



Sen. Don Harmon

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1 AMENDMENT TO SENATE BILL 1099

2 AMENDMENT NO. \_\_\_\_\_. Amend Senate Bill 1099 by replacing  
3 everything after the enacting clause with the following:

4 "Section 5. The Business Corporation Act of 1983 is amended  
5 by changing Sections 8.65, 12.40, and 12.45 as follows:

6 (805 ILCS 5/8.65) (from Ch. 32, par. 8.65)

7 Sec. 8.65. Liability of directors in certain cases.

8 (a) In addition to any other liabilities imposed by law  
9 upon directors of a corporation, they are liable as follows:

10 (1) The directors of a corporation who vote for or  
11 assent to any distribution prohibited by Section 9.10 of  
12 this Act shall be jointly and severally liable to the  
13 corporation for the amount of such distribution.

14 (2) If a dissolved corporation shall proceed to bar any  
15 known claims against it under Section 12.75, the directors  
16 of such corporation who fail to take reasonable steps to

1           cause the notice required by Section 12.75 of this Act to  
2           be given to any known creditor of such corporation shall be  
3           jointly and severally liable to such creditor for all loss  
4           and damage occasioned thereby.

5           (3) Unless dissolution is subsequently revoked  
6           pursuant to Section 12.25 of this Act, the ~~The~~ directors of  
7           a corporation that carries on its business after the filing  
8           by the Secretary of State of articles of dissolution with  
9           respect to a voluntary dissolution authorized as provided  
10          by this Act, otherwise than ~~so far as may be~~ necessary or  
11          appropriate to wind up and liquidate its business and  
12          affairs ~~for the winding up thereof,~~ shall be jointly and  
13          severally liable to the creditors of such corporation for  
14          all debts and liabilities of the corporation incurred in so  
15          carrying on its business. Directors of a corporation that  
16          carries on its business during a period of administrative  
17          dissolution shall not be liable under this paragraph (a) (3)  
18          if the Secretary of State subsequently files an application  
19          for reinstatement under subsection (c) of Section 12.45,  
20          which reinstatement shall have the effect described in  
21          subsection (d) of Section 12.45.

22          (b) A director of a corporation who is present at a meeting  
23          of its board of directors at which action on any corporate  
24          matter is taken is conclusively presumed to have assented to  
25          the action taken unless his or her dissent is entered in the  
26          minutes of the meeting or unless he or she files his or her

1 written dissent to such action with the person acting as the  
2 secretary of the meeting before the adjournment thereof or  
3 forwards such dissent by registered or certified mail to the  
4 secretary of the corporation immediately after the adjournment  
5 of the meeting. Such right to dissent does not apply to a  
6 director who voted in favor of such action.

7 (c) A director shall not be liable for a distribution of  
8 assets to the shareholders of a corporation in excess of the  
9 amount authorized by Section 9.10 of this Act if he or she  
10 relied and acted in good faith upon a balance sheet and profit  
11 and loss statement of the corporation represented to him or her  
12 to be correct by the president or the officer of such  
13 corporation having charge of its books of account, or certified  
14 by an independent public or certified public accountant or firm  
15 of such accountants to fairly reflect the financial condition  
16 of such corporation, nor shall he or she be so liable if in  
17 good faith in determining the amount available for any such  
18 dividend or distribution he or she considered the assets to be  
19 of their book value.

20 (d) Any director against whom a claim is asserted under  
21 this Section and who is held liable thereon, is entitled to  
22 contribution from the other directors who are likewise liable  
23 thereon.

24 Any director against whom a claim is asserted for the  
25 improper distribution of assets of a corporation and who is  
26 held liable thereon, is entitled to contribution from the

1 shareholders who knowingly accepted or received any such  
2 distribution in proportion to the amounts received by them  
3 respectively.

4 (Source: P.A. 84-924.)

5 (805 ILCS 5/12.40) (from Ch. 32, par. 12.40)

6 Sec. 12.40. Procedure for administrative dissolution.

7 (a) After the Secretary of State determines that one or  
8 more grounds exist under Section 12.35 for the administrative  
9 dissolution of a corporation, he or she shall send by regular  
10 mail to each delinquent corporation a Notice of Delinquency to  
11 its registered office, or, if the corporation has failed to  
12 maintain a registered office, then to the president or other  
13 principal officer at the last known office of said officer.

