

# An Act

SENATE BILL 26-133

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CONCERNING THE AUTHORIZATION TO ESTABLISH AN ARTIST COMPANY IN THE STATE, AND, IN CONNECTION THEREWITH, ENACTING THE "COLORADO ARTIST COMPANY ACT", AND MAKING AN APPROPRIATION.

*Be it enacted by the General Assembly of the State of Colorado:*

**SECTION 1.** In Colorado Revised Statutes, **add** part 12 to article 80 of title 7 as follows:

## PART 12 COLORADO ARTIST COMPANY ACT

**7-80-1201. Short title.**

*Capital letters or bold & italic numbers indicate new material added to existing law; dashes through words or numbers indicate deletions from existing law and such material is not part of the act.*

THE SHORT TITLE OF THIS PART 12 IS THE "COLORADO ARTIST COMPANY ACT".

**7-80-1202. Definitions.**

AS USED IN THIS PART 12, UNLESS THE CONTEXT OTHERWISE REQUIRES:

(1) "ARTIST" MEANS AN INDIVIDUAL WHO CREATES ANY WORK OF AUTHORSHIP OR ARTISTIC EXPRESSION COMPRISING WRITTEN, ORAL, VISUAL, GRAPHIC, LITERARY, MUSICAL, AUDIOVISUAL, DIGITAL, OR PERFORMING ART IN ANY MEDIUM, INCLUDING PAINTING, PRINTING, DRAWING, SCULPTURE, CRAFT, PHOTOGRAPHY, MUSIC, WRITING, FILM, PERFORMANCE, INTERACTIVE MEDIA, OR DIGITAL CONTENT.

(2) "ARTIST COMPANY" MEANS A LIMITED LIABILITY COMPANY ORGANIZED UNDER THIS PART 12 THAT MEETS THE REQUIREMENTS OF SECTION 7-80-1203 (1).

(3) "ARTISTIC MISSION" MEANS A SPECIFIC CREATIVE OR ARTISTIC OR EDUCATIONAL PURPOSE, INCLUDING THE CREATION, DEVELOPMENT, PRODUCTION, DISTRIBUTION, EXHIBITION, OR PERFORMANCE OF CREATIVE OR ARTISTIC WORKS, OR OPERATIONS CONDUCTED IN FURTHERANCE OF THE ARTS AND CULTURAL CONTRIBUTIONS.

(4) "ARTISTIC WORK" MEANS CREATIVE OR ARTISTIC WORKS, PROJECTS, OR ACTIVITIES CREATED, DEVELOPED, PRODUCED, DISTRIBUTED, EXHIBITED, OR PERFORMED PURSUANT TO, OR IN FURTHERANCE OF, AN ARTISTIC MISSION.

(5) "GOVERNING BODY" MEANS THE MEMBERS, MANAGER, OR BOARD OF MANAGERS RESPONSIBLE FOR THE MANAGEMENT AND GOVERNANCE OF AN ARTIST COMPANY, AS SPECIFIED IN THE ARTIST COMPANY'S ARTICLES OF ORGANIZATION OR OPERATING AGREEMENT.

(6) "PUBLIC BENEFIT" MEANS A POSITIVE EFFECT OR REDUCTION OF NEGATIVE EFFECTS ON ONE OR MORE CATEGORIES OF PERSONS, COMMUNITIES, OR INTERESTS OTHER THAN MEMBERS IN THEIR CAPACITIES AS MEMBERS, INCLUDING EFFECTS OF AN ARTISTIC, CHARITABLE, CULTURAL,

EDUCATIONAL, LITERARY, OR TECHNOLOGICAL NATURE.

(7) "PUBLIC BENEFIT ARTIST COMPANY" MEANS AN ARTIST COMPANY THAT HAS ELECTED TO BE SUBJECT TO SECTIONS 7-80-1215 TO 7-80-1217.

**7-80-1203. Artist company - requirements.**

(1) AN ARTIST COMPANY IS A LIMITED LIABILITY COMPANY THAT:

(a) IS ORGANIZED UNDER THIS PART 12;

(b) HAS A STATED ARTISTIC MISSION SET FORTH IN ITS ARTICLES OF ORGANIZATION OR OPERATING AGREEMENT; AND

(c) IS FORMED AND OWNED BY ONE OR MORE ARTISTS WHO, AT THE TIME OF THE ARTIST COMPANY'S FORMATION OR ELECTION TO BECOME AN ARTIST COMPANY, OWN NOT LESS THAN FIFTY-ONE PERCENT OF ALL VOTING SECURITIES OF THE ARTIST COMPANY. ARTISTS MUST AT ALL TIMES MAINTAIN AN OWNERSHIP PERCENTAGE OF NOT LESS THAN FIFTY-ONE PERCENT OF ALL VOTING SECURITIES OF THE ARTIST COMPANY.

(2) AN ARTIST COMPANY MAY BE ORGANIZED FOR ANY LAWFUL PURPOSE PERMITTED FOR LIMITED LIABILITY COMPANIES UNDER THIS ARTICLE 80 IF THE PURPOSE INCLUDES OR MATERIALLY FURTHERS THE ARTISTIC MISSION.

(3) AN ARTIST COMPANY MAY SPECIFY IN ITS ARTICLES OF ORGANIZATION OR OPERATING AGREEMENT:

(a) THAT THE ARTISTIC MISSION HAS PRIMACY OVER FINANCIAL OBJECTIVES;

(b) THAT THE ARTISTIC MISSION AND FINANCIAL OBJECTIVES ARE OF EQUAL PRIORITY; OR

(c) ANY OTHER PRIORITY OR BALANCING BETWEEN THE ARTISTIC MISSION AND FINANCIAL OBJECTIVES.

**7-80-1204. Election to become an artist company.**

(1) A LIMITED LIABILITY COMPANY THAT IS NOT AN ARTIST COMPANY MAY ELECT TO BECOME AN ARTIST COMPANY BY COMPLYING WITH THIS SECTION. TO ELECT TO BECOME AN ARTIST COMPANY, A LIMITED LIABILITY COMPANY SHALL:

(a) AMEND ITS ARTICLES OF ORGANIZATION TO:

(I) STATE THE ARTISTIC MISSION OF THE LIMITED LIABILITY COMPANY;

(II) STATE THAT THE LIMITED LIABILITY COMPANY ELECTS TO BE GOVERNED BY THIS PART 12 AS AN ARTIST COMPANY; AND

(III) INCLUDE ANY OTHER PROVISIONS REQUIRED BY SECTIONS 7-80-1203 AND 7-80-1206;

(b) ENSURE THAT, AT THE TIME OF ELECTION, ONE OR MORE ARTISTS OWN NOT LESS THAN FIFTY-ONE PERCENT OF THE VOTING SECURITIES OF THE ENTITY;

(c) OBTAIN APPROVAL FOR THE ELECTION BY THE VOTE OR CONSENT REQUIRED TO AMEND THE ARTICLES OF ORGANIZATION PURSUANT TO THE LIMITED LIABILITY COMPANY'S OPERATING AGREEMENT OR, IF THE OPERATING AGREEMENT DOES NOT SPECIFY THE VOTE OR CONSENT REQUIRED, BY THE UNANIMOUS CONSENT OF ALL MEMBERS; AND

(d) FILE THE AMENDED ARTICLES OF ORGANIZATION WITH THE SECRETARY OF STATE IN ACCORDANCE WITH SECTION 7-90-301.

(2) UPON THE FILING OF AMENDED ARTICLES OF ORGANIZATION PURSUANT TO SUBSECTION (1)(d) OF THIS SECTION:

(a) THE LIMITED LIABILITY COMPANY CONTINUES TO BE THE SAME ENTITY THAT EXISTED BEFORE THE ELECTION;

(b) ALL RIGHTS, TITLE, AND INTERESTS TO ALL REAL PROPERTY AND OTHER PROPERTY OWNED BY THE LIMITED LIABILITY COMPANY REMAIN VESTED IN THE ARTIST COMPANY;

(c) ALL LIABILITIES AND OBLIGATIONS OF THE LIMITED LIABILITY

COMPANY REMAIN LIABILITIES AND OBLIGATIONS OF THE ARTIST COMPANY;

(d) ALL RIGHTS OF CREDITORS AND ALL LIENS UPON ANY PROPERTY OF THE LIMITED LIABILITY COMPANY ARE PRESERVED UNIMPAIRED;

(e) ANY ACTION OR PROCEEDING PENDING AGAINST THE LIMITED LIABILITY COMPANY MAY BE CONTINUED AGAINST THE ARTIST COMPANY AS IF THE ELECTION HAD NOT OCCURRED; AND

(f) THE ARTIST COMPANY IS SUBJECT TO THIS PART 12.

