

SB0040S02 compared with SB0040S01

{Omitted text} shows text that was in SB0040S01 but was omitted in SB0040S02
inserted text shows text that was not in SB0040S01 but was inserted into SB0040S02

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1

Business Entity Amendments

2026 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Evan J. Vickers

House Sponsor:David Shallenberger

2

LONG TITLE

3

General Description:

4

This bill amends provisions relating to business entities.

5

Highlighted Provisions:

6

This bill:

7

▶ defines terms;

8

▶ lists the areas of code the Division of Corporations and Commercial Code (division) administers;

9

▶ provides that the division shall offer to sell or license a copy of each document filed with the division under certain conditions;

10

▶ enacts Title 16, Chapter 1a, Provisions Applicable to All Business Entities;

11

▶ establishes standardized entity filing requirements for all business entities;

12

▶ provides that the division may provide forms for an entity filing;

13

▶ establishes a standard for the effective date and time of an entity filing;

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▶ provides the circumstances under which a person may withdraw an entity filing before effectiveness;

15

▶ establishes the standards for correcting an entity filing;

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- 20 ▶ provides that the division has a duty to file an entity filing that complies with certain standards;
- 22 ▶ establishes signing requirements for an entity filing;
- 23 ▶ provides for liability for a person that provides inaccurate information in a filed record;
- 24 ▶ provides the manner by which the division may deliver a record to a person;
- 25 ▶ provides the requirements for an entity's annual report to the division;
- 26 ▶ establishes standards for permissible names for an entity;
- 27 ▶ provides the name requirements for specific entities;
- 28 ▶ establishes the process by which a person may reserve an entity name;
- 29 ▶ provides the process by which a foreign filing entity may register a name;
- 30 ▶ provides which business entities are required to maintain a registered agent in this state;
- 31 ▶ provides the process for designating a registered agent;
- 32 ▶ provides the process for the listing of a commercial registered agent;
- 33 ▶ establishes the process for the termination of the listing of a commercial registered agent;
- 34 ▶ provides the process by which a represented entity may change the represented entity's registered agent;
- 36 ▶ provides the process by which a noncommercial registered agent may change the noncommercial registered agent's name or address;
- 38 ▶ establishes the process by which a commercial registered agent may change the commercial registered agent's name, address, type of entity, or jurisdiction of formation;
- 40 ▶ provides the process by which a registered agent may resign as a registered agent;
- 41 ▶ provides how a person may make service of process, notice, or demand on an entity;
- 42 ▶ describes the duties of a registered agent;
- 43 ▶ provides that a foreign entity shall register with the division to do business in this state;
- 44 ▶ provides the requirements for filing and amending a foreign registration statement;
- 45 ▶ provides that certain activities of a foreign entity do not constitute doing business in this state;
- 47 ▶ provides the process by which a foreign entity may adopt an alternate name that complies with the name requirements of this state;
- 49 ▶ provides the process by which a registered foreign entity may withdraw the registered foreign entity's registration with the division;
- 51 ▶ provides for a transfer of a registered foreign entity's registration under certain conditions;
- 52 ▶

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provides the conditions and manner under which the division may terminate a registered foreign entity's registration;

54 ▶ provides the grounds under which the division may administratively dissolve a domestic filing entity;

56 ▶ provides the procedure and effect of an administrative dissolution of a domestic filing entity;

58 ▶ provides the conditions under which and process by which a domestic filing entity may be reinstated after administrative dissolution;

60 ▶ provides the process by which an entity may take part in a merger;

61 ▶ provides the requirements for a plan of merger;

62 ▶ provides the requirements to approve a plan of merger;

63 ▶ establishes the process for amending or abandoning a plan of merger;

64 ▶ provides that a merging entity sign a statement of merger;

65 ▶ establishes the effect of a merger;

66 ▶ provides that an interest holder in an entity that undergoes a merger, conversion, or domestication has appraisal rights;

68 ▶ provides the process by which an entity may take part in an interest exchange;

69 ▶ provides the requirements for a plan of interest exchange;

70 ▶ provides the requirements to approve a plan of interest exchange;

71 ▶ establishes the process for amending or abandoning a plan of interest exchange;

72 ▶ provides that an acquired entity sign a statement of interest exchange;

73 ▶ establishes the effect of an interest exchange;

74 ▶ provides the process by which an entity may take part in a conversion;

75 ▶ provides the requirements for a plan of conversion;

76 ▶ provides the requirements to approve a plan of conversion;

77 ▶ establishes the process for amending or abandoning a plan of conversion;

78 ▶ provides that a converting entity sign a statement of conversion;

79 ▶ establishes the effect of a conversion;

80 ▶ provides the process by which an entity may take part in a domestication;

81 ▶ provides the requirements for a plan of domestication;

82 ▶ provides the requirements to approve a plan of domestication;

83 ▶ establishes the process for amending or abandoning a plan of domestication;

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84 ▶ provides that a merging entity sign a statement of domestication;

85 ▶ establishes the effect of a domestication;

86 ▶ renames Title 48, Chapter 1d, Utah Uniform Partnership Act, to Title 16, Chapter 18, Utah
Uniform Partnership Act;

88 ▶ renames Title 48, Chapter 2e, Utah Uniform Limited Partnership Act, to Title 16, Chapter 19,
Utah Uniform Limited Partnership Act;

90 ▶ renames Title 48, Chapter 3a, Utah Revised Uniform Limited Liability Company Act, to Title
16, Chapter 20, Utah Revised Uniform Limited Liability Company Act;

92 ▶ changes references in code from "assumed name" to "D.B.A.;"

93 ▶ provides that the name of a D.B.A. may not contain "limited liability company" or "LLC";

94 ▶ provides the standards for registering as a D.B.A.;

95 ▶ provides the process for amending a D.B.A. certificate;

96 ▶ provides the manner by which a D.B.A. may transfer ownership;

97 ▶ provides the expiration, renewal, and cancellation of a registration process for a D.B.A.;

98 ▶ provides penalties for a person that transacts business as a D.B.A. without complying with Title
42, Chapter 2, Conducting Business as a D.B.A.;

100 ▶ repeals provisions in existing code that the enactment of Title 16, Chapter 1a, Provisions
Applicable to All Business Entities, makes redundant; and

102 ▶ makes technical and conforming changes.

103 **Money Appropriated in this Bill:**

104 None

105 **Other Special Clauses:**

106 This bill provides a special effective date.

107 **Utah Code Sections Affected:**

108 **ENACTS:**

109 **13-1a-101** , Utah Code Annotated 1953

110 **16-1a-101** , Utah Code Annotated 1953

111 **16-1a-102** , Utah Code Annotated 1953

112 **16-1a-201** , Utah Code Annotated 1953

113 **16-1a-202** , Utah Code Annotated 1953

114 **16-1a-203** , Utah Code Annotated 1953

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115 **16-1a-204** , Utah Code Annotated 1953
116 **16-1a-205** , Utah Code Annotated 1953
117 **16-1a-206** , Utah Code Annotated 1953
118 **16-1a-207** , Utah Code Annotated 1953
119 **16-1a-208** , Utah Code Annotated 1953
120 **16-1a-209** , Utah Code Annotated 1953
121 **16-1a-210** , Utah Code Annotated 1953
122 **16-1a-211** , Utah Code Annotated 1953
123 **16-1a-212** , Utah Code Annotated 1953
124 **16-1a-301** , Utah Code Annotated 1953
125 **16-1a-302** , Utah Code Annotated 1953
126 **16-1a-303** , Utah Code Annotated 1953
127 **16-1a-304** , Utah Code Annotated 1953
128 **16-1a-305** , Utah Code Annotated 1953
129 **16-1a-401** , Utah Code Annotated 1953
130 **16-1a-402** , Utah Code Annotated 1953
131 **16-1a-403** , Utah Code Annotated 1953
132 **16-1a-404** , Utah Code Annotated 1953
133 **16-1a-405** , Utah Code Annotated 1953
134 **16-1a-406** , Utah Code Annotated 1953
135 **16-1a-407** , Utah Code Annotated 1953
136 **16-1a-408** , Utah Code Annotated 1953
137 **16-1a-409** , Utah Code Annotated 1953
138 **16-1a-410** , Utah Code Annotated 1953
139 **16-1a-411** , Utah Code Annotated 1953
140 **16-1a-412** , Utah Code Annotated 1953
141 **16-1a-413** , Utah Code Annotated 1953
142 **16-1a-414** , Utah Code Annotated 1953
143 **16-1a-501** , Utah Code Annotated 1953
144 **16-1a-502** , Utah Code Annotated 1953
145 **16-1a-503** , Utah Code Annotated 1953

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146 **16-1a-504** , Utah Code Annotated 1953
147 **16-1a-505** , Utah Code Annotated 1953
148 **16-1a-506** , Utah Code Annotated 1953
149 **16-1a-507** , Utah Code Annotated 1953
150 **16-1a-508** , Utah Code Annotated 1953
151 **16-1a-509** , Utah Code Annotated 1953
152 **16-1a-510** , Utah Code Annotated 1953
153 **16-1a-601** , Utah Code Annotated 1953
154 **16-1a-602** , Utah Code Annotated 1953
155 **16-1a-603** , Utah Code Annotated 1953
156 **16-1a-604** , Utah Code Annotated 1953
157 **16-1a-605** , Utah Code Annotated 1953
158 **16-1a-701** , Utah Code Annotated 1953
159 **16-1a-702** , Utah Code Annotated 1953
160 **16-1a-703** , Utah Code Annotated 1953
161 **16-1a-704** , Utah Code Annotated 1953
162 **16-1a-705** , Utah Code Annotated 1953
163 **16-1a-706** , Utah Code Annotated 1953
164 **16-1a-707** , Utah Code Annotated 1953
165 **16-1a-708** , Utah Code Annotated 1953
166 **16-1a-709** , Utah Code Annotated 1953
167 **16-1a-801** , Utah Code Annotated 1953
168 **16-1a-802** , Utah Code Annotated 1953
169 **16-1a-803** , Utah Code Annotated 1953
170 **16-1a-804** , Utah Code Annotated 1953
171 **16-1a-805** , Utah Code Annotated 1953
172 **16-1a-806** , Utah Code Annotated 1953
173 **16-1a-807** , Utah Code Annotated 1953
174 **16-1a-901** , Utah Code Annotated 1953
175 **16-1a-902** , Utah Code Annotated 1953
176 **16-1a-903** , Utah Code Annotated 1953

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177 **16-1a-904** , Utah Code Annotated 1953
178 **16-1a-905** , Utah Code Annotated 1953
179 **16-1a-906** , Utah Code Annotated 1953
180 **16-1a-907** , Utah Code Annotated 1953
181 **16-1a-1001** , Utah Code Annotated 1953
182 **16-1a-1002** , Utah Code Annotated 1953
183 **16-1a-1003** , Utah Code Annotated 1953
184 **16-1a-1004** , Utah Code Annotated 1953
185 **16-1a-1005** , Utah Code Annotated 1953
186 **16-1a-1006** , Utah Code Annotated 1953
187 **16-1a-1007** , Utah Code Annotated 1953
188 **16-6a-120** , Utah Code Annotated 1953
189 **16-7-17** , Utah Code Annotated 1953
190 **16-10a-130** , Utah Code Annotated 1953
191 **16-10b-107** , Utah Code Annotated 1953
192 **16-11-17** , Utah Code Annotated 1953
193 **16-12-7** , Utah Code Annotated 1953
194 **16-15-111** , Utah Code Annotated 1953
195 **16-16-121** , Utah Code Annotated 1953
196 **16-18-109** , Utah Code Annotated 1953
197 **16-19-113** , Utah Code Annotated 1953
198 **16-20-112** , Utah Code Annotated 1953
199 **16-21-104** , Utah Code Annotated 1953
200 **16-22-110** , Utah Code Annotated 1953
201 **42-2-101** , Utah Code Annotated 1953
202 **42-2-102** , Utah Code Annotated 1953
203 **42-2-201** , Utah Code Annotated 1953
204 **42-2-202** , Utah Code Annotated 1953
205 **42-2-203** , Utah Code Annotated 1953
206 **42-2-204** , Utah Code Annotated 1953
207 **42-2-205** , Utah Code Annotated 1953

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208 RENUMBERS AND AMENDS:

209 **13-1a-102** , (Renumbered from 13-1a-1, as last amended by Laws of Utah 1989, Chapter 225)

211 **13-1a-103** , (Renumbered from 13-1a-2, as last amended by Laws of Utah 1989, Chapter 225)

213 **13-1a-104** , (Renumbered from 13-1a-3, as last amended by Laws of Utah 2021, Chapter 344)

215 **13-1a-105** , (Renumbered from 13-1a-4, as last amended by Laws of Utah 1997, Chapter 135)

217 **13-1a-106** , (Renumbered from 13-1a-5, as last amended by Laws of Utah 2014, Chapter 189)

219 **13-1a-107** , (Renumbered from 13-1a-6, as last amended by Laws of Utah 2010, Chapter 378)

221 **13-1a-108** , (Renumbered from 13-1a-7, as last amended by Laws of Utah 2008, Chapter 382)

223 **13-1a-109** , (Renumbered from 13-1a-8, as enacted by Laws of Utah 1990, Chapter 9)

224 **13-1a-110** , (Renumbered from 13-1a-9, as last amended by Laws of Utah 2009, Chapter 183)

226 **16-18-101** , (Renumbered from 48-1d-102, as last amended by Laws of Utah 2019, Chapter 349)

228 **16-18-102** , (Renumbered from 48-1d-103, as enacted by Laws of Utah 2013, Chapter 412)

230 **16-18-103** , (Renumbered from 48-1d-104, as enacted by Laws of Utah 2013, Chapter 412)

232 **16-18-104** , (Renumbered from 48-1d-105, as enacted by Laws of Utah 2013, Chapter 412)

234 **16-18-105** , (Renumbered from 48-1d-106, as enacted by Laws of Utah 2013, Chapter 412)

236 **16-18-106** , (Renumbered from 48-1d-107, as enacted by Laws of Utah 2013, Chapter 412)

238 **16-18-107** , (Renumbered from 48-1d-108, as enacted by Laws of Utah 2013, Chapter 412)

240 **16-18-108** , (Renumbered from 48-1d-118, as enacted by Laws of Utah 2013, Chapter 412)

242 **16-18-201** , (Renumbered from 48-1d-201, as enacted by Laws of Utah 2013, Chapter 412)

244 **16-18-202** , (Renumbered from 48-1d-202, as enacted by Laws of Utah 2013, Chapter 412)

246 **16-18-203** , (Renumbered from 48-1d-203, as enacted by Laws of Utah 2013, Chapter 412)

248 **16-18-204** , (Renumbered from 48-1d-204, as enacted by Laws of Utah 2013, Chapter 412)

250 **16-18-301** , (Renumbered from 48-1d-301, as enacted by Laws of Utah 2013, Chapter 412)

252 **16-18-302** , (Renumbered from 48-1d-302, as enacted by Laws of Utah 2013, Chapter 412)

254 **16-18-303** , (Renumbered from 48-1d-303, as enacted by Laws of Utah 2013, Chapter 412)

256 **16-18-304** , (Renumbered from 48-1d-304, as enacted by Laws of Utah 2013, Chapter 412)

258 **16-18-305** , (Renumbered from 48-1d-305, as enacted by Laws of Utah 2013, Chapter 412)

260 **16-18-306** , (Renumbered from 48-1d-306, as enacted by Laws of Utah 2013, Chapter 412)

262 **16-18-307** , (Renumbered from 48-1d-307, as enacted by Laws of Utah 2013, Chapter 412)

264 **16-18-308** , (Renumbered from 48-1d-308, as enacted by Laws of Utah 2013, Chapter 412)

266 **16-18-401** , (Renumbered from 48-1d-401, as enacted by Laws of Utah 2013, Chapter 412)

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268 **16-18-402** , (Renumbered from 48-1d-402, as enacted by Laws of Utah 2013, Chapter 412)
270 **16-18-403** , (Renumbered from 48-1d-403, as enacted by Laws of Utah 2013, Chapter 412)
272 **16-18-404** , (Renumbered from 48-1d-404, as enacted by Laws of Utah 2013, Chapter 412)
274 **16-18-405** , (Renumbered from 48-1d-405, as enacted by Laws of Utah 2013, Chapter 412)
276 **16-18-406** , (Renumbered from 48-1d-406, as enacted by Laws of Utah 2013, Chapter 412)
278 **16-18-407** , (Renumbered from 48-1d-407, as enacted by Laws of Utah 2013, Chapter 412)
280 **16-18-501** , (Renumbered from 48-1d-501, as enacted by Laws of Utah 2013, Chapter 412)
282 **16-18-502** , (Renumbered from 48-1d-502, as enacted by Laws of Utah 2013, Chapter 412)
284 **16-18-503** , (Renumbered from 48-1d-503, as enacted by Laws of Utah 2013, Chapter 412)
286 **16-18-504** , (Renumbered from 48-1d-504, as enacted by Laws of Utah 2013, Chapter 412)
288 **16-18-505** , (Renumbered from 48-1d-505, as enacted by Laws of Utah 2013, Chapter 412)
290 **16-18-601** , (Renumbered from 48-1d-601, as enacted by Laws of Utah 2013, Chapter 412)
292 **16-18-602** , (Renumbered from 48-1d-602, as enacted by Laws of Utah 2013, Chapter 412)
294 **16-18-603** , (Renumbered from 48-1d-603, as enacted by Laws of Utah 2013, Chapter 412)
296 **16-18-604** , (Renumbered from 48-1d-604, as enacted by Laws of Utah 2013, Chapter 412)
298 **16-18-605** , (Renumbered from 48-1d-605, as enacted by Laws of Utah 2013, Chapter 412)
300 **16-18-701** , (Renumbered from 48-1d-701, as enacted by Laws of Utah 2013, Chapter 412)
302 **16-18-702** , (Renumbered from 48-1d-702, as enacted by Laws of Utah 2013, Chapter 412)
304 **16-18-703** , (Renumbered from 48-1d-703, as enacted by Laws of Utah 2013, Chapter 412)
306 **16-18-801** , (Renumbered from 48-1d-801, as enacted by Laws of Utah 2013, Chapter 412)
308 **16-18-802** , (Renumbered from 48-1d-802, as enacted by Laws of Utah 2013, Chapter 412)
310 **16-18-803** , (Renumbered from 48-1d-803, as enacted by Laws of Utah 2013, Chapter 412)
312 **16-18-804** , (Renumbered from 48-1d-804, as enacted by Laws of Utah 2013, Chapter 412)
314 **16-18-805** , (Renumbered from 48-1d-805, as enacted by Laws of Utah 2013, Chapter 412)
316 **16-18-901** , (Renumbered from 48-1d-901, as last amended by Laws of Utah 2023, Chapter 401)
318 **16-18-902** , (Renumbered from 48-1d-902, as last amended by Laws of Utah 2023, Chapter 401)
320 **16-18-903** , (Renumbered from 48-1d-903, as last amended by Laws of Utah 2023, Chapter 401)
322 **16-18-904** , (Renumbered from 48-1d-904, as enacted by Laws of Utah 2013, Chapter 412)
324 **16-18-905** , (Renumbered from 48-1d-905, as enacted by Laws of Utah 2013, Chapter 412)
326 **16-18-906** , (Renumbered from 48-1d-906, as enacted by Laws of Utah 2013, Chapter 412)
328 **16-18-907** , (Renumbered from 48-1d-907, as enacted by Laws of Utah 2013, Chapter 412)

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330 **16-18-908** , (Renumbered from 48-1d-908, as enacted by Laws of Utah 2013, Chapter 412)
332 **16-18-909** , (Renumbered from 48-1d-909, as last amended by Laws of Utah 2023, Chapter 401)
334 **16-18-910** , (Renumbered from 48-1d-910, as enacted by Laws of Utah 2013, Chapter 412)
336 **16-18-1001** , (Renumbered from 48-1d-1101, as enacted by Laws of Utah 2013, Chapter 412)
338 **16-18-1002** , (Renumbered from 48-1d-1102, as enacted by Laws of Utah 2013, Chapter 412)
340 **16-18-1101** , (Renumbered from 48-1d-1301, as enacted by Laws of Utah 2013, Chapter 412)
342 **16-18-1102** , (Renumbered from 48-1d-1302, as enacted by Laws of Utah 2013, Chapter 412)
344 **16-18-1103** , (Renumbered from 48-1d-1304, as enacted by Laws of Utah 2013, Chapter 412)
346 **16-18-1104** , (Renumbered from 48-1d-1305, as last amended by Laws of Utah 2014, Chapter 189)
348 **16-18-1105** , (Renumbered from 48-1d-1306, as enacted by Laws of Utah 2013, Chapter 412)
350 **16-18-1106** , (Renumbered from 48-1d-1307, as enacted by Laws of Utah 2013, Chapter 412)
352 **16-18-1107** , (Renumbered from 48-1d-1308, as enacted by Laws of Utah 2013, Chapter 412)
354 **16-18-1108** , (Renumbered from 48-1d-1309, as enacted by Laws of Utah 2013, Chapter 412)
356 **16-18-1109** , (Renumbered from 48-1d-1310, as last amended by Laws of Utah 2023, Chapter 401)
358 **16-18-1201** , (Renumbered from 48-1d-1401, as enacted by Laws of Utah 2013, Chapter 412)
360 **16-18-1202** , (Renumbered from 48-1d-1402, as enacted by Laws of Utah 2013, Chapter 412)
362 **16-18-1203** , (Renumbered from 48-1d-1403, as enacted by Laws of Utah 2013, Chapter 412)
364 **16-18-1204** , (Renumbered from 48-1d-1404, as enacted by Laws of Utah 2013, Chapter 412)
366 **16-18-1205** , (Renumbered from 48-1d-1405, as enacted by Laws of Utah 2013, Chapter 412)
368 **16-19-101** , (Renumbered from 48-2e-102, as enacted by Laws of Utah 2013, Chapter 412)
370 **16-19-102** , (Renumbered from 48-2e-103, as enacted by Laws of Utah 2013, Chapter 412)
372 **16-19-103** , (Renumbered from 48-2e-104, as enacted by Laws of Utah 2013, Chapter 412)
374 **16-19-104** , (Renumbered from 48-2e-105, as enacted by Laws of Utah 2013, Chapter 412)
376 **16-19-105** , (Renumbered from 48-2e-106, as enacted by Laws of Utah 2013, Chapter 412)
378 **16-19-106** , (Renumbered from 48-2e-107, as enacted by Laws of Utah 2013, Chapter 412)
380 **16-19-107** , (Renumbered from 48-2e-112, as enacted by Laws of Utah 2013, Chapter 412)
382 **16-19-108** , (Renumbered from 48-2e-113, as enacted by Laws of Utah 2013, Chapter 412)
384 **16-19-109** , (Renumbered from 48-2e-114, as enacted by Laws of Utah 2013, Chapter 412)
386 **16-19-110** , (Renumbered from 48-2e-115, as enacted by Laws of Utah 2013, Chapter 412)
388 **16-19-111** , (Renumbered from 48-2e-116, as enacted by Laws of Utah 2013, Chapter 412)
390 **16-19-112** , (Renumbered from 48-2e-118, as enacted by Laws of Utah 2013, Chapter 412)

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392 **16-19-201** , (Renumbered from 48-2e-201, as enacted by Laws of Utah 2013, Chapter 412)
394 **16-19-202** , (Renumbered from 48-2e-202, as enacted by Laws of Utah 2013, Chapter 412)
396 **16-19-301** , (Renumbered from 48-2e-301, as enacted by Laws of Utah 2013, Chapter 412)
398 **16-19-302** , (Renumbered from 48-2e-302, as enacted by Laws of Utah 2013, Chapter 412)
400 **16-19-303** , (Renumbered from 48-2e-303, as enacted by Laws of Utah 2013, Chapter 412)
402 **16-19-304** , (Renumbered from 48-2e-304, as enacted by Laws of Utah 2013, Chapter 412)
404 **16-19-305** , (Renumbered from 48-2e-305, as enacted by Laws of Utah 2013, Chapter 412)
406 **16-19-306** , (Renumbered from 48-2e-306, as enacted by Laws of Utah 2013, Chapter 412)
408 **16-19-401** , (Renumbered from 48-2e-401, as enacted by Laws of Utah 2013, Chapter 412)
410 **16-19-402** , (Renumbered from 48-2e-402, as enacted by Laws of Utah 2013, Chapter 412)
412 **16-19-403** , (Renumbered from 48-2e-403, as enacted by Laws of Utah 2013, Chapter 412)
414 **16-19-404** , (Renumbered from 48-2e-404, as enacted by Laws of Utah 2013, Chapter 412)
416 **16-19-405** , (Renumbered from 48-2e-405, as enacted by Laws of Utah 2013, Chapter 412)
418 **16-19-406** , (Renumbered from 48-2e-406, as enacted by Laws of Utah 2013, Chapter 412)
420 **16-19-407** , (Renumbered from 48-2e-407, as enacted by Laws of Utah 2013, Chapter 412)
422 **16-19-408** , (Renumbered from 48-2e-408, as enacted by Laws of Utah 2013, Chapter 412)
424 **16-19-409** , (Renumbered from 48-2e-409, as enacted by Laws of Utah 2013, Chapter 412)
426 **16-19-501** , (Renumbered from 48-2e-501, as enacted by Laws of Utah 2013, Chapter 412)
428 **16-19-502** , (Renumbered from 48-2e-502, as enacted by Laws of Utah 2013, Chapter 412)
430 **16-19-503** , (Renumbered from 48-2e-503, as enacted by Laws of Utah 2013, Chapter 412)
432 **16-19-504** , (Renumbered from 48-2e-504, as enacted by Laws of Utah 2013, Chapter 412)
434 **16-19-505** , (Renumbered from 48-2e-505, as enacted by Laws of Utah 2013, Chapter 412)
436 **16-19-601** , (Renumbered from 48-2e-601, as enacted by Laws of Utah 2013, Chapter 412)
438 **16-19-602** , (Renumbered from 48-2e-602, as enacted by Laws of Utah 2013, Chapter 412)
440 **16-19-603** , (Renumbered from 48-2e-603, as enacted by Laws of Utah 2013, Chapter 412)
442 **16-19-604** , (Renumbered from 48-2e-604, as enacted by Laws of Utah 2013, Chapter 412)
444 **16-19-605** , (Renumbered from 48-2e-605, as enacted by Laws of Utah 2013, Chapter 412)
446 **16-19-606** , (Renumbered from 48-2e-606, as enacted by Laws of Utah 2013, Chapter 412)
448 **16-19-607** , (Renumbered from 48-2e-607, as enacted by Laws of Utah 2013, Chapter 412)
450 **16-19-701** , (Renumbered from 48-2e-701, as enacted by Laws of Utah 2013, Chapter 412)
452 **16-19-702** , (Renumbered from 48-2e-702, as enacted by Laws of Utah 2013, Chapter 412)

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454 **16-19-703** , (Renumbered from 48-2e-703, as enacted by Laws of Utah 2013, Chapter 412)
456 **16-19-704** , (Renumbered from 48-2e-704, as enacted by Laws of Utah 2013, Chapter 412)
458 **16-19-801** , (Renumbered from 48-2e-801, as last amended by Laws of Utah 2023, Chapter 401)
460 **16-19-802** , (Renumbered from 48-2e-802, as last amended by Laws of Utah 2023, Chapter 401)
462 **16-19-803** , (Renumbered from 48-2e-803, as last amended by Laws of Utah 2023, Chapter 401)
464 **16-19-804** , (Renumbered from 48-2e-804, as enacted by Laws of Utah 2013, Chapter 412)
466 **16-19-805** , (Renumbered from 48-2e-805, as enacted by Laws of Utah 2013, Chapter 412)
468 **16-19-806** , (Renumbered from 48-2e-806, as enacted by Laws of Utah 2013, Chapter 412)
470 **16-19-807** , (Renumbered from 48-2e-807, as enacted by Laws of Utah 2013, Chapter 412)
472 **16-19-808** , (Renumbered from 48-2e-808, as last amended by Laws of Utah 2023, Chapter 401)
474 **16-19-809** , (Renumbered from 48-2e-809, as enacted by Laws of Utah 2013, Chapter 412)
476 **16-19-810** , (Renumbered from 48-2e-813, as enacted by Laws of Utah 2013, Chapter 412)
478 **16-19-1001** , (Renumbered from 48-2e-1001, as enacted by Laws of Utah 2013, Chapter 412)
480 **16-19-1002** , (Renumbered from 48-2e-1002, as enacted by Laws of Utah 2013, Chapter 412)
482 **16-19-1003** , (Renumbered from 48-2e-1003, as enacted by Laws of Utah 2013, Chapter 412)
484 **16-19-1004** , (Renumbered from 48-2e-1004, as enacted by Laws of Utah 2013, Chapter 412)
486 **16-19-1005** , (Renumbered from 48-2e-1005, as enacted by Laws of Utah 2013, Chapter 412)
488 **16-19-1006** , (Renumbered from 48-2e-1006, as enacted by Laws of Utah 2013, Chapter 412)
490 **16-19-1101** , (Renumbered from 48-2e-1201, as enacted by Laws of Utah 2013, Chapter 412)
492 **16-19-1102** , (Renumbered from 48-2e-1202, as enacted by Laws of Utah 2013, Chapter 412)
494 **16-19-1103** , (Renumbered from 48-2e-1203, as enacted by Laws of Utah 2013, Chapter 412)
496 **16-19-1104** , (Renumbered from 48-2e-1204, as enacted by Laws of Utah 2013, Chapter 412)
498 **16-19-1105** , (Renumbered from 48-2e-1205, as enacted by Laws of Utah 2013, Chapter 412)
500 **16-20-101** , (Renumbered from 48-3a-102, as enacted by Laws of Utah 2013, Chapter 412)
502 **16-20-102** , (Renumbered from 48-3a-103, as enacted by Laws of Utah 2013, Chapter 412)
504 **16-20-103** , (Renumbered from 48-3a-104, as enacted by Laws of Utah 2013, Chapter 412)
506 **16-20-104** , (Renumbered from 48-3a-105, as enacted by Laws of Utah 2013, Chapter 412)
508 **16-20-105** , (Renumbered from 48-3a-106, as enacted by Laws of Utah 2013, Chapter 412)
510 **16-20-106** , (Renumbered from 48-3a-107, as enacted by Laws of Utah 2013, Chapter 412)
512 **16-20-107** , (Renumbered from 48-3a-112, as enacted by Laws of Utah 2013, Chapter 412)
514 **16-20-108** , (Renumbered from 48-3a-113, as enacted by Laws of Utah 2013, Chapter 412)

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516 **16-20-109** , (Renumbered from 48-3a-114, as enacted by Laws of Utah 2013, Chapter 412)
518 **16-20-110** , (Renumbered from 48-3a-115, as enacted by Laws of Utah 2013, Chapter 412)
520 **16-20-111** , (Renumbered from 48-3a-116, as enacted by Laws of Utah 2013, Chapter 412)
522 **16-20-201** , (Renumbered from 48-3a-201, as enacted by Laws of Utah 2013, Chapter 412)
524 **16-20-202** , (Renumbered from 48-3a-202, as enacted by Laws of Utah 2013, Chapter 412)
526 **16-20-301** , (Renumbered from 48-3a-301, as enacted by Laws of Utah 2013, Chapter 412)
528 **16-20-302** , (Renumbered from 48-3a-302, as enacted by Laws of Utah 2013, Chapter 412)
530 **16-20-303** , (Renumbered from 48-3a-303, as enacted by Laws of Utah 2013, Chapter 412)
532 **16-20-304** , (Renumbered from 48-3a-304, as enacted by Laws of Utah 2013, Chapter 412)
534 **16-20-401** , (Renumbered from 48-3a-401, as enacted by Laws of Utah 2013, Chapter 412)
536 **16-20-402** , (Renumbered from 48-3a-402, as enacted by Laws of Utah 2013, Chapter 412)
538 **16-20-403** , (Renumbered from 48-3a-403, as enacted by Laws of Utah 2013, Chapter 412)
540 **16-20-404** , (Renumbered from 48-3a-404, as enacted by Laws of Utah 2013, Chapter 412)
542 **16-20-405** , (Renumbered from 48-3a-405, as enacted by Laws of Utah 2013, Chapter 412)
544 **16-20-406** , (Renumbered from 48-3a-406, as enacted by Laws of Utah 2013, Chapter 412)
546 **16-20-407** , (Renumbered from 48-3a-407, as enacted by Laws of Utah 2013, Chapter 412)
548 **16-20-408** , (Renumbered from 48-3a-408, as enacted by Laws of Utah 2013, Chapter 412)
550 **16-20-409** , (Renumbered from 48-3a-409, as enacted by Laws of Utah 2013, Chapter 412)
552 **16-20-410** , (Renumbered from 48-3a-410, as enacted by Laws of Utah 2013, Chapter 412)
554 **16-20-501** , (Renumbered from 48-3a-501, as enacted by Laws of Utah 2013, Chapter 412)
556 **16-20-502** , (Renumbered from 48-3a-502, as enacted by Laws of Utah 2013, Chapter 412)
558 **16-20-503** , (Renumbered from 48-3a-503, as enacted by Laws of Utah 2013, Chapter 412)
560 **16-20-504** , (Renumbered from 48-3a-504, as enacted by Laws of Utah 2013, Chapter 412)
562 **16-20-601** , (Renumbered from 48-3a-601, as enacted by Laws of Utah 2013, Chapter 412)
564 **16-20-602** , (Renumbered from 48-3a-602, as enacted by Laws of Utah 2013, Chapter 412)
566 **16-20-603** , (Renumbered from 48-3a-603, as enacted by Laws of Utah 2013, Chapter 412)
568 **16-20-701** , (Renumbered from 48-3a-701, as last amended by Laws of Utah 2024, Chapter 165)
570 **16-20-702** , (Renumbered from 48-3a-702, as last amended by Laws of Utah 2023, Chapter 401)
572 **16-20-703** , (Renumbered from 48-3a-703, as last amended by Laws of Utah 2023, Chapter 401)
574 **16-20-704** , (Renumbered from 48-3a-704, as last amended by Laws of Utah 2023, Chapter 401)
576 **16-20-705** , (Renumbered from 48-3a-705, as enacted by Laws of Utah 2013, Chapter 412)

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578 **16-20-706** , (Renumbered from 48-3a-706, as enacted by Laws of Utah 2013, Chapter 412)
580 **16-20-707** , (Renumbered from 48-3a-707, as last amended by Laws of Utah 2023, Chapter 401)
582 **16-20-708** , (Renumbered from 48-3a-711, as enacted by Laws of Utah 2013, Chapter 412)
584 **16-20-801** , (Renumbered from 48-3a-801, as enacted by Laws of Utah 2013, Chapter 412)
586 **16-20-802** , (Renumbered from 48-3a-802, as enacted by Laws of Utah 2013, Chapter 412)
588 **16-20-803** , (Renumbered from 48-3a-803, as enacted by Laws of Utah 2013, Chapter 412)
590 **16-20-804** , (Renumbered from 48-3a-804, as enacted by Laws of Utah 2013, Chapter 412)
592 **16-20-805** , (Renumbered from 48-3a-805, as enacted by Laws of Utah 2013, Chapter 412)
594 **16-20-806** , (Renumbered from 48-3a-806, as enacted by Laws of Utah 2013, Chapter 412)
596 **42-2-103** , (Renumbered from 42-2-7, as last amended by Laws of Utah 1988, Chapter 222)
598 **42-2-104** , (Renumbered from 42-2-9, as last amended by Laws of Utah 2002, Chapter 318)
600 **42-2-105** , (Renumbered from 42-2-6.6, as last amended by Laws of Utah 2024, Chapter 102)

602 REPEALS:

603 **16-6a-105** , as last amended by Laws of Utah 2008, Chapter 364
604 **16-6a-106** , as enacted by Laws of Utah 2000, Chapter 300
605 **16-6a-108** , as enacted by Laws of Utah 2000, Chapter 300
606 **16-6a-109** , as enacted by Laws of Utah 2000, Chapter 300
607 **16-6a-110** , as last amended by Laws of Utah 2008, Chapter 364
608 **16-6a-401** , as last amended by Laws of Utah 2023, Chapter 458
609 **16-6a-402** , as enacted by Laws of Utah 2000, Chapter 300
610 **16-6a-1101** , as last amended by Laws of Utah 2006, Chapter 228
611 **16-6a-1102** , as last amended by Laws of Utah 2006, Chapter 228
612 **16-6a-1103** , as last amended by Laws of Utah 2006, Chapter 228
613 **16-6a-1104** , as last amended by Laws of Utah 2006, Chapter 228
614 **16-6a-1105** , as last amended by Laws of Utah 2008, Chapter 364
615 **16-6a-1410** , as last amended by Laws of Utah 2008, Chapter 364
616 **16-6a-1411** , as last amended by Laws of Utah 2009, Chapter 386
617 **16-6a-1412** , as last amended by Laws of Utah 2024, Chapter 232
618 **16-6a-1413** , as last amended by Laws of Utah 2009, Chapter 386
619 **16-6a-1501** , as enacted by Laws of Utah 2000, Chapter 300
620 **16-6a-1502** , as last amended by Laws of Utah 2008, Chapter 382

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621 **16-6a-1503** , as last amended by Laws of Utah 2024, Chapter 102
622 **16-6a-1504** , as last amended by Laws of Utah 2008, Chapter 364
623 **16-6a-1505** , as enacted by Laws of Utah 2000, Chapter 300
624 **16-6a-1506** , as last amended by Laws of Utah 2002, Chapter 197
625 **16-6a-1507** , as last amended by Laws of Utah 2002, Chapter 197
626 **16-6a-1510** , as enacted by Laws of Utah 2000, Chapter 300
627 **16-6a-1511** , as enacted by Laws of Utah 2000, Chapter 300
628 **16-6a-1512** , as enacted by Laws of Utah 2000, Chapter 300
629 **16-6a-1513** , as last amended by Laws of Utah 2023, Chapter 191
630 **16-6a-1514** , as last amended by Laws of Utah 2008, Chapter 364
631 **16-6a-1515** , as last amended by Laws of Utah 2008, Chapter 364
632 **16-6a-1516** , as last amended by Laws of Utah 2009, Chapter 386
633 **16-6a-1517** , as last amended by Laws of Utah 2008, Chapter 382
634 **16-6a-1518** , as enacted by Laws of Utah 2000, Chapter 300
635 **16-7-13** , as last amended by Laws of Utah 2000, Chapter 300
636 **16-10a-120** , as last amended by Laws of Utah 2010, Chapter 378
637 **16-10a-121** , as enacted by Laws of Utah 1992, Chapter 277
638 **16-10a-123** , as enacted by Laws of Utah 1992, Chapter 277
639 **16-10a-124** , as enacted by Laws of Utah 1992, Chapter 277
640 **16-10a-125** , as last amended by Laws of Utah 2008, Chapter 364
641 **16-10a-126** , as last amended by Laws of Utah 2023, Chapter 401
642 **16-10a-401** , as last amended by Laws of Utah 2023, Chapter 458
643 **16-10a-402** , as last amended by Laws of Utah 2014, Chapter 189
644 **16-10a-1101** , as last amended by Laws of Utah 2011, Chapter 244
645 **16-10a-1102** , as last amended by Laws of Utah 2010, Chapter 378
646 **16-10a-1106** , as last amended by Laws of Utah 2014, Chapter 189
647 **16-10a-1107** , as last amended by Laws of Utah 2011, Chapter 244
648 **16-10a-1420** , as last amended by Laws of Utah 2008, Chapter 364
649 **16-10a-1421** , as last amended by Laws of Utah 2009, Chapter 386
650 **16-10a-1422** , as last amended by Laws of Utah 2024, Chapter 232
651 **16-10a-1423** , as last amended by Laws of Utah 2009, Chapter 386

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652 **16-10a-1501** , as last amended by Laws of Utah 1996, Chapter 79
653 **16-10a-1502** , as last amended by Laws of Utah 1993, Chapter 184
654 **16-10a-1503** , as last amended by Laws of Utah 2010, Chapter 43
655 **16-10a-1504** , as last amended by Laws of Utah 2008, Chapter 364
656 **16-10a-1505** , as enacted by Laws of Utah 1992, Chapter 277
657 **16-10a-1506** , as last amended by Laws of Utah 2010, Chapter 378
658 **16-10a-1507** , as last amended by Laws of Utah 2010, Chapter 378
659 **16-10a-1510** , as last amended by Laws of Utah 2010, Chapter 378
660 **16-10a-1511** , as last amended by Laws of Utah 1999, Chapter 220
661 **16-10a-1520** , as last amended by Laws of Utah 2023, Chapter 191
662 **16-10a-1521** , as last amended by Laws of Utah 2008, Chapter 364
663 **16-10a-1530** , as last amended by Laws of Utah 2008, Chapter 364
664 **16-10a-1531** , as last amended by Laws of Utah 2009, Chapter 386
665 **16-10a-1532** , as last amended by Laws of Utah 2023, Chapter 401
666 **16-10a-1533** , as last amended by Laws of Utah 2010, Chapter 378
667 **16-10a-1607** , as last amended by Laws of Utah 2010, Chapter 378
668 **16-11-16** , as last amended by Laws of Utah 2023, Chapter 458
669 **16-15-103** , as enacted by Laws of Utah 1995, Chapter 310
670 **16-15-105** , as last amended by Laws of Utah 2009, Chapter 183
671 **16-15-109** , as last amended by Laws of Utah 2008, Chapter 364
672 **16-16-111** , as last amended by Laws of Utah 2018, Chapter 281
673 **16-16-112** , as last amended by Laws of Utah 2010, Chapter 378
674 **16-16-201** , as last amended by Laws of Utah 2010, Chapter 378
675 **16-16-203** , as last amended by Laws of Utah 2010, Chapter 378
676 **16-16-207** , as last amended by Laws of Utah 2010, Chapter 378
677 **16-16-208** , as last amended by Laws of Utah 2009, Chapter 183
678 **16-16-1212** , as last amended by Laws of Utah 2024, Chapter 232
679 **16-16-1601** , as enacted by Laws of Utah 2008, Chapter 363
680 **16-16-1602** , as last amended by Laws of Utah 2010, Chapter 378
681 **16-16-1603** , as last amended by Laws of Utah 2010, Chapter 378
682 **16-16-1604** , as last amended by Laws of Utah 2010, Chapter 378

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683 **16-16-1605** , as enacted by Laws of Utah 2008, Chapter 363
684 **16-16-1606** , as last amended by Laws of Utah 2010, Chapter 378
685 **16-16-1607** , as last amended by Laws of Utah 2010, Chapter 378
686 **16-16-1608** , as last amended by Laws of Utah 2010, Chapter 378
687 **16-16-1609** , as last amended by Laws of Utah 2010, Chapter 378
688 **16-16-1610** , as enacted by Laws of Utah 2008, Chapter 363
689 **16-16-1611** , as enacted by Laws of Utah 2008, Chapter 363
690 **16-16-1612** , as enacted by Laws of Utah 2008, Chapter 363
691 **16-17-101** , as enacted by Laws of Utah 2008, Chapter 364
692 **16-17-102** , as last amended by Laws of Utah 2013, Chapter 412
693 **16-17-201** , as last amended by Laws of Utah 2009, Chapter 183
694 **16-17-202** , as last amended by Laws of Utah 2010, Chapter 378
695 **16-17-203** , as last amended by Laws of Utah 2010, Chapter 378
696 **16-17-204** , as last amended by Laws of Utah 2010, Chapter 378
697 **16-17-205** , as enacted by Laws of Utah 2008, Chapter 364
698 **16-17-206** , as enacted by Laws of Utah 2008, Chapter 364
699 **16-17-207** , as enacted by Laws of Utah 2008, Chapter 364
700 **16-17-208** , as enacted by Laws of Utah 2008, Chapter 364
701 **16-17-209** , as last amended by Laws of Utah 2018, Chapter 149
702 **16-17-210** , as last amended by Laws of Utah 2010, Chapter 378
703 **16-17-301** , as last amended by Laws of Utah 2010, Chapter 378
704 **16-17-302** , as enacted by Laws of Utah 2008, Chapter 364
705 **16-17-401** , as enacted by Laws of Utah 2008, Chapter 364
706 **16-17-402** , as last amended by Laws of Utah 2010, Chapter 378
707 **16-17-403** , as enacted by Laws of Utah 2008, Chapter 364
708 **16-17-404** , as enacted by Laws of Utah 2008, Chapter 364
709 **42-2-5** , as last amended by Laws of Utah 2015, Chapter 341
710 **42-2-6** , as last amended by Laws of Utah 1984, Chapter 66
711 **42-2-8** , as last amended by Laws of Utah 1987, Chapter 66
712 **42-2-10** , as last amended by Laws of Utah 2009, Chapter 183
713 **48-1c-101** , as enacted by Laws of Utah 2013, Chapter 412

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714 **48-1d-101** , as enacted by Laws of Utah 2013, Chapter 412
715 **48-1d-109** , as enacted by Laws of Utah 2013, Chapter 412
716 **48-1d-110** , as enacted by Laws of Utah 2013, Chapter 412
717 **48-1d-111** , as last amended by Laws of Utah 2023, Chapter 401
718 **48-1d-112** , as enacted by Laws of Utah 2013, Chapter 412
719 **48-1d-113** , as enacted by Laws of Utah 2013, Chapter 412
720 **48-1d-114** , as enacted by Laws of Utah 2013, Chapter 412
721 **48-1d-115** , as enacted by Laws of Utah 2013, Chapter 412
722 **48-1d-116** , as last amended by Laws of Utah 2023, Chapter 401
723 **48-1d-117** , as enacted by Laws of Utah 2013, Chapter 412
724 **48-1d-1001** , as enacted by Laws of Utah 2013, Chapter 412
725 **48-1d-1002** , as enacted by Laws of Utah 2013, Chapter 412
726 **48-1d-1003** , as last amended by Laws of Utah 2023, Chapter 401
727 **48-1d-1004** , as enacted by Laws of Utah 2013, Chapter 412
728 **48-1d-1005** , as enacted by Laws of Utah 2013, Chapter 412
729 **48-1d-1006** , as enacted by Laws of Utah 2013, Chapter 412
730 **48-1d-1007** , as enacted by Laws of Utah 2013, Chapter 412
731 **48-1d-1008** , as enacted by Laws of Utah 2013, Chapter 412
732 **48-1d-1021** , as enacted by Laws of Utah 2013, Chapter 412
733 **48-1d-1022** , as enacted by Laws of Utah 2013, Chapter 412
734 **48-1d-1023** , as enacted by Laws of Utah 2013, Chapter 412
735 **48-1d-1024** , as enacted by Laws of Utah 2013, Chapter 412
736 **48-1d-1025** , as enacted by Laws of Utah 2013, Chapter 412
737 **48-1d-1026** , as enacted by Laws of Utah 2013, Chapter 412
738 **48-1d-1031** , as enacted by Laws of Utah 2013, Chapter 412
739 **48-1d-1032** , as enacted by Laws of Utah 2013, Chapter 412
740 **48-1d-1033** , as enacted by Laws of Utah 2013, Chapter 412
741 **48-1d-1034** , as enacted by Laws of Utah 2013, Chapter 412
742 **48-1d-1035** , as enacted by Laws of Utah 2013, Chapter 412
743 **48-1d-1036** , as enacted by Laws of Utah 2013, Chapter 412
744 **48-1d-1041** , as last amended by Laws of Utah 2015, Chapter 227

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745 **48-1d-1042** , as last amended by Laws of Utah 2015, Chapter 227
746 **48-1d-1043** , as last amended by Laws of Utah 2015, Chapter 227
747 **48-1d-1044** , as last amended by Laws of Utah 2015, Chapter 227
748 **48-1d-1045** , as enacted by Laws of Utah 2013, Chapter 412
749 **48-1d-1046** , as last amended by Laws of Utah 2015, Chapter 227
750 **48-1d-1051** , as enacted by Laws of Utah 2013, Chapter 412
751 **48-1d-1052** , as enacted by Laws of Utah 2013, Chapter 412
752 **48-1d-1053** , as enacted by Laws of Utah 2013, Chapter 412
753 **48-1d-1054** , as enacted by Laws of Utah 2013, Chapter 412
754 **48-1d-1055** , as enacted by Laws of Utah 2013, Chapter 412
755 **48-1d-1056** , as enacted by Laws of Utah 2013, Chapter 412
756 **48-1d-1103** , as last amended by Laws of Utah 2024, Chapter 232
757 **48-1d-1104** , as enacted by Laws of Utah 2013, Chapter 412
758 **48-1d-1105** , as last amended by Laws of Utah 2023, Chapter 458
759 **48-1d-1106** , as enacted by Laws of Utah 2013, Chapter 412
760 **48-1d-1107** , as enacted by Laws of Utah 2013, Chapter 412
761 **48-1d-1108** , as enacted by Laws of Utah 2013, Chapter 412
762 **48-1d-1109** , as enacted by Laws of Utah 2013, Chapter 412
763 **48-1d-1201** , as enacted by Laws of Utah 2013, Chapter 412
764 **48-1d-1202** , as enacted by Laws of Utah 2013, Chapter 412
765 **48-1d-1203** , as enacted by Laws of Utah 2013, Chapter 412
766 **48-1d-1204** , as enacted by Laws of Utah 2013, Chapter 412
767 **48-1d-1205** , as enacted by Laws of Utah 2013, Chapter 412
768 **48-1d-1206** , as enacted by Laws of Utah 2013, Chapter 412
769 **48-1d-1207** , as enacted by Laws of Utah 2013, Chapter 412
770 **48-1d-1208** , as enacted by Laws of Utah 2013, Chapter 412
771 **48-1d-1209** , as enacted by Laws of Utah 2013, Chapter 412
772 **48-1d-1210** , as enacted by Laws of Utah 2013, Chapter 412
773 **48-1d-1303** , as enacted by Laws of Utah 2013, Chapter 412
774 **48-2e-108** , as last amended by Laws of Utah 2023, Chapter 458
775 **48-2e-109** , as enacted by Laws of Utah 2013, Chapter 412

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776 **48-2e-110** , as enacted by Laws of Utah 2013, Chapter 412
777 **48-2e-111** , as enacted by Laws of Utah 2013, Chapter 412
778 **48-2e-203** , as enacted by Laws of Utah 2013, Chapter 412
779 **48-2e-204** , as last amended by Laws of Utah 2023, Chapter 401
780 **48-2e-205** , as last amended by Laws of Utah 2015, Chapter 227
781 **48-2e-206** , as enacted by Laws of Utah 2013, Chapter 412
782 **48-2e-207** , as enacted by Laws of Utah 2013, Chapter 412
783 **48-2e-208** , as enacted by Laws of Utah 2013, Chapter 412
784 **48-2e-209** , as last amended by Laws of Utah 2023, Chapter 401
785 **48-2e-210** , as enacted by Laws of Utah 2013, Chapter 412
786 **48-2e-211** , as last amended by Laws of Utah 2018, Chapter 149
787 **48-2e-212** , as enacted by Laws of Utah 2013, Chapter 412
788 **48-2e-811** , as last amended by Laws of Utah 2024, Chapter 232
789 **48-2e-812** , as enacted by Laws of Utah 2013, Chapter 412
790 **48-2e-901** , as enacted by Laws of Utah 2013, Chapter 412
791 **48-2e-902** , as enacted by Laws of Utah 2013, Chapter 412
792 **48-2e-903** , as enacted by Laws of Utah 2013, Chapter 412
793 **48-2e-904** , as enacted by Laws of Utah 2013, Chapter 412
794 **48-2e-905** , as enacted by Laws of Utah 2013, Chapter 412
795 **48-2e-906** , as enacted by Laws of Utah 2013, Chapter 412
796 **48-2e-907** , as enacted by Laws of Utah 2013, Chapter 412
797 **48-2e-908** , as enacted by Laws of Utah 2013, Chapter 412
798 **48-2e-909** , as enacted by Laws of Utah 2013, Chapter 412
799 **48-2e-910** , as enacted by Laws of Utah 2013, Chapter 412
800 **48-2e-1101** , as enacted by Laws of Utah 2013, Chapter 412
801 **48-2e-1102** , as enacted by Laws of Utah 2013, Chapter 412
802 **48-2e-1103** , as last amended by Laws of Utah 2023, Chapter 401
803 **48-2e-1104** , as enacted by Laws of Utah 2013, Chapter 412
804 **48-2e-1105** , as enacted by Laws of Utah 2013, Chapter 412
805 **48-2e-1106** , as enacted by Laws of Utah 2013, Chapter 412
806 **48-2e-1107** , as enacted by Laws of Utah 2013, Chapter 412

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807 **48-2e-1108** , as enacted by Laws of Utah 2013, Chapter 412
808 **48-2e-1121** , as enacted by Laws of Utah 2013, Chapter 412
809 **48-2e-1122** , as enacted by Laws of Utah 2013, Chapter 412
810 **48-2e-1123** , as enacted by Laws of Utah 2013, Chapter 412
811 **48-2e-1124** , as enacted by Laws of Utah 2013, Chapter 412
812 **48-2e-1125** , as enacted by Laws of Utah 2013, Chapter 412
813 **48-2e-1126** , as enacted by Laws of Utah 2013, Chapter 412
814 **48-2e-1131** , as enacted by Laws of Utah 2013, Chapter 412
815 **48-2e-1132** , as enacted by Laws of Utah 2013, Chapter 412
816 **48-2e-1133** , as enacted by Laws of Utah 2013, Chapter 412
817 **48-2e-1134** , as enacted by Laws of Utah 2013, Chapter 412
818 **48-2e-1135** , as enacted by Laws of Utah 2013, Chapter 412
819 **48-2e-1136** , as enacted by Laws of Utah 2013, Chapter 412
820 **48-2e-1141** , as last amended by Laws of Utah 2015, Chapter 227
821 **48-2e-1142** , as last amended by Laws of Utah 2015, Chapter 227
822 **48-2e-1143** , as last amended by Laws of Utah 2015, Chapter 227
823 **48-2e-1144** , as last amended by Laws of Utah 2015, Chapter 227
824 **48-2e-1145** , as enacted by Laws of Utah 2013, Chapter 412
825 **48-2e-1146** , as last amended by Laws of Utah 2015, Chapter 227
826 **48-2e-1151** , as enacted by Laws of Utah 2013, Chapter 412
827 **48-2e-1152** , as enacted by Laws of Utah 2013, Chapter 412
828 **48-2e-1153** , as enacted by Laws of Utah 2013, Chapter 412
829 **48-2e-1154** , as enacted by Laws of Utah 2013, Chapter 412
830 **48-2e-1155** , as enacted by Laws of Utah 2013, Chapter 412
831 **48-2e-1156** , as enacted by Laws of Utah 2013, Chapter 412
832 **48-3a-108** , as last amended by Laws of Utah 2023, Chapter 458
833 **48-3a-109** , as enacted by Laws of Utah 2013, Chapter 412
834 **48-3a-110** , as enacted by Laws of Utah 2013, Chapter 412
835 **48-3a-111** , as enacted by Laws of Utah 2013, Chapter 412
836 **48-3a-203** , as enacted by Laws of Utah 2013, Chapter 412
837 **48-3a-204** , as last amended by Laws of Utah 2023, Chapter 401

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838 **48-3a-205** , as last amended by Laws of Utah 2015, Chapter 227
839 **48-3a-206** , as enacted by Laws of Utah 2013, Chapter 412
840 **48-3a-207** , as enacted by Laws of Utah 2013, Chapter 412
841 **48-3a-208** , as enacted by Laws of Utah 2013, Chapter 412
842 **48-3a-209** , as last amended by Laws of Utah 2023, Chapter 401
843 **48-3a-210** , as enacted by Laws of Utah 2013, Chapter 412
844 **48-3a-211** , as last amended by Laws of Utah 2018, Chapter 149
845 **48-3a-212** , as enacted by Laws of Utah 2013, Chapter 412
846 **48-3a-708** , as enacted by Laws of Utah 2013, Chapter 412
847 **48-3a-709** , as last amended by Laws of Utah 2024, Chapter 232
848 **48-3a-710** , as enacted by Laws of Utah 2013, Chapter 412
849 **48-3a-901** , as enacted by Laws of Utah 2013, Chapter 412
850 **48-3a-902** , as enacted by Laws of Utah 2013, Chapter 412
851 **48-3a-903** , as enacted by Laws of Utah 2013, Chapter 412
852 **48-3a-904** , as enacted by Laws of Utah 2013, Chapter 412
853 **48-3a-905** , as enacted by Laws of Utah 2013, Chapter 412
854 **48-3a-906** , as enacted by Laws of Utah 2013, Chapter 412
855 **48-3a-907** , as enacted by Laws of Utah 2013, Chapter 412
856 **48-3a-908** , as enacted by Laws of Utah 2013, Chapter 412
857 **48-3a-909** , as enacted by Laws of Utah 2013, Chapter 412
858 **48-3a-910** , as enacted by Laws of Utah 2013, Chapter 412
859 **48-3a-911** , as enacted by Laws of Utah 2013, Chapter 412
860 **48-3a-912** , as enacted by Laws of Utah 2013, Chapter 412
861 **48-3a-1001** , as enacted by Laws of Utah 2013, Chapter 412
862 **48-3a-1002** , as enacted by Laws of Utah 2013, Chapter 412
863 **48-3a-1003** , as last amended by Laws of Utah 2023, Chapter 401
864 **48-3a-1004** , as enacted by Laws of Utah 2013, Chapter 412
865 **48-3a-1005** , as enacted by Laws of Utah 2013, Chapter 412
866 **48-3a-1006** , as enacted by Laws of Utah 2013, Chapter 412
867 **48-3a-1007** , as enacted by Laws of Utah 2013, Chapter 412
868 **48-3a-1008** , as enacted by Laws of Utah 2013, Chapter 412

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869 **48-3a-1021** , as enacted by Laws of Utah 2013, Chapter 412
870 **48-3a-1022** , as enacted by Laws of Utah 2013, Chapter 412
871 **48-3a-1023** , as enacted by Laws of Utah 2013, Chapter 412
872 **48-3a-1024** , as enacted by Laws of Utah 2013, Chapter 412
873 **48-3a-1025** , as enacted by Laws of Utah 2013, Chapter 412
874 **48-3a-1026** , as enacted by Laws of Utah 2013, Chapter 412
875 **48-3a-1031** , as enacted by Laws of Utah 2013, Chapter 412
876 **48-3a-1032** , as enacted by Laws of Utah 2013, Chapter 412
877 **48-3a-1033** , as enacted by Laws of Utah 2013, Chapter 412
878 **48-3a-1034** , as enacted by Laws of Utah 2013, Chapter 412
879 **48-3a-1035** , as enacted by Laws of Utah 2013, Chapter 412
880 **48-3a-1036** , as enacted by Laws of Utah 2013, Chapter 412
881 **48-3a-1041** , as last amended by Laws of Utah 2015, Chapter 227
882 **48-3a-1042** , as last amended by Laws of Utah 2015, Chapter 227
883 **48-3a-1043** , as last amended by Laws of Utah 2015, Chapter 227
884 **48-3a-1044** , as last amended by Laws of Utah 2015, Chapter 227
885 **48-3a-1045** , as enacted by Laws of Utah 2013, Chapter 412
886 **48-3a-1046** , as last amended by Laws of Utah 2015, Chapter 227
887 **48-3a-1051** , as enacted by Laws of Utah 2013, Chapter 412
888 **48-3a-1052** , as enacted by Laws of Utah 2013, Chapter 412
889 **48-3a-1053** , as enacted by Laws of Utah 2013, Chapter 412
890 **48-3a-1054** , as enacted by Laws of Utah 2013, Chapter 412
891 **48-3a-1055** , as enacted by Laws of Utah 2013, Chapter 412
892 **48-3a-1056** , as enacted by Laws of Utah 2013, Chapter 412
893 **48-4-105** , as enacted by Laws of Utah 2018, Chapter 201
894 **48-5-105** , as last amended by Laws of Utah 2024, Chapter 161
895 **48-5-107** , as enacted by Laws of Utah 2023, Chapter 85
896 **48-5-108** , as enacted by Laws of Utah 2023, Chapter 85
897 **48-5-204** , as enacted by Laws of Utah 2023, Chapter 85

899 *Be it enacted by the Legislature of the state of Utah:*

SB0040S01 compared with SB0040S02

900 Section 1. Section 1 is enacted to read:

901 **Part 1. General Provisions**

902 **13-1a-101. Definitions.**

903 As used in this chapter:

- 904 (1) "Director" means the director of the division appointed in accordance with Section 13-1a-103.
- 905 (2) "Division" means the Division of Corporations and Commercial Code created in Section 13-1a-102.
- 906 (3) "Executive director" means the executive director of the Department of Commerce appointed under
- 907 Section 13-1-3.

908 Section 2. Section **13-1a-102** is renumbered and amended to read:

909 **[13-1a-1] 13-1a-102. Creation of division -- Responsibilities.**

- 910 (1) There is established within the Department of [-]Commerce the Division of Corporations and
- 911 Commercial Code [which] that is responsible for corporation and commercial code filings in this
- 912 state.
- 913 (2) The division shall administer:
 - 914 (a) Section 41-12a-505;
 - 915 (b) Section 56-1-3;
 - 916 (c) Section 56-1-10;
 - 917 (b)(d) Section 63G-7-401;
 - 918 (c)(e) Title 3, Chapter 1, General Provisions Relating to Agricultural Cooperative Associations;
 - 919 (d)(f) Title 16, Business Entities;
 - 920 (e)(g) Title 42, Chapter 2, Conducting Business as a D.B.A.;
 - 921 (f)(h) Title 70, Chapter 3a, Registration and Protection of Trademarks and Service Marks Act; and
 - 922 (g)(i) Title 70A, Uniform Commercial Code.