14 (b) If the corporation does not correct the default  
15 described in paragraphs (a) through (e) of Section 12.35 within  
16 90 days following such notice, the Secretary of State shall  
17 thereupon dissolve the corporation by issuing a certificate of  
18 dissolution that recites the ground or grounds for dissolution  
19 and its effective date. If the corporation does not correct the  
20 default described in paragraphs (f) through (h) of Section  
21 12.35, within 30 days following such notice, the Secretary of  
22 State shall thereupon dissolve the corporation by issuing a  
23 certificate of dissolution as herein prescribed. The Secretary  
24 of State shall file the original of the certificate in his or  
25 her office and mail one copy to the corporation at its

1 registered office or, if the corporation has failed to maintain  
2 a registered office, then to the president or other principal  
3 officer at the last known office of said officer.

4 (c) The administrative dissolution of a corporation  
5 terminates its corporate existence and such a dissolved  
6 corporation shall not thereafter carry on any business,  
7 provided however, that such a dissolved corporation may take  
8 all action authorized under Section 12.75 or as otherwise  
9 necessary or appropriate to wind up and liquidate its business  
10 and affairs under Section 12.30.

11 (Source: P.A. 96-1121, eff. 1-1-11.)

12 (805 ILCS 5/12.45) (from Ch. 32, par. 12.45)

13 Sec. 12.45. Reinstatement following administrative  
14 dissolution.

15 (a) A domestic corporation administratively dissolved  
16 under Section 12.40 may be reinstated by the Secretary of State  
17 following the date of issuance of the certificate of  
18 dissolution upon:

19 (1) The filing of an application for reinstatement.

20 (2) The filing with the Secretary of State by the  
21 corporation of all reports then due and theretofore  
22 becoming due.

23 (3) The payment to the Secretary of State by the  
24 corporation of all fees, franchise taxes, and penalties  
25 then due and theretofore becoming due.

1           (b) The application for reinstatement shall be executed and  
2 filed in duplicate in accordance with Section 1.10 of this Act  
3 and shall set forth:

4           (1) The name of the corporation at the time of the  
5 issuance of the certificate of dissolution.

6           (2) If such name is not available for use as determined  
7 by the Secretary of State at the time of filing the  
8 application for reinstatement, the name of the corporation  
9 as changed, provided however, and any change of name is  
10 properly effected pursuant to Section 10.05 and Section  
11 10.30 of this Act.

12           (3) The date of the issuance of the certificate of  
13 dissolution.

14           (4) The address, including street and number, or rural  
15 route number of the registered office of the corporation  
16 upon reinstatement thereof, and the name of its registered  
17 agent at such address upon the reinstatement of the  
18 corporation, provided however, that any change from either  
19 the registered office or the registered agent at the time  
20 of dissolution is properly reported pursuant to Section  
21 5.10 of this Act.

22           (c) When a dissolved corporation has complied with the  
23 provisions of this Section the Secretary of State shall file  
24 the application for reinstatement.

25           (d) Upon the filing of the application for reinstatement,  
26 the corporate existence for all purposes shall be deemed to

1 have continued without interruption from the date of the  
2 issuance of the certificate of dissolution, and the corporation  
3 shall stand revived with such powers, duties and obligations as  
4 if it had not been dissolved; and all acts and proceedings of  
5 its ~~officers, directors and~~ shareholders, directors, officers,  
6 employees, and agents, acting or purporting to act in that  
7 capacity as such, and which would have been legal and valid but  
8 for such dissolution, shall stand ratified and confirmed.

9 (e) Without limiting the generality of subsection (d), upon  
10 the filing of the application for reinstatement, no  
11 shareholder, director, or officer shall be personally liable,  
12 under Section 8.65 of this Act or otherwise, for the debts and  
13 liabilities of the corporation incurred during the period of  
14 administrative dissolution by reason of the fact that the  
15 corporation was administratively dissolved at the time the  
16 debts or liabilities were incurred.

17 (Source: P.A. 96-328, eff. 8-11-09.)

