

(i) [The operating agreement is in writing;

(ii)] The amendment was adopted without the unanimous consent of members; or

[(iii)] (II) An interest in the limited liability company has been assigned to a person who has not been admitted as a member.

[4A-503.

(a) A distribution may not be made if, after giving effect to the distribution:

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

(2) The limited liability company's total assets would be less than the sum of its total liabilities plus, unless the operating agreement permits otherwise, the amount that would be needed, if the affairs of the limited liability company were to be wound up at the time of the distribution, to satisfy any preferential rights which are superior to the rights of members receiving the distribution.

(b) The limited liability company may base a determination that a distribution is not prohibited under subsection (a) of this section on:

(1) Financial statements prepared on the basis of accounting practices and principles that are reasonable under the circumstances; or

(2) A fair valuation or other method that is reasonable under the circumstances.

(c) Except as provided in subsection (e) of this section, the effect of a distribution under subsection (a) of this section is measured as of:

(1) The date the distribution is authorized, if the payment occurs within 120 days after the date of authorization; or

(2) The date the payment is made, if it occurs more than 120 days after the date of authorization.

(d) A limited liability company's indebtedness to a member incurred by reason of an obligation to make a distribution in accordance with this section is at parity with the limited liability company's indebtedness to its general, unsecured creditors, except to the extent subordinated by agreement.

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

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