(3) AN ELECTION CONDUCTED PURSUANT TO THIS SECTION DOES NOT CONSTITUTE A DISSOLUTION, TERMINATION, OR TRANSFER OF ASSETS OF THE LIMITED LIABILITY COMPANY.

(4) (a) THE ELECTION TO BECOME AN ARTIST COMPANY PURSUANT TO THIS SECTION DOES NOT AFFECT A MEMBER'S LIABILITY FOR OBLIGATIONS OF THE LIMITED LIABILITY COMPANY INCURRED PRIOR TO THE ELECTION BECOMING EFFECTIVE.

(b) UNLESS OTHERWISE AGREED TO BY THE MEMBERS, ELECTION TO BECOME AN ARTIST COMPANY DOES NOT AFFECT A MEMBER'S EXISTING RIGHTS UNDER THE OPERATING AGREEMENT OF THE LIMITED LIABILITY COMPANY, EXCEPT TO THE EXTENT THE RIGHTS ARE UNDER AN OPERATING AGREEMENT ENTERED INTO ON OR AFTER THE EFFECTIVE DATE OF THIS PART 12 AND ARE INCONSISTENT WITH THE REQUIREMENTS OF THIS PART 12.

**7-80-1205. Application of article 80.**

(1) EXCEPT AS OTHERWISE PROVIDED IN THIS PART 12, THE PROVISIONS OF THIS ARTICLE 80 THAT ARE APPLICABLE TO LIMITED LIABILITY COMPANIES APPLY TO ARTIST COMPANIES.

(2) IN THE EVENT OF A CONFLICT BETWEEN THIS PART 12 AND OTHER PROVISIONS OF THIS ARTICLE 80, THIS PART 12 CONTROLS.

(3) NOTWITHSTANDING SECTION 7-80-108 OR ANOTHER PROVISION OF THIS ARTICLE 80, THE REQUIREMENTS IMPOSED BY SECTIONS 7-80-1203 (1)(c) AND 7-80-1214 (2) SHALL NOT BE ALTERED IN AN OPERATING AGREEMENT. ALL OTHER PROVISIONS OF THIS PART 12 MAY BE MODIFIED BY

THE OPERATING AGREEMENT TO THE EXTENT PERMITTED BY SECTION 7-80-108 AND THIS PART 12.

**7-80-1206. Formation of artist company - articles of organization - public benefit artist company requirements.**

(1) A PERSON MAY FORM AN ARTIST COMPANY BY FILING ARTICLES OF ORGANIZATION WITH THE SECRETARY OF STATE PURSUANT TO SECTION 7-90-301 THAT MEET THE REQUIREMENTS SET FORTH IN SECTIONS 7-80-204 AND 7-80-1203 AND SUBSECTION (7) OF THIS SECTION IF THE ARTIST COMPANY WILL BE A PUBLIC BENEFIT ARTIST COMPANY, WHICH ARTICLES OF ORGANIZATION MUST INCLUDE, IN ADDITION TO THE INFORMATION REQUIRED BY SUBSECTION 7-80-204:

(a) A STATEMENT OF THE ARTISTIC MISSION OF THE ARTIST COMPANY;

(b) A STATEMENT REGARDING THE PRIORITY OF THE ARTISTIC MISSION AND FINANCIAL OBJECTIVES AS PROVIDED IN SECTION 7-80-1203 (3); AND

(c) A STATEMENT AS TO WHETHER THE ARTIST COMPANY ELECTS TO BE A PUBLIC BENEFIT ARTIST COMPANY SUBJECT TO SECTIONS 7-80-1215 TO 7-80-1217 AND, IF SUCH ELECTION IS MADE, ONE OR MORE SPECIFIC PUBLIC BENEFITS TO BE PROMOTED BY THE ARTIST COMPANY.

(2) THE INCORPORATORS MAY ALSO MAKE ELECTIONS IN THE ARTICLES OF ORGANIZATION OF AN ARTIST COMPANY REGARDING THE FOLLOWING:

(a) THE STRUCTURE OF EQUITY OWNERSHIP FROM THE OPTIONS PROVIDED IN SECTION 7-80-1207;

(b) THE STRUCTURE OF THE GOVERNING BODY FROM THE OPTIONS PROVIDED IN SECTION 7-80-1208;

(c) WHETHER FIDUCIARY DUTIES APPLY AS PROVIDED IN SECTION 7-80-1211;

(d) WHICH EXISTING ARTISTIC WORK SHOULD BE ASSIGNED OR

EXCLUSIVELY LICENSED TO THE ARTIST COMPANY AS PROVIDED IN SECTION 7-80-1212;

(e) WHETHER ARTISTIC WORK CREATED BY MEMBERS DURING THEIR MEMBERSHIP IS ASSIGNED OR EXCLUSIVELY LICENSED TO THE ARTIST COMPANY AS PROVIDED IN SECTION 7-80-1213 (1);

(f) THE TAX TREATMENT OF THE ARTIST COMPANY;

(g) WHETHER DISTRIBUTIONS ARE MADE BASED ON OWNERSHIP PERCENTAGES OR ALTERNATIVE MECHANISMS, WITH SPACE TO DESCRIBE SUCH ALTERNATIVE MECHANISMS;

(h) BASIC PROVISIONS REGARDING TERMINATION OF A MEMBER'S MEMBERSHIP INTEREST UPON WITHDRAWAL FROM THE ARTIST COMPANY, ADMISSION OF NEW MEMBERS, AND RIGHTS TO ARTISTIC WORK UPON MEMBER WITHDRAWAL AND TERMINATION OF MEMBERSHIP INTEREST; AND

(i) WHETHER CERTAIN DECISIONS REQUIRE ARTIST SUPERMAJORITY OR UNANIMOUS APPROVAL.

(3) IF THE ELECTION IS MADE UNDER SUBSECTION (2)(e) OF THIS SECTION, THE ARTICLES OF ORGANIZATION MUST ALSO INCLUDE A NARRATIVE DESCRIPTION OF THE ARTISTIC WORK TO BE CREATED BY THE ARTIST COMPANY TO SET FORTH THE SCOPE OF ARTISTIC WORK SUBJECT TO THE ASSIGNMENT OR EXCLUSIVE LICENSE.

(4) AN ELECTION REGARDING WHETHER SELECTED TERMS IN THE ARTICLES OF ORGANIZATION MAY BE SUPERSEDED BY A SUBSEQUENTLY ADOPTED OPERATING AGREEMENT:

(a) WITHOUT AMENDMENT TO THE ARTICLES OF ORGANIZATION; OR

(b) ONLY WITH CONCURRENT AMENDMENT TO THE ARTICLES OF ORGANIZATION.

(5) ARTICLES OF ORGANIZATION FILED PURSUANT TO SUBSECTION (1) OF THIS SECTION MAY INCLUDE OTHER PROVISIONS CONSISTENT WITH LAW AS THE INCORPORATORS ELECT TO INCLUDE.

(6) IF AN ARTIST COMPANY ELECTS TO BECOME A PUBLIC BENEFIT ARTIST COMPANY PURSUANT TO SECTION 7-80-1215, THE ARTIST COMPANY SHALL STATE IN THE HEADING OF ITS ARTICLES OF ORGANIZATION THAT IT IS A "PUBLIC BENEFIT ARTIST COMPANY". A CERTIFICATE OF MEMBERSHIP INTEREST OR OTHER SECURITY ISSUED BY A PUBLIC BENEFIT ARTIST COMPANY MUST NOTE CONSPICUOUSLY THAT THE PUBLIC BENEFIT ARTIST COMPANY IS A PUBLIC BENEFIT ARTIST COMPANY FORMED PURSUANT TO THIS PART 12.