18 Section 10. The General Not For Profit Corporation Act of  
19 1986 is amended by changing Sections 108.65, 112.40, and 112.45  
20 as follows:

21 (805 ILCS 105/108.65) (from Ch. 32, par. 108.65)

22 Sec. 108.65. Liability of directors in certain cases.

23 (a) In addition to any other liabilities imposed by law  
24 upon directors of a corporation, they are liable as follows:

1           (1) The directors of a corporation who vote for or  
2           assent to any distribution not authorized by Section 109.10  
3           or Article 12 of this Act shall be jointly and severally  
4           liable to the corporation for the amount of such  
5           distribution.

6           (2) If a dissolved corporation shall proceed to bar any  
7           known claims against it under Section 112.75 of this Act,  
8           the directors of such corporation who fail to take  
9           reasonable steps to cause the notice required by Section  
10          112.75 of this Act to be given to any known creditor of  
11          such corporation shall be jointly and severally liable to  
12          such creditor for all loss and damage occasioned thereby.

13          (3) Unless dissolution is subsequently revoked  
14          pursuant to Section 112.25 of this Act, the ~~The~~ directors  
15          of a corporation that conducts its affairs after the filing  
16          by the Secretary of State of articles of dissolution with  
17          respect to a voluntary dissolution authorized as provided  
18          by this Act, otherwise than ~~so far as may be~~ necessary or  
19          appropriate to wind up and liquidate its affairs ~~for the~~  
20          ~~winding up thereof,~~ shall be jointly and severally liable  
21          to the creditors of such corporation for all debts and  
22          liabilities of the corporation incurred in so conducting  
23          its affairs. Directors of a corporation that conducts its  
24          affairs during a period of administrative dissolution  
25          shall not be liable under this paragraph (a)(3) if the  
26          Secretary of State subsequently files an application for



1        reinstatement under subsection (c) of Section 112.45,  
2        which reinstatement shall have the effect described in  
3        subsection (d) of Section 112.45.

4        (b) A director of a corporation who is present at a meeting  
5        of its board of directors at which action on any corporate  
6        matter is taken is conclusively presumed to have assented to  
7        the action taken unless his or her dissent or abstention is  
8        entered in the minutes of the meeting or unless he or she files  
9        his or her written dissent or abstention to such action with  
10       the person acting as the secretary of the meeting before the  
11       adjournment thereof or forwards such dissent or abstention by  
12       registered or certified mail to the secretary of the  
13       corporation immediately after the adjournment of the meeting.  
14       Such right to dissent or abstain does not apply to a director  
15       who voted in favor of such action.

16       (c) A director shall not be liable for a distribution of  
17       assets to any person in excess of the amount authorized by  
18       Section 109.10 or Article 12 of this Act if he or she relied  
19       and acted in good faith upon a balance sheet and profit and  
20       loss statement of the corporation represented to him or her to  
21       be correct by the president or the officer of such corporation  
22       having charge of its books of account, or certified by an  
23       independent public or certified public accountant or firm of  
24       such accountants to fairly reflect the financial condition of  
25       such corporation, nor shall he or she be so liable if in good  
26       faith in determining the amount available for any such

1 distribution he or she considered the assets to be of their  
2 book value.

3 (d) Any director against whom a claim is asserted under  
4 this Section and who is held liable thereon, is entitled to  
5 contribution from the other directors who are likewise liable  
6 thereon. Any director against whom a claim is asserted for the  
7 improper distribution of assets of a corporation, and who is  
8 held liable thereon, is entitled to contribution from the  
9 persons who knowingly accepted or received any such  
10 distribution in proportion to the amounts received by them  
11 respectively.

12 (Source: P.A. 84-1423.)

13 (805 ILCS 105/112.40) (from Ch. 32, par. 112.40)

14 Sec. 112.40. Procedure for administrative dissolution.

15 (a) After the Secretary of State determines that one or  
16 more grounds exist under Section 112.35 of this Act for the  
17 administrative dissolution of a corporation, he or she shall  
18 send by regular mail to each delinquent corporation a Notice of  
19 Delinquency to its registered office, or, if the corporation  
20 has failed to maintain a registered office, then to the  
21 president or other principal officer at the last known office  
22 of said officer.

