. Minnesota Statutes 1994, section 322B.955, is amended to read:

322B.955 SERVICE OF PROCESS.

Service of process on a foreign limited liability company must be as provided in section ~~322B.876~~ 5.25.

Sec. 15. Minnesota Statutes 1994, section 323.47, subdivision 1, is amended to read:

Subdivision 1. **WHO MAY BE SERVED.** A process, notice, or demand required or permitted by law to be served on a limited liability partnership may be served either on the registered agent of the limited liability partnership, if any, or on any responsible person found at the registered office of the limited liability partnership or on the secretary of state as provided in ~~this~~ section 5.25.

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Sec. 16. Minnesota Statutes 1994, section 325F.70, subdivision 2, is amended to read:

Subd. 2. **SERVICE OF PROCESS.** Service of process shall be as in any other civil suit, except that where a defendant in such action is a natural person or firm residing outside the state, or is a foreign corporation, service of process may also be made by personal service outside the state, or in the manner provided by section ~~303.13, subdivision 1(3)~~ 5.25, or in such manner as the court may direct. Process is valid if it satisfies the requirements of due process of law, whether or not defendant is doing business in Minnesota regularly or habitually.

Sec. 17. Minnesota Statutes 1994, section 330.11, subdivision 3, is amended to read:

Subd. 3. Every nonresident applicant shall file an irrevocable consent that suits and actions may be commenced against such applicant in any court of competent jurisdiction in this state by the service on the secretary of state of any summons, process, or pleadings authorized by the laws of the state of Minnesota. This consent shall stipulate that the service of such process or pleadings on the secretary of state shall be taken and held in all courts to be as valid and binding as if due service had been made upon the applicant in the state of Minnesota. In case any summons, process, or pleadings are served upon the secretary of state, it shall be ~~by duplicate copies, one of which shall be retained in the office of the secretary of state, and the other to be forwarded immediately by certified mail to the address of the applicant, as shown by the records of the secretary of state, against whom the summons, process, or pleadings may be divested. A fee of \$35 must be paid to the secretary of state for each service according to section 5.25.~~

Sec. 18. Minnesota Statutes 1994, section 540.152, is amended to read:

540.152 SERVICE OF PROCESS ON UNIONS, GROUPS, OR ASSOCIATIONS.

The transaction of any acts, business, or activities within the state of Minnesota by any officer, agent, representative, employee, or member of any union or other groups or associations having officers, agents, members, or property without the state on behalf of the union or other groups or associations or any of its members or affiliated local unions shall be deemed an appointment by the union or other groups or associations of the secretary of state of the state of Minnesota to be the true and lawful attorney of the union or other groups or associations, upon whom may be served all legal processes or notices in any action or proceeding against or involving the union or other groups or associations growing out of any acts, business or activities within the state of Minnesota resulting in damage or loss to person or property or giving rise to any cause of action under the laws of the state of Minnesota or to any matters or proceedings arising under the Minnesota labor relations act. Such acts, business, or activities shall be a signification of the agreement of the union or other groups or associations and its members that any process or notice in any action, matter, or

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proceeding against or involving it, which is so served, shall be of the same legal force and validity as if served upon the union or other groups or associations and its members personally. Service of process or notice shall be made by filing a copy thereof in the office of the secretary of state, together with payment of a fee of \$35 and together with an affidavit stating that no officer or managing agent of the union or other group or association has been found in this state and setting forth an address to which the service shall be forwarded according to section 5.25. The service shall be sufficient service upon the union or other groups or associations and its members. Notice of service and a copy of the process or notice shall, within ten days thereafter, be sent by mail by the person who caused it to be served on the union or other groups or associations at its last known address and an affidavit of compliance with the provisions of this chapter shall be filed with the court or other state agency or department before which the action, matter, or proceeding is pending.

Sec. 19. Minnesota Statutes 1994, section 543.08, is amended to read:

543.08 SUMMONS, SERVICE UPON CERTAIN CORPORATIONS.

If a private domestic corporation has no officer at the registered office of the corporation within the state upon whom service can be made, of which fact the return of the sheriff of the county in which that office is located, or the affidavit of a private person not a party, that none can be found in that county shall be conclusive evidence, service of the summons upon it may be made by depositing two copies, together with a fee of \$35 with the secretary of state, which shall be deemed personal service upon the corporation. One of the copies shall be filed by the secretary, and the other forthwith mailed by the secretary to the corporation by certified mail, if the place of its main office is known to the secretary or is disclosed by the files in the office according to section 5.25.

If the defendant is a foreign insurance corporation, the summons may be served in compliance with section 45.028, subdivision 2.

Sec. 20. **REPEALER.**

Minnesota Statutes 1994, sections 302A.901, subdivisions 2, 2a, 3, and 4; 303.13, subdivisions 2, 3, 4, and 5; 317A.901, subdivisions 2, 3, and 4; 322B.876, subdivisions 2, 3, and 4; and 323.47, subdivisions 2, 3, and 4, are repealed.

