

**16-10a-1008.5 Conversion to a nonprofit corporation.**

- (1)
  - (a) A corporation may convert to a nonprofit corporation subject to Title 16, Chapter 6a, Utah Revised Nonprofit Corporation Act, by filing an amendment of its articles of incorporation pursuant to this section.
  - (b) The day on which a corporation files an amendment under this section, the corporation becomes a nonprofit corporation subject to Title 16, Chapter 6a, Utah Revised Nonprofit Corporation Act, except that, notwithstanding Section 16-6a-203, the existence of the nonprofit corporation is considered to commence on the day on which the converting corporation:
    - (i) commenced its existence under this chapter; or
    - (ii) otherwise was created, formed, incorporated, or came into being.
- (2) The amendment of the articles of incorporation to convert to a nonprofit corporation shall:
  - (a) revise the statement of purposes of the corporation;
  - (b) delete:
    - (i) the authorization for shares; and
    - (ii) any provision relating to authorized or issued shares;
  - (c) if any shares have been issued, provide for:
    - (i) the cancellation of issued shares; or
    - (ii) the conversion of the shares to membership interests in the nonprofit corporation; and
  - (d) make such other changes as may be necessary or desired.
- (3) If the corporation has issued shares, an amendment to convert to a nonprofit corporation shall be approved by all of the outstanding shares of all classes of shares regardless of limitations or restrictions on the voting rights of the shares.
- (4) If an amendment pursuant to this section is included in a merger agreement, this section applies, except that any provision for the cancellation or conversion of shares shall be set forth in the merger agreement and not in the amendment of the articles of incorporation.
- (5) The conversion of a corporation into a nonprofit corporation does not affect:
  - (a) an obligation or liability of the converting corporation incurred before its conversion to a nonprofit corporation; or
  - (b) the personal liability of any person incurred before the conversion.
- (6)
  - (a)
    - (i) When a conversion is effective under this section, for purposes of the laws of this state, the things listed in Subsection (6)(a)(ii):
      - (A) vest in the nonprofit corporation to which the corporation converts;
      - (B) are the property of the nonprofit corporation; and
      - (C) are not considered transferred by the converting corporation to the nonprofit corporation by operation of this Subsection (6)(a).
    - (ii) This Subsection (6)(a) applies to the following of the converting corporation:
      - (A) its rights, privileges, and powers;
      - (B) its interests in property, whether real, personal, or mixed;
      - (C) debts due to the converting corporation;
      - (D) debts, liabilities, and duties of the converting corporation;
      - (E) rights and obligations under contract of the converting corporation; and
      - (F) other things and causes of action belonging to the converting corporation.

- (b) The title to any real property vested by deed or otherwise in a corporation converting to a nonprofit corporation does not revert and is not in any way impaired by reason of this chapter or of the conversion.
- (c) A right of a creditor or a lien on property of a converting corporation that is described in Subsection (6)(a) or (b) is preserved unimpaired.
- (d) A debt, liability, or duty of a converting corporation:
  - (i) remains attached to the nonprofit corporation to which the corporation converts; and
  - (ii) may be enforced against the nonprofit corporation to the same extent as if the debts, liabilities, and duties had been incurred or contracted by the nonprofit corporation in its capacity as a nonprofit corporation.
- (e) A converted corporation upon conversion to a nonprofit corporation pursuant to this section is considered the same entity as the nonprofit corporation.
- (f) In connection with a conversion of a corporation to a nonprofit corporation under this section, the interests or rights in the corporation which is to be converted may be exchanged or converted into one or more of the following:
  - (i) cash, property, interests, or rights in the nonprofit corporation to which it is converted; or
  - (ii) cash, property or interests in, or rights in another entity.
- (g) Unless otherwise agreed:
  - (i) a converting corporation is not required solely as a result of the conversion to:
    - (A) wind up its affairs;
    - (B) pay its liabilities; or
    - (C) distribute its assets; and
  - (ii) a conversion is not considered to constitute a dissolution of the corporation, but constitutes a continuation of the existence of the corporation in the form of a nonprofit corporation.

Amended by Chapter 386, 2009 General Session