

SF0036S3002

Delete the Nicholas Second Reading Amendment (SF0036S2001/A) entirely and further amend as follows:

Page 1-line 2 Delete "acts which shall not justify" insert "standards for".

Page 1-line 3 After "managers;" insert "repealing a related provision;".

Page 1-line 7 Delete "17-29-304(b)" insert "17-29-304 by creating new subsections (c) and (d)".

Page 1-lines 11 through 15 Delete and insert:

"(c) For purposes of imposing liability on any member or manager of a limited liability company for the debts, obligations or other liabilities of the company, a court shall consider only the following factors no one (1) of which, except fraud, is sufficient to impose liability:

(i) Fraud;

(ii) Inadequate capitalization;

(iii) Failure to observe company formalities as required by law; and

(iv) Intermingling of assets, business operations and finances of the company and the members to such an extent that there is no distinction between them.

(d) In any analysis conducted under subsection (c) of this section, a court shall not consider factors intrinsic to the character and operation of a limited liability company, including a limited liability company with a single member or manager. Factors intrinsic to the character and operation of a limited liability company include but are not limited to:

(i) Treatment as a disregarded or pass-through entity for tax purposes;

(ii) Flexible operation or organization including the failure to observe any particular formality relating to the

1 exercise of the company's powers or management of its
2 activities;

3
4 (iii) The exercise of ownership, influence and
5 governance by a member or manager;

6
7 (iv) The protection of members' and managers'
8 personal assets from the obligations and acts of the limited
9 liability company."

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11 Page 2-lines 1 through 3 Delete.

12
13 Page 2-after line 3 Insert:

14
15 **"Section 2.** W.S. 17-29-304(b) is repealed."
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17 Page 2-line 5 Delete "2." Insert "3.". CASE, NICHOLAS, P.