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ARTICLE 2

Section 1. Minnesota Statutes 1994, section 302A.115, subdivision 1, is amended to read:

Subdivision 1. **REQUIREMENTS; PROHIBITIONS.** The corporate name:

(a) Shall be in the English language or in any other language expressed in English letters or characters;

(b) Shall contain the word "corporation," "incorporated," or "limited," or shall contain an abbreviation of one or more of these words, or the word "company" or the abbreviation "Co." if that word or abbreviation is not immediately preceded by the word "and" or the character "&;

(c) Shall not contain a word or phrase that indicates or implies that it is incorporated for a purpose other than a legal business purpose;

(d) Shall be distinguishable upon the records in the office of the secretary of state from the name of each domestic corporation, limited partnership, limited liability partnership, and limited liability company, whether profit or nonprofit, and each foreign corporation, limited partnership, limited liability partnership, and limited liability company authorized or registered to do business in this state, whether profit or nonprofit, and each name the right to which is, at the time of incorporation, reserved as provided for in sections 302A.117, 322A.03, 322B.125, or 333.001 to 333.54, unless there is filed with the articles one of the following:

(1) The written consent of the domestic corporation, limited partnership, limited liability partnership, or limited liability company, or the foreign corporation, limited partnership, limited liability partnership, or limited liability company authorized or registered to do business in this state or the holder of a reserved name or a name filed by or registered with the secretary of state under sections 333.001 to 333.54 having a name that is not distinguishable;

(2) A certified copy of a final decree of a court in this state establishing the prior right of the applicant to the use of the name in this state; or

(3) The applicant's affidavit that the corporation, limited partnership, or limited liability company with the name that is not distinguishable has been incorporated or on file in this state for at least three years prior to the affidavit, if it is a domestic corporation, limited partnership, or limited liability company, or has been authorized or registered to do business in this state for at least three years prior to the affidavit, if it is a foreign corporation, limited partnership, or limited liability company, or that the holder of a name filed or registered with the secretary of state under sections 333.001 to 333.54 filed or registered that name at least three years prior to the affidavit; that the corporation, limited partnership, or limited liability company or holder has not during the three-year

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period filed any document with the secretary of state; that the applicant has mailed written notice to the corporation, limited partnership, or limited liability company or the holder of a name filed or registered with the secretary of state under sections 333.001 to 333.54 by certified mail, return receipt requested, properly addressed to the registered office of the corporation or in care of the agent of the limited partnership, or the address of the holder of a name filed or registered with the secretary of state under sections 333.001 to 333.54, shown in the records of the secretary of state, stating that the applicant intends to use a name that is not distinguishable and the notice has been returned to the applicant as undeliverable to the addressee corporation, limited partnership, limited liability company, or holder of a name filed or registered with the secretary of state under sections 333.001 to 333.54; that the applicant, after diligent inquiry, has been unable to find any telephone listing for the corporation, limited partnership, or limited liability company with the name that is not distinguishable in the county in which is located the registered office of the corporation, limited partnership, or limited liability company shown in the records of the secretary of state or has been unable to find any telephone listing for the holder of a name filed or registered with the secretary of state under sections 333.001 to 333.54 in the county in which is located the address of the holder shown in the records of the secretary of state; and that the applicant has no knowledge that the corporation, limited partnership, limited liability company, or holder of a name filed or registered with the secretary of state under sections 333.001 to 333.54 is currently engaged in business in this state.

Sec. 2. Minnesota Statutes 1994, section 308A.121, subdivision 1, is amended to read:

Subdivision 1. **NAME.** The name of a cooperative must distinguish the cooperative upon the records in the office of the secretary of state from the name of a domestic corporation, whether profit or nonprofit, or a limited partnership, or a foreign corporation or a limited partnership authorized or registered to do business in this state, whether profit or nonprofit, a limited liability company, whether domestic or foreign, a limited liability partnership, whether domestic or foreign, or a name the right to which is, at the time of incorporation, reserved or provided for in sections 302A.117, 317A.117, 322A.03, 322B.125, or 333.001 to 333.54.

Sec. 3. Minnesota Statutes 1994, section 317A.115, subdivision 2, is amended to read:

Subd. 2. **NAME MUST BE DISTINGUISHABLE.** (a) A corporate name must be distinguishable upon the records in the office of the secretary of state from the name of a domestic corporation or limited partnership, a foreign corporation or limited partnership authorized or registered to do business in this state, whether profit or nonprofit, a limited liability company, whether domestic or foreign, a limited liability partnership, whether domestic or foreign, or a name the right to which is, at the time of incorporation, reserved, registered, or provided for in section 317A.117, 302A.117, 322A.03, 322B.125, or sections 333.001 to 333.54, unless one of the following is filed with the articles:

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(1) the written consent of the organization having the name that is not distinguishable;

(2) a certified copy of a final decree of a court in this state establishing the prior right of the applicant to use its corporate name in this state; or

(3) an affidavit of nonuse of the kind required by section 302A.115, subdivision 1, paragraph (d), clause (3).

(b) The secretary of state shall determine whether a name is distinguishable from another name for purposes of this section and section 317A.117.

(c) This subdivision does not affect the right of a corporation existing on January 1, 1991, or a foreign corporation authorized to do business in this state on that date, to use its corporate name.

Sec. 4. Minnesota Statutes 1994, section 322A.02, is amended to read:

322A.02 NAME.

(a) The name of each limited partnership as set forth in its certificate of limited partnership:

(1) shall contain without abbreviation the words "limited partnership";

(2) may not contain the name of a limited partner unless (i) it is also the name of a general partner or the corporate name of a corporate general partner, or (ii) the business of the limited partnership had been carried on under that name before the admission of that limited partner;

(3) must be distinguishable from the name of a domestic corporation or limited partnership, whether profit or nonprofit, or a foreign corporation or limited partnership authorized or registered to do business in this state, whether profit or nonprofit, a limited liability company, whether domestic or foreign, a limited liability partnership, whether domestic or foreign, or a name the right to which is reserved or provided for in the manner provided for in sections 302A.117, 322A.03, 322B.125, or 333.001 to 333.54, unless there is filed with the certificate a written consent, court decree of prior right, or affidavit of nonuse, of the kind required by section 302A.115, subdivision 1, paragraph (d); and

(4) may not contain the following words: corporation, incorporated.