(7) AN ARTIST COMPANY'S NAME MAY CONTAIN THE WORDS "ARTIST COMPANY" OR THE ABBREVIATIONS "ALLC", "A CORP", "AC", OR "A.C." IN LIEU OF OR IN ADDITION TO ANY TERM OR ABBREVIATION OTHERWISE PERMITTED BY SECTION 7-90-601 (3)(c).

**7-80-1207. Ownership of equity.**

(1) SUBJECT TO THE REQUIREMENTS SET FORTH IN SECTION 7-80-1203 (1)(c), AN ARTIST COMPANY HAS THE SAME OPTIONS WITH RESPECT TO EQUITY OWNERSHIP PROVIDED TO LIMITED LIABILITY COMPANIES GENERALLY UNDER THIS ARTICLE 80.

(2) THE INCORPORATORS OF AN ARTIST COMPANY MAY ELECT IN THE ARTICLES OF ORGANIZATION ONE OF THE FOLLOWING STRUCTURES FOR EQUITY OWNERSHIP:

(a) OWNERSHIP BASED ON THE SALE OF UNITS, INCLUDING FRACTIONAL UNITS;

(b) PRO RATA OWNERSHIP BASED ON THE NUMBER OF MEMBERS;

(c) PRO RATA OWNERSHIP BASED ON CAPITAL CONTRIBUTIONS, INCLUDING IN-KIND CONTRIBUTIONS OF CASH, PROPERTY, ARTISTIC WORK, ROYALTY SHARING, REVENUE PARTICIPATION RIGHTS, OR OTHER INTANGIBLE ASSETS; OR

(d) FIXED OWNERSHIP PERCENTAGES BY INDIVIDUAL MEMBER.

(3) UNLESS OTHERWISE SPECIFIED IN AN OPERATING AGREEMENT, ALLOCATIONS AND DISTRIBUTIONS MUST BE MADE BASED ON OWNERSHIP PERCENTAGES; EXCEPT THAT THE OPERATING AGREEMENT MAY ESTABLISH

ALTERNATIVE ALLOCATION OR DISTRIBUTION MECHANISMS, INCLUDING ALLOCATIONS OR DISTRIBUTIONS BASED ON REVENUE PARTICIPATION, ROYALTY SHARING, RECOUPMENT WATERFALLS, OR OTHER CRITERIA INDEPENDENT OF OWNERSHIP PERCENTAGES.

**7-80-1208. Governing body.**

(1) AN ARTIST COMPANY HAS THE SAME GOVERNANCE OPTIONS PROVIDED TO LIMITED LIABILITY COMPANIES GENERALLY UNDER THIS ARTICLE 80.

(2) THE INCORPORATORS OF AN ARTIST COMPANY MAY ELECT IN THE ARTICLES OF ORGANIZATION ONE OF THE FOLLOWING GOVERNANCE STRUCTURES:

(a) GOVERNANCE BY MEMBERS, WITH VOTING BASED ON OWNERSHIP PERCENTAGES;

(b) GOVERNANCE BY A SINGLE MANAGER, WITH THE MANAGER ELECTED BY MEMBERS; OR

(c) GOVERNANCE BY A BOARD OF MANAGERS, WITH MANAGERS ELECTED BY MEMBERS.

(3) MORE COMPLEX GOVERNANCE STRUCTURES, INCLUDING SEPARATE VOTING FOR ARTISTIC DECISIONS VERSUS BUSINESS DECISIONS, MAY BE SPECIFIED IN AN OPERATING AGREEMENT.

**7-80-1209. Governance principles.**

(1) UNLESS OTHERWISE PROVIDED IN THE ARTICLES OF ORGANIZATION OR OPERATING AGREEMENT OF AN ARTIST COMPANY:

(a) A QUORUM FOR A MEETING OF MEMBERS OR MANAGERS CONSISTS OF A MAJORITY OF THE VOTING INTERESTS OR MANAGERS, AS APPLICABLE, ENTITLED TO VOTE AT THE MEETING;

(b) EXCEPT AS PROVIDED IN SUBSECTION (1)(c) OF THIS SECTION, AN ACT OF THE MEMBERS OR MANAGERS REQUIRES APPROVAL BY A MAJORITY OF THOSE PRESENT AT A MEETING AT WHICH A QUORUM IS PRESENT; EXCEPT

THAT THE FOLLOWING ACTIONS REQUIRE APPROVAL BY A MAJORITY OF ALL VOTING INTERESTS OF THE MEMBERS:

(I) AMENDMENT OF THE ARTICLES OF ORGANIZATION;

(II) ADOPTION OR AMENDMENT OF AN OPERATING AGREEMENT;

(III) MERGER, CONSOLIDATION, CONVERSION, CHANGE OF CONTROL, OR OTHER BUSINESS COMBINATION TRANSACTION;

(IV) DISSOLUTION OF THE ARTIST COMPANY;

(V) ELECTION TO BECOME OR CEASE TO BE A PUBLIC BENEFIT ARTIST COMPANY; AND

(VI) OTHER MATTERS AS MAY BE SPECIFIED IN THE ARTICLES OF ORGANIZATION OR OPERATING AGREEMENT; AND

(c) THE FOLLOWING ACTIONS REQUIRE APPROVAL BY A MAJORITY OF ALL VOTING INTERESTS OF ARTIST-MEMBERS, EVEN IF THE ACTION IS EFFECTUATED BY AN AMENDMENT TO THE ARTICLES OF ORGANIZATION OR OPERATING AGREEMENT:

(I) AN ACTION MATERIALLY AFFECTING THE OWNERSHIP, LICENSING, TRANSFER, OR REVERSIONARY RIGHTS OF ARTISTIC WORK OF THE ARTIST COMPANY OR ARTIST-MEMBERS;

(II) CHANGING THE DEFINITION OR SCOPE OF "PUBLIC BENEFIT" UNDER THE ARTICLES OF ORGANIZATION OR OPERATING AGREEMENT OF A PUBLIC BENEFIT ARTIST COMPANY;

(III) ELECTING TO BECOME OR CEASING TO BE A PUBLIC BENEFIT ARTIST COMPANY;

(IV) CEASING TO BE AN ARTIST COMPANY, INCLUDING AN ACTION THAT CAUSES THE ENTITY TO NO LONGER MEET THE REQUIREMENTS SET FORTH IN SECTION 7-80-1203 (1);

(V) MODIFYING THE GOVERNING CONTROL OF THE ARTIST COMPANY, INCLUDING WITH RESPECT TO MANAGEMENT STRUCTURE, VOTING RIGHTS, OR

DECISION-MAKING AUTHORITY; AND

(VI) APPROVING THE ANNUAL OPERATING BUDGET OF THE ARTIST COMPANY.

(2) THE FOLLOWING IS NOT INDIVIDUALLY AN INDICATION OF LACK OF GOOD GOVERNANCE, GROUNDS FOR PIERCING THE LIMITED LIABILITY VEIL, OR EVIDENCE OF IMPROPER CORPORATE FORMALITIES:

(a) FAILURE TO PREPARE WRITTEN MINUTES OF MEETINGS OF THE GOVERNING BODY IF THERE IS ADEQUATE WRITTEN EVIDENCE OF FORMAL APPROVALS TAKEN BY THE GOVERNING BODY;

(b) FAILURE TO HOLD ANNUAL MEETINGS OF MEMBERS OF AN ARTIST COMPANY; OR

(c) FAILURE OF AN ARTIST COMPANY TO OBSERVE OTHER FORMALITIES CUSTOMARILY ASSOCIATED WITH COLORADO LIMITED LIABILITY COMPANIES OR OTHER ENTITY FORMS.

**7-80-1210. Acceptance of capital.**

(1) AN ARTIST COMPANY MAY ACCEPT CAPITAL IN ANY FORM, INCLUDING:

(a) GRANTS;

(b) REFUNDABLE GRANTS;

(c) FIRST LOSS CAPITAL;

(d) PROGRAM-RELATED INVESTMENTS;

(e) MISSION-RELATED INVESTMENTS;

(f) A FINANCIAL AGREEMENT FOR IMPACT RETURNS INVESTMENTS;

(g) DEBT INSTRUMENTS;

(h) EQUITY INVESTMENTS;

(i) CONVERTIBLE INVESTMENT INSTRUMENTS;

(j) FINANCIAL INSTRUMENTS, INCLUDING REVENUE, CASH FLOW, AND PROFIT PARTICIPATION RIGHTS;

(k) ROYALTY SHARING RIGHTS; AND

(1) IN-KIND CONTRIBUTIONS, INCLUDING INTELLECTUAL PROPERTY SUCH AS ARTISTIC WORK.

