

**POLICY STATEMENT ON LIMITED LIABILITY  
COMPANY ARTICLES OF ORGANIZATION**

Section 203 (2) of the Limited Liability Company Act provides that the articles of organization may contain "any provision not inconsistent with this act or another statute of this state". The act is silent regarding action of the managers or members being taken by written consent without a meeting. The act is also silent about providing for a compromise of debt similar to section 204 of the Business Corporation Act.

However, the act does not prohibit providing for written consent in either the operating agreement or the articles. Therefore, the Corporation Division will accept for filing as a permissible provision, a provision in the articles for a limited liability company which provides that action of members or managers may be taken without a meeting by written consent of the members or managers. This policy is being adopted without addressing the issue of whether it is good public policy or whether it is advisable for the limited liability company to adopt such a provision.

The act does not provide for a compromise or reorganization arrangement regarding the company and its creditors. Inclusion of a provision in the articles which purports to bind nonconsenting creditors may be ineffective if included in the articles, absent statutory authority to bind the creditors. Therefore, the Corporation Division will not accept for filing articles which contain a compromise, arrangement or plan of reorganization provision. This position is appropriate because the history of a similar provision in the Business Corporation Act indicates that the provision may not be binding on the nonconsenting creditors unless specifically provided for by law.

The general rule for corporations is that they cannot compel creditors to accept provisions of an agreement without their consent unless provided for by law. This same theory may also apply to limited liability companies.

The above policy shall be adopted immediately and remain in effect unless rescinded or modified by the Bureau Director.

Approved by Carl L. Tyson, Director  
Corporation and Securities Bureau  
on October 3, 1994