The secretary of state shall determine whether a name is "distinguishable" from another name for purposes of this section and section 322A.03. This section does not abrogate or limit the law of unfair competition or unfair practices, nor sections 333.001 to 333.54, nor the laws of the United States with respect to the right to acquire and protect copyrights, trademarks, service names, service marks, or any other rights to the exclusive use of names or symbols, nor derogate the common law or principles of equity.

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(b) A person doing business in this state may contest the subsequent registration of a name with the office of the secretary of state as provided in section 5.22.

Sec. 5. Minnesota Statutes 1994, section 322B.12, subdivision 1, is amended to read:

Subdivision 1. **REQUIREMENTS AND PROHIBITIONS.** The limited liability company name must:

(1) be in the English language or in any other language expressed in English letters or characters;

(2) contain the words "limited liability company," or must contain the abbreviation "LLC" or, in the case of an organization formed pursuant to section 319A.03, must contain the words "professional limited liability company," or the abbreviation "PLC";

(3) not contain the word corporation or incorporated and must not contain the abbreviation of either or both of these words;

(4) not contain a word or phrase that indicates or implies that it is organized for a purpose other than a legal business purpose; and

(5) be distinguishable upon the records in the office of the secretary of state from the name of a domestic limited liability company, limited liability partnership, corporation, or limited partnership, whether profit or nonprofit, or a foreign limited liability company, limited liability partnership, corporation, or limited partnership authorized or registered to do business in this state, whether profit or nonprofit, or a name the right to which is, at the time of organization, reserved or provided for in sections 302A.117, 317A.117, 322A.03, 322B.125, or 333.001 to 333.54, unless there is filed with the articles of organization one of the following:

(i) the written consent of the domestic limited liability company, limited liability partnership, corporation, or limited partnership or foreign limited liability company, limited liability partnership, corporation, or limited partnership authorized or registered to do business in this state or the holder of a reserved name or a name filed by or registered with the secretary of state under sections 333.001 to 333.54 having a name that is not distinguishable;

(ii) a certified copy of a final decree of a court in this state establishing the prior right of the applicant to the use of the name in this state; or

(iii) the applicant's affidavit that the limited liability company, corporation, or limited partnership with the name that is not distinguishable has been organized, incorporated, or on file in this state for at least three years prior to the affidavit, if it is a domestic limited liability company, corporation, or limited partnership, or has been authorized or registered to do business in this state for at least three years prior to the affidavit, if it is a foreign limited liability com-

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pany, corporation, or limited partnership, or that the holder of a name filed or registered with the secretary of state under sections 333.001 to 333.54 filed or registered that name at least three years prior to the affidavit, and has not during the three-year period filed any document with the secretary of state; that the applicant has mailed written notice to the limited liability company, corporation, or limited partnership or the holder of a name filed or registered with the secretary of state under sections 333.001 to 333.54 by certified mail, return receipt requested, properly addressed to the registered office of the limited liability company or corporation or in care of the agent of the limited partnership, or the address of the holder of a name filed or registered with the secretary of state under sections 333.001 to 333.54, shown in the records of the secretary of state, that the applicant intends to use a name that is not distinguishable and the notice has been returned to the applicant as undeliverable to the addressee limited liability company, corporation, or limited partnership or holder of a name filed or registered with the secretary of state under sections 333.001 to 333.54; that the applicant, after diligent inquiry, has been unable to find any telephone listing for the limited liability company, corporation, or limited partnership with the name that is not distinguishable in the county in which is located the registered office of the limited liability company or corporation shown in the records of the secretary of state or has been unable to find any telephone listing for the holder of a name filed or registered with the secretary of state under sections 333.001 to 333.54 in the county in which is located the address of the holder shown in the records of the secretary of state; and that the applicant has no knowledge that the limited liability company, corporation, or limited partnership or holder of a name filed or registered with the secretary of state under sections 333.001 to 333.54 is currently engaged in business in this state.

ARTICLE 3

Section 1. Minnesota Statutes 1994, section 5.22, subdivision 1, is amended to read:

Subdivision 1. **NOTICE OF CONTEST; DEPOSIT.** A person doing business in this state may contest the subsequent registration of a name with the office of the secretary of state by filing an acknowledged notice of contest with the secretary of state and sending a copy of the notice of contest to the person who subsequently registered the contested name. However, the secretary will not accept a contest between persons registered under sections 333.001 to 333.06. The notice to the secretary of state must be accompanied by a \$100 deposit, which the secretary of state shall award to the prevailing party in the contest.

Sec. 2. Minnesota Statutes 1994, section 302A.121, subdivision 1, is amended to read:

Subdivision 1. **REGISTERED OFFICE.** A corporation shall continuously maintain a registered office in this state. A registered office need not be the same

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as the principal place of business or the principal executive office of the corporation. If the current registered office address listed in the records of the secretary of state is not in compliance with section 302A.011, subdivision 3, the corporation must provide a new registered office address that is in compliance. A fee may not be charged if the registered office address is being changed only to bring the address into compliance. The new registered office address must have been approved by the board of directors.

Sec. 3. Minnesota Statutes 1994, section 302A.701, is amended to read:

302A.701 METHODS OF DISSOLUTION.

A corporation may be dissolved:

- (a) By the incorporators pursuant to section 302A.711;
- (b) By the shareholders pursuant to sections 302A.721 to 302A.729; ~~or~~
- (c) By order of a court pursuant to sections 302A.741 to 302A.765; or
- (d) By the secretary of state according to section 302A.821.