(2) IF AND TO THE EXTENT THAT A DONOR, WITH RESPECT TO GRANTS OR REFUNDABLE GRANTS, IS REQUIRED TO EXERCISE EXPENDITURE RESPONSIBILITY, THE DONOR IS ENTITLED TO THE STATEMENTS PREPARED FOR MEMBERS AS SET FORTH IN SECTION 7-80-1217.

(3) IF AND TO THE EXTENT THAT A DONOR REQUESTS THAT DONATIONS BE TAX DEDUCTIBLE, UNLESS AND UNTIL THE FEDERAL INTERNAL REVENUE SERVICE PROVIDES THAT ARTIST COMPANIES ARE ENTITLED TO STATUS AS TAX EXEMPT ORGANIZATIONS, DONATIONS TO AN ARTIST COMPANY MAY BE MADE THROUGH A SEPARATE TAX EXEMPT ORGANIZATION.

**7-80-1211. Fiduciary duties.**

(1) EXCEPT AS OTHERWISE PROVIDED IN THIS SECTION, THE DUTIES OF MEMBERS AND MANAGERS OF AN ARTIST COMPANY ARE GOVERNED BY SECTION 7-80-404.

(2) IN ADDITION TO THE DUTIES SPECIFIED IN SECTION 7-80-404, THE ARTICLES OF ORGANIZATION OR OPERATING AGREEMENT OF AN ARTIST COMPANY MAY SPECIFY DUTIES OF MEMBERS OR MANAGERS WITH RESPECT TO THE ARTISTIC MISSION OF THE ARTIST COMPANY, INCLUDING DUTIES TO:

(a) PRESERVE AND PROMOTE THE ARTISTIC MISSION OF THE ARTIST COMPANY;

(b) BALANCE THE ARTISTIC MISSION WITH THE FINANCIAL INTERESTS OF THE ARTIST COMPANY AND THE PECUNIARY INTERESTS OF THE MEMBERS;  
OR

(c) CONSULT WITH OR OBTAIN APPROVAL FROM ARTIST-MEMBERS ON DECISIONS MATERIALLY AFFECTING THE ARTISTIC DIRECTION OR CREATIVE OUTPUT OF THE ARTIST COMPANY.

(3) THE DUTIES SPECIFIED IN SUBSECTIONS (1) AND (2) OF THIS SECTION MAY BE MODIFIED BY THE ARTICLES OF ORGANIZATION OR OPERATING AGREEMENT OF AN ARTIST COMPANY TO THE EXTENT PERMITTED BY SECTIONS 7-80-108 AND 7-80-204.

(4) FOR PUBLIC BENEFIT ARTIST COMPANIES, THE DUTIES OF MEMBERS AND MANAGERS ARE FURTHER SPECIFIED IN SECTION 7-80-1216.

(5) THE ARTICLES OF ORGANIZATION MAY INCLUDE ELECTIONS ALLOWING INCORPORATORS TO ACCEPT THE DEFAULT DUTIES DESCRIBED UNDER THIS SECTION OR TO MODIFY SPECIFIC DUTIES AS PERMITTED BY SUBSECTION (3) OF THIS SECTION.

**7-80-1212. Intellectual property as a capital contribution - assignment or exclusive licensing to artist company.**

(1) A MEMBER OF AN ARTIST COMPANY MAY ASSIGN OR EXCLUSIVELY LICENSE TO THE ARTIST COMPANY INTELLECTUAL PROPERTY, INCLUDING ARTISTIC WORK OR ANY RIGHT OR RIGHTS RELATED TO THE ARTISTIC WORK, AS IN-KIND CAPITAL CONTRIBUTIONS, INCLUDING AS THE INITIAL CAPITAL CONTRIBUTION OF THE MEMBER TO BECOME A MEMBER OF THE ARTIST COMPANY.

(2) THE ARTICLES OF ORGANIZATION OR OPERATING AGREEMENT OF AN ARTIST COMPANY MAY PROVIDE FOR THE VALUATION OF ARTISTIC WORK, OR ANY RIGHT OR RIGHTS RELATED TO THE ARTISTIC WORK, ASSIGNED OR EXCLUSIVELY LICENSED TO THE ARTIST COMPANY PURSUANT TO THIS SECTION. IF, PRIOR TO THE TIME OF ASSIGNMENT OR EXCLUSIVE LICENSING, THE GOVERNING BODY OF THE ARTIST COMPANY AND THE ASSIGNING OR EXCLUSIVE LICENSING MEMBER FAIL TO AGREE ON A VALUATION, THE MEMBER MAY ELECT TO EITHER:

(a) DECLINE TO ASSIGN OR EXCLUSIVELY LICENSE THE ARTISTIC WORK, OR ANY RIGHT OR RIGHTS RELATED TO THE ARTISTIC WORK, TO THE ARTIST COMPANY; OR

(b) HAVE AN INDEPENDENT PROFESSIONAL VALUATOR MUTUALLY AGREED TO BY THE PARTIES DETERMINE THE VALUATION OF THE ARTISTIC WORK AT THE ARTIST COMPANY'S COST, WHICH DETERMINATION IS FINAL AND BINDING.

(3) ANY ASSIGNMENT OR EXCLUSIVE LICENSING OF ARTISTIC WORK TO AN ARTIST COMPANY PURSUANT TO THIS SECTION MAY BE LIMITED IN SCOPE TO INCLUDE ONLY THE ARTISTIC WORK, OR ANY RIGHT OR RIGHTS RELATED TO THE ARTISTIC WORK, REQUIRED FOR THE ARTISTIC MISSION OF THE ARTIST COMPANY.

(4) UNLESS OTHERWISE SPECIFIED IN THE ARTICLES OF ORGANIZATION OR OPERATING AGREEMENT OF AN ARTIST COMPANY, ARTISTIC WORK ASSIGNED OR EXCLUSIVELY LICENSED TO THE ARTIST COMPANY PURSUANT TO THIS SECTION IS ASSIGNED OR EXCLUSIVELY LICENSED SUBJECT TO THE REVERSIONARY RIGHTS SET FORTH IN SECTION 7-80-1221 (2)(a)(I), WHICH REVERSIONARY RIGHTS CONSTITUTE A RETAINED INTEREST THAT DOES NOT TRANSFER TO THE ARTIST COMPANY AND IS NOT AVAILABLE TO CREDITORS OF THE ARTIST COMPANY. INTELLECTUAL PROPERTY CONTRIBUTED TO THE ARTIST COMPANY THAT DOES NOT CONSTITUTE ARTISTIC WORK IS NOT SUBJECT TO THE REVERSIONARY RIGHTS AND IS AN ASSET OF THE ARTIST COMPANY.

**7-80-1213. Artistic work created during membership - restriction on transfer.**

(1) THE ARTICLES OF ORGANIZATION OR OPERATING AGREEMENT OF AN ARTIST COMPANY MAY REQUIRE ARTIST-MEMBERS TO ASSIGN OR EXCLUSIVELY LICENSE TO THE ARTIST COMPANY ARTISTIC WORK CREATED BY THE ARTIST-MEMBERS DURING MEMBERSHIP THAT RELATES TO THE ARTISTIC MISSION OF THE ARTIST COMPANY. ARTISTIC WORK ASSIGNED OR EXCLUSIVELY LICENSED PURSUANT TO THIS SUBSECTION (1) IS SUBJECT TO THE REVERSIONARY RIGHTS SET FORTH IN SECTION 7-80-1221 (2)(a)(I), WHICH REVERSIONARY RIGHTS CONSTITUTE A RETAINED INTEREST THAT DOES NOT TRANSFER TO THE ARTIST COMPANY AND IS NOT AVAILABLE TO CREDITORS OF THE ARTIST COMPANY. INTELLECTUAL PROPERTY CREATED ON BEHALF OF THE ARTIST COMPANY THAT DOES NOT CONSTITUTE ARTISTIC WORK IS NOT SUBJECT TO THE REVERSIONARY RIGHTS AND IS AN ASSET OF THE ARTIST COMPANY.