923 Section 3. Section **13-1a-103** is renumbered and amended to read:

924 **[13-1a-2] 13-1a-103. Director to supervise division -- Appointment.**

- 925 (1) The division shall be under the supervision, direction, and control of a director.[-]
- 926 (2) [The director shall be appointed by the] The executive director[-of the Department of Commerce],
- 927 with the approval of the governor, shall appoint the director.[-]
- 928 (3) The director shall hold office at the [pleasure] discretion of the governor.

929 Section 4. Section **13-1a-104** is renumbered and amended to read:

SB0040S01 compared with SB0040S02

[13-1a-3] 13-1a-104. Employment and compensation of personnel -- Compensation of director.

937 (1) The director, with the approval of the executive director, may employ personnel necessary to carry out the duties and responsibilities of the division at salaries [established by] the executive director establishes according to standards [established by] that the Division of Human Resource Management establishes.[–]

941 (2) The executive director shall establish the salary of the director according to standards [established by] that the Division of Human Resource Management establishes.

945 Section 5. Section **13-1a-105** is renumbered and amended to read:

[13-1a-4] 13-1a-105. Annual budget.

On or before [the 1st day of October] October 1 each year, the director shall prepare and submit to the executive director an annual budget of the administrative expenses of the division.

951 Section 6. Section **13-1a-106** is renumbered and amended to read:

[13-1a-5] 13-1a-106. Authority of director.

The director [has authority] may:

953 (1) [to]make rules in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, to administer the responsibilities of the division;

955 (2) [to]investigate, upon receiving a complaint, the corporation and commercial code filings and compliance governed by [the laws administered and enforced by the division] a law the division administers and enforces;[and]

958 [(3) under the provisions of Title 63G, Chapter 4, Administrative Procedures Act, to take administrative action against persons in violation of the division rules and the laws administered by it, including the issuance of cease and desist orders.]

961 (3) bring an administrative or civil action in a court with jurisdiction;

962 (4) in accordance with Title 63G, Chapter 4, Administrative Procedures Act:

963 (a) take administrative action against a person that violates a division rule or a law that the division administers, including issuing a cease and desist order; and

965 (b) hold or cause to be held administrative hearings regarding a matter affecting:

966 (i) the division; or

SB0040S01 compared with SB0040S02

(ii) the incorporation or registration activities of a business governed by a law administered by the division;

969 (5) for a purpose described in this chapter or any chapter the division administers:

970 (a) administer an oath;

971 (b) issue a subpoena;

972 (c) compel the attendance of a witness; and

973 (d) compel the production of papers, books, accounts, documents, and evidence; and

974 (6) designate an individual to carry out an action described in Subsection (5).

977 Section 7. Section **13-1a-107** is renumbered and amended to read:

979 **[13-1a-6] 13-1a-107. Powers of Division of Corporations and Commercial Code -- Document retention.**

979 (1) The [Division of Corporations and Commercial Code shall have] division has the power and authority reasonably necessary to enable [it] the division to:

981 (a) [to]efficiently administer [the laws and rules] each law and rule for which [it] the division is responsible; and

983 (b) [to]perform the duties imposed upon [it] the division by law.

984 (2) The division [has authority] may, under Title 63G, Chapter 3, Utah Administrative Rulemaking Act, [to]make rules and procedures for the processing, retention, and disposal of filed documents to efficiently utilize electronic and computerized document image storage and retrieval.

988 (3) Notwithstanding the provisions of Section 63A-12-105, original documents filed in the division offices [may] are not [be]considered property of the state if the division retains electronic image reproductions [thereof which] of the original documents that comply with the provisions of Title 63G, Chapter 2, Government Records Access and Management Act[, are retained by the division].

993 (4)

993 (a) The division shall offer to sell or license to the public on a nonexclusive basis, in bulk or through subscription, copies of each filed record in every medium available to the office.

996 (b) The division may charge a fee for subscription data services and bulk data sales in accordance with Section 63J-1-504.

1000 Section 8. Section **13-1a-108** is renumbered and amended to read:

1002 **[13-1a-7] 13-1a-108. Hearing powers.**

1001

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(1) The director, in accordance with Title 63G, Chapter 4, Administrative Procedures Act, may hold or cause to be held an administrative [hearings] hearing regarding [any] a matter affecting the division or the incorporation or registration activities of [any] a business governed by the laws [administered by] the division administers.

1005 (2) The director or the director's designee, for the purposes outlined in this chapter or [any] a chapter administered by the division, may administer oaths, issue subpoenas, compel the attendance of witnesses, and compel the production of papers, books, accounts, documents, and evidence.

1011 Section 9. Section **13-1a-109** is renumbered and amended to read:

1013 **[13-1a-8] 13-1a-109. Violation of an administrative order, a restraining order, or an injunctive order -- Civil penalty.**

If [any] a person violates an administrative order, a restraining order, or an injunction [issued] that the division issues under this chapter [is violated,] and the person receives notice of the administrative order, restraining order, or injunction, the division may submit a motion for, or [the court on its own motion] a court with jurisdiction may impose, a civil penalty of not more than \$100 for each day a person violates an administrative order, a restraining order, preliminary injunction, or permanent injunction [issued] that the division issues under this chapter[is violated, if the party has received notice of the restraining order or injunction].

1022 Section 10. Section **13-1a-110** is renumbered and amended to read:

1024 **[13-1a-9] 13-1a-110. Fees of Division of Corporations and Commercial Code.**

1023 (1) In addition to the fees [prescribed by] described in Title 16, Chapter 6a, Utah Revised Nonprofit Corporation Act, and Title 16, Chapter 10a, Utah Revised Business Corporation Act, the [Division of Corporations and Commercial Code] division shall receive and determine fees [pursuant to] in accordance with Section 63J-1-504 for filing articles of incorporation or amendments [of] for:

1028 (a) [insurance corporations,] an insurance corporation;

1029 (b) [of] a canal or irrigation [corporations] corporation organized for furnishing water to lands owned exclusively by the members [thereof exclusively,] of the canal or irrigation corporation; or

1032 (c) [of] a water users' [associations] association:

1033 (i) organized in conformity with the requirements of the United States under the Reclamation Act of June 17, 1902[;] ; and

1035 (ii) [which are] that is authorized to furnish water only to [their] the water users' association's stockholders.

SB0040S01 compared with SB0040S02

1037 (2) [No] The division may not impose a license fee [may be imposed on insurance corporations, canal or irrigation corporations organized for furnishing water to lands owned by the members thereof exclusively, or water users' associations organized in conformity with the requirements of the United States under the Reclamation Act of June 17, 1902, and which are authorized to furnish water only to the stockholders] on an entity described in Subsections (1)(a) through (c) at the time [any such corporation] the entity files [its] the entity's articles of incorporation, articles of amendment increasing the number of authorized shares, or articles of merger or consolidation[; any provision of Title 16, Chapter 10a, Utah Revised Business Corporation Act, to the contrary notwithstanding].

1049 Section 11. Section 11 is enacted to read:

1053 **16-1a-101. Definitions.**

16. Business Entities

1a. Provisions Applicable to All Business Entities

1. General Provisions

As used in this chapter:

1053 (1)

(a) "Acquired entity" means an entity acquired by another entity in an interest exchange.

1055 (b) "Acquired entity" includes all of one or more classes or series of interests belonging to the entity that the other entity acquires.

1057 (2) "Acquiring entity" means the entity that acquires all of one or more classes or series of interests of the acquired entity in an interest exchange.

1059 (3)

(a) "Address" means a location where the United States Postal Service may deliver mail.

1061 (b) "Address" includes:

1062 (i) a post office box number;

1063 (ii) a rural free delivery route number; and

1064 (iii) a street name and number.

1065 (4) "Appointment of agent" means a statement appointing an agent for service of process filed by a domestic filing entity, a registered foreign entity, or a D.B.A. registered under Title 42, Chapter 2, Conducting Business as a D.B.A.

SB0040S01 compared with SB0040S02

(5) "Approve" means an entity's governors and interest holders taking steps required under the entity's organic rules, organic law, and other law to:

1070 (a) propose a transaction subject to this title;

1071 (b) adopt and approve the terms and conditions of the transaction; and

1072 (c) conduct required proceedings or otherwise obtain a required vote or consent of the governors or interest holders.

1074 (6)

1076 (a) "Articles of incorporation" means a document that a person files to establish a domestic corporation.

1077 (b) "Articles of incorporation" includes:

1078 (i) amended articles of incorporation;

1079 (ii) restated articles of incorporation;

1080 (iii) articles of merger; and

1082 (iv) a substantially similar document to the documents described in Subsections (6)(b)(i) through (iii).

1084 (7) "Assumed corporate name" means the same as that term is defined in Section 16-10a-102.

1086 (8) "Beneficiary" means a person holding a certificate representing a beneficial interest in a trust estate and assets.

1089 (9) "Benefit company" means a limited liability company that elects to become subject to Chapter 21, Benefit Limited Liability Company Act, and the business corporation's status as a benefit company has not terminated.

1092 (10) "Benefit corporation" means a business corporation that elects to become subject to Chapter 10b, Benefit Corporation Act, and the status of the business corporation as a benefit corporation has not terminated.

1094 (11)

1096 (a) "Board of directors" means the body authorized to manage the affairs of a domestic corporation or a foreign corporation.

1097 (b) "Board of directors" does not include an individual who is delegated power under Subsection 16-6a-801(2) or 16-10a-801(2).

1098 (12) "Business corporation" means a corporation formed under:

1099 (a) Chapter 10a, Utah Revised Business Corporation Act;

1099 (b) Chapter 10b, Benefit Corporation Act; or

1099 (c) Chapter 11, Professional Corporation Act.

SB0040S01 compared with SB0040S02

1100 (13) "Business trust" means an entity:

1101 (a) engaged in a trade or business; and

1102 (b) created by a declaration of trust that transfers property to trustees, that the trustees will hold and
manage for the benefit of one or more beneficiary.

1104 (14)

1105 (a) "Bylaws" means:

1108 (i) one or more code of rules, other than the articles of incorporation, adopted under this title, for
the regulation or management of the affairs of a domestic corporation or foreign corporation;

1111 (ii) the procedural rules and regulations that govern:

1113 (A) a decentralized autonomous organization organized under Chapter 22, Decentralized Autonomous
Organization Act; and

1115 (B) the interaction of the decentralized autonomous organization's members and participants; or
(iii) the articles of organization of a limited cooperative association required by Section 16-16-302.

1116 (b) "Bylaws" includes amended bylaws and restated bylaws.

1118 (15)

1120 (a) "Certificate of limited partnership" means a document a person files to establish a domestic limited
partnership.

1122 (b) "Certificate of limited partnership" includes the certificate of limited partnership as amended or
restated.

1124 (16)

1126 (a) "Certificate of organization" means a document a person files to establish a domestic limited
liability company.

1128 (b) "Certificate of organization" includes a certificate of organization as amended or restated.

1130 (17) "Class" means a group of memberships with a right that, with respect to voting, dissolution,
redemption, transfer, or other similar characteristics, is determined to be the same right by using a
formula applied uniformly to a group of memberships.

1132 (18) "Commercial registered agent" means an individual or a domestic entity or foreign entity described
in Section 16-1a-405.

1134 (19) "Contribution" means a property or a benefit described in Section 16-18-501, 16-19-501, or
16-20-402 or Chapter 16, Part 10, Contributions, Allocations, and Distributions, that a person

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provides to a limited liability company, limited partnership, partnership, or limited cooperative association.

1133 (20) "Control" means the direct or indirect possession of the power to direct or cause the direction of the management and policies of an entity, whether through the ownership of voting shares, by contract, or other means.

1136 (21) "Conversion" means a transaction described in Part 9, Conversion.

1137 (22) "Converted entity" means a converting entity as the converting entity continues in existence after a conversion.

1139 (23) "Converting entity" means:

1140 (a) a domestic entity that approves a plan of conversion in accordance with Section 16-1a-904; or

1142 (b) a foreign entity that approves a conversion in accordance with the law of the foreign entity's jurisdiction of formation.

1144 (24) "Cooperative" means a limited cooperative association or an entity organized under a cooperative law of a jurisdiction.

1146 (25) "Cooperative nonprofit corporation" means a nonprofit corporation organized or existing under Section 16-6a-207.

1148 (26) "Corporate name" means:

1149 (a) the name of a domestic corporation or a domestic nonprofit corporation as stated in the domestic corporation's or domestic nonprofit corporation's articles of incorporation; or

1152 (b) the name of a foreign corporation or a foreign nonprofit corporation as stated in the foreign corporation's or foreign nonprofit corporation's articles of incorporation.

1154 (27) "Corporation" means a nonprofit corporation or a business corporation.

1155 (28) "D.B.A." means a name that complies with the requirements of Title 42, Chapter 2, Conducting Business as a D.B.A.

1157 (29) "Decentralized autonomous organization" means the same as that term is defined in Section 16-22-101.

1159 (30) "Delegate" means a person elected or appointed to vote in a representative assembly:

1160 (a) for the election of a director; or

1161 (b) on a matter other than the election of a director.

1162

SB0040S01 compared with SB0040S02

(31) "Designation of agent" means a statement designating a registered agent delivered to the division for filing in accordance with Section 16-1a-411 by a nonregistered foreign entity or a nonfiling domestic entity.

1165 (32) "Director" means a member of the board of directors.

1166 (33)

1167 (a) "Distribution" means:

1167 (i) for an entity formed under Chapter 6a, Utah Revised Nonprofit Corporation Act, the payment of a dividend or a part of the income or profit of a nonprofit corporation to the nonprofit corporation's members, directors, or officers;

1170 (ii) for an entity formed under Chapter 16, Uniform Limited Cooperative Association Act, except as provided in Subsection 16-16-1007(5), a transfer of money or other property from a limited cooperative association to a member because of the member's financial rights or to a transferee of a member's financial rights; or

1174 (iii) for an entity formed under Chapter 18, Utah Uniform Partnership Act, through Chapter 22, Decentralized Autonomous Organization Act, a transfer of money or other property from a limited liability company, limited partnership, or partnership to a person because of a transferable interest or in the person's capacity as a member.

1179 (b) "Distribution" includes:

1180 (i) a redemption or other purchase by a limited liability company, limited partnership, or partnership of a transferable interest; and

1182 (ii) a transfer to a member or partner in return for the member's or partner's relinquishing any right:

1184 (A) to participate as a member or partner in the management or conduct of the entity's activities and affairs; or

1186 (B) to have access to a record or other information concerning the entity's activities and affairs.

1188 (c) "Distribution" does not include:

1189 (i) a fair-value payment for a good sold or a service received;

1190 (ii) reasonable compensation for present or past service; or

1191 (iii) a payment made in the ordinary course of business under a bona fide retirement plan or other bona fide benefits program.

1193 (34) "Distributional interest" means a person's right under an unincorporated entity's organic law and organic rules to receive distributions from the unincorporated entity.

SB0040S01 compared with SB0040S02

1195 (35) "Division" means the Division of Corporations and Commercial Code established by Section
13-1a-102.

1197 (36) "Domestic" means, with respect to an entity, that the laws of this state govern the entity's internal
affairs.

1199 (37) "Domestic entity" means an entity whose internal affairs are governed by the laws of this state.

1201 (38) "Domesticated entity" means a domesticating entity as the domesticating entity continues in
existence after a domestication.

1203 (39) "Domesticating entity" means:

1204 (a) a domestic entity that approves a plan of domestication in accordance with Section 16-1a-1004; or

1206 (b) a foreign entity that approves a domestication in accordance with the law of the foreign entity's
jurisdiction of formation.

1208 (40) "Domestication" means a transaction authorized under Part 10, Domestication.

1209 (41)

1210 (a) "Entity" means:

1211 (i) a business corporation;

1212 (ii) a nonprofit corporation;

1213 (iii) a partnership;

1214 (iv) a decentralized autonomous organization;

1215 (v) a limited liability partnership;

1216 (vi) a limited partnership;

1217 (vii) a limited liability limited partnership;

1218 (viii) a limited liability company;

1219 (ix) a limited cooperative association;

1220 (x) an unincorporated nonprofit association;

1221 (xi) a statutory trust, business trust, or common-law business trust; or

1222 (xii) another person that has:

1223 (A) a legal existence separate from an interest holder of that person; or

1224 (B) the power to acquire an interest in real property in the person's own name.

1225 (b) "Entity" does not include:

1226 (i) an individual;

1226 (ii) a trust with a predominantly donative purpose;

SB0040S01 compared with SB0040S02

1227 (iii) a charitable trust;

1228 (iv) an association or relationship that is not a partnership solely by reason of Subsection 16-18-202(3)
or a similar provision of the law of another jurisdiction;

1230 (v) a decedent's estate; or

1231 (vi) a government or a governmental subdivision, agency, or instrumentality.

1232 (42) "Filing entity" means an entity that is created by the filing of a public organic document.

1234 (43)

1236 (a) "Financial right" means the right to participate in an allocation and distribution as provided in
Chapter 16, Part 10, Contributions, Allocations, and Distributions.

1238 (b) "Financial right" does not include a right or obligation in a marketing contract as provided in
Chapter 16, Part 7, Marketing Contracts.

1240 (44) "Foreign entity" means an entity whose internal affairs are governed by the laws of another state,
tribe, or country.

1242 (45) "Foreign registration statement" means a document filed to allow a foreign entity ability to transact
business in this state.

1244 (46) "General partner" means the same as that term is defined in Section 16-19-101.

1246 (47) "Governance interest" means, for a person other than a governor, an agent, an assignee, or a proxy,
the right under the organic law or organic rules of an entity to:

1248 (a) receive or demand access to information concerning:

1249 (i) the entity; or

1250 (ii) the books and records of the entity; or

1252 (b) receive notice of or vote on one or more issues involving the internal affair of the entity.

1254 (48) "Governance right" means the right to participate in the governance of a limited cooperative
association.

1256 (49) "Governor" means:

1258 (a) a director of a business corporation;

1259 (b) a director or trustee of a nonprofit corporation;

1260 (c) a general partner of a partnership;

1262 (d) a general partner of a limited partnership;

1264 (e) a manager of a manager-managed limited liability company;

1266 (f) a member of a member-managed limited liability company;

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1259 (g) a director of a limited cooperative association;
1260 (h) a manager of an unincorporated nonprofit association;
1261 (i) a trustee of a statutory trust, business trust, or common-law business trust; or
1262 (j) any other person;
1263 (i) under whose authority a person may exercise the powers of an entity; or
1264 (ii) under whose direction a person manages the activities and affairs of the entity in accordance with
1265 the organic law and organic rules of the entity.

1266 (50) "Interest" means a:
1267 (a) share in a business corporation;
1268 (b) membership in a nonprofit corporation;
1269 (c) partnership interest in a partnership;
1270 (d) partnership interest in a limited partnership;
1271 (e) membership interest in a limited liability company;
1272 (f) membership interest in a limited cooperative association;
1273 (g) member's interest in a limited cooperative association;
1274 (h) membership in an unincorporated nonprofit association;
1275 (i) beneficial interest in a statutory trust, business trust, or common-law business trust; or
1276 (j) governance interest or distributional interest in any other type of unincorporated entity.

1277 (51) "Interest exchange" means a transaction authorized in Part 8, Interest Exchange.

1278 (52) "Interest holder" means:
1279 (a) a shareholder of a business corporation;
1280 (b) a member of a nonprofit corporation;
1281 (c) a general partner of a partnership;
1282 (d) a general partner of a limited partnership;
1283 (e) a limited partner of a limited partnership;
1284 (f) a member of a limited liability company;
1285 (g) a member of a limited cooperative association;
1286 (h) a member of an unincorporated nonprofit association;
1287 (i) a beneficiary or beneficial owner of a statutory trust, business trust, or common-law business trust;
1288 or
1289 (j) any other direct holder of an interest.

SB0040S01 compared with SB0040S02

1291 (53) "Interest holder liability" means:

1292 (a) personal liability for the liability of an entity that is imposed on a person:

1293 (i) as a direct result of the person's status as an interest holder; or

1294 (ii) by the organic rules of the entity that make one or more specified interest holders or categories of interest holders liable because of the interest holders' capacity as interest holders for all or specified liabilities of the entity; or

1297 (b) an obligation of an interest holder under the organic rules of the entity to contribute to the entity.

1299 (54) "Investor member" means a member that:

1300 (a)

1301 (i) makes a contribution to a limited cooperative association; and

1304 (ii) is not required by the organic rules to conduct patronage with the association in the member's capacity as an investor member in order to receive the member's interest; or

1306 (b) is not permitted by the organic rules to conduct patronage with the association in the member's capacity as an investor member in order to receive the member's interest.

1307 (55) "Jurisdiction of formation" means:

1308 (a) the jurisdiction under whose law an entity is formed; or

1308 (b) for a limited liability partnership or foreign limited liability partnership, the jurisdiction in which the partnership's statement of qualification is filed.

1310 (56) "Limited cooperative association" means an association organized under Chapter 16, Uniform Limited Cooperative Association Act.

1312 (57) "Limited liability company" means the same as that term is defined in Section 16-20-101.

1314 (58) "Limited liability partnership" means the same as that term is defined in Section 16-18-101.

1316 (59) "Limited partner" means the same as that term is defined in Section 16-19-101.

1317 (60) "Limited partnership" means the same as that term is defined in Section 16-19-101.

1318 (61) "Manager" means the same as that term is defined in Section 16-20-101.

1319 (62) "Manager-managed limited liability company" means the same as that term is defined in Section 16-20-101.

1321 (63)

1322 (a) "Member" means:

1323 (i) a person identified or appointed as a member;

1323 (A) in an entity's articles of incorporation;

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1324 (B) in an entity's bylaws;

1325 (C) by a resolution of a board of directors; or

1326 (D) by a resolution of the members of a nonprofit corporation;

1327 (ii) for an entity formed under Chapter 16, Uniform Limited Cooperative Association Act, a person
that is admitted as a patron member or investor member, or as both a patron member and
investor member;

1330 (iii) for an entity formed under Chapter 20, Utah Revised Uniform Limited Liability Company Act,
a person that owns part of the limited liability company but does not directly own the limited
liability company's property; or

1333 (iv) for an entity formed under Chapter 22, Decentralized Autonomous Organization Act, a person
with governance rights in a decentralized autonomous organization.

1335 (b) "Member" includes a voting member.

1336 (c) "Member" does not include:

1337 (i) an individual who involuntarily receives governance rights, unless that individual chooses to
participate in governance by undertaking a governance behavior for a decentralized autonomous
organization; or

1340 (ii) a person that dissociates as a member.

1341 (64) "Member-managed limited liability company" means a limited liability company that is not a
manager-managed limited liability company.

1343 (65) "Member's interest" means the same as that term is defined in Section 16-16-102.

1344 (66) "Merger" means a transaction authorized under Part 7, Merger.

1345 (67) "Merging entity" means an entity that is a party to a merger and exists immediately before the
merger becomes effective.

1347 (68) "Money" means:

1348 (a) legal tender;

1349 (b) a negotiable instrument; or

1350 (c) another cash equivalent readily convertible into legal tender.

1351 (69) "Noncommercial registered agent" means a person that is:

1352 (a) not listed as a commercial registered agent under Section 16-1a-405; and

1353 (b)

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- (i) an individual, a domestic entity, or a foreign entity that serves in this state as the agent for service of process on an entity; or
- (ii) the individual who holds the office or other position in an entity who an entity designates as the agent for service of process in accordance with Section 16-1a-404.

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- (70) "Nonfiling domestic entity" means a domestic entity that is not a filing entity.
- (71) "Nonregistered foreign entity" means a foreign entity that is not a registered foreign entity.
- (72) "Nonresident LLP statement" means:

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- (a) a statement of qualification of a domestic limited liability partnership that does not have an office in this state; or
- (b) a statement of foreign qualification of a foreign limited liability partnership that does not have an office in this state.

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- (73) "Operating agreement" means the same as that term is defined in Section 16-20-101.
- (74) "Organic law" means the law of an entity's jurisdiction of formation that governs the internal affairs of the entity.

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- (75) "Organic rules" means the public organic record and private organic rules of an entity.
- (76) "Partner" means a general partner or limited partner.
- (77) "Partnership" means the same as that term is defined in Section 16-18-101.
- (78) "Partnership agreement" means the same as that term is defined in Section 16-19-101.
- (79) "Patron member" means the same as that term is defined in Section 16-16-102.
- (80) "Patronage" means the same as that term is defined in Section 16-16-102.
- (81) "Plan of conversion" means a plan approved in accordance with Section 16-1a-904.
- (82) "Plan of domestication" means a plan approved in accordance with Section 16-1a-1004.
- (83) "Plan of interest exchange" means a plan approved in accordance with Section 16-1a-804.
- (84) "Plan of merger" means a plan approved in accordance with Section 16-1a-704.

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- (85)
 - (a) "Private organic rules" means the rules whether in a record or not, that govern the internal affairs of an entity, that are binding on all the entity's interest holders.
 - (b) "Private organic rules" includes the:
 - (i) bylaws of a business corporation;
 - (ii) bylaws of a nonprofit corporation;
 - (iii) bylaws of a decentralized autonomous organization;

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1386 (iv) partnership agreement of a partnership;
1387 (v) partnership agreement of a limited partnership;
1388 (vi) operating agreement of a limited liability company;
1389 (vii) bylaws of a limited cooperative association;
1390 (viii) governing principles of an unincorporated nonprofit association; and
1391 (ix) trust instrument of a statutory trust or similar rules of a business trust of common-law business trust.

1393 (86) "Professional corporation" means the same as that term is defined in Section 16-11-2.

1394 (87) "Protected agreement" means:

1395 (a) a record showing indebtedness and any related agreement in effect on January 1, 2014;
1397 (b) an agreement that is binding on an entity on January 1, 2014;
1398 (c) the organic rules of an entity in effect on January 1, 2014; or
1399 (d) an agreement that is binding on any of the governors or interest holders of an entity on January 1, 2014.

1401 (88)

1403 (a) "Public organic record" means the record of the filing that the division makes to form an entity and any amendment to or restatement of that record.

1404 (b) "Public organic record" includes the:

1405 (i) articles of incorporation of a business corporation;
1406 (ii) articles of incorporation of a nonprofit corporation;
1407 (iii) certificate of limited partnership of a limited liability limited partnership;
1408 (iv) certificate of organization of a limited liability company;
1409 (v) certificate of organization for a decentralized autonomous organization;
1410 (vi) articles of organization of a limited cooperative association; and
1411 (vii) certificate of trust of a statutory trust or similar record of a business trust.

1413 (89) "Record" means information inscribed on a tangible medium or stored in an electronic or other medium that is retrievable in a perceivable form.

1415 (90) "Registered agent" means a person that an entity authorizes to receive service of a process, notice, or demand required or permitted by law to be served on the entity.

1416 (91) "Registered agent filing" means:

1416 (a) the public organic record of a domestic filing entity;

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1417 (b) a statement of qualification of a domestic limited liability partnership;
1418 (c) a foreign registration statement filed in accordance with Section 16-1a-504; or
1419 (d) a designation of agent.

1420 (92) "Registered foreign entity" means a foreign entity that is registered to do business in this state in
accordance with a record filed with the division.

1422 (93) "Registered office" means the office within this state designated by a domestic entity that is
a corporation or a foreign entity that is a corporation as the domestic entity's or foreign entity's
registered office in the most recent document on file with the division such as the domestic entity's
or foreign entity's:

1426 (a) articles of incorporation;
1427 (b) application for a certificate of authority; or
1428 (c) notice of change of the registered office.

1429 (94) "Represented entity" means:
1430 (a) a domestic filing entity;
1431 (b) a registered foreign entity;
1432 (c) a domestic or foreign unincorporated nonprofit association for which a designation of agent is in
effect;
1434 (d) a domestic nonfiling entity for which a designation of agent is in effect; or
1435 (e) a nonregistered foreign entity for which a designation of agent is in effect.

1436 (95) "Series" means a series created in accordance with Chapter 20, Part 11, Series Limited Liability
Companies.

1438 (96) "Share" means:
1439 (a) for an entity organized under Chapter 6a, Utah Revised Nonprofit Corporation Act, a unit of interest
in a nonprofit corporation; or
1441 (b) for an entity organized under Chapter 10a, Utah Revised Business Corporation Act, the unit into
which the proprietary interest in a corporation is divided.

1443 (97) "Shareholder" means the same as that term is defined in Section 16-10a-102.

1444 (98) "Statement of conversion" means a statement described in Section 16-1a-906.

1445 (99) "Statement of domestication" means a statement described in Section 16-1a-1006.

1446 (100) "Statement of interest exchange" means a statement described in Section 16-1a-806.

1447 (101) "Statement of merger" means a statement described in Section 16-1a-706.

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1448 (102) "Statement of qualification" means a document that a person files with the division to establish a
domestic limited liability partnership or domestic general partnership.

1450 (103) "Surviving entity" means an entity that continues in existence after a merger or that is created by
a merger.

1452 (104) "Transfer" means:

1453 (a) an assignment;

1454 (b) a conveyance;

1455 (c) a deed;

1456 (d) a sale;

1457 (e) a lease;

1458 (f) a mortgage;

1459 (g) a security interest;

1460 (h) an encumbrance;

1461 (i) a gift; or

1462 (j) a transfer by operation of law.

1463 (105) "Transferable interest" means the right under an entity's organic law to receive a distribution from
an entity.

1465 (106) "Type of entity" means a generic form of entity:

1466 (a) recognized at common law; or

1467 (b) formed under an organic law.

1468 (107) "Voting member" means the same as that term is defined in Section 16-6a-102.

1471 Section 12. Section 12 is enacted to read:

1472 **16-1a-102. Certificate of existence or registration.**

1471 (1) Upon request of a person, the division shall issue a certificate of existence for a domestic filing
entity or a certificate of registration for a registered foreign entity.

1473 (2) The division shall ensure that a certificate described in Subsection (1) states:

1474 (a) the domestic filing entity's name or the registered foreign entity's name used in the state;

1476 (b) for a domestic filing entity:

1477 (i) that the division has filed the domestic filing entity's public organic record or statement of
qualification and the public organic record or statement of qualification has taken effect;

1480 (ii) the date the public organic record or statement of qualification took effect;

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1481 (iii) the period of the entity's duration if the records of the division reflect that the entity's period of duration is less than perpetual; and

1483 (iv) that the records of the division do not reflect that the entity has been dissolved;

1484 (c) for a registered foreign entity, that the registered foreign entity is registered to do business in this state;

1486 (d) that the domestic filing entity or the registered foreign entity pays all fees, taxes, interest, and penalties collected by the division that the domestic filing entity or registered foreign entity owes to the state if:

1489 (i) the division's records reflect the domestic filing entity's or the registered foreign entity's payment of the fee, tax, interest, or penalty; and

1491 (ii) nonpayment of the fees, taxes, interest, and penalties affects the good standing or registration of the domestic filing entity or the registered foreign entity;

1493 (e) that domestic filing entity or the registered foreign entity has delivered to the division for filing the most recent annual report required by the division;

1495 (f) that a proceeding is not pending under Part 6, Administrative Dissolution; and

1496 (g) other reasonable facts contained in the division's records relating to the domestic filing entity or the registered foreign entity that the person requesting the certificate requests.

1499 (3) Subject to a qualification stated in the certificate of existence or registration, a person may rely on the facts stated in the certificate of existence or registration issued by the division under Subsection (1) as conclusive evidence of the facts stated in the certificate of existence or registration.

1505 Section 13. Section **13** is enacted to read:

1507 **16-1a-201. Definitions.**

2. Filing Requirements

Reserved.

1509 Section 14. Section **14** is enacted to read:

1510 **16-1a-202. Entity filing requirements.**

1509 (1) In order for the division to file an entity filing in accordance with this chapter, the person delivering the entity filing to the division shall ensure that:

1511 (a) the division receives the entity filing;

1512 (b) the entity filing complies with this chapter;

1513 (c) the entity filing contains, at a minimum, the information required by this chapter;

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1514 (d) subject to Subsection (2), the person delivers the entity filing to the division in written form unless
1515 the division allows the electronic delivery of an entity filing;

1516 (e) the words in the entity filing are in English;

1517 (f) the numbers in the entity filing are Arabic or Roman numerals;

1518 (g) if the name of the entity is not in English, the name of the entity appears in English letters or Arabic
1519 or Roman numerals;

1520 (h) if applicable, a certificate of existence or registration required of a foreign entity that is not in
1521 English with a reasonably authenticated English translation accompanies the entity filing;

1522 (i) an individual authorized or required under this chapter to sign the entity filing, or an individual
1523 acting on the authorized or required individual's behalf, signs the entity filing; and

1524 (j) the entity filing states the name and capacity, if any, of each individual who signs the entity filing.

1525 (2) A person physically delivering an entity filing in written form shall ensure the entity filing is
1526 typewritten, computer generated, or machine printed.

1527 (3) If other applicable law prohibits the division from disclosing information contained in an entity
1528 filing, the division shall:

1529 (a) file the entity filing if the entity filing otherwise complies with this chapter; and

1530 (b) redact the information prohibited by law from disclosure.

1531 (4) When a person delivers an entity filing to the division for filing, the person shall pay a fee required
1532 under this chapter and any other fee, tax, interest, or penalty required by statute in a manner the
1533 division and applicable statute permit.

1534 Section 15. Section **15** is enacted to read:

16-1a-203. Forms.

1535 (1) The division may provide forms for an entity filing required or permitted under this chapter.

1536 (2) A person making an entity filing is not required to use a form the division provides as described in
1537 Subsection (1).

1538 Section 16. Section **16** is enacted to read:

16-1a-204. Effective date and time of an entity filing.

1539 Except as otherwise provided in this chapter, an entity filing is effective:

1540 (1) on the day and at the time the division files the entity filing;

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(2) on the day and at the time specified in the entity filing as the entity filing's effective time, if the date and time specified in the entity filing is later than the time described in Subsection (1), which may not be more than 90 days after the day on which the division files the entity filing; and

1551 (3) if the entity filing specifies a delayed effective date but does not specify a time, at 12:01 a.m. on the day specified in the entity filing, which may not be more than 90 days after the day on which the division files the entity filing.

1556 Section 17. Section **17** is enacted to read:

16-1a-205. Withdrawal of an entity filing before effectiveness.

1556 (1) Except as otherwise provided in this chapter, a person may withdraw an entity filing delivered to the division before the entity filing takes effect by delivering to the division for filing a statement of withdrawal.

1559 (2) A person creating and delivering to the division a statement of withdrawal shall ensure that:

1561 (a) subject to Subsection (2)(c), each person that signed the entity filing being withdrawn signs the statement of withdrawal;

1563 (b) the statement of withdrawal identifies the entity filing to be withdrawn; and

1564 (c) if the statement of withdrawal is signed by fewer than the total number of persons that signed the entity filing being withdrawn, the entity filing is withdrawn in accordance with the agreement of each person that signed the entity filing.

1567 (3) Once the division files the statement of withdrawal, the action or transaction evidenced by the original entity filing does not take effect.

1571 Section 18. Section **18** is enacted to read:

16-1a-206. Correcting an entity filing.

1571 (1) A person may correct an entity filing if:

1572 (a) the entity filing, at the time of filing, was inaccurate;

1573 (b) the entity filing was defectively signed; or

1574 (c) the electronic transmission of the entity filing to the division was defective.

1575 (2) To correct an entity filing, a person, on behalf of which a person delivered an entity filing to the division for filing, shall deliver a statement of correction to the division for filing.

1578 (3) A statement of correction:

1579 (a) may not state a delayed effective date;

1580 (b) shall be signed by the person correcting the entity filing;

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1581 (c) shall identify the entity filing to be corrected;
1582 (d) shall specify the inaccuracy or defect the statement of correction will correct; and
1583 (e) shall correct the inaccuracy or defect.
1584 (4) Except as provided in Subsection (5), a statement of correction is effective on the effective date of the entity filing that the statement of correction corrects.
1586 (5) If a person relies on the uncorrected entity filing and is adversely affected by the correction, the statement of correction is effective, as the statement of correction relates to the person, on the day on which the statement of correction is filed.

1591 Section 19. Section **19** is enacted to read:

16-1a-207. Duty of division to file -- Review of refusal to file.

1591 (1) The division shall file an entity filing delivered to the division for filing in accordance with this chapter.
1593 (2) The duty of the division described in Subsection (1) is ministerial.
1594 (3) When the division files an entity filing, the division shall record the entity filing as filed on the date and time the division files the entity filing.
1596 (4) After filing an entity filing, the division shall deliver to the person making the entity filing a copy of the entity filing with an acknowledgment of the date and time of the filing.
1599 (5) If the division refuses to file an entity filing:
1600 (a) no later than 15 business days after the day on which the person making the entity filing delivers the entity filing to the division, the division shall:
1602 (i) return the entity filing to the person or notify the person of the refusal; and
1603 (ii) provide a brief explanation of the division's reason for refusing to file the entity filing; and
1605 (b) the person making the entity filing may within a time period the division specifies that may not exceed 30 days from the day on which the division provides notice under Subsection (5)(a) amend the entity filing for the division to reexamine the entity filing.
1609 (6) If the division refuses to file an entity filing after a reexamination completed in accordance with Subsection (5)(b), the person making the entity filing may appeal the division's final refusal in accordance with Title 63G, Chapter 4, Administrative Procedures Act.
1613 (7) The filing or refusal to file an entity filing does not:
1614 (a) affect the validity or invalidity of the entity filing in whole or in part; or
1615 (b) create a presumption that the information contained in the entity filing is correct or incorrect.

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1617 (8) A certification from the division accompanying a copy of a filed record is conclusive evidence that
the copy is an accurate representation of the original record on file with the division.

1622 Section 20. Section **20** is enacted to read:

1623 **16-1a-208. Signing of an entity filing.**

1622 (1) An individual, by signing an entity filing, affirms under penalty of perjury that the facts stated in the
filings are true in all material respects.

1624 (2) An agent may sign a record filed under this chapter.

1625 (3) If this chapter requires a particular individual to sign an entity filing and the individual is deceased
or incompetent, a legal representative of the individual may sign the entity filing.

1628 (4) An individual that signs a record as an agent or legal representative shall affirm that the individual is
authorized to sign the record.

1632 Section 21. Section **21** is enacted to read:

1633 **16-1a-209. Signing and filing a record in accordance with a judicial order.**

1632 (1) If a person required under this chapter to sign or deliver a record to the division for filing does
not sign or deliver the record to the division for filing, a person adversely affected by the person's
failure to sign or deliver the record may petition a court to require that:

1636 (a) the person sign the record;

1637 (b) the person deliver the record to the division for filing; or

1638 (c) the division file the record unsigned.

1639 (2) If a person that petitions a court under Subsection (1) is not the person to which the record pertains,
the person that petitions the court shall make the person to which the record pertains a party to the
action.

1642 (3) A record filed in accordance with Subsection (1)(c) is effective without being signed.

1645 Section 22. Section **22** is enacted to read:

1646 **16-1a-210. Liability for inaccurate information in a filed record.**

If a record delivered to the division for filing in accordance with this chapter and filed
with the division contains inaccurate information, a person that suffers a loss by relying on the
information may recover damages for the loss from the person that:

1648 (1) signed the record or caused another person to sign the record on the person's behalf; and

1649 (2) knew at the time the person signed the record that the information was inaccurate.

1652 Section 23. Section **23** is enacted to read:

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16-1a-211. Delivery by division.

Except as otherwise provided in this chapter, the division may deliver a record to a person:

- 1654 (1) in person to the person that submitted the record for filing;
- 1655 (2) to the address of the person's registered agent;
- 1656 (3) to the person's principal office address; or
- 1657 (4) to another address the person provides to the division for delivery.

1660 Section 24. Section 24 is enacted to read:

16-1a-212. Annual report for division.

- 1660 (1) As used in this section, "anniversary month" means the calendar month in which:
 - 1661 (a) a domestic filing entity's formation becomes effective with the division; or
 - 1662 (b) a registered foreign entity's application for authority to conduct affairs in this state takes effect.
- 1664 (2) Each domestic filing entity and registered foreign entity shall file an annual report with the division that includes:
 - 1666 (a) the corporate name of the domestic filing entity or registered foreign entity;
 - 1667 (b) if a registered foreign entity, any assumed corporate name of the registered foreign entity;
 - 1669 (c) the jurisdiction under which law the domestic filing entity or registered foreign entity is organized or incorporated;
 - 1671 (d) the information required by Subsection 16-1a-404(1);
 - 1672 (e) the street address of the domestic filing entity's or the registered foreign entity's principal office; and
 - 1674 (f) the name and address of each director and principal officer of the domestic filing entity or the registered foreign entity.
- 1676 (3) The division shall:
 - 1677 (a) determine the form and process by which a domestic filing entity or registered foreign entity is required to file an annual report; and
 - 1679 (b) deliver a copy of the form described in Subsection (3)(a) to each domestic filing entity and registered foreign entity.
- 1681 (4) The domestic filing entity or registered foreign entity shall ensure that information in the annual report is current as of the date the domestic filing entity or registered foreign entity executes the report.
- 1684 (5)

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(a) Unless the division specifies a different time period by rule made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, a domestic filing entity or registered foreign entity:

(i) shall deliver an annual report to the division each calendar year on the last day of the anniversary month; and

(ii) may deliver the annual report up to 60 days before the last day of the anniversary month.

(b) A domestic filing entity or registered foreign entity does not violate the requirement to submit an annual report if the domestic filing entity or registered foreign entity provides evidence of the submission.

(6) If an annual report contains the information required by this section, the division shall file the annual report.

(7) The fact that an individual's name is signed on an annual report form is prima facie evidence for division purposes that the individual is authorized to certify the report on behalf of the domestic filing entity or registered foreign entity.

(8) The division may design the annual report form the division prescribes to provide a simplified certification by the domestic filing entity or registered foreign entity if the domestic filing entity or registered foreign entity has not made changes to the required information from the last preceding report filed.

(9) If an annual report contains the name or address of a registered agent that differs from the information contained in the records of the division immediately before the annual report becomes effective, the differing information in the annual report is considered a statement of change under Section 16-1a-407.

Section 25. Section **25** is enacted to read:

16-1a-301. Definitions.

3. Names

Reserved.

Section 26. Section **26** is enacted to read:

16-1a-302. Permitted names.

(1) Except as provided in Subsection (3) or (4), the name of a domestic filing entity, the name under which a foreign entity may register to do business in this state, and a D.B.A. registered under Title

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42, Chapter 2, Conducting Business as a D.B.A., shall be distinguishable on the records of the division from a:

- 1717 (a) name of an existing domestic filing entity that at the time is not dissolved;
- 1718 (b) name under which a foreign entity is registered to do business in this state under Section 16-1a-503;
- 1720 (c) D.B.A. registered under Title 42, Chapter 2, Conducting Business as a D.B.A.;
- 1721 (d) name reserved under Section 16-1a-304; or
- 1722 (e) name registered under Section 16-1a-305.

1723 (2) Except as otherwise provided in Subsection (4), a name is distinguishable from other names registered with the division if the name contains one or more different words, letters, or numerals from other names in the division's records.

1726 (3) The following differences do not qualify as distinguishing between two names:

- 1727 (a) the term:
- 1728 (i) "Assoc.";
- 1729 (ii) "association";
- 1730 (iii) "Assn.";
- 1731 (iv) "B.L.C.";
- 1732 (v) "B.L.L.C";
- 1733 (vi) "benefit limited company";
- 1734 (vii) "benefit limited liability company";
- 1735 (viii) "BLC";
- 1736 (ix) "BLLC";
- 1737 (x) "Co.";
- 1738 (xi) "company";
- 1739 (xii) "co-op";
- 1740 (xiii) "coop";
- 1741 (xiv) "cooperative";
- 1742 (xv) "corp.";
- 1743 (xvi) "corporation";
- 1744 (xvii) "D.A.O";
- 1745 (xviii) "DAO";
- 1746 (xix) "decentralized autonomous organization";

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1747 (xx) "Inc.";
1748 (xxi) "incorporated";
1749 (xxii) "L3C";
1750 (xxiii) "LC";
1751 (xxiv) "L.C.";
1752 (xxv) "L.C.A.";
1753 (xxvi) "L.D.";
1754 (xxvii) "L.DAO";
1755 (xxviii) "L.L.C.";
1756 (xxix) "L.L.D.";
1757 (xxx) "L.L.DAO";
1758 (xxxi) "L.L.P";
1759 (xxxii) "L.P.";
1760 (xxxiii) "LCA";
1761 (xxxiv) "limited";
1762 (xxxv) "Limited Co";
1763 (xxxvi) "limited company";
1764 (xxxvii) "limited cooperative association";
1765 (xxxviii) "limited decentralized autonomous organization";
1766 (xxxix) "limited liability company";
1767 (xl) "limited liability decentralized autonomous organization";
1768 (xli) "limited liability partnership";
1769 (xlii) "limited partnership";
1770 (xliii) "LD";
1771 (xliv) "LLC";
1772 (xlv) "LLD";
1773 (xlvi) "LLDAO";
1774 (xlvii) "LLP";
1775 (xlviii) "LP";
1776 (xlix) "Ltd.";
1777 (l) "Ltd Co";

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1778 (li) "Ltd Company";

1779 (lii) "Ltd DAO";

1780 (liii) "Ltd Liability Co";

1781 (liv) "Ltd Liability Company";

1782 (lv) "Ltd Liability DAO";

1783 (lvi) "P.A.";

1784 (lvii) "P.C.";

1785 (lviii) "P.L.C.";

1786 (lix) "P.L.L.C";

1787 (lx) "PA";

1788 (lxi) "PC";

1789 (lxii) "PLC";

1790 (lxiii) "PLLC";

1791 (lxiv) "professional association";

1792 (lxv) "professional corporation";

1793 (lxvi) "professional limited liability company";

1794 (lxvii) "R.L.L.P.";

1795 (lxviii) "registered limited liability partnership"; or

1796 (lxix) "RLLP";

1797 (b) an abbreviation of a word listed in Subsection (3)(a);

1798 (c) the presence or absence of the words or symbols of the words:

1799 (i) "the";

1800 (ii) "and";

1801 (iii) "a"; or

1802 (iv) "plus";

1803 (d) a difference in punctuation, spacing, or special characters;

1804 (e) a difference in capitalization; and

1805 (f) for an entity's name described in Subsection (1) that formed in this state on or after May 4, 1998:

1807 (i) an abbreviation of a word or phrase; or

1808 (ii) a difference in the singular or plural form of a word.

1809 (4)

SB0040S01 compared with SB0040S02

(a) An entity may consent in a record to a person's use of a name that is not distinguishable on the records of the division from the entity's name if the name includes a term described in Subsection (3)(a).

(b) If an entity consents to a person's use of a name in accordance with Subsection (4)(a), the entity is not required to change the entity's name.

(5) An entity's name shall comply with Section 7-1-701.

(6) An entity's name may not contain the words:

(a) without the consent of the United States Olympic Committee:

(i) "Olympic";

(ii) "Olympiad"; or

(iii) "Citius Altius Fortius";

(b) for an entity's name described in Subsection (1) that an entity changes or forms on or after May 4, 2022, the number sequence "911"; or

(c) without the consent of the Department of Financial Institutions, the words described in Section 7-1-701.

(7) An entity may use a name that is not distinguishable from a name described in Subsection (1) if the entity delivers to the division for filing a certified copy of a final judgment of a court with jurisdiction establishing the right of the entity to use the name in this state.

(8) The division may not approve for filing a name that implies that an entity is an agency of this state or any of the state's political subdivisions, if the entity is not actually an agency of this state or any of the state's political subdivisions.

Section 27. Section **27** is enacted to read:

16-1a-303. Name requirements for certain types of entities.

(1) The corporate name of a nonprofit organization:

(a) may, but is not required to contain:

(i) the word:

(A) "corporation";

(B) "incorporated";

(C) "company"; or

(D) a word of similar import; or

(ii) the abbreviation:

SB0040S01 compared with SB0040S02

1841 (A) "Corp.";
1842 (B) "Inc.";
1843 (C) "Co."; or
1844 (D) an abbreviation of similar import; and
1847 (b) may not contain:
1845 (b){(i)} {may not contain} a word or phrase that indicates or implies that the nonprofit corporation is
organized for a purpose other than a purpose permitted by:
1847 (i){(A)} Section 16-6a-301; and
1848 (ii){(B)} the nonprofit corporation's articles of incorporation{.} ; or
1852 (ii) the term:
1853 (A) "limited liability company";
1854 (B) "limited company";
1855 (C) "limited liability partnership"; or
1856 (D) "limited partnership"; or
1857 (iii) a word or abbreviation of similar import to a term listed in Subsection (2)(b)(ii).
1849 (2)
 (a) The name of a corporation shall contain:
1850 (i) the word:
1851 (A) "corporation";
1852 (B) "incorporated";
1853 (C) "company"; or
1854 (D) a word of similar import;
1855 (ii) the abbreviation:
1856 (A) "Corp.";
1857 (B) "Inc.";
1858 (C) "Co."; or
1859 (D) an abbreviation of similar import; and
1860 (iii) for a business corporation, may not contain language stating or implying that a business
 corporation is organized for a purpose other than a purpose permitted by:
1862 (A) Section 16-10a-301; and
1863 (B) the business corporation's articles of incorporation.

SB0040S01 compared with SB0040S02

1864 (b) The name of a corporation or a foreign corporation may not contain:

1865 (i) the term:

1866 (A) "decentralized autonomous organization";

1867 (B) "limited liability company";

1868 (C) "limited company";

1869 (D) "limited liability partnership";

1870 (E) "limited partnership"; or

1871 (F) "limited liability limited partnership"; or

1872 (ii) any word or abbreviation of similar import to a term listed in Subsection (2)(b)(i).

1873 (c) The name of an entity, other than a corporation formed in accordance with this title or a foreign entity authorized to transact business in this state may not contain:

1875 (i) the term:

1876 (A) "Corp.";

1877 (B) "corporation";

1878 (C) "Inc."; or

1879 (D) "incorporated"; or

1880 (ii) a word or abbreviation of similar import to a term listed in Subsection (2)(c)(i).

1881 (3)

1882 (a) The name of a limited partnership may contain the name of a partner.

1883 (b) The name of a limited partnership that is not a limited liability limited partnership:

1884 (i) shall contain:

1885 (A) the phrase "limited partnership"; or

1886 (B) the abbreviation "L.P." or "LP"; and

1887 (ii) may not contain:

1888 (A) the phrase "limited liability limited partnership" or "registered limited liability limited partnership";
or

1889 (B) the abbreviation "L.L.L.P.," "LLLP," "R.L.L.L.P.," or "RLLLP."

1890 (c) The name of a limited partnership that is a limited liability limited partnership:

1891 (i) shall contain:

1892 (A) the phrase "limited liability limited partnership"; or

1893 (B) the abbreviation "L.L.L.P.," "LLLP," "R.L.L.L.P.," or "RLLLP"; and

SB0040S01 compared with SB0040S02

1894 (ii) may not contain the abbreviation "L.P." or "LP."

1895 (d) The name of a limited partnership or a limited liability limited partnership or the name of a foreign limited partnership or a foreign limited liability limited partnership that registers to do business in this state may not contain:

1898 (i) the term:

1899 (A) "association";

1900 (B) "corporation";

1901 (C) "decentralized autonomous organization";

1902 (D) "incorporated";

1903 (E) "limited liability company"; or

1904 (F) "limited company"; or

1905 (ii) a word or abbreviation that is of similar import to a term listed in Subsection (3)(d)(i).

1907 (e) The name of an entity other than a limited partnership or a limited liability limited partnership or the name of a foreign limited partnership or a foreign limited liability partnership that registers to do business in this state may not contain:

1910 (i) the term:

1911 (A) "limited partnership";

1912 (B) "LP";

1913 (C) "L.P.";

1914 (D) "limited liability partnership";

1915 (E) "LLLP"; or

1916 (F) "L.L.L.P."; or

1917 (ii) a word or abbreviation that is of similar import to a term listed in Subsection (3)(e)(i).

1919 (4)

1920 (a) The name of a limited liability partnership shall contain:

1921 (i) the phrase "limited liability partnership" or "registered limited liability partnership"; or

1922 (ii) the abbreviation "L.L.P.," "R.L.L.P.," "LLP," or "RLLP."

1923 (b) The name of a limited liability partnership or a foreign limited liability partnership may not contain:

1925 (i) the term:

1926 (A) "association";

1927 (B) "corporation";

SB0040S01 compared with SB0040S02

1928 (C) "decentralized autonomous organization";
1929 (D) "incorporated";
1930 (E) "limited liability company";
1931 (F) "limited company";
1932 (G) "limited partnership"; or
1933 (H) "Ltd."; or
1934 (ii) a word or abbreviation that is of similar import to a term listed in Subsection (4)(b)(i).
1936 (c) The name of an entity other than a limited liability partnership or the name of a foreign limited liability partnership that registers to do business in this state may not contain:
1939 (i) the term:
1940 (A) "limited liability partnership";
1941 (B) "LLP"; or
1942 (C) "L.L.P."; or
1943 (ii) a word or abbreviation that is of similar import to Subsection (4)(c)(i).
1944 (5)
1945 (a) The name of a limited liability company shall contain:
1946 (i) the phrase "limited liability company" or "limited company"; or
1946 (ii) the abbreviation "L.L.C.," "LLC," "L.C.," or "LC."
1947 (b) A limited liability company's name may abbreviate the term:
1948 (i) "limited" as "Ltd."; and
1949 (ii) "company" as "Co."
1950 (c) The name of a limited liability company or a foreign limited liability company may not contain:
1952 (i) the term:
1953 (A) "association";
1954 (B) "corporation";
1955 (C) "decentralized autonomous organization";
1956 (D) "incorporated";
1957 (E) "partnership";
1958 (F) "limited partnership"; or
1959 (G) "L.P."; or
1960 (ii) a word or abbreviation that is of similar import to a term listed in Subsection (5)(c)(i).

SB0040S01 compared with SB0040S02

1962 (d) The name of an entity other than a limited liability company or the name of a foreign limited liability company authorized to do business in this state may not contain:

1964 (i) the term:

1965 (A) "limited liability company";

1966 (B) "limited company";

1967 (C) "L.L.C.";

1968 (D) "L.C.";

1969 (E) "LLC"; or

1970 (F) "LC"; or

1971 (ii) a word or abbreviation that is of similar import to a term listed in Subsection (5)(d)(i).

1973 (6)

1974 (a) The name of a limited cooperative association shall contain:

1975 (i) the phrase "limited cooperative association" or "limited cooperative"; or

1976 (ii) the abbreviation "L.C.A." or "LCA."

1977 (b) A limited cooperative association's name may abbreviate the term:

1978 (i) "association" as:

1979 (A) "Assn";

1980 (B) "Assn.>";

1981 (C) "Assoc"; or

1982 (D) "Assoc.>";

1983 (ii) "cooperative" as:

1984 (A) "Co-op.";

1985 (B) "Coop."; or

1986 (C) "Co-op"; and

1987 (iii) "limited" as "Ltd."

1988 (c) The name of entity other than a limited cooperative association may not contain:

1989 (i) the term:

1990 (A) "limited cooperative association";

1991 (B) "L.C.A."; or

1992 (C) "LCA"; or

1993 (ii) a word or abbreviation that is of similar import to a term listed in Subsection (6)(c)(i).

SB0040S01 compared with SB0040S02

1994 (7)

(a) The name of a professional corporation as set forth in the professional corporation's articles of incorporation:

1996 (i) shall contain the terms:

1997 (A) "professional corporation"; or

1998 (B) "P.C.";

1999 (ii) may not contain the words:

2000 (A) "incorporated"; or

2001 (B) "Inc."; and

2002 (iii) may not contain language stating or implying that the professional corporation is organized for a purpose other than that permitted by Section 16-11-6 and the professional corporation's articles of incorporation.

2005 (b) A person, other than a professional corporation formed or registered in accordance with this title, may not use in the person's name in this state the term:

2007 (i) "professional corporation"; or

2008 (ii) "P.C."

2009 (8)

(a) The name of a benefit limited liability company may contain:

2010 (i) the term:

2011 (A) "benefit limited liability company"; or

2012 (B) "benefit limited company"; or

2013 (ii) the abbreviation:

2014 (A) "B.L.L.C.";

2015 (B) "BLLC";

2016 (C) "B.L.C."; or

2017 (D) "BLC."

2018 (b) When contained in the name of a benefit limited liability company, the term:

2019 (i) "limited" may be abbreviated as "Ltd."; and

2020 (ii) "company" may be abbreviated as "Co."

2021 (9)

(a) The name of a limited liability decentralized autonomous organization shall contain:

SB0040S01 compared with SB0040S02

2023 (i) the term:

2024 (A) "limited liability decentralized autonomous organization"; or

2025 (B) "limited decentralized autonomous organization"; or

2026 (ii) the abbreviation:

2027 (A) "L.L.D.";

2028 (B) "LLD";

2029 (C) "L.D."; or

2030 (D) "LD.";

2031 (b) In the name of a decentralized autonomous organization:

2032 (i) "limited" may be abbreviated as "Ltd."; and

2033 (ii) "decentralized autonomous organization" may be abbreviated as "DAO."

2034 (c) The name of a decentralized autonomous organization may not contain:

2035 (i) the term:

2036 (A) "association";

2037 (B) "corporation";

2038 (C) "incorporated";

2039 (D) "partnership";

2040 (E) "limited liability company";

2041 (F) "limited partnership"; or

2042 (G) "L.P."; or

2043 (ii) a word or abbreviation that is of similar import to the terms listed in Subsection (9)(c)(i).

2045 (d) A person, other than a decentralized autonomous organization formed or registered in accordance with this title, may not use in the person's name in this state:

2047 (i) the term:

2048 (A) "limited liability decentralized autonomous organization"; or

2049 (B) "limited decentralized autonomous organization"; or

2050 (ii) the abbreviation:

2051 (A) "L.L.DAO";

2052 (B) "L.L.D.";

2053 (C) "L.DAO"; or

2054 (D) "L.D."

SB0040S01 compared with SB0040S02

2055 (10)

(a) The words, "business trust" shall be the last words of the name of every business trust registered under Chapter 15, Utah Business Trust Registration Act.

2057 (b) A person that participates in the omission of the words "business trust" in the commercial use of the name of the business trust, or knowingly acquiesces in the omission is liable for any indebtedness, damage, or liability resulting from the omission.

2070 Section 28. Section **28** is enacted to read:

2071 **16-1a-304. Reservation of name.**

2063 (1) A person may reserve the exclusive use of an entity name by delivering an application to the division for filing that states:

2065 (a) the name and address of the applicant; and

2066 (b) the name to reserve.

2067 (2) If the division determines that the entity name stated in the application described in Subsection (1) is available, the division shall reserve the name for the applicant's exclusive use for 120 calendar days after the day on which the division reserves the name.

2071 (3) A person that reserves a name in accordance with this section may transfer the reserved name to another person by delivering to the division a signed notice in a record of the transfer that states the name and address of the transferee.

2083 Section 29. Section **29** is enacted to read:

2084 **16-1a-305. Registration of name.**

2076 (1) A foreign filing entity not registered to do business in this state may register the foreign filing entity's name, or an alternate name adopted in accordance with Section 16-1a-507, if the name complies with Section 16-1a-302.

2079 (2) To register a name or an alternate name adopted in accordance with Section 16-1a-507, a foreign filing entity shall deliver to the division for filing an application that states:

2081 (a) the foreign filing entity's requested name;

2082 (b) the jurisdiction and date of the foreign filing entity's formation; and

2083 (c) any alternate name adopted in accordance with Section 16-1a-507.

2084 (3) If the division finds that the name requested in Subsection (2) is available, the division shall register the name for the applicant's exclusive use.

2086

SB0040S01 compared with SB0040S02

(4) The registration of a name under this section is effective for one year after the day on which the division registers the name as described in Subsection (3).

2088 (5)

(a) A foreign filing entity whose name registration is effective may renew the registration for a successive one-year period by delivering, not earlier than three months before the day on which the registration expires, to the division for filing a renewal application that complies with this section.

2092 (b) A renewal application renews the name's registration for one calendar year after the day on which the division files the renewal application described in this Subsection (5).

2095 (6) A foreign filing entity whose name registration is effective may register as a foreign filing entity under the registered name or consent in a signed record to the use of the registered name by another entity.

2107 Section 30. Section **30** is enacted to read:

2109 **16-1a-401. Definitions.**

4. Registered Agent of an Entity

Reserved.

2111 Section 31. Section **31** is enacted to read:

2112 **16-1a-402. Entities required to designate and maintain a registered agent.**

The following entities shall designate and maintain a registered agent in this state:

2105 (1) a domestic filing entity;

2106 (2) a registered foreign entity; and

2107 (3) a D.B.A.

2117 Section 32. Section **32** is enacted to read:

2118 **16-1a-403. Address in filing.**

If a provision in this chapter, other than Section 16-1a-410, requires that a record state an address, the record shall state:

2112 (1) a street address in this state; and

2113 (2) a mailing address in this state, if different from the address described in Subsection (1).