Sec. 4. Minnesota Statutes 1994, section 303.14, subdivision 3, is amended to read:

Subd. 3. **FORMS.** The annual report shall be made on forms prescribed by the secretary of state, one part setting forth the facts required by subdivision 1, clauses (1) to (3), and the other part the facts required by subdivision 1, clauses (4), (5), and (6). ~~The report shall be executed by the president, vice-president, treasurer, an assistant treasurer, secretary, or assistant secretary of the corporation. If the corporation is in the hands of a receiver or trustee, the report shall be executed on behalf of the corporation and verified by the receiver or trustee.~~

Sec. 5. Minnesota Statutes 1994, section 317A.823, subdivision 1, is amended to read:

Subdivision 1. **NOTICE FROM SECRETARY OF STATE; REGISTRATION REQUIRED.** (a) Except for corporations to which paragraph (c) applies, before July 1 of each year, the secretary of state shall mail a corporate registration form to each corporation that incorporated or filed a corporate registration during either of the previous two calendar years at its last registered office address listed on the records of the secretary of state. The form must include the exact legal corporate name and registered office address currently on file with the secretary of state along with the name of the person who performs the functions of the president. The secretary of state may also give notice of the requirement to file the annual registration by any other means the secretary of state considers appropriate.

(b) A corporation shall file a corporate registration with the secretary of state once each calendar year. ~~The registration must be signed by an authorized~~

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~~person.~~ If the corporation has changed its registered office address to an address other than that listed on the records of the secretary of state, the corporation shall file the new registered office address on the registration form. If the registration shows a change of registered office address, the registration must be signed by an authorized person. A fee of \$35 must be paid for filing the registered office address change. The new address must comply with section 317A.011, subdivision 2, and must have been approved by the board.

(c) The timely filing of an annual financial report and audit or an annual financial statement under section 69.051, subdivision 1 or 1a, by a volunteer firefighter relief association, as reflected in the notification by the state auditor under section 69.051, subdivision 1c, constitutes presentation of the corporate registration. The secretary of state may reject the registration by the volunteer firefighter relief association. Rejection must occur if the information provided to the state auditor does not match the information in the records of the secretary of state. The volunteer firefighter relief association may amend the articles of incorporation as provided in sections 317A.131 to 317A.151 so that the information from the state auditor may be accepted for filing. The timely filing of an annual financial report and audit or an annual financial statement under section 69.051, subdivision 1 or 1a, does not relieve the volunteer firefighter relief association of the requirement to file amendments to the articles of incorporation directly with the secretary of state.

Sec. 6. Minnesota Statutes 1994, section 319A.03, is amended to read:

319A.03 FORMATION.

One or more natural professional persons may form a corporation pursuant to chapter 302A; or 317A ~~and one or more natural professional persons may,~~ organize a limited liability company pursuant to chapter 322B, or register a limited liability partnership according to chapter 323 for the purposes hereinafter set forth. In addition to providing the information required by the chapter under which the entity is formed, organized, or registered, the following information is also required in the forming, organizing, or registration document:

(1) the name of the corporation, limited liability company, or limited liability partnership, which must comply with section 319A.07;

(2) the purpose of the corporation, limited liability company, or limited liability partnership, which must comply with section 319A.04;

(3) that the shareholders of the corporation, members of the limited liability company, or partners in a limited liability partnership may only be professional persons licensed to render the kind of professional services that fit the purpose of the corporation, limited liability company, or limited liability partnership; and

(4) that the officers and directors of a corporation, the governors and managers of a limited liability company, and the partners of a limited liability part-

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nership, other than the secretary and treasurer and their assistants, must be professional persons licensed to render the kind of professional services that fit the purpose of the corporation, limited liability company, or limited liability partnership.

Sec. 7. Minnesota Statutes 1994, section 319A.06, subdivision 2, is amended to read:

Subd. 2. A foreign professional corporation may provide professional service in this state only upon compliance with sections 303.01 to 303.24, ~~or 322B.90 to 322B.955, or 323.44 to 323.49,~~ regulating foreign corporations, foreign limited liability companies, and foreign limited liability partnerships, respectively. The secretary of state shall promulgate forms for such purpose. The provisions of sections 319A.01 to 319A.22 relating to the rendering of professional service by a professional corporation apply to a foreign professional corporation. Sections 319A.01 to 319A.22 shall not be construed to prohibit the rendering of professional service in this state by a person who is a shareholder, director, officer, employee, or agent of a foreign professional corporation, if the person could lawfully render professional service in this state in the absence of any relationship to the foreign professional corporation, irrespective of whether the foreign professional corporation is authorized to provide professional service in this state.

Sec. 8. Minnesota Statutes 1994, section 322B.80, subdivision 1, is amended to read:

Subdivision 1. **DISSOLUTION EVENTS.** A limited liability company dissolves upon the occurrence of any of the following events:

- (1) when the period fixed in the articles of organization for the duration of the limited liability company expires;
- (2) by order of a court pursuant to sections 322B.833 and 322B.843;
- (3) by action of the organizers pursuant to section 322B.803;
- (4) by action of the members pursuant to section 322B.806; ~~or~~
- (5) upon the occurrence of an event that terminates the continued membership of a member in the limited liability company, including:
 - (i) death of any member;
 - (ii) retirement of any member;
 - (iii) resignation of any member;
 - (iv) redemption of a member's complete membership interest;
 - (v) assignment of a member's governance rights under section 322B.313 which leaves the assignor with no governance rights;

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(vi) a buy-out of a member's membership interest under section 322B.833 that leaves that member with no governance rights;

(vii) expulsion of any member;

(viii) bankruptcy of any member;

(ix) dissolution of any member;

(x) a merger in which the limited liability company is not the surviving organization;

(xi) an exchange in which the limited liability company is not the acquiring organization; or

(xii) the occurrence of any other event that terminates the continued membership of a member in the limited liability company,

but the limited liability company is not dissolved and is not required to be wound up by reason of any event that terminates the continued membership of a member if (A) either there are at least two remaining members or a new member is admitted as provided in section 322B.11, and (B) the existence and business of the limited liability company is continued either by the consent of all the remaining members under a right to consent stated in the articles of organization and the consent is obtained no later than 90 days after the termination of the continued membership or under a separate right to continue stated in the articles of organization; or

(6) when terminated by the secretary of state according to section 322B.960.