23 (b) If the corporation does not correct the default within  
24 90 days following such notice, the Secretary of State shall  
25 thereupon dissolve the corporation by issuing a certificate of

1 dissolution that recites the ground or grounds for dissolution  
2 and its effective date. The Secretary of State shall file the  
3 original of the certificate in his or her office and mail one  
4 copy to the corporation at its registered office or, if the  
5 corporation has failed to maintain a registered office, then to  
6 the president or other principal officer at the last known  
7 office of said officer.

8 (c) The administrative dissolution of a corporation  
9 terminates its corporate existence and such a dissolved  
10 corporation shall not thereafter carry on any affairs, provided  
11 however, that such a dissolved corporation may take all action  
12 authorized under Section 112.75 of this Act or as otherwise  
13 necessary or appropriate to wind up and liquidate its affairs  
14 under Section 112.30 of this Act.

15 (Source: P.A. 96-1121, eff. 1-1-11.)

16 (805 ILCS 105/112.45) (from Ch. 32, par. 112.45)

17 Sec. 112.45. Reinstatement following administrative  
18 dissolution.

19 (a) A domestic corporation administratively dissolved  
20 under Section 112.40 of this Act may be reinstated by the  
21 Secretary of State following the date of issuance of the  
22 certificate of dissolution upon:

23 (1) The filing of an application for reinstatement;

24 (2) The filing with the Secretary of State by the  
25 corporation of all reports then due and theretofore

1 becoming due;

2 (3) The payment to the Secretary of State by the  
3 corporation of all fees and penalties then due and  
4 theretofore becoming due.

5 (b) The application for reinstatement shall be executed and  
6 filed in duplicate in accordance with Section 101.10 of this  
7 Act and shall set forth:

8 (1) The name of the corporation at the time of the  
9 issuance of the certificate of dissolution;

10 (2) If such name is not available for use as determined  
11 by the Secretary of State at the time of filing the  
12 application for reinstatement, the name of the corporation  
13 as changed; provided, however, that any change of name is  
14 properly effected pursuant to Section 110.05 and Section  
15 110.30 of this Act;

16 (3) The date of the issuance of the certificate of  
17 dissolution;

18 (4) The address, including street and number, or rural  
19 route number, of the registered office of the corporation  
20 upon reinstatement thereof, and the name of its registered  
21 agent at such address upon the reinstatement of the  
22 corporation, provided however, that any change from either  
23 the registered office or the registered agent at the time  
24 of dissolution is properly reported pursuant to Section  
25 105.10 of this Act.

26 (c) When a dissolved corporation has complied with the

1 provisions of this Section, the Secretary of State shall file  
2 the application for reinstatement.

3 (d) Upon the filing of the application for reinstatement,  
4 the corporate existence for all purposes shall be deemed to  
5 have continued without interruption from the date of the  
6 issuance of the certificate of dissolution, and the corporation  
7 shall stand revived with such powers, duties and obligations as  
8 if it had not been dissolved; and all acts and proceedings of  
9 its shareholders, members, officers, employees, and agents  
10 ~~officers, directors and members~~, acting or purporting to act in  
11 that capacity as such, and which would have been legal and  
12 valid but for such dissolution, shall stand ratified and  
13 confirmed.

14 (e) Without limiting the generality of subsection (d), upon  
15 filing of the application for reinstatement, no shareholder,  
16 director, or officer shall be personally liable, under Section  
17 108.65 of this Act or otherwise, for the debts and liabilities  
18 of the corporation incurred during the period of administrative  
19 dissolution by reason of the fact that the corporation was  
20 administratively dissolved at the time the debts or liabilities  
21 were incurred.

22 (Source: P.A. 94-605, eff. 1-1-06.)

23 Section 15. The Limited Liability Company Act is amended by  
24 changing Sections 35-30 and 35-40 as follows:

1 (805 ILCS 180/35-30)

2 Sec. 35-30. Procedure for administrative dissolution.

3 (a) After the Secretary of State determines that one or  
4 more grounds exist under Section 35-25 for the administrative  
5 dissolution of a limited liability company, the Secretary of  
6 State shall send a notice of delinquency by regular mail to  
7 each delinquent limited liability company at its registered  
8 office or, if the limited liability company has failed to  
9 maintain a registered office, then to the last known address  
10 shown on the records of the Secretary of State for the  
11 principal place of business of the limited liability company.