2123 Section 33. Section **33** is enacted to read:

2124 **16-1a-404. Designation of a registered agent.**

2116 (1) A represented entity shall sign a registered agent filing and include in the registered agent filing:

2118 (a) the name of the represented entity's commercial registered agent; or

SB0040S01 compared with SB0040S02

2119 (b) if the represented entity does not have a commercial registered agent:
2120 (i) the name and address of the represented entity's noncommercial registered agent; or
2122 (ii)
2123 (A) the title of an office or other position within the represented entity where an individual holding that
2124 office or position may accept service of process, notice, or demand may accept service on behalf of
2125 the represented entity; and
2126 (B) the mailing address of the title or other position described in Subsection (1)(b)(ii)(A).
2127 (2) A represented entity, by designating a registered agent in accordance with Subsection (1)(a) or (1)
2128 (b), affirms that the designated registered agent consents to serve as a registered agent.
2129 (3)
2130 (a) As soon as practicable, the division shall make available in a record a daily list of filings that contain
2131 the name of each registered agent.
2132 (b) The division shall ensure that the list described in Subsection (3)(a):
2133 (i) is available for at least 14 calendar days after the day on which the division makes the list available;
2134 (ii) lists, in alphabetical order, the names of the registered agents; and
2135 (iii) states the type of filing and name of the represented entity making the filing.
2136 Section 34. Section 34 is enacted to read:
2137 **16-1a-405. Listing of a commercial registered agent.**
2138 (1) A person may become listed as a commercial registered agent by delivering to the division for filing
2139 a commercial registered agent listing statement that states:
2140 (a)
2141 (i) the name of the individual applying to become a commercial registered agent; or
2142 (ii)
2143 (A) the name of the entity applying to become a commercial registered agent;
2144 (B) the type of entity applying to become a commercial registered agent; and
2145 (C) the jurisdiction in which the entity formed;
2146 (b) that the person serves as a commercial registered agent in this state; and
2147 (c) the person's physical address for the person's place of business where the person may receive service
2148 of process, notices, or demands sent to an entity represented by the person.
2149 (2) A commercial registered agent listing statement may include information regarding the agent
2150 accepting service of process, notices, and demands in a form other than a written record.

SB0040S01 compared with SB0040S02

2152 (3) If the name of the person delivering the record to the division for filing a commercial registered agent listing statement is not distinguishable on the records of the division from the name of another commercial registered agent listed under this section, the person delivering the record shall:

2156 (a) adopt a fictitious name that is distinguishable from the name of another commercial registered agent under this section; and

2158 (b) use the fictitious name in the person's statement and when the person does business in this state as a commercial registered agent.

2160 (4)

2163 (a) The division shall note the filing of a commercial registered agent listing statement in the records maintained by the division for each entity represented by the commercial registered agent at the time of the filing.

2166 (b) A commercial registered agent listing statement described in Subsection (4)(a) amends the registered agent filing for each entity represented by a commercial registered agent by:

2168 (i) designating the person becoming listed as a commercial registered agent as the commercial registered agent of each entity; and

2170 (ii) deleting the name and address of the former commercial registered agent from the registered agent filing of each entity.

2172 Section 35. Section 35 is enacted to read:

2174 **16-1a-406. Termination of listing of a commercial registered agent.**

2176 (1) A commercial registered agent may terminate the commercial registered agent's listing as a commercial registered agent by delivering to the division for filing a commercial registered agent termination statement signed by the commercial registered agent that states:

2178 (a) the name of the commercial registered agent described in Section 16-1a-405; and

2180 (b) that the agent no longer conducts the business of serving as a commercial registered agent in this state.

2182 (2) A commercial registered agent termination statement takes effect at 12:01 a.m. 31 days after the day on which the division files the commercial registered agent termination statement.

2185 (3) The commercial registered agent shall promptly furnish to each entity the commercial registered agent represents a notice of the filing of the commercial registered agent termination statement.

SB0040S01 compared with SB0040S02

(4) When a commercial registered agent termination statement takes effect, the commercial registered agent ceases to be the commercial registered agent for each entity the commercial registered agent formerly represented.

2188 (5) Notwithstanding Subsection (4), a person may deliver service of process to a commercial registered agent after the commercial registered agent termination takes effect, until an entity formerly represented by the commercial registered agent designates a new commercial registered agent.

2192 (6) A commercial registered agent terminating the commercial registered agent's listing under this section does not affect a contractual right that:

2194 (a) a represented entity has against the commercial registered agent; or

2195 (b) a commercial registered agent has against a represented entity.

2205 Section 36. Section 36 is enacted to read:

16-1a-407. Change of registered agent by a represented entity.

2198 (1) A represented entity may change the information the division has on file under Section 16-1a-404 by delivering to the division for filing a statement of change signed by the represented entity that states:

2201 (a) the name of the new registered agent; and

2202 (b) the information that the filing of the statement of change will amend.

2203 (2) The interest holders or governors of a domestic entity are not required to approve the filing of:

2205 (a) a statement of change under this section; or

2206 (b) a similar filing changing the registered agent or registered office, if applicable, of the entity in another jurisdiction.

2208 (3) A statement of change filed under this section that designates a new registered agent is an affirmation of fact by the registered entity that the new registered agent consents to serve as the registered entity's new registered agent.

2211 (4) In addition to the process described in Subsection (1), a represented entity may change the information the division has on file under Section 16-1a-404 by amending the represented entity's most recent registered agent filing in a manner provided by law.

2223 Section 37. Section 37 is enacted to read:

16-1a-408. Change of name or address by a noncommercial registered agent.

2224 (1) If a noncommercial registered agent changes the noncommercial registered agent's name or address with respect to a represented entity, the noncommercial registered agent shall deliver to the division

SB0040S01 compared with SB0040S02

for filing, with respect to each entity the noncommercial registered agent represents, a statement of change signed by the agent that states:

- 2220 (a) the name of the represented entity;
- 2221 (b) the name and address of the noncommercial registered agent in effect with respect to the entity;
- 2223 (c) if the noncommercial registered agent changes the noncommercial registered agent's name, the new name; and
- 2225 (d) if the noncommercial registered agent changes the noncommercial registered agent's address, the new address.

2227 (2) A noncommercial registered agent shall promptly furnish to the represented entity:

- 2228 (a) a notice of the delivery to the division for filing a statement of change; and
- 2229 (b) each change made in the statement of change.

2239 Section 38. Section 38 is enacted to read:

16-1a-409. Change of name, address, type of entity, or jurisdiction of formation by a commercial registered agent.

- 2233 (1) If a commercial registered agent changes the commercial registered agent's name, address as listed under Section 16-1a-405, type of entity, or jurisdiction of formation, the commercial registered agent shall deliver to the division for filing a statement of change signed by the commercial registered agent that states:
 - 2237 (a) the name of the commercial registered agent the commercial registered agent provided to the division in accordance with Section 16-1a-405;
 - 2239 (b) if the commercial registered agent changes the commercial registered agent's name, the new name;
 - 2241 (c) if the commercial registered agent changes the commercial registered agent's address, the new address; and
 - 2243 (d) if the commercial registered agent is an entity:
 - 2244 (i) if the commercial registered agent changes the commercial registered entity's type of entity, the new type of entity; and
 - 2246 (ii) if the commercial registered agent changes the commercial registered entity's jurisdiction of formation, the new jurisdiction of formation.
- 2248 (2) The filing of a statement of change described in Subsection (1) by the division changes the information regarding the commercial registered agent with respect to each entity the commercial registered agent represents.

SB0040S01 compared with SB0040S02

2251 (3) A commercial registered agent shall promptly furnish to each entity that the commercial registered agent represents a notice of the statement of change that describes the changes made in the statement of change.

2254 (4)
(a) If a commercial registered agent changes the commercial registered agent's address without delivering for filing a statement of change as required by this section, the division may cancel the listing of the agent under Section 16-1a-405.

2257 (b) If the division cancels the listing of an agent as described in this Subsection (4), the division's cancellation has the same effect as a termination of a listing of a commercial registered agent under Section 16-1a-406.

2260 (c) After canceling the listing of an commercial registered agent, the division shall serve notice in a record on:

2262 (i)
(A) each entity that the commercial registered agent represents, stating that the commercial registered agent is no longer the registered agent for the entity; and
(B) until the entity designates a new commercial registered agent, a person may make service of process on the entity; and

2266 (ii) the commercial registered agent, stating that the division has canceled the listing of the commercial registered agent in accordance with this section.

2277 Section 39. Section 39 is enacted to read:

2278 **16-1a-410. Resignation of a registered agent.**

2270 (1) A registered agent may resign as the registered agent for a represented entity by delivering to the division for filing a statement of resignation signed by the registered agent that states:

2273 (a) the name of the represented entity;
(b) the name of the registered agent;
(c) that the registered agent resigned from serving as the registered agent for the represented entity; and
(d) the address of the represented entity to which the agent will send the notice required by Subsection (3).

2279 (2) A statement of resignation takes effect on the earlier of:
(a) 12:01 a.m. on the 31st day after the day on which the division files the statement of resignation; or

2282

SB0040S01 compared with SB0040S02

(b) the represented entity for which the statement of resignation applies designates a new registered agent.

2284 (3) A registered agent shall promptly furnish to the represented entity notice in a record of the date on which the division files the statement of resignation.

2286 (4) When a statement of resignation takes effect, the person that resigned ceases to have responsibility under this chapter for any matter presented to the person for the represented entity.

2289 (5) Notwithstanding Subsection (4), a statement of resignation does not affect any contractual rights:

2291 (a) a represented entity has against the registered agent; or

2292 (b) the registered agent has against the represented entity.

2293 (6) A registered agent may resign in accordance with this section regardless of whether the represented entity is current with the division.

2304 Section 40. Section **40** is enacted to read:

2305 **16-1a-411. Designation of a registered agent by a nonregistered foreign entity or a nonfiling domestic entity.**

2298 (1) A nonregistered foreign entity or a nonfiling domestic entity may deliver to the division for filing a statement that designates a registered agent signed by the nonregistered foreign entity or the nonfiling domestic entity that states:

2301 (a) the name, type of entity, and jurisdiction of formation of the nonregistered foreign entity or the nonfiling domestic entity; and

2303 (b) the information required by Subsection 16-1a-404(1).

2304 (2) A statement described in Subsection (1) is effective for five years after the day on which the division files the statement, unless the nonregistered foreign entity or the nonfiling domestic entity cancels the statement earlier.

2307 (3)

2309 (a) A person authorized to manage the affairs of the nonregistered foreign entity or the domestic nonfiling entity shall sign the statement described in Subsection (1).

2310 (b) By signing the statement in Subsection (1), the person signing affirms that:

2312 (i) the person is authorized to manage the affairs of the nonregistered foreign entity or the nonfiling domestic entity; and

(ii) the registered agent consents to serve as the registered agent for the nonregistered foreign entity or the nonfiling domestic entity.

SB0040S01 compared with SB0040S02

2314 (4) The designation of a registered agent in accordance with Subsection (1) does not register a
nonregistered foreign entity to do business in this state.

2316 (5) The division may not reject a statement described in Subsection (1) for filing because the name
of the nonregistered foreign entity or the nonfiling domestic entity is not distinguishable on the
division's records from the name of another entity that appears on the division's records.

2320 (6) The division filing a statement described in Subsection (1) does not make the name of the
nonregistered foreign entity or the nonfiling domestic entity signing the statement available for use
by another entity.

2323 (7) A nonregistered foreign entity or a nonfiling domestic entity that delivers to the division for filing
a statement described in Subsection (1) may cancel the statement by delivering to the division for
filing a statement of cancellation that states:

2326 (a) the name of the nonregistered foreign entity or the nonfiling domestic entity; and

2327 (b) that the nonregistered foreign entity or the nonfiling domestic entity cancels the nonregistered
foreign entity's or the nonfiling domestic entity's designation as a registered agent in this state.

2330 (8) A statement described in Subsection (1) for a nonregistered foreign entity terminates on the day on
which the nonregistered foreign entity becomes a registered foreign entity.

2341 Section 41. Section 41 is enacted to read:

2342 **16-1a-412. Service of process, notice, or demand on entity.**

2334 (1) A person may serve a represented entity with any process, notice, or demand required or permitted
by law by serving the represented entity's registered agent.

2336 (2)

2337 (a) If a represented entity ceases to have a registered agent, or if a person cannot with reasonable
diligence serve the represented entity's registered agent, the person may serve the registered entity
by:

2339 (i) registered or certified mail, return receipt requested; or

2340 (ii) a similar commercial delivery service, addressed to the registered entity at the registered entity's
principal office.

2342 (b) A domestic filing entity or a registered foreign entity shall list the domestic filing entity's or the
registered foreign entity's address in the domestic filing entity's or the registered foreign entity's
most recent annual report that the division files.

2345 (c) Service is considered effective under this Subsection (2) on the earlier of:

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2346 (i) the day on which the represented entity receives the mail or delivery by the commercial delivery service;

2348 (ii) the day shown on the return receipt, if the represented entity signs a return receipt; or

2350 (iii) five days after the day on which the person serving the represented entity provides the process, notice, or demand the person intends to serve on the represented entity to the United States Postal Service or commercial delivery service, if the person provides to the United States Postal Service or commercial delivery service:

2355 (A) the correct address for the represented entity; and

2356 (B) sufficient postage and payment.

2357 (3) If a person cannot serve a process, notice, or demand to a represented entity in accordance with Subsection (1) or (2), the person may make service by delivering the process, notice, or demand to the individual in charge of any regular place of business or activity of the represented entity if the individual whom the person serves is not also a party to the action.

2362 (4)

2364 (a) Except as provided in Subsection (4)(b), a person shall serve a represented entity process, notice, or demand in a written record.

(b) A person may service process, notice, or demand on a commercial registered agent in a form other than a written record, subject to the requirements the commercial registered agent sets in accordance with Section 16-1a-405.

2376 Section 42. Section 42 is enacted to read:

2377 **16-1a-413. Duties of a registered agent.**

2370 A registered agent that complies with this part shall:

2373 (1) forward to the represented entity at the address the represented entity most recently provides to the registered agent any process, notice, or demand that pertains to the represented entity that the registered agent receives or a person serves on the agent;

(2) provide each notice required by this part to the represented entity at the address the represented entity most recently provides to the registered agent;

2375 (3) if the registered agent is a noncommercial registered agent, keep current the information required by Subsection 16-1a-404(1) in the most recent registered agent filing for the registered entity; and

2378 (4) if the registered agent is a commercial registered agent, keep current the information listed in Subsection 16-1a-405(1).

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2389 Section 43. Section **43** is enacted to read:

2390 **16-1a-414. Jurisdiction and venue.**

2382 (1) A represented entity designating or maintaining a registered agent in this state does not create a basis for personal jurisdiction over the represented entity in this state.

2384 (2) The address of a represented entity's registered agent does not determine venue in an action or proceeding involving the represented entity.

2395 Section 44. Section **44** is enacted to read:

2397 **16-1a-501. Definitions.**

5. Foreign Entities

Reserved.

2399 Section 45. Section **45** is enacted to read:

2400 **16-1a-502. Governing law.**

2392 (1) The law of the jurisdiction of formation of an entity governs:

2393 (a) the internal affairs of the entity;

2394 (b) the liability of a person as an interest holder or governor for a debt, obligation, or other liability of the entity; and

2396 (c) the liability of a series of a limited liability company or other unincorporated entity.

2397 (2) A difference between the law of an entity's jurisdiction of formation and the law of this state does not preclude a foreign entity from registering to do business in this state.

2399 (3) A foreign entity registering to do business in this state does not authorize the foreign entity to engage in an activity or affair or exercise a power in which a domestic entity of the same type may not engage in this state.

2402 (4) Subsections (1) and (2) apply regardless of whether a foreign entity fails to register to do business in this state in accordance with Section 16-1a-503.

2413 Section 46. Section **46** is enacted to read:

2414 **16-1a-503. Registration to do business in this state.**

2406 (1) A filing foreign entity may not do business in this state until the filing foreign entity registers with the division in accordance with this chapter.

2408 (2) A filing foreign entity doing business in this state may not maintain an action or proceeding in this state unless the filing foreign entity registers to do business in this state.

2411 (3) The failure of a filing foreign entity to register to do business in this state does not:

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2412 (a) impair the validity of a contract or act of the filing foreign entity; or
2413 (b) preclude the filing foreign entity from defending an action or proceeding in this state.
2414 (4) A foreign unincorporated entity, a series of a foreign unincorporated entity, a filing foreign entity, or a foreign limited liability partnership does not waive the limitation on the liability of a series of a foreign unincorporated entity, an interest holder of a filing foreign entity, a governor of a filing foreign entity, or a partner of a foreign limited liability partnership because the foreign unincorporated entity, the series of a foreign unincorporated entity, the filing foreign entity, or the foreign limited liability partnership does business in this state without registering to do business in this state.

2430 Section 47. Section **47** is enacted to read:

2431 **16-1a-504. Foreign registration statement.**

2423 (1) To do business in this state, a filing foreign entity shall deliver a foreign registration statement to the division for filing.
2425 (2) A filing foreign entity shall sign the foreign registration statement described in Subsection (1) and include in the statement:
2427 (a) the name of the filing foreign entity;
2428 (b) if the name of the filing foreign entity does not comply with Section 16-1a-302, an alternate name the filing foreign entity adopts in accordance with Section 16-1a-507;
2430 (c) the filing foreign entity's type of entity;
2431 (d) if the filing foreign entity is a foreign limited partnership, whether the foreign limited partnership is a foreign limited liability limited partnership;
2433 (e) the filing foreign entity's or jurisdiction of formation;
2434 (f) the filing foreign entity's street and mailing address for the filing foreign entity's principal office;
2436 (g) if the law of the filing foreign entity's or jurisdiction of formation requires the filing foreign entity to maintain an office in the jurisdiction of formation, the street and mailing address of the office in the jurisdiction of formation; and
2439 (h) the information required by Section 16-1a-305.
2440 (3)
(a) A filing foreign entity shall include with the foreign registration statement described in Subsection (1) a certificate of existence, or a document of similar import, that the lieutenant governor or other

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official that has custody of corporate records in the filing foreign entity's jurisdiction of formation authorizes.

2444 (b) A certificate of existence described in this Subsection (3) shall be dated within 90 days before the day on which the foreign filing entity delivers the foreign registration statement to the division for filing.

2456 Section 48. Section **48** is enacted to read:

16-1a-505. Amending a foreign registration statement.

2449 (1) Subject to Subsection (2), a registered foreign entity shall sign and deliver to the division for filing an amendment to the registered foreign entity's foreign registration statement if one of the following changes:

2452 (a) the registered foreign entity's name;
2453 (b) the registered foreign entity's jurisdiction of formation;
2454 (c) an address required by Section 16-1a-403; or
2455 (d) the information required by Section 16-1a-305.

2456 (2) (a) If information described in Subsection (1)(a) or (b) changes, a foreign filing entity shall deliver with the amendment described in Subsection (1) a certificate of existence, or a document of similar import that the lieutenant governor or other official that has custody of corporate records in the filing foreign entity's jurisdiction of formation authorizes.

2461 (b) A certificate of existence described in this Subsection (2) shall be dated within 90 days before the day on which the foreign filing entity delivers the amendment to the division for filing.

2473 Section 49. Section **49** is enacted to read:

16-1a-506. Activities that do not constitute doing business.

2466 (1) The following activities of a filing foreign entity do not constitute doing business in this state:
2468 (a) maintaining, defending, mediating, arbitrating, or settling an action or proceeding;
2469 (b) carrying on an activity concerning the filing foreign entity's internal affairs, including holding meetings of the filing foreign entity's interest holders or governors;
2471 (c) maintaining an account in a financial institution;
2472 (d) maintaining an office or an agency for the transfer, exchange, and registration of the filing foreign entity's or the foreign limited liability partnership's securities;
2474 (e) maintaining a trustee or a depository for the filing foreign entity's securities;

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2475 (f) selling through an independent contractor;

2476 (g) soliciting or obtaining an order by any means if the order requires acceptance outside this state
before the order becomes a contract;

2478 (h) creating or acquiring indebtedness, a mortgage, or a security interest in property;

2479 (i) securing or collecting a debt;

2480 (j) enforcing a mortgage or a security interest in a property;

2481 (k) holding, protecting, or maintaining property the filing foreign entity acquires by enforcing a
mortgage or a security interest;

2483 (l) conducting an isolated transaction that is outside the scope of the filing foreign entity's ordinary
course of business;

2485 (m) owning real property; and

2486 (n) doing business that constitutes interstate commerce.

2487 (2) A person does not do business in this state by being an interest holder or a governor of a foreign
entity that does business in this state.

2489 (3) This section does not apply when determining whether the contacts or activities subject a filing
foreign entity to service of process, taxation, or regulation under a law of this state outside of this
chapter.

2501 Section 50. Section **50** is enacted to read:

16-1a-507. Noncomplying name of a foreign entity.

2494 (1)

2502 (a) A filing foreign entity whose name does not comply with Section 16-1a-302 may not register to do
business in this state until the filing foreign entity adopts, for the purpose of doing business in this
state, an alternate name that complies with Section 16-1a-302.

2498 (b) A filing foreign entity that registers under an alternate name under this Subsection (1) is not required
to comply with Title 42, Chapter 2, Conducting Business as a D.B.A.

2500 (2) After registering to do business in this state with an alternate name, a filing foreign entity described
in Subsection (1) shall do business in this state under:

2502 (a) the alternate name;

2503 (b) the filing foreign entity's name, with the addition of the filing foreign entity's jurisdiction of
formation; or

2505

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(c) a name Title 42, Chapter 2, Conducting Business as a D.B.A., authorizes the filing foreign entity or to use.

2507 (3) If a filing foreign entity changes the filing foreign entity's name to a name that does not comply with Section 16-1a-302, the filing foreign entity may not do business in this state until the filing foreign entity complies with Subsection (1).

2519 Section 51. Section 51 is enacted to read:

16-1a-508. Withdrawal of registration of registered foreign entity.

2512 (1) A registered foreign entity may withdraw the registered foreign entity's registration by delivering a statement of withdrawal to the division for filing.

2514 (2) A registered foreign entity shall sign the statement of withdrawal described in Subsection (1) and state on the statement of withdrawal:

2516 (a) the registered foreign entity's name;

2517 (b) the registered foreign entity's jurisdiction of formation;

2518 (c)

2519 (i) that the registered foreign entity does not currently do business in this state; and

2521 (ii) that the registered foreign entity withdraws the registered foreign entity's registration to do business in this state;

2523 (d) an address to which a person may make service of process to the registered foreign entity as described in Subsection (3); and

2526 (e) if the registered foreign entity is a foreign corporation or foreign nonprofit corporation, the federal employer identification number of the registered foreign entity.

2530 (3) After a registered foreign entity withdraws the registered foreign entity's registration in accordance with this section, a person may make service of process in an action or proceeding based on a cause of action arising during the time the entity was registered to do business in this state in accordance with Section 16-1a-412.

2531 (4) A registered foreign entity withdraws the registered foreign entity's registration:

2533 (a) on the effective date of a conversion, if the registered foreign entity converts to a filing domestic entity;

2535 (b) on the effective date of a merger, if the registered foreign entity is not the surviving entity after the merger occurs; or

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(c) on the effective date of a domestication, if the registered foreign entity becomes a registered domestic entity through domestication.

2537

(5)

(a) After receiving a foreign corporation's or a foreign nonprofit corporation's statement of withdrawal, the division shall:

2539

(i) provide the State Tax Commission with the foreign corporation's or the foreign nonprofit corporation's federal employer identification number; and

2541

(ii) request that the State Tax Commission certify that the foreign corporation or foreign nonprofit corporation is in good standing.

2543

(b) The State Tax Commission shall certify that a foreign corporation or a foreign nonprofit corporation is in good standing if the foreign corporation or foreign nonprofit corporation pays each tax, fee, and penalty the foreign corporation or foreign nonprofit corporation owes to the State Tax Commission.

2547

(c) If a foreign corporation or a foreign nonprofit corporation is not in good standing as described in Subsection (5)(b), the State Tax Commission shall:

2549

(i) notify the division that the foreign corporation or the foreign nonprofit corporation is not in good standing; and

2551

(ii)

(A) notify the foreign corporation or the foreign nonprofit corporation that the foreign corporation or the foreign nonprofit corporation is not in good standing; and

2554

(B) provide the foreign corporation or the foreign nonprofit corporation a detailed explanation as to why the foreign corporation or foreign nonprofit corporation is not in good standing.

2566

Section 52. Section 52 is enacted to read:

2567

16-1a-509. Transfer of registration.

2559

(1) If a registered foreign entity merges with a nonregistered foreign entity or converts to a foreign entity that is required to register with the division to do business in this state, the foreign entity shall deliver to the division for filing an application for a transfer of registration.

2563

(2) A surviving or converted entity described in Subsection (1) shall sign an application for a transfer of registration and state on the application for a transfer of registration:

2565

(a) the registered foreign entity's name before the merger or conversion;

2566

(b) the type of entity the surviving or converted entity was before the merger or conversion;

2568

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(c) the name of the surviving or converted entity, and if the name does not comply with Section 16-1a-302, an alternate name adopted in accordance with Section 16-1a-507;

(d) the surviving or converted entity's type of entity;

(e) the surviving or converted entity's jurisdiction of formation; and

(f) the following information relating to the surviving or converted entity, if different from the information for the registered foreign entity before the merger or conversion:

(i) the street and mailing addresses of the surviving or converted entity;

(ii) if the law of the surviving or converted entity's jurisdiction of formation requires that the surviving or converted entity maintain an office in the jurisdiction of formation, the street and mailing address of that office; and

(iii) the information required in accordance with Section 16-1a-305.

Section 53. Section **53** is enacted to read:

16-1a-510. Termination of registration.

(1) The division may terminate a registered foreign entity's registration in the manner described in Subsection (2) or (3) if the registered foreign entity fails to:

(a) pay a fee, tax, interest, or penalty that the division requires, within 60 days after the day on which the division requires payment;

(b) deliver to the division for filing an annual report that the division requires, within 60 days after the division requires that the division file the annual report;

(c) designate a registered agent as required in Section 16-1a-402; or

(d) deliver to the division for filing a statement of change as described in Section 16-1a-407 within 30 days after the day on which a change occurs in the registered foreign entity's registered agent's name or address.

(2) The division may terminate the registration of a registered foreign entity by:

(a) filing a notice of termination or noting the termination in the division's records; and

(b) delivering a copy of the notice or a copy of the information in the notation in the division's records to:

(i) the registered foreign entity's registered agent; or

(ii) if the registered foreign entity does not have a registered agent, to the registered foreign entity's principal office.

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(3) The division shall include in a notice of termination or a notation in the division's records described in Subsection (2):

2600 (a) the effective date of the termination, which the division shall set at least 60 days after the day on which the division delivers the copy of the notice or copy of the information in the notation in the division's records; and

2603 (b) the grounds under which the division terminates the registered foreign entity's registration under Subsection (1).

2605 (4) The registration of a registered foreign entity to do business in this state ends on the effective date of the notice of termination or notation in the division's records described in Subsection (2), unless before the effective date, the entity cures each ground for termination the division states in the notice of termination or notation in the division's records.

2610 (5) If a registered foreign entity cures each ground for termination in accordance with Subsection (4), the division shall file a record stating that the registered foreign entity has cured each ground for termination.

2622 Section 54. Section **54** is enacted to read:

2624 **16-1a-601. Definitions.**

6. Administrative Dissolution

Reserved.

2626 Section 55. Section **55** is enacted to read:

2627 **16-1a-602. Grounds for administrative dissolution of a domestic filing entity.**

The division may bring an action to dissolve a domestic filing entity administratively if the domestic filing entity fails to:

2621 (1) pay a fee, tax, interest, or penalty that the division requires, within six months after the day on which the division requires payment;

2623 (2) deliver to the division for filing an annual report not later than 60 days after the day on which the annual report is due; or

2625 (3) maintain a registered agent in this state for 60 consecutive calendar days.

2635 Section 56. Section **56** is enacted to read:

2636 **16-1a-603. Procedure and effect of administrative dissolution of a domestic filing entity.**

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(1) If the division determines that one or more conditions for administrative dissolution described in Section 16-1a-602 exist, the division shall serve the domestic filing entity with a notice of the division's determination.

(2) A domestic filing entity may for up to 60 days after the day on which the division serves the notice described in Subsection (1):

(a) cure each condition the division lists in the notice; or

(b) demonstrate to the satisfaction of the division that each condition the division lists in the notice does not exist.

(3) If a domestic filing entity fails to comply with Subsection (2)(a) or (b) within the time limit described in Subsection (2), the division shall administratively dissolve the domestic filing entity by signing a statement of administrative dissolution that states:

(a) each condition that prompted the dissolution; and

(b) the effective date of the dissolution.

(4) A domestic filing entity that the division administratively dissolves continues the domestic filing entity's existence as the same type of entity but may not conduct any activity except an activity that is necessary to:

(a)

(i) wind up the domestic filing entity's activities and affairs; and

(ii) liquidate the domestic filing entity's assets in the manner provided in the domestic filing entity's domestic law; or

(b) apply for reinstatement in accordance with Section 16-1a-604.

(5) The administrative dissolution of a domestic filing entity does not terminate the authority of the domestic filing entity's registered agent.

Section 57. Section **57** is enacted to read:

16-1a-604. Reinstatement of a domestic filing entity.

(1) A domestic filing entity that is administratively dissolved under Section 1-1a-603 may apply to the division for reinstatement under the domestic filing entity's same name at any time after the effective date of dissolution if the domestic filing entity's name is available and the domestic filing entity delivers to the division for filing an application for reinstatement that states:

(a) the name of the domestic filing entity at the time of the domestic filing entity's administrative dissolution and, if needed, a different name that satisfies Section 16-1a-302;

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2661 (b) the address of the principal office of the domestic filing entity and the name and address of the
domestic filing entity's registered agent;

2663 (c) the effective date of the domestic filing entity's administrative dissolution;

2664 (d) that the domestic filing entity has paid all fees or penalties imposed under this chapter or other
applicable state law;

2666 (e) that the domestic filing entity:

2667 (i) has paid any tax, fee, or penalty the domestic filing entity owes to the State Tax Commission; or

2669 (ii) is current on a payment plan with the State Tax Commission for any tax, fee, or penalty the
domestic filing entity owes to the State Tax Commission;

2671 (f) that the grounds for dissolution do not exist or have been cured;

2672 (g) the federal employer identification number of the domestic filing entity if the domestic filing entity
is organized under:

2674 (i) Chapter 6a, Utah Revised Nonprofit Corporation Act;

2675 (ii) Chapter 10a, Utah Revised Revised Business Corporation Act;

2676 (iii) Chapter 10b, Benefit Corporation Act; or

2677 (iv) Chapter 11, Professional Corporation Act; and

2678 (h) any additional information the division determines to be necessary or appropriate.

2679 (2) A domestic filing entity administratively dissolved under Section 16-1a-603 on or after May 1,
2019, but before May 1, 2024, may apply for reinstatement under the domestic filing entity's same
name if the domestic filing entity's name is available and the domestic filing entity delivers to the
division for filing an application for reinstatement that satisfies the requirements of Subsection (1).

2684 (3) A domestic filing entity retains the domestic filing entity's name and D.B.A., as described in Section
42-2-105, for five years after the day on which the dissolution is effective.

2687 (4)

2692 (a) After receiving a domestic filing entity's application for reinstatement, if the domestic filing entity is
organized under Chapter 6a, Utah Revised Nonprofit Corporation Act, Chapter 10a, Utah Revised
Business Corporation Act, Chapter 10b, Benefit Corporation Act, or Chapter 11, Professional
Corporation Act, the division shall:

2694 (i) provide to the State Tax Commission the domestic filing entity's federal employer identification
number; and

2694 (ii) request that the State Tax Commission certify that the domestic filing entity is in good standing.

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2696 (b) The State Tax Commission shall certify that a domestic filing entity is in good standing if the
domestic filing entity:

2698 (i) has paid each tax, fee, and penalty the domestic filing entity owes to the State Tax Commission; or
2700 (ii) is current on a payment plan with the State Tax Commission for each tax, fee, or penalty the
domestic filing entity owes to the State Tax Commission.

2702 (c) If a domestic filing entity is not in good standing as described in Subsection (4)(b), the State Tax
Commission shall:

2704 (i) notify the division, stating that the domestic filing entity is not in good standing;
2705 (ii) notify the domestic filing entity that the domestic filing entity is not in good standing; and
2707 (iii) provide to the domestic filing entity a detailed explanation of why the domestic filing entity is not
in good standing.

2709 (5) With respect to a domestic filing entity applying for reinstatement in accordance with Subsection
(1), if the following conditions are met, the division shall take the actions described in Subsection
(6):

2712 (a) the division determines that an application under Subsection (1) contains the information required
by Subsection (1) and that the information contained in the application is correct;
2715 (b) the division determines that the domestic filing entity has made each payment that the domestic
filing entity is required to make to the division by Subsection (1)(d);
2717 (c) the domestic filing entity is organized under Chapter 6a, Utah Revised Nonprofit Corporation Act,
Chapter 10a, Utah Revised Business Corporation Act, Chapter 10b, Benefit Corporation Act, or
Chapter 11, Professional Corporation Act; and
2720 (d) the State Tax Commission certifies that the domestic filing entity is in good standing as described in
Subsection (4)(b).

2722 (6) If the conditions of Subsection (5) are met, the division shall:

2723 (a) cancel the administrative dissolution of the domestic filing entity;
2724 (b) prepare a statement of reinstatement that states:

2725 (i) how each condition of Subsection (5) is met; and
2726 (ii) the effective date of reinstatement;
2727 (c) file the statement of reinstatement; and
2728 (d) serve a copy of the statement of reinstatement on the domestic filing entity.

2729 (7) When reinstatement under this section is effective, the following rules apply:

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2730 (a) the reinstatement relates back to and takes effect as of the effective date of the administrative
dissolution;

2732 (b) the domestic filing entity may resume the domestic filing entity's activities and affairs as if the
administrative dissolution had not occurred; and

2734 (c) the rights of a person arising out of an act or omission in reliance on the dissolution before the
person knew or had notice of the reinstatement are not affected.

2745 Section 58. Section **58** is enacted to read:

16-1a-605. Judicial review of a denial of reinstatement.

2738 (1) If the division denies a domestic filing entity's application for reinstatement that complies with the
provisions of this part, the division shall serve the domestic filing entity with a notice in a record
that explains the reasons for this denial.

2741 (2) A domestic filing entity may seek judicial review of the division's denial of the domestic filing
entity's reinstatement from a court with jurisdiction for up to 30 days after the day on which the
division serves the domestic filing entity notice of the denial of reinstatement.

2754 Section 59. Section **59** is enacted to read:

16-1a-701. Definitions.

7. Merger

Reserved.

2758 Section 60. Section **60** is enacted to read:

16-1a-702. Merger authorized.

2751 (1) By complying with this part:

2752 (a) one or more domestic entities may merge with one or more domestic entities or foreign entities into
a domestic or foreign entity or a foreign surviving entity; and

2754 (b) two or more foreign entities may merge into a domestic entity.

2755 (2) Subject to the provisions of this part, a foreign entity may be a part to a merger or may be the
surviving entity in a merger if the merger is authorized by the law of the foreign entity's jurisdiction
of formation.

2767 Section 61. Section **61** is enacted to read:

16-1a-703. Plan of merger.

2760 (1) A domestic entity may become a party to a merger by approving a plan of merger.

2761 (2) A plan of merger shall contain:

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2762 (a) each merging entity's:
2763 (i) name;
2764 (ii) jurisdiction of formation; and
2765 (iii) type of entity;
2766 (b) if the merger creates a surviving entity:
2767 (i) a statement stating that the merger creates a surviving entity; and
2768 (ii) the surviving entity's:
2769 (A) name;
2770 (B) jurisdiction of formation; and
2771 (C) type of entity;
2772 (c) if the surviving entity exists before the merger, any proposed amendment to the surviving entity's:
2774 (i) public organic record; and
2775 (ii) private organic rules that are, or that the surviving entity proposes to be, in a record;
2777 (d) the manner by which the interest of each party to the merger will convert to an interest, a security, an obligation, money, property, or a right to acquire an interest or security in the surviving entity;
2780 (e) all other terms and conditions of the merger; and
2781 (f) any other provision required by the law of a merging entity's jurisdiction of formation or the organic rules of a merging entity.

2792 Section 62. Section **62** is enacted to read:

16-1a-704. Approval of merger.

2785 (1) A plan of merger is not effective unless:
2786 (a) a domestic merging entity approves the plan of merger:
2787 (i) in accordance with the requirements, if any, of the domestic merging entity's organic law and organic rules for approval of:
2789 (A) for an entity that is not a limited cooperative association, the merger; or
2790 (B) for an entity that is a limited cooperative association, a transaction under this part; or
2792 (ii) by each interest holder of the domestic merging entity that is entitled to vote or consent to the plan of merger voting in favor of the plan of merger if:
2794 (A) for an entity that is not a business corporation or a limited cooperative association, neither the business corporation's nor the limited cooperative association's organic rules provide for the approval of a merger; or

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2797 (B) for an entity that is a limited cooperative association, neither the limited cooperative association's
organic law nor organic rules provide for the approval of a transaction under this part; and

2800 (b)

(i) for a business corporation or a nonprofit corporation, each interest holder of a domestic merging
entity that will have interest holder liability for a debt, an obligation, or other liability after the
merger becomes effective approves the merger; or

2804 (ii) for an entity that is not a business corporation or a nonprofit corporation:

2805 (A) a provision of the entity's organic rules provide for the approval of a merger in which one or more
of the entity's interest holders will become subject to interest holder liability; and

2808 (B) each interest holder consents to or votes in favor of the provision described in Subsection (1)(b)(ii)
(A) or became an interest holder after the adoption of the provision.

2811 (2) A merger described in this part that involves a foreign merging entity is not effective unless the
foreign entity approves the merger in accordance with the law of the foreign entity's jurisdiction of
formation.

2823 Section 63. Section **63** is enacted to read:

16-1a-705. Amendment or abandonment of a plan of merger.

2816 (1) Except as otherwise provided in the plan of merger, a plan of merger may be amended only by the
consent of each party to the plan of merger.

2818 (2) A domestic merging entity may approve an amendment to a plan of merger:

2819 (a) in the same manner as the plan of merger was approved, if the plan does not provide for the manner
by which the domestic merging entity may amend the plan of merger; or

2822 (b) subject to Subsection (3), by the governors or interest holders approving the amendment in the
manner provided in the plan of merger.

2824 (3) A governor or interest holder that was entitled to vote on or consent to the approval of a merger is
entitled to vote on or consent to an amendment that will change:

2826 (a) the amount or kind of interests, securities, obligations, money, other property, rights to acquire
interests or securities, or a combination that the interest holders of a party to the plan of merger will
receive;

2829 (b) the public organic record, if any, or the private organic rules of the surviving entity that will be in
effect immediately after the merger becomes effective, except for a change that does not require the

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approval of the interest holders of the surviving entity under the surviving entity's organic law or organic rules; or

2833 (c) any other term or condition of the plan of merger, if the change would adversely affect the governor or interest holder in a material respect.

2835 (4) (a) After the parties to a plan of merger approve the plan and before a statement of merger is effective, the parties to a merger may abandon a plan of merger in a manner provided in the plan of merger.

2838 (b) Unless prohibited by the plan of merger, a domestic filing entity may abandon the plan of merger in the same manner as the domestic filing entity approves the plan of merger.

2841 (5) (a) If the parties to a merger abandon the plan of merger after delivering a statement of merger to the division for filing, the parties shall deliver to the division for filing a statement of abandonment, signed by each party to the plan of abandonment.

2844 (b) The parties shall file a statement of abandonment before the day on which the statement of merger takes effect.

2846 (c) A statement of abandonment under this Subsection (5) takes effect on the day on which the parties file the statement of abandonment with the division.

2848 (d) After the parties file a statement of abandonment, the plan of merger is abandoned and does not take effect.

2850 (e) A statement of abandonment shall contain:

2851 (i) the name of each party to the plan of merger;

2852 (ii) the day on which the parties file the statement of merger with the division; and

2853 (iii) a statement that the parties abandon the merger in accordance with this section.

2863 Section 64. Section 64 is enacted to read:

16-1a-706. Statement of merger -- Effective date of merger.

2864 (1) Each merging entity shall sign a statement of merger and deliver the statement of merger to the division for filing.

2868 (2) A statement of merger shall contain:

2859 (a) the name, jurisdiction of formation, and type of entity of each merging entity that is not the surviving entity;

2861 (b) the name, jurisdiction of formation, and type of entity of the surviving entity;

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2862 (c) if the statement of merger is not effective on the day on which each merging entity files the statement of merger, the date and time on which the statement of merger will become effective, which shall be no later than 90 days after the day on which each merging entity files the statement of merger;

2866 (d) a statement that any domestic merging entity that is a party to the merger approves the merger in accordance with this part;

2868 (e) a statement that any foreign merging entity that is a party to the merger approves the merger in accordance with the law of the foreign merging entity's jurisdiction of formation;

2871 (f) if the surviving entity exists before the merger and is a domestic filing entity, any amendment to the surviving filing entity's public organic record the parties to the merger approve as part of the plan of merger;

2874 (g) if the surviving entity is created by the merger and is a domestic filing entity, the domestic filing entity's public organic record;

2876 (h) if the surviving entity is created by the merger and is a domestic limited liability partnership, the surviving entity's statement of qualification; and

2878 (i) if the surviving entity is a foreign entity that is not a registered foreign entity, a mailing address to which the division may send any process served on the division.

2880 (3) In addition to the requirements described in Subsection (2), a statement of merger may contain any other provision not prohibited by law.

2882 (4)

2884 (a) Except as provided in Subsection (4)(b), if the surviving entity is a domestic entity, the surviving entity's public record, if any exists, shall satisfy the requirements of the law of this state.

2885 (b) A surviving entity that is a domestic entity:

2886 (i) is not required to sign the surviving entity's public organic record; and

2887 (ii) may omit any provision that the surviving entity is not required to include in a restatement of the public organic record.

2889 (5)

2891 (a) A party to a merger may deliver a plan of merger that each merging entity signs and that meets all the requirements described in Subsection (2) to the division for filing instead of a statement of merger.

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(b) A party delivering a plan of merger in accordance with Subsection (5)(a) has the same effect as filing a statement of merger.

(c) If a party files a plan of merger in accordance with Subsection (5)(a), for purposes of complying with this part, the plan of merger shall serve as the statement of merger.

(6) A statement of merger is effective on:

(a) the day and time on which a person files the statement of merger with the division; or

(b) a date and time specified in the statement of merger that is later than the day and time on which the person files the statement of merger.

(7) If the surviving entity is a domestic entity, a merger becomes effective on the day and time on which the statement of merger is effective.

(8) If the surviving entity is a foreign entity, a merger takes effect on the later of:

(a) the day and time provided in the organic law of the surviving entity; or

(b) the day and time on which the statement is effective.

Section 65. Section **65** is enacted to read:

16-1a-707. Effect of merger.

(1) On or after the day and time on which a merger under this part takes effect:

(a) the surviving entity continues the surviving entity's existence or comes into existence;

(b) a merging entity that is not the surviving entity ceases to exist;

(c) all property belonging to each merging entity vests in the surviving entity without transfer, reversion, or impairment;

(d) each debt, obligation, or other liability of each merging entity becomes a debt, obligation, or other liability of the surviving entity;

(e) except as otherwise provided by law or the plan of merger, each right, privilege, immunity, power, and purpose of each merging entity vests in the surviving entity;

(f) if the surviving entity exists before the merger:

(i) all the surviving entity's property remains vested with the surviving entity without transfer, reversion, or impairment;

(ii) the surviving entity remains subject to each debt, obligation, or other liability of the surviving entity's; and

(iii) each right, privilege, immunity, power, and purpose of the surviving entity remain vested in the surviving entity;

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2923 (g) if the surviving entity is created by the merger, the surviving entity's private organic rules are effective and:

2925 (i) if the surviving entity is a filing entity, the surviving entity's public organic record is effective; or

2927 (ii) if the surviving entity is a limited liability partnership, the surviving entity's statement of qualification is effective; and

2929 (h)

2931 (i) each interest in each merging entity that is subject to conversion under the merger is converted; and

2933 (ii) an interest holder of an interest described in Subsection (1)(h)(i) is entitled only to the rights provided to the interest holder in:

2934 (A) the plan of merger;

2935 (B) the appraisal rights described in Section 16-1a-708; and

2936 (C) the merging entity's organic law.

2938 (2) Except as otherwise provided in the organic law or organic rules of a merging entity, a merger under this part does not give rise to a right that an interest holder, governor, or third party would have upon the dissolution, liquidation, or winding up of a merging entity.

2940 (3) On or after the day and time on which a merger takes effect, if a person did not have interest holder liability to any of the merging entities and after the merger takes effect becomes subject to interest holder liability as a result of the merger, the person has interest holder liability:

2944 (a) only to the extent provided by the organic law of the surviving entity; and

2945 (b) only for a debt, obligation, or other liability the surviving entity incurs after the merger takes effect.

2947 (4)

2950 (a) A merger does not discharge any interest holder liability under the organic law of the domestic merging entity to the extent the person incurs interest holder liability before the merger takes effect.

2953 (b) A person does not have interest holder liability under the organic law of the domestic merging entity for a debt, obligation, or other liability that the surviving entity incurs after the merger takes effect.

2955 (c) The organic law of a domestic merging entity continues to apply to the release, collection, or discharge of any interest holder liability described in Subsection (4)(a).

2958 (d) A person has whatever rights of contribution from any other person that exist in law other than this part or the organic rules of the domestic merging entity relating to any interest holder liability described in Subsection (4)(a).

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(5) On or after the day and time on which a merger takes effect, a person may serve a foreign entity that is the surviving entity with process for the collection and enforcement of any debt, obligation, or other liability of a domestic merging entity in accordance with applicable law.

2962 (6) On or after the day and time on which a merger takes effect, the registration to do business in this state of a foreign merging entity that is not the surviving entity is canceled.

2974 Section 66. Section **66** is enacted to read:

2975 **16-1a-708. Appraisal rights.**

2967 (1) As used in this section, "new entity" means a:

2968 (a) merging entity;

2969 (b) converting entity; or

2970 (c) domesticating entity.

2971 (2) An interest holder of a new entity is entitled to an appraisal right in connection with the merger, conversion, or domestication if the interest holder would have been entitled to an appraisal right under the new entity's organic law unless:

2974 (a) the organic law permits the organic rules to limit or eliminate the availability of an appraisal right; and

2976 (b) the organic rules limit or eliminate the availability of an appraisal right.

2977 (3) An interest holder in a new entity is entitled to a contractual appraisal right in connection with the merger, conversion, or domestication to the extent provided in:

2979 (a) the new entity's organic rules;

2980 (b) the plan; or

2981 (c) for a business corporation, an action of the business corporation's governors.

2991 Section 67. Section **67** is enacted to read:

2992 **16-1a-709. Required notice or approval -- Effect of merger on property and gifts.**

2984 (1) A domestic entity or a foreign entity that is required under this part to give notice to, or obtain the approval of, a government agency or a government officer of this state in order to be a party to a merger shall also give the notice or obtain the required approval when the domestic entity or foreign entity becomes a party to an interest exchange, a conversion, or a domestication.

2989 (2) A domestic entity or a foreign entity that holds property for a charitable purpose under the law of this state at the time a transaction governed by this part occurs shall retain possession of the property to the extent permitted under law.

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2992 (3) A bequest, devise, gift, or promise contained in a will or other instrument of donation or conveyance that a person makes to an acquired entity that takes effect remains payable after the merger to the acquiring entity.

2995 (4) An acquired entity's trust obligation transfers to the acquiring entity after a merger.

3005 Section 68. Section **68** is enacted to read:

3007 **16-1a-801. Definitions.**

3009 8. Interest Exchange

3010 Reserved.

3009 Section 69. Section **69** is enacted to read:

3010 **16-1a-802. Interest exchange authorized.**

3002 (1) Except as otherwise provided in this section, by complying with this part:

3003 (a) a domestic entity may acquire all of one or more classes or series of interests of another domestic entity or a foreign entity in exchange for interests, securities, obligations, money, other property, or rights to acquire interests or securities;

3006 (b) a domestic entity or foreign entity may acquire all of one or more classes or series of interests of a domestic entity in exchange for all of one or more classes or series of interests of a domestic entity; or

3009 (c) a foreign entity may be an acquiring or acquired entity in an interest exchange under this part if the law of the foreign entity's jurisdiction of formation authorizes the interest exchange.

3012 (2) If a protected agreement contains a provision that applies to a merger of a domestic entity but does not refer to an interest exchange, the provision applies to an interest exchange in which the domestic entity is the acquired entity as if the interest exchange were a merger until the day on which a person amends the provision.

3016 (3) This section does not apply to a transaction described in Chapter 6a, Utah Revised Nonprofit Corporation Act.

3027 Section 70. Section **70** is enacted to read:

3028 **16-1a-803. Plan of interest exchange.**

3020 (1) A domestic entity may be the acquired entity in an interest exchange under this part by approving a plan of interest exchange.

3022 (2) A domestic entity shall create a plan of interest exchange in a record and include in the plan of exchange:

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3024 (a) the name and type of entity of the acquired entity;
3025 (b) the name, jurisdiction, and type of entity of the acquiring entity;
3026 (c) the process of converting the interests in the acquired entity into interests, securities, obligations, money, other property, or rights to acquire interests or securities;
3028 (d) any proposed amendment to:
3029 (i) the public organic record, if any, of the acquired entity;
3030 (ii) the private organic rules of the acquired entity that are, or are proposed to be, in a record;
3032 (iii) other terms and conditions of the interest exchange; and
3033 (iv) any other provision required by the law of this state or the organic rules of the acquired entity.
3035 (3) In addition to the requirements described in Subsection (2), a plan of interest exchange may contain any other provision not prohibited by law.
3046 Section 71. Section 71 is enacted to read:
3047 **16-1a-804. Approval of interest exchange.**
3039 (1) A plan of interest exchange is only effective if:
3040 (a) an acquired domestic entity approves the plan of exchange:
3041 (i) in accordance with the requirements, if any, in the acquired domestic entity's organic law and organic rules for approval of an interest exchange;
3043 (ii) if the domestic acquired entity's organic law or organic rules do not provide for approval of an interest exchange, in accordance with the requirements, if any, of the domestic acquired entity's organic law and organic rules for the approval of:
3046 (A) for an entity that is not a business corporation or a limited cooperative association, a merger as if the interest exchange were a merger;
3048 (B) for a business corporation, a merger requiring approval by a vote of the interest holders of the business corporation as if the interest exchange were that type of merger; or
3051 (C) for a limited cooperative association, a transaction under this part; or
3052 (iii) by a majority vote of each interest holder of the acquired domestic entity that is entitled to vote on or consent to any matter if:
3054 (A) for an entity that is not a business corporation or limited cooperative association, the entity's organic law or organic rules do not provide for the approval of an interest exchange or a merger; or
3057 (B) for a limited cooperative association, the entity's organic law or organic rules do not provide for the approval of an interest exchange or a transaction under this part;

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3060 (b) the acquired domestic entity approves the plan of exchange in a record, by each interest holder of an acquired domestic entity that will have interest holder liability for any debt, obligation, or other liability that the acquired domestic entity incurs after the interest exchange takes effect; and

3064 (c) if the acquired domestic entity is not a business corporation or nonprofit corporation, the requirements of Subsection (1)(b) do not apply if:

3066 (i) the organic rules of the acquired domestic entity contain in a record a provision that provides for the approval of an interest exchange or a merger in which some or all of the acquired domestic entity's interest holders become subject to interest holder liability by the vote or consent of fewer than all of the interest holders; and

3070 (ii) the interest holders consent in a record to or vote for the provision described in Subsection (1)(c)(i) of the organic rules or became an interest holder after the adoption of that provision.

3073 (2) An interest exchange involving a foreign acquired entity is not effective unless the foreign entity approves the interest exchange in accordance with the law of the foreign entity's jurisdiction of formation.

3076 (3) Except as otherwise provided in the acquiring entity's organic law or organic rules, the acquiring entity's interest holders are not required to approve an interest exchange.

3087 Section 72. Section **72** is enacted to read:

3088 **16-1a-805. Amendment or abandonment of plan of interest exchange.**

3080 (1) A plan of interest exchange may be amended only with the consent of each party to the plan of interest exchange, except as otherwise provided in the plan of interest exchange.

3082 (2) A domestic acquired entity may approve an amendment to a plan of interest exchange:

3083 (a) in the same manner as the plan of interest exchange was approved, if the plan of interest exchange does not provide for the manner by which a person may amend the plan of interest exchange; or

3086 (b) except as provided in Subsection (3), by the domestic acquired entity's governors or interest holders in the manner provided in the plan of interest exchange.

3088 (3) An interest holder that was entitled to vote on or consent to the approval of an interest exchange is entitled to vote on or consent to an amendment to the plan of interest exchange that will change:

3091 (a) the amount or kind of interests, securities, obligations, money, other property, or rights to acquire interests or securities that the interest holders of the acquired entity will receive under the plan of interest exchange;

3094

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(b) the public organic record, if any, or private organic rules of the acquired entity that will be in effect immediately after the interest exchange takes effect, except for a change that does not require approval of the interest holders of the acquired entity under the acquired entity's organic law or organic rules; or

3098 (c) any other term or condition of the plan of interest exchange if the change would adversely affect the interest holder in a material respect.

3100 (4)

3103 (a) After a plan of interest exchange is approved and before a statement of interest exchange takes effect, the plan of interest exchange may be abandoned as provided in the plan of interest exchange.

3103 (b) Unless prohibited by the plan of interest exchange a domestic acquired entity may abandon the plan of interest exchange in the same manner as the plan of interest exchange was approved.

3106 (5)

3109 (a) If a plan of interest exchange is abandoned after a statement of interest exchange is delivered to the division for filing and before the statement of interest exchange takes effect, the acquired entity shall:

3110 (i) sign a statement of abandonment; and

3110 (ii) deliver the statement of abandonment to the division for filing before the statement of interest exchange takes effect.

3112 (b) A statement of abandonment takes effect on the day and time on which the acquired entity delivers the statement of abandonment to the division for filing.

3114 (c) After a statement of abandonment takes effect, the interest exchange is abandoned and does not become effective.

3116 (6) A statement of abandonment shall contain:

3117 (a) the name of the acquired entity;

3118 (b) the day on which the acquired entity delivers the statement of interest exchange to the division for filing; and

3120 (c) a statement that the interest exchange has been abandoned in accordance with this section.

3131 Section 73. Section **73** is enacted to read:

3132 **16-1a-806. Statement of interest exchange -- Effective date of interest exchange.**

3124 (1) A domestic acquired entity shall sign a statement of interest exchange and deliver the statement of interest exchange to the division for filing.

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3126 (2) A statement of interest exchange shall contain:

3127 (a) the acquired entity's name and type of entity;

3128 (b) the acquiring entity's name, jurisdiction of formation and type of entity;

3129 (c) if the statement of interest exchange is not to be effective upon filing, the later day and time on
which the statement of interest exchange will become effective, which may not be more than 90
days after the day on which the division files the statement of interest exchange;

3133 (d) a statement that the acquired entity approved the plan of interest exchange in accordance with
Section 16-1a-804; and

3135 (e) any amendment to the acquired entity's public record, if any, that was approved as part of the
interest exchange.

3137 (3) In addition to the requirements of Subsection (2), a statement of interest exchange may contain any
other provision not prohibited by law.

3139 (4)

3142 (a) A domestic acquired entity may deliver a plan of interest exchange that the domestic acquired entity
signs and that meets all the requirements of Subsection (2) to the division for filing instead of a
statement of interest exchange.

3145 (b) A domestic acquired entity delivering a plan of interest exchange to the division in accordance with
Subsection (4)(a) has the same effect as delivering a statement of interest exchange to the division.

3148 (c) If a domestic acquired entity delivers a plan of interest exchange as described in this Subsection (4),
all references to a statement of interest exchange in this part refer to the plan of interest exchange for
that plan of interest exchange.

3149 (5) A statement of interest exchange takes effect on the day and time:

3151 (a) on which the domestic acquired entity delivers the statement of interest exchange to the division for
filing; or

3151 (b) specified in the statement of interest exchange that is later than the day and time on which the
domestic acquired entity delivers the statement of interest exchange to the division for filing.

3154 (6) An interest exchange in which the acquired entity is a domestic entity takes effect when the
statement of interest exchange takes effect.

3165 Section 74. Section 74 is enacted to read:

3166 **16-1a-807. Effect of interest exchange.**

3158 (1) When an interest exchange in which the acquired entity is a domestic entity takes effect:

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3159 (a) each interest in the domestic acquired entity that is subject to the interest exchange is converted, and each interest holder of an interest is entitled only to:

3161 (i) the rights provided to the interest holder:

3162 (A) under the plan of interest exchange; or

3163 (B) in the acquired entity's organic law; and

3164 (ii) any appraisal rights provided in Section 16-1a-708;

3165 (b) the acquiring entity becomes the interest holder of each interest in the acquired entity stated in the plan of interest exchange that the acquiring entity will acquire;

3167 (c) the public organic record, if any, of the acquired entity is amended to the extent provided in the statement of interest exchange; and

3169 (d) the private organic rules of the acquired entity that are to be in a record, if any, are amended to the extent provided in the plan of interest exchange.

3171 (2) Except as otherwise provided in the organic law or organic rules of the acquired entity, an interest exchange does not give rise to any right that an interest holder, governor, or third party would have upon a dissolution, liquidation, or winding up of the acquired entity.

3175 (3) When an interest exchange takes effect:

3176 (a) a person that did not have interest holder liability with respect to the acquired entity and becomes subject to interest holder liability with respect to a domestic entity as a result of the interest exchange has interest holder liability only:

3179 (i) to the extent provided by the organic law of the domestic entity; and

3180 (ii) for a debt, obligation, or other liability that the domestic entity incurs after the interest exchange takes effect; and

3182 (b) the following conditions apply to the interest holder liability of a person that no longer holds an interest in a domestic acquired entity if the person had interest holder liability in the domestic acquired entity:

3185 (i) the interest exchange does not discharge any interest holder liability under the organic law of the domestic acquired entity to the extent the person incurred the interest holder liability before the interest exchange became effective;

3188 (ii) the person does not have interest holder liability under the organic law of the domestic acquired entity for a debt, obligation, or other liability that the domestic acquired entity incurs after the interest exchange takes effect;

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3191 (iii) the person does not have interest holder liability under the organic law of the domestic entity for any debt, obligation, or other liability preserved under Subsection (3)(b)(i) as though the interest exchange had not occurred; and

3194 (iv) the person has whatever rights of contribution from any other person in accordance with other law or the organic law or organic rules of the domestic acquired entity with respect to any interest holder liability preserved under Subsection (3)(b)(i) as if the interest exchange had not occurred.

3207 Section 75. Section **75** is enacted to read:

3209 **16-1a-901. Definitions.**

9. Conversion

Reserved.

3211 Section 76. Section **76** is enacted to read:

3212 **16-1a-902. Conversion authorized.**

3204 (1) By complying with this part, a domestic entity may become:

3205 (a) a domestic entity that is a different type of entity; or

3206 (b) a foreign entity that is a different type of entity, if the conversion is authorized by the law of the foreign entity's jurisdiction of formation.

3208 (2) By complying with the provisions of this part that are applicable to foreign entities, a foreign entity may become a domestic entity that is a different type of entity if the conversion is authorized by the law of the foreign entity's jurisdiction of formation.

3211 (3) If a protected agreement contains a provision that applies to a merger of a domestic entity but does not refer to a conversion, the provision applies to a conversion of the entity as if the conversion were a merger until the provision is amended after May 7, 2026.

3224 Section 77. Section **77** is enacted to read:

3225 **16-1a-903. Plan of conversion.**

3217 (1) A domestic entity may convert to a different type of entity by approving a plan of conversion.

3219 (2) A domestic entity shall ensure that the plan of conversion is in a record and contains:

3220 (a) the converting entity's name, jurisdiction of formation, and type of entity;

3221 (b) the converted entity's name, jurisdiction of formation, and type of entity;

3222 (c) the manner of converting the interest in the converting entity into interest, securities, obligations, money, other property, or rights to acquire interests or securities;

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- (d) the proposed public organic record of the converted entity if the converted entity will be a filing entity;
- (e) the full text of the private organic rules of the converted entity that are proposed to be in a record;
- (f) the other terms and conditions of the conversion; and
- (g) any other provision required by the law of this state or the organic rules of the converting entity.

(3) In addition to the requirements of Subsection (2), a plan of conversion may contain any provision not prohibited by law.

Section 78. Section **78** is enacted to read:

16-1a-904. Approval of conversion.

- (1) A plan of conversion does not take effect unless:
 - (a) a domestic converting entity approves the plan of conversion:
 - (i) in accordance with the requirements, if any, in the domestic converting entity's organic rules for approval of a conversion;
 - (ii) if the domestic converting entity's organic rules do not provide for the approval of a conversion, in accordance with the requirements, if any, in the converting entity's organic law and organic rules for the approval of:
 - (A) for an entity that is not a business corporation or a limited cooperative association, a merger, as if the conversion were a merger;
 - (B) for a business corporation, a merger requiring approval by a vote of the interest holders of the business corporation, as if the conversion were that type of merger; and
 - (C) for a limited cooperative association, a transaction authorized under this part; or
 - (iii) by each interest holder of the entity that is entitled to vote on or consent to any matter if:
 - (A) for an entity that is not a business corporation or a limited cooperative association, the entity's organic law and organic rules do not provide for the approval of a conversion or a merger; or
 - (B) for a limited cooperative association, the limited cooperative association's organic law and organic rules do not provide for the approval of a conversion or a transaction under this part;
 - (b) each interest holder of a domestic converting entity that will have interest holder liability for a debt, obligation, or other liability that the domestic converting entity incurs after the conversion approves the plan of conversion in a record; and
 - (c) for an entity that is not a business corporation or a nonprofit corporation, the entity complies with the provisions of Subsection (1)(b), unless:

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3262 (i) the organic rules of the entity contain a provision that provides in a record for the approval of an interest exchange or a merger in which some or all of the entity's interest holders become subject to interest holder liability by the vote or consent of fewer than all the interest holders; and

3266 (ii) the interest holders consent in a record to or vote for the provision described in Subsection (1)(c)(i) or became an interest holder after the adoption of the provision.