Sec. 9. Minnesota Statutes 1994, section 322B.960, subdivision 1, is amended to read:

Subdivision 1. **INFORMATION REQUIRED.** Starting January 1, 1995, a limited liability company, whether domestic or foreign, shall once every other year file with the secretary of state a registration containing:

(a) the name of the limited liability company;

(b) the alternate name, if any, a foreign limited liability company has adopted for use in this state;

(c) the address of its registered office;

(d) the name of its registered agent, if any;

(e) the jurisdiction of organization; and

(f) the name and business address of the manager or other person exercising the principal functions of the chief manager of the limited liability company; and

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(g) the signature of a person authorized to sign the registration on behalf of the limited liability company.

Sec. 10. Minnesota Statutes 1994, section 322B.960, subdivision 3, is amended to read:

Subd. 3. **AMENDMENTS ON REGISTRATION FORM.** A domestic limited liability company which needs to amend its name, registered office address, or registered agent may make these amendments on the biennial registration form. If an amendment is made on the biennial registration form, it must be signed by an authorized person. The fee listed in section 322B.175 applies to these amendments.

Sec. 11. Minnesota Statutes 1994, section 323.02, is amended by adding a subdivision to read:

Subd. 9. FOREIGN LIMITED LIABILITY PARTNERSHIP. "Foreign limited liability partnership" means a general partnership organized under laws other than the laws of this state with status as a limited partnership in its home jurisdiction.

Sec. 12. Minnesota Statutes 1994, section 323.44, subdivision 2, is amended to read:

Subd. 2. **CONTENTS OF REGISTRATION.** A general partnership's registration to obtain or renew the status of a limited liability partnership must contain:

- (1) the name of the partnership;
- (2) a statement that the partnership applies to obtain status as a limited liability partnership or to renew that status;
- (3) an acknowledgment that the status of limited liability partnership will automatically expire, unless the partnership files a proper renewal registration;
- (4) the street address of the partnership's principal place of business; ~~and~~
- (5) if the partnership's principal place of business is not located in this state, the name and street address of a person located in this state that the partnership authorizes to act as the partnership's agent for service of process; and
- (6) the signature of a partner.

Sec. 13. Minnesota Statutes 1994, section 323.44, subdivision 4, is amended to read:

Subd. 4. **AUTHORITY TO FILE.** A domestic general partnership's decision to file a registration is an ordinary matter under section 323.17, clause (8). The decision to withdraw or not renew a registration is treated as an act in contravention of an agreement between the partners under section 323.17, clause (8).

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Sec. 14. Minnesota Statutes 1994, section 323.44, subdivision 5, is amended to read:

Subd. 5. **CHANGES IN REGISTRATION INFORMATION.** If the information contained in a registration becomes inaccurate after the registration is filed, the general partnership is ~~not required to amend or correct the registration and the inaccuracy has no effect on the partnership's status as a limited liability partnership.~~ The partnership must provide accurate information in any subsequently filed renewal registration. The inaccuracy has no effect on the partnership's status as a limited liability partnership.

Sec. 15. Minnesota Statutes 1994, section 323.44, subdivision 6, is amended to read:

Subd. 6. **VOLUNTARY WITHDRAWAL OF STATUS.** A partnership may end its status as a limited liability partnership at any time by filing with the secretary of state a withdrawal statement that names the partnership, states that the partnership is withdrawing its current registration, and acknowledges that the withdrawal ends the partnership's status as a limited liability partnership. The withdrawal statement must be signed by a partner and may state a delayed effective date, if that date is before the expiration date of the partnership's current registration. If the withdrawal statement does not state an effective date, the statement is effective when filed.

Sec. 16. Minnesota Statutes 1994, section 323.45, subdivision 1, is amended to read:

Subdivision 1. **REQUIREMENTS; PROHIBITIONS.** The name of a limited liability partnership must meet all of the requirements of section 302A.115, subdivision 1, except that the acceptable words required by section 302A.115, subdivision ~~2~~ 1, paragraph (b), are "limited liability partnership" or the abbreviation "L.L.P."

Sec. 17. Minnesota Statutes 1994, section 323.45, subdivision 5, is amended to read:

Subd. 5. **FAILURE TO USE REQUIRED NAME.** If a person purports to enter into a contract or other undertaking on behalf of a general partnership that is a domestic or foreign limited liability partnership and does not disclose to the other party that part of the limited liability partnership's name that complies with subdivision 1, then that person is personally liable on the contract or undertaking, unless that person can show that in making the contract or accepting the undertaking the other party did not rely on the partnership being an ordinary general partnership. Any partner of a domestic or foreign limited liability partnership who consents to a person not making the disclosure described in this subdivision is also personally liable on the contract or undertaking, unless that partner can make the showing described in this subdivision.

Sec. 18. Minnesota Statutes 1994, section 323.46, is amended to read:

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323.46 APPLICABILITY TO FOREIGN AND INTERSTATE COMMERCE.