(2) IF THE ASSIGNMENT OR EXCLUSIVE LICENSING TERMS DESCRIBED IN SUBSECTION (1) OF THIS SECTION ARE INCLUDED IN AN ARTIST COMPANY'S ARTICLES OF ORGANIZATION OR OPERATING AGREEMENT, THE ARTICLES OF ORGANIZATION OR OPERATING AGREEMENT OF THE ARTIST COMPANY MUST ALSO INCLUDE A NARRATIVE DESCRIPTION OF THE ARTISTIC WORK TO BE CREATED BY THE ARTIST COMPANY TO DELINEATE THE SCOPE OF ARTISTIC WORK SUBJECT TO ASSIGNMENT OR EXCLUSIVE LICENSING.

(3) AN ARTIST-MEMBER MAY RETAIN SPECIFIED ARTISTIC WORK CREATED BY THE ARTIST-MEMBER DURING THE ARTIST-MEMBER'S MEMBERSHIP BY PROVIDING WRITTEN NOTICE TO THE ARTIST COMPANY DESCRIBING THE ARTISTIC WORK TO BE RETAINED BY THE ARTIST-MEMBER. THE WRITTEN NOTICE MAY BE PROVIDED AT THE TIME THE ARTIST-MEMBER JOINS THE ARTIST COMPANY OR WITHIN THIRTY DAYS AFTER THE GENERATION OF THE ARTISTIC WORK. IF A WRITTEN NOTICE IS PROVIDED, THE ARTIST-MEMBER SHALL GRANT THE ARTIST COMPANY A NONEXCLUSIVE, PERPETUAL, IRREVOCABLE LICENSE TO THE ARTISTIC WORK TO THE EXTENT THAT THE ARTIST-MEMBER USES THE ARTISTIC WORK IN THE ARTIST-MEMBER'S WORK FOR THE ARTIST COMPANY.

(4) ALL ARTISTIC WORK ASSIGNED OR EXCLUSIVELY LICENSED TO OR CREATED BY ARTIST-MEMBERS ON BEHALF OF THE ARTIST COMPANY MUST BE OWNED BY EITHER THE ARTIST-MEMBERS OR THE ARTIST COMPANY AND IS SUBJECT TO THE REVERSIONARY RIGHTS DESCRIBED IN SECTION 7-80-1221 (2)(a)(I). THE ARTISTIC WORK SHALL NOT BE TRANSFERRED TO, OWNED BY, ASSIGNED TO, OR EXCLUSIVELY LICENSED TO NONARTIST MEMBERS OR INVESTORS OR OTHER NONARTIST THIRD PARTIES EXCEPT THROUGH LICENSES OR OTHER CONTRACTUAL AGREEMENTS ENTERED INTO WITH UNAFFILIATED THIRD PARTIES IN THE ORDINARY COURSE OF BUSINESS FOR BONA FIDE COMMERCIAL PURPOSES. LICENSES AND CONTRACTUAL AGREEMENTS DESCRIBED IN THIS SUBSECTION (4) ARE SUBJECT TO THE REVERSIONARY RIGHTS DESCRIBED IN SECTION 7-80-1221 (2)(a)(I). THE ARTICLES OF ORGANIZATION OR OPERATING AGREEMENT MAY ADDRESS:

(a) TREATMENT OF ARTISTIC WORK UPON AN ARTIST-MEMBER'S DEPARTURE FROM THE ARTIST COMPANY, INCLUDING WHETHER THE ARTISTIC WORK REMAINS WITH THE ARTIST COMPANY OR REVERTS TO THE DEPARTED ARTIST-MEMBER IN SPECIFIED DEPARTURE SCENARIOS;

(b) RIGHTS OF DEPARTED ARTIST-MEMBERS TO CONTINUE RECEIVING

ROYALTIES OR REVENUES FROM ARTISTIC WORK CREATED DURING THEIR MEMBERSHIP;

(c) RIGHTS OF REMAINING ARTIST-MEMBERS TO CONTINUE USING OR EXPLOITING ARTISTIC WORK CREATED JOINTLY WITH DEPARTED ARTIST-MEMBERS;

(d) PROCEDURES AND CONSENT REQUIREMENTS FOR ANY SALE OR ASSIGNMENT OF ARTISTIC WORK TO NONARTIST THIRD PARTIES, WHICH MUST INCLUDE THE CONSENT OF THE ARTIST-MEMBER WHO CREATED THE ARTISTIC WORK AND PROVIDE FOR CONSIDERATION TO BE PAID TO THE ARTIST-MEMBER FOR RELINQUISHMENT OF THE ARTIST-MEMBER'S REVERSIONARY RIGHTS IF THE REVERSIONARY RIGHTS ARE TO BE INCLUDED IN THE SALE OR ASSIGNMENT; AND

(e) UPON DISSOLUTION OF THE ARTIST COMPANY, REVERSIONARY RIGHTS AS DESCRIBED IN SECTION 7-80-1221 (2)(a)(I).

**7-80-1214. Separation of economic rights from governance and control.**

(1) THE ARTICLES OF ORGANIZATION OR OPERATING AGREEMENT OF AN ARTIST COMPANY MAY PROVIDE FOR THE SEPARATION OF ECONOMIC RIGHTS FROM GOVERNANCE AND CONTROL RIGHTS.

(2) ANY GOVERNANCE AND CONTROL RIGHTS MUST AT ALL TIMES REMAIN WITH ARTIST-MEMBERS IN ACCORDANCE WITH SECTION 7-80-1203 (1)(c). NONARTIST INVESTORS MAY HOLD ECONOMIC RIGHTS, INCLUDING RIGHTS TO DISTRIBUTIONS, ROYALTIES, REVENUE PARTICIPATION, OR OTHER FINANCIAL RETURNS, WITHOUT CORRESPONDING GOVERNANCE OR CONTROL RIGHTS.

(3) AN OPERATING AGREEMENT MAY SPECIFY THE EXTENT AND NATURE OF ECONOMIC RIGHTS HELD BY NONARTIST INVESTORS, INCLUDING PRIORITY OF DISTRIBUTIONS, REVENUE PARTICIPATION ARRANGEMENTS, RECOUPMENT PROVISIONS, AND OTHER FINANCIAL TERMS.

**7-80-1215. Public benefit artist company - election.**

(1) AN ARTIST COMPANY MAY ELECT AT FORMATION OR BY

AMENDING ITS ARTICLES OF ORGANIZATION IN ACCORDANCE WITH THIS PART 12 TO BE A PUBLIC BENEFIT ARTIST COMPANY BY:

(a) STATING IN THE HEADING OF ITS ARTICLES OF ORGANIZATION THAT IT IS A "PUBLIC BENEFIT ARTIST COMPANY";

(b) SETTING FORTH IN ITS ARTICLES OF ORGANIZATION AND IN ITS OPERATING AGREEMENT, IF ANY, ONE OR MORE SPECIFIC PUBLIC BENEFITS TO BE PROMOTED BY THE ARTIST COMPANY; AND

(c) STATING IN ITS OPERATING AGREEMENT, IF ANY, THAT IT IS A PUBLIC BENEFIT ARTIST COMPANY.

(2) AN ARTIST COMPANY THAT IS NOT FORMED AS A PUBLIC BENEFIT ARTIST COMPANY MAY BECOME A PUBLIC BENEFIT ARTIST COMPANY BY:

(a) AMENDING ITS ARTICLES OF ORGANIZATION AND OPERATING AGREEMENT TO COMPLY WITH THE REQUIREMENTS OF SUBSECTION (1) OF THIS SECTION; AND

(b) OBTAINING APPROVAL OF THE ELECTION BY A MAJORITY OF ALL VOTING INTERESTS OF THE MEMBERS AS REQUIRED BY SECTION 7-80-1209 (1)(b)(V) AND THE MAJORITY OF ALL VOTING INTERESTS OF ARTIST-MEMBERS AS REQUIRED BY SECTION 7-80-1209 (1)(c)(III).