3269 (2) A conversion of a foreign converting entity does not take effect until the foreign entity approves the conversion in accordance with the law of the foreign entity's jurisdiction of formation.

3281 Section 79. Section **79** is enacted to read:

3282 **16-1a-905. Amendment or abandonment of plan of conversion.**

3274 (1) A domestic converting entity may amend the domestic converting entity's plan of conversion:

3276 (a) in the same manner as the domestic converting entity approved the plan of conversion, if the plan does not provide for the manner by which the domestic converting entity may amend the plan of conversion;

3279 (b) by the domestic converting entity's governors or interest holders in the manner provided in the plan of conversion, but an interest holder that was entitled to vote on or consent to approval of the conversion may vote on or consent to any amendment to the plan that will change:

3283 (i) the amount or kind of interests, securities, obligations, money, other property, or rights to acquire interest or securities that the interest holders of the converting entity will receive under the plan of conversion;

3286 (ii) the public organic record, if any, or private organic rules of the converted entity that will be in effect immediately after the conversion takes effect, except for changes that do not require approval of the converted entity's interest holders under the converted entity's organic law or organic rules; or

3290 (iii) any other term or condition of the plan, if the change would adversely affect the interest holder in a material respect.

3292 (2)

3295 (a) After a domestic converting entity approves a plan of conversion and before a statement of conversion is effective, the domestic converting entity may abandon the plan of conversion as provided in the plan of conversion.

(b) Unless prohibited by the plan of conversion, a domestic converting entity may abandon the plan in the same manner as the domestic converting entity approved the plan of conversion.

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(3) If a domestic converting entity abandons a plan of conversion after a statement of conversion has been delivered to the division for filing and before the statement is effective, the domestic converting entity shall:

3301 (a) sign a statement of abandonment; and

3302 (b) deliver the signed statement of abandonment to the division for filing before the statement of conversion takes effect.

3304 (4) A statement of abandonment takes effect on the day and time on which the division files the statement of abandonment and the conversion is abandoned and does not take effect.

3306 (5) A statement of abandonment shall contain:

3307 (a) the name of the converting entity;

3308 (b) the day on which the converting entity files the statement of conversion with the division; and

3310 (c) a statement that the domestic converting entity abandoned the conversion in accordance with this section.

3321 Section 80. Section **80** is enacted to read:

16-1a-906. Statement of conversion -- Effective date of conversion.

3314 (1) A converting entity shall sign a statement of conversion and deliver the statement of conversion to the division for filing.

3316 (2) A statement of conversion shall contain:

3317 (a) the converting entity's name, jurisdiction of formation, and type of entity;

3318 (b) the converted entity's name, jurisdiction of formation and type of entity;

3319 (c) if the statement of conversion is not to be effective upon filing, the later day and time on which the statement of conversion will take effect, which may not be more than 90 days after the day on which the division files the statement of conversion;

3322 (d)

3324 (i) if the converting entity is a domestic entity, a statement that the converting entity approved the plan of conversion in accordance with Section 16-1a-904; or

3327 (ii) if the converting entity is a foreign entity, a statement that the converting entity approved the plan of conversion in accordance with the law of the converting entity's jurisdiction of formation;

3329 (e) if the converting entity is a domestic entity, the converting entity's public organic record;

3329 (f) if the converted entity is a domestic limited liability partnership, the converted entity's statement of qualification; and

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3331 (g) if the converted entity is a foreign entity that is not a registered foreign entity, a mailing address to
which the division may send any process served on the division.

3333 (3) In addition to the requirements of Subsection (2), a statement of conversion may contain any other
provision not prohibited by law.

3335 (4) If the converted entity is a domestic entity, the converted entity's public organic record, if any, shall
satisfy the requirements of the laws of this state, except that the public organic record:

3338 (a) is not required to be signed; and

3339 (b) is not required to be included in a restatement of the public organic record.

3340 (5)

3343 (a) A domestic converting entity may deliver a plan of conversion that a domestic converting entity
signs and that meets all of the requirements of Subsection (2) to the division for filing instead of a
statement of conversion.

3346 (b) A domestic converting entity delivering a plan of conversion in accordance with Subsection (5)(a)
has the same effect as delivering a statement of conversion to the division.

3349 (c) If a domestic converting entity delivers a plan of conversion as described in this Subsection (5), all
references to a statement of conversion refer to the plan of conversion filed in accordance with this
part.

3352 (6) A statement of conversion takes effect on the day and time:

3355 (a) on which the domestic converting entity delivers the statement of conversion to the division for
filing; or

3358 (b) specified in the statement of conversion that is later than the day and time on which the domestic
converting entity delivers the statement of conversion to the division for filing.

3361 (7)

3364 (a) If a converted entity is a domestic entity, a conversion takes effect on the day and time on which the
statement of conversion takes effect.

3367 (b) If a converted entity is a foreign entity, the conversion takes effect on the later of:

3370 (i) the day and time provided by the organic law of the converted entity; or

3373 (ii) the day and time on which the statement of conversion takes effect.

3376 Section 81. Section 81 is enacted to read:

3379 **16-1a-907. Effect of conversion.**

3382 (1) When a conversion takes effect:

SB0040S01 compared with SB0040S02

3363 (a) the converted entity is:

3364 (i) organized under and subject to the organic law of the converted entity; and

3365 (ii) the same entity without interruption as the converting entity;

3366 (b) all property of the converting entity continues to be vested in the converted entity without transfer, reversion, or impairment;

3368 (c) each debt, obligation, and other liability of the converting entity continues as a debt, obligation, and other liability of the converted entity;

3370 (d) except as otherwise provided by law or the plan of conversion, each right, privilege, immunity, power, and purpose of the converting entity remain in the converted entity;

3372 (e) the name of the converted entity may be substituted for the name of the converting entity in a pending action or proceeding;

3374 (f) if a converted entity is a filing entity, the converted entity's public organic record takes effect;

3376 (g) if the converted entity is a limited liability partnership, the converted entity's statement of qualification is effective;

3378 (h) the private organic rules of the converted entity that are to be in a record, if any, approved as part of the plan of conversion take effect;

3380 (i) each interest in the converting entity are converted, and each interest holder of the converting entity is entitled only to:

3382 (i) the rights provided to the interest holder under the plan of conversion;

3383 (ii) appraisal rights described in Section 16-1a-708; and

3384 (iii) the converting entity's organic law;

3385 (j) a person that did not have interest holder liability with respect to the converting entity and becomes subject to interest holder liability with respect to a domestic entity as a result of the conversion has interest holder liability:

3388 (i) only to the extent provided by the organic law of the entity; and

3389 (ii) only for a debt, obligation, or other liability that the converting entity incurs after the conversion takes effect;

3391 (k) the following conditions apply to the interest holder liability of a person that no longer holds an interest in a domestic converting entity if the person had interest holder liability in the domestic converting entity:

3394

SB0040S01 compared with SB0040S02

- (i) the conversion does not discharge any interest holder liability under the organic law of the domestic converting entity to the extent the person incurred the interest holder liability before the conversion takes effect;
- 3397 (ii) the person does not have interest holder liability under the organic law of the domestic converting entity for a debt, obligation, or other liability that the converted entity incurs after the conversion takes effect;
- 3400 (iii) the organic law of the domestic converting entity continues to apply to the release, collection, or discharge of any interest holder liability preserved under Subsection (1)(k)(i) as if the conversion does not occur; and
- 3403 (iv) the person has whatever rights of contribution from any other person as provided by other law or the organic rules of the domestic converting entity with respect to any interest holder liability preserved under Subsection (1)(k)(i) as if the conversion does not occur; and
- 3407 (1) a person may serve a foreign entity that is the converted entity with process in this state for the collection and enforcement of any of the foreign entity's debts, obligations, and other liabilities in accordance with applicable law.
- 3410 (2) Except as otherwise provided in the organic law or organic rules of a converting entity, a conversion does not give rise to a right that an interest holder, a governor, or a third party would have upon the dissolution, liquidation, or winding up of the converting entity.
- 3414 (3) If a converting entity is a registered foreign entity, the converting entity's registration to do business is canceled when the conversion takes effect.
- 3416 (4) A conversion does not require an entity to wind up the entity's affairs and does not constitute or cause the dissolution of the entity.
- 3427 Section 82. Section **82** is enacted to read:
- 3429 **16-1a-1001. Definitions.**
 - 10. Domestication
 - Reserved.
- 3431 Section 83. Section **83** is enacted to read:
- 3432 **16-1a-1002. Domestication authorized.**
- 3424 (1) Except as otherwise provided in this section, by complying with this part:
- 3425 (a) a domestic entity may become a domestic entity of the same type of entity in a foreign jurisdiction if the domestication is authorized by the law of the foreign jurisdiction; and

SB0040S01 compared with SB0040S02

3428 (b) a foreign entity may become a domestic entity of the same type of entity in this state if the
domestication is authorized by the law of the foreign entity's jurisdiction of formation.

3431 (2) If a protected agreement contains a provision that applies to a merger of a domestic entity but
does not refer to domestication, the provision applies to a domestication of the entity as if the
domestication were a merger until the provision is amended after May 7, 2026.

3444 Section 84. Section **84** is enacted to read:

16-1a-1003. Plan of domestication.

3437 (1) A domestic entity may become a foreign entity in a domestication by approving a plan of
domestication.

3439 (2) The domestic entity shall ensure that a plan of domestication is in a record and that the plan of
domestication contains:

3441 (a) the domesticating entity's name, jurisdiction of formation, and type of entity;

3442 (b) the domesticated entity's name, jurisdiction of formation, and type of entity;

3443 (c) the manner of converting the interests in the domesticating entity into interests, securities,
obligations, money, other property, or rights to acquire interests and securities;

3446 (d) the proposed public organic record of the domesticated entity if the domesticated entity is a filing
entity;

3448 (e) the full text of the private organic rules of the domesticated entity that are proposed to be in a
record;

3450 (f) the other terms and conditions of the domestication; and

3451 (g) any other provision required by the law of this state or the organic rules of the domesticating entity.

3453 (3) In addition to the requirements described in Subsection (2), a plan of domestication may contain any
other provision not prohibited by law.

3464 Section 85. Section **85** is enacted to read:

16-1a-1004. Approval of domestication.

3457 (1) A plan of domestication does not take effect unless:

3458 (a) a domestic domesticating entity approves the plan of domestication;

3459 (i) in accordance with the requirements, if any, of the domestic domesticating entity's organic rules for
the approval of a domestication;

SB0040S01 compared with SB0040S02

(ii) if the domestic domesticating entity's rules do not provide for approval of a domestication, in accordance with the requirements, if any, of the domestic domesticating entity's organic law and organic rules for the approval of:

3464 (A) for an entity that is not a business corporation or limited cooperative association, a merger, as if the domestication were a merger;

3466 (B) for a business corporation, a merger requiring approval for a vote of the interest holders of the business corporation, as if the domestication was that type of merger; or

3469 (C) for a limited cooperative association, a transaction under this part; or

3470 (iii) by each interest holder of the entity entitled to vote on or consent to any matter if:

3471 (A) for an entity that is not a business corporation or a limited cooperative association, the business corporation's or limited cooperative association's organic law or organic rules do not provide for the approval of a domestication or merger; or

3475 (B) for a limited cooperative association, the limited cooperative association's organic law or organic rules do not provide for the approval of a domestication or a transaction under this part;

3478 (b) each interest holder that will have interest holder liability for a debt, obligation, or other liability that a domesticated entity incurs after the domestication takes effect approves the domestication in a record; and

3481 (c) for an entity that is not a business corporation or a nonprofit corporation, the entity shall comply with the provisions of Subsection (1)(b), unless:

3483 (i) the organic rules of the entity contain a provision in a record for the approval of a domestication or merger in which some or all of the entity's interest holders become subject to interest holder liability by the vote or consent of fewer than all the interest holders; and

3487 (ii) the interest holder consented in a record to or vote for the provision described in Subsection (1)(c)(i) or became an interest holder after the adoption of the provision.

3490 (2) A domestication of a foreign domesticating entity does not take effect unless the foreign domesticating entity approves the domestication in accordance with the law of the foreign entity's jurisdiction of formation.

3502 Section 86. Section **86** is enacted to read:

3503 **16-1a-1005. Amendment or abandonment of plan of domestication.**

3495 (1) A domestic domesticating entity may amend a plan of domestication for the domestic domesticating entity:

SB0040S01 compared with SB0040S02

3497 (a) in the same manner as the domestic domesticating entity approved the plan of domestication; or
3499 (b) through the domestic domesticating entity's governors or interest holders in the manner provided in the plan of domestication, if an interest holder that was entitled to vote on or consent to approval of the domestication is entitled to vote on any amendment to the plan of domestication that will change:
3503 (i) the amount or kind of interests, securities, obligations, money, other property, or rights to acquire interest or securities that an interest holder of the domesticating entity will receive under the plan of domestication;
3506 (ii) the public organic record, if any, or private organic rules of the domesticated entity that will take effect immediately after the domestication takes effect, except for any change that does not require the approval of the interest holders of the domesticated entity under the domesticated entity's organic law or organic rules; or
3510 (iii) any other term or condition of the plan, if the change would adversely affect the interest holder in any material respect.
3512 (2)
3512 (a) After a domestic domesticating entity approves a plan of domestication and before a statement of domestication takes effect, the domestic domesticating entity may abandon the plan of domestication as provided in the plan of domestication.
3515 (b) Unless prohibited by the plan of domestication, a domestic domesticating entity may abandon the plan of domestication in the same manner as the domestic domesticating entity approved the plan of domestication.
3518 (3) If a domestic domesticating entity abandons a plan of domestication after delivering a statement of domestication to the division for filing and before the statement of abandonment is effective, the domestic domesticating entity shall:
3521 (a) sign a statement of abandonment; and
3522 (b) deliver the signed statement of abandonment to the division for filing before the statement of domestication takes effect.
3524 (4) A statement of abandonment takes effect on the day and time on which the division files the statement of abandonment and the domestication is abandoned and does not take effect.
3527 (5) A statement of abandonment shall contain:
3528 (a) the name of the domesticating entity;

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3529 (b) the day on which the domesticating entity files the statement of domestication with the division; and
3531 (c) a statement that the domestic domesticating entity abandoned the domestication in accordance with
this section.

3542 Section 87. Section **87** is enacted to read:

16-1a-1006. Statement of domestication -- Effective date of domestication.

3535 (1) A domesticating entity shall sign a statement of domestication and deliver the statement of
domestication to the division for filing.

3537 (2) A statement of domestication shall contain:
3538 (a) the domesticating entity's name, jurisdiction of formation, and type of entity;
3539 (b) the domesticated entity's name, jurisdiction of formation and type of entity;
3540 (c) if the statement of domestication is not to be effective upon filing, the later day and time on which
the statement of domestication will take effect, which may not be more than 90 days after the day on
which the division files the statement of domestication;

3544 (d)
(i) if the domesticating entity is a domestic entity, a statement that the domestication entity approved the
plan of domestication in accordance with Section 16-1a-1004; or
3547 (ii) if the domesticating entity is a foreign entity, a statement that the domesticating entity approved
the plan of domestication in accordance with the law of the domesticating entity's jurisdiction of
formation;
3550 (e) if the domesticated entity is a domestic filing entity, the domesticated entity's public organic record;
3552 (f) if the domesticated entity is a domestic limited liability partnership, the domesticated entity's
statement of qualification; and
3554 (g) if the domesticated entity is a foreign entity that is not a registered foreign entity, a mailing address
to which the division may send any process served on the division.

3556 (3) In addition to the requirements of Subsection (2), a statement of domestication may contain any
other provision not prohibited by law.

3558 (4) If the domesticated entity is a domestic entity, the domesticated entity's public organic record, if
any, shall satisfy the requirements of the laws of this state, except that the public organic record:
3561 (a) is not required to be signed; and
3562 (b) may omit any provision that is not required to be included in a restatement of the public organic
record.

SB0040S01 compared with SB0040S02

3564 (5)

(a) A domestic domesticating entity may deliver a plan of domestication that a domestic domesticating entity signs and that meets all of the requirements of Subsection (2) to the division for filing instead of a statement of domestication.

3567 (b) A domestic domesticating entity delivering a plan of domestication in accordance with Subsection (5)(a) has the same effect as delivering a statement of domestication to the division.

3570 (c) If a domestic domesticating entity delivers a plan of domestication as described in this Subsection (5), all references to a statement of domestication refer to the plan of domestication filed in accordance with this part.

3573 (6) A statement of domestication takes effect on the day and time:

3574 (a) on which the domestic domesticating entity delivers the statement of domestication to the division for filing; or

3576 (b) specified in the statement of domestication that is later than the day and time on which the domestic domesticating entity delivers the statement of domestication to the division for filing.

3579 (7)

(a) If a domesticated entity is a domestic entity, a domestication takes effect on the day and time on which the statement of domestication takes effect.

3581 (b) If a domesticated entity is a foreign entity, the domestication takes effect on the later of:

3583 (i) the day and time provided by the organic law of the domesticated entity; or

3584 (ii) the day and time on which the statement of domestication takes effect.

3594 Section 88. Section 88 is enacted to read:

3595 **16-1a-1007. Effect of domestication.**

3587 (1) When a domestication takes effect:

3588 (a) the domesticated entity is:

3589 (i) organized under and subject to the organic law of the domesticated entity; and

3590 (ii) the same entity without interruption as the domesticating entity;

3591 (b) all of the domesticating entity's property continues to be vested in the domesticated entity without transfer, reversion, or impairment;

3593 (c) each debt, obligation, and other liability of the domesticating entity continues as a debt, obligation, and other liability of the domesticated entity;

3595

SB0040S01 compared with SB0040S02

- (d) except as otherwise provided by law or the plan of domestication, each right, privilege, immunity, power, and purpose of the domesticating entity remain in the domesticated entity;
- (e) the name of the domesticated entity may be substituted for the name of the domesticating entity in a pending action or proceeding;
- (f) if the domesticated entity is a filing entity the domesticated entity's public organic record takes effect;
- (g) if the domesticated entity is a limited liability partnership, the domesticated entity's statement of qualification takes effect simultaneously with the domestication;
- (h) the private organic rules of the domesticated entity that are to be in a record, if any, approved as part of the plan of domestication take effect; and
- (i)
 - (i) each interest in the domesticating entity is converted to the extent and as approved in connection with the domestication; and
 - (ii) each interest holder of the domesticating entity is entitled only to:
 - (A) the rights provided to the interest holder under the plan of domestication;
 - (B) any appraisal rights the interest holder has under Section 16-1a-708; and
 - (C) the rights provided to the interest holder under the domesticating entity's organic law;
- (j) a person that did not have interest holder liability with respect to the domesticating entity and becomes subject to interest holder liability with respect to a domestic entity as a result of the domestication has interest holder liability:
 - (i) only to the extent provided by the organic law of the entity; and
 - (ii) only for a debt, obligation, or other liability that the domesticating entity incurs after the domestication takes effect; and
- (k) the following conditions apply to the interest holder liability of a person that no longer holds an interest in a domestic domesticating entity if the person had interest holder liability in the domestic domesticating entity:
 - (i) the domestication does not discharge any interest holder liability under the organic law of the domestic domesticating entity to the extent the person incurred the interest holder liability before the domestication takes effect;

SB0040S01 compared with SB0040S02

(ii) the person does not have interest holder liability under the organic law of the domestic domesticating entity for a debt, obligation, or other liability that the domesticated entity incurs after the domesticating takes effect;

3628 (iii) the organic law of the domestic domesticating entity continues to apply to the release, collection, or discharge of any interest holder liability preserved under Subsection (1)(k)(i) as if the domestication does not occur; and

3631 (iv) the person has whatever rights of contribution from any other person as provided by other law or the organic rules of the domestic domesticating entity with respect to any interest holder liability preserved under Subsection (1)(k)(i) as if the domestication does not occur.

3635 (2) Except as otherwise provided in the organic law or organic rules of the domesticating entity, the domestication does not give rise to any right that an interest holder, governor, or third party would have upon the dissolution, liquidation, or winding up of the domesticating entity.

3639 (3) When a domestication takes effect, a person may serve a foreign entity that is the domesticated entity with process in this state for the collection and enforcement of any debt, obligation, or other liability of the foreign entity in accordance with applicable law.

3642 (4) If a domesticating entity is a registered foreign entity, the registration to do business in this state of the domesticating entity is canceled when the domestication takes effect.

3644 (5) A domestication does not require the domesticating entity to wind up the domesticating entity's affairs and does not constitute or cause the dissolution of the domesticating entity.

3656 Section 89. Section **89** is enacted to read:

3657 **16-6a-120. Provisions Applicable to All Business Entities applicable.**
Chapter 1a, Provisions Applicable to All Business Entities, applies to the provisions of this chapter.

3660 Section 90. Section **90** is enacted to read:

3661 **16-7-17. Provisions Applicable to All Business Entities applicable.**
Chapter 1a, Provisions Applicable to All Business Entities, applies to the provisions of this chapter.

3664 Section 91. Section **91** is enacted to read:

3665 **16-10a-130. Provisions Applicable to All Business Entities applicable.**
Chapter 1a, Provisions Applicable to All Business Entities, applies to the provisions of this chapter.

SB0040S01 compared with SB0040S02

3668 Section 92. Section **92** is enacted to read:
16-10b-107. Provisions Applicable to All Business Entities applicable.

Chapter 1a, Provisions Applicable to All Business Entities, applies to the provisions of this chapter.

3672 Section 93. Section **93** is enacted to read:
16-11-17. Provisions Applicable to All Business Entities applicable.

Chapter 1a, Provisions Applicable to All Business Entities, applies to the provisions of this chapter.

3676 Section 94. Section **94** is enacted to read:
16-12-7. Provisions Applicable to All Business Entities applicable.

Chapter 1a, Provisions Applicable to All Business Entities, applies to the provisions of this chapter.

3680 Section 95. Section **95** is enacted to read:
16-15-111. Provisions Applicable to All Business Entities applicable.

Chapter 1a, Provisions Applicable to All Business Entities, applies to the provisions of this chapter.

3684 Section 96. Section **96** is enacted to read:
16-16-121. Provisions Applicable to All Business Entities applicable.

Chapter 1a, Provisions Applicable to All Business Entities, applies to the provisions of this chapter.

3688 Section 97. Section **16-18-101** is renumbered and amended to read:

CHAPTER 18. Utah Uniform Partnership Act

3682 Part 1. General Provisions

3692 **[48-1d-102] 16-18-101. Definitions.**

As used in this chapter:

- 3685 (1) "Business" includes every trade, occupation, and profession.
- 3686 (2) "Contribution," except in the phrase "right of contribution," means property or a benefit described in Section **[48-1d-501] 16-18-501** which is provided by a person to a partnership to become a partner or in the person's capacity as a partner.
- 3689 (3) "Debtor in bankruptcy" means a person that is the subject of:

SB0040S01 compared with SB0040S02

3690 (a) an order for relief under Title 11 of the United States Code or a comparable order under a successor
statute of general application; or

3692 (b) a comparable order under federal, state, or foreign law governing insolvency.

3693 (4)

3695 (a) "Distribution" means a transfer of money or other property from a partnership to a person on
account of a transferable interest or in a person's capacity as a partner.[-]

3696 (b) [The term:] "Distribution"

3697 (a) includes:

3698 (i) a redemption or other purchase by a partnership of a transferable interest; and

3699 (ii) a transfer to a partner in return for the partner's relinquishment of any right to participate as a
partner in the management or conduct of the partnership's activities and affairs or have access to
records or other information concerning the partnership's activities and affairs[; and] .

3702 (b) (c) "Distribution" does not include amounts constituting reasonable compensation for present or
past service or payments made in the ordinary course of business under a bona fide retirement plan
or other bona fide benefits program.

3705 (5) "Division" means the Division of Corporations and Commercial Code.

3706 (6) "Foreign limited liability partnership" means a foreign partnership whose partners have limited
liability for the debts, obligations, or other liabilities of the foreign partnership under a provision
similar to Subsection [48-1d-306(3)] 16-18-306(3).

3709 (7)

3712 (a) "Foreign partnership" means an unincorporated entity formed under the law of a jurisdiction other
than this state which would be a partnership if formed under the law of this state.

3713 (b) [-The term] "Foreign partnership" includes a foreign limited liability partnership.

3715 (8) "Jurisdiction," used to refer to a political entity, means the United States, a state, a foreign country,
or a political subdivision of a foreign country.

3716 (9) "Jurisdiction of formation" means, with respect to an entity, the jurisdiction:

3717 (a) under whose law the entity is formed; or

3719 (b) in the case of a limited liability partnership or foreign limited liability partnership, in which the
partnership's statement of qualification is filed.

SB0040S01 compared with SB0040S02

(10) "Limited liability partnership," except in the phrase "foreign limited liability partnership," means a partnership that has filed a statement of qualification under Section [48-1d-1101] 16-18-1001 and does not have a similar statement in effect in any other jurisdiction.

3723 (11) "Partner" means a person that:

3724 (a) has become a partner in a partnership under Section [48-1d-401] 16-18-401 or was a partner in a partnership when the partnership became subject to this chapter under Section [48-1d-1405] 16-18-1205; and

3727 (b) has not dissociated as a partner under Section [48-1d-701] 16-18-701.

3728 (12)

(a) "Partnership" means an association of two or more persons to carry on as co-owners a business for profit formed under this chapter or that becomes subject to this chapter under [Part 10, Merger, Interest Exchange, Conversion, and Domestication] :

3732 (i) Chapter 1a, Part 7, Merger;

3733 (ii) Chapter 1a, Part 8, Interest Exchange;

3734 (iii) Chapter 1a, Part 9, Conversion;

3735 (iv) [.] Chapter 1a, Part 10, Domestication; or

3736 (v) Section [48-1d-1405] 16-18-1205.

3737 (b) [The term] "Partnership" includes a limited liability partnership.

3738 (13)

(a) "Partnership agreement" means the agreement, whether or not referred to as a partnership agreement, and whether oral, implied, in a record, or in any combination thereof, of all the partners of a partnership concerning the matters described in Subsection [48-1d-106(1)] 16-18-105(1).

3742 (b) [The term] "Partnership agreement" includes the agreement as amended or restated.

3743 (14) "Partnership at will" means a partnership in which the partners have not agreed to remain partners until the expiration of a definite term or the completion of a particular undertaking.

3746 (15) "Person" means an individual, business corporation, nonprofit corporation, partnership, limited partnership, limited liability company, limited cooperative association, unincorporated nonprofit association, statutory trust, business trust, common-law business trust, estate, trust, association, joint venture, public corporation, government or governmental subdivision, agency, or instrumentality, or any other legal or commercial entity.

3752

SB0040S01 compared with SB0040S02

(16) "Principal office" means the principal executive office of a partnership or a foreign limited liability partnership, whether or not the office is located in this state.

3754 (17) "Professional services" means a personal service provided by:

3755 (a) a public accountant holding a license under Title 58, Chapter 26a, Certified Public Accountant
Licensing Act, or a subsequent law regulating the practice of public accounting;

3758 (b) an architect holding a license under Title 58, Chapter 3a, Architects Licensing Act, or a subsequent
law regulating the practice of architecture;

3760 (c) an attorney granted the authority to practice law by the:

3761 (i) Utah Supreme Court; or

3762 (ii) one or more of the following that licenses or regulates the authority to practice law in a state or
territory of the United States other than Utah:

3764 (A) a supreme court;

3765 (B) a court other than a supreme court;

3766 (C) an agency;

3767 (D) an instrumentality; or

3768 (E) a regulating board;

3769 (d) a chiropractor holding a license under Title 58, Chapter 73, Chiropractic Physician Practice Act, or a
subsequent law regulating the practice of chiropractics;

3771 (e) a doctor of dentistry holding a license under Title 58, Chapter 69, Dentist and Dental Hygienist
Practice Act, or a subsequent law regulating the practice of dentistry;

3773 (f) a professional engineer registered under Title 58, Chapter 22, Professional Engineers and
Professional Land Surveyors Licensing Act, or a subsequent law regulating the practice of engineers
or land surveyors;

3776 (g) a naturopath holding a license under Title 58, Chapter 71, Naturopathic Physician Practice Act, or a
subsequent law regulating the practice of naturopathy;

3778 (h) a nurse licensed under Title 58, Chapter 31b, Nurse Practice Act, or Chapter 44a, Nurse Midwife
Practice Act, or a subsequent law regulating the practice of nursing;

3780 (i) an optometrist holding a license under Title 58, Chapter 16a, Utah Optometry Practice Act, or a
subsequent law regulating the practice of optometry;

3782 (j) an osteopathic physician or surgeon holding a license under Title 58, Chapter 68, Utah Osteopathic
Medical Practice Act, or a subsequent law regulating the practice of osteopathy;

SB0040S01 compared with SB0040S02

3785 (k) a pharmacist holding a license under Title 58, Chapter 17b, Pharmacy Practice Act, or a subsequent law regulating the practice of pharmacy;

3787 (l) a physician, surgeon, or doctor of medicine holding a license under Title 58, Chapter 67, Utah Medical Practice Act, or a subsequent law regulating the practice of medicine;

3790 (m) a physician assistant holding a license under Title 58, Chapter 70a, Utah Physician Assistant Act, or a subsequent law regulating the practice as a physician assistant;

3792 (n) a physical therapist holding a license under Title 58, Chapter 24b, Physical Therapy Practice Act, or a subsequent law regulating the practice of physical therapy;

3794 (o) a podiatric physician holding a license under Title 58, Chapter 5a, Podiatric Physician Licensing Act, or a subsequent law regulating the practice of podiatry;

3796 (p) a psychologist holding a license under Title 58, Chapter 61, Psychologist Licensing Act, or a subsequent law regulating the practice of psychology;

3798 (q) a principal broker, associate broker, or sales agent holding a license under Title 61, Chapter 2f, Real Estate Licensing and Practices Act, or a subsequent law regulating the sale, exchange, purchase, rental, or leasing of real estate;

3801 (r) a clinical or certified social worker holding a license under Title 58, Chapter 60, Part 2, Social Worker Licensing Act, or a subsequent law regulating the practice of social work;

3804 (s) a mental health therapist holding a license under Title 58, Chapter 60, Mental Health Professional Practice Act, or a subsequent law regulating the practice of mental health therapy;

3807 (t) a veterinarian holding a license under Title 58, Chapter 28, Veterinary Practice Act, or a subsequent law regulating the practice of veterinary medicine; or

3809 (u) an individual licensed, certified, or registered under Title 61, Chapter 2g, Real Estate Appraiser Licensing and Certification Act, or a subsequent law regulating the practice of appraising real estate.

3812 (18) "Property" means all property, whether real, personal, or mixed, or tangible or intangible, or any right or interest therein.

3814 (19) "Record," used as a noun, means information that is inscribed on a tangible medium or that is stored in an electronic or other medium and is retrievable in perceivable form.

3816 (20) "Registered agent" means an agent of a limited liability partnership or foreign limited liability partnership which is authorized to receive service of any process, notice, or demand required or permitted by law to be served on the partnership.

3819

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(21) "Registered foreign limited liability partnership" means a foreign limited liability partnership that is registered to do business in this state [pursuant to] in accordance with a statement of registration filed by the division.

3822 (22) "Sign" means, with present intent to authenticate or adopt a record:

3823 (a) to execute or adopt a tangible symbol; or

3824 (b) to attach to or logically associate with the record an electronic symbol, sound, or process.

3826 (23) "State" means a state of the United States, the District of Columbia, Puerto Rico, the United States Virgin Islands, or any territory or insular possession subject to the jurisdiction of the United States.

3829 (24) "Transfer" includes:

3830 (a) an assignment;

3831 (b) a conveyance;

3832 (c) a sale;

3833 (d) a lease;

3834 (e) an encumbrance, including a mortgage or security interest;

3835 (f) a gift; and

3836 (g) a transfer by operation of law.

3837 (25)

(a) "Transferable interest" means the right, as initially owned by a person in the person's capacity as a partner, to receive distributions from a partnership in accordance with the partnership agreement, whether or not the person remains a partner or continues to own any part of the right.

3841 (b) [The term] "Transferable interest" applies to any fraction of the interest, by whomever owned.

3843 (26) "Transferee" means a person to which all or part of a transferable interest has been transferred, whether or not the transferor is a partner.

3845 (27) "Tribal partnership" means a partnership:

3846 (a) formed under the law of a tribe; and

3847 (b) that is at least 51% owned or controlled by the tribe under whose law the partnership is formed.

3849 (28) "Tribe" means a tribe, band, nation, pueblo, or other organized group or community of Indians, including an Alaska Native village, that is legally recognized as eligible for and is consistent with a special program, service, or entitlement provided by the United States to Indians because of their status as Indians.

3862 Section 98. Section **16-18-102** is renumbered and amended to read:

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3864 **[48-1d-103] 16-18-102. Knowledge -- Notice.**

3856 (1) A person knows a fact if the person:

3857 (a) has actual knowledge of it; or

3858 (b) is deemed to know it under Subsection (4)(a) or law other than this chapter.

3859 (2) A person has notice of a fact if the person:

3860 (a) has reason to know the fact from all the facts known to the person at the time in question; or

3862 (b) is deemed to have notice of the fact under Subsection (4)(b).

3863 (3) Subject to [Subseetion 48-1d-116(6)] Section 16-1a-211, a person notifies another person of a fact by taking steps reasonably required to inform the other person in ordinary course, whether or not those steps cause the other person to know the fact.

3866 (4) A person not a partner is deemed:

3867 (a) to know of a limitation on authority to transfer real property as provided in Subsection [48-1d-303(7)] 16-18-303(7); and

3869 (b) to have notice of:

3870 (i) a partner's dissociation 90 days after a statement of dissociation under Section [48-1d-804] 16-18-804 becomes effective; and

3872 (ii) a partnership's:

3873 (A) dissolution 90 days after a statement of dissolution under Subsection [48-1d-902(2)(b) (i)] 16-18-902(2)(b)(i) becomes effective;

3875 (B) termination 90 days after a statement of termination under Subsection [48-1d-902(2)(b) (vi)] 16-18-902(2)(b)(vi) becomes effective;

3877 (C) participation in a merger, interest exchange, conversion, or domestication 90 days after a statement of merger, interest exchange, conversion, or domestication under [Part 10, Merger, Interest Exchange, Conversion, and Domestication] Chapter 1a, Part 7, Merger, Chapter 1a, Part 8, Interest Exchange, Chapter 1a, Part 9, Conversion, or Chapter 1a, Part 10, Domestication, becomes effective; and

3883 (D) abandonment of a merger, interest exchange, conversion, or domestication 90 days after a statement of abandonment of merger, interest exchange, conversion, or domestication under [Part 10, Merger, Interest Exchange, Conversion, and Domestication] Chapter 1a, Part 7, Merger, Chapter 1a, Part 8, Interest Exchange, Chapter 1a, Part 9, Conversion, or Chapter 1a, Part 10, Domestication, becomes effective.

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3889 (5) A partner's knowledge or notice of a fact relating to the partnership is effective immediately as
knowledge of or notice to the partnership, except in the case of a fraud on the partnership committed
by or with the consent of that partner.

3901 Section 99. Section **16-18-103** is renumbered and amended to read:

3903 **[48-1d-104] 16-18-103. Governing law.**

The internal affairs of a partnership and the liability of a partner as a partner for the
debts, obligations, or other liabilities of the partnership are governed by:

3897 (1) in the case of a limited liability partnership, the law of this state; and

3898 (2) in the case of a partnership that is not a limited liability partnership, the law of the state of the
jurisdiction in which the partnership has its principal office.

3909 Section 100. Section **16-18-104** is renumbered and amended to read:

3911 **[48-1d-105] 16-18-104. Supplemental principles of law.**

Unless displaced by particular provisions of this chapter, the principles of law and equity
supplement this chapter.

3914 Section 101. Section **16-18-105** is renumbered and amended to read:

3916 **[48-1d-106] 16-18-105. Partnership agreement -- Scope, function, and limitations.**

3908 (1) Except as otherwise provided in Subsections (3) and (4), the partnership agreement governs:

3910 (a) relations among the partners as partners and between the partners and the partnership;

3911 (b) the activities and affairs of the partnership and the conduct of those activities and affairs; and

3913 (c) the means and conditions for amending the partnership agreement.

3914 (2) To the extent the partnership agreement does not provide for a matter described in Subsection (1),
this chapter governs the matter.

3916 (3) A partnership agreement may not:

3917 (a) vary the law applicable under Section **[48-1d-104] 16-18-103**;

3918 (b) vary the provisions of Section **[48-1d-111] 16-1a-209**;

3919 (c) vary the provisions of Section **[48-1d-307] 16-18-307**;

3920 (d) unreasonably restrict the duties and rights under Section **[48-1d-403] 16-18-403**, but the partnership
agreement may impose reasonable restrictions on the availability and use of information obtained
under that section and may define appropriate remedies, including liquidated damages, for a breach
of any reasonable restriction on use;

3924 (e) eliminate the duty of loyalty or the duty of care, except as otherwise provided in Subsection (4);

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3926 (f) eliminate the contractual obligation of good faith and fair dealing under Subsection [48-1d-405(4)] 16-18-405(4), but the partnership agreement may prescribe the standards, if not unconscionable or against public policy, by which the performance of the obligation is to be measured;

3930 (g) relieve or exonerate a person from liability for conduct involving bad faith, willful misconduct, or recklessness;

3932 (h) vary the power to dissociate as a partner under Subsection [48-1d-702(1)] 16-18-702(1), except to require the notice under Subsection [48-1d-701(1)] 16-18-701(1) to be in a record;

3935 (i) vary the right of a court to expel a partner in the events specified in Subsection [48-1d-701(5)] 16-18-701(5);

3937 (j) vary the causes of dissolution specified in Subsection [48-1d-901(4)] 16-18-901(4), (5), or (6);

3939 (k) vary the requirement to wind up the partnership's activities and affairs as specified in Subsections [48-1d-902(1)] 16-18-902(1), (2)(a), and (4);

3941 (l) vary the right of a partner to approve a merger, interest exchange, conversion, or domestication under [Subsektion 48-1d-1023(1)(b)] Section 16-1a-704, [48-1d-1033(1)(b)] 16-1a-804, [48-1d-1043(1)(b)] 16-1a-904, or [48-1d-1053(1)(b)] 16-1a-1004;

3945 (m) vary any requirement, procedure, or other provision of this chapter pertaining to:

3946 (i) registered agents; or

3947 (ii) the division, including provisions pertaining to records authorized or required to be delivered to the division for filing under this chapter; or

3949 (n) except as otherwise provided in Section [48-1d-107] 16-18-106 and Subsection [48-1d-108(2)] 16-18-107(2), restrict the rights under this chapter of a person other than a partner.

3952 (4) Subject to Subsection (3)(e), without limiting other terms that may be included in a partnership agreement, the following rules apply:

3954 (a) The partnership agreement may specify the method by which a specific act or transaction that would otherwise violate the duty of loyalty may be authorized or ratified by one or more disinterested and independent persons after full disclosure of all material facts.

3958 (b) If not unconscionable or against public policy, the partnership agreement may:

3959 (i) alter or eliminate the aspects of the duty of loyalty stated in Subsection [48-1d-405(2)] 16-18-405(2);

3961 (ii) identify specific types or categories of activities that do not violate the duty of loyalty;

3963 (iii) alter the duty of care, except to authorize intentional misconduct or knowing violation of law; and

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3965 (iv) alter or eliminate any other fiduciary duty.

3966 (5)

3967 (a) The court shall decide as a matter of law whether a term of a partnership agreement is
unconscionable or against public policy under Subsection (3)(f) or (4)(b).

3968 (b) ~~[–]~~The court:

3969 [(a)] (i) shall make [its] the court's determination as of the time the challenged term became part of the
partnership agreement and by considering only circumstances existing at that time; and

3970 [(b)] (ii) may invalidate the term only if, in light of the purposes and business of the partnership, it is
readily apparent that:

3971 [(i)] (A) the objective of the term is unconscionable or against public policy; or

3972 [(ii)] (B) the means to achieve the term's objective is unconscionable or against public policy.

3973 Section 102. Section **16-18-106** is renumbered and amended to read:

3974 **[48-1d-107] 16-18-106. Partnership agreement -- Effect on partnership and person becoming
partner -- Preformation agreement.**

3975 (1) A partnership is bound by and may enforce the partnership agreement, whether or not the
partnership has itself manifested assent to the partnership agreement.

3976 (2) A person that becomes a partner of a partnership is deemed to assent to the partnership agreement.

3977 (3) Two or more persons intending to become the initial partners of a partnership may make an
agreement providing that upon the formation of the partnership the agreement will become the
partnership agreement.

3978 Section 103. Section **16-18-107** is renumbered and amended to read:

3979 **[48-1d-108] 16-18-107. Partnership agreement -- Effect on third parties and relationship to
records effective on behalf of partnership.**

3980 (1)

3981 (a) A partnership agreement may specify that [its] the partnership's amendment requires the approval of
a person that is not a party to the partnership agreement or the satisfaction of a condition.

3982 (b) ~~[–]~~An amendment is ineffective if [its] the amendment's adoption does not include the required
approval or satisfy the specified condition.

3983 (2)

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(a) The obligations of a partnership and [its] the partnership's partners to a person in the person's capacity as a transferee or person dissociated as a partner are governed by the partnership agreement.

4000 (b) [–]Subject only to a court order issued under Subsection [48-1d-604(2)(b)] 16-18-604(2)(b) to effectuate a charging order, an amendment to the partnership agreement made after a person becomes a transferee or is dissociated as a partner:

4003 [(a)] (i) is effective with regard to any debt, obligation, or other liability of the partnership or its partners to the person in the person's capacity as a transferee or person dissociated as a partner; and

4006 [(b)] (ii) is not effective to the extent the amendment:

4007 [(i)] (A) imposes a new debt, obligation, or other liability on the transferee or person dissociated as a partner; or

4009 [(ii)] (B) prejudices the rights under Section [48-1d-801] 16-18-801 of a person that dissociated as a partner before the amendment was made.

4011 (3) If a record delivered by a partnership to the division for filing becomes effective under this chapter and contains a provision that would be ineffective under Subsection [48-1d-106(3)] 16-18-105(3) or (4)(b) if contained in the partnership agreement, the provision is ineffective in the record.

4015 (4) Subject to Subsection (3), if a record delivered by a partnership to the division for filing becomes effective under this chapter and conflicts with a provision of the partnership agreement:

4018 (a) the partnership agreement prevails as to partners, persons dissociated as partners, and transferees; and

4020 (b) the record prevails as to other persons to the extent [they] the persons reasonably rely on the record.

4031 Section 104. Section **16-18-108** is renumbered and amended to read:

4033 **[48-1d-118] 16-18-108. Reservation of power to amend or repeal.**
The Legislature of this state has power to amend or repeal all or part of this chapter at any time, and all domestic and foreign limited liability partnerships subject to this chapter are governed by the amendment or repeal.

4037 Section 105. Section **105** is enacted to read:

4038 **16-18-109. Provisions Applicable to All Business Entities applicable.**
Chapter 1a, Provisions Applicable to All Business Entities, applies to the provisions of this chapter.

4041 Section 106. Section **16-18-201** is renumbered and amended to read:

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Part 2. Nature of Partnership

[48-1d-201] 16-18-201. Partnership as entity.

- (1) A partnership is an entity distinct from [its] the partnership's partners.
- (2) A partnership is the same entity regardless of whether the partnership has a statement of qualification in effect under Section [48-1d-1101] 16-18-1001.

Section 107. Section **16-18-202** is renumbered and amended to read:

[48-1d-202] 16-18-202. Formation of partnership.

- (1) Except as otherwise provided in Subsection (2), the association of two or more persons to carry on as co-owners a business for profit forms a partnership, whether or not the persons intend to form a partnership.
- (2) An association formed under a statute other than this chapter, a predecessor statute, or a comparable statute of another jurisdiction is not a partnership under this chapter.
- (3) In determining whether a partnership is formed, the following rules apply:
 - (a) Joint tenancy, tenancy in common, tenancy by the entireties, joint property, common property, or part ownership does not by itself establish a partnership, even if the co-owners share profits made by the use of the property.
 - (b) The sharing of gross returns does not by itself establish a partnership, even if the persons sharing them have a joint or common right or interest in property from which the returns are derived.
 - (c) A person who receives a share of the profits of a business is presumed to be a partner in the business, unless the profits were received in payment:
 - (i) of a debt by installments or otherwise;
 - (ii) for services as an independent contractor or of wages or other compensation to an employee;
 - (iii) of rent;
 - (iv) of an annuity or other retirement or health benefit to a deceased or retired partner or a beneficiary, representative, or designee of a deceased or retired partner;
 - (v) of interest or other charge on a loan, even if the amount of payment varies with the profits of the business, including a direct or indirect present or future ownership of the collateral, or rights to income, proceeds, or increase in value derived from the collateral; or
 - (vi) for the sale of the goodwill of a business or other property by installments or otherwise.

Section 108. Section **16-18-203** is renumbered and amended to read:

[48-1d-203] 16-18-203. Partnership property.

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Property acquired by a partnership is property of the partnership and not of the partners individually.

4082 Section 109. Section **16-18-204** is renumbered and amended to read:

4084 **[48-1d-204] 16-18-204. When property is partnership property.**

4076 (1) Property is partnership property if acquired in the name of:

4077 (a) the partnership; or

4078 (b) one or more partners with an indication in the instrument transferring title to the property of the person's capacity as a partner or of the existence of a partnership but without an indication of the name of the partnership.

4081 (2) Property is acquired in the name of the partnership by a transfer to:

4082 (a) the partnership in [its] the partnership's name; or

4083 (b) one or more partners in [their] the partners' capacity as partners in the partnership, if the name of the partnership is indicated in the instrument transferring title to the property.

4086 (3) Property is presumed to be partnership property if purchased with partnership assets, even if not acquired in the name of the partnership or of one or more partners with an indication in the instrument transferring title to the property of the person's capacity as a partner or of the existence of a partnership.

4090 (4) Property acquired in the name of one or more of the partners, without an indication in the instrument transferring title to the property of the person's capacity as a partner or of the existence of a partnership and without use of partnership assets, is presumed to be separate property, even if used for partnership purposes.

4103 Section 110. Section **16-18-301** is renumbered and amended to read:

4096 **Part 3. Relations of Partners to Persons Dealing with Partnership**

4106 **[48-1d-301] 16-18-301. Partner agent of partnership.**

Subject to the effect of a statement of partnership authority under Section [48-1d-303] 16-18-303, the following rules apply:

4100 (1)

4102 (a) Each partner is an agent of the partnership for the purpose of its activities and affairs.

(b) [–]An act of a partner, including the signing of an instrument in the partnership name, for apparently carrying on in the ordinary course the partnership's activities and affairs or activities and affairs of the kind carried on by the partnership binds the partnership, unless the partner did not have authority

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to act for the partnership in the particular matter and the person with which the partner was dealing knew, or had notice, that the partner lacked authority.

4108 (2) An act of a partner, which is not apparently for carrying on in the ordinary course the partnership's activities and affairs or activities and affairs of the kind carried on by the partnership, binds the partnership only if the act was actually authorized by all the other partners.

4121 Section 111. Section **16-18-302** is renumbered and amended to read:

4123 **[48-1d-302] 16-18-302. Transfer of partnership property.**

4115 (1) Partnership property may be transferred as follows:

4116 (a) Subject to the effect of a statement of partnership authority under Section **[48-1d-303] 16-18-303**, partnership property held in the name of the partnership may be transferred by an instrument of transfer executed by a partner in the partnership name.

4119 (b) Partnership property held in the name of one or more partners with an indication in the instrument transferring the property to them of their capacity as partners or of the existence of a partnership, but without an indication of the name of the partnership, may be transferred by an instrument of transfer executed by the persons in whose name the property is held.

4124 (c) Partnership property held in the name of one or more persons other than the partnership, without an indication in the instrument transferring the property to them of their capacity as partners or of the existence of a partnership, may be transferred by an instrument of transfer executed by the persons in whose name the property is held.

4129 (2) A partnership may recover partnership property from a transferee only if [it] **the partnership** proves that execution of the instrument of initial transfer did not bind the partnership under Section **[48-1d-301] 16-18-301** and:

4132 (a) as to a subsequent transferee who gave value for property transferred under Subsection (1)(a) or (1)(b), proves that the subsequent transferee knew or had received a notification that the person who executed the instrument of initial transfer lacked authority to bind the partnership; or

4136 (b) as to a transferee who gave value for property transferred under Subsection (1)(c), proves that the transferee knew or had received a notification that the property was partnership property and that the person who executed the instrument of initial transfer lacked authority to bind the partnership.

4140 (3) A partnership may not recover partnership property from a subsequent transferee if the partnership would not have been entitled to recover the property, under Subsection (2), from any earlier transferee of the property.

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4143 (4)

4143 (a) If a person holds all the partners' interests in the partnership, all the partnership property vests in that person.

4145 (b) [–]The person may execute a document in the name of the partnership to evidence vesting of the property in that person and may file or record the document.

4156 Section 112. Section **16-18-303** is renumbered and amended to read:

4158 **[48-1d-303] 16-18-303. Statement of partnership authority.**

4150 (1)

4150 (a) A partnership may deliver to the division for filing a statement of partnership authority.

4152 (b) [–]The statement:

4153 [(a)] (i) must include:

4154 [(i)] (A) the name of the partnership; and

4155 [(ii)] (B) if the partnership is not a limited liability partnership, the street and mailing addresses of its principal office;

4157 [(b)] (ii) with respect to any position that exists in or with respect to the partnership, may state the authority, or limitations on the authority, of all persons holding the position to:

4160 [(i)] (A) execute an instrument transferring real property held in the name of the partnership; or

4162 [(ii)] (B) enter into other transactions on behalf of, or otherwise act for or bind, the partnership; and

4164 [(e)] (iii) may state the authority, or limitations on the authority, of a specific person to:

4166 [(i)] (A) execute an instrument transferring real property held in the name of the partnership; or

4168 [(ii)] (B) enter into other transactions on behalf of, or otherwise act for or bind, the partnership.

4170 (2) To amend or cancel a statement of authority filed by the division, a partnership must deliver to the division for filing an amendment or cancellation stating:

4172 (a) the name of the partnership;

4173 (b) the street and mailing addresses of the partnership's principal office;

4174 (c) the date the statement of authority being affected became effective; and

4175 (d) the contents of the amendment or a declaration that the statement of authority is canceled.

4177 (3) A statement of authority affects only the power of a person to bind a partnership to persons that are not partners.

4179 (4) Subject to Subsection (3) and Subsection [48-1d-103(4)(a)] **16-18-102(4)(a)**, and except as otherwise provided in Subsections (6), (7), and (8), a limitation on the authority of a person or a

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position contained in an effective statement of authority is not by itself evidence of any person's knowledge or notice of the limitation.

4183 (5) Subject to Subsection (3), a grant of authority not pertaining to transfers of real property and contained in an effective statement of authority is conclusive in favor of a person that gives value in reliance on the grant, except to the extent that if the person gives value:

4187 (a) the person has knowledge to the contrary;

4188 (b) the statement of authority has been canceled or restrictively amended under Subsection (2); or

4190 (c) a limitation on the grant is contained in another statement of authority that became effective after the statement of authority containing the grant became effective.

4192 (6) Subject to Subsection (3), an effective statement of authority that grants authority to transfer real property held in the name of the partnership and a certified copy of which is recorded in the office for recording transfers of the real property is conclusive in favor of a person that gives value in reliance on the grant without knowledge to the contrary, except to the extent that when the person gives value:

4197 (a) the statement of authority has been canceled or restrictively amended under Subsection (2), and a certified copy of the cancellation or restrictive amendment has been recorded in the office for recording transfers of the real property; or

4200 (b) a limitation on the grant is contained in another statement of authority that became effective after the statement of authority containing the grant became effective, and a certified copy of the later-effective statement of authority is recorded in the office for recording transfers of the real property.

4204 (7) Subject to Subsection (3), if a certified copy of an effective statement of authority containing a limitation on the authority to transfer real property held in the name of a partnership is recorded in the office for recording transfers of that real property, all persons are deemed to know of the limitation.

4208 (8) Subject to Subsection (9), an effective statement of dissolution is a cancellation of any filed statement of authority for the purposes of Subsection (6) and is a limitation on authority for purposes of Subsection (7).

4211 (9)

(a) After a statement of dissolution becomes effective, a partnership may deliver to the division for filing and, if appropriate, may record a statement of authority that is designated as a postdissolution statement of authority.

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4214 (b) [–]The postdissolution statement of authority operates as provided in Subsections (6) and (7).

4216 (10)

4219 (a) Unless canceled earlier, an effective statement of authority is canceled by operation of law five years after the date on which the statement of authority, or [its] the statement of authority's most recent amendment, becomes effective.

4220 (b) [–]Cancellation is effective without recording under Subsection (6) or (7).

4221 (11) An effective statement of denial operates as a restrictive amendment under this section and may be recorded by certified copy for purposes of Subsection (6)(a).

4222 Section 113. Section **16-18-304** is renumbered and amended to read:

4223 **[48-1d-304] 16-18-304. Statement of denial.**

4224 A person named in a filed statement of authority granting that person authority may deliver to the division for filing a statement of denial that:

4225 (1) provides the name of the partnership and the caption of the statement of authority to which the statement of denial pertains; and

4226 (2) denies the grant of authority.

4227 Section 114. Section **16-18-305** is renumbered and amended to read:

4228 **[48-1d-305] 16-18-305. Partnership liable for partner's actionable conduct.**

4229 (1) A partnership is liable for loss or injury caused to a person, or for a penalty incurred, as a result of a wrongful act or omission, or other actionable conduct, of a partner acting in the ordinary course of activities and affairs of the partnership or with the actual or apparent authority of the partnership.

4230 (2) If, in the course of the partnership's activities and affairs or while acting with actual or apparent authority of the partnership, a partner receives or causes the partnership to receive money or property of a person not a partner, and the money or property is misappropriated by a partner, the partnership is liable for the loss.

4231 Section 115. Section **16-18-306** is renumbered and amended to read:

4232 **[48-1d-306] 16-18-306. Partner's liability.**

4233 (1) Except as otherwise provided in Subsections (2) and (3), all partners are liable jointly and severally for all debts, obligations, and other liabilities of the partnership unless otherwise agreed to by the claimant or provided by law.

4234 (2) A person that becomes a partner is not personally liable for a debt, obligation, or other liability of the partnership incurred before the person became a partner.

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4249 (3)

(a) A debt, obligation, or other liability of a partnership incurred while the partnership is a limited liability partnership is solely the debt, obligation, or other liability of the limited liability partnership.

4252 (b) [–]A partner is not personally liable, directly or indirectly, by way of contribution or otherwise, for a debt, obligation, or other liability of the limited liability partnership solely by reason of being or acting as a partner.

4255 (c) [–]This Subsection (3) applies:

4256 [({a}) (i) despite anything inconsistent in the partnership agreement that existed immediately before the vote or consent required to become a limited liability partnership under Subsection [48-1d-1101(2)] 16-18-1001(2); and

4259 [({b}) (ii) regardless of the dissolution of the limited liability partnership.

4260 (4) The failure of a limited liability partnership to observe any formalities relating to the exercise of its powers or management of its activities and affairs is not a ground for imposing liability on any partner of the limited liability partnership for a debt, obligation, or other liability of the limited liability partnership.

4264 (5) The cancellation or administrative revocation of a limited liability partnership's statement of qualification does not affect the limitation under this section on the liability of a partner for a debt, obligation, or other liability of the partnership incurred while the statement was in effect.

4268 (6)

(a) Subsection (3) and [Part 11, Limited Liability Partnerships] Part 10, Limited Liability Partnerships, do not alter any law applicable to the relationship between a person providing a professional service and a person receiving the professional service, including liability arising out of those professional services.

4272 (b) [–]A person providing a professional service remains personally liable for a result of that person's act or omission.

4283 Section 116. Section **16-18-307** is renumbered and amended to read:

4285 **[48-1d-307] 16-18-307. Actions by and against partnership and partners.**

4277 (1) A partnership may sue and be sued in the name of the partnership.

4278 (2) To the extent not inconsistent with Section [48-1d-306] 16-18-306, a partner may be joined in an action against the partnership or named in a separate action.

SB0040S01 compared with SB0040S02

4280 (3)

(a) A judgment against a partnership is not by itself a judgment against a partner.

4281 (b) [–]A judgment against a partnership may not be satisfied from a partner's assets unless there is also a judgment against the partner.

4283 (4) A judgment creditor of a partner may not levy execution against the assets of the partner to satisfy a judgment based on a claim against the partnership unless the partner is personally liable for the claim under Section [48-1d-306] 16-18-306, and:

4286 (a) a judgment based on the same claim has been obtained against the partnership and a writ of execution on the judgment has been returned unsatisfied in whole or in part;

4288 (b) the partnership is a debtor in bankruptcy;

4289 (c) the partner has agreed that the creditor need not exhaust partnership assets;

4290 (d) a court grants permission to the judgment creditor to levy execution against the assets of a partner based on a finding that partnership assets subject to execution are clearly insufficient to satisfy the judgment, that exhaustion of partnership assets is excessively burdensome, or that the grant of permission is an appropriate exercise of the court's equitable powers; or

4295 (e) liability is imposed on the partner by law or contract independent of the existence of the partnership.

4297 (5) This section applies to any partnership liability or obligation resulting from a representation by a partner or purported partner under Section [48-1d-308] 16-18-308.

4308 Section 117. Section **16-18-308** is renumbered and amended to read:

4310 **[48-1d-308] 16-18-308. Liability of purported partner.**

4302 (1)

(a) If a person, by words or conduct, purports to be a partner, or consents to being represented by another as a partner, in a partnership or with one or more persons not partners, the purported partner is liable to a person to whom the representation is made, if that person, relying on the representation, enters into a transaction with the actual or purported partnership.

4307 (b) [–]If the representation, either by the purported partner or by a person with the purported partner's consent, is made in a public manner, the purported partner is liable to a person who relies upon the purported partnership even if the purported partner is not aware of being held out as a partner to the claimant.

4311 (c) [–]If partnership liability results, the purported partner is liable with respect to that liability as if the purported partner were a partner.

SB0040S01 compared with SB0040S02

4313 (d) [–]If no partnership liability results, the purported partner is liable with respect to that liability jointly and severally with any other person consenting to the representation.

4316 (2)

4317 (a) If a person is thus represented to be a partner in an existing partnership, or with one or more persons not partners, the purported partner is an agent of persons consenting to the representation to bind them to the same extent and in the same manner as if the purported partner were a partner, with respect to persons who enter into transactions in reliance upon the representation.

4321 (b) [–]If all the partners of the existing partnership consent to the representation, a partnership act or obligation results.

4323 (c) [–]If fewer than all the partners of the existing partnership consent to the representation, the person acting and the partners consenting to the representation are jointly and severally liable.

4326 (3) A person is not liable as a partner merely because the person is named by another in a statement of partnership authority.

4328 (4) A person does not continue to be liable as a partner merely because of a failure to file a statement of dissociation or to amend a statement of partnership authority to indicate the partner's dissociation from the partnership.

4331 (5) Except as otherwise provided in Subsections (1) and (2), persons who are not partners as to each other are not liable as partners to other persons.

4342 Section 118. Section **16-18-401** is renumbered and amended to read:

4335 **Part 4. Relations of Partners to Each Other and to Partnership**

4345 **[48-1d-401] 16-18-401. Becoming partner.**

4337 (1) Upon formation of a partnership, a person becomes a partner under Subsection [48-1d-202(1)] 16-18-202(1).

4339 (2) After formation of a partnership, a person becomes a partner:

4340 (a) as provided in the partnership agreement;

4341 (b) as a result of a transaction effective under [Part 10, Merger, Interest Exchange, Conversion, and Domestication] Chapter 1a, Part 7, Merger, Chapter 1a, Part 8, Interest Exchange, Chapter 1a, Part 9, Conversion, or Chapter 1a, Part 10, Domestication; or

4345 (c) with the consent of all the partners.

4346 (3) A person may become a partner without either:

4347 (a) acquiring a transferable interest; or

SB0040S01 compared with SB0040S02

4348 (b) making or being obligated to make a contribution to the partnership.

4358 Section 119. Section **16-18-402** is renumbered and amended to read:

4360 **[48-1d-402] 16-18-402. Management rights of partners.**

4352 (1) Each partner has equal rights in the management and conduct of the partnership's activities and affairs.

4354 (2) A partner may use or possess partnership property only on behalf of the partnership.

4355 (3) A partner is not entitled to remuneration for services performed for the partnership, except for reasonable compensation for services rendered in winding up the activities and affairs of the partnership.

4358 (4) A difference arising among partners as to a matter in the ordinary course of the activities of the partnership shall be decided by a majority of the partners.

4360 (5)

4362 (a) An act outside the ordinary course of the activities and affairs of the partnership may be undertaken only with the consent of all partners.

4362 (b) [–]An act outside the ordinary course of business of a partnership, an amendment to the partnership agreement, and the approval of a transaction under ~~Part 10, Merger, Interest Exchange, Conversion, and Domestication~~ Chapter 1a, Part 7, Merger, Chapter 1a, Part 8, Interest Exchange, Chapter 1a, Part 9, Conversion, or Chapter 1a, Part 10, Domestication, may be undertaken only with the affirmative vote or consent of all of the partners.

4377 Section 120. Section **16-18-403** is renumbered and amended to read:

4379 **[48-1d-403] 16-18-403. Rights of partners and person dissociated as partner to information.**

4372 (1) A partnership shall keep [its] the partnership's books and records, if any, at [its] the partnership's principal office.