Subdivision 1. **CONDUCTING BUSINESS.** A domestic partnership, including a domestic limited liability partnership, formed and existing under this chapter, may conduct its business, carry on its operations, and have and exercise the powers granted by this chapter in any state, territory, district, or possession of the United States or in any foreign country.

Subd. 2. **GOVERNING LAW.** It is the policy of this state that the internal affairs of domestic partnerships, including domestic limited liability partnerships, existing under this chapter, including the liability of partners for debts and obligations of partnerships, are subject to and governed by the laws of this state.

Sec. 19. [323.48] GOVERNING LAW.

Subdivision 1. STATE OF ORGANIZATION. Subject to the constitution of this state, the laws of the jurisdiction under which a foreign limited liability partnership is organized govern its organization and internal affairs and the liability of its members. A foreign limited liability partnership may not be denied a registration in this state by reason of a difference between those laws and the laws of this state.

Subd. 2. LIMITATIONS. A foreign limited liability partnership registered in this state has no greater rights and privileges than a domestic limited liability partnership. The registration does not authorize the foreign limited liability partnership to exercise any of its powers or purposes that a domestic limited liability partnership is forbidden by law to exercise in this state.

Sec. 20. [323.49] FOREIGN LIMITED LIABILITY PARTNERSHIPS.

Subdivision 1. STATEMENT OF QUALIFICATION. Before transacting business in this state, a foreign limited liability partnership must file a statement of qualification as provided in subdivision 3 with the secretary of state. The statement is effective for one year from the date of filing and may be renewed for successive one-year periods as provided in subdivision 2. At the end of the one-year period, the statement automatically expires unless a renewal statement is properly filed. Section 322B.945 applies to determine whether a foreign limited liability partnership is transacting business.

Subd. 2. RENEWAL. The foreign limited liability partnership may file a renewal statement that complies with this section no earlier than 60 days before the expiration of the one-year period under subdivision 1. A proper renewal extends the partnership's status as a foreign limited liability partnership for another one-year period, measured from the end of the previous one-year period. At the end of any renewal period, the renewal statement automatically expires. A foreign limited liability partnership's statement may be renewed for an unlimited number of one-year periods.

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Subd. 3. CONTENTS OF STATEMENT OF QUALIFICATION. A foreign limited liability partnership's statement of qualification and any renewal statement must contain:

(1) the name of the partnership, including the limited liability partnership designation used in the home jurisdiction;

(2) the address of the partnership's principal place of business;

(3) the name and street address of a person located in this state that the partnership has authorized to act as the partnership's agent for service of process;

(4) the jurisdiction of organization; and

(5) the signature of a partner.

The statement or renewal must be accompanied by a certificate of status from the filing officer in the home jurisdiction and a fee of \$135.

Subd. 4. NAME OF FOREIGN LIMITED LIABILITY PARTNERSHIP. The name of the foreign limited liability partnership must meet the requirements of section 323.45.

Subd. 5. CHANGES IN REGISTRATION INFORMATION. If the information in a statement becomes inaccurate after it is filed, the general partnership must provide accurate information in any subsequently filed renewal statement. The inaccuracy has no effect on the status of the partnership as a foreign limited liability partnership in Minnesota.

Subd. 6. VOLUNTARY WITHDRAWAL OF STATUS. A partnership may, at any time, withdraw its statement of qualification by filing with the secretary of state a withdrawal statement that contains the following:

(1) the name of the partnership;

(2) a statement that the partnership is withdrawing its current statement of qualification;

(3) an acknowledgment that the withdrawal ends the partnership's qualification as a foreign limited liability partnership in Minnesota; and

(4) the signature of a partner.

The withdrawal statement may state a delayed effective date, if that date is before the expiration date of the partnership's current statement of qualification. If the withdrawal statement does not state an effective date, the statement is effective when filed.

Subd. 7. TRANSACTION OF BUSINESS WITHOUT QUALIFICATION. (a) A foreign limited liability partnership transacting business in this

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state may not maintain any action, suit, or proceeding in any court of this state until it has filed a statement of qualification.

(b) The failure of a foreign limited liability partnership to file a statement of qualification does not impair the validity of any contract or act of the foreign limited liability partnership or prevent the foreign limited liability partnership from defending any action, suit, or proceeding in any court of this state.

(c) A foreign limited liability partnership, by transacting business in this state without a statement of qualification, appoints the secretary of state as its agent on whom any notice, process, or demand may be served.

(d) A partner of a foreign limited liability partnership is not liable for the debts and obligations of the foreign limited liability partnership solely by reason of the foreign limited liability partnership's having transacted business in this state without a valid statement of qualification.

Subd. 8. TRANSITION. Any foreign limited liability partnership which received a certificate of authority under chapter 322B prior to the effective date of this act shall be deemed to be in compliance with this section until December 29, 1995. After that date, a certificate of authority issued under chapter 322B and received by a foreign limited liability partnership shall have no further effect.

Sec. 21. Minnesota Statutes 1994, section 333.001, is amended to read:

333.001 DEFINITIONS.

Subdivision 1. As used in sections 333.001 to 333.06, the following terms shall have the meanings given, unless the context clearly indicates that a different meaning is intended.

Subd. 2. **PERSON.** "Person" means one or more natural persons; a limited liability company, whether domestic or foreign; a registered limited liability partnership, whether domestic or foreign; a partnership; a limited partnership; a corporation, including a foreign, domestic, or nonprofit corporation; a trust; or any other business organization.