12 (b) If the limited liability company does not correct the  
13 default described in paragraphs (1) or (2) of Section 35-25  
14 within 120 days following the date of the notice of  
15 delinquency, the Secretary of State shall thereupon dissolve  
16 the limited liability company by issuing a certificate of  
17 dissolution that recites the grounds for dissolution and its  
18 effective date. If the limited liability company does not  
19 correct the default described in paragraphs (2.5), (3), (4), or  
20 (5) of Section 35-25 within 60 days following the notice, the  
21 Secretary of State shall dissolve the limited liability company  
22 by issuing a certificate of dissolution that recites the  
23 grounds for dissolution and its effective date. The Secretary  
24 of State shall file the original of the certificate in his or  
25 her office and mail one copy to the limited liability company  
26 at its registered office or, if the limited liability company

1 has failed to maintain a registered office, then to the last  
2 known address shown on the records of the Secretary of State  
3 for the principal place of business of the limited liability  
4 company.

5 (c) Upon the administrative dissolution of a limited  
6 liability company, a dissolved limited liability company shall  
7 continue for only the purpose of winding up its business. A  
8 dissolved limited liability company may take all action  
9 authorized under Section 1-30 or otherwise necessary or  
10 appropriate to wind up its business and affairs and terminate.

11 (Source: P.A. 98-171, eff. 8-5-13.)

12 (805 ILCS 180/35-40)

13 Sec. 35-40. Reinstatement following administrative  
14 dissolution.

15 (a) A limited liability company administratively dissolved  
16 under Section 35-25 may be reinstated by the Secretary of State  
17 following the date of issuance of the notice of dissolution  
18 upon:

19 (1) The filing of an application for reinstatement.

20 (2) The filing with the Secretary of State by the  
21 limited liability company of all reports then due and  
22 theretofore becoming due.

23 (3) The payment to the Secretary of State by the  
24 limited liability company of all fees and penalties then  
25 due and theretofore becoming due.

1           (b) The application for reinstatement shall be executed and  
2 filed in duplicate in accordance with Section 5-45 of this Act  
3 and shall set forth all of the following:

4           (1) The name of the limited liability company at the  
5 time of the issuance of the notice of dissolution.

6           (2) If the name is not available for use as determined  
7 by the Secretary of State at the time of filing the  
8 application for reinstatement, the name of the limited  
9 liability company as changed, provided that any change of  
10 name is properly effected under Section 1-10 and Section  
11 5.25 of this Act.

12           (3) The date of issuance of the notice of dissolution.

13           (4) The address, including street and number or rural  
14 route number of the registered office of the limited  
15 liability company upon reinstatement thereof and the name  
16 of its registered agent at that address upon the  
17 reinstatement of the limited liability company, provided  
18 that any change from either the registered office or the  
19 registered agent at the time of dissolution is properly  
20 reported under Section 1-35 of this Act.

21           (c) When a dissolved limited liability company has complied  
22 with the provisions of the Section, the Secretary of State  
23 shall file the application for reinstatement.

24           (d) Upon the filing of the application for reinstatement,  
25 the limited liability company existence shall be deemed to have  
26 continued without interruption from the date of the issuance of



1 the notice of dissolution, and the limited liability company  
2 shall stand revived with the powers, duties, and obligations as  
3 if it had not been dissolved; and all acts and proceedings of  
4 its members, ~~or~~ managers, officers, employees, and agents,  
5 acting or purporting to act in that capacity, and which that  
6 would have been legal and valid but for the dissolution, shall  
7 stand ratified and confirmed.

8 (e) Without limiting the generality of subsection (d), upon  
9 the filing of the application for reinstatement, no member,  
10 manager, or officer shall be personally liable for the debts  
11 and liabilities of the limited liability company incurred  
12 during the period of administrative dissolution by reason of  
13 the fact that the limited liability company was  
14 administratively dissolved at the time the debts or liabilities  
15 were incurred.

16 (Source: P.A. 94-605, eff. 1-1-06.)