4374 (2) On reasonable notice, a partner may inspect and copy during regular business hours, at a reasonable location specified by the partnership, any record maintained by the partnership regarding the partnership's activities, affairs, financial condition, and other circumstances, to the extent the information is material to the partner's rights and duties under the partnership agreement or this chapter.

4379 (3) The partnership shall furnish to each partner:

4380 (a) without demand, any information concerning the partnership's activities, affairs, financial condition, and other circumstances which the partnership knows and is material to the proper exercise of the

SB0040S01 compared with SB0040S02

partner's rights and duties under the partnership agreement or this chapter, except to the extent the partnership can establish that [it] the partnership reasonably believes the partner already knows the information; and

4385 (b) on demand, any other information concerning the partnership's activities, affairs, financial condition, and other circumstances, except to the extent the demand or information demanded is unreasonable or otherwise improper under the circumstances.

4389 (4) The duty to furnish information under Subsection (3) also applies to each partner to the extent the partner knows any of the information described in Subsection (3).

4391 (5) Subject to Subsection (8), on 10 days' demand made in a record received by a partnership, a person dissociated as a partner may have access to information to which the person was entitled while a partner if:

4394 (a) the information pertains to the period during which the person was a partner;

4395 (b) the person seeks the information in good faith; and

4396 (c) the person satisfies the requirements imposed on a partner by Subsection (2).

4397 (6) Not later than 10 days after receiving a demand under Subsection (5), the partnership in a record shall inform the person that made the demand of:

4399 (a) the information that the partnership will provide in response to the demand and when and where the partnership will provide the information; and

4401 (b) the partnership's reasons for declining, if the partnership declines to provide any demanded information.

4403 (7) A partnership may charge a person that makes a demand under this section the reasonable costs of copying, limited to the costs of labor and material.

4405 (8)

4408 (a) A partner or person dissociated as a partner may exercise rights under this section through an agent or, in the case of an individual under legal disability, a legal representative.

4411 (b) [–]Any restriction or condition imposed by the partnership agreement or under Subsection (11) applies both to the agent or legal representative and the partner or person dissociated as a partner.

4412 (9) The rights under this section do not extend to a person as transferee.

4413 (10) If a partner dies, Section [48-1d-605] 16-18-605 applies.

4413 (11)

SB0040S01 compared with SB0040S02

(a) In addition to any restriction or condition stated in the partnership agreement, a partnership, as a matter within the ordinary course of its business, may impose reasonable restrictions and conditions on access to and use of information to be furnished under this section, including designating information confidential and imposing nondisclosure and safeguarding obligations on the recipient.

4418 (b) [–]In a dispute concerning the reasonableness of a restriction under this subsection, the partnership has the burden of proving reasonableness.

4429 Section 121. Section **16-18-404** is renumbered and amended to read:

4431 **[48-1d-404] 16-18-404. Reimbursement, indemnification, advancement, and insurance.**

4424 (1) A partnership shall reimburse a partner for any payment made by the partner in the course of the partner's activities on behalf of the partnership, if the partner complied with Sections [48-1d-402] 16-18-402 and [48-1d-405] 16-18-405 in making the payment.

4427 (2) A partnership shall indemnify and hold harmless a person with respect to any claim or demand against the person and any debt, obligation, or other liability incurred by the person by reason of the person's former or present capacity as a partner, if the claim, demand, debt, obligation, or other liability does not arise from the person's breach of Section [48-1d-402] 16-18-402, [48-1d-405] 16-18-405, or [48-1d-504] 16-18-504.

4432 (3) In the ordinary course of [its] the partnership's activities and affairs, a partnership may advance reasonable expenses, including attorney's fees and costs, incurred by a person in connection with a claim or demand against the person by reason of the person's former or present capacity as a partner, if the person promises to repay the partnership if the person ultimately is determined not to be entitled to be indemnified under Subsection (2).

4437 (4) A partnership may purchase and maintain insurance on behalf of a partner against liability asserted against or incurred by the partner in that capacity or arising from that status even if, under Subsection [48-1d-106(3)(g)] 16-18-105(3)(g), the partnership agreement could not eliminate or limit the person's liability to the partnership for the conduct giving rise to the liability.

4442 (5) A partnership shall reimburse a partner for an advance to the partnership beyond the amount of capital the partner agreed to contribute.

4444 (6) A payment or advance made by a partner which gives rise to a partnership obligation under Subsection (1) or (5) constitutes a loan to the partnership which accrues interest from the date of the payment or advance.

4456 Section 122. Section **16-18-405** is renumbered and amended to read:

SB0040S01 compared with SB0040S02

4458 **[48-1d-405] 16-18-405. Standards of conduct for partners.**

4450 (1) A partner owes to the partnership and the other partners the duties of loyalty and care stated in
Subsections (2) and (3).

4452 (2) The duty of loyalty of a partner includes the duties:

4453 (a) to account to the partnership and hold as trustee for it any property, profit, or benefit derived by the
partner:

4455 (i) in the conduct or winding up of the partnership's activities and affairs;

4456 (ii) from a use by the partner of the partnership's property; or

4457 (iii) from the appropriation of a partnership opportunity;

4458 (b) to refrain from dealing with the partnership in the conduct or winding up of the partnership's
activities and affairs as or on behalf of a person having an interest adverse to the partnership; and

4461 (c) to refrain from competing with the partnership in the conduct of the partnership's activities and
affairs before the dissolution of the partnership.

4463 (3) The duty of care of a partner in the conduct or winding up of the partnership's activities and affairs
is to refrain from engaging in grossly negligent or reckless conduct, intentional misconduct, or a
knowing violation of law.

4466 (4) A partner shall discharge the duties and obligations under this chapter or under the partnership
agreement and exercise any rights consistently with the contractual obligation of good faith and fair
dealing.

4469 (5) A partner does not violate a duty or obligation under this chapter or under the partnership agreement
solely because the partner's conduct furthers the partner's own interest.

4472 (6) All the partners may authorize or ratify, after full disclosure of all material facts, a specific act or
transaction that otherwise would violate the duty of loyalty.

4474 (7) It is a defense to a claim under Subsection (2)(b) and any comparable claim in equity or at common
law that the transaction was fair to the partnership.

4476 (8) If, as permitted by Subsection (6) or the partnership agreement, a partner enters into a transaction
with the partnership which otherwise would be prohibited by Subsection (2)(b), the partner's rights
and obligations arising from the transaction are the same as those of a person that is not a partner.

4489 Section 123. Section **16-18-406** is renumbered and amended to read:

4491 **[48-1d-406] 16-18-406. Actions by partnership and partners.**

4483

SB0040S01 compared with SB0040S02

(1) A partnership may maintain an action against a partner for a breach of the partnership agreement, or for the violation of a duty to the partnership, causing harm to the partnership.

4486 (2) A partner may maintain an action against the partnership or another partner for legal or equitable relief, with or without an accounting as to the partnership's activities and affairs, to:

4489 (a) enforce the partner's rights under the partnership agreement;

4490 (b) enforce the partner's rights under this chapter; or

4491 (c) enforce the rights and otherwise protect the interests of the partner, including rights and interests arising independently of the partnership relationship.

4493 (3)

(a) The accrual of, and any time limitation on, a right of action for a remedy under this section is governed by other law.

4495 (b) [–]A right to an accounting upon a dissolution and winding up does not revive a claim barred by law.

4506 Section 124. Section **16-18-407** is renumbered and amended to read:

4508 **[48-1d-407] 16-18-407. Continuation of partnership beyond definite term or particular undertaking.**

4501 (1) If a partnership for a definite term or particular undertaking is continued, without an express agreement, after the expiration of the term or completion of the undertaking, the rights and duties of the partners remain the same as they were at the expiration or completion, so far as is consistent with a partnership at will.

4505 (2) If the partners, or those of them who habitually acted in the business during the term or undertaking, continue the business without any settlement or liquidation of the partnership, they are presumed to have agreed that the partnership will continue.

4517 Section 125. Section **16-18-501** is renumbered and amended to read:

4510 **Part 5. Contributions and Distributions**

4520 **[48-1d-501] 16-18-501. Form of contribution.**

A contribution may consist of property transferred to, services performed for, or other benefit provided to the partnership or an agreement to transfer property to, perform services for, or provide another benefit to the partnership.

4524 Section 126. Section **16-18-502** is renumbered and amended to read:

4526 **[48-1d-502] 16-18-502. Liability for contribution.**

SB0040S01 compared with SB0040S02

4518 (1) A person's obligation to make a contribution to a partnership is not excused by the person's death, disability, dissolution, or other inability to perform personally.

4520 (2) If a person does not fulfill an obligation to make a contribution other than money, the person is obligated at the option of the partnership to contribute money equal to the value of the part of the contribution which has not been made.

4523 (3)
(a) The obligation of a person to make a contribution may be compromised only by consent of all partners.

4525 (b) [–]If a creditor of a limited liability partnership extends credit or otherwise acts in reliance on an obligation described in Subsection (1), without notice of a compromise under this Subsection (3), the creditor may enforce the obligation.

4537 Section 127. Section **16-18-503** is renumbered and amended to read:

4539 **[48-1d-503] 16-18-503. Sharing of and right to distributions before dissolution.**

4531 (1) Any distributions made by a partnership before [its] the partnership's dissolution and winding up must be in equal shares among partners, except to the extent necessary to comply with a transfer effective under Section [48-1d-603] 16-18-603 or charging order in effect under Section [48-1d-604] 16-18-604.

4535 (2) A person has a right to a distribution before the dissolution and winding up of a partnership only if the partnership decides to make an interim distribution.

4537 (3)
(a) A person does not have a right to demand or receive a distribution from a partnership in any form other than money.

4539 (b) [–]Except as otherwise provided in Section [48-1d-906] 16-18-906, a partnership may distribute an asset in kind only if each part of the asset is fungible with each other part and each person receives a percentage of the asset equal in value to the person's share of distributions.

4543 (4)
(a) If a partner or transferee becomes entitled to receive a distribution, the partner or transferee has the status of, and is entitled to all remedies available to, a creditor of the partnership with respect to the distribution.

4546

SB0040S01 compared with SB0040S02

(b) [–]However, the partnership's obligation to make a distribution is subject to offset for any amount owed to the partnership by the partner or a person dissociated as partner on whose account the distribution is made.

4558 Section 128. Section **16-18-504** is renumbered and amended to read:

[48-1d-504] 16-18-504. Limitation on distributions by limited liability partnership.

4553 (1) A limited liability partnership may not make a distribution, including a distribution under Section
[48-1d-906] 16-18-906, if after the distribution:

4555 (a) the limited liability partnership would not be able to pay [its] the limited liability partnership's debts
as [they] the debts become due in the ordinary course of the partnership's activities and affairs; or

4558 (b) the limited liability partnership's total assets would be less than the sum of [its] the limited liability
partnership's total liabilities plus, unless the partnership agreement permits otherwise, the amount
that would be needed, if the partnership were to be dissolved and wound up at the time of the
distribution, to satisfy the preferential rights upon dissolution and winding up of partners and
transferees whose preferential rights are superior to the right to receive distributions of the persons
receiving the distribution.

4565 (2) A limited liability partnership may base a determination that a distribution is not prohibited under
Subsection (1) on:

4567 (a) financial statements prepared on the basis of accounting practices and principles that are reasonable
in the circumstances; or

4569 (b) a fair valuation or other method that is reasonable under the circumstances.

4570 (3) Except as otherwise provided in Subsection (5), the effect of a distribution under Subsection (1) is
measured:

4572 (a) in the case of a distribution as defined in Subsection [48-1d-102(4)(a)] 16-18-101(4)(a), as of the
earlier of the date:

4574 (i) money or other property is transferred or debt is incurred by the limited liability partnership; or

4576 (ii) the person entitled to the distribution ceases to own the interest or rights being acquired by the
limited liability partnership in return for the distribution;

4578 (b) in the case of any other distribution of indebtedness, as of the date the indebtedness is distributed;
and

4580 (c) in all other cases, as of the date:

4581 (i) the distribution is authorized, if the payment occurs not later than 120 days after that date; or

SB0040S01 compared with SB0040S02

4583 (ii) the payment is made, if the payment occurs more than 120 days after the distribution is authorized.

4585 (4) A limited liability partnership's indebtedness to a partner or transferee incurred by reason of a distribution made in accordance with this section is at parity with the limited liability partnership's indebtedness to its general, unsecured creditors, except to the extent subordinated by agreement.

4589 (5)

(a) A limited liability partnership's indebtedness, including indebtedness issued as a distribution, is not a liability for purposes of Subsection (1) if the terms of the indebtedness provide that payment of principal and interest is made only if and to the extent that a payment of a distribution could then be made under this section.

4593 (b) [–]If the indebtedness is issued as a distribution, each payment of principal or interest is treated as a distribution, the effect of which is measured on the date the payment is made.

4596 (6) In measuring the effect of a distribution under Section [48-1d-906] 16-18-906, the liabilities of a dissolved limited liability partnership do not include any claim that has been disposed of under Sections [48-1d-907] 16-18-907, [48-1d-908] 16-18-908, and [48-1d-909] 16-18-909.

4609 Section 129. Section **16-18-505** is renumbered and amended to read:

4611 **[48-1d-505] 16-18-505. Liability for improper distributions by a limited liability partnership.**

4604 (1) If a partner of a limited liability partnership consents to a distribution made in violation of Section [48-1d-504] 16-18-504 and in consenting to the distribution fails to comply with Section [48-1d-405] 16-18-405, the partner is personally liable to the limited liability partnership for the amount of the distribution which exceeds the amount that could have been distributed without the violation of Section [48-1d-504] 16-18-504.

4609 (2) A person that receives a distribution knowing that the distribution violated Section [48-1d-504] 16-18-504 is personally liable to the limited liability partnership but only to the extent that the distribution received by the person exceeded the amount that could have been properly paid under Section [48-1d-504] 16-18-504.

4613 (3) A person against which an action is commenced because the person is liable under Subsection (1) may:

4615 (a) implead any other person that is liable under Subsection (1) and seek to enforce a right of contribution from the person; and

4617

SB0040S01 compared with SB0040S02

(b) implead any person that received a distribution in violation of Subsection (2) and seek to enforce a right of contribution from the person in the amount the person received in violation of Subsection (2).

4620 (4) An action under this section is barred unless commenced not later than two years after the distribution.

4621 Section 130. Section **16-18-601** is renumbered and amended to read:

Part 6. Transfer Interests and Rights of Transferees and Creditors

[48-1d-601]-16-18-601. Partner not co-owner of partnership property.

A partner is not a co-owner of partnership property and has no interest in partnership property which can be transferred, either voluntarily or involuntarily.

4637 Section 131. Section **16-18-602** is renumbered and amended to read:

[48-1d-602]-16-18-602. Nature of transferable interest.

A transferable interest is personal property.

4641 Section 132. Section **16-18-603** is renumbered and amended to read:

[48-1d-603]-16-18-603. Transfer of transferable interest.

4635 (1) A transfer, in whole or in part, of a transferable interest:

4636 (a) is permissible;

4637 (b) does not by itself cause a person's dissociation or a dissolution and winding up of the partnership's activities and affairs; and

4639 (c) subject to Section **[48-1d-605] 16-18-605**, does not entitle the transferee to:

4640 (i) participate in the management or conduct of the partnership's activities and affairs; or

4642 (ii) except as otherwise provided in Subsection (3), have access to records or other information concerning the partnership's activities and affairs.

4644 (2) A transferee has the right to:

4645 (a) receive, in accordance with the transfer, distributions to which the transferor would otherwise be entitled; and

4647 (b) seek under Subsection **[48-1d-901(5)] 16-18-901(5)** a judicial determination that it is equitable to wind up the partnership's activities and affairs.

4649 (3) In a dissolution and winding up of a partnership, a transferee is entitled to an account of the partnership's transactions only from the date of the last account agreed to by the partners.

4652

SB0040S01 compared with SB0040S02

(4) A partnership need not give effect to a transferee's rights under this section until the partnership knows or has notice of the transfer.

4654 (5) A transfer of a transferable interest in violation of a restriction on transfer contained in the partnership agreement is ineffective as to a person having knowledge or notice of the restriction at the time of transfer.

4657 (6) Except as otherwise provided in Subsection [48-1d-701(4)(b)] 16-18-701(4)(b), if a partner transfers a transferable interest, the transferor retains the rights of a partner other than the transferable interest transferred and retains all duties and obligations of a partner.

4661 (7) If a partner transfers a transferable interest to a person that becomes a partner with respect to the transferred interest, the transferee is liable for the transferor's obligations under Sections [48-1d-502] 16-18-502 and [48-1d-505] 16-18-505 known to the transferee when the transferee becomes a partner.

4674 Section 133. Section **16-18-604** is renumbered and amended to read:

[48-1d-604] 16-18-604. Charging order.

4668 (1)

(a) On application by a judgment creditor of a partner or transferee, a court may enter a charging order against the transferable interest of the judgment debtor for the unsatisfied amount of the judgment.

4671 (b) [–]A charging order constitutes a lien on a judgment debtor's transferable interest and, after the partnership has been served with the charging order, requires the partnership to pay over to the person to which the charging order was issued any distribution that otherwise would be paid to the judgment debtor.

4675 (2) To the extent necessary to effectuate the collection of distributions pursuant to a charging order in effect under Subsection (1), the court may:

4677 (a) appoint a receiver of the distributions subject to the charging order, with the power to make all inquiries the judgment debtor might have made; and

4679 (b) make all other orders necessary to give effect to the charging order.

4680 (3)

(a) Upon a showing that distributions under a charging order will not pay the judgment debt within a reasonable time, the court may foreclose the lien and order the sale of the transferable interest.

4683 (b) [–]The purchaser at the foreclosure sale obtains only the transferable interest, does not thereby become a partner, and is subject to Section [48-1d-603] 16-18-603.

SB0040S01 compared with SB0040S02

4685 (4) At any time before foreclosure under Subsection (3), the partner or transferee whose transferable interest is subject to a charging order under Subsection (1) may extinguish the charging order by satisfying the judgment and filing a certified copy of the satisfaction with the court that issued the charging order.

4689 (5) At any time before foreclosure under Subsection (3), a partnership or one or more partners whose transferable interests are not subject to the charging order may pay to the judgment creditor the full amount due under the judgment and thereby succeed to the rights of the judgment creditor, including the charging order.

4693 (6) This chapter does not deprive any partner or transferee of the benefit of any exemption law applicable to the transferable interest of the partner or transferee.

4695 (7) This section provides the exclusive remedy by which a person seeking to enforce a judgment against a partner or transferee, in the capacity of judgment creditor, may satisfy the judgment from the judgment debtor's transferable interest.

4707 Section 134. Section **16-18-605** is renumbered and amended to read:

4709 **[48-1d-605] 16-18-605. Power of legal representative of deceased partner.**

If a partner dies, the deceased partner's legal representative may exercise:

4702 (1) the rights of a transferee provided in Subsection [48-1d-603(3)] **16-18-603(3)**; and

4703 (2) for purposes of settling the estate, the rights the deceased partner had under Section [48-1d-403] **16-18-403**.

4714 Section 135. Section **16-18-701** is renumbered and amended to read:

4707 **Part 7. Dissociation**

4717 **[48-1d-701] 16-18-701. Events causing dissociation.**

A person is dissociated as a partner when:

4710 (1) the partnership has notice of the person's express will to withdraw as a partner, but, if the person specified a withdrawal date later than the date the partnership had notice, on that later date;

4713 (2) an event stated in the partnership agreement as causing the person's dissociation occurs;

4714 (3) the person is expelled as a partner [pursuant to] in accordance with the partnership agreement;

4716 (4) the person is expelled as a partner by the unanimous vote or consent of the other partners if:

4718 (a) it is unlawful to carry on the partnership's activities and affairs with the person as a partner;

4720 (b) there has been a transfer of all of the person's transferable interest in the partnership, other than:

4722 (i) a transfer for security purposes; or

SB0040S01 compared with SB0040S02

4723 (ii) a charging order in effect under Section [48-1d-604] 16-18-604, which has not been foreclosed;

4725 (c) the person is a corporation and:

4726 (i) the partnership notifies the person that [it] the person will be expelled as a partner because the person
has filed a statement of dissolution or the equivalent, [its] the person's charter has been revoked,
or [its] the person's right to conduct business has been suspended by the jurisdiction of [its] the
person's incorporation; and

4730 (ii) not later than 90 days after the notification, the statement of dissolution or the equivalent has not
been revoked or the charter or right to conduct business has not been reinstated; or

4733 (d) the person is an unincorporated entity that has been dissolved and whose business is being wound
up;

4735 (5) on application by the partnership or another partner, the person is expelled as a partner by judicial
order because the person:

4737 (a) has engaged or is engaging in wrongful conduct that has affected adversely and materially, or will
affect adversely and materially, the partnership's activities and affairs;

4740 (b) has committed willfully or persistently, or is committing willfully or persistently, a material breach
of the partnership agreement or a duty or obligation under Section [48-1d-405] 16-18-405; or

4743 (c) engaged or is engaging in conduct relating to the partnership's activities and affairs which makes
it not reasonably practicable to carry on the partnership's activities and affairs with the person as a
partner;

4746 (6) in the case of an individual:

4747 (a) the individual dies;

4748 (b) a guardian or general conservator for the individual is appointed; or

4749 (c) a court orders that the individual has otherwise become incapable of performing the individual's
duties as a partner under this chapter or the partnership agreement;

4751 (7) the person:

4752 (a) becomes a debtor in bankruptcy;

4753 (b) executes an assignment for the benefit of creditors; or

4754 (c) seeks, consents to, or acquiesces in the appointment of a trustee, receiver, or liquidator of the person
or of all, or substantially all, of the person's property;

4756 (8) in the case of a person that is a testamentary or inter vivos trust or is acting as a partner by virtue of
being a trustee of such a trust, the trust's entire transferable interest in the partnership is distributed;

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4759 (9) in the case of a person that is an estate or is acting as a partner by virtue of being a personal
representative of an estate, the estate's entire transferable interest in the partnership is distributed,
but not merely by reason of the substitution of a successor personal representative;

4763 (10) in the case of a person that is not an individual, corporation, unincorporated entity, trust, or estate,
the existence of the person terminates;

4765 (11) the partnership participates in a merger under [Part 10, Merger, Interest Exchange, Conversion, and
Domestication] Chapter 1a, Part 7, Merger, and:

4767 (a) the partnership is not the surviving entity; or

4768 (b) otherwise as a result of the merger, the person ceases to be a partner;

4769 (12) the partnership participates in an interest exchange under [Part 10, Merger, Interest Exchange,
Conversion, and Domestication] Chapter 1a, Part 8, Interest Exchange, and, as a result of the interest
exchange, the person ceases to be a partner;

4772 (13) the partnership participates in a conversion under [Part 10, Merger, Interest Exchange, Conversion,
and Domestication] Chapter 1a, Part 9, Conversion;

4774 (14) the partnership participates in a domestication under [Part 10, Merger, Interest Exchange,
Conversion, and Domestication] Chapter 1a, Part 10, Domestication, and, as a result of the
domestication, the person ceases to be a partner; or

4777 (15) the partnership dissolves and completes winding up.

4787 Section 136. Section **16-18-702** is renumbered and amended to read:

4789 **[48-1d-702] 16-18-702. Power to dissociate as partner -- Wrongful dissociation.**

4781 (1) A person has the power to dissociate as a partner at any time, rightfully or wrongfully, by
withdrawing as a partner by express will under Subsection [48-1d-701(1)] 16-18-701(1).

4784 (2) A person's dissociation as a partner is wrongful only if the dissociation:

4785 (a) is in breach of an express provision of the partnership agreement; or

4786 (b) in the case of a partnership for a definite term or particular undertaking, occurs before the expiration
of the term or the completion of the undertaking and:

4788 (i) the person withdraws by express will, unless the withdrawal follows not later than 90 days after
another person's dissociation by death or otherwise under Subsections [48-1d-701(6)] 16-18-701(6)
through (10) or wrongful dissociation under this subsection;

4792 (ii) the person is expelled by judicial order under Subsection [48-1d-701(5)] 16-18-701(5);

4794 (iii) the person is dissociated under Subsection [48-1d-701(7)] 16-18-701(7); or

SB0040S01 compared with SB0040S02

4795 (iv) in the case of a person that is not a trust other than a business trust, an estate, an individual, or a trust other than a business trust, the person is expelled or otherwise dissociated because it willfully dissolved or terminated.

4798 (3) (a) A person that wrongfully dissociates is liable to the partnership and to the other partners for damages caused by the dissociation.

4800 (b) [–]The liability is in addition to any debt, obligation, or other liability of the partner to the partnership or the other partners.

4811 Section 137. Section **16-18-703** is renumbered and amended to read:

4813 **[48-1d-703] 16-18-703. Effect of dissociation.**

4805 (1) If a person's dissociation results in a dissolution and winding up of the partnership's activities and affairs, Part 9, Dissolution and Winding Up, applies, otherwise, Part 8, Partner's Dissociation When Business Not Wound Up, applies.

4808 (2) If a person is dissociated as a partner:

4809 (a) the person's right to participate in the management and conduct of the partnership's activities and affairs terminates, except as otherwise provided in Subsection [48-1d-902(3)] **16-18-902(3)**; and

4812 (b) the person's duties and obligations under Section **[48-1d-405] 16-18-405**:

4813 (i) end with regard to matters arising and events occurring after the person's dissociation; and

4815 (ii) continue only with regard to matters arising and events occurring before the person's dissociation, unless the partner participates in winding up the partnership's activities and affairs **[pursuant to] in accordance with Section [48-1d-902] 16-18-902**.

4819 (3) A person's dissociation does not of itself discharge the person from a debt, obligation, or other liability to the partnership or the other partners which the person incurred while a partner.

4831 Section 138. Section **16-18-801** is renumbered and amended to read:

4824 **Part 8. Partner's Dissociation When Business Not Wound Up**

4834 **[48-1d-801] 16-18-801. Purchase of interest of person dissociated as partner.**

4826 (1) If a person is dissociated as a partner without the dissociation resulting in a dissolution and winding up of the partnership's activities and affairs under Section **[48-1d-901] 16-18-901**, the partnership shall cause the person's interest in the partnership to be purchased for a buyout price determined **[pursuant to] in accordance with Subsection (2)**.

4830

SB0040S01 compared with SB0040S02

(2) The buyout price of the interest of a person dissociated as a partner is the amount that would have been distributable to the person under Subsection [48-1d-906(2)] 16-18-906(2) if, on the date of dissociation, the assets of the partnership were sold and the partnership were wound up, with the sale price equal to the greater of:

4834 (a) the liquidation value; or

4835 (b) the value based on a sale of the entire business as a going concern without the person.

4836 (3) Interest accrues on the buyout price from the date of dissociation to the date of payment, but damages for wrongful dissociation under Subsection [48-1d-702(2)] 16-18-702(2), and all other amounts owing, whether or not presently due, from the person dissociated as a partner to the partnership, must be offset against the buyout price.

4840 (4) A partnership shall defend, indemnify, and hold harmless a person dissociated as a partner whose interest is being purchased against all partnership liabilities, whether incurred before or after the dissociation, except liabilities incurred by an act of the person dissociated as a partner under Section [48-1d-802] 16-18-802.

4844 (5) If no agreement for the purchase of the interest of a person dissociated as a partner is reached not later than 120 days after a written demand for payment, the partnership shall pay, or cause to be paid, in money to the person the amount the partnership estimates to be the buyout price and accrued interest, reduced by any offsets and accrued interest under Subsection (3).

4849 (6) If a deferred payment is authorized under Subsection (8), the partnership may tender a written offer to pay the amount it estimates to be the buyout price and accrued interest, reduced by any offsets under Subsection (3), stating the time of payment, the amount and type of security for payment, and the other terms and conditions of the obligation.

4853 (7) The payment or tender required by Subsection (5) or (6) must be accompanied by the following:

4855 (a) a statement of partnership assets and liabilities as of the date of dissociation;

4856 (b) the latest available partnership balance sheet and income statement, if any;

4857 (c) an explanation of how the estimated amount of the payment was calculated; and

4858 (d) written notice that the payment is in full satisfaction of the obligation to purchase unless, not later than 120 days after the written notice, the person dissociated as a partner commences an action to determine the buyout price, any offsets under Subsection (3), or other terms of the obligation to purchase.

4862 (8)

SB0040S01 compared with SB0040S02

(a) A person that wrongfully dissociates as a partner before the expiration of a definite term or the completion of a particular undertaking is not entitled to payment of any part of the buyout price until the expiration of the term or completion of the undertaking, unless the person establishes to the satisfaction of the court that earlier payment will not cause undue hardship to the business of the partnership.

4867 (b) [–]A deferred payment must be adequately secured and bear interest.

4868 (9)

(a) A person dissociated as a partner may maintain an action against the partnership, [pursuant to] in accordance with Subsection [48-1d-406(2)] 16-18-406(2), to determine the buyout price of that person's interest, any offsets under Subsection (3), or other terms of the obligation to purchase.

4872 (b) [–]The action must be commenced not later than 120 days after the partnership has tendered payment or an offer to pay or within one year after written demand for payment if no payment or offer to pay is tendered.

4875 (c) [–]The court shall determine the buyout price of the person's interest, any offset due under Subsection (3), and accrued interest, and enter judgment for any additional payment or refund.

4878 (d) [–]If deferred payment is authorized under Subsection (8), the court shall also determine the security for payment and other terms of the obligation to purchase.[-]

4880 (e) The court may assess reasonable attorney's fees and the fees and expenses of appraisers or other experts for a party to the action, in amounts the court finds equitable, against a party that the court finds acted arbitrarily, vexatiously, or not in good faith.

4884 (f) [–]The finding may be based on the partnership's failure to tender payment or an offer to pay or to comply with Subsection (7).

4895 Section 139. Section **16-18-802** is renumbered and amended to read:

4897 **[48-1d-802] 16-18-802. Power to bind and liability of person dissociated as partner.**

4890 (1) After a person is dissociated as a partner without the dissociation resulting in a dissolution and winding up of the partnership's activities and affairs and before the partnership is merged out of existence, converted, or domesticated under [Part 10, Merger, Interest Exchange, Conversion, and Domestication] Chapter 1a, Part 7, Merger, Chapter 1a, Part 8, Interest Exchange, Chapter 1a, Part 9, Conversion, or Chapter 1a, Part 10, Domestication, or dissolved, the partnership is bound by an act of the person only if:

4897

SB0040S01 compared with SB0040S02

(a) the act would have bound the partnership under Section [48-1d-301] 16-18-301 before dissociation; and

4899 (b) at the time the other party enters into the transaction:

4900 (i) less than two years has passed since the dissociation; and

4901 (ii) the other party does not know or have notice of the dissociation and reasonably believes that the person is a partner.

4903 (2) If a partnership is bound under Subsection (1), the person dissociated as a partner which caused the partnership to be bound is liable:

4905 (a) to the partnership for any damage caused to the partnership arising from the obligation incurred under Subsection (1); and

4907 (b) if a partner or another person dissociated as a partner is liable for the obligation, to the partner or other person for any damage caused to the partner or other person arising from the liability.

4919 Section 140. Section **16-18-803** is renumbered and amended to read:

[48-1d-803] 16-18-803. Liability of person dissociated as partner to other persons.

4914 (1)

4917 (a) A person's dissociation as a partner does not of itself discharge the person's liability as a partner for a debt, obligation, or other liability of the partnership incurred before dissociation.

4919 (b) [–] Except as otherwise provided in Subsection (2), the person is not liable for a partnership obligation incurred after dissociation.

4922 (2) A person that has dissociated as a partner without the dissociation resulting in a dissolution and winding up of the partnership's activities and affairs is liable on a transaction entered into by the partnership after the dissociation only if:

4923 (a) a partner would be liable on the transaction; and

4924 (b) at the time the other party enters into the transaction:

4925 (i) less than two years has passed since the dissociation; and

4927 (ii) the other party does not have knowledge or notice of the dissociation and reasonably believes that the person is a partner.

4929 (3) By agreement with a creditor of a partnership and the partnership, a person dissociated as a partner may be released from liability for an obligation of the partnership.

SB0040S01 compared with SB0040S02

(4) A person dissociated as a partner is released from liability for an obligation of the partnership if the partnership's creditor, with knowledge or notice of the person's dissociation but without the person's consent, agrees to a material alteration in the nature or time of payment of the obligation.

4942 Section 141. Section **16-18-804** is renumbered and amended to read:

4944 **[48-1d-804] 16-18-804. Statement of dissociation.**

4936 (1) A person dissociated as a partner or the partnership may file a statement of dissociation stating the name of the partnership and that the partner is dissociated from the partnership.

4939 (2) A statement of dissociation is a limitation on the authority of a person dissociated as a partner for the purposes of Subsections [48-1d-303(4)] 16-18-303(4) and (5).

4950 Section 142. Section **16-18-805** is renumbered and amended to read:

4952 **[48-1d-805] 16-18-805. Continued use of partnership name.**

Continued use of a partnership name, or name of a person dissociated as a partner as part of the partnership name, by partners continuing the business does not of itself make the person dissociated as a partner liable for an obligation of the partners or the partnership continuing the business.

4957 Section 143. Section **16-18-901** is renumbered and amended to read:

4950 **Part 9. Dissolution and Winding Up**

4960 **[48-1d-901] 16-18-901. Events causing dissolution.**

A partnership is dissolved, and the partnership's activities and affairs must be wound up, upon the occurrence of any of the following:

4954 (1) in a partnership at will, the partnership has notice of a person's express will to withdraw as a partner, other than a partner that has dissociated under Subsections [48-1d-701(2)] 16-18-701(2) through (10), but, if the person specifies a withdrawal date later than the date the partnership had notice, on the later date;

4958 (2) in a partnership for a definite term or particular undertaking:

4959 (a) within 90 days after a person's dissociation by death or otherwise under Subsections [48-1d-701(6)] 16-18-701(6) through (10) or wrongful dissociation under Subsection [48-1d-702(2)] 16-18-702(2), the affirmative vote or consent of at least half of the remaining partners to wind up the partnership's activities and affairs, for which purpose a person's rightful dissociation [pursuant to] in accordance with Subsection [48-1d-702(2)(b)(i)] 16-18-702(2)(b)(i) constitutes the expression of that partner's consent to wind up the partnership's activities and affairs;

SB0040S01 compared with SB0040S02

4966 (b) the express consent of all the partners to wind up the partnership's activities and affairs; or
4968 (c) the expiration of the term or the completion of the undertaking;
4969 (3) an event or circumstance that the partnership agreement states causes dissolution;
4970 (4) upon a petition brought by a partner, the entry of a court order dissolving the partnership on the
ground that:
4972 (a) the conduct of all or substantially all the partnership's activities and affairs is unlawful;
4974 (b) the economic purpose of the partnership is likely to be unreasonably frustrated;
4975 (c) another partner has engaged in conduct relating to the partnership's activities and affairs which
makes it not reasonably practicable to carry on the business in partnership with that partner; or
4978 (d) it is not otherwise reasonably practicable to carry on the partnership's activities and affairs in
conformity with the partnership agreement;
4980 (5) upon a petition brought by a transferee, the entry of a court order dissolving the partnership on the
ground that it is equitable to wind up the partnership's activities and affairs:
4983 (a) after the expiration of the term or completion of the undertaking, if the partnership was for a definite
term or particular undertaking at the time of the transfer or entry of the charging order that gave rise
to the transfer; or
4986 (b) at any time, if the partnership was a partnership at will at the time of the transfer or entry of the
charging order that gave rise to the transfer; or
4988 (6) the passage of 90 consecutive days during which the partnership does not have at least two partners.
4999 Section 144. Section **16-18-902** is renumbered and amended to read:
5001 **[48-1d-902] 16-18-902. Winding up.**
4993 (1)
4994 (a) A dissolved partnership shall wind up the partnership's activities and affairs.
4996 (b) Except as otherwise provided in Section **[48-1d-903] 16-18-903**, a partnership only continues after
dissolution for the purpose of winding up.
4997 (2) In winding up a partnership's activities and affairs, the partnership:
5000 (a) shall discharge the partnership's debts, obligations, and other liabilities, settle and close the
partnership's activities and affairs, and marshal and distribute the assets of the partnership; and
5001 (b) may:
5001 (i) deliver to the division for filing a statement of dissolution stating the name of the partnership and
that the partnership is dissolved;

SB0040S01 compared with SB0040S02

5003 (ii) preserve the partnership's activities and affairs and property as a going concern for a reasonable time;

5005 (iii) prosecute and defend actions and proceedings, whether civil, criminal, or administrative;

5007 (iv) transfer the partnership's property;

5008 (v) settle disputes by mediation or arbitration;

5009 (vi) deliver to the division for filing a statement of termination stating the name of the partnership and that the partnership is terminated; and

5011 (vii) perform other acts necessary or appropriate to the winding up.

5012 (3) A person whose dissociation as a partner resulted in dissolution may participate in winding up as if still a partner, unless the dissociation was wrongful.

5014 (4)

(a) If a dissolved partnership does not have a partner and no person has the right to participate in winding up under Subsection (3), the personal or legal representative of the last person to have been a partner may wind up the partnership's activities and affairs.

5018 (b) [–]If the representative does not exercise that right, a person to wind up the partnership's activities and affairs may be appointed by the consent of transferees owning a majority of the rights to receive distributions at the time the consent is to be effective.

5022 (c) [–]A person appointed under this Subsection (4) has the powers of a partner under Section [48-1d-904] 16-18-904 but is not liable for the debts, obligations, and other liabilities of the partnership solely by reason of having or exercising those powers or otherwise acting to wind up the partnership's activities and affairs.

5026 (5) Upon a petition brought by any partner or person entitled under Subsection (3) to participate in winding up, a court may order judicial supervision of the winding up of a dissolved partnership, including the appointment of a person to wind up the partnership's activities and affairs, if:

5030 (a) the partnership does not have a partner, and within a reasonable time following the dissolution no person has been appointed under Subsection (4); or

5032 (b) the applicant establishes other good cause.

5042 Section 145. Section **16-18-903** is renumbered and amended to read:

5044 **[48-1d-903]-16-18-903. Rescinding dissolution.**

5036

SB0040S01 compared with SB0040S02

(1) A partnership may rescind the partnership's dissolution, unless a statement of termination applicable to the partnership is effective or the court has entered an order under Subsection [48-1d-901(4)] 16-18-901(4) or (5) dissolving the partnership.

5039 (2) Rescinding dissolution under this section requires:

5040 (a) the affirmative vote or consent of each partner;

5041 (b) if a statement of dissolution applicable to the partnership has been filed by the division but has not become effective, delivery to the division for filing of a statement of withdrawal under Section [48-1d-114] 16-1a-205 applicable to the statement of dissolution; and

5045 (c) if a statement of dissolution applicable to the partnership is effective, the delivery to the division for filing of a statement of correction under Section [48-1d-115] 16-1a-206 stating that dissolution has been rescinded under this section.

5048 (3) If a partnership rescinds the partnership's dissolution:

5049 (a) the partnership resumes carrying on [its] the partnership's activities and affairs as if dissolution had never occurred;

5051 (b) subject to Subsection (3)(c), any liability incurred by the partnership after the dissolution and before the rescission is effective is determined as if dissolution had never occurred; and

5054 (c) the rights of a third party arising out of conduct in reliance on the dissolution before the third party knew or had notice of the rescission may not be adversely affected.

5065 Section 146. Section **16-18-904** is renumbered and amended to read:

[48-1d-904] 16-18-904. Power to bind partnership after dissolution.

5059 (1) A partnership is bound by a partner's act after dissolution which:

5060 (a) is appropriate for winding up the partnership's activities and affairs; or

5061 (b) would have bound the partnership under Section [48-1d-301] 16-18-301 before dissolution, if, at the time the other party enters into the transaction, the other party does not know or have notice of the dissolution.

5064 (2) A person dissociated as a partner binds a partnership through an act occurring after dissolution if at the time the other party enters into the transaction:

5066 (a) less than two years has passed since the dissociation;

5067 (b) the other party does not have notice of the dissociation and reasonably believes that the person is a partner; and

5069 (c) the act:

SB0040S01 compared with SB0040S02

5070 (i) is appropriate for winding up the partnership's activities and affairs; or
5071 (ii) would have bound the partnership under Section [48-1d-301] 16-18-301 before dissolution, and at the time the other party enters into the transaction the other party does not know or have notice of the dissolution.

5083 Section 147. Section **16-18-905** is renumbered and amended to read:

[48-1d-905] 16-18-905. Liability after dissolution.

5077 (1) If a partner having knowledge of the dissolution causes a partnership to incur an obligation under Subsection [48-1d-904(1)] 16-18-904(1) by an act that is not appropriate for winding up the partnership's activities and affairs, the partner is liable:
5080 (a) to the partnership for any damage caused to the partnership arising from the obligation; and
5082 (b) if another partner or person dissociated as a partner is liable for the obligation, to that other partner or person for any damage caused to that other partner or person arising from the liability.
5085 (2) If a person dissociated as a partner causes a partnership to incur an obligation under Subsection [48-1d-904(2)] 16-18-904(2), the person is liable:
5087 (a) to the partnership for any damage caused to the partnership arising from the obligation; and
5089 (b) if a partner or another person dissociated as a partner is liable for the obligation, to the partner or other person for any damage caused to the partner or other person arising from the obligation.

5101 Section 148. Section **16-18-906** is renumbered and amended to read:

[48-1d-906] 16-18-906. Disposition of assets in winding up -- When contributions required.

5096 (1) In winding up [its] a partnership's activities and affairs, a partnership shall apply [its] the partnership's assets, including the contributions required by this section, to discharge the partnership's obligations to creditors, including partners that are creditors.
5099 (2) After a partnership complies with Subsection (1), any surplus must be distributed in the following order, subject to any charging order in effect under Section [48-1d-604] 16-18-604:
5102 (a) to each person owning a transferable interest that reflects contributions made and not previously returned, an amount equal to the value of the unreturned contributions; and
5104 (b) among partners in proportion to [their] the partners' respective rights to share in distributions immediately before the dissolution of the partnership, except to the extent necessary to comply with any transfer effective under Section [48-1d-603] 16-18-603.

5108

SB0040S01 compared with SB0040S02

(3) If a partnership's assets are insufficient to satisfy all [its] the partnership's obligations under Subsection (1), with respect to each unsatisfied obligation incurred when the partnership was not a limited liability partnership, the following rules apply:

5111

(a)

(i) Each person that was a partner when the obligation was incurred and that has not been released from the obligation under Subsections [48-1d-803(3)] 16-18-803(3) and (4) shall contribute to the partnership to enable the partnership to satisfy the obligation.

5115

(ii) [–]The contribution due from each of those persons is in proportion to the right to receive distributions in the capacity of partner in effect for each of those persons when the obligation was incurred.

5118

(b)

(i) If a person does not contribute the full amount required under Subsection (3)(a) with respect to an unsatisfied obligation of the partnership, the other persons required to contribute by Subsection (3) (a) on account of the obligation shall contribute the additional amount necessary to discharge the obligation.

5122

(ii) [–]The additional contribution due from each of those other persons is in proportion to the right to receive distributions in the capacity of partner in effect for each of those other persons when the obligation was incurred.

5125

(c) If a person does not make the additional contribution required by Subsection (3)(b), further additional contributions are determined and due in the same manner as provided in that subsection.

5128

(d)

(i) A person that makes an additional contribution under Subsection (3)(b) or (3)(c) may recover from any person whose failure to contribute under Subsection (3)(a) or (3)(b) necessitated the additional contribution.

5131

(ii) [–]A person may not recover under this Subsection (3) more than the amount additionally contributed.

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(iii) [–]A person's liability under this Subsection (3) may not exceed the amount the person failed to contribute.

5135

(4) If a partnership does not have sufficient surplus to comply with Subsection (2)(a), any surplus must be distributed among the owners of transferable interests in proportion to the value of the respective unreturned contributions.

SB0040S01 compared with SB0040S02

5138 (5) All distributions made under Subsections (2) and (4) must be paid in money.

5148 Section 149. Section **16-18-907** is renumbered and amended to read:

5150 **[48-1d-907] 16-18-907. Known claims against dissolved limited liability partnership.**

5143 (1) Except as otherwise provided in Subsection (4), a dissolved limited liability partnership may give notice of a known claim under Subsection (2), which has the effect provided in Subsection (3).

5146 (2)

5148 (a) A dissolved limited liability partnership may in a record notify [its] the dissolved limited liability partnership's known claimants of the dissolution.

5149 (b) [–]The notice [must] shall:

5150 (i) specify the information required to be included in a claim;

5152 (ii) state that the claim must be in writing and provide a mailing address to which the claim is to be sent;

5154 (iii) state the deadline for receipt of a claim, which may not be less than 120 days after the date of the notice is received by the claimant;

5155 (iv) state that the claim will be barred if not received by the deadline; and

5159 (v) unless the partnership has been throughout [its] the partnership's existence a limited liability partnership, state that the barring of a claim against the partnership will also bar any corresponding claim against any partner or person dissociated as a partner which is based on Section **[48-1d-305] 16-18-305.**

5161 (3) A claim against a dissolved limited liability partnership is barred if the requirements of Subsection (2) are met and:

5162 (a) the claim is not received by the specified deadline; or

5163 (b) if the claim is timely received but rejected by the limited liability partnership:

5167 (i) the partnership causes the claimant to receive a notice in a record stating that the claim is rejected and will be barred unless the claimant commences an action against the partnership to enforce the claim not later than 90 days after the claimant receives the notice; and

5169 (ii) the claimant does not commence the required action not later than 90 days after the claimant receives the notice.

5180 (4) This section does not apply to a claim based on an event occurring after the effective date of dissolution or a liability that on that date is contingent.

5180 Section 150. Section **16-18-908** is renumbered and amended to read:

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5182 **[48-1d-908] 16-18-908. Other claims against dissolved limited liability partnership.**

5175 (1) A dissolved limited liability partnership may publish notice of [its] the dissolved limited liability partnership's dissolution and request persons having claims against the dissolved limited liability partnership to present them in accordance with the notice.

5178 (2) A notice under Subsection (1) must:

5179 (a) be published at least once in a newspaper of general circulation in the county in this state in which the dissolved limited liability partnership's principal office is located or, if the principal office is not located in this state, in the county in which the office of the dissolved limited liability partnership's registered agent is or was last located and in accordance with Section 45-1-101;

5184 (b) describe the information required to be contained in a claim, state that the claim must be in writing, and provide a mailing address to which the claim is to be sent;

5186 (c) state that a claim against the dissolved limited liability partnership is barred unless an action to enforce the claim is commenced not later than three years after publication of the notice; and

5189 (d) unless the dissolved limited liability partnership has been throughout [its] the limited liability partnership's existence a limited liability partnership, state that the barring of a claim against the dissolved limited liability partnership will also bar any corresponding claim against any partner or person dissociated as a partner which is based on Section [48-1d-306] 16-18-306.

5194 (3) If a dissolved limited liability partnership publishes a notice in accordance with Subsection (2), the claim of each of the following claimants is barred unless the claimant commences an action to enforce the claim against the dissolved limited liability partnership not later than three years after the publication date of the notice:

5198 (a) a claimant that did not receive notice in a record under Section [48-1d-907] 16-18-907;

5199 (b) a claimant whose claim was timely sent to the partnership but not acted on; and

5200 (c) a claimant whose claim is contingent at, or based on an event occurring after, the effective date of dissolution.

5202 (4) A claim not barred under this section or Section [48-1d-907] 16-18-907 may be enforced:

5203 (a) against a dissolved limited liability partnership, to the extent of [its] the dissolved limited liability partnership's undistributed assets;

5205 (b) except as otherwise provided in Section [48-1d-909] 16-18-909, if assets of the dissolved limited liability partnership have been distributed after dissolution, against a partner or transferee to the extent of that person's proportionate share of the claim or of the dissolved limited liability

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partnership's assets distributed to the partner or transferee after dissolution, whichever is less, but a person's total liability for all claims under this subsection may not exceed the total amount of assets distributed to the person after dissolution; and

5212 (c) against any person liable on the claim under Sections [48-1d-306] 16-18-306,
[48-1d-803] 16-18-803, and [48-1d-905] 16-18-905.

5223 Section 151. Section **16-18-909** is renumbered and amended to read:

5225 **[48-1d-909] 16-18-909. Court proceedings.**

5217 (1)

(a) A dissolved limited liability partnership that has published a notice under Section [48-1d-908] 16-18-908 may petition a court with jurisdiction under Title 78A, Judiciary and Judicial Administration, for a determination of the amount and form of security to be provided for payment of claims that are contingent, have not been made known to the dissolved limited liability partnership, or are based on an event occurring after the effective date of dissolution but which, based on the facts known to the dissolved limited liability partnership, are reasonably expected to arise after the effective date of dissolution.

5225 (b) Security is not required for any claim that is or is reasonably anticipated to be barred under Subsection [48-1d-907(3)] 16-18-907(3).

5227 (2) No later than 10 days after the filing of an application under Subsection (1), the dissolved limited liability partnership shall give notice of the proceeding to each claimant holding a contingent claim known to the dissolved limited liability partnership.

5230 (3)

(a) In any proceeding under this section, the court may appoint a guardian ad litem to represent all claimants whose identities are unknown.

5232 (b) The reasonable fees and expenses of the guardian, including all reasonable expert witness fees, must be paid by the dissolved limited liability partnership.

5234 (4) A dissolved limited liability partnership that provides security in the amount and form ordered by the court under Subsection (1) satisfies the dissolved limited liability partnership's obligations with respect to claims that are contingent, have not been made known to the dissolved limited liability partnership, or are based on an event occurring after the effective date of dissolution, and the claims may not be enforced against a partner or transferee who receives assets in liquidation.

5240

SB0040S01 compared with SB0040S02

(5) This section applies only to a debt, obligation, or other liability incurred while a partnership was a limited liability partnership.

5251 Section 152. Section **16-18-910** is renumbered and amended to read:

5253 **[48-1d-910] 16-18-910. Liability of partner and person dissociation as partner when claim against limited liability partnership is barred.**

If a claim against a dissolved limited liability partnership is barred under Section [48-1d-907] 16-18-907, [48-1d-908] 16-18-908, or [48-1d-909] 16-18-909, any corresponding claim under Section [48-1d-306] 16-18-306, [48-1d-803] 16-18-803, or [48-1d-905] 16-18-905 is also barred.

5259 Section 153. Section **16-18-1001** is renumbered and amended to read:

5252 **Part 10. Limited Liability Partnerships**

5262 **[48-1d-1101] 16-18-1001. Statement of qualification.**

5254 (1) A partnership may become a limited liability partnership [pursuant to] in accordance with this section.

5256 (2) The terms and conditions on which a partnership becomes a limited liability partnership must be approved by the vote or consent necessary to amend the partnership agreement except, in the case of a partnership agreement that expressly addresses obligations to contribute to the partnership, the vote or consent necessary to amend those provisions.

5260 (3) After the approval required by Subsection (2), a partnership may become a limited liability partnership by delivering to the division for filing a statement of qualification. The statement of qualification must contain:

5263 (a) the name of the limited liability partnership;

5264 (b) the street address of the limited liability partnership's principal office and, if different, the street address of an office in this state, if any;

5266 (c) the information required by [Subsection 16-17-203(1)] Section 16-1a-404; and

5267 (d) a statement that the partnership elects to become a limited liability partnership.

5268 (4) A partnership's status as a limited liability partnership remains effective, regardless of changes in the limited liability partnership, until it is canceled [pursuant to] in accordance with Subsection (6) or administratively revoked [pursuant to] in accordance with Section [48-1d-1102] 16-18-1002.

5272 (5) The status of a partnership as a limited liability partnership and the liability of its partners for the debts, obligations, or other liabilities of the partnership while it is a limited liability partnership is

SB0040S01 compared with SB0040S02

not affected by errors or later changes in the information required to be contained in the statement of qualification.

5276 (6)

(a) A limited liability partnership may amend or cancel [its] the limited liability partnership's statement of qualification by delivering to the division for filing a statement of amendment or cancellation.

5279 (b) [–]The statement must be consented to by all partners and state the name of the limited liability partnership and in the case of:

5281 [(a)] (i) an amendment, state the amendment; and

5282 [(b)] (ii) a cancellation, state that the statement of qualification is canceled.

5292 Section 154. Section **16-18-1002** is renumbered and amended to read:

[48-1d-1102] 16-18-1002. Administrative revocation of statement of qualification.

5286 (1) The division may commence a proceeding under Subsections (2) and (3) to revoke the statement of qualification of a limited liability partnership administratively if the limited liability partnership does not:

5289 (a) pay any fee, tax, or penalty required to be paid to the division not later than 60 days after it is due;

5291 (b) deliver an annual report to the division not later than 60 days after it is due; or

5292 (c) have a registered agent in this state for 60 consecutive days.

5293 (2) If the division determines that one or more grounds exist for administratively revoking a statement of qualification, the division shall serve the limited liability partnership with notice in a record of the division's determination.

5296 (3)

(a) If a limited liability partnership, not later than 60 days after service of the notice is effected under Subsection (2), does not cure each ground for revocation or demonstrate to the satisfaction of the division that each ground determined by the division does not exist, the division shall administratively revoke the statement of qualification by signing a statement of administrative revocation that recites the grounds for revocation and the effective date of the revocation.

5302 (b) [–]The division shall file the statement and serve a copy on the limited liability partnership [pursuant to] in accordance with Section [48-1d-116] 16-1a-207.

5304 (4) An administrative revocation under Subsection (3) affects only a partnership's status as a limited liability partnership and is not an event causing dissolution of the partnership.

5306

SB0040S01 compared with SB0040S02

(5) The administrative revocation of a statement of qualification of a limited liability partnership does not terminate the authority of [its] the limited liability partnership's registered agent.

Section 155. Section **16-18-1101** is renumbered and amended to read:

Part 11. Professional Services Limited Liability Partnerships

[48-1d-1301] 16-18-1101. Definitions.

As used in this part:

- (1) "Professional services partnership" means a limited liability partnership organized in accordance with this part to provide professional services.
- (2) "Regulating board" means the entity organized pursuant to state law that licenses and regulates the practice of the profession that a limited liability partnership is organized to provide.

Section 156. Section **16-18-1102** is renumbered and amended to read:

[48-1d-1302] 16-18-1102. Application of this part.

If a conflict arises between this part and another provision of this chapter, this part controls.

Section 157. Section **16-18-1103** is renumbered and amended to read:

[48-1d-1304] 16-18-1103. Providing a professional service.

- (1) Subject to Section [48-1d-1305] 16-18-1104, a professional services partnership may provide a professional service in this state only through an individual licensed or otherwise authorized in this state to provide the professional service.
- (2) Subsection (1) does not:
 - (a) require an individual employed by a professional services partnership to be licensed to perform a service for the professional services company if a license is not otherwise required;
 - (b) prohibit a licensed individual from providing a professional service in the individual's professional capacity although the individual is a partner, employee, or agent of a professional services partnership; or
 - (c) prohibit an individual licensed in another state from providing a professional service for a professional services partnership in this state if not prohibited by the regulating board.

Section 158. Section **16-18-1104** is renumbered and amended to read:

[48-1d-1305] 16-18-1104. Limit of one profession.

(1) A professional services partnership organized to provide a professional service under this part may provide only:

SB0040S01 compared with SB0040S02

5345 (a) one specific type of professional service; and
5346 (b) services ancillary to the professional service described in Subsection (1)(a).
5347 (2) A professional services partnership organized to provide a professional service under this part may
not engage in a business other than to provide:
5349 (a) the professional service that it was organized to provide; and
5350 (b) services ancillary to the professional service described in Subsection (2)(a).
5351 (3) Notwithstanding Subsections (1) and (2), a professional services partnership may:
5352 (a) own real and personal property necessary or appropriate for providing the type of professional
service it was organized to provide; and
5354 (b) invest the professional services partnership's money in one or more of the following:
5355 (i) real estate;
5356 (ii) mortgages;
5357 (iii) stocks;
5358 (iv) bonds; or
5359 (v) another type of investment.

5369 Section 159. Section **16-18-1105** is renumbered and amended to read:

5371 **[48-1d-1306] 16-18-1105. Activity limitations.**

A professional services partnership may not do anything that an individual licensed to practice the profession that the professional services partnership is organized to provide is prohibited from doing.

5375 Section 160. Section **16-18-1106** is renumbered and amended to read:

5377 **[48-1d-1307] 16-18-1106. This part does not limit regulating board.**

This part does not restrict the authority or duty of a regulating board to license an individual providing a professional service or the practice of the profession that is within the jurisdiction of the regulating board, notwithstanding that the individual:

5372 (1) is a partner or employee of a professional services partnership; or
5373 (2) provides the professional service or engages in the practice of the profession through a professional services partnership.

5384 Section 161. Section **16-18-1107** is renumbered and amended to read:

5386 **[48-1d-1308] 16-18-1107. Partner of a professional services partnership.**

A professional services partnership organized to provide a professional service:

SB0040S01 compared with SB0040S02

5379 (1) may include a partner or employee who is authorized under the laws of the jurisdiction where the
partner or employee resides to provide a similar professional service;

5381 (2) may include a partner who is not licensed or registered by the state to provide the professional
service to the extent allowed by the applicable licensing or registration act relating to the
professional service; and

5384 (3) may render a professional service in this state only through a partner or employee who is licensed or
registered by this state to render the professional service.

5395 Section 162. Section **16-18-1108** is renumbered and amended to read:

5397 **[48-1d-1309] 16-18-1108. Restriction on transfer by partner.**

5389 (1) Except as provided in Subsections (2) and (3), a partner of a professional services partnership may
sell or transfer the partner's interest in the professional services partnership only to:

5392 (a) the professional services partnership; or

5393 (b) an individual who is licensed or registered by this state to provide the same type of professional
service as the professional service for which the professional services partnership is organized, or
who otherwise satisfies the requirements of Subsection [48-1d-1308(1)] **16-18-1107(1)** or (2).

5397 (2) Upon the death or incapacity of a partner of a professional services partnership, the partner's interest
in the professional services partnership may be transferred to the personal representative or estate of
the deceased or incapacitated partner.

5400 (3) The person to whom an interest is transferred under Subsection (2) may continue to hold the
interest for a reasonable period, but may not participate in a decision concerning the providing of a
professional service.

5412 Section 163. Section **16-18-1109** is renumbered and amended to read:

5414 **[48-1d-1310] 16-18-1109. Purchase of interest upon death, incapacity, or disqualification of
member.**

5407 (1) Subject to this part, one or more of the following may provide for the purchase of a partner's interest
in a professional services partnership upon the death, incapacity, or disqualification of the partner:

5410 (a) the partnership agreement; or

5411 (b) a private agreement.

5412 (2) In the absence of a provision described in Subsection (1), a professional services partnership
shall purchase the interest of a partner who is deceased, incapacitated, or no longer qualified to

SB0040S01 compared with SB0040S02

own an interest in the professional services partnership within 90 days after the day on which the professional services partnership is notified of the death, incapacity, or disqualification.

5417 (3) If a professional services partnership purchases a partner's interest under Subsection (2), the professional services company shall purchase the interest at a price that is the reasonable fair market value as of the date of death, incapacity, or disqualification.

5420 (4) If a professional services partnership fails to purchase a partner's interest as required by Subsection (2) at the end of the 90-day period described in Subsection (2), the following persons may bring an action in a court with jurisdiction under Title 78A, Judiciary and Judicial Administration, to enforce Subsection (2):

5424 (a) the personal representative of a deceased partner;

5425 (b) the guardian or conservator of an incapacitated partner; or

5426 (c) the disqualified partner.

5427 (5) A court in which an action is brought under Subsection (4) may:

5428 (a) award the person bringing the action the reasonable fair market value of the interest; or

5430 (b) within the court's jurisdiction, order the liquidation of the professional services partnership.

5432 (6) If a person described in Subsections (4)(a) through (c) is successful in an action under Subsection (4), the court shall award the person reasonable attorney's fees and costs.

5443 Section 164. Section **16-18-1201** is renumbered and amended to read:

Part 12. Miscellaneous Provisions

[48-1d-1401] 16-18-1201. Uniformity of application and construction.

In applying and construing this chapter, consideration must be given to the need to promote uniformity of the law with respect to [its] this chapter's subject matter among states that enact the uniform act upon which this chapter is based.

5450 Section 165. Section **16-18-1202** is renumbered and amended to read:

[48-1d-1402] 16-18-1202. Severability clause.

If any provision of this chapter or [its] this chapter's application to any person or circumstance is held invalid, the invalidity does not affect other provisions or applications of this chapter which can be given effect without the invalid provision or application, and to this end the provisions of this chapter are severable.

5457 Section 166. Section **16-18-1203** is renumbered and amended to read:

5459

SB0040S01 compared with SB0040S02

[48-1d-1403]-16-18-1203. Relation to Electronic Signatures in Global and National Commerce Act.

This chapter modifies, limits, and supersedes the Electronic Signatures in Global and National Commerce Act, 15 U.S.C. Sec. 7001 et seq., but this chapter does not modify, limit, or supersede Sec. 101(c) of that act, 15 U.S.C. Sec. 7001(c), or authorize electronic delivery of any of the notices described in Sec. 103(b) of that act, 15 U.S.C. Sec. 7003(b).

5465 Section 167. Section **16-18-1204** is renumbered and amended to read:

5467 **[48-1d-1404]-16-18-1204. Savings clause.**

This chapter does not affect an action commenced, proceeding brought, or right accrued before this chapter takes effect.