(3) A PUBLIC BENEFIT ARTIST COMPANY MAY CEASE TO BE A PUBLIC BENEFIT ARTIST COMPANY BY:

(a) AMENDING ITS ARTICLES OF ORGANIZATION TO REMOVE THE DESIGNATION AS A PUBLIC BENEFIT ARTIST COMPANY AND THE SPECIFIC PUBLIC BENEFITS; AND

(b) OBTAINING APPROVAL OF THE AMENDMENT BY A MAJORITY OF ALL VOTING INTERESTS OF THE MEMBERS AS REQUIRED BY SECTION 7-80-1209 (1)(b)(V) AND THE MAJORITY OF ALL VOTING INTERESTS OF ARTIST-MEMBERS AS REQUIRED BY SECTION 7-80-1209 (1)(c)(III).

(4) A PUBLIC BENEFIT ARTIST COMPANY THAT ELECTS TO CEASE BEING A PUBLIC BENEFIT ARTIST COMPANY REMAINS SUBJECT TO THIS PART 12 AS AN ARTIST COMPANY.

(5) IN THE EVENT OF ANY INCONSISTENCY BETWEEN THE PUBLIC BENEFITS TO BE PROMOTED BY A PUBLIC BENEFIT ARTIST COMPANY AS SET FORTH IN ITS OPERATING AGREEMENT AND IN ITS ARTICLES OF ORGANIZATION, THE OPERATING AGREEMENT CONTROLS AMONG THE MEMBERS, THE MANAGERS, AND OTHER PERSONS THAT ARE PARTY TO OR OTHERWISE BOUND BY THE OPERATING AGREEMENT.

(6) A MANAGER OF A PUBLIC BENEFIT ARTIST COMPANY, OR, IF THERE IS NO MANAGER, ANY MEMBER OF A PUBLIC BENEFIT ARTIST COMPANY, THAT BECOMES AWARE THAT THE SPECIFIC PUBLIC BENEFITS TO BE PROMOTED BY THE PUBLIC BENEFIT ARTIST COMPANY SET FORTH IN ITS OPERATING AGREEMENT ARE INACCURATELY SET FORTH IN ITS ARTICLES OF ORGANIZATION SHALL PROMPTLY AMEND THE ARTICLES OF ORGANIZATION IN ACCORDANCE WITH SECTION 7-80-1209 (1)(c)(II).

(7) THE ELECTION TO ADOPT A PUBLIC BENEFITS PROVISION MAY FACILITATE CERTIFICATION OF AN ARTIST COMPANY UNDER THIRD-PARTY STANDARDS APPLICABLE TO PUBLIC BENEFIT ARTIST COMPANIES.

**7-80-1216. Public benefit artist company - duties of members and managers.**

(1) THE MEMBERS OR MANAGERS OR OTHER PERSONS WITH AUTHORITY TO MANAGE OR DIRECT THE BUSINESS AND AFFAIRS OF A PUBLIC BENEFIT ARTIST COMPANY SHALL MANAGE OR DIRECT THE BUSINESS AND AFFAIRS OF THE PUBLIC BENEFIT ARTIST COMPANY IN A MANNER THAT BALANCES:

(a) THE PECUNIARY INTERESTS OF THE MEMBERS;

(b) THE BEST INTERESTS OF THOSE MATERIALLY AFFECTED BY ITS CONDUCT;

(c) THE SPECIFIC PUBLIC BENEFITS SET FORTH IN ITS ARTICLES OF ORGANIZATION AND OPERATING AGREEMENT, IF ANY; AND

(d) ITS ARTISTIC MISSION.

(2) UNLESS OTHERWISE PROVIDED IN AN OPERATING AGREEMENT, A MEMBER, A MANAGER, OR OTHER PERSON WITH AUTHORITY TO MANAGE OR

DIRECT THE BUSINESS AND AFFAIRS OF A PUBLIC BENEFIT ARTIST COMPANY DOES NOT HAVE ANY LIABILITY FOR MONETARY DAMAGES FOR THE FAILURE TO MANAGE OR DIRECT THE BUSINESS AND AFFAIRS OF THE PUBLIC BENEFIT ARTIST COMPANY AS PROVIDED IN SUBSECTION (1) OF THIS SECTION.

(3) A MEMBER OR MANAGER OF A PUBLIC BENEFIT ARTIST COMPANY OR ANOTHER PERSON WITH AUTHORITY TO MANAGE OR DIRECT THE BUSINESS AND AFFAIRS OF A PUBLIC BENEFIT ARTIST COMPANY SHALL NOT, BY VIRTUE OF THE PUBLIC BENEFITS PROVISIONS OF THIS PART 12 OR SUBSECTION (1) OF THIS SECTION, HAVE ANY DUTY TO A PERSON ON ACCOUNT OF ANY INTEREST OF THE PERSON IN THE PUBLIC BENEFITS SET FORTH IN ITS ARTICLES OF ORGANIZATION AND OPERATING AGREEMENT, IF ANY, OR ON ACCOUNT OF ANY INTEREST MATERIALLY AFFECTED BY THE PUBLIC BENEFIT ARTIST COMPANY'S CONDUCT.

(4) WITH RESPECT TO A DECISION IMPLICATING THE BALANCE REQUIREMENT SET FORTH IN SUBSECTION (1) OF THIS SECTION, A MEMBER, A MANAGER, OR OTHER PERSON WITH AUTHORITY TO MANAGE OR DIRECT THE BUSINESS AND AFFAIRS OF A PUBLIC BENEFIT ARTIST COMPANY IS DEEMED TO SATISFY THE PERSON'S FIDUCIARY DUTIES TO MEMBERS AND THE PUBLIC BENEFIT ARTIST COMPANY IF THE PERSON'S DECISION IS BOTH INFORMED AND DISINTERESTED AND NOT A DECISION THAT A PERSON OF ORDINARY, SOUND JUDGMENT WOULD NOT APPROVE.

**7-80-1217. Public benefit artist company - annual statements.**

(1) A PUBLIC BENEFIT ARTIST COMPANY SHALL AT LEAST ANNUALLY PROVIDE ITS MEMBERS AND DONORS WITH A STATEMENT SPECIFYING:

(a) THE PUBLIC BENEFIT ARTIST COMPANY'S PROMOTION OF THE PUBLIC BENEFITS SET FORTH IN ITS ARTICLES OF ORGANIZATION AND OPERATING AGREEMENT, IF ANY;

(b) THE PUBLIC BENEFIT ARTIST COMPANY'S FULFILLMENT OF ITS ARTISTIC MISSION; AND

(c) THE BEST INTERESTS OF THOSE MATERIALLY AFFECTED BY THE PUBLIC BENEFIT ARTIST COMPANY'S CONDUCT.

(2) THE STATEMENT REQUIRED BY SUBSECTION (1) OF THIS SECTION

MUST INCLUDE:

(a) THE OBJECTIVES THAT HAVE BEEN ESTABLISHED TO PROMOTE THE PUBLIC BENEFIT ARTIST COMPANY'S PUBLIC BENEFITS, ARTISTIC MISSION, AND INTERESTS;

(b) THE STANDARDS THAT HAVE BEEN ADOPTED TO MEASURE THE PUBLIC BENEFIT ARTIST COMPANY'S PROGRESS IN PROMOTING THE PUBLIC BENEFIT ARTIST COMPANY'S PUBLIC BENEFITS, ARTISTIC MISSION, AND INTERESTS;

(c) OBJECTIVE FACTUAL INFORMATION BASED ON THE STANDARDS DESCRIBED IN SUBSECTION (2)(b) OF THIS SECTION REGARDING THE PUBLIC BENEFIT ARTIST COMPANY'S SUCCESS IN MEETING THE OBJECTIVES FOR PROMOTING THE PUBLIC BENEFITS, ARTISTIC MISSION, AND INTERESTS; AND

(d) AN ASSESSMENT OF THE PUBLIC BENEFIT ARTIST COMPANY'S SUCCESS IN MEETING THE OBJECTIVES AND PROMOTING THE PUBLIC BENEFITS, ARTISTIC MISSION, AND INTERESTS.

(3) THE STATEMENT REQUIRED BY THIS SECTION MAY BE INCLUDED IN OR PROVIDED CONCURRENTLY WITH ANY OTHER REPORT OR STATEMENT PROVIDED TO MEMBERS.