Subd. 3. **TRUE NAME.** "True name" means the true full name of the natural person, if a proprietorship; the true full name of each partner, if a partnership; the full corporate name as stated in its articles, if a corporation; the full name of the limited liability company as stated in its articles of organization or certificate of authority; the full name of the limited partnership, if a limited partnership; the full name of the registered limited liability partnership; the true full name of at least one trustee, if a trust; or the true full name of at least one beneficial owner, if any other form of business organization.

Subd. 4. **ADDRESS.** "Address" means the full residential address of each natural person, trustee or beneficial owner, limited liability company, whether domestic or foreign, registered limited liability partnership, whether domestic or

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foreign, or corporation, included in subdivision 3, and the address of the principal place in Minnesota where the business is conducted or transacted.

Subd. 5. EXECUTED. "Executed" means executed by one natural person, if a proprietorship; by a general partner if a general or limited partnership or limited liability partnership; by a manager, if a limited liability company; by an officer, if a corporation; by a trustee, if a trust; or by a beneficial owner or managing agent, if some other form of business organization.

Sec. 22. Minnesota Statutes 1994, section 333.01, is amended to read:

333.01 COMMERCIAL ASSUMED NAMES; CERTIFICATE.

No person shall hereafter carry on or conduct or transact a commercial business in this state under any designation, name, or style, which does not set forth the true name of every person interested in such business unless such person shall file in the office of the secretary of state, a certificate setting forth the name and business address under which the business is conducted or transacted, or is to be conducted or transacted, and the true name of each person conducting or transacting the same, with the address of such person. The name of the business must not include any of the following phrases or their abbreviations: corporation, incorporated, limited, chartered, professional cooperative, association, limited partnership, limited liability company, professional limited liability company, limited liability partnership, or professional limited liability partnership, except to the extent that an entity filing a certificate would be authorized to use the phrase or abbreviation. The certificate shall be executed by one of the persons conducting, or intending to conduct, the business. The certificate shall be published after it has been filed with the secretary of state in a qualified newspaper in the county in which the person has a principal or registered office for two successive issues.

Sec. 23. Minnesota Statutes 1994, section 333.055, subdivision 4, is amended to read:

Subd. 4. The secretary of state shall accept for filing all certificates and renewals thereof which comply with the provisions of sections 333.001 to 333.06 and which are accompanied by the prescribed fees, notwithstanding the fact that the assumed name disclosed therein may not be distinguishable from one or more other assumed names already filed with the secretary of state. In the event of duplication or similarity, the secretary of state shall, within 20 days after the filing, notify in writing each previously filed business holding a certificate for the assumed name or a similar assumed name, of the duplication or similarity, including in the notice the name and last known address of the person so filing. The secretary of state shall not accept for filing a certificate that discloses an assumed name that is not distinguishable from a corporate, limited liability company, limited liability partnership, cooperative, or limited partnership name in use or reserved in this state by another or a trade or service mark registered with the secretary of state, unless there is filed with the certificate a written consent, court decree of prior right, or affidavit of nonuser of the kind required by

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section 302A.115, subdivision 1, clause (d). The secretary of state shall determine whether a name is distinguishable from another name for purposes of this subdivision.

Sec. 24. Minnesota Statutes 1994, section 333.21, subdivision 1, is amended to read:

Subdivision 1. Upon a finding by the secretary of state that the mark and application for registration comply with the requirements of sections 333.18 to 333.31, and that the class indicated, if any, in which the mark is to be registered is not clearly incorrect, the secretary of state shall cause a certificate of registration to be issued and delivered to the applicant. The certificate of registration shall be issued under the signature of the secretary of state and the seal of the state, and shall show the registrant's name and business address and, if a corporation or a limited liability company, the state of incorporation or organization, the date claimed for the first use of the mark in this state, the class of goods or services, and a description of the goods or services in connection with which the mark is used, a reproduction of the mark, the registration date and the term of the registration.

Sec. 25. Minnesota Statutes 1994, section 336.9-403, is amended to read:

336.9-403 WHAT CONSTITUTES FILING; DURATION OF FILING; EFFECT OF LAPSED FILING; DUTIES OF FILING OFFICER.

(1) Presentation for filing of a financing statement and tender of the filing fee or acceptance of the statement by the filing officer constitutes filing under this article.

(2) Except as provided in subsection (6) a filed financing statement is effective for a period of five years from the date of filing. The effectiveness of a filed financing statement lapses on the expiration of the five-year period unless a continuation statement is filed prior to the lapse. If a security interest perfected by filing exists at the time insolvency proceedings are commenced by or against the debtor, the security interest remains perfected until termination of the insolvency proceedings and thereafter for a period of 60 days or until expiration of the five-year period, whichever occurs later regardless of whether the financing statement filed as to that security interest is destroyed by the filing officer pursuant to subsection (3). Upon lapse the security interest becomes unperfected, unless it is perfected without filing. If the security interest becomes unperfected upon lapse, it is deemed to have been unperfected as against a person who became a purchaser or lien creditor before lapse.