17 Section 20. The Uniform Limited Partnership Act (2001) is  
18 amended by changing Sections 809 and 810 as follows:

19 (805 ILCS 215/809)

20 Sec. 809. Administrative dissolution.

21 (a) The Secretary of State may dissolve a limited  
22 partnership administratively if the limited partnership does  
23 not, within 60 days after the due date:

24 (1) pay any fee, tax, or penalty due to the Secretary

1 of State under this Act or other law;

2 (2) file its annual report with the Secretary of State;

3 or

4 (3) appoint and maintain an agent for service of  
5 process in Illinois after a registered agent's notice of  
6 resignation under Section 116.

7 (b) If the Secretary of State determines that a ground  
8 exists for administratively dissolving a limited partnership,  
9 the Secretary of State shall file a record of the determination  
10 and send a copy of the filed record to the limited  
11 partnership's agent for service of process in this State, or if  
12 the limited partnership does not appoint and maintain a proper  
13 agent, to the limited partnership's designated office.

14 (c) If within 60 days after service of the copy of the  
15 record of determination the limited partnership does not  
16 correct each ground for dissolution or demonstrate to the  
17 reasonable satisfaction of the Secretary of State that each  
18 ground determined by the Secretary of State does not exist, the  
19 Secretary of State shall administratively dissolve the limited  
20 partnership by preparing, signing, and filing a declaration of  
21 dissolution that states the grounds for dissolution. The  
22 Secretary of State shall send a copy to the limited  
23 partnership's agent for service of process in this State, or if  
24 the limited partnership does not appoint and maintain a proper  
25 agent, to the limited partnership's designated office.

26 (d) A limited partnership administratively dissolved

1 continues its existence but may carry on only activities  
2 necessary or appropriate to wind up its activities ~~and~~  
3 ~~liquidate its assets~~ under Sections 803 and 812 and to notify  
4 claimants under Sections 806 and 807.

5 (e) The administrative dissolution of a limited  
6 partnership does not terminate the authority of its agent for  
7 service of process.

8 (Source: P.A. 97-839, eff. 7-20-12.)

9 (805 ILCS 215/810)

10 Sec. 810. Reinstatement following administrative  
11 dissolution.

12 (a) A limited partnership that has been administratively  
13 dissolved under Section 809 may be reinstated by the Secretary  
14 of State following the date of dissolution upon:

15 (1) the filing of an application for reinstatement;

16 (2) the filing with the Secretary of State of all  
17 reports then due and becoming due; and

18 (3) the payment to the Secretary of State of all fees  
19 and penalties then due and becoming due.

20 (b) The application for reinstatement shall be executed and  
21 filed in duplicate in accordance with Section 204 and shall set  
22 forth all of the following:

23 (1) the name of the limited partnership at the time of  
24 dissolution;

25 (2) the date of dissolution;

1           (3) the agent for service of process and the address of  
2           the agent for service of process; provided that any change  
3           to either the agent for service of process or the address  
4           of the agent for service of process is properly reported  
5           under Section 115.

6           (c) When a limited partnership that has been  
7           administratively dissolved has complied with the provisions of  
8           this Section, the Secretary of State shall file the application  
9           for reinstatement.

10          (d) Upon filing of the application for reinstatement, ~~and (i)~~  
11          the limited partnership existence shall be deemed to have  
12          continued without interruption from the date of dissolution and  
13          shall stand revived with such ~~the~~ powers, duties, and  
14          obligations, as if it had not been dissolved. ~~and (ii)~~ All  
15          ~~all~~ acts and proceedings of its partners, officers, employees,  
16          and agents, acting or purporting to act in that capacity, and  
17          which ~~that~~ would have been legal and valid but for the  
18          dissolution shall stand ratified and confirmed.

19          (e) Without limiting the generality of subsection (d), upon  
20          the filing of the application for reinstatement, no limited  
21          partner or officer of the partnership shall be personally  
22          liable for the debts and liabilities of the limited partnership  
23          incurred during the period of administrative dissolution by  
24          reason of the fact that the limited partnership was  
25          administratively dissolved at the time the debts or liabilities  
26          were incurred.

1 (Source: P.A. 97-839, eff. 7-20-12.)".