5470 Section 168. Section **16-18-1205** is renumbered and amended to read:

5472 **[48-1d-1405]-16-18-1205. Application to existing relationships.**

5464 (1) Before January 1, 2016, this chapter governs only:

5465 (a) a partnership formed on or after January 1, 2014; and

5466 (b) except as otherwise provided in Subsection (3), a partnership formed before January 1, 2014, which elects, in the manner provided in [its] the partnership's partnership agreement or by law for amending the partnership agreement, to be subject to this chapter.

5470 (2) Except as otherwise provided in Subsection (3), on and after January 1, 2016, this chapter governs all partnerships.

5472 (3) With respect to a partnership that elects pursuant to Subsection (1)(b) to be subject to this chapter, after the election takes effect the provisions of this chapter relating to the liability of the partnership's partners to third parties apply:

5475 (a) before January 1, 2016, to:

5476 (i) a third party that had not done business with the partnership in the year before the election took effect; and

5478 (ii) a third party that had done business with the partnership in the year before the election took effect only if the third party knows or has received a notification of the election; and

5481 (b) on and after January 1, 2016, to all third parties, but those provisions remain inapplicable to any obligation incurred while those provisions were inapplicable under Subsection (3)(a)(ii).

5493 Section 169. Section **16-19-101** is renumbered and amended to read:

5486 **CHAPTER 19. Utah Uniform Limited Partnership Act**

SB0040S01 compared with SB0040S02

5487

Part 1. General Provisions

5497

[48-2e-102] 16-19-101. Definitions.

As used in this chapter:

5490

(1)

(a) "Certificate of limited partnership" means the certificate required by Section [48-2e-201] 16-19-201.

5492

(b) [—The term] Certificate of limited partnership includes the certificate as amended or restated.

5494

(2) "Contribution," except in the phrase "right of contribution," means property or a benefit described in Section [48-2e-501] 16-19-501 which is provided by a person to a limited partnership to become a partner or in the person's capacity as a partner.

5497

(3) "Debtor in bankruptcy" means a person that is the subject of:

5498

(a) an order for relief under Title 11 of the United States Code or a comparable order under a successor statute of general application; or

5500

(b) a comparable order under federal, state, or foreign law governing insolvency.

5501

(4)

(a) "Distribution" means a transfer of money or other property from a limited partnership to a person on account of a transferable interest or in the person's capacity as a partner. [—The term:]

5504

[(a)] (b) Distribution includes:

5505

(i) a redemption or other purchase by a limited partnership of a transferable interest; and

5507

(ii) a transfer to a partner in return for the partner's relinquishment of any right to participate as a partner in the management or conduct of the limited partnership's activities and affairs or to have access to records or other information concerning the limited partnership's activities and affairs[; and].

5511

[(b)] (c) Distribution does not include amounts constituting reasonable compensation for present or past service or payments made in the ordinary course of business under a bona fide retirement plan or other bona fide benefits program.

5514

(5) "Division" means the Division of Corporations and Commercial Code.

5515

(6) "Foreign limited liability limited partnership" means a foreign limited partnership whose general partners have limited liability for the debts, obligations, or other liabilities of the foreign limited partnership under a provision similar to Subsection [48-2e-404(3)] 16-19-404(3).

5519

(7)

SB0040S01 compared with SB0040S02

- (a) "Foreign limited partnership" means an unincorporated entity formed under the law of a jurisdiction other than this state which would be a limited partnership if formed under the law of this state.
- (b) [The term] "Foreign limited partnership" includes a foreign limited liability limited partnership.

(8) "General partner" means a person that:

- (a) has become a general partner under Section [48-2e-401] 16-19-401 or was a general partner in a limited partnership when the limited partnership became subject to this chapter under Section [48-2e-1205] 16-19-1105; and
- (b) has not dissociated as a general partner under Section [48-2e-603] 16-19-603.

(9) "Jurisdiction," used to refer to a political entity, means the United States, a state, a foreign country, or a political subdivision of a foreign country.

(10) "Jurisdiction of formation" means, with respect to an entity, the jurisdiction:

- (a) under whose law the entity is formed; or
- (b) in the case of a limited liability partnership or foreign limited liability partnership, in which the partnership's statement of qualification is filed.

(11) "Limited liability limited partnership," except in the phrase "foreign limited liability limited partnership," means a limited partnership whose certificate of limited partnership states that the partnership is a limited liability limited partnership.

(12) "Limited partner" means a person that:

- (a) has become a limited partner under Section [48-2e-301] 16-19-301 or was a limited partner in a limited partnership when the limited partnership became subject to this chapter under Section [48-2e-1205] 16-19-1105; and
- (b) has not dissociated under Section [48-2e-601] 16-19-601.

(13)

- (a) "Limited partnership" means an entity formed under this chapter or which becomes subject to this chapter under [Part 11, Merger, Interest Exchange, Conversion, and Domestication] :
 - (i) Chapter 1a, Part 7, Merger;
 - (ii) Chapter 1a, Part 8, Interest Exchange;
 - (iii) Chapter 1a, Part 9, Conversion;
 - (iv) [;]Chapter 1a, Part 10, Domestication; or
 - (v) [-]Section [48-2e-1205] 16-19-1105.
- (b) [The term] "Limited partnership" includes a limited liability limited partnership.

SB0040S01 compared with SB0040S02

5552 (14) "Partner" means a limited partner or general partner.

5553 (15) (a) "Partnership agreement" means the agreement, whether or not referred to as a partnership agreement, and whether oral, implied, in a record, or in any combination thereof, of all the partners of a limited partnership concerning the matters described in Subsection [48-2e-112(1)] 16-19-107(1).

5557 (b) [The term] "Partnership agreement" includes the agreement as amended or restated.

5558 (16) "Person" means an individual, business corporation, nonprofit corporation, partnership, limited partnership, limited liability company, limited cooperative association, unincorporated nonprofit association, statutory trust, business trust, common-law business trust, estate, trust, association, joint venture, public corporation, government or governmental subdivision, agency, or instrumentality, or any other legal or commercial entity.

5564 (17) "Principal office" means the principal executive office of a limited partnership or foreign limited partnership, whether or not the office is located in this state.

5566 (18) "Property" means all property, whether real, personal, or mixed or tangible or intangible, or any right or interest therein.

5568 (19) "Record," used as a noun, means information that is inscribed on a tangible medium or that is stored in an electronic or other medium and is retrievable in perceivable form.

5570 (20) "Registered agent" means an agent of a limited partnership or foreign limited partnership which is authorized to receive service of any process, notice, or demand required or permitted by law to be served on the limited partnership.

5573 (21) "Registered foreign limited partnership" means a foreign limited partnership that is registered to do business in this state pursuant to a statement of registration filed by the division.

5576 (22) "Required information" means the information that a limited partnership is required to maintain under Section [48-2e-115] 16-19-110.

5578 (23) "Sign" means, with present intent to authenticate or adopt a record:

5579 (a) to execute or adopt a tangible symbol; or

5580 (b) to attach to or logically associate with the record an electronic symbol, sound, or process.

5582 (24) "State" means a state of the United States, the District of Columbia, Puerto Rico, the United States Virgin Islands, or any territory or insular possession subject to the jurisdiction of the United States.

5585 (25) "Transfer" includes:

SB0040S01 compared with SB0040S02

5586 (a) an assignment;

5587 (b) a conveyance;

5588 (c) a sale;

5589 (d) a lease;

5590 (e) an encumbrance, including a mortgage or security interest;

5591 (f) a gift; and

5592 (g) a transfer by operation of law.

5593 (26)

5597 (a) "Transferable interest" means the right, as initially owned by a person in the person's capacity as a partner, to receive distributions from a limited partnership in accordance with the partnership agreement, whether or not the person remains a partner or continues to own any part of the right.

5599 (b) [The term] "Transferable interest" applies to any fraction of the interest, by whomever owned.

5601 (27)

5603 (a) "Transferee" means a person to which all or part of a transferable interest has been transferred, whether or not the transferor is a partner.

5604 (b) [The term] "Transferee" includes a person that owns a transferable interest under Subsection [48-2e-602(1)(e)] 16-19-602(1)(c) or [48-2e-605(1)(d)] 16-19-605(1)(d).

5605 (28) "Tribal limited partnership" means a limited partnership:

5606 (a) formed under the law of a tribe; and

5607 (b) that is at least 51% owned or controlled by the tribe under whose law the limited partnership is formed.

5614 (29) "Tribe" means a tribe, band, nation, pueblo, or other organized group or community of Indians, including an Alaska Native village, that is legally recognized as eligible for and is consistent with a special program, service, or entitlement provided by the United States to Indians because of their status as Indians.

5620 Section 170. Section **16-19-102** is renumbered and amended to read:

5622 **[48-2e-103] 16-19-102. Knowledge -- Notice.**

5624 (1) A person knows a fact if the person:

5625 (a) has actual knowledge of it; or

5626 (b) is deemed to know it under law other than this chapter.

5627 (2) A person has notice of a fact if the person:

SB0040S01 compared with SB0040S02

5618 (a) has reason to know the fact from all of the facts known to the person at the time in question; or
5620 (b) is deemed to have notice of the fact under Subsection (3) or (4).

5621 (3)
(a) A certificate of limited partnership on file in the office of the division is notice that the partnership
is a limited partnership and the persons designated in the certificate as general partners are general
partners.

5624 (b) [–] Except as otherwise provided in Subsection (4), the certificate is not notice of any other fact.

5626 (4) A person not a partner is deemed to have notice of:
(a) another person's dissociation as a general partner 90 days after the effective date of an amendment
to the certificate of limited partnership which states that the other person has dissociated or 90
days after the effective date of a statement of dissociation pertaining to the other person, whichever
occurs first;

5631 (b) a limited partnership's:
(i) dissolution 90 days after an amendment to the certificate of limited partnership stating that the
limited partnership becomes effective;
(ii) termination 90 days after a statement of termination under [48-2e-802(2)(b)
(vi)] 16-19-802(2)(b)(vi) becomes effective;
(iii) participation in a merger, interest exchange, conversion, or domestication 90 days after a statement
of merger, interest exchange, conversion, or domestication under [Part 11, Merger, Interest
Exchange, Conversion, and Domestication] Chapter 1a, Part 7, Merger, Chapter 1a, Part 8, Interest
Exchange, Chapter 1a, Part 9, Conversion, or Chapter 1a, Part 10, Domestication, becomes
effective; and
(iv) abandonment of a merger, interest exchange, conversion, or domestication 90 days after a statement
of abandonment of merger, interest exchange, conversion, or domestication under [Part 11, Merger,
Interest Exchange, Conversion, and Domestication] Chapter 1a, Part 7, Merger, Chapter 1a, Part 8,
Interest Exchange, Chapter 1a, Part 9, Conversion, or Chapter 1a, Part 10, Domestication, becomes
effective.

5641 (5) Subject to Subsection [48-2e-209(6)] 16-1a-211, a person notifies another person of a fact by taking
steps reasonably required to inform the other person in ordinary course, whether or not those steps
cause the other person to know the fact.

5650 (6)

SB0040S01 compared with SB0040S02

(a) A general partner's knowledge or notice of a fact relating to the limited partnership is effective immediately as knowledge of or notice to the limited partnership, except in the case of a fraud on the limited partnership committed by or with the consent of the general partner.

5654 (b) [–]A limited partner's knowledge or notice of a fact relating to the limited partnership is not effective as knowledge of or notice to the limited partnership.

5665 Section 171. Section **16-19-103** is renumbered and amended to read:

5667 **[48-2e-104] 16-19-103. Nature, purpose, and duration of limited partnership.**

5659 (1)

(a) A limited partnership is an entity distinct from [its] the limited partnership's partners.

5661 (b) [–]A limited partnership is the same entity regardless of whether [its] the limited partnership's certificate states that the limited partnership is a limited liability limited partnership.

5664 (2) A limited partnership may have any lawful purpose, regardless of whether for profit.

5665 (3) A limited partnership has perpetual duration.

5675 Section 172. Section **16-19-104** is renumbered and amended to read:

5677 **[48-2e-105] 16-19-104. Powers.**

A limited partnership has the capacity to sue and be sued in [its] the limited partnership's own name and the power to do all things necessary or convenient to carry on [its] the limited partnership's activities and affairs.

5681 Section 173. Section **16-19-105** is renumbered and amended to read:

5683 **[48-2e-106] 16-19-105. Governing law.**

The law of this state governs:

5676 (1) the internal affairs of a limited partnership; and

5677 (2) the liability of a partner as partner for the debts, obligations, or other liabilities of a limited partnership.

5688 Section 174. Section **16-19-106** is renumbered and amended to read:

5690 **[48-2e-107] 16-19-106. Supplemental principles of law.**

Unless displaced by particular provisions of this chapter, the principles of law and equity supplement this chapter.

5693 Section 175. Section **16-19-107** is renumbered and amended to read:

5695 **[48-2e-112] 16-19-107. Partnership agreement -- Scope, function, and limitations.**

5687 (1) Except as otherwise provided in Subsections (3) and (4), the partnership agreement governs:

SB0040S01 compared with SB0040S02

5689 (a) relations among the partners as partners and between the partners and the limited partnership;

5691 (b) the activities and affairs of the limited partnership and the conduct of those activities and affairs; and

5693 (c) the means and conditions for amending the partnership agreement.

5694 (2) To the extent the partnership agreement does not provide for a matter described in Subsection (1),
this chapter governs the matter.

5696 (3) A partnership agreement may not:

5697 (a) vary a limited partnership's capacity under Section [48-2e-105] 16-19-104 to sue and be sued in
[its] the limited partnership's own name;

5699 (b) vary the law applicable under Section [48-2e-106] 16-19-105;

5700 (c) vary any requirement, procedure, or other provision of this chapter pertaining to:

5701 (i) registered agents; or

5702 (ii) the division, including provisions pertaining to records authorized or required to be delivered to the
division for filing under this chapter;

5704 (d) vary the provisions of Section [48-2e-204] 16-1a-209;

5705 (e) vary the right of a general partner under Subsection [48-2e-406(2)(b)] 16-19-406(2)(b) to vote on or
consent to an amendment to the certificate of limited partnership which deletes a statement that the
limited partnership is a limited liability limited partnership;

5709 (f) eliminate the duty of loyalty or the duty of care except as otherwise provided in Subsection (4);

5711 (g) eliminate the contractual obligation of good faith and fair dealing under Subsections
[48-2e-305(1)] 16-19-305(1) and [48-2e-409(4)] 16-19-409(4), but the partnership agreement may
prescribe the standards, if not unconscionable or against public policy, by which the performance of
the obligation is to be measured;

5715 (h) relieve or exonerate a person from liability for conduct involving bad faith, willful misconduct, or
recklessness;

5717 (i) vary the information required under Section [48-2e-115] 16-19-110 or unreasonably restrict
the duties and rights under Section [48-2e-304] 16-19-304 or [48-2e-407] 16-19-407, but the
partnership agreement may impose reasonable restrictions on the availability and use of information
obtained under those sections and may define appropriate remedies, including liquidated damages,
for a breach of any reasonable restriction on use;

5723

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- (j) vary the power of a person to dissociate as a general partner under Subsection [48-2e-604(1)] 16-19-604(1) except to require that the notice under Subsection [48-2e-603(1)] 16-19-603(1) be in a record;
- 5726 (k) vary the causes of dissolution specified in Subsection [48-2e-801(1)(f)] 16-19-801(1)(f);
- 5728 (l) vary the requirement to wind up the limited partnership's activities and affairs as specified in Subsections [48-2e-802(1)] 16-19-802(1), (2)(a), and (4);
- 5730 (m) unreasonably restrict the right of a partner to maintain an action under Part 10, Actions by Partners;
- 5732 (n) vary the provisions of Section [48-2e-1005] 16-19-1005, but the partnership agreement may provide that the limited partnership may not have a special litigation committee;
- 5735 (o) vary the right of a partner to approve a merger, interest exchange, conversion, or domestication under [Subsektion 48-2e-1123(1)(b)] Section 16-1a-704, [48-2e-1133(1)(b)] 16-1a-804, [48-2e-1143(1)(b)] 16-1a-904, or [48-2e-1153(1)(b)] 16-1a-1004; or
- 5739 (p) except as otherwise provided in Section [48-2e-113] 16-19-108 and Subsection [48-2e-114(2)] 16-19-109(2), restrict the rights under this chapter of a person other than a partner.
- 5742 (4) Subject to Subsection (3)(h), without limiting other terms that may be included in a partnership agreement, the following rules apply:
- 5744 (a) The partnership agreement may specify the method by which a specific act or transaction that would otherwise violate the duty of loyalty may be authorized or ratified by one or more disinterested and independent persons after full disclosure of all material facts.
- 5748 (b) If not unconscionable or against public policy, the partnership agreement may:
 - 5749 (i) alter or eliminate the aspects of the duty of loyalty stated in Subsection [48-2e-409(2)] 16-19-409(2);
 - 5751 (ii) identify specific types or categories of activities that do not violate the duty of loyalty;
 - 5753 (iii) alter the duty of care, but may not authorize intentional misconduct or knowing violation of law; and
 - 5755 (iv) alter or eliminate any other fiduciary duty.
- 5756 (5) The court shall decide as a matter of law whether a term of a partnership agreement is unconscionable or against public policy under Subsection (3)(g) or (4)(b). The court:
 - 5758 (a) shall make [its] the court's determination as of the time the challenged term became part of the partnership agreement and by considering only circumstances existing at that time; and
 - 5761 (b) may invalidate the term only if, in light of the purposes, activities, and affairs of the limited partnership, it is readily apparent that:

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5763 (i) the objective of the term is unconscionable or against public policy; or
5764 (ii) the means to achieve the term's objective is unconscionable or against public policy.

5775 Section 176. Section **16-19-108** is renumbered and amended to read:

5777 **[48-2e-113] 16-19-108. Partnership agreement -- Effect on limited partnership and person becoming partner -- Preformation agreement.**

5770 (1) A limited partnership is bound by and may enforce the partnership agreement, whether or not the limited partnership has itself manifested assent to the partnership agreement.

5772 (2) A person that becomes a partner of a limited partnership is deemed to assent to the partnership agreement.

5774 (3) Two or more persons intending to become the initial partners of a limited partnership may make an agreement providing that upon the formation of the limited partnership the agreement will become the limited partnership agreement.

5786 Section 177. Section **16-19-109** is renumbered and amended to read:

5788 **[48-2e-114] 16-19-109. Partnership agreement -- Effect on third parties and relationship to records effective on behalf of limited partnership.**

5781 (1)
(a) A partnership agreement may specify that [its] an amendment to the partnership agreement requires the approval of a person that is not a party to the partnership agreement or the satisfaction of a condition.

5784 (b) [–]An amendment is ineffective if [its] the amendment's adoption does not include the required approval or satisfy the specified condition.

5786 (2)
(a) The obligations of a limited partnership and [its] the limited partnership's partners to a person in the person's capacity as a transferee or person dissociated as a partner are governed by the partnership agreement.

5789 (b) [–]Subject only to a court order issued under Subsection [48-2e-703(2)(b)] 16-19-703(2)(b) to effectuate a charging order, an amendment to the partnership agreement made after a person becomes a transferee or is dissociated as a partner:

5792 [(a)] (i) is effective with regard to any debt, obligation, or other liability of the limited partnership or [its] the limited partnership's partners to the person in the person's capacity as a transferee or person dissociated as a partner; and

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5795 [({b})] (ii) is not effective to the extent the amendment imposes a new debt, obligation, or other liability on the transferee or person dissociated as a partner.

5797 (3) If a record delivered by a limited partnership to the division for filing becomes effective and contains a provision that would be ineffective under Subsection [48-2e-112(3)] 16-19-107(3) or (4) (b) if contained in the partnership agreement, the provision is ineffective in the record.

5801 (4) Subject to Subsection (3), if a record delivered by a limited partnership to the division for filing becomes effective and conflicts with a provision of the partnership agreement:

5803 (a) the partnership agreement prevails as to partners, persons dissociated as partners, and transferees; and

5805 (b) the record prevails as to other persons to the extent they reasonably rely on the record.

5816 Section 178. Section **16-19-110** is renumbered and amended to read:

5818 **[48-2e-115] 16-19-110. Required information.**

A limited partnership shall maintain at [its] the limited partnership's principal office the following information:

5812 (1) a current list showing the full name and last known street and mailing address of each partner, separately identifying the general partners, in alphabetical order, and the limited partners, in alphabetical order;

5815 (2) a copy of the initial certificate of limited partnership and all amendments to and restatements of the certificate, together with signed copies of any powers of attorney under which any certificate, amendment, or restatement has been signed;

5818 (3) a copy of any filed statement of merger, interest exchange, conversion, or domestication;

5819 (4) a copy of the limited partnership's federal, state, and local income tax returns and reports, if any, for the three most recent years;

5821 (5) a copy of any partnership agreement made in a record and any amendment made in a record to any partnership agreement;

5823 (6) a copy of any financial statement of the limited partnership for the three most recent years;

5825 (7) a copy of the three most recent annual reports delivered by the limited partnership to the division pursuant to Section [48-2e-212] 16-1a-212;

5827 (8) a copy of any record made by the limited partnership during the past three years of any consent given by or vote taken of any partner [pursuant to] in accordance with this chapter or the partnership agreement; and

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5830 (9) unless contained in a partnership agreement made in a record, a record stating:

5831 (a) a description and statement of the agreed value of contributions other than money made and agreed
to be made by each partner;

5833 (b) the times at which, or events on the happening of which, any additional contributions agreed to be
made by each partner are to be made;

5835 (c) for any person that is both a general partner and a limited partner, a specification of what
transferable interest the person owns in each capacity; and

5837 (d) any events upon the happening of which the limited partnership is to be dissolved and [its] the
limited partnership's activities and affairs wound up.

5848 Section 179. Section **16-19-111** is renumbered and amended to read:

[48-2e-116] 16-19-111. Dual capacity.

5842 (1) A person may be both a general partner and a limited partner.

5843 (2) [–]A person that is both a general and limited partner has the rights, powers, duties, and obligations
provided by this chapter and the partnership agreement in each of those capacities.

5846 (3) [–]When the person acts as a general partner, the person is subject to the obligations, duties, and
restrictions under this chapter and the partnership agreement for general partners.

5849 (4) [–]When the person acts as a limited partner, the person is subject to the obligations, duties, and
restrictions under this chapter and the partnership agreement for limited partners.

5861 Section 180. Section **16-19-112** is renumbered and amended to read:

[48-2e-118] 16-19-112. Reservation of power to amend or repeal.

The Legislature of this state has power to amend or repeal all or part of this chapter at
any time, and all domestic and foreign limited partnerships subject to this chapter are governed
by the amendment or repeal.

5867 Section 181. Section **181** is enacted to read:

16-19-113. Provisions Applicable to All Business Entities applicable.

Chapter 1a, Provisions Applicable to All Business Entities, applies to the provisions of
this chapter.

5871 Section 182. Section **16-19-201** is renumbered and amended to read:

Part 2. Formation -- Certificate of Limited Partnership and Other Filings

[48-2e-201] 16-19-201. Formation of limited partnership -- Certificate of limited partnership.

5867

SB0040S01 compared with SB0040S02

- (1) To form a limited partnership, a person must deliver a certificate of limited partnership to the division for filing.
- (2) The certificate of limited partnership must state:
 - (a) the name of the limited partnership, which must comply with Section [48-2e-108] 16-1a-302;
 - (b) the street and mailing address of the limited partnership's principal office;
 - (c) the information required by [Subsektion 16-17-203(1)] Section 16-1a-404;
 - (d) the name and the street and mailing addresses of each general partner; and
 - (e) whether the limited partnership is a limited liability limited partnership.
- (3) A certificate of limited partnership may contain statements as to matters other than those required by Subsection (2), but may not vary or otherwise affect the provisions specified in Subsection [48-2e-112(3)] 16-19-107(3) in a manner inconsistent with that Subsection (2).

- (4) A limited partnership is formed when:

- (a) the certificate of limited partnership has become effective;
- (b) at least two persons have become partners;
- (c) at least one person has become a general partner; and
- (d) at least one person has become a limited partner.

Section 183. Section **16-19-202** is renumbered and amended to read:

[48-2e-202] 16-19-202. Amendment of restatement of certificate of limited partnership.

- (1) A certificate of limited partnership may be amended or restated at any time.
- (2) To amend [its] a limited partnership's certificate of limited partnership, a limited partnership must deliver to the division for filing an amendment stating:
 - (a) the name of the limited partnership;
 - (b) the date of filing of [its] the limited partnership's initial certificate of limited partnership; and
 - (c) the changes the amendment makes to the certificate of limited partnership as most recently amended or restated.
- (3) To restate [its] a limited partnership's certificate of limited partnership, a limited partnership must deliver to the division for filing a restatement designated as such in [its] the restatement's heading.
- (4) A limited partnership shall promptly deliver to the division for filing an amendment to a certificate of limited partnership to reflect:
 - (a) the admission of a new general partner;
 - (b) the dissociation of a person as a general partner; or

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5904 (c) the appointment of a person to wind up the limited partnership's activities and affairs under
5905 Subsection [48-2e-802(3)] 16-19-802(3) or (4).

5906 (5) If a general partner knows that any information in a filed certificate of limited partnership was
5907 inaccurate when the certificate of limited partnership was filed or has become inaccurate due to
5908 changed circumstances, the general partner shall promptly:

5909 (a) cause the certificate of limited partnership to be amended; or

5910 (b) if appropriate, deliver to the division for filing a statement of change under Section
5911 [16-17-206] 16-1a-407 or a statement of correction under Section [48-2e-208] 16-1a-206.

5912 Section 184. Section **16-19-301** is renumbered and amended to read:

Part 3. Limited Partners

[48-2e-301] 16-19-301. Becoming limited partners.

5913 (1) Upon formation of a limited partnership, a person becomes a limited partner as agreed among the
5914 persons that are to be the initial partners.

5915 (2) After formation, a person becomes a limited partner:

5916 (a) as provided in the partnership agreement;

5917 (b) as the result of a transaction effective under [Part 11, Merger, Interest Exchange, Conversion, and
5918 Domestication] :

5919 (i) Chapter 1a, Part 7, Merger;

5920 (ii) Chapter 1a, Part 8, Interest Exchange;

5921 (iii) Chapter 1a, Part 9, Conversion; or

5922 (iv) Chapter 1a, Part 10, Domestication;

5923 (c) with the affirmative vote or consent of all the partners; or

5924 (d) as provided in Subsection [48-2e-801(1)(d)] 16-19-801(1)(d) or (1)(e).

5925 (3) A person may become a partner without:

5926 (a) acquiring a transferable interest; or

5927 (b) making or being obligated to make a contribution to the limited partnership.

5928 Section 185. Section **16-19-302** is renumbered and amended to read:

[48-2e-302] 16-19-302. No agency power of limited partner as limited partner.

5929 (1) A limited partner is not an agent of a limited partnership solely by reason of being a limited partner.

5930 (2) A person's status as a limited partner does not prevent or restrict law other than this chapter from
5931 imposing liability on a limited partnership because of the person's conduct.

SB0040S01 compared with SB0040S02

5948 Section 186. Section **16-19-303** is renumbered and amended to read:

5950 **[48-2e-303] 16-19-303. No liability as limited partner for limited partnership obligations.**

5943 (1)

(a) A debt, obligation, or other liability of a limited partnership is not the debt, obligation, or other liability of a limited partner.

5945 (b) [–]A limited partner is not personally liable, directly or indirectly, by way of contribution or otherwise, for a debt, obligation, or other liability of the limited partnership solely by reason of being or acting as a limited partner, even if the limited partner participates in the management and control of the limited partnership.

5949 (2) The failure of a limited partnership to observe formalities relating to the exercise of [its] the limited partnership's powers or management of [its] the limited partnership's activities and affairs is not a ground for imposing liability on a limited partner for a debt, obligation, or other liability of the limited partnership.

5962 Section 187. Section **16-19-304** is renumbered and amended to read:

5964 **[48-2e-304] 16-19-304. Rights to information of limited partner and person dissociated as limited partner.**

5957 (1)

(a) On 10 days' demand, made in a record received by the limited partnership, a limited partner may inspect and copy required information during regular business hours in the limited partnership's principal office.

5960 (b) [–]The limited partner need not have any particular purpose for seeking the information.

5962 (2) During regular business hours and at a reasonable location specified by the limited partnership, a limited partner may inspect and copy information regarding the activities, affairs, financial condition, and other circumstances of the limited partnership as is just and reasonable if:

5966 (a) the limited partner seeks the information for a purpose reasonably related to the partner's interest as a limited partner;

5968 (b) the limited partner makes a demand in a record received by the limited partnership, describing with reasonable particularity the information sought and the purpose for seeking the information; and

5971 (c) the information sought is directly connected to the limited partner's purpose.

5972 (3) Not later than 10 days after receiving a demand pursuant to Subsection (2), the limited partnership in a record shall inform the limited partner that made the demand of:

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5974 (a) the information the limited partnership will provide in response to the demand and when and where
the limited partnership will provide the information; and

5976 (b) the limited partnership's reasons for declining, if the limited partnership declines to provide any
demanded information.

5978 (4) Whenever this chapter or a partnership agreement provides for a limited partner to vote on or give
or withhold consent to a matter, before the vote is cast or consent is given or withheld, the limited
partnership shall, without demand, provide the limited partner with all information that is known to
the limited partnership and is material to the limited partner's decision.

5983 (5) Subject to Subsection (10), on 10 days' demand made in a record received by a limited partnership,
a person dissociated as a limited partner may have access to information to which the person was
entitled while a limited partner if:

5986 (a) the information pertains to the period during which the person was a limited partner;

5987 (b) the person seeks the information in good faith; and

5988 (c) the person satisfies the requirements imposed on a limited partner by Subsection (2).

5989 (6) The limited partnership shall respond to a demand made pursuant to Subsection (5) in the manner
provided in Subsection (3).

5991 (7) A limited partnership may charge a person that makes a demand under this section reasonable costs
of copying, limited to the costs of labor and material.

5993 (8)

5996 (a) A limited partner or person dissociated as a limited partner may exercise the rights under this section
through an agent or, in the case of an individual under legal disability, a legal representative.

(b) ~~Any~~ restriction or condition imposed by the partnership agreement or under Subsection (11)
applies both to the agent or legal representative and to the limited partner or person dissociated as a
limited partner.

5999 (9) Subject to Subsection (10), the rights under this section do not extend to a person as transferee.

6001 (10) If a limited partner dies, Section ~~48-2e-704~~ 16-19-704 applies.

6002 (11)

(a) In addition to any restriction or condition stated in ~~[its]~~ a limited partnership's partnership
agreement, a limited partnership, as a matter within the ordinary course of ~~[its]~~ the limited
partnership's activities and affairs, may impose reasonable restrictions and conditions on access

SB0040S01 compared with SB0040S02

to and use of information to be furnished under this section, including designating information confidential and imposing nondisclosure and safeguarding obligations on the recipient.

6008 (b) [–]In a dispute concerning the reasonableness of a restriction under this Subsection (11), the limited
6009 partnership has the burden of proving reasonableness.

6019 Section 188. Section **16-19-305** is renumbered and amended to read:

6021 **[48-2e-305] 16-19-305. Limited duties of limited partners.**

6013 (1) A limited partner shall discharge any duties to the limited partnership and the other partners under
6014 the partnership agreement and exercise any rights under this chapter or the partnership agreement
6015 consistently with the contractual obligation of good faith and fair dealing.

6017 (2) Except as otherwise provided in Subsection (1), a limited partner does not have any duty to the
6018 limited partnership or to any other partner solely by reason of acting as a limited partner.

6020 (3) If a limited partner enters into a transaction with a limited partnership, the limited partner's rights
6021 and obligations arising from the transaction are the same as those of a person that is not a partner.

6032 Section 189. Section **16-19-306** is renumbered and amended to read:

6034 **[48-2e-306] 16-19-306. Person erroneously believing self to be limited partner.**

6026 (1) Except as otherwise provided in Subsection (2), a person that makes an investment in a business
6027 enterprise and erroneously but in good faith believes that the person has become a limited partner
6028 in the enterprise is not liable for the enterprise's obligations by reason of making the investment,
6029 receiving distributions from the enterprise, or exercising any rights of or appropriate to a limited
6030 partner, if, on ascertaining the mistake, the person:

6032 (a) causes an appropriate certificate of limited partnership, amendment, or statement of correction to be
6033 signed and delivered to the division for filing; or

6034 (b) withdraws from future participation as an owner in the enterprise by signing and delivering to the
6035 division for filing a statement of negation under this section.

6036 (2) A person that makes an investment described in Subsection (1) is liable to the same extent as a
6037 general partner to any third party that enters into a transaction with the enterprise, believing in
6038 good faith that the person is a general partner, before the division files a statement of negation,
6039 certificate of limited partnership, amendment, or statement of correction to show that the person is
6040 not a general partner.

6041 (3) If a person makes a diligent effort in good faith to comply with Subsection (1)(a) and is unable
6042 to cause the appropriate certificate of limited partnership, amendment, or statement of correction

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to be signed and delivered to the division for filing, the person has the right to withdraw from the enterprise [pursuant to] in accordance with Subsection (1)(b) even if the withdrawal would otherwise breach an agreement with others that are or have agreed to become co-owners of the enterprise.

Section 190. Section **16-19-401** is renumbered and amended to read:

Part 4. General Partners

[48-2e-401] 16-19-401. Becoming general partner.

(1) A person becomes a general partner:

- (a) upon formation of a limited partnership, as agreed among the persons that are to be the initial partners; and
- (b) after formation:
 - (i) as provided in the partnership agreement;
 - (ii) under Subsection [48-2e-801(1)(e)(ii)] 16-19-801(1)(c)(ii) following the dissociation of a limited partnership's last general partner;
 - (iii) as the result of a transaction effective under[Part 11, Merger, Interest Exchange, Conversion, and Domestication] :

Section 191. Section **16-19-402** is renumbered and amended to read:

[48-2e-402] 16-19-402. General partner agent of limited partnership.

(1)

(a) Each general partner is an agent of the limited partnership for the purposes of [its] the limited partnership's activities and affairs.

(b) [–]An act of a general partner, including the signing of a record in the limited partnership's name, for apparently carrying on in the ordinary course the limited partnership's activities and affairs or

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activities and affairs of the kind carried on by the limited partnership binds the limited partnership, unless the general partner did not have authority to act for the limited partnership in the particular matter and the person with which the general partner was dealing knew or had notice that the general partner lacked authority.

6080 (2) An act of a general partner which is not apparently for carrying on in the ordinary course the limited partnership's activities and affairs or activities and affairs of the kind carried on by the limited partnership binds the limited partnership only if the act was actually authorized by all the other partners.

6093 Section 192. Section **16-19-403** is renumbered and amended to read:

[48-2e-403] 16-19-403. Limited partnership liable for general partner's actionable conduct.

6088 (1) A limited partnership is liable for loss or injury caused to a person, or for a penalty incurred, as a result of a wrongful act or omission, or other actionable conduct, of a general partner acting in the ordinary course of activities and affairs of the limited partnership or with the actual or apparent authority of the limited partnership.

6092 (2) If, in the course of a limited partnership's activities and affairs or while acting with actual or apparent authority of the limited partnership, a general partner receives or causes the limited partnership to receive money or property of a person not a partner, and the money or property is misappropriated by a general partner, the limited partnership is liable for the loss.

6106 Section 193. Section **16-19-404** is renumbered and amended to read:

[48-2e-404] 16-19-404. General partner's liability.

6100 (1) Except as otherwise provided in Subsections (2) and (3), all general partners are liable jointly and severally for all debts, obligations, and other liabilities of the limited partnership unless otherwise agreed by the claimant or provided by law.

6103 (2) A person that becomes a general partner of an existing limited partnership is not personally liable for a debt, obligation, or other liability of the limited partnership incurred before the person became a general partner.

6106 (3)

(a) A debt, obligation, or other liability of a limited partnership incurred while the limited partnership is a limited liability limited partnership is solely the debt, obligation, or other liability of the limited liability limited partnership.

6109

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(b) [–]A general partner is not personally liable, directly or indirectly, by way of contribution or otherwise, for a debt, obligation, or other liability of the limited liability limited partnership solely by reason of being or acting as a general partner.

6112 (c) [–]This Subsection (3) applies despite anything inconsistent in the partnership agreement that existed immediately before the vote or consent required to become a limited liability limited partnership under Subsection [48-2e-406(2)(b)] 16-19-406(2)(b).

6116 (4) The failure of a limited liability limited partnership to observe formalities relating to the exercise of [its] the limited liability limited partnership's powers or management of [its] the limited liability limited partnership's activities and affairs is not a ground for imposing liability on a general partner of the limited liability limited partnership for a debt, obligation, or liability of the limited partnership.

6121 (5) An amendment of a certificate of limited partnership which deletes a statement that the limited partnership is a limited liability limited partnership does not affect the limitation in this section on liability of a general partner for a debt, obligation, or other liability of the limited partnership incurred before the amendment became effective.

6134 Section 194. Section **16-19-405** is renumbered and amended to read:

[48-2e-405] 16-19-405. Actions by and against partnership and partners.

6128 (1) To the extent not inconsistent with Section [48-2e-404] 16-19-404, a general partner may be joined in an action against the limited partnership or named in a separate action.

6130 (2) (a) A judgment against a limited partnership is not by itself a judgment against a general partner.

6132 (b) [–]A judgment against a limited partnership may not be satisfied from a general partner's assets unless there is also a judgment against the general partner.

6134 (3) A judgment creditor of a general partner may not levy execution against the assets of the general partner to satisfy a judgment based on a claim against the limited partnership, unless the general partner is personally liable for the claim under Section [48-2e-404] 16-19-404, and:

6138 (a) a judgment based on the same claim has been obtained against the limited partnership and a writ of execution on the judgment has been returned unsatisfied in whole or in part;

6141 (b) the limited partnership is a debtor in bankruptcy;

6142 (c) the general partner has agreed that the creditor need not exhaust limited partnership assets;

6144

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- (d) a court grants permission to the judgment creditor to levy execution against the assets of a general partner based on a finding that the limited partnership assets subject to execution are clearly insufficient to satisfy the judgment, that exhaustion of assets is excessively burdensome, or that the grant of permission is an appropriate exercise of the court's equitable powers; or
- 6149 (e) liability is imposed on the general partner by law or contract independent of the existence of the limited partnership.

6160 Section 195. Section **16-19-406** is renumbered and amended to read:

6162 **[48-2e-406] 16-19-406. Management rights of general partner.**

- 6154 (1)
 - (a) Each general partner has equal rights in the management and conduct of the limited partnership's activities and affairs.
 - 6156 (b) [–] Except as otherwise provided in this chapter, any matter relating to the activities and affairs of the limited partnership is decided exclusively by the general partner or, if there is more than one general partner, by a majority of the general partners.
- 6159 (2) The affirmative vote or consent of all partners is required to:
 - 6160 (a) amend the partnership agreement;
 - 6161 (b) amend the certificate of limited partnership to add or delete a statement that the limited partnership is a limited liability limited partnership;
 - 6163 (c) sell, lease, exchange, or otherwise dispose of all, or substantially all, of the limited partnership's property, with or without the good will, other than in the usual and regular course of the limited partnership's activities and affairs; and
 - 6166 (d) approve a transaction under [Part 11, Merger, Interest Exchange, Conversion, and Domestication] :
 - 6168 (i) Chapter 1a, Part 7, Merger;
 - 6169 (ii) Chapter 1a, Part 8, Interest Exchange;
 - 6170 (iii) Chapter 1a, Part 9, Conversion; or
 - 6171 (iv) Chapter 1a, Part 10, Domestication.
- 6172 (3) A limited partnership shall reimburse a general partner for an advance to the limited partnership beyond the amount of capital the general partner agreed to contribute.
- 6174 (4) A payment or advance made by a general partner which gives rise to an obligation of the limited partnership under Subsection (3) or Subsection [48-2e-408(1)] **16-19-408(1)** constitutes a loan to the limited partnership which accrues interest from the date of the payment or advance.

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6178 (5) A general partner is not entitled to remuneration for services performed for the limited partnership.

6189 Section 196. Section **16-19-407** is renumbered and amended to read:

6191 **[48-2e-407] 16-19-407. Rights to information of general partner and person dissociated as general partner.**

6184 (1) A general partner may inspect and copy required information during regular business hours in the limited partnership's principal office, without having any particular purpose for seeking the information.

6187 (2) On reasonable notice, a general partner may inspect and copy during regular business hours, at a reasonable location specified by the limited partnership, any record maintained by the limited partnership regarding the limited partnership's activities, affairs, financial condition, and other circumstances, to the extent the information is material to the general partner's rights and duties under the partnership agreement or this chapter.

6193 (3) A limited partnership shall furnish to each general partner:

6194 (a) without demand, any information concerning the limited partnership's activities, affairs, financial condition, and other circumstances which the limited partnership knows and are material to the proper exercise of the general partner's rights and duties under the partnership agreement or this chapter, except to the extent the limited partnership can establish that it reasonably believes the general partner already knows the information; and

6200 (b) on demand, any other information concerning the limited partnership's activities, affairs, financial condition, and other circumstances, except to the extent the demand or the information demanded is unreasonable or otherwise improper under the circumstances.

6204 (4) The duty to furnish information under Subsection (2) also applies to each general partner to the extent the general partner knows any of the information described in Subsection (2).

6207 (5) Subject to Subsection (8), on 10 days' demand made in a record received by the limited partnership, a person dissociated as a general partner may have access to the information and records described in Subsections (1) and (2) at the locations specified in those subsections if:

6211 (a) the information or record pertains to the period during which the person was a general partner;

6213 (b) the person seeks the information or record in good faith; and

6214 (c) the person satisfies the requirements imposed on a limited partner by Subsection

[48-2e-304(2)] **16-19-304(2).**

6216

SB0040S01 compared with SB0040S02

(6) The limited partnership shall respond to a demand made [pursuant to] in accordance with Subsection (3) in the manner provided in Subsection [48-2e-304(3)] 16-19-304(3).

6218 (7) A limited partnership may charge a person that makes a demand under this section the reasonable costs of copying, limited to the costs of labor and material.

6220 (8)

6223 (a) A general partner or person dissociated as a general partner may exercise rights under this section through an agent or, in the case of an individual under legal disability, a legal representative.

(b) [–]Any restriction or condition imposed by the partnership agreement or under Subsection (9) applies both to the agent or legal representative and the general partner or person dissociated as a general partner.

6226 (9) The rights under this section do not extend to a person as transferee, but if:

6227 (a) a general partner dies, Section [48-2e-704] 16-19-704 applies; and

6228 (b) an individual dissociates as a general partner under Subsection [48-2e-603(7)(b)] 16-19-603(7)(b) or (7)(c), the legal representative of the individual may exercise the rights under Subsection (4) of a person dissociated as a general partner.

6231 (10)

6237 (a) In addition to any restriction or condition stated in the partnership agreement, a limited partnership, as a matter within the ordinary course of [its] the limited partnership's activities and affairs, may impose reasonable restrictions and conditions on access to and use of information to be furnished under this section, including designating information confidential and imposing nondisclosure and safeguarding obligations on the recipient.

(b) [–]In a dispute concerning the reasonableness of a restriction under this Subsection (10), the limited partnership has the burden of proving reasonableness.

6248 Section 197. Section **16-19-408** is renumbered and amended to read:

6250 **[48-2e-408] 16-19-408. Reimbursement, indemnification, advancement, and insurance.**

6243 (1) A limited partnership shall reimburse a general partner for any payment made by the general partner in the course of the general partner's activities on behalf of the limited partnership, if the general partner complied with Sections [48-2e-406] 16-19-406, [48-2e-409] 16-19-409, and [48-2e-504] 16-19-504 in making the payment.

6247 (2) A limited partnership shall indemnify and hold harmless a person with respect to any claim or demand against the person and any debt, obligation, or other liability incurred by the

SB0040S01 compared with SB0040S02

person by reason of the person's former or present capacity as a general partner, if the claim, demand, debt, obligation, or other liability does not arise from the person's breach of Section [48-2e-406] 16-19-406, [48-2e-409] 16-19-409, or [48-2e-504] 16-19-504.

6253 (3) In the ordinary course of [its] a limited partnership's activities and affairs, a limited partnership may advance reasonable expenses, including attorney's fees and costs, incurred by a person in connection with a claim or demand against the person by reason of the person's former or present capacity as a general partner, if the person promises to repay the limited partnership if the person ultimately is determined not to be entitled to be indemnified under Subsection (2).

6259 (4) A limited partnership may purchase and maintain insurance on behalf of a general partner against liability asserted against or incurred by the general partner in that capacity or arising from that status even if, under Subsection [48-2e-112(3)(h)] 16-19-107(3)(h), the partnership agreement could not eliminate or limit the person's liability to the limited partnership for the conduct giving rise to the liability.

6273 Section 198. Section **16-19-409** is renumbered and amended to read:

[48-2e-409] 16-19-409. Standards of conduct for general partners.

6267 (1) A general partner owes to the limited partnership and, subject to Subsection [48-2e-1001(1)] 16-19-901(1), the other partners the duties of loyalty and care stated in Subsections (2) and (3).

6270 (2) The duty of loyalty of a general partner includes the duties:

6271 (a) to account to the limited partnership and hold as trustee for [it] the limited partnership any property, profit, or benefit derived by the general partner:

6273 (i) in the conduct or winding up of the limited partnership's activities and affairs;

6274 (ii) from a use by the general partner of the limited partnership's property; or

6275 (iii) from the appropriation of a limited partnership opportunity;

6276 (b) to refrain from dealing with the limited partnership in the conduct or winding up of the limited partnership's activities and affairs as or on behalf of a person having an interest adverse to the limited partnership; and

6279 (c) to refrain from competing with the limited partnership in the conduct or winding up of the limited partnership's activities and affairs.

6281

SB0040S01 compared with SB0040S02

(3) The duty of care of a general partner in the conduct or winding up of the limited partnership's activities and affairs is to refrain from engaging in grossly negligent or reckless conduct, intentional misconduct, or a knowing violation of law.

6284 (4) A general partner shall discharge the duties and obligations under this chapter or under the partnership agreement and exercise any rights consistently with the contractual obligation of good faith and fair dealing.

6287 (5) A general partner does not violate a duty or obligation under this chapter or under the partnership agreement solely because the general partner's conduct furthers the general partner's own interest.

6290 (6) All the partners of a limited partnership may authorize or ratify, after full disclosure of all material facts, a specific act or transaction by a general partner that otherwise would violate the duty of loyalty.

6293 (7) It is a defense to a claim under Subsection (2)(b) and any comparable claim in equity or at common law that the transaction was fair to the limited partnership.

6295 (8) If, as permitted by Subsection (6) or the partnership agreement, a general partner enters into a transaction with the limited partnership which otherwise would be prohibited by Subsection (2)(b), the general partner's rights and obligations arising from the transaction are the same as those of a person that is not a general partner.

6308 Section 199. Section **16-19-501** is renumbered and amended to read:

Part 5. Contributions and Distributions

[48-2e-501]-16-19-501. Form of contribution.

A contribution may consist of property transferred to, services performed for, or another benefit provided to the limited partnership or an agreement to transfer property to, perform services for, or provide another benefit to the limited partnership.

6315 Section 200. Section **16-19-502** is renumbered and amended to read:

[48-2e-502]-16-19-502. Liability for contribution.

6309 (1) A person's obligation to make a contribution to a limited partnership is not excused by the person's death, disability, dissolution, or other inability to perform personally.

6311 (2) If a person does not fulfill an obligation to make a contribution other than money, the person is obligated at the option of the limited partnership to contribute money equal to the value, as stated in the required information, of the part of the contribution which has not been made.

6315 (3)

SB0040S01 compared with SB0040S02

(a) The obligation of a person to make a contribution may be compromised only by the affirmative vote or consent of all partners.

6317 (b) [–]If a creditor of a limited partnership extends credit or otherwise acts in reliance on an obligation described in Subsection (1) without notice of any compromise under this subsection, the creditor may enforce the original obligation.

6329 Section 201. Section **16-19-503** is renumbered and amended to read:

6331 **[48-2e-503] 16-19-503. Sharing of and right to distributions before dissolution.**

6323 (1) Except to the extent necessary to comply with a transfer effective under Section [48-2e-702] 16-19-702 or charging order in effect under Section [48-2e-703] 16-19-703, any distributions made by a limited partnership before [its] the limited partnership's dissolution and winding up must be in equal shares among partners and persons dissociated as partners.

6328 (2) A person has a right to a distribution before the dissolution and winding up of a limited partnership only if the limited partnership decides to make an interim distribution. A person's dissociation does not entitle the person to a distribution.

6331 (3)

(a) A person does not have a right to demand or receive a distribution from a limited partnership in any form other than money.

6333 (b) [–]Except as otherwise provided in Subsection [48-2e-813(5)] 16-19-811(5), a partnership may distribute an asset in kind only if each part of the asset is fungible with each other part and each person receives a percentage of the asset equal in value to the person's share of distributions.

6337 (4)

(a) If a partner or transferee becomes entitled to receive a distribution, the partner or transferee has the status of, and is entitled to all remedies available to, a creditor of the limited partnership with respect to the distribution.

6340 (b) [–]However, the limited partnership's obligation to make a distribution is subject to offset for any amount owed to the limited partnership by the partner or a person dissociated as a partner on whose account the distribution is made.

6352 Section 202. Section **16-19-504** is renumbered and amended to read:

6354 **[48-2e-504] 16-19-504. Limitations on distributions.**

6346 (1) A limited partnership may not make a distribution, including a distribution under Section [48-2e-813] 16-19-811, if after the distribution:

SB0040S01 compared with SB0040S02

6348 (a) the limited partnership would not be able to pay [its] the limited partnership's debts as [they] the debts become due in the ordinary course of the limited partnership's activities and affairs; or

6351 (b) the limited partnership's total assets would be less than the sum of [its] the limited partnership's total liabilities plus, unless the partnership agreement permits otherwise, the amount that would be needed, if the limited partnership were to be dissolved and wound up at the time of the distribution, to satisfy the preferential rights upon dissolution and winding up of partners and transferees whose preferential rights are superior to those of persons receiving the distribution.

6357 (2) A limited partnership may base a determination that a distribution is not prohibited under Subsection (1) on:

6359 (a) financial statements prepared on the basis of accounting practices and principles that are reasonable in the circumstances; or

6361 (b) a fair valuation or other method that is reasonable under the circumstances.

6362 (3) Except as otherwise provided in Subsection (5), the effect of a distribution under Subsection (1) is measured:

6364 (a) in the case of distribution as defined in Subsection [48-2e-102(4)(a)] 16-19-101(4)(a), as of the earlier of:

6366 (i) the date money or other property is transferred or debt is incurred by the limited partnership; or

6368 (ii) the date the person entitled to the distribution ceases to own the interest or right being acquired by the limited partnership in return for the distribution;

6370 (b) in the case of any other distribution of indebtedness, as of the date the indebtedness is distributed; and

6372 (c) in all other cases, as of the date:

6373 (i) the distribution is authorized, if the payment occurs not later than 120 days after that date; or

6375 (ii) the payment is made, if payment occurs more than 120 days after the distribution is authorized.

6377 (4) A limited partnership's indebtedness to a partner or transferee incurred by reason of a distribution made in accordance with this section is at parity with the limited partnership's indebtedness to [its] the limited partnership's general, unsecured creditors, except to the extent subordinated by agreement.

6381 (5)

(a) A limited partnership's indebtedness, including indebtedness issued as a distribution, is not considered a liability for purposes of Subsection (1) if the terms of the indebtedness provide that

SB0040S01 compared with SB0040S02

payment of principal and interest is made only if and to the extent that payment of a distribution could then be made under this section.

6385 (b) [–]If the indebtedness is issued as a distribution, each payment of principal or interest is treated as a distribution, the effect of which is measured on the date the payment is made.

6388 (6) In measuring the effect of a distribution under Section [48-2e-813] 16-19-811, the liabilities of a dissolved limited partnership do not include any claim that has been disposed of under Section [48-2e-806] 16-19-806, [48-2e-807] 16-19-807, or [48-2e-808] 16-19-808.

6401 Section 203. Section **16-19-505** is renumbered and amended to read:

6403 **[48-2e-505] 16-19-505. Liability for improper distributions.**

6395 (1) If a general partner consents to a distribution made in violation of Section [48-2e-504] 16-19-504 and in consenting to the distribution fails to comply with Section [48-2e-409] 16-19-409, the general partner is personally liable to the limited partnership for the amount of the distribution which exceeds the amount that could have been distributed without the violation of Section [48-2e-504] 16-19-504.

6400 (2) A person that receives a distribution knowing that the distribution violated Section [48-2e-504] 16-19-504 is personally liable to the limited partnership but only to the extent that the distribution received by the person exceeded the amount that could have been properly paid under Section [48-2e-504] 16-19-504.

6404 (3) A general partner against which an action is commenced because the general partner is liable under Subsection (1) may:

6406 (a) implead any other person that is liable under Subsection (1) and seek to enforce a right of contribution from the person; and

6408 (b) implead any person that received a distribution in violation of Subsection (2) and seek to enforce a right of contribution from the person in the amount the person received in violation of Subsection (2).

6411 (4) An action under this section is barred unless commenced not later than two years after the distribution.

6422 Section 204. Section **16-19-601** is renumbered and amended to read:

6415 **Part 6. Dissociation**

6425 **[48-2e-601] 16-19-601. Dissociation as limited partner.**

SB0040S01 compared with SB0040S02

(1) A person does not have a right to dissociate as a limited partner before the completion of the winding up of the limited partnership.

6419 (2) A person is dissociated as a limited partner when:

6420 (a) the limited partnership has notice of the person's express will to withdraw as a limited partner, but, if the person specified a withdrawal date later than the date the limited partnership had notice, on that later date;

6423 (b) an event stated in the partnership agreement as causing the person's dissociation as a limited partner occurs;

6425 (c) the person is expelled as a limited partner pursuant to the partnership agreement;

6426 (d) the person is expelled as a limited partner by the unanimous vote or consent of the other partners if:

6428 (i) it is unlawful to carry on the limited partnership's activities and affairs with the person as a limited partner;

6430 (ii) there has been a transfer of all of the person's transferable interest in the limited partnership, other than:

6432 (A) a transfer for security purposes; or

6433 (B) a charging order in effect under Section [48-2e-703] 16-19-703 which has not been foreclosed;

6435 (iii) the person is a corporation and:

6436 (A) the limited partnership notifies the person that [it] the person will be expelled as a limited partner because the person has filed a statement of dissolution or the equivalent, [its] the person's charter has been revoked, or [its] the person's right to conduct business has been suspended by the jurisdiction of [its] the person's incorporation; and

6441 (B) not later than 90 days after the notification the statement of dissolution or the equivalent has not been revoked or [its] the person's charter or right to conduct business has not been reinstated; or

6444 (iv) the person is an unincorporated entity that has been dissolved and whose business is being wound up;

6446 (e) on application by the limited partnership, the person is expelled as a limited partner by judicial order because the person:

6448 (i) has engaged or is engaging in wrongful conduct that has affected adversely and materially, or will affect adversely and materially, the limited partnership's activities and affairs;

6451

SB0040S01 compared with SB0040S02

- (ii) has committed willfully or persistently, or is committing willfully or persistently, a material breach of the partnership agreement or the contractual obligation of good faith and fair dealing under Subsection [48-2e-305(1)] 16-19-305(1); or
- 6454 (iii) has engaged or is engaging in conduct relating to the limited partnership's activities and affairs which makes it not reasonably practicable to carry on the activities and affairs with the person as a limited partner;
- 6457 (f) in the case of a person who is an individual, the individual dies;
- 6458 (g) in the case of a person that is a testamentary or inter vivos trust or is acting as a limited partner by virtue of being a trustee of such a trust, the trust's entire transferable interest in the limited partnership is distributed;
- 6461 (h) in the case of a person that is an estate or is acting as a limited partner by virtue of being a personal representative of an estate, the estate's entire transferable interest in the limited partnership is distributed;
- 6464 (i) in the case of a person that is not an individual, corporation, unincorporated entity, trust, or estate, the existence of the person terminates;
- 6466 (j) the limited partnership participates in a merger under [Part 11, Merger, Interest Exchange, Conversion, and Domestication] Chapter 1a, Part 7, Merger, and:
 - 6468 (i) the limited partnership is not the surviving entity; or
 - 6469 (ii) otherwise as a result of the merger, the person ceases to be a limited partner;
- 6470 (k) the limited partnership participates in an interest exchange under [Part 11, Merger, Interest Exchange, Conversion, and Domestication] Chapter 1a, Part 8, Interest Exchange, and as a result of the interest exchange, the person ceases to be a limited partner;
- 6474 (l) the limited partnership participates in a conversion under [Part 11, Merger, Interest Exchange, Conversion, and Domestication] Chapter 1a, Part 9, Conversion;
- 6476 (m) the limited partnership participates in a domestication under [Part 11, Merger, Interest Exchange, Conversion, and Domestication] Chapter 1a, Part 10, Domestication, and as a result of the domestication, the person ceases to be a limited partner; or
- 6480 (n) the limited partnership dissolves and completes winding up.

6490 Section 205. Section **16-19-602** is renumbered and amended to read:

6492 **[48-2e-602] 16-19-602. Effect of dissociation as limited partner.**

6484 (1) If a person is dissociated as a limited partner:

SB0040S01 compared with SB0040S02

6485 (a) subject to Section [48-2e-704] 16-19-704, the person does not have further rights as a limited partner;

6487 (b) the person's contractual obligation of good faith and fair dealing as a limited partner under Subsection [48-2e-305(1)] 16-19-305(1) ends with regard to matters arising and events occurring after the person's dissociation; and

6490 (c) subject to Section [48-2e-704] 16-19-704 and [Part 11, Merger, Interest Exchange, Conversion, and Domestication] Chapter 1a, Part 7, Merger, Chapter 1a, Part 8, Interest Exchange, Chapter 1a, Part 9, Conversion, or Chapter 1a, Part 10, Domestication, any transferable interest owned by the person in the person's capacity as a limited partner immediately before dissociation is owned by the person solely as a transferee.

6496 (2) A person's dissociation as a limited partner does not of itself discharge the person from any debt, obligation, or other liability to the limited partnership or the other partners which the person incurred while a limited partner.

6508 Section 206. Section **16-19-603** is renumbered and amended to read:

6510 **[48-2e-603] 16-19-603. Dissociation as general partner.**

6512 A person is dissociated as a general partner when:

6503 (1) the limited partnership has notice of the person's express will to withdraw as a general partner, but, if the person specifies a withdrawal date later than the date the limited partnership had notice, on that later date;

6506 (2) an event stated in the partnership agreement as causing the person's dissociation as a general partner occurs;

6508 (3) the person is expelled as a general partner pursuant to the partnership agreement;

6509 (4) the person is expelled as a general partner by the unanimous vote or consent of the other partners if:

6511 (a) it is unlawful to carry on the limited partnership's activities and affairs with the person as a general partner;

6513 (b) there has been a transfer of all of the person's transferable interest in the limited partnership, other than:

6515 (i) a transfer for security purposes; or

6516 (ii) a charging order in effect under Section [48-2e-703] 16-19-703 which has not been foreclosed;

6518 (c) the person is a corporation, and:

6519

SB0040S01 compared with SB0040S02

- (i) the limited partnership notifies the person that [it] the person will be expelled as a general partner because the person has filed a statement of dissolution or the equivalent, [its] the person's charter has been revoked, or [its] the person's right to conduct business has been suspended by the jurisdiction of [its] the person's incorporation; and
- 6524 (ii) not later than 90 days after the notification of the statement of dissolution or the equivalent has not been revoked or [its] the person's charter or right to conduct business has not been reinstated; or
- 6527 (d) the person is an unincorporated entity that has been dissolved and whose business is being wound up;
- 6529 (5) on application by the limited partnership or a partner in a direct action under Section [48-2e-1001] 16-19-901, the person is expelled as a general partner by judicial order because the person:
 - 6532 (a) has engaged or is engaging in wrongful conduct that has affected adversely and materially, or will affect adversely and materially, the limited partnership's activities and affairs;
 - 6535 (b) has committed willfully or persistently, or is committing willfully or persistently, a material breach of the partnership agreement or a duty or obligation under Section [48-2e-409] 16-19-409; or
 - 6538 (c) has engaged or is engaging in conduct relating to the limited partnership's activities and affairs which makes it not reasonably practicable to carry on the activities or affairs of the limited partnership with the person as a general partner;
- 6541 (6) in the case of a person who is an individual:
 - 6542 (a) the individual dies;
 - 6543 (b) a guardian or general conservator for the individual is appointed; or
 - 6544 (c) a court orders that the individual has otherwise become incapable of performing the individual's duties as a general partner under this chapter or the partnership agreement;
- 6547 (7) the person:
 - 6548 (a) becomes a debtor in bankruptcy;
 - 6549 (b) executes an assignment for the benefit of creditors; or
 - 6550 (c) seeks, consents to, or acquiesces in the appointment of a trustee, receiver, or liquidator of the person or of all or substantially all of the person's property;
- 6552 (8) in the case of a person that is a testamentary or inter vivos trust or is acting as a general partner by virtue of being a trustee of such a trust, the trust's entire transferable interest in the limited partnership is distributed;

SB0040S01 compared with SB0040S02

6555 (9) in the case of a person that is an estate or is acting as a general partner by virtue of being a personal
representative of an estate, the estate's entire transferable interest in the limited partnership is
distributed;

6558 (10) in the case of a person that is not an individual, corporation, unincorporated entity, trust, or estate,
the existence of the person terminates;

6560 (11) the limited partnership participates in a merger under [Part 11, Merger, Interest Exchange,
Conversion, and Domestication] Chapter 1a, Part 7, Merger, and:

6562 (a) the limited partnership is not the surviving entity; or

6563 (b) otherwise as a result of the merger, the person ceases to be a general partner;

6564 (12) the limited partnership participates in an interest exchange under [Part 11, Merger, Interest
Exchange, Conversion, and Domestication] Chapter 1a, Part 8, Interest Exchange, and, as a result of
the interest exchange, the person ceases to be a general partner;

6567 (13) the limited partnership participates in a conversion under [Part 11, Merger, Interest Exchange,
Conversion, and Domestication] Chapter 1a, Part 9, Conversion;

6569 (14) the limited partnership participates in a domestication under [Part 11, Merger, Interest Exchange,
Conversion, and Domestication] Chapter 1a, Part 10, Domestication, and, as a result of the
domestication, the person ceases to be a general partner; or

6572 (15) the limited partnership dissolves and completes winding up.