**7-80-1218. Member transition.**

(1) AN ARTIST COMPANY'S ARTICLES OF ORGANIZATION OR OPERATING AGREEMENT MAY PROVIDE FOR:

(a) PROCEDURES FOR ADMISSION OF NEW MEMBERS AND DEPARTURE, WITHDRAWAL, EXPULSION, OR DISSOCIATION OF EXISTING MEMBERS, SO LONG AS ARTISTS RETAIN OWNERSHIP IN ACCORDANCE WITH THE REQUIREMENTS OF SECTION 7-80-1203 (1)(c);

(b) RIGHTS TO ARTISTIC WORK, ROYALTY SHARING RIGHTS, AND REVENUE PARTICIPATION RIGHTS UPON A MEMBER'S DEPARTURE, INCLUDING:

(I) WHETHER ARTISTIC WORK ASSIGNED OR EXCLUSIVELY LICENSED BY THE DEPARTING ARTIST-MEMBER REMAINS WITH THE ARTIST COMPANY OR REVERTS TO THE MEMBER, IN WHOLE OR IN PART;

(II) WHETHER ARTISTIC WORK CREATED DURING THE MEMBER'S MEMBERSHIP REMAINS WITH THE ARTIST COMPANY OR REVERTS TO THE ARTIST-MEMBER IN SPECIFIED DEPARTURE SCENARIOS, IN WHOLE OR IN PART;

(III) WHETHER AND ON WHAT TERMS THE DEPARTING ARTIST-MEMBER RETAINS RIGHTS TO RECEIVE ROYALTIES OR REVENUES FROM ARTISTIC WORK CREATED DURING THEIR MEMBERSHIP IN SPECIFIED DEPARTURE SCENARIOS; AND

(IV) WHETHER AND ON WHAT TERMS THE DEPARTING ARTIST-MEMBER RETAINS RIGHTS TO USE COLLECTIVE NAMES, TRADEMARKS, OR OTHER IDENTIFIERS ASSOCIATED WITH THE ARTIST COMPANY;

(c) CONTINUING ECONOMIC RIGHTS OF DEPARTED MEMBERS, INCLUDING DISTRIBUTION RIGHTS, ROYALTY SHARING, AND REVENUE PARTICIPATION;

(d) RIGHTS AND OBLIGATIONS OF REMAINING MEMBERS, INCLUDING RIGHTS TO CONTINUE EXPLOITING ARTISTIC WORK JOINTLY CREATED WITH DEPARTED ARTIST-MEMBERS;

(e) VALUATION AND BUYOUT PROVISIONS FOR A DEPARTING MEMBER'S INTEREST; AND

(f) DISPUTE RESOLUTION PROCEDURES.

(2) IN THE ABSENCE OF PROVISIONS ADDRESSING MEMBER DEPARTURE IN THE ARTICLES OF ORGANIZATION OR OPERATING AGREEMENT OF AN ARTIST COMPANY:

(a) A DEPARTING MEMBER'S OWNERSHIP INTEREST IS SUBJECT TO THE DEFAULT PROVISIONS OF THIS ARTICLE 80;

(b) ARTISTIC WORK ASSIGNED OR EXCLUSIVELY LICENSED BY THE MEMBER, IF AN ARTIST-MEMBER, TO THE ARTIST COMPANY REMAINS THE PROPERTY OF THE ARTIST COMPANY, SUBJECT TO ANY REVERSIONARY RIGHTS PROVIDED IN SECTION 7-80-1221 (2)(a)(I);

(c) ARTISTIC WORK CREATED BY THE MEMBER, IF AN ARTIST-MEMBER, DURING THEIR MEMBERSHIP SHALL BE TREATED IN

ACCORDANCE WITH ANY ASSIGNMENT OR EXCLUSIVE LICENSING TERMS INCLUDED IN THE ARTICLES OF ORGANIZATION OR OPERATING AGREEMENT PURSUANT TO SECTION 7-80-1213 (1) OR, IN THE ABSENCE OF SUCH TERMS, IS GOVERNED BY FEDERAL INTELLECTUAL PROPERTY LAW; AND

(d) THE DEPARTING MEMBER HAS NO CONTINUING RIGHTS TO DISTRIBUTIONS, ROYALTIES, OR REVENUES EXCEPT AS MAY BE REQUIRED BY SECTION 7-80-1213 (4) OR 7-80-1221 (2)(a)(I).

(3) THE ADMISSION OF A NEW MEMBER MUST INCLUDE THE CONSENT SPECIFIED IN THE ARTICLES OF ORGANIZATION OR OPERATING AGREEMENT OF AN ARTIST COMPANY OR, IN THE ABSENCE OF SUCH SPECIFICATION, THE CONSENT REQUIRED BY SECTION 7-80-701.

**7-80-1219. Reporting requirements.**

AN ARTIST COMPANY SHALL FILE THE PERIODIC REPORT REQUIRED OF LIMITED LIABILITY COMPANIES UNDER SECTION 7-90-501.

**7-80-1220. Limitation on liability - no private right of action.**

(1) A PERSON SHALL NOT HAVE A PRIVATE RIGHT OF ACTION AGAINST AN ARTIST COMPANY, ITS GOVERNING BODY, ITS MANAGER, OR ITS MEMBERS BASED ON:

(a) THE ARTIST COMPANY'S FAILURE TO PURSUE OR CREATE A PUBLIC BENEFIT;

(b) THE ARTIST COMPANY'S FAILURE TO FULFILL ITS ARTISTIC MISSION; OR

(c) ANY ALLEGED BREACH OF DUTIES DESCRIBED IN SECTION 7-80-1216.

(2) THE LIMITATION ON PRIVATE RIGHTS OF ACTION SET FORTH IN THIS SECTION DOES NOT LIMIT ANY OTHER RIGHTS OR REMEDIES AVAILABLE UNDER LAW.

**7-80-1221. Dissolution and winding up - artistic work reversionary rights - distribution of assets.**

(1) DISSOLUTION OF AN ARTIST COMPANY IS GOVERNED BY PART 8 OF THIS ARTICLE 80, EXCEPT AS OTHERWISE PROVIDED IN THIS SECTION.

(2) (a) (I) EXCEPT AS IS NECESSARY TO COMPLY WITH APPLICABLE FEDERAL INCOME TAX LAW, INCLUDING SECTION 704 AND OTHER APPLICABLE PROVISIONS OF SUBCHAPTER K OF THE INTERNAL REVENUE CODE OF 1986, AS AMENDED, UPON DISSOLUTION OF AN ARTIST COMPANY, ALL RIGHTS TO ARTISTIC WORK ASSIGNED OR EXCLUSIVELY LICENSED BY ARTIST-MEMBERS TO THE ARTIST COMPANY OR CREATED BY ARTIST-MEMBERS OF THE ARTIST COMPANY DURING THE ARTIST-MEMBER'S MEMBERSHIP REVERT TO THE ARTIST-MEMBERS THAT ASSIGNED, EXCLUSIVELY LICENSED, OR CREATED SUCH ARTISTIC WORK AND ANY APPLICABLE ASSIGNMENT OR EXCLUSIVE LICENSE AUTOMATICALLY TERMINATES. THE OPERATING AGREEMENT OF ANY ARTIST COMPANY TREATED AS A PARTNERSHIP FOR FEDERAL INCOME TAX PURPOSES MUST INCLUDE ALLOCATION, DISTRIBUTION, VALUATION, CAPITAL ACCOUNT, AND OTHER ECONOMIC PROVISIONS REASONABLY DESIGNED, TO THE EXTENT PERMITTED BY APPLICABLE FEDERAL INCOME TAX LAW, TO FACILITATE THE REVERSION OF ARTISTIC WORK TO THE ARTIST-MEMBERS UNDER THIS SUBSECTION (2)(a)(I), INCLUDING PROVISIONS GOVERNING THE DISTRIBUTION OF CASH AND OTHER PROPERTY OTHER THAN ARTISTIC WORK; THE ALLOCATION OF ITEMS OF INCOME, GAIN, LOSS, DEDUCTION, AND CREDIT; AND THE PRESERVATION OR SATISFACTION OF CONTINUING ECONOMIC RIGHTS WITH RESPECT TO REVERTED ARTISTIC WORK. FOR JOINTLY CREATED WORKS, ASSIGNED OR EXCLUSIVELY LICENSED RIGHTS REVERT TO THE APPLICABLE ARTISTS:

(A) AS SPECIFIED IN THE ARTICLES OF ORGANIZATION OR OPERATING AGREEMENT OF THE ARTIST COMPANY;

(B) IF NOT SPECIFIED IN THE ARTICLES OF ORGANIZATION OR OPERATING AGREEMENT OF THE ARTIST COMPANY, AS MUTUALLY AGREED UPON BY THE APPLICABLE ARTISTS; OR

(C) IF MUTUAL AGREEMENT CANNOT BE REACHED BY THE APPLICABLE ARTISTS, AS JOINTLY OWNED ARTISTIC WORK IN ACCORDANCE FEDERAL INTELLECTUAL PROPERTY LAW.