(3) A continuation statement may be filed by the secured party within six months prior to the expiration of the five-year period specified in subsection (2). Any such continuation statement must be signed by the secured party, set forth the name, social security number or other tax identification number of the debtor, and address of the debtor and secured party as those items appear on the original financing statement or the most recently filed amendment, identify the

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original statement by file number and filing date, and state that the original statement is still effective. A continuation statement signed by a person other than the secured party of record must be accompanied by a separate written statement of assignment signed by the secured party of record and complying with subsection (2) of section 336.9-405, including payment of the required fee. Upon timely filing of the continuation statement, the effectiveness of the original statement is continued for five years after the last date to which the filing was effective whereupon it lapses in the same manner as provided in subsection (2) unless another continuation statement is filed prior to such lapse. Succeeding continuation statements may be filed in the same manner to continue the effectiveness of the original statement. Unless a statute on disposition of public records provides otherwise, the filing officer may remove a lapsed statement from the files and destroy it immediately if the officer has retained a microfilm or other photographic record, or in other cases after one year after the lapse. The filing officer shall so arrange matters by physical annexation of financing statements to continuation statements or other related filings, or by other means, that if the officer physically destroys the financing statements of a period more than five years past, those which have been continued by a continuation statement or which are still effective under subsection (6) shall be retained. If insolvency proceedings are commenced by or against the debtor, the secured party shall notify the filing officer both upon commencement and termination of the proceedings, and the filing officer shall not destroy any financing statements filed with respect to the debtor until termination of the insolvency proceedings. The security interest remains perfected until termination of the insolvency proceedings and thereafter for a period of 60 days or until expiration of the five-year period, whichever occurs later.

(4) Except as provided in subsection (7) a filing officer shall mark each statement with a file number and with the date and hour of filing and shall hold the statement or a microfilm or other photographic copy thereof for public inspection. In addition the filing officer shall index the statements according to the name of the debtor and shall note in the index the file number, the address of the debtor given in the statement, and the social security number or other tax identification number of the debtor given in the statement.

(5) The secretary of state shall prescribe uniform forms for statements and samples thereof shall be furnished to all filing officers in the state. The uniform fee for filing and indexing and for stamping a copy furnished by the secured party to show the date and place of filing:

(a) for an original financing statement or statement of continuation on a standard form prescribed by the secretary of state, is \$15 for up to two debtor names and \$15 for each additional name thereafter;

(b) for an original financing statement or statement of continuation that is not on a standard form prescribed by the secretary of state, is \$20 for up to two debtor names and \$20 for each additional name thereafter;

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(c) for an amendment on a standard form prescribed by the secretary of state that does not add debtor names, is \$15;

(d) for an amendment that is not on a standard form prescribed by the secretary of state and that does not add debtor names, is \$20;

(e) for an amendment on a standard form prescribed by the secretary of state that ~~does add debtor names~~ adds more than one debtor name, is \$15 per debtor name; and

(f) for an amendment that is not on a standard form prescribed by the secretary of state that ~~does add debtor names~~ adds more than one debtor name, is \$20 per debtor name.

In no case will a filing officer accept more than four additional pages per financing statement for filing in the uniform commercial code records.

The secretary of state shall adopt rules for filing, amendment, continuation, termination, removal, and destruction of financing statements.

(6) If the debtor is a transmitting utility (subsection (5) of section 336.9-401) and a filed financing statement so states, it is effective until a termination statement is filed. A real estate mortgage which is effective as a fixture filing under subsection (6) of section 336.9-402 remains effective as a fixture filing until the mortgage is released or satisfied of record or its effectiveness otherwise terminates as to the real estate.

(7) When a financing statement covers timber to be cut or covers minerals or the like (including oil and gas) or accounts subject to subsection (5) of section 336.9-103, or is filed as a fixture filing, it shall be filed for record and the filing officer shall index it under the names of the debtor and any owner of record shown on the financing statement in the same fashion as if they were the mortgagors in a mortgage of the real estate described, and, to the extent that the law of this state provides for indexing of mortgages under the name of the mortgagee, under the name of the secured party as if the secured party were the mortgagee thereunder, or, for filing offices other than the secretary of state, where indexing is by description in the same fashion as if the financing statement were a mortgage of the real estate described.

(8) The fees provided for in this article shall supersede the fees for similar services otherwise provided for by law except in the case of security interests filed in connection with a certificate of title on a motor vehicle.

Sec. 26. Minnesota Statutes 1994, section 336A.11, subdivision 2, is amended to read:

Subd. 2. **REGISTRATION FORMS.** The secretary of state shall make registration forms available to farm product dealers. The secretary of state must also make registration ~~forms~~ information available to the commissioner of agriculture for distribution to applicants for licensure under section 17A.04 or

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223.17. The registration form must include provisions for the name and address of the farm product dealer, a request for the master or partial master lists, and the medium on which the farm product dealer desires to receive the master list.

Sec. 27. **REPEALER.**

Minnesota Statutes 1994, section 322B.901, is repealed.

Sec. 28. **EFFECTIVE DATE.**

Sections 11 to 20 and 27 are effective the day following final enactment.

ARTICLE 4

Section 1. Minnesota Statutes 1994, section 302A.409, subdivision 3, is amended to read:

Subd. 3. **ISSUANCE PERMITTED.** A corporation may issue rights to purchase after the terms, provisions, and conditions of the rights to purchase to be issued, including the conversion basis or the price at which securities may be purchased or subscribed for, are fixed by the board, subject to any restrictions in the articles. Notwithstanding any provision of this chapter, a corporation may issue rights to purchase or amend the instrument or agreement fixing the terms, provisions, and conditions of the rights to purchase to include terms and conditions that prevent the holder of a specified percentage of the outstanding shares of the corporation, including subsequent transferees of the holder, from exercising those rights to purchase.

Sec. 2. **APPLICATION.**

Section 1 applies to issuances made before, on, or after the effective date.

Presented to the governor May 4, 1995

Signed by the governor May 5, 1995, 9:10 a.m.

CHAPTER 129—H.F.No. 32

An act relating to marriage; authorizing retired court administrators to solemnize marriages; amending Minnesota Statutes 1994, section 517.04.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MINNESOTA:

Section 1. Minnesota Statutes 1994, section 517.04, is amended to read:

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