6582 Section 207. Section **16-19-604** is renumbered and amended to read:

[48-2e-604] 16-19-604. Power to dissociate as general partner -- Wrongful dissociation.

6577 (1) A person has the power to dissociate as a general partner at any time, rightfully or wrongfully, by
withdrawing as a general partner by express will under Subsection [48-2e-603(1)] 16-19-603(1).

6580 (2) A person's dissociation as a general partner is wrongful only if the dissociation:

6581 (a) is in breach of an express provision of the partnership agreement; or

6582 (b) occurs before the completion of the winding up of the limited partnership, and:

6583 (i) the person withdraws as a general partner by express will;

6584 (ii) the person is expelled as a general partner by judicial order under Subsection
[48-2e-603(5)] 16-19-603(5);

6586 (iii) the person is dissociated as a general partner under Subsection [48-2e-603(7)] 16-19-603(7); or

6588

SB0040S01 compared with SB0040S02

(iv) in the case of a person that is not a trust other than a business trust, an estate, or an individual, the person is expelled or otherwise dissociated as a general partner because it willfully dissolved or terminated.

6591 (3)

(a) A person that wrongfully dissociates as a general partner is liable to the limited partnership and, subject to Section [48-2e-1001] 16-19-901, to the other partners for damages caused by the dissociation.

6594 (b) [–]The liability is in addition to any debt, obligation, or other liability of the general partner to the limited partnership or the other partners.

6605 Section 208. Section **16-19-605** is renumbered and amended to read:

[48-2e-605] 16-19-605. Effect of dissociation as general partner.

(1) If a person is dissociated as a general partner:

6600 (a) the person's right to participate as a general partner in the management and conduct of the limited partnership's activities and affairs terminates;

6602 (b) the person's duties and obligations as a general partner under Section [48-2e-409] 16-19-409 end with regard to matters arising and events occurring after the person's dissociation;

6605 (c) the person may sign and deliver to the division for filing a statement of dissociation pertaining to the person and, at the request of the limited partnership, shall sign an amendment to the certificate of limited partnership which states that the person has dissociated as a general partner; and

6609 (d) subject to Section [48-2e-704] 16-19-704 and [Part 11, Merger, Interest Exchange, Conversion, and Domestication] Chapter 1a, Part 7, Merger, Chapter 1a, Part 8, Interest Exchange, Chapter 1a, Part 9, Conversion, or Chapter 1a, Part 10, Domestication, any transferable interest owned by the person immediately before dissociation in the person's capacity as a general partner is owned by the person solely as a transferee.

6615 (2) A person's dissociation as a general partner does not of itself discharge the person from any debt, obligation, or other liability to the limited partnership or the other partners which the person incurred while a general partner.

6627 Section 209. Section **16-19-606** is renumbered and amended to read:

[48-2e-606] 16-19-606. Power to bind and liability of person dissociated as general partner.

6622 (1) After a person is dissociated as a general partner and before the limited partnership is merged out of existence, converted, or domesticated under [Part 11, Merger, Interest Exchange, Conversion, and

SB0040S01 compared with SB0040S02

Domestication] Chapter 1a, Part 7, Merger, Chapter 1a, Part 8, Interest Exchange, Chapter 1a, Part 9, Conversion, or Chapter 1a, Part 10, Domestication, or dissolved, the limited partnership is bound by an act of the person only if:

6628 (a) the act would have bound the limited partnership under Section [48-2e-402] **16-19-402** before the dissociation; and

6630 (b) at the time the other party enters into the transaction:

6631 (i) less than two years has passed since the dissociation; and

6632 (ii) the other party does not know or have notice of the dissociation and reasonably believes that the person is a general partner.

6634 (2) If a limited partnership is bound under Subsection (1), the person dissociated as a general partner which caused the limited partnership to be bound is liable:

6636 (a) to the limited partnership for any damage caused to the limited partnership arising from the obligation incurred under Subsection (1); and

6638 (b) if a general partner or another person dissociated as a general partner is liable for the obligation, to the general partner or other person for any damage caused to the general partner or other person arising from the liability.

6650 Section 210. Section **16-19-607** is renumbered and amended to read:

[48-2e-607] 16-19-607. Liability to other persons of person dissociated as general partner.

6645 (1)

(a) A person's dissociation as a general partner does not of itself discharge the person's liability as a general partner for a debt, obligation, or other liability of the limited partnership incurred before dissociation.

6648 (b) [–] Except as otherwise provided in Subsections (2) and (3), the person is not liable for a limited partnership obligation incurred after dissociation.

6650 (2) A person whose dissociation as a general partner resulted in a dissolution and winding up of the limited partnership's activities and affairs is liable to the same extent as a general partner under Section [48-2e-404] **16-19-404** on an obligation incurred by the limited partnership under Section [48-2e-804] **16-19-804**.

6654 (3) A person that has dissociated as a general partner but whose dissociation did not result in a dissolution and winding up of the limited partnership's activities and affairs is liable on a transaction entered into by the limited partnership after the dissociation only if:

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6657 (a) a general partner would be liable on the transaction; and
6658 (b) at the time the other party enters into the transaction:
6659 (i) less than two years has passed since the dissociation; and
6660 (ii) the other party does not have knowledge or notice of the dissociation and reasonably believes that
the person is a general partner.

6662 (4) By agreement with a creditor of a limited partnership and the limited partnership, a person
dissociated as a general partner may be released from liability for an obligation of the limited
partnership.

6665 (5) A person dissociated as a general partner is released from liability for an obligation of the
limited partnership if the limited partnership's creditor, with knowledge or notice of the person's
dissociation as a general partner but without the person's consent, agrees to a material alteration in
the nature or time of payment of the obligation.

6678 Section 211. Section **16-19-701** is renumbered and amended to read:

Part 7. Transferable Interest and Rights

[48-2e-701] 16-19-701. Nature of transferable interest.

6674 (1) The only interest of a partner which is transferable is the partner's transferable interest.
6675 (2) [–]A transferable interest is personal property.

6685 Section 212. Section **16-19-702** is renumbered and amended to read:

[48-2e-702] 16-19-702. Transfer of transferable interest.

6679 (1) A transfer, in whole or in part, of a transferable interest:
6680 (a) is permissible;
6681 (b) does not by itself cause the person's dissociation or a dissolution and winding up of the limited
partnership's activities and affairs; and
6683 (c) subject to Section [48-2e-704] **16-19-704**, does not entitle the transferee to:
6684 (i) participate in the management or conduct of the limited partnership's activities or affairs; or
6686 (ii) except as otherwise provided in Subsection (3), have access to required information, records, or
other information concerning the limited partnership's activities and affairs.

6689 (2) A transferee has the right to receive, in accordance with the transfer, distributions to which the
transferor would otherwise be entitled.

6691 (3) In a dissolution and winding up of a limited partnership, a transferee is entitled to an account of the
limited partnership's transactions only from the date of dissolution.

SB0040S01 compared with SB0040S02

6693 (4) A transferable interest may be evidenced by a certificate of the interest issued by a limited partnership in a record, and, subject to this section, the interest represented by the certificate may be transferred by a transfer of the certificate.

6696 (5) A limited partnership need not give effect to a transferee's rights under this section until the limited partnership knows or has notice of the transfer.

6698 (6) A transfer of a transferable interest in violation of a restriction on transfer contained in the partnership agreement is ineffective as to a person having knowledge or notice of the restriction at the time of transfer.

6701 (7) Except as otherwise provided in Subsections [48-2e-601(2)(d)(ii)] 16-19-601(2)(d)(ii) and [48-2e-603(4)(b)] 16-19-603(4)(b), if a general or limited partner transfers a transferable interest, the transferor retains the rights of a general or limited partner other than the transferable interest transferred and retains all the duties and obligations of a general or limited partner.

6706 (8) If a general or limited partner transfers a transferable interest to a person that becomes a general or limited partner with respect to the transferred interest, the transferee is liable for the transferor's obligations under Sections [48-2e-502] 16-19-502 and [48-2e-505] 16-19-505 known to the transferee when the transferee becomes a partner.

6719 Section 213. Section **16-19-703** is renumbered and amended to read:

6721 **[48-2e-703] 16-19-703. Charging order.**

6713 (1)

6716 (a) On application by a judgment creditor of a partner or transferee, a court may enter a charging order against the transferable interest of the judgment debtor for the unsatisfied amount of the judgment.

(b) [–]A charging order constitutes a lien on a judgment debtor's transferable interest and, after the limited partnership has been served with the charging order, requires the limited partnership to pay over to the person to which the charging order was issued any distribution that otherwise would be paid to the judgment debtor.

6720 (2) To the extent necessary to effectuate the collection of distributions pursuant to a charging order in effect under Subsection (1), the court may:

6722 (a) appoint a receiver of the distributions subject to the charging order, with the power to make all inquiries the judgment debtor might have made; and

6724 (b) make all other orders necessary to give effect to the charging order.

6725 (3)

SB0040S01 compared with SB0040S02

(a) Upon a showing that distributions under a charging order will not pay the judgment debt within a reasonable time, the court may foreclose the lien and order the sale of the transferable interest.

6728 (b) [–]The purchaser at the foreclosure sale obtains only the transferable interest, does not thereby become a partner, and is subject to Section [48-2e-702] 16-19-702.

6730 (4) At any time before foreclosure under Subsection (3), the partner or transferee whose transferable interest is subject to a charging order under Subsection (1) may extinguish the charging order by satisfying the judgment and filing a certified copy of the satisfaction with the court that issued the charging order.

6734 (5) At any time before foreclosure under Subsection (3), a limited partnership or one or more partners whose transferable interests are not subject to the charging order may pay to the judgment creditor the full amount due under the judgment and thereby succeed to the rights of the judgment creditor, including the charging order.

6738 (6) This chapter does not deprive any partner or transferee of the benefit of any exemption law applicable to the transferable interest of the partner or transferee.

6740 (7) This section provides the exclusive remedy by which a person seeking to enforce a judgment against a partner or transferee may, in the capacity of judgment creditor, satisfy the judgment from the judgment debtor's transferable interest.

6752 Section 214. Section **16-19-704** is renumbered and amended to read:

6754 **[48-2e-704] 16-19-704. Power of legal representative of deceased partner.**

If a partner dies, the deceased partner's legal representative may exercise:

6747 (1) the rights of a transferee provided in Subsection [48-2e-702(3)] 16-19-702(3); and

6748 (2) for the purposes of settling the estate, the rights of a current limited partner under Section [48-2e-304] 16-19-304.

6759 Section 215. Section **16-19-801** is renumbered and amended to read:

6752 **Part 8. Dissolution and Winding Up**

6762 **[48-2e-801] 16-19-801. Events causing dissolution.**

6754 (1) A limited partnership is dissolved, and the limited partnership's activities and affairs must be wound up, upon the occurrence of any of the following:

6756 (a) an event or circumstance that the partnership agreement states causes dissolution;

6757 (b) the affirmative vote or consent of all general partners and of limited partners owning a majority of the rights to receive distributions as limited partners at the time the vote or consent is to be effective;

SB0040S01 compared with SB0040S02

6760 (c) after the dissociation of a person as a general partner:

6761 (i) if the limited partnership has at least one remaining general partner, the vote or consent to dissolve the limited partnership not later than 90 days after the dissociation by partners owning a majority of the rights to receive distributions as partners at the time the vote or consent is to be effective; or

6765 (ii) if the limited partnership does not have a remaining general partner, the passage of 90 days after the dissociation, unless before the end of the period:

6767 (A) consent to continue the activities and affairs of the limited partnership and admit at least one general partner is given by limited partners owning a majority of the rights to receive distributions as limited partners at the time the consent is to be effective; and

6771 (B) at least one person is admitted as a general partner in accordance with the consent;

6773 (d) the passage of 90 consecutive days after the dissociation of the limited partnership's last limited partner, unless before the end of the period the limited partnership admits at least one limited partner;

6776 (e) the passage of 90 consecutive days during which the limited partnership has only one partner, unless before the end of the period:

6778 (i) the limited partnership admits at least one person as a partner;

6779 (ii) if the previously sole remaining partner is only a general partner, the limited partnership admits the person as a limited partner; and

6781 (iii) if the previously sole remaining partner is only a limited partner, the limited partnership admits a person as a general partner;

6783 (f) upon a petition brought by a partner, the entry of a court order dissolving the limited partnership on the grounds that:

6785 (i) the conduct of all or substantially all the limited partnership's activities and affairs is unlawful; or

6787 (ii) it is not reasonably practicable to carry on the limited partnership's activities and affairs in conformity with the partnership agreement; or

6789 (g) the signing and filing of a statement of administrative dissolution by the division under Section [48-2e-810] 16-1a-603.

6791 (2) If an event occurs that imposes a deadline on a limited partnership under Subsection (1) and before the limited partnership has met the requirements of the deadline, another event occurs that imposes a different deadline on the limited partnership under Subsection (1):

6795 (a) the occurrence of the second event does not affect the deadline caused by the first event; and

SB0040S01 compared with SB0040S02

6797 (b) the limited partnership's meeting of the requirements of the first deadline does not extend the second
6808 deadline.

6810 Section 216. Section **16-19-802** is renumbered and amended to read:

6810 **[48-2e-802] 16-19-802. Winding up.**

6802 (1)

6804 (a) A dissolved limited partnership shall wind up the limited partnership's activities and affairs.

6804 (b) Except as otherwise provided in Section [48-2e-803] **16-19-803**, the limited partnership only
continues after dissolution for the purpose of winding up.

6806 (2) In winding up the limited partnership's activities and affairs, the limited partnership:

6807 (a) shall discharge the limited partnership's debts, obligations, and other liabilities, settle and close
the limited partnership's activities and affairs, and marshal and distribute the assets of the limited
partnership; and

6810 (b) may:

6811 (i) amend [its] the limited partnership's certificate of limited partnership to state that the limited
partnership is dissolved;

6813 (ii) preserve the limited partnership activities, affairs, and property as a going concern for a reasonable
time;

6815 (iii) prosecute and defend actions and proceedings, whether civil, criminal, or administrative;

6817 (iv) transfer the limited partnership's property;

6818 (v) settle disputes by mediation or arbitration;

6819 (vi) deliver to the division for filing a statement of termination stating the name of the limited
partnership and that the limited partnership is terminated; and

6821 (vii) perform other acts necessary or appropriate to the winding up.

6822 (3)

6827 (a) If a dissolved limited partnership does not have a general partner, a person to wind up the dissolved
limited partnership's activities and affairs may be appointed by the affirmative vote or consent of
limited partners owning a majority of the rights to receive distributions as limited partners at the
time the vote or consent is to be effective.

6827 (b) A person appointed under this Subsection (3):

6828 (i) has the powers of a general partner under Section [48-2e-804] **16-19-804** but is not liable for the
debts, obligations, and other liabilities of the limited partnership solely by reason of having or

SB0040S01 compared with SB0040S02

exercising those powers or otherwise acting to wind up the dissolved limited partnership's activities and affairs; and

6832 (ii) shall deliver promptly to the division for filing an amendment to the certificate of limited partnership stating:

6834 (A) that the limited partnership does not have a general partner;

6835 (B) the name and street and mailing addresses of the person; and

6836 (C) that the person has been appointed pursuant to this subsection to wind up the limited partnership.

6838 (4) Upon a petition brought by a partner, a court may order judicial supervision of the winding up of a dissolved limited partnership, including the appointment of a person to wind up the limited partnership's activities and affairs, if:

6841 (a) the limited partnership does not have a general partner and within a reasonable time following the dissolution no person has been appointed [pursuant to] in accordance with Subsection (3); or

6844 (b) the applicant establishes other good cause.

6854 Section 217. Section **16-19-803** is renumbered and amended to read:

6856 **[48-2e-803] 16-19-803. Rescinding dissolution.**

6848 (1) A limited partnership may rescind the limited partnership's dissolution, unless a statement of termination applicable to the limited partnership is effective, a court has entered an order under Subsection [48-2e-801(1)(f)] 16-19-801(1)(f) dissolving the limited partnership, or the division has dissolved the limited partnership under Section [48-2e-810] 16-1a-603.

6853 (2) Rescinding dissolution under this section requires:

6854 (a) the affirmative vote or consent of each partner; and

6855 (b) if the limited partnership has delivered to the division for filing an amendment to the certificate of limited partnership stating that the partnership is dissolved and if:

6857 (i) the amendment is not effective, the filing by the limited partnership of a statement of withdrawal under Section [48-2e-207] 16-1a-205 applicable to the amendment; or

6860 (ii) the amendment is effective, the delivery by the limited partnership to the division for filing of an amendment to the certificate of limited partnership stating that the dissolution has been rescinded under this section.

6863 (3) If a limited partnership rescinds the limited partnership's dissolution:

6864 (a) the limited partnership resumes carrying on the limited partnership's activities and affairs as if dissolution had never occurred;

SB0040S01 compared with SB0040S02

6866 (b) subject to Subsection (3)(c), any liability incurred by the limited partnership after the dissolution
6866 and before the rescission is effective is determined as if dissolution had never occurred; and
6869 (c) the rights of a third party arising out of conduct in reliance on the dissolution before the third party
knew or had notice of the rescission may not be adversely affected.

6880 Section 218. Section **16-19-804** is renumbered and amended to read:

[48-2e-804] 16-19-804. Power to bind partnership after dissolution.

6874 (1) A limited partnership is bound by a general partner's act after dissolution which:
6875 (a) is appropriate for winding up the limited partnership's activities and affairs; or
6876 (b) would have bound the limited partnership under Section **[48-2e-402] 16-19-402** before dissolution,
if, at the time the other party enters into the transaction, the other party does not know or have notice
of the dissolution.

6879 (2) A person dissociated as a general partner binds a limited partnership through an act occurring after
dissolution if:
6881 (a) at the time the other party enters into the transaction:
6882 (i) less than two years has passed since the dissociation; and
6883 (ii) the other party does not have notice of the dissociation and reasonably believes that the person is a
general partner; and
6885 (b) the act:
6886 (i) is appropriate for winding up the limited partnership's activities and affairs; or
6887 (ii) would have bound the limited partnership under Section **[48-2e-402] 16-19-402** before dissolution
and at the time the other party enters into the transaction the other party does not have notice of the
dissolution.

6899 Section 219. Section **16-19-805** is renumbered and amended to read:

[48-2e-805] 16-19-805. Liability after dissolution of general partner and person dissociated

**as general partner to limited partnership, other general partners, and persons dissociated as
general partner.**

6895 (1) If a general partner having knowledge of the dissolution causes a limited partnership to incur an
obligation under Subsection **[48-2e-804(1)] 16-19-804(1)** by an act that is not appropriate for
winding up the limited partnership's activities and affairs, the general partner is liable:
6899 (a) to the limited partnership for any damage caused to the limited partnership arising from the
obligation; and

SB0040S01 compared with SB0040S02

6901 (b) if another general partner or a person dissociated as a general partner is liable for the obligation, to
that other general partner or person for any damage caused to that other general partner or person
arising from the liability.

6904 (2) If a person dissociated as a general partner causes a limited partnership to incur an obligation under
Subsection [48-2e-804(2)] 16-19-804(2), the person is liable:

6906 (a) to the limited partnership for any damage caused to the limited partnership arising from the
obligation; and

6908 (b) if a general partner or another person dissociated as a general partner is liable for the obligation,
to the general partner or other person for any damage caused to the general partner or other person
arising from the obligation.

6920 Section 220. Section **16-19-806** is renumbered and amended to read:

6922 **[48-2e-806] 16-19-806. Known claims against dissolved limited partnership.**

6914 (1) Except as otherwise provided in Subsection (4), a dissolved limited partnership may give notice of a
known claim under Subsection (2), which has the effect provided in Subsection (3).

6917 (2)

6919 (a) A dissolved limited partnership may in a record notify [its] the dissolved limited partnership's
known claimants of the dissolution.

6920 (b) [–]The notice must:

6921 [(a) (i) specify the information required to be included in a claim;
[(b) (ii) state that a claim must be in writing and provide a mailing address to which the claim is to be
sent;
6923 [(c) (iii) state the deadline for receipt of a claim, which may not be less than 120 days after the date the
notice is received by the claimant;
6925 [(d) (iv) state that the claim will be barred if not received by the deadline; and
6926 [(e) (v) unless the limited partnership has been throughout [its] the limited partnership's existence a
limited liability limited partnership, state that the barring of a claim against the limited partnership
will also bar any corresponding claim against any general partner or person dissociated as a general
partner which is based on Section [48-2e-404] 16-19-404.

6931 (3) A claim against a dissolved limited partnership is barred if the requirements of Subsection (2) are
met, and:

6933 (a) the claim is not received by the specified deadline; or

SB0040S01 compared with SB0040S02

6934 (b) if the claim is timely received but rejected by the limited partnership:

6935 (i) the limited partnership causes the claimant to receive a notice in a record stating that the claim is rejected and will be barred unless the claimant commences an action against the limited partnership to enforce the claim not later than 90 days after the claimant receives the notice; and

6939 (ii) the claimant does not commence the required action not later than 90 days after the claimant receives the notice.

6941 (4) This section does not apply to a claim based on an event occurring after the effective date of dissolution or a liability that on that date is contingent.

6952 Section 221. Section **16-19-807** is renumbered and amended to read:

6954 **[48-2e-807] 16-19-807. Other claims against dissolved limited partnership.**

6946 (1) A dissolved limited partnership may publish notice of [its] the dissolved limited partnership's dissolution and request persons having claims against the dissolved limited partnership to present [them] the claims in accordance with the notice.

6949 (2) A notice under Subsection (1) must:

6950 (a) be published at least once in a newspaper of general circulation in the county in this state in which the dissolved limited partnership's principal office is located or, if the principal office is not located in this state, in the county in which the office of the dissolved limited partnership's registered agent is or was last located and in accordance with Section 45-1-101;

6955 (b) describe the information required to be contained in a claim, state that the claim must be in writing, and provide a mailing address to which the claim is to be sent;

6957 (c) state that a claim against the dissolved limited partnership is barred unless an action to enforce the claim is commenced not later than three years after publication of the notice; and

6960 (d) unless the dissolved limited partnership has been throughout [its] the dissolved limited partnership's existence a limited liability limited partnership, state that the barring of a claim against the dissolved limited partnership will also bar any corresponding claim against any general partner or person dissociated as a general partner which is based on Section [48-2e-404] 16-19-404.

6965 (3) If a dissolved limited partnership publishes a notice in accordance with Subsection (2), the claim of each of the following claimants is barred unless the claimant commences an action to enforce the claim against the dissolved limited partnership not later than three years after the publication date of the notice:

6969 (a) a claimant that did not receive notice in a record under Section [48-2e-806] 16-19-806;

SB0040S01 compared with SB0040S02

6970 (b) a claimant whose claim was timely sent to the dissolved limited partnership but not acted on; and
6972 (c) a claimant whose claim is contingent at, or based on an event occurring after, the effective date of dissolution.

6974 (4) A claim not barred under this section or Section [48-2e-806] **16-19-806** may be enforced:

6975 (a) against the dissolved limited partnership, to the extent of [its] **the dissolved limited partnership's** undistributed assets;

6977 (b) except as otherwise provided in Section [48-2e-808] **16-19-808**, if the assets of the dissolved limited partnership have been distributed after dissolution, against a partner or transferee to the extent of that person's proportionate share of the claim or of the dissolved limited partnership's assets distributed to the partner or transferee after dissolution, whichever is less, but a person's total liability for all claims under this subsection may not exceed the total amount of assets distributed to the person after dissolution; and

6984 (c) against any person liable on the claim under Sections [48-2e-404] **16-19-404** and [48-2e-607] **16-19-607**.

6995 Section 222. Section **16-19-808** is renumbered and amended to read:

6997 **[48-2e-808] 16-19-808. Court proceedings.**

6989 (1)

6997 (a) A dissolved limited partnership that has published a notice under Section [48-2e-807] **16-19-807** may petition a court with jurisdiction under Title 78A, Judiciary and Judicial Administration, for a determination of the amount and form of security to be provided for payment of claims that are contingent, have not been made known to the dissolved limited partnership, or are based on an event occurring after the effective date of dissolution but which, based on the facts known to the dissolved limited partnership, are reasonably expected to arise after the effective date of dissolution.

6999 (b) Security is not required for any claim that is or is reasonably anticipated to be barred under Subsection [48-2e-807(3)] **16-19-807(3)**.

7002 (2) No later than 10 days after the filing of an application under Subsection (1), the dissolved limited partnership shall give notice of the proceeding to each claimant holding a contingent claim known to the dissolved limited partnership.

7002 (3)

6999 (a) In a proceeding brought under this section, the court may appoint a guardian ad litem to represent all claimants whose identities are unknown.

SB0040S01 compared with SB0040S02

7004 (b) The reasonable fees and expenses of the guardian, including all reasonable expert witness fees, must be paid by the dissolved limited partnership.

7006 (4) A dissolved limited partnership that provides security in the amount and form ordered by the court under Subsection (1) satisfies the dissolved limited partnership's obligations with respect to claims that are contingent, have not been made known to the dissolved limited partnership, or are based on an event occurring after the effective date of dissolution, and such claims may not be enforced against a partner or transferee that received assets in liquidation.

7021 Section 223. Section **16-19-809** is renumbered and amended to read:

7023 **[48-2e-809] 16-19-809. Liability of general partner and person dissociated as general partner when claim against limited partnership barred.**

If a claim against a dissolved limited partnership is barred under Section [48-2e-806] 16-19-806, [48-2e-807] 16-19-807, or [48-2e-808] 16-19-808, any corresponding claim under Section [48-2e-404] 16-19-404 or [48-2e-607] 16-19-607 is also barred.

7028 Section 224. Section **16-19-810** is renumbered and amended to read:

7030 **[48-2e-813] 16-19-810. Disposition of assets in winding up -- When contributions required.**

7023 (1) In winding up [its] a limited partnership's activities and affairs, a limited partnership shall apply [its] the limited partnership's assets, including the contributions required by this section, to discharge the limited partnership's obligations to creditors, including partners that are creditors.

7027 (2) After a limited partnership complies with Subsection (1), any surplus must be distributed in the following order, subject to any charging order in effect under Section [48-2e-703] 16-19-703:

7030 (a) to each person owning a transferable interest that reflects contributions made and not previously returned, an amount equal to the value of the unreturned contributions; and

7032 (b) among partners in proportion to [their] the partners' respective rights to share in distributions immediately before the dissolution of the limited partnership, except to the extent necessary to comply with any transfer effective under Section [48-2e-702] 16-19-702.

7036 (3) If a limited partnership's assets are insufficient to satisfy all of [its] the limited partnership's obligations under Subsection (1), with respect to each unsatisfied obligation incurred when the limited partnership was not a limited liability limited partnership, the following rules apply:

7040 (a)

SB0040S01 compared with SB0040S02

(i) Each person that was a general partner when the obligation was incurred and that has not been released from the obligation under Section [48-2e-607] 16-19-607 shall contribute to the limited partnership for the purpose of enabling the limited partnership to satisfy the obligation.

7044 (ii) [–]The contribution due from each of those persons is in proportion to the right to receive distributions in the capacity of general partner in effect for each of those persons when the obligation was incurred.

7047 (b)

(i) If a person does not contribute the full amount required under Subsection (3)(a) with respect to an unsatisfied obligation of the limited partnership, the other persons required to contribute by Subsection (3)(a) on account of the obligation shall contribute the additional amount necessary to discharge the obligation.

7051 (ii) [–]The additional contribution due from each of those other persons is in proportion to the right to receive distributions in the capacity of general partner in effect for each of those other persons when the obligation was incurred.

7054 (c) If a person does not make the additional contribution required by Subsection (3)(b), further additional contributions are determined and due in the same manner as provided in [that subsection] Subsection (3)(b).

7057 (d)

(i) A person that makes an additional contribution under Subsection (3)(b) or (3)(c) may recover from any person whose failure to contribute under Subsection (3)(a) or (3)(b) necessitated the additional contribution.

7060 (ii) [–]A person may not recover under this subsection more than the amount additionally contributed.

7062 (iii) [–]A person's liability under this subsection may not exceed the amount the person failed to contribute.

7064 (4) If a limited partnership does not have sufficient surplus to comply with Subsection (2)(a), any surplus must be distributed among the owners of transferable interests in proportion to the value of the respective unreturned contributions.

7067 (5) All distributions made under Subsections (2) and (4) must be paid in money.

7077 Section 225. Section **16-19-1001** is renumbered and amended to read:

7070 **Part 10. Actions by Partners**

7080 **[48-2e-1001] 16-19-1001. Direct action by partner.**

SB0040S01 compared with SB0040S02

7072 (1) Subject to Subsection (2), a partner may maintain a direct action against another partner or the limited partnership, with or without an accounting as to the limited partnership's activities and affairs, to enforce the partner's rights and otherwise protect the partner's interests, including rights and interests under the partnership agreement or this chapter or arising independently of the partnership relationship.

7077 (2) A partner maintaining a direct action under this section must plead and prove an actual or threatened injury that is not solely the result of an injury suffered or threatened to be suffered by the limited partnership.

7080 (3) A right to an accounting upon a dissolution and winding up does not revive a claim barred by law.

7091 Section 226. Section **16-19-1002** is renumbered and amended to read:

7093 **[48-2e-1002] 16-19-1002. Derivative action.**

A partner may maintain a derivative action to enforce a right of a limited partnership if:

7086 (1) the partner first makes a demand on the general partners, requesting that they cause the limited partnership to bring an action to enforce the right, and the general partners do not bring the action within a reasonable time; or

7089 (2) a demand under Subsection (1) would be futile.

7099 Section 227. Section **16-19-1003** is renumbered and amended to read:

7101 **[48-2e-1003] 16-19-1003. Proper plaintiff.**

A derivative action to enforce a right of a limited partnership may be maintained only by a person that is a partner at the time the action is commenced and:

7095 (1) which was a partner when the conduct giving rise to the action occurred; or

7096 (2) whose status as a partner devolved on the person by operation of law or [pursuant to] in accordance with the terms of the partnership agreement from a person that was a partner at the time of the conduct.

7108 Section 228. Section **16-19-1004** is renumbered and amended to read:

7110 **[48-2e-1004] 16-19-1004. Pleading.**

In a derivative action to enforce a right of a limited partnership, the complaint must state with particularity:

7104 (1) the date and content of the plaintiff's demand and the response to the demand by the general partner; or

7106 (2) why the demand should be excused as futile.

SB0040S01 compared with SB0040S02

7116 Section 229. Section **16-19-1005** is renumbered and amended to read:

7118 **[48-2e-1005] 16-19-1005. Special litigation committee.**

7110 (1)

7114 (a) If a limited partnership is named as or made a party in a derivative proceeding, the limited
7115 partnership may appoint a special litigation committee to investigate the claims asserted in the
7116 proceeding and determine whether pursuing the action is in the best interests of the limited
7117 partnership.

7118 (b) [–]If the limited partnership appoints a special litigation committee, on motion by the committee
7119 made in the name of the limited partnership, except for good cause shown, the court shall stay
7120 discovery for the time reasonably necessary to permit the committee to make its investigation.

7121 (c) [–]This subsection does not prevent the court from:

7122 [(a)] (i) enforcing a person's right to information under Section [48-2e-304] **16-19-304** or
7123 [48-2e-407] **16-19-407**; or

7124 [(b)] (ii) granting extraordinary relief in the form of a temporary restraining order or preliminary
7125 injunction.

7126 (2) A special litigation committee must be composed of one or more disinterested and independent
7127 individuals, who may be partners.

7128 (3) A special litigation committee may be appointed:

7129 (a) by a majority of the general partners not named as parties in the proceeding; and

7130 (b) if all general partners are named as parties in the proceeding, by a majority of the general partners
7131 named as defendants.

7132 (4) After appropriate investigation, a special litigation committee may determine that it is in the best
7133 interests of the limited partnership that the proceeding:

7134 (a) continue under the control of the plaintiff;

7135 (b) continue under the control of the committee;

7136 (c) be settled on terms approved by the committee; or

7137 (d) be dismissed.

7138 (5)

7139 (a) After making a determination under Subsection (4), a special litigation committee shall file with the
7140 court a statement of its determination and its report supporting its determination and shall serve each
7141 party with a copy of the determination and report.

SB0040S01 compared with SB0040S02

7138 (b) [–]The court shall determine whether the members of the committee were disinterested and independent and whether the committee conducted its investigation and made its recommendation in good faith, independently, and with reasonable care, with the committee having the burden of proof.

7142 (c) [–]If the court finds that the members of the committee were disinterested and independent and that the committee acted in good faith, independently, and with reasonable care, the court shall enforce the determination of the committee.

7145 (d) [–]Otherwise, the court shall dissolve the stay of discovery entered under Subsection (1) and allow the action to continue under the control of the plaintiff.

7156 Section 230. Section **16-19-1006** is renumbered and amended to read:

7158 **[48-2e-1006] 16-19-1006. Proceeds and expenses.**

7150 (1) Except as otherwise provided in Subsection (2):

7151 (a) any proceeds or other benefits of a derivative action, whether by judgment, compromise, or settlement, belong to the limited partnership and not to the plaintiff; and

7154 (b) if the plaintiff receives any proceeds, the plaintiff shall remit them immediately to the limited partnership.

7156 (2) If a derivative action is successful in whole or in part, the court may award the plaintiff reasonable expenses, including reasonable attorney's fees and costs, from the recovery of the limited partnership.

7159 (3) A derivative action on behalf of a limited partnership may not be voluntarily dismissed or settled without the court's approval.

7170 Section 231. Section **16-19-1101** is renumbered and amended to read:

7172 **[48-2e-1201] 16-19-1101. Uniformity of application and construction.**

In applying and construing this chapter, consideration must be given to the need to promote uniformity of the law with respect to [its] this chapter's subject matter among states that enact the uniform act upon which this chapter is based.

7176 Section 232. Section **16-19-1102** is renumbered and amended to read:

7178 **[48-2e-1202] 16-19-1102. Severability clause.**

If any provision of this chapter or [its] this chapter's application to any person or circumstance is held invalid, the invalidity does not affect other provisions or applications of this chapter which can be given effect without the invalid provision or application, and to this end the provisions of this chapter are severable.

SB0040S01 compared with SB0040S02

7183 Section 233. Section **16-19-1103** is renumbered and amended to read:

7185 **[48-2e-1203] 16-19-1103. Relation to Electronic Signatures in Global and National Commerce Act.**

This chapter modifies, limits, and supersedes the Electronic Signatures in Global and National Commerce Act, 15 U.S.C. Sec. 7001 et seq., but this chapter does not modify, limit, or supersede Sec. 101(c) of that act, 15 U.S.C. Sec. 7001(c), or authorize electronic delivery of any of the notices described in Sec. 103(b) of that act, 15 U.S.C. Sec. 7003(b).

7191 Section 234. Section **16-19-1104** is renumbered and amended to read:

7193 **[48-2e-1204] 16-19-1104. Savings clause.**

This chapter does not affect an action commenced, proceeding brought, or right accrued before this chapter takes effect.

7196 Section 235. Section **16-19-1105** is renumbered and amended to read:

7198 **[48-2e-1205] 16-19-1105. Application to existing relationships.**

7190 (1) Before January 1, 2016, this chapter governs only:

7191 (a) a limited partnership formed on or after January 1, 2014; and

7192 (b) except as otherwise provided in Subsections (3) and (4), a limited partnership formed before January 1, 2014, which elects, in the manner provided in [its] the limited partnership's partnership agreement or by law for amending the partnership agreement, to be subject to this chapter.

7196 (2) Except as otherwise provided in Subsection (3), on and after January 1, 2016, this chapter governs all limited partnerships.

7198 (3) With respect to a limited partnership formed before January 1, 2014, the following rules apply except as the partners otherwise elect in the manner provided in the partnership agreement or by law for amending the partnership agreement:

7201 (a) [Subsektion 48-2e-104(3)] Section 16-19-103 does not apply and the limited partnership has whatever duration [it] the limited partnership had under the law applicable immediately before January 1, 2014[.] ;

7204 (b) Sections [48-2e-601] 16-19-601 and [48-2e-602] 16-19-602 do not apply and a limited partner has the same right and power to dissociate from the limited partnership, with the same consequences, as existed immediately before January 1, 2014[.] ;

7207 (c) Subsection [48-2e-603(4)] 16-19-603(4) does not apply and the partners have the same right and power to expel a general partner as existed immediately before January 1, 2014[.] ;

SB0040S01 compared with SB0040S02

7210 (d) Subsection [48-2e-603(5)] 16-19-603(5) does not apply and a court has the same power to expel a general partner as the court had immediately before January 1, 2014[.] ; and

7213 (e) Subsection [48-2e-801(1)(e)] 16-19-801(1)(c) does not apply and the connection between a person's dissociation as a general partner and the dissolution of the limited partnership is the same as existed immediately before January 1, 2014.

7216 (4) With respect to a limited partnership that elects [pursuant to] in accordance with Subsection (1)(b) to be subject to this chapter, after the election takes effect the provisions of this chapter relating to the liability of the limited partnership's general partners to third parties apply:

7220 (a) before January 1, 2016, to:

7221 (i) a third party that had not done business with the limited partnership in the year before the election took effect; and

7223 (ii) a third party that had done business with the limited partnership in the year before the election took effect only if the third party knows or has received a notification of the election; and

7226 (b) on and after January 1, 2016, to all third parties, but those provisions remain inapplicable to any obligation incurred while those provisions were inapplicable under Subsection (4)(a)(ii).

7238 Section 236. Section **16-20-101** is renumbered and amended to read:

CHAPTER 20. Utah Revised Uniform Limited Liability Company Act

Part 1. General Provisions

[48-3a-102] 16-20-101. Definitions.

As used in this chapter:

7235 (1) (a) "Certificate of organization" means the certificate required by Section [48-3a-201] 16-20-201.

7237 (b) [The term] "Certificate of organization" includes the certificate as amended or restated.

7239 (2) "Contribution," except in the phrase "right of contribution," means property or a benefit described in Section [48-3a-402] 16-20-402, which is provided by a person to a limited liability company to become a member or in the person's capacity as a member.

7242 (3) "Debtor in bankruptcy" means a person that is the subject of:

7243 (a) an order for relief under Title 11 of the United States Code or a comparable order under a successor statute of general application; or

7245 (b) a comparable order under federal, state, or foreign law governing insolvency.

SB0040S01 compared with SB0040S02

7246 (4)

(a) "Distribution" means a transfer of money or other property from a limited liability company to a person on account of a transferable interest or in the person's capacity as a member.[-The term:]

7249 [(a)] (b) "Distribution" includes:

(i) a redemption or other purchase by a limited liability company of a transferable interest; and

(ii) a transfer to a member in return for the member's relinquishment of any right to participate as a member in the management or conduct of the company's activities and affairs or to have access to records or other information concerning the company's activities and affairs[;and].

7256 [(b)] (c) "Distribution" does not include amounts constituting reasonable compensation for present or past service or payments made in the ordinary course of business under a bona fide retirement plan or other bona fide benefits program.

7259 (5) "Division" means the Division of Corporations and Commercial Code.

7260 (6) "Foreign limited liability company" means an unincorporated entity formed under the law of a jurisdiction other than this state, which would be a limited liability company, including a low-profit limited liability company, if formed under the law of this state.

7263 (7)

(a) "Governing person" means a person, alone or in concert with others, by or under whose authority the powers of the limited liability company are exercised and under whose direction the activities and affairs of the limited liability company are managed [pursuant to] in accordance with this chapter and the limited liability company's operating agreement.

7268 (b) [-The term] "Governing person" includes:

[(a)] (i) a manager of a manager-managed limited liability company;

[(b)] (ii) a member of a member-managed limited liability company; and

[(e)] (iii) the chief executive officer of a limited liability company in which officers have been appointed, regardless of the actual designated title.

7273 (8) "Jurisdiction," used to refer to a political entity, means the United States, a state, a foreign country, or a political subdivision of a foreign country.

7275 (9) "Jurisdiction of formation" means, with respect to an entity, the jurisdiction:

(a) under whose law the entity is formed; or

(b) in the case of a limited liability partnership or foreign limited liability partnership, in which the partnership's statement of qualification is filed.

SB0040S01 compared with SB0040S02

7279 (10) "Limited liability company," except in the phrase "foreign limited liability company," means an entity formed under this chapter or which becomes subject to this chapter under [Part 10, Merger, Interest Exchange, Conversion, and Domestication,] :

7282 (a) Chapter 1a, Part 7, Merger;

7283 (b) Chapter 1a, Part 8, Interest Exchange;

7284 (c) Chapter 1a, Part 9, Conversion;

7285 (d) Chapter 1a, Part 10, Domestication; or

7286 (e) [-]Section [48-3a-1405] 16-20-1205.

7287 (11) "Low-profit limited liability company" means a limited liability company meeting the requirements of [Part 13, Low-Profit Limited Liability Companies] Part 11, Low-Profit Limited Liability Companies.

7290 (12) "Manager" means a person that under the operating agreement of a manager-managed limited liability company is responsible, alone or in concert with others, for performing the management functions stated in Subsection [48-3a-407(3)] 16-20-407(3).

7293 (13) "Manager-managed limited liability company" means a limited liability company that qualifies under Subsection [48-3a-407(1)] 16-20-407(1).

7295 (14) "Member" means a person that:

7296 (a) has become a member of a limited liability company under Section [48-3a-401] 16-20-401 or was a member in a company when the company became subject to this chapter under Section [48-3a-1405] 16-20-1205; and

7299 (b) has not dissociated under Section [48-3a-602] 16-20-602.

7300 (15) "Member-managed limited liability company" means a limited liability company that is not a manager-managed limited liability company.

7302 (16)

7303 (a) "Operating agreement" means the agreement, whether or not referred to as an operating agreement and whether oral, implied, in a record, or in any combination thereof, of all the members of a limited liability company, including a sole member, concerning the matters described in Subsection [48-3a-112(1)] 16-20-107(1).

7306 (b) [-The term] Operating agreement includes the agreement as amended or restated.

7307 (17) "Organizer" means a person that acts under Section [48-3a-201] 16-20-201 to form a limited liability company.

SB0040S01 compared with SB0040S02

7309 (18) "Person" means an individual, business corporation, nonprofit corporation, partnership, limited partnership, limited liability company, limited cooperative association, unincorporated nonprofit association, statutory trust, business trust, common-law business trust, estate, trust, association, joint venture, public corporation, government or governmental subdivision, agency, or instrumentality, or any other legal or commercial entity.

7315 (19) "Principal office" means the principal executive office of a limited liability company or foreign limited liability company, whether or not the office is located in this state.

7317 (20) "Professional services company" means a limited liability company organized in accordance with ~~[Part 11, Professional Services Companies]~~ Part 9, Professional Services Companies.

7320 (21) "Property" means all property, whether real, personal, or mixed or tangible or intangible, or any right or interest therein.

7322 (22) "Record," used as a noun, means information that is inscribed on a tangible medium or that is stored in an electronic or other medium and is retrievable in perceivable form.

7324 (23) "Registered agent" means an agent of a limited liability company or foreign limited liability company which is authorized to receive service of any process, notice, or demand required or permitted by law to be served on the company.

7327 (24) "Registered foreign limited liability company" means a foreign limited liability company that is registered to do business in this state ~~[pursuant to]~~ in accordance with a statement of registration filed by the division.

7330 (25) "Series" means a series created in accordance with ~~[Part 12, Series Limited Liability Companies]~~ Part 10, Series Limited Liability Companies.

7332 (26) "Sign" means, with present intent to authenticate or adopt a record:

7333 (a) to execute or adopt a tangible symbol; or

7334 (b) to attach to or logically associate with the record an electronic symbol, sound, or process.

7336 (27) "State" means a state of the United States, the District of Columbia, Puerto Rico, the United States Virgin Islands, or any territory or insular possession subject to the jurisdiction of the United States.

7339 (28) "Transfer" includes:

7340 (a) an assignment;

7341 (b) a conveyance;

7342 (c) a sale;

7343 (d) a lease;

SB0040S01 compared with SB0040S02

7344 (e) an encumbrance, including a mortgage or security interest;

7345 (f) a gift; and

7346 (g) a transfer by operation of law.

7347 (29)

7348 (a) "Transferable interest" means the right, as initially owned by a person in the person's capacity as a member, to receive distributions from a limited liability company in accordance with the operating agreement, whether or not the person remains a member or continues to own any part of the right.

7349 (b) [The term] "Transferable interest" applies to any fraction of the interest by whomever owned.

7350 (30)

7351 (a) "Transferee" means a person to which all or part of a transferable interest has been transferred, whether or not the transferor is a member.

7352 (b) [The term] "Transferee" includes a person that owns a transferable interest under Subsection [48-3a-603(1)(e)] 16-20-603(1)(c).

7353 (31) "Tribal limited liability company" means a limited liability company that is:

7354 (a) formed under the law of a tribe; and

7355 (b) at least 51% owned or controlled by the tribe under whose law the limited liability company is formed.

7356 (32) "Tribe" means a tribe, band, nation, pueblo, or other organized group or community of Indians, including an Alaska Native village that is legally recognized as eligible for and is consistent with a special program, service, or entitlement provided by the United States to Indians because of their status as Indians.

7357 Section 237. Section **16-20-102** is renumbered and amended to read:

7358 **[48-3a-103] 16-20-102. Knowledge -- Notice.**

7359 (1) A person knows a fact if the person:

7360 (a) has actual knowledge of [it] the fact; or

7361 (b) is deemed to know [it] the fact under Subsection (4)(a) or law other than this chapter.

7362 (2) A person has notice of a fact if the person:

7363 (a) has reason to know the fact from all the facts known to the person at the time in question; or

7364 (b) is deemed to have notice of the fact under Subsection (4)(b).

7365

SB0040S01 compared with SB0040S02

(3) Subject to [Subsection 48-3a-209(6)] Sections 16-1a-207 and 16-1a-211, a person notifies another person of a fact by taking steps reasonably required to inform the other person in ordinary course, whether or not those steps cause the other person to know the fact.

7379 (4) A person not a member is deemed:

7380 (a) to know of a limitation on authority to transfer real property as provided in Subsection
[48-3a-302(7)] 16-20-302(7); and

7382 (b) to have notice of a limited liability company's:

7383 (i) dissolution 90 days after a statement of dissolution under Subsection [48-3a-703(2)(b)
(i)] 16-20-703(2)(b)(i) becomes effective;

7385 (ii) termination 90 days after a statement of termination under Subsection [48-3a-703(2)(b)
(vi)] 16-20-703(2)(b)(vi) becomes effective;

7387 (iii) participation in a merger, interest exchange, conversion, or domestication 90 days after a statement
of merger, interest exchange, conversion, or domestication under [Part 10, ~~Merger, Interest
Exchange, Conversion, and Domestication~~] Chapter 1a, Part 7, Merger, Chapter 1a, Part 8, Interest
Exchange, Chapter 1a, Part 9, Conversion, or Chapter 1a, Part 10, Domestication, becomes
effective; and

7392 (iv) abandonment of a merger, interest exchange, conversion, or domestication 90 days after a statement
of abandonment of merger, interest exchange, conversion, or domestication under [Part 10, ~~Merger,
Interest Exchange, Conversion, and Domestication~~] Chapter 1a, Part 7, Merger, Chapter 1a, Part 8,
Interest Exchange, Chapter 1a, Part 9, Conversion, or Chapter 1a, Part 10, Domestication, becomes
effective.

7407 Section 238. Section **16-20-103** is renumbered and amended to read:

[48-3a-104] 16-20-103. Nature, purpose, and duration of limited liability company.

7402 (1) A limited liability company is an entity distinct from [its] the limited liability company's member or
members.

7404 (2) A limited liability company may have any lawful purpose, regardless of whether for profit.

7406 (3) A limited liability company has perpetual duration.

7416 Section 239. Section **16-20-104** is renumbered and amended to read:

[48-3a-105] 16-20-104. Powers.

A limited liability company has the capacity to sue and be sued in [its]the limited
liability company's own name and the power to do all things necessary or convenient to carry

SB0040S01 compared with SB0040S02

on [its] the limited liability company's activities and affairs.

7422 Section 240. Section **16-20-105** is renumbered and amended to read:

7424 **[48-3a-106] 16-20-105. Governing law.**

7417 The law of this state governs:

7418 (1) the internal affairs of a limited liability company; and

7418 (2) the liability of a member as member and a manager as manager for the debts, obligations, or other liabilities of a limited liability company.

7429 Section 241. Section **16-20-106** is renumbered and amended to read:

7431 **[48-3a-107] 16-20-106. Supplemental principles of law.**

Unless displaced by particular provisions of this chapter, the principles of law and equity supplement this chapter.

7434 Section 242. Section **16-20-107** is renumbered and amended to read:

7436 **[48-3a-112] 16-20-107. Operating agreement -- Scope, functions, and limitations.**

7428 (1) Except as otherwise provided in Subsections (3) and (4), the operating agreement governs:

7430 (a) relations among the members as members and between the members and the limited liability company;

7432 (b) the rights and duties under this chapter of a person in the capacity of manager;

7433 (c) the activities and affairs of the limited liability company and the conduct of those activities and affairs; and

7435 (d) the means and conditions for amending the operating agreement.

7436 (2) To the extent the operating agreement does not provide for a matter described in Subsection (1), this chapter governs the matter.

7438 (3) An operating agreement may not:

7439 (a) vary a limited liability company's capacity under Section **[48-3a-105] 16-20-104** to sue and be sued in [its] the limited liability company's own name;

7441 (b) vary the law applicable under Section **[48-3a-106] 16-20-105**;

7442 (c) vary any requirement, procedure, or other provision of this chapter pertaining to:

7443 (i) registered agents; or

7444 (ii) the division, including provisions pertaining to records authorized or required to be delivered to the division for filing under this chapter;

7446 (d) vary the provisions of Section **[48-3a-204] 16-1a-209**;

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7447 (e) eliminate the duty of loyalty or the duty of care, except as otherwise provided in Subsection (4);

7449 (f) eliminate the contractual obligation of good faith and fair dealing under Subsection [48-3a-409(4)] 16-20-409(4), but the operating agreement may prescribe the standards, if not unconscionable or against public policy, by which the performance of the obligation is to be measured;

7453 (g) relieve or exonerate a person from liability for conduct involving bad faith, willful misconduct, or recklessness;

7455 (h) unreasonably restrict the duties and rights under Section [48-3a-410] 16-20-410, but the operating agreement may impose reasonable restrictions on the availability and use of information obtained under that section and may define appropriate remedies, including liquidated damages, for a breach of any reasonable restriction on use;

7459 (i) vary the causes of dissolution specified in Subsections [48-3a-701(4)(a)] 16-20-701(4)(a) and (5);

7461 (j) vary the requirement to wind up the limited liability company's activities and affairs as specified in Subsections [48-3a-703(1)] 16-20-703(1), (2)(a), and (5);

7463 (k) unreasonably restrict the right of a member to maintain an action under Part 8, Action by Members;

7465 (l) vary the provisions of Section [48-3a-805] 16-20-805, but the operating agreement may provide that the limited liability company may not have a special litigation committee;

7468 (m) vary the right of a member to approve a merger, interest exchange, conversion, or domestication under [Subsections 48-3a-1023(1)(b)] Section 16-1a-704, [48-3a-1033(1)(b)] 16-1a-804, [48-3a-1043(1)(b)] 16-1a-904, or [48-3a-1053(1)(b)] 16-1a-1004; or

7472 (n) except as otherwise provided in Section [48-3a-113] 16-20-108 and Subsection [48-3a-114(2)] 16-20-109(2), restrict the rights under this chapter of a person other than a member or manager.

7475 (4) Subject to Subsection (3)(g), without limiting other terms that may be included in an operating agreement, the following rules apply:

7477 (a) The operating agreement may specify the method by which a specific act or transaction that would otherwise violate the duty of loyalty may be authorized or ratified by one or more disinterested and independent persons after full disclosure of all material facts.

7481 (b) To the extent the operating agreement of a member-managed limited liability company expressly relieves a member of a responsibility that the member would otherwise have under this chapter and imposes the responsibility on one or more other members, the operating agreement may, to the

SB0040S01 compared with SB0040S02

benefit of the member that the operating agreement relieves of the responsibility, also eliminate or limit any fiduciary duty that would have pertained to the responsibility.

7487 (c) If not unconscionable or against public policy, the operating agreement may:

7488 (i) alter or eliminate the aspects of the duty of loyalty stated in Subsections [48-3a-409(2)] 16-20-409(2) and (9);

7490 (ii) identify specific types or categories of activities that do not violate the duty of loyalty;

7492 (iii) alter the duty of care, but may not authorize intentional misconduct or knowing violation of law; and

7494 (iv) alter or eliminate any other fiduciary duty.

7495 (5)

(a) The court shall decide as a matter of law whether a term of an operating agreement is unconscionable or against public policy under Subsection (3)(f) or (4)(c).

7497 (b) [–]The court:

7498 [(a)] (i) shall make [its] the court's determination as of the time the challenged term became part of the operating agreement and by considering only circumstances existing at that time; and

7501 [(b)] (ii) may invalidate the term only if, in light of the purposes, activities, and affairs of the limited liability company, it is readily apparent that:

7503 [(i)] (A) the objective of the term is unconscionable or against public policy; or

7504 [(ii)] (B) the means to achieve the term's objective is unconscionable or against public policy.

7515 Section 243. Section **16-20-108** is renumbered and amended to read:

7517 **[48-3a-113] 16-20-108. Operating agreement -- Effect on limited liability company and person becoming member -- Preformation agreement.**

7510 (1) A limited liability company is bound by and may enforce the operating agreement, whether or not the limited liability company has itself manifested assent to the operating agreement.

7513 (2) A person that becomes a member of a limited liability company is deemed to assent to the operating agreement.

7515 (3)

(a) Two or more persons intending to become the initial members of a limited liability company may make an agreement providing that upon the formation of the limited liability company the agreement will become the operating agreement.

7518

SB0040S01 compared with SB0040S02

(b) [–]One person intending to become the initial member of a limited liability company may assent to terms providing that upon the formation of the limited liability company the terms will become the operating agreement.

7530 Section 244. Section **16-20-109** is renumbered and amended to read:

7532 [48-3a-114] **16-20-109.** Operating agreement -- Effect on third parties and relationship to records effective on behalf of limited liability company.

7525 (1)

- (a) An operating agreement may specify that [its] the operating agreement's amendment requires the approval of a person that is not a party to the operating agreement or the satisfaction of a condition.
- (b) ~~(b)~~ An amendment is ineffective if [its] the amendment's adoption does not include the required approval or satisfy the specified condition.

7530 (2)

(a) The obligations of a limited liability company and [its] the limited liability company's members to a person in the person's capacity as a transferee or a person dissociated as a member are governed by the operating agreement.

7533

(b) [–]Subject only to a court order issued under Subsection [48-3a-503(2)(b)] 16-20-503(2)(b) to effectuate a charging order, an amendment to the operating agreement made after a person becomes a transferee or is dissociated as a member:

7536

[(a)] (i) is effective with regard to any debt, obligation, or other liability of the limited liability company or its members to the person in the person's capacity as a transferee or person dissociated as a member; and

7539

[~~(b)~~] (ii) is not effective to the extent the amendment imposes a new debt, obligation, or other liability on the transferee or person dissociated as a member

7541

(3) If a record delivered by a limited liability company to the division for filing becomes effective and contains a provision that would be ineffective under [Subsection 48-3a-112(3) or (4)(e)] Section 16-20-107 if contained in the operating agreement, the provision is ineffective in the record.

7545

(4) Subject to Subsection (3), if a record delivered by a limited liability company to the division for filing becomes effective and conflicts with a provision of the operating agreement:

7549

(a) the operating agreement prevails as to members, persons dissociated as members, transferees, and managers; and

7550

(b) the record prevails as to other persons to the extent [they] the persons reasonably rely on the record.

SB0040S01 compared with SB0040S02

7561 Section 245. Section **16-20-110** is renumbered and amended to read:

7563 **[48-3a-115] 16-20-110. Delivery of record.**

7555 (1) Except as otherwise provided in this chapter, permissible means of delivery of a record include
7556 delivery by hand, the United States Postal Service, a commercial delivery service, and electronic
7557 transmission.

7558 (2) Delivery to the division is effective only when a record is received by the division.

7568 Section 246. Section **16-20-111** is renumbered and amended to read:

7570 **[48-3a-116] 16-20-111. Reservation of power to amend or repeal.**

The Legislature of this state has power to amend or repeal all or part of this chapter at
any time, and all domestic and foreign limited liability companies subject to this chapter are
governed by the amendment or repeal.

7574 Section 247. Section **247** is enacted to read:

7575 **16-20-112. Provisions Applicable to All Business Entities applicable.**

Chapter 1a, Provisions Applicable to All Business Entities, applies to the provisions of
this chapter.

7578 Section 248. Section **16-20-201** is renumbered and amended to read:

7571 **Part 2. Formation -- Certificate of Organization and Other Filings**

7581 **[48-3a-201] 16-20-201. Formation of limited liability company -- Certificate of organization.**

7574 (1) One or more persons may act as organizers to form a limited liability company by delivering to the
7575 division for filing a certificate of organization.

7576 (2) A certificate of organization must state:

7577 (a) the name of the limited liability company, which must comply with Section [48-3a-108] 16-1a-302;

7579 (b) the street and mailing address of the limited liability company's principal office;

7580 (c) the information required by [Subseetion 16-17-203(1)] Section 16-1a-404;

7581 (d) if the limited liability company is a low-profit limited liability company, a statement that the limited
7582 liability company is a low-profit limited liability company;

7583 (e) if the limited liability company is a professional services company, the information required by
7584 Section [48-3a-1103] 16-20-903; and

7585 (f) if the limited liability company is to have one or more series in which the liabilities of the series are
7586 to be limited as contemplated by [Subseetion 48-3a-1201(2)] Subsection 16-20-1001(2), notice of
7587 the limitation on liability in accordance with Section [48-3a-1202] 16-20-1002.

SB0040S01 compared with SB0040S02

7589 (3)

7593 (a) A certificate of organization may contain statements as to matters other than those required by Subsection (2), but may not vary or otherwise affect the provisions specified in Subsection [48-3a-112(3)] 16-20-107(3) in a manner inconsistent with that section.

7595 (b) [–]However, a statement in a certificate of organization is not effective as a statement of authority.

7606 (4) A limited liability company is formed when the limited liability company's certificate of organization becomes effective and at least one person becomes a member.

7608 Section 249. Section **16-20-202** is renumbered and amended to read:

7608 **[48-3a-202] 16-20-202. Amendment or restatement of certificate of organization.**

7600 (1) A certificate of organization may be amended or restated at any time, except that in accordance with Section [48-3a-1303] 16-20-1103, a low-profit limited liability company shall amend [its] the low-profit limited liability company's certificate of organization if the limited liability company ceases to be a low-profit limited liability company.

7604 (2) To amend [its] a limited liability company's certificate of organization, a limited liability company must deliver to the division for filing an amendment stating:

7606 (a) the name of the limited liability company;

7607 (b) the date of filing of [its] the limited liability company's initial certificate of organization; and

7609 (c) the changes the amendment makes to the certificate as most recently amended or restated.

7611 (3) To restate [its] a limited liability company's certificate of organization, a limited liability company must deliver to the division for filing a restatement designated as such in [its] the restatement's heading.

7614 (4) If a member of a member-managed limited liability company, or a manager of a manager-managed limited liability company, knows that any information in a filed certificate of organization was inaccurate when the certificate was filed or has become inaccurate due to changed circumstances, the member or manager shall promptly:

7618 (a) cause the certificate to be amended; or

7619 (b) if appropriate, deliver to the division for filing a statement of change under Section [16-17-206] 16-1a-407 or a statement of correction under Section [48-3a-208] 16-1a-206.

7631 Section 250. Section **16-20-301** is renumbered and amended to read:

7624 **Part 3. Relations of Members and Managers to Persons Dealing with a Limited Liability Company**

7635 **[48-3a-301] 16-20-301. No agency powers of member as member.**

SB0040S01 compared with SB0040S02

7627 (1) A member is not an agent of a limited liability company solely by reason of being a member.

7629 (2) A person's status as a member does not prevent or restrict law other than this chapter from imposing liability on a limited liability company because of the person's conduct.

7640 Section 251. Section **16-20-302** is renumbered and amended to read:

7642 **[48-3a-302] 16-20-302. Statement of authority.**

7634 (1)

7636 (a) A limited liability company may deliver to the division for filing a statement of authority.

7637 (b) [–]The statement:

7639 (i) must include the name of the limited liability company and the street and mailing addresses of [its] the limited liability company's registered agent;

7642 (ii) with respect to any position that exists in or with respect to the limited liability company, may state the authority, or limitations on the authority, of all persons holding the position to:

7644 (A) execute an instrument transferring real property held in the name of the limited liability company; or

7646 (B) enter into other transactions on behalf of, or otherwise act for or bind, the limited liability company; and

7648 (iii) may state the authority, or limitations on the authority, of a specific person to:

7650 (A) execute an instrument transferring real property held in the name of the limited liability company; or

7652 (B) enter into other transactions on behalf of, or otherwise act for or bind, the limited liability company.