(II) INTELLECTUAL PROPERTY THAT DOES NOT CONSTITUTE ARTISTIC WORK IS NOT SUBJECT TO THE REVERSIONARY RIGHTS DESCRIBED IN THIS

SECTION AND SHALL BE DISTRIBUTED PURSUANT TO SUBSECTION (3) OF THIS SECTION.

(III) EXCEPT AS IS NECESSARY TO COMPLY WITH APPLICABLE FEDERAL INCOME TAX LAW, INCLUDING SECTION 704 AND OTHER APPLICABLE PROVISIONS OF SUBCHAPTER K OF THE INTERNAL REVENUE CODE OF 1986, AS AMENDED, THE REVERSIONARY RIGHTS DESCRIBED IN SUBSECTION (2)(a)(I) OF THIS SECTION CONSTITUTE RETAINED INTERESTS THAT WERE NEVER FULLY TRANSFERRED TO THE ARTIST COMPANY AND THEREFORE ARE NOT ASSETS OF THE ARTIST COMPANY AVAILABLE TO CREDITORS OR NONARTIST INVESTORS.

(b) THE REVERSIONARY RIGHTS DESCRIBED IN SUBSECTION (2)(a)(I) OF THIS SECTION ARE SUBJECT TO:

(I) PERFECTED SECURITY INTERESTS OR LIENS GRANTED BY THE ARTIST COMPANY WITH THE EXPRESS WRITTEN CONSENT OF THE ARTIST OR ARTISTS HOLDING THE REVERSIONARY RIGHT;

(II) EXISTING LICENSES TO THIRD PARTIES ENTERED INTO IN THE ORDINARY COURSE OF BUSINESS; AND

(III) CONTINUING ROYALTY SHARING, REVENUE PARTICIPATION OBLIGATIONS, RECOUPMENT PROVISIONS, RETURN OF CAPITAL, OR OTHER ECONOMIC OBLIGATIONS SPECIFIED IN THE ARTICLES OF ORGANIZATION OR OPERATING AGREEMENT OF THE ARTIST COMPANY.

(c) THE ARTICLES OF ORGANIZATION OR OPERATING AGREEMENT OF AN ARTIST COMPANY MAY SPECIFY THE TERMS OF A REVERSION, INCLUDING:

(I) PRIORITY AMONG ARTISTS IN CLAIMING REVERSIONARY RIGHTS;

(II) ALLOCATION OF REVERSIONARY RIGHTS IN JOINT WORKS;

(III) CONTINUING OBLIGATIONS TO SHARE ROYALTIES OR REVENUES FROM REVERTED ARTISTIC WORK; AND

(IV) RIGHTS TO USE COLLECTIVE NAMES, TRADEMARKS, OR OTHER IDENTIFIERS.

(3) UPON DISSOLUTION, AFTER GIVING EFFECT TO ANY ARTISTIC WORK REVERSIONARY RIGHTS DESCRIBED IN SUBSECTION (2)(a)(I) OF THIS SECTION, AND AFTER PAYMENT OR PROVISION FOR LIABILITIES:

(a) ASSETS SHALL BE DISTRIBUTED IN ACCORDANCE WITH PRIORITY AND DISTRIBUTION PROVISIONS IN THE ARTICLES OF ORGANIZATION OR OPERATING AGREEMENT OF THE ARTIST COMPANY, INCLUDING PREFERENCES FOR HOLDERS OF REVENUE PARTICIPATION RIGHTS, ROYALTY SHARING RIGHTS, OR OTHER ECONOMIC INTERESTS; OR

(b) IF NOT SPECIFIED, ASSETS SHALL BE DISTRIBUTED PRO RATA TO MEMBERS BASED ON OWNERSHIP PERCENTAGES.

(4) THE ARTICLES OF ORGANIZATION OR OPERATING AGREEMENT OF AN ARTIST COMPANY MAY SPECIFY:

(a) PRIORITY OF DISTRIBUTIONS AMONG DIFFERENT CLASSES OF ECONOMIC INTERESTS;

(b) TREATMENT OF UNVESTED OR CONTINGENT ECONOMIC RIGHTS;

(c) ALLOCATION OF REMAINING INTELLECTUAL PROPERTY VALUE; OR

(d) OTHER DISSOLUTION AND DISTRIBUTION TERMS.

**7-80-1222. Effect on other limited liability companies.**

THIS PART 12 DOES NOT AFFECT A STATUTE OR RULE OF LAW THAT IS APPLICABLE TO A LIMITED LIABILITY COMPANY THAT IS NOT AN ARTIST COMPANY.

**7-80-1223. Jurisdiction - foreign artists.**

(1) A PERSON FROM A JURISDICTION OTHER THAN COLORADO MAY FORM A LIMITED LIABILITY COMPANY AS AN ARTIST COMPANY PURSUANT TO THIS PART 12 OR CAUSE AN EXISTING LIMITED LIABILITY COMPANY TO BECOME AN ARTIST COMPANY BY AMENDING ITS ARTICLES OF ORGANIZATION IN ACCORDANCE WITH THIS PART 12.

(2) THE FORMATION OF AN ARTIST COMPANY UNDER THIS PART 12 IS

GOVERNED BY THE LAWS OF THE STATE, AND AN ARTIST COMPANY FORMED UNDER THIS PART 12 IS A DOMESTIC LIMITED LIABILITY COMPANY FOR ALL PURPOSES UNDER THIS ARTICLE 80, REGARDLESS OF THE RESIDENCE OR DOMICILE OF ITS ARTIST-MEMBERS.

(3) NOTHING IN THIS SECTION AFFECTS THE REQUIREMENTS FOR FOREIGN LIMITED LIABILITY COMPANIES UNDER PART 9 OF THIS ARTICLE 80.

**7-80-1224. Timeline for implementation - repeal.**

(1) NO LATER THAN JULY 1, 2027, THE SECRETARY OF STATE SHALL MAKE ANY CHANGES NECESSARY TO IMPLEMENT THIS PART 12, INCLUDING ACCEPTING ARTICLES OF ORGANIZATION AND AMENDED ARTICLES OF ORGANIZATION FILED PURSUANT TO THIS PART 12.

(2) THIS SECTION IS REPEALED, EFFECTIVE JULY 1, 2028.

**SECTION 2. Appropriation.** (1) For the 2026-27 state fiscal year, \$93,878 is appropriated to the department of state. This appropriation is from the department of state cash fund created in section 24-21-104 (3)(b), C.R.S. To implement this act, the department may use this appropriation as follows:

(a) \$5,478 for use by the business and licensing division for personal services, which amount is based on an assumption that the division will require an additional 0.1 FTE;

(b) \$88,400 for use by the information technology division for personal services.

**SECTION 3. Act subject to petition - effective date.** This act takes effect at 12:01 a.m. on the day following the expiration of the ninety-day period after final adjournment of the general assembly (August 12, 2026, if adjournment sine die is on May 13, 2026); except that, if a referendum petition is filed pursuant to section 1 (3) of article V of the state constitution against this act or an item, section, or part of this act within such period, then the act, item, section, or part will not take effect unless

approved by the people at the general election to be held in November 2026 and, in such case, will take effect on the date of the official declaration of the vote thereon by the governor.

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James Rashad Coleman, Sr.  
PRESIDENT OF  
THE SENATE

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Julie McCluskie  
SPEAKER OF THE HOUSE  
OF REPRESENTATIVES

---

Esther van Mourik  
SECRETARY OF  
THE SENATE

---

Vanessa Reilly  
CHIEF CLERK OF THE HOUSE  
OF REPRESENTATIVES

APPROVED \_\_\_\_\_  
(Date and Time)

---

Jared S. Polis  
GOVERNOR OF THE STATE OF COLORADO