7654 (2) To amend or cancel a statement of authority filed by the division, a limited liability company must deliver to the division for filing an amendment or cancellation stating:

7655 (a) the name of the limited liability company;

7656 (b) the street and mailing addresses of the limited liability company's registered agent;

7657 (c) the date the statement being affected became effective; and

7658 (d) the contents of the amendment or a declaration that the statement is canceled.

7660 (3) A statement of authority affects only the power of a person to bind a limited liability company to persons that are not members.

7662 (4) Subject to Subsection (3) and [Subsection 48-3a-103(4)] Subsection 16-20-102(4), and except as otherwise provided in Subsections (6), (7), and (8), a limitation on the authority of a person or a

SB0040S01 compared with SB0040S02

position contained in an effective statement of authority is not by itself evidence of knowledge or notice of the limitation by any person.

7664 (5) Subject to Subsection (3), a grant of authority not pertaining to transfers of real property and contained in an effective statement of authority is conclusive in favor of a person that gives value in reliance on the grant, except to the extent that when the person gives value:

7668 (a) the person has knowledge to the contrary;

7669 (b) the statement of authority has been canceled or restrictively amended under Subsection (2); or

7671 (c) a limitation on the grant is contained in another statement of authority that became effective after the statement of authority containing the grant became effective.

7673 (6) Subject to Subsection (3), an effective statement of authority that grants authority to transfer real property held in the name of the limited liability company and a certified copy of which is recorded in the office for recording transfers of the real property is conclusive in favor of a person that gives value in reliance on the grant without knowledge to the contrary, except to the extent that when the person gives value:

7678 (a) the statement of authority has been canceled or restrictively amended under Subsection (2), and a certified copy of the cancellation or restrictive amendment has been recorded in the office for recording transfers of the real property; or

7681 (b) a limitation on the grant is contained in another statement of authority that became effective after the statement of authority containing the grant became effective, and a certified copy of the later-effective statement of authority is recorded in the office for recording transfers of the real property.

7685 (7) Subject to Subsection (3), if a certified copy of an effective statement of authority containing a limitation on the authority to transfer real property held in the name of a limited liability company is recorded in the office for recording transfers of that real property, all persons are deemed to know of the limitation.

7689 (8) Subject to Subsection (9), an effective statement of dissolution or termination is a cancellation of any filed statement of authority for the purposes of Subsection (6) and is a limitation on authority for the purposes of Subsection (7).

7692 (9)

(a) After a statement of dissolution becomes effective, a limited liability company may deliver to the division for filing and, if appropriate, may record a statement of authority that is designated as a postdissolution statement of authority.

SB0040S01 compared with SB0040S02

7695 (b) [–]The postdissolution statement of authority operates as provided in Subsections (6) and (7).

7697 (10)

(a) Unless earlier canceled, an effective statement of authority is canceled by operation of law five years after the date on which the statement of authority, or [its] the most recent amendment to the statement of authority, becomes effective.

7700 (b) [–]This cancellation operates without need for any recording under Subsection (6) or (7).

7702 (11) An effective statement of denial operates as a restrictive amendment under this section and may be recorded by certified copy for purposes of Subsection (6)(a).

7713 Section 252. Section **16-20-303** is renumbered and amended to read:

7715 **[48-3a-303] 16-20-303. Statement of denial.**

A person named in a filed statement of authority granting that person authority may deliver to the division for filing a statement of denial that:

7709 (1) provides the name of the limited liability company and the caption of the statement of authority to which the statement of denial pertains; and

7711 (2) denies the grant of authority.

7721 Section 253. Section **16-20-304** is renumbered and amended to read:

7723 **[48-3a-304] 16-20-304. Liability of members and managers.**

7715 (1)

(a) A debt, obligation, or other liability of a limited liability company is solely the debt, obligation, or other liability of the limited liability company.

7717 (b) [–]A member or manager is not personally liable, directly or indirectly, by way of contribution or otherwise, for a debt, obligation, or other liability of the limited liability company solely by reason of being or acting as a member or manager.

7720 (c) [–]This Subsection (1) applies regardless of the dissolution of the limited liability company.

7722 (2) The failure of a limited liability company to observe formalities relating to the exercise of [its] the limited liability company's powers or management of [its] the limited liability company's activities and affairs is not a ground for imposing liability on a member or manager of the limited liability company for a debt, obligation, or other liability of the limited liability company.

7736 Section 254. Section **16-20-401** is renumbered and amended to read:

7729 **Part 4. Relations of Members to Each Other and to a Limited Liability Company**

7739 **[48-3a-401] 16-20-401. Becoming a member.**

SB0040S01 compared with SB0040S02

7731 (1)

(a) If a limited liability company is to have only one member upon formation, the person becomes a member as agreed by that person and the organizer of the limited liability company.

7734 (b) [–]That person and the organizer may be, but need not be, different persons.

7735 (c) [–]If different, the organizer acts on behalf of the initial member.

7736 (2)

(a) If a limited liability company is to have more than one member upon formation, those persons become members as agreed by the persons before the formation of the limited liability company.

7739 (b) [–]The organizer acts on behalf of the persons in forming the limited liability company and may be, but need not be, one of the persons.

7741 (3) After formation of a limited liability company, a person becomes a member:

7742 (a) as provided in the operating agreement;

7743 (b) as the result of a transaction effective under [Part 10, Merger, Interest Exchange, Conversion, and Domestication]:

7745 (i) Chapter 1a, Part 7, Merger;

7746 (ii) Chapter 1a, Part 8, Interest Exchange;

7747 (iii) Chapter 1a, Part 9, Conversion; or

7748 (iv) Chapter 1a, Part 10, Domestication;

7749 (c) with the consent of all the members; or

7750 (d) as provided in Subsection [48-3a-701(3)] 16-20-701(3).

7751 (4) A person may become a member without:

7752 (a) acquiring a transferable interest; or

7753 (b) making or being obligated to make a contribution to the limited liability company.

7763 Section 255. Section **16-20-402** is renumbered and amended to read:

7765 **[48-3a-402] 16-20-402. Form of contribution.**

A contribution may consist of property transferred to, services performed for, or another benefit provided to the limited liability company or an agreement to transfer property to, perform services for, or provide another benefit to the company.

7769 Section 256. Section **16-20-403** is renumbered and amended to read:

7771 **[48-3a-403] 16-20-403. Liability for contributions.**

7763

SB0040S01 compared with SB0040S02

(1) A person's obligation to make a contribution to a limited liability company is not excused by the person's death, disability, or other inability to perform personally.

7765 (2) If a person does not fulfill an obligation to make a contribution other than money, the person is obligated at the option of the limited liability company to contribute money equal to the value of the part of the contribution which has not been made.

7768 (3)

(a) The obligation of a person to make a contribution may be compromised only by consent of all members.

7770 (b) [–]If a creditor of a limited liability company extends credit or otherwise acts in reliance on an obligation described in Subsection (1) without notice of a compromise under this Subsection (3), the creditor may enforce the obligation.

7782 Section 257. Section **16-20-404** is renumbered and amended to read:

7784 **[48-3a-404] 16-20-404. Sharing of and right to distributions before dissolution.**

7776 (1) Any distributions made by a limited liability company before [its] the limited liability company's dissolution and winding up must be in equal shares among members and persons dissociated as members, except to the extent necessary to comply with a transfer effective under Section [48-3a-502] 16-20-502 or charging order in effect under Section [48-3a-503] 16-20-503.

7781 (2)

(a) A person has a right to a distribution before the dissolution and winding up of a limited liability company only if the limited liability company decides to make an interim distribution.

7784 (b) [–]A person's dissociation does not entitle the person to a distribution.

7785 (3)

(a) A person does not have a right to demand or receive a distribution from a limited liability company in any form other than money.

7787 (b) [–]Except as otherwise provided in Subsection [48-3a-711(4)] 16-20-708(4), a limited liability company may distribute an asset in kind only if each part of the asset is fungible with each other part and each person receives a percentage of the asset equal in value to the person's share of distributions.

7791 (4)

SB0040S01 compared with SB0040S02

(a) If a member or transferee becomes entitled to receive a distribution, the member or transferee has the status of, and is entitled to all remedies available to, a creditor of the limited liability company with respect to the distribution.

7794 (b) [–]However, the limited liability company's obligation to make a distribution is subject to offset for any amount owed to the limited liability company by the member or a person dissociated as a member on whose account the distribution is made.

7806 Section 258. Section **16-20-405** is renumbered and amended to read:

7808 **[48-3a-405] 16-20-405. Limitation on distributions.**

7800 (1) A limited liability company may not make a distribution, including a distribution under Section ~~[48-3a-711]~~ 16-20-708, if after the distribution:

7802 (a) the limited liability company would not be able to pay [its] the limited liability company's debts as ~~[they]~~ the debts become due in the ordinary course of the limited liability company's activities and affairs; or

7805 (b) the limited liability company's total assets would be less than the sum of [its] the limited liability company's total liabilities plus, unless the operating agreement permits otherwise, the amount that would be needed, if the limited liability company were to be dissolved and wound up at the time of the distribution, to satisfy the preferential rights upon dissolution and winding up of members and transferees whose preferential rights are superior to those of persons receiving the distribution.

7811 (2) A limited liability company may base a determination that a distribution is not prohibited under Subsection (1) on:

7813 (a) financial statements prepared on the basis of accounting practices and principles that are reasonable in the circumstances; or

7815 (b) a fair valuation or other method that is reasonable under the circumstances.

7816 (3) Except as otherwise provided in Subsection (5), the effect of a distribution under Subsection (1) is measured:

7818 (a) in the case of a distribution as defined in Subsection ~~[48-3a-102(4)(a)]~~ 16-20-101(4)(a), as of the earlier of:

7820 (i) the date money or other property is transferred or debt is incurred by the limited liability company; or

7822 (ii) the date the person entitled to the distribution ceases to own the interest or right being acquired by the limited liability company in return for the distribution;

SB0040S01 compared with SB0040S02

7824 (b) in the case of any other distribution of indebtedness, as of the date the indebtedness is distributed;
7825 and

7826 (c) in all other cases, as of the date:

7827 (i) the distribution is authorized, if the payment occurs not later than 120 days after that date; or

7829 (ii) the payment is made, if the payment occurs more than 120 days after the distribution is authorized.

7831 (4) A limited liability company's indebtedness to a member or transferee incurred by reason of a
7832 distribution made in accordance with this section is at parity with the limited liability company's
7833 indebtedness to its general, unsecured creditors, except to the extent subordinated by agreement.

7835 (5)

7836 (a) A limited liability company's indebtedness, including indebtedness issued as a distribution, is not
7837 a liability for purposes of Subsection (1) if the terms of the indebtedness provide that payment of
7838 principal and interest is made only if and to the extent that payment of a distribution could then be
7839 made under this section.

7841 (b) [–]If the indebtedness is issued as a distribution, each payment of principal or interest is treated as a
7842 distribution, the effect of which is measured on the date the payment is made.

7844 (6) In measuring the effect of a distribution under Section [48-3a-711] 16-20-708, the liabilities of
7845 a dissolved limited liability company do not include any claim that has been disposed of under
7846 Section [48-3a-705] 16-20-705, [48-3a-706] 16-20-706, or [48-3a-707] 16-20-707.

7848 Section 259. Section **16-20-406** is renumbered and amended to read:

7850 **[48-3a-406] 16-20-406. Liability for improper distributions.**

7852 (1) Except as otherwise provided in Subsection (2), if a member of a member-managed limited liability
7853 company or manager of a manager-managed limited liability company consents to a distribution
7854 made in violation of Section [48-3a-405] 16-20-405 and in consenting to the distribution fails to
7855 comply with Section [48-3a-409] 16-20-409, the member or manager is personally liable to the
7856 limited liability company for the amount of the distribution which exceeds the amount that could
7857 have been distributed without the violation of Section [48-3a-405] 16-20-405.

7859 (2) To the extent the operating agreement of a member-managed limited liability company expressly
7860 relieves a member of the authority and responsibility to consent to distributions and imposes that
7861 authority and responsibility on one or more other members, the liability stated in Subsection (1)
7862 applies to the other members and not the member that the operating agreement relieves of authority
7863 and responsibility.

SB0040S01 compared with SB0040S02

7861 (3) A person that receives a distribution knowing that the distribution violated Section [48-3a-405] 16-20-405 is personally liable to the limited liability company but only to the extent that the distribution received by the person exceeded the amount that could have been properly paid under Section [48-3a-405] 16-20-405.

7865 (4) A person against which an action is commenced because the person is liable under Subsection (1) may:

7867 (a) implead any other person that is liable under Subsection (1) and seek to enforce a right of contribution from the person; and

7869 (b) implead any person that received a distribution in violation of Subsection (3) and seek to enforce a right of contribution from the person in the amount the person received in violation of Subsection (3).

7872 (5) An action under this section is barred unless commenced not later than two years after the distribution.

7883 Section 260. Section **16-20-407** is renumbered and amended to read:

7885 **[48-3a-407] 16-20-407. Management of limited liability company.**

7877 (1) A limited liability company is a member-managed limited liability company unless the operating agreement:

7879 (a) expressly provides that:

7880 (i) the limited liability company is or will be "manager-managed";

7881 (ii) the limited liability company is or will be "managed by managers"; or

7882 (iii) management of the limited liability company is or will be "vested in managers"; or

7884 (b) includes words of similar import.

7885 (2) In a member-managed limited liability company, the following rules apply:

7886 (a) Except as otherwise provided in this chapter, the management and conduct of the limited liability company are vested in the members.

7888 (b) Each member has equal rights in the management and conduct of the limited liability company's activities and affairs.

7890 (c) A difference arising among members as to a matter in the ordinary course of the activities of the limited liability company shall be decided by a majority of the members.

7893 (d) An act outside the ordinary course of the activities and affairs of the limited liability company may be undertaken only with the affirmative vote or consent of all members.

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7895 (e) The affirmative vote or consent of all members is required to approve a transaction under[Part 10, Merger, Interest Exchange, Conversion, and Domestication] :

7897 (i) Chapter 1a, Part 7, Merger;

7898 (ii) Chapter 1a, Part 8, Interest Exchange;

7899 (iii) Chapter 1a, Part 9, Conversion; or

7900 (iv) Chapter 1a, Part 10, Domestication.

7901 (f) The operating agreement may be amended only with the affirmative vote or consent of all members.

7903 (3) In a manager-managed limited liability company, the following rules apply:

7904 (a) Except as expressly provided in this chapter, any matter relating to the activities and affairs of the limited liability company is decided exclusively by the manager, or, if there is more than one manager, by a majority of the managers.

7907 (b) Each manager has equal rights in the management and conduct of the limited liability company's activities and affairs.

7909 (c) The affirmative vote or consent of all members is required to:

7910 (i) approve a transaction under[Part 10, Merger, Interest Exchange, Conversion, and Domestication] :

7912 (A) Chapter 1a, Part 7, Merger;

7913 (B) Chapter 1a, Part 8, Interest Exchange;

7914 (C) Chapter 1a, Part 9, Conversion; or

7915 (D) Chapter 1a, Part 10, Domestication;

7916 (ii) undertake any act outside the ordinary course of the limited liability company's activities and affairs; or

7918 (iii) amend the operating agreement.

7919 (d) A manager may be chosen at any time by the consent of a majority of the members and remains a manager until a successor has been chosen, unless the manager at an earlier time resigns, is removed, or dies, or, in the case of a manager that is not an individual, terminates. A manager may be removed at any time by the consent of a majority of the members without notice or cause.

7924 (e)

7926 (i) A person need not be a member to be a manager, but the dissociation of a member that is also a manager removes the person as a manager.

(ii) [–]If a person that is both a manager and a member ceases to be a manager, that cessation does not by itself dissociate the person as a member.

SB0040S01 compared with SB0040S02

7928 (f) A person's ceasing to be a manager does not discharge any debt, obligation, or other liability to the limited liability company or members which the person incurred while a manager.

7931 (4) An action requiring the vote or consent of members under this chapter may be taken without a meeting, and a member may appoint a proxy or other agent to vote, consent, or otherwise act for the member by signing an appointing record, personally or by the member's agent.

7935 (5)
(a) The dissolution of a limited liability company does not affect the applicability of this section.
(b) [–]However, a person that wrongfully causes dissolution of the limited liability company loses the right to participate in management as a member and a manager.

7939 (6) A limited liability company shall reimburse a member for an advance to the limited liability company beyond the amount of capital the member agreed to contribute.

7941 (7) A payment or advance made by a member which gives rise to an obligation of the limited liability company under Subsection (6) or Subsection [48-3a-408(1)] 16-20-408(1) constitutes a loan to the limited liability company which accrues interest from the date of the payment or advance.

7945 (8) A member is not entitled to remuneration for services performed for a member-managed limited liability company, except for reasonable compensation for services rendered in winding up the activities of the limited liability company.

7957 Section 261. Section **16-20-408** is renumbered and amended to read:

7959 **[48-3a-408] 16-20-408. Reimbursement, indemnification, advancement, and insurance.**

7952 (1) A limited liability company shall reimburse a member of a member-managed limited liability company or the manager of a manager-managed limited liability company for any payment made by the member or manager in the course of the member's or manager's activities on behalf of the limited liability company, if the member or manager complied with Sections [48-3a-407] 16-20-407 and [48-3a-409] 16-20-409 in making the payment.

7958 (2) A limited liability company shall indemnify and hold harmless a person with respect to any claim or demand against the person and any debt, obligation, or other liability incurred by the person by reason of the person's former or present capacity as a member or manager, if the claim, demand, debt, obligation, or other liability does not arise from the person's breach of Section [48-3a-405] 16-20-405, [48-3a-407] 16-20-407, or [48-3a-409] 16-20-409.

7964 (3) In the ordinary course of its activities and affairs, a limited liability company may advance reasonable expenses, including attorney's fees and costs, incurred by a person in connection with

SB0040S01 compared with SB0040S02

a claim or demand against the person by reason of the person's former or present capacity as a member or manager, if the person promises to repay the limited liability company if the person ultimately is determined not to be entitled to be indemnified under Subsection (2).

7970 (4) A limited liability company may purchase and maintain insurance on behalf of a member or manager of the limited liability company against liability asserted against or incurred by the member or manager in that capacity or arising from that status even if, under Subsection [48-3a-112(3)(g)] 16-20-107(3)(g), the operating agreement could not eliminate or limit the person's liability to the limited liability company for the conduct giving rise to the liability.

7985 Section 262. Section **16-20-409** is renumbered and amended to read:

[48-3a-409] 16-20-409. Standards of conduct for members and managers.

7979 (1) A member of a member-managed limited liability company owes to the limited liability company and, subject to Subsection [48-3a-801(1)] 16-20-801(1), the other members the duties of loyalty and care stated in Subsections (2) and (3).

7982 (2) The duty of loyalty of a member in a member-managed limited liability company includes the duties:

7984 (a) to account to the limited liability company and to hold as trustee for it any property, profit, or benefit derived by the member:

7986 (i) in the conduct or winding up of the limited liability company's activities and affairs;

7988 (ii) from a use by the member of the limited liability company's property; or

7989 (iii) from the appropriation of a limited liability company opportunity;

7990 (b) to refrain from dealing with the limited liability company in the conduct or winding up of the limited liability company's activities and affairs as or on behalf of a person having an interest adverse to the limited liability company; and

7993 (c) to refrain from competing with the limited liability company in the conduct of the company's activities and affairs before the dissolution of the limited liability company.

7996 (3) The duty of care of a member of a member-managed limited liability company in the conduct or winding up of the limited liability company's activities and affairs is to refrain from engaging in grossly negligent or reckless conduct, intentional misconduct, or a knowing violation of law.

8000 (4) A member shall discharge the duties and obligations under this chapter or under the operating agreement and exercise any rights consistently with the contractual obligation of good faith and fair dealing.

SB0040S01 compared with SB0040S02

8003 (5) A member does not violate a duty or obligation under this chapter or under the operating agreement solely because the member's conduct furthers the member's own interest.

8006 (6) All the members of a member-managed limited liability company or a manager-managed limited liability company may authorize or ratify, after full disclosure of all material facts, a specific act or transaction that otherwise would violate the duty of loyalty.

8010 (7) It is a defense to a claim under Subsection (2)(b) and any comparable claim in equity or at common law that the transaction was fair to the limited liability company.

8012 (8) If, as permitted by Subsection (6) or (9)(f) or the operating agreement, a member enters into a transaction with the limited liability company which otherwise would be prohibited by Subsection (2)(b), the member's rights and obligations arising from the transaction are the same as those of a person that is not a member.

8016 (9) In a manager-managed limited liability company, the following rules apply:

8017 (a) Subsections (1), (2), (3), and (7) apply to the manager or managers and not the members.

8019 (b) The duty stated under Subsection (2)(c) continues until winding up is completed.

8020 (c) Subsection (4) applies to managers and members.

8021 (d) Subsection (5) applies only to members.

8022 (e) The power to ratify under Subsection (6) applies only to the members.

8023 (f) Subject to Subsection (4), a member does not have any duty to the limited liability company or to any other member solely by reason of being a member.

8034 Section 263. Section **16-20-410** is renumbered and amended to read:

8036 **[48-3a-410] 16-20-410. Rights of member, manager, and person dissociated as member to information.**

8029 (1) In a member-managed limited liability company, the following rules apply:

8030 (a) On reasonable notice, a member may inspect and copy during regular business hours, at a reasonable location specified by the limited liability company, any record maintained by the limited liability company regarding the limited liability company's activities, affairs, financial condition, and other circumstances, to the extent the information is material to the member's rights and duties under the operating agreement or this chapter.

8036 (b) The limited liability company shall furnish to each member:

8037 (i) without demand, any information concerning the limited liability company's activities, affairs, financial condition, and other circumstances which the limited liability company knows and is

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material to the proper exercise of the member's rights and duties under the operating agreement or this chapter, except to the extent the limited liability company can establish that it reasonably believes the member already knows the information; and

8043 (ii) on demand, any other information concerning the limited liability company's activities, affairs, financial condition, and other circumstances, except to the extent the demand or information demanded is unreasonable or otherwise improper under the circumstances.

8047 (c) The duty to furnish information under Subsection (1)(b) also applies to each member to the extent the member knows any of the information described in Subsection (1)(b).

8049 (2) In a manager-managed limited liability company, the following rules apply:

8050 (a) The informational rights stated in Subsection (1) and the duty stated in Subsection (1)(c) apply to the managers and not the members.

8052 (b) During regular business hours and at a reasonable location specified by the limited liability company, a member may inspect and copy full information regarding the activities, affairs, financial condition, and other circumstances of the limited liability company as is just and reasonable if:

8056 (i) the member seeks the information for a purpose reasonably related to the member's interest as a member;

8058 (ii) the member makes a demand in a record received by the limited liability company, describing with reasonable particularity the information sought and the purpose for seeking the information; and

8061 (iii) the information sought is directly connected to the member's purpose.

8062 (c) Not later than 10 days after receiving a demand [pursuant to] in accordance with Subsection (2)(b) (ii), the limited liability company shall in a record inform the member that made the demand of:

8065 (i) the information that the limited liability company will provide in response to the demand and when and where the limited liability company will provide the information; and

8068 (ii) the limited liability company's reasons for declining, if the limited liability company declines to provide any demanded information.

8070 (d) Whenever this chapter or an operating agreement provides for a member to give or withhold consent to a matter, before the consent is given or withheld, the limited liability company shall, without demand, provide the member with all information that is known to the limited liability company and is material to the member's decision.

8075

SB0040S01 compared with SB0040S02

(3) Subject to Subsection (9), on 10 days' demand made in a record received by a limited liability company, a person dissociated as a member may have access to information to which the person was entitled while a member if:

8078 (a) the information pertains to the period during which the person was a member;

8079 (b) the person seeks the information in good faith; and

8080 (c) the person satisfies the requirements imposed on a member by Subsection (2)(b).

8081 (4) A limited liability company shall respond to a demand made [pursuant to] in accordance with Subsection (3) in the manner provided in Subsection (2)(c).

8083 (5) A limited liability company may charge a person that makes a demand under this section the reasonable costs of copying, limited to the costs of labor and material.

8085 (6) A member or person dissociated as a member may exercise rights under this section through an agent or, in the case of an individual under legal disability, a legal representative. Any restriction or condition imposed by the operating agreement or under Subsection (9) applies both to the agent or legal representative and the member or person dissociated as a member.

8090 (7) Subject to Subsection (9), the rights under this section do not extend to a person as transferee.

8092 (8) If a member dies, Section [48-3a-504] 16-20-504 applies.

8093 (9)

8099 (a) In addition to any restriction or condition stated in the operating agreement, a limited liability company, as a matter within the ordinary course of its activities and affairs, may impose reasonable restrictions and conditions on access to and use of information to be furnished under this section, including designating information confidential and imposing nondisclosure and safeguarding obligations on the recipient.

8110 (b) [–]In a dispute concerning the reasonableness of a restriction under this Subsection (9), the limited liability company has the burden of proving reasonableness.

8113 Section 264. Section **16-20-501** is renumbered and amended to read:

8103 **Part 5. Transferable Interests and Rights of Transferees and Creditors**

8113 **[48-3a-501] 16-20-501. Nature of transferable interest.**

8115 A transferable interest is personal property.

8117 Section 265. Section **16-20-502** is renumbered and amended to read:

8109 **[48-3a-502] 16-20-502. Transfer of transferable interest.**

SB0040S01 compared with SB0040S02

(1) Subject to Subsection [48-3a-503(6)] 16-20-503(6), a transfer, in whole or in part, of a transferable interest:

8111 (a) is permissible;

8112 (b) does not by itself cause a member's dissociation or a dissolution and winding up of the limited liability company's activities and affairs; and

8114 (c) subject to Section [48-3a-504] 16-20-504, does not entitle the transferee to:

8115 (i) participate in the management or conduct of the limited liability company's activities and affairs; or

8117 (ii) except as otherwise provided in Subsection (3), have access to records or other information concerning the limited liability company's activities and affairs.

8119 (2) A transferee has the right to receive, in accordance with the transfer, distributions to which the transferor would otherwise be entitled.

8121 (3) In a dissolution and winding up of a limited liability company, a transferee is entitled to an account of the limited liability company's transactions only from the date of dissolution.

8124 (4) A transferable interest may be evidenced by a certificate of the interest issued by the limited liability company in a record, and, subject to this section, the interest represented by the certificate may be transferred by a transfer of the certificate.

8127 (5) A limited liability company need not give effect to a transferee's rights under this section until the limited liability company knows or has notice of the transfer.

8129 (6) A transfer of a transferable interest in violation of a restriction on transfer contained in the operating agreement is ineffective as to a person having knowledge or notice of the restriction at the time of transfer.

8132 (7) Except as otherwise provided in Subsection [48-3a-602(5)(b)] 16-20-602(5)(b), if a member transfers a transferable interest, the transferor retains the rights of a member other than the transferable interest transferred and retains all the duties and obligations of a member.

8136 (8) If a member transfers a transferable interest to a person that becomes a member with respect to the transferred interest, the transferee is liable for the member's obligations under Section [48-3a-403] 16-20-403 and Subsection [48-3a-406(3)] 16-20-406(3) known to the transferee when the transferee becomes a member.

8149 Section 266. Section **16-20-503** is renumbered and amended to read:

8151 **[48-3a-503] 16-20-503. Charging order.**

8143 (1)

SB0040S01 compared with SB0040S02

- (a) On application by a judgment creditor of a member or transferee, a court may enter a charging order against the transferable interest of the judgment debtor for the unsatisfied amount of the judgment.
- 8146 (b) [–] Except as otherwise provided in Subsection (6), a charging order constitutes a lien on a judgment debtor's transferable interest and, after the limited liability company has been served with the charging order, requires the limited liability company to pay over to the person to which the charging order was issued any distribution that otherwise would be paid to the judgment debtor.
- 8151 (2) To the extent necessary to effectuate the collection of distributions [pursuant to] in accordance with a charging order in effect under Subsection (1), the court may:
 - 8153 (a) appoint a receiver of the distributions subject to the charging order, with the power to make all inquiries the judgment debtor might have made; and
 - 8155 (b) make all other orders necessary to give effect to the charging order.
- 8156 (3)
 - (a) Upon a showing that distributions under a charging order will not pay the judgment debt within a reasonable time, the court may foreclose the lien and order the sale of the transferable interest.
- 8159 (b) [–] Except as otherwise provided in Subsection (6), the purchaser at the foreclosure sale only obtains the transferable interest, does not thereby become a member, and is subject to Section [48-3a-502] 16-20-502.
- 8162 (4) At any time before foreclosure under Subsection (3), the member or transferee whose transferable interest is subject to a charging order under Subsection (1) may extinguish the charging order by satisfying the judgment and filing a certified copy of the satisfaction with the court that issued the charging order.
- 8166 (5) At any time before foreclosure under Subsection (3), a limited liability company or one or more members whose transferable interests are not subject to the charging order may pay to the judgment creditor the full amount due under the judgment and thereby succeed to the rights of the judgment creditor, including the charging order.
- 8170 (6) If a court orders foreclosure of a charging order lien against the sole member of a limited liability company:
 - 8172 (a) the court shall confirm the sale;
 - 8173 (b) the purchaser at the sale obtains the member's entire interest, not only the member's transferable interest;
 - 8175 (c) the purchaser thereby becomes a member; and

SB0040S01 compared with SB0040S02

8176 (d) the person whose interest was subject to the foreclosed charging order is dissociated as a member.

8178 (7) This chapter does not deprive any member or transferee of the benefit of any exemption laws
applicable to the transferable interest of the member or transferee.

8180 (8) This section provides the exclusive remedy by which a person seeking to enforce a judgment against
a member or transferee may, in the capacity of judgment creditor, satisfy the judgment from the
judgment debtor's transferable interest.

8192 Section 267. Section **16-20-504** is renumbered and amended to read:

8194 **[48-3a-504] 16-20-504. Power of legal representative of deceased member.**

If a member dies, the deceased member's legal representative may exercise:

8187 (1) the rights of a transferee provided in Subsection [48-3a-502(3)] **16-20-502(3)**; and

8188 (2) for the purposes of settling the estate, the rights the deceased member had under Section
[48-3a-410] 16-20-410.

8199 Section 268. Section **16-20-601** is renumbered and amended to read:

Part 6. Dissociation

8202 **[48-3a-601] 16-20-601. Power to dissociate as member -- Wrongful dissociation.**

8194 (1) A person has the power to dissociate as a member at any time, rightfully or wrongfully, by
withdrawing as a member by express will under Subsection [48-3a-602(1)] **16-20-602(1)**.

8197 (2) A person's dissociation as a member is wrongful only if the dissociation:

8198 (a) is in breach of an express provision of the operating agreement; or

8199 (b) occurs before the completion of the winding up of the limited liability company and:

8200 (i) the person withdraws as a member by express will;

8201 (ii) the person is expelled as a member by judicial order under Subsection [48-3a-602(6)] **16-20-602(6)**;

8203 (iii) the person is dissociated under Subsection [48-3a-602(8)] **16-20-602(8)**; or

8204 (iv) in the case of a person that is not a trust other than a business trust, an estate, or an individual, the
person is expelled or otherwise dissociated as a member because it willfully dissolved or terminated.

8207 (3)

8208 (a) A person that wrongfully dissociates as a member is liable to the limited liability company and,
subject to Section [48-3a-801] **16-20-801**, to the other members for damages caused by the
dissociation.

8210 (b) [-]The liability is in addition to any debt, obligation, or other liability of the member to the limited
liability company or the other members.

SB0040S01 compared with SB0040S02

8221 Section 269. Section **16-20-602** is renumbered and amended to read:

8223 **[48-3a-602] 16-20-602. Events causing dissociation.**

A person is dissociated as a member when:

8216 (1) the limited liability company has notice of the person's express will to withdraw as a member, but, if the person specified a withdrawal date later than the date the limited liability company had notice, on that later date;

8219 (2) an event stated in the operating agreement as causing the person's dissociation occurs;

8220 (3) the person's entire interest is transferred in a foreclosure sale under Subsection
[48-3a-503(6)] 16-20-503(6);

8222 (4) the person is expelled as a member [pursuant to] in accordance with the operating agreement;

8224 (5) the person is expelled as a member by the unanimous consent of the other members if:

8225 (a) it is unlawful to carry on the limited liability company's activities and affairs with the person as a member;

8227 (b) there has been a transfer of all the person's transferable interest in the limited liability company, other than:

8229 (i) a transfer for security purposes; or

8230 (ii) a charging order in effect under Section [48-3a-503] 16-20-503 which has not been foreclosed;

8232 (c) the person is a corporation, and:

8233 (i) the limited liability company notifies the person that [it] the person will be expelled as a member because the person has filed a statement of dissolution or the equivalent, [its] the person's charter has been revoked, or [its] the person's right to conduct business has been suspended by the jurisdiction of [its] the person's incorporation; and

8238 (ii) not later than 90 days after the notification the statement of dissolution or the equivalent has not been revoked or [its] the person's charter or right to conduct business has not been reinstated; or

8241 (d) the person is an unincorporated entity that has been dissolved and whose business is being wound up;

8243 (6) on application by the limited liability company or a member in a direct action under Section
[48-3a-801] 16-20-801, the person is expelled as a member by judicial order because the person:

8246 (a) has engaged or is engaging in wrongful conduct that has affected adversely and materially, or will affect adversely and materially, the limited liability company's activities and affairs;

8249

SB0040S01 compared with SB0040S02

- (b) has committed willfully or persistently, or is committing willfully or persistently, a material breach of the operating agreement or a duty or obligation under Section [48-3a-409] 16-20-409; or
- (c) has engaged or is engaging in conduct relating to the limited liability company's activities and affairs which makes it not reasonably practicable to carry on the activities and affairs with the person as a member;

(7) in the case of an individual:

- (a) the individual dies; or
- (b) in a member-managed limited liability company:
- (i) a guardian or general conservator for the individual is appointed; or
- (ii) a court orders that the individual has otherwise become incapable of performing the individual's duties as a member under this chapter or the operating agreement;

(8) in a member-managed limited liability company, the person:

- (a) becomes a debtor in bankruptcy;
- (b) executes an assignment for the benefit of creditors; or
- (c) seeks, consents to, or acquiesces in the appointment of a trustee, receiver, or liquidator of the person or of all or substantially all the person's property;

(9) in the case of a person that is a testamentary or inter vivos trust or is acting as a member by virtue of being a trustee of such a trust, the trust's entire transferable interest in the limited liability company is distributed;

(10) in the case of a person that is an estate or is acting as a member by virtue of being a personal representative of an estate, the estate's entire transferable interest in the limited liability company is distributed, but not merely by reason of substitution of a successor personal representative;

(11) in the case of a person that is not an individual, corporation, unincorporated entity, trust, or estate, the existence of the person terminates;

(12) the limited liability company participates in a merger under [Part 10, Merger, Interest Exchange, Conversion, and Domestication] Chapter 1a, Part 7, Merger, and:

- (a) the limited liability company is not the surviving entity; or
- (b) otherwise as a result of the merger, the person ceases to be a member;

(13) the limited liability company participates in an interest exchange under [Part 10, Merger, Interest Exchange, Conversion, and Domestication] Part 8, Interest Exchange, and, as a result of the interest exchange, the person ceases to be a member;

SB0040S01 compared with SB0040S02

8282 (14) the limited liability company participates in a conversion under [Part 10, Merger, Interest
8283 Exchange, Conversion, and Domestication] Chapter 1a, Part 9, Conversion;

8284 (15) the limited liability company participates in a domestication under [Part 10, Merger, Interest
8285 Exchange, Conversion, and Domestication] Chapter 1a, Part 10, Domestication, and, as a result of
8286 the domestication, the person ceases to be a member; or

8287 (16) the limited liability company dissolves and completes winding up.

8288 Section 270. Section **16-20-603** is renumbered and amended to read:

8289 **[48-3a-603] 16-20-603. Effect of dissociation.**

8290 (1) If a person is dissociated as a member:

8291 (a) the person's right to participate as a member in the management and conduct of the company's
8292 activities and affairs terminates;

8293 (b) if the limited liability company is member-managed, the person's duties and obligations under
8294 Section [48-3a-409] 16-20-409 as a member end with regard to matters arising and events occurring
8295 after the person's dissociation; and

8296 (c) subject to Section [48-3a-504] 16-20-504 and [Part 10, Merger, Interest Exchange, Conversion, and
8297 Domestication] Chapter 1a, Part 7, Merger, Chapter 1a, Part 8, Interest Exchange, Chapter 1a, Part
8298 9, Conversion, or Chapter 1a, Part 10, Domestication, any transferable interest owned by the person
8299 in the person's capacity as a member immediately before dissociation as a member is owned by the
8300 person solely as a transferee.

8301 (2) A person's dissociation as a member does not of itself discharge the person from any debt,
8302 obligation, or other liability to the limited liability company or the other members which the person
8303 incurred while a member.

8304 Section 271. Section **16-20-701** is renumbered and amended to read:

Part 7. Dissolution and Winding Up

[48-3a-701] 16-20-701. Events causing dissolution.

A limited liability company is dissolved, and [its] the limited liability company's activities and affairs must be wound up, upon the occurrence of any of the following:

8305 (1) an event, circumstance, or date that the certificate of organization or operating agreement states
8306 causes dissolution;

8307 (2) the consent of all the members;

8308

SB0040S01 compared with SB0040S02

(3) the passage of 90 consecutive days during which the limited liability company has no members unless:

8317 (a) consent to admit at least one specified person as a member is given by transferees owning the rights to receive a majority of distributions as transferees at the time the consent is to be effective; and

8320 (b) at least one person becomes a member in accordance with the consent;

8321 (4) upon a petition brought by a member, the entry of a court order dissolving the limited liability company on the grounds that:

8323 (a) the conduct of all or substantially all of the limited liability company's activities and affairs is unlawful; or

8325 (b) it is not reasonably practicable to carry on the limited liability company's activities and affairs in conformity with the certificate of organization and the operating agreement;

8328 (5) upon a petition brought by a member, the entry of a court order dissolving the limited liability company on the grounds that the managers or those members in control of the limited liability company:

8331 (a) have acted, are acting, or will act in a manner that is illegal or fraudulent; or

8332 (b) have acted, are acting, or will act in a manner that is oppressive and was, is, or will be directly harmful to the applicant; or

8334 (6) the signing and filing of a statement of administrative dissolution by the division under [Subsection 48-3a-708(3)] Section 16-1a-603.

8345 Section 272. Section **16-20-702** is renumbered and amended to read:

8347 **[48-3a-702] 16-20-702. Election to purchase in lieu of dissolution.**

8339 (1)

(a) In a proceeding under Subsection [48-3a-701(5)] 16-20-701(5) to dissolve a limited liability company, the limited liability company may elect or, if the limited liability company fails to elect, one or more members may elect to purchase the interest in the limited liability company owned by the applicant member at the fair market value of the interest, determined as provided in this section.

8344 (b) An election [pursuant to] in accordance with this Subsection (1) is irrevocable unless a court determines that it is equitable to set aside or modify the election.

8346 (2)

SB0040S01 compared with SB0040S02

(a) An election to purchase [pursuant to] in accordance with this section may be filed with a court at any time within 90 days after the filing of the petition in a proceeding under Subsection [48-3a-701(5)] 16-20-701(5) or at any later time as the court in the court's discretion may allow.

8350 (b) If the limited liability company files an election with a court within the 90-day period, or at any later time allowed by the court, to purchase the interest in the limited liability company owned by the applicant member, the limited liability company shall purchase the interest in the manner provided in this section.

8354 (3)

(a) If the limited liability company does not file an election with a court within the time period, but an election to purchase the interest in the limited liability company owned by the applicant member is filed by one or more members within the time period, the limited liability company shall, within 10 days after the later of the end of the time period allowed for the filing of elections to purchase under this section or notification from the court of an election by members to purchase the interest in the limited liability company owned by the applicant member as provided in this section, give written notice of the election to purchase to all members of the limited liability company, other than the applicant member.

8363 (b) The notice shall state the name and the percentage interest in the limited liability company owned by the applicant member and the name and the percentage interest in the limited liability company owned by each electing member.

8366 (c) The notice shall advise any recipients who have not participated in the election of their right to join in the election to purchase the interest in the limited liability company in accordance with this section and of the date by which any notice of intent to participate must be filed with the court.

8370 (4) Members who wish to participate in the purchase of the interest in the limited liability company of the applicant member must file notice of their intention to join in the purchase by electing members no later than 30 days after the effective date of the limited liability company's notice of their right to join in the election to purchase.

8374 (5) All members who have filed with the court an election or notice of their intention to participate in the election to purchase the interest in the limited liability company of the applicant member thereby become irrevocably obligated to participate in the purchase of the interest from the applicant member upon the terms and conditions of this section, unless the court otherwise directs.

8379

SB0040S01 compared with SB0040S02

(6) After an election has been filed by the limited liability company or one or more members, the proceedings under Subsection [48-3a-701(5)] 16-20-701(5) may not be discontinued or settled, nor may the applicant member sell or otherwise dispose of the applicant member's interest in the limited liability company, unless the court determines that it would be equitable to the limited liability company and the members, other than the applicant member, to permit any discontinuance, settlement, sale, or other disposition.

8386 (7) If, within 60 days after the earlier of the limited liability company filing of an election to purchase the interest in the limited liability company of the applicant member or the limited liability company's mailing of a notice to [its] the limited liability company's members of the filing of an election by the members to purchase the interest in the limited liability company of the applicant member, the applicant member and electing limited liability company or members reach agreement as to the fair market value and terms of the purchase of the applicant member's interest, the court shall enter an order directing the purchase of the applicant member's interest, upon the terms and conditions agreed to by the parties.

8395 (8) If the parties are unable to reach an agreement as provided for in Subsection (7), upon application of any party, the court shall stay the proceedings under Subsection [48-3a-701(5)] 16-20-701(5) and determine the fair market value of the applicant member's interest in the limited liability company as of the day before the date on which the petition under Subsection [48-3a-701(5)] 16-20-701(5) was filed or as of any other date the court determines to be appropriate under the circumstances and based on the factors the court determines to be appropriate.

8402 (9)

(a) Upon determining the fair market value of the interest in the limited liability company of the applicant member, the court shall enter an order directing the purchase of the interest in the limited liability company upon terms and conditions the court determines to be appropriate.

8406 (b) The terms and conditions may include payment of the purchase price in installments, where necessary in the interest of equity, provision for security to assure payment of the purchase price and any additional costs, fees, and expenses awarded by the court, and an allocation of the interest in the limited liability company among members if the interest in the limited liability company is to be purchased by members.

8411 (10)

SB0040S01 compared with SB0040S02

- (a) In allocating the applicant member's interest in the limited liability company among holders of different classes of members, the court shall attempt to preserve the existing distribution of voting rights among member classes to the extent practicable.
- (b) The court may direct that holders of a specific class or classes may not participate in the purchase.
- (c) The court may not require any electing member to purchase more of the interest in the limited liability company owned by the applicant member than the percentage interest that the purchasing member may have set forth in the purchasing member's election or notice of intent to participate filed with the court.

(11)

- (a) Interest may be allowed at the rate and from the date determined by the court to be equitable.
- (b) However, if the court finds that the refusal of the applicant member to accept an offer of payment was arbitrary or otherwise not in good faith, interest may not be allowed.

(12) If the court finds that the applicant member had probable ground for relief under Subsection [48-3a-701(5)] 16-20-701(5), the court may award to the applicant member reasonable fees and expenses of counsel and experts employed by the applicant member.

(13)

- (a) Upon entry of an order under Subsection (7) or (9), the court shall dismiss the petition to dissolve the limited liability company under Subsection [48-3a-701(5)] 16-20-701(5) and the applicant member shall no longer have any rights or status as a member of the limited liability company, except the right to receive the amounts awarded to the applicant member by the court.
- (b) The award is enforceable in the same manner as any other judgment.

(14)

- (a) The purchase ordered [pursuant to] in accordance with Subsection (9) shall be made within 10 days after the date the order becomes final, unless before that time the limited liability company files with the court a notice of the limited liability company's intention to file a statement of dissolution.
- (b) The statement of dissolution must then be adopted and filed within 60 days after notice.

(15)

- (a) Upon filing of a statement of dissolution, the limited liability company is dissolved and shall be wound up [pursuant to] in accordance with Section [48-3a-703] 48-20-703, and the order entered [pursuant to] in accordance with Subsection (9) is no longer of any force or effect.

SB0040S01 compared with SB0040S02

(b) However, the court may award the applicant member reasonable fees and expenses in accordance with Subsection (12).

(c) The applicant member may continue to pursue any claims previously asserted on behalf of the limited liability company.

(16) Any payment by the limited liability company ~~[pursuant to]~~ in accordance with an order under Subsection (7) or (9), other than an award of fees and expenses ~~[pursuant to]~~ in accordance with Subsection (12), is subject to the provisions of Sections ~~[48-3a-405]~~ 16-20-405 and ~~[48-3a-406]~~ 16-20-406.

Section 273. Section **16-20-703** is renumbered and amended to read:

[48-3a-703] 16-20-703. Winding up.

(1)

(a) A dissolved limited liability company shall wind up the limited liability company's activities and affairs.

(b) Except as otherwise provided in Section ~~[48-3a-704]~~ 16-20-704, the limited liability company only continues after dissolution for the purpose of winding up.

(2) In winding up the limited liability company's activities and affairs, a limited liability company:

(a) shall discharge the limited liability company's debts, obligations, and other liabilities, settle and close the limited liability company's activities and affairs, and marshal and distribute the assets of the limited liability company; and

(b) may:

(i) deliver to the division for filing a statement of dissolution stating the name of the limited liability company and that the limited liability company is dissolved;

(ii) preserve the limited liability company activities, affairs, and property as a going concern for a reasonable time;

(iii) prosecute and defend actions and proceedings, whether civil, criminal, or administrative;

(iv) transfer the limited liability company's property;

(v) settle disputes by mediation or arbitration;

(vi) deliver to the division for filing a statement of termination stating the name of the limited liability company and that the limited liability company is terminated; and

(vii) perform other acts necessary or appropriate to the winding up.

(3)

SB0040S01 compared with SB0040S02

(a) If a dissolved limited liability company has no members, the legal representative of the last person to have been a member may wind up the activities and affairs of the limited liability company.

8478 (b) If the person does so, the person has the powers of a sole manager under Subsection [48-3a-407(3)] 16-20-407(3) and is deemed to be a manager for the purposes of Subsection [48-3a-304(1)] 16-20-304(1).

8481 (4)

(a) If the legal representative under Subsection (3) declines or fails to wind up the limited liability company's activities and affairs, a person may be appointed to do so by the consent of transferees owning a majority of the rights to receive distributions as transferees at the time the consent is to be effective.

8485 (b) [–]A person appointed under this Subsection (4):

8486 [(a)] (i) has the powers of a sole manager under Subsection [48-3a-407(3)] 16-20-407(3) and is deemed to be a manager for the purposes of Subsection [48-3a-304(1)] 16-20-304(1); and
8489 [(b)] (ii) shall promptly deliver to the division for filing an amendment to the limited liability company's certificate of organization stating:

8491 [(i)] (A) that the limited liability company has no members;

8492 [(ii)] (B) the name and street and mailing addresses of the person; and

8493 [(iii)] (C) that the person has been appointed [pursuant to] in accordance with this subsection to wind up the limited liability company.

8495 (5) A court may order judicial supervision of the winding up of a dissolved limited liability company, including the appointment of a person to wind up the limited liability company's activities and affairs:

8498 (a) upon a petition by a member if the member establishes good cause;

8499 (b) upon a petition by a transferee if:

8500 (i) the company does not have any members;

8501 (ii) the legal representative of the last person to have been a member declines or fails to wind up the limited liability company's activities; and

8503 (iii) within a reasonable time following the dissolution a person has not been appointed [pursuant to] in accordance with Subsection (4); or

8505 (c) in connection with a proceeding under Subsection [48-3a-701(4)] 16-20-701(4) or (5).

8515 Section 274. Section **16-20-704** is renumbered and amended to read:

SB0040S01 compared with SB0040S02

[48-3a-704] 16-20-704. Rescinding dissolution.

(1) A limited liability company may rescind the limited liability company's dissolution, unless a statement of termination applicable to the limited liability company is effective, a court has entered an order under Subsection [48-3a-701(4)] 16-20-701(4) or (5) dissolving the limited liability company, or the division has dissolved the limited liability company under Section [48-3a-708] 16-1a-603.

(2) Rescinding dissolution under this section requires:

(a) the consent of each member;

(b) if a statement of dissolution applicable to the limited liability company has been filed by the division but has not become effective, the delivery to the division for filing of a statement of withdrawal under Section [48-3a-207] 16-1a-205 applicable to the statement of dissolution; and

(c) if a statement of dissolution applicable to the limited liability company is effective, the delivery to the division for filing of a statement of correction under Section [48-3a-208] 16-1a-206 stating that dissolution has been rescinded under this section.

(3) If a limited liability company rescinds [its] the limited liability company's dissolution:

(a) the limited liability company resumes carrying on [its] the limited liability company's activities and affairs as if dissolution had never occurred;

(b) subject to Subsection (3)(c), any liability incurred by the limited liability company after the dissolution and before the rescission is effective is determined as if dissolution had never occurred; and

(c) the rights of a third party arising out of conduct in reliance on the dissolution before the third party knew or had notice of the rescission may not be adversely affected.

Section 275. Section **16-20-705** is renumbered and amended to read:

[48-3a-705] 16-20-705. Known claims against dissolved limited liability company.

(1) A dissolved limited liability company in winding up may dispose of the known claims against it by following the procedures described in this section.

(2)

(a) A limited liability company in winding up, electing to dispose of known claims [pursuant to] in accordance with this section, may give written notice of the limited liability company's dissolution to known claimants at any time after the effective date of the dissolution.

(b) [–]The written notice must:

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8541 [({a}) (i) describe the information that must be included in a claim;

8542 [({b}) (ii) provide an address to which written notice of any claim must be given to the limited liability company;

8544 [({e}) (iii) state the deadline, which may not be fewer than 120 days after the effective date of the notice, by which the dissolved limited liability company must receive the claim; and

8547 [({d}) (iv) state that, unless sooner barred by another state statute limiting actions, the claim will be barred if not received by the deadline.

8549 (3) Unless sooner barred by another state statute limiting actions, a claim against the dissolved limited liability company is barred if:

8551 (a) a claimant was given notice under Subsection (2) and the claim is not received by the dissolved limited liability company by the deadline; or

8553 (b) the dissolved limited liability company delivers to the claimant written notice of rejection of the claim within 90 days after receipt of the claim and the claimant whose claim was rejected by the dissolved limited liability company does not commence a proceeding to enforce the claim within 90 days after the effective date of the rejection notice.

8558 (4) Claims which are not rejected by the dissolved limited liability company in writing within 90 days after receipt of the claim by the dissolved limited liability company shall be considered approved.

8561 (5) The failure of the dissolved limited liability company to give notice to any known claimant [pursuant to] in accordance with Subsection (2) does not affect the disposition under this section of any claim held by any other known claimant.

8564 (6) This section does not apply to a claim based on an event occurring after the effective date of dissolution or a liability that on that date is contingent.

8575 Section 276. Section **16-20-706** is renumbered and amended to read:

8577 **[48-3a-706] 16-20-706. Other claims against dissolved limited liability company.**

8569 (1) A dissolved limited liability company may publish notice of [its] the dissolved limited liability company dissolution and request persons having claims against the limited liability company to present them in accordance with the notice.

8572 (2) A notice under Subsection (1) must:

8573 (a) be published at least once in a newspaper of general circulation in the county in this state in which the dissolved limited liability company's principal office is located or, if the principal office is not

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located in this state, in the county in which the office of the limited liability company's registered agent is or was last located and in accordance with Section 45-1-101;

8578 (b) describe the information required to be contained in a claim, state that the claim must be in writing, and provide a mailing address to which the claim is to be sent; and

8580 (c) state that a claim against the limited liability company is barred unless an action to enforce the claim is commenced not later than three years after publication of the notice.

8583 (3) If a dissolved limited liability company publishes a notice in accordance with Subsection (2), the claim of each of the following claimants is barred unless the claimant commences an action to enforce the claim against the limited liability company not later than three years after the publication date of the notice:

8587 (a) a claimant that did not receive notice in a record under Section [48-3a-705] 16-20-705;

8588 (b) a claimant whose claim was timely sent to the limited liability company but not acted on; and

8590 (c) a claimant whose claim is contingent at, or based on an event occurring after, the effective date of dissolution.

8592 (4) A claim not barred under this section or Section [48-3a-705] 16-20-705 may be enforced:

8593 (a) against a dissolved limited liability company, to the extent of [its] the dissolved limited liability company's undistributed assets; and

8595 (b) except as otherwise provided in Section [48-3a-707] 16-20-707, if assets of the limited liability company have been distributed after dissolution, against a member or transferee to the extent of that person's proportionate share of the claim or of the limited liability company's assets distributed to the member or transferee after dissolution, whichever is less, but a person's total liability for all claims under this subsection may not exceed the total amount of assets distributed to the person after dissolution.

8611 Section 277. Section **16-20-707** is renumbered and amended to read:

8613 **[48-3a-707] 16-20-707. Court proceedings.**

8605 (1)

(a) A dissolved limited liability company that has published a notice under Section [48-3a-706] 16-20-706 may petition a court with jurisdiction under Title 78A, Judiciary and Judicial Administration, for a determination of the amount and form of security to be provided for payment of claims that are contingent, have not been made known to the limited liability company, or are based on an event occurring after the effective date of dissolution but which, based on the facts

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known to the dissolved limited liability company, are reasonably expected to arise after the effective date of dissolution.

8613 (b) Security is not required for any claim that is or is reasonably anticipated to be barred under Subsection [48-3a-706(3)] 16-20-706(3).

8615 (2) No later than 10 days after the filing of an application under Subsection (1), the dissolved limited liability company shall give notice of the proceeding to each claimant holding a contingent claim known to the limited liability company.

8618 (3)
(a) In any proceeding under this section, the court may appoint a guardian ad litem to represent all claimants whose identities are unknown.

8620 (b) The reasonable fees and expenses of the guardian, including all reasonable expert witness fees, must be paid by the dissolved limited liability company.

8622 (4) A dissolved limited liability company that provides security in the amount and form ordered by the court under Subsection (1) satisfies the limited liability company's obligations with respect to claims that are contingent, have not been made known to the limited liability company, or are based on an event occurring after the effective date of dissolution, and such claims may not be enforced against a member or transferee that received assets in liquidation.

8637 Section 278. Section **16-20-708** is renumbered and amended to read:

[48-3a-711] 16-20-708. Disposition of assets in winding up.

8631 (1) In winding up its activities and affairs, a limited liability company shall apply [its] the limited liability company's assets to discharge [its] the limited liability company's obligations to creditors, including members that are creditors.

8634 (2) After a limited liability company complies with Subsection (1), any surplus must be distributed in the following order, subject to any charging order in effect under Section [48-3a-503] 16-20-503:
8637 (a) to each person owning a transferable interest that reflects contributions made and not previously returned, an amount equal to the value of the unreturned contributions; and

8639 (b) in equal shares among members and dissociated members, except to the extent necessary to comply with any transfer effective under Section [48-3a-502] 16-20-502.

8641 (3) If a limited liability company does not have sufficient surplus to comply with Subsection (2)(a), any surplus must be distributed among the owners of transferable interests in proportion to the value of the respective unreturned contributions.

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8644 (4) All distributions made under Subsections (2) and (3) must be paid in money.

8654 Section 279. Section **16-20-801** is renumbered and amended to read:

8647 **Part 8. Action by Members**

8657 **[48-3a-801] 16-20-801. Direct action by member.**

8649 (1) Subject to Subsection (2), a member may maintain a direct action against another member, a manager, or the limited liability company to enforce the member's rights and otherwise protect the member's interests, including rights and interests under the operating agreement or this chapter or arising independently of the membership relationship.

8654 (2) A member maintaining a direct action under this section must plead and prove an actual or threatened injury that is not solely the result of an injury suffered or threatened to be suffered by the limited liability company.

8666 Section 280. Section **16-20-802** is renumbered and amended to read:

8668 **[48-3a-802] 16-20-802. Derivative action.**

A member may maintain a derivative action to enforce a right of a limited liability company if:

8662 (1) the member first makes a demand on the other members in a member-managed limited liability company, or the managers of a manager-managed limited liability company, requesting that they cause the limited liability company to bring an action to enforce the right, and the managers or other members do not bring the action within a reasonable time; or

8667 (2) a demand under Subsection (1) would be futile.

8677 Section 281. Section **16-20-803** is renumbered and amended to read:

8679 **[48-3a-803] 16-20-803. Proper plaintiff.**

A derivative action to enforce a right of a limited liability company may be maintained only by a person that is a member at the time the action is commenced and:

8673 (1) was a member when the conduct giving rise to the action occurred; or

8674 (2) whose status as a member devolved on the person by operation of law or [pursuant to] in accordance with the terms of the operating agreement from a person that was a member at the time of the conduct.

8686 Section 282. Section **16-20-804** is renumbered and amended to read:

8688 **[48-3a-804] 16-20-804. Pleading.**

In a derivative action, the complaint must state with particularity:

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8681 (1) the date and content of plaintiff's demand and the response by the managers or other members to the demand; or

8683 (2) why the demand should be excused as futile.

8693 Section 283. Section **16-20-805** is renumbered and amended to read:

8695 **[48-3a-805] 16-20-805. Special litigation committee.**

8687 (1)

8691 (a) If a limited liability company is named as or made a party in a derivative proceeding, the limited liability company may appoint a special litigation committee to investigate the claims asserted in the proceeding and determine whether pursuing the action is in the best interests of the limited liability company.

8695 (b) [–]If the limited liability company appoints a special litigation committee, on motion by the committee made in the name of the limited liability company, except for good cause shown, the court shall stay discovery for the time reasonably necessary to permit the committee to make its investigation.

8695 (c) [–]This Subsection (1) does not prevent the court from:

8696 [({a}) (i) enforcing a person's right to information under Section **[48-3a-410] 16-20-410**; or

8698 [({b}) (ii) granting extraordinary relief in the form of a temporary restraining order or preliminary injunction upon a showing of good cause.

8700 (2) A special litigation committee must be composed of one or more disinterested and independent individuals, who may be members.

8702 (3) A special litigation committee may be appointed:

8703 (a) in a member-managed limited liability company:

8704 (i) by the consent of a majority of the members not named as parties in the proceeding; and

8706 (ii) if all members are named as parties in the proceeding, by a majority of the members named as defendants; or

8708 (b) in a manager-managed limited liability company:

8709 (i) by a majority of the managers not named as parties in the proceeding; and

8710 (ii) if all managers are named as parties in the proceeding, by a majority of the managers named as defendants.

8712 (4) After appropriate investigation, a special litigation committee may determine that it is in the best interests of the limited liability company that the proceeding:

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8714 (a) continue under the control of the plaintiff;

8715 (b) continue under the control of the committee;

8716 (c) be settled on terms approved by the committee; or

8717 (d) be dismissed.

8718 (5)

8719 (a) After making a determination under Subsection (4), a special litigation committee shall file with the court a statement of its determination and its report supporting its determination and shall serve each party with a copy of the determination and report.

8720 (b) ~~[–]The court shall determine whether the members of the committee were disinterested and independent and whether the committee conducted [its] the committee's investigation and made [its] the committee's recommendation in good faith, independently, and with reasonable care, with the committee having the burden of proof.~~

8721 (c) ~~[–]If the court finds that the members of the committee were disinterested and independent and that the committee acted in good faith, independently, and with reasonable care, the court shall enforce the determination of the committee.~~

8722 (d) ~~[–]Otherwise, the court shall dissolve the stay of discovery entered under Subsection (1) and allow the action to continue under the control of the plaintiff.~~

8723 Section 284. Section **16-20-806** is renumbered and amended to read:

8724 **[48-3a-806] 16-20-806. Proceeds and expenses.**

8725 (1) Except as otherwise provided in Subsection (2):

8726 (a) any proceeds or other benefits of a derivative action, whether by judgment, compromise, or settlement, belong to the limited liability company and not to the plaintiff; and

8727 (b) if the plaintiff receives any proceeds, the plaintiff shall remit them immediately to the limited liability company.

8728 (2) If a derivative action is successful in whole or in part, the court may award the plaintiff reasonable expenses, including reasonable attorney's fees and costs, from the recovery of the limited liability company.

8729 (3) A derivative action on behalf of a limited liability company may not be voluntarily dismissed or settled without the court's approval.

8730 Section 285. Section **285** is enacted to read:

8731 **16-21-104. Provisions Applicable to All Business Entities applicable.**

SB0040S01 compared with SB0040S02

Chapter 1a, Provisions Applicable to All Business Entities, applies to the provisions of this chapter.

8758 Section 286. Section **286** is enacted to read:

16-22-110. Provisions Applicable to All Business Entities applicable.

Chapter 1a, Provisions Applicable to All Business Entities, applies to the provisions of this chapter.

8762 Section 287. Section **287** is enacted to read:

42-2-101. Definitions.

2. Conducting Business as a D.B.A.

1. General Provisions

As used in this chapter:

8758 (1) "D.B.A." means a person that carries on, conducts, or transacts business in this state using a name that is different from the legal name of the person.

8760 (2) "D.B.A. certificate" means a typed document a D.B.A. files with the division that:

8761 (a) states the name and principal address under which the D.B.A. does business or will carry out, conduct, or transact business;

8763 (b) states the true name and street address of each person that owns the D.B.A.; and

8764 (c) the person or authorized representative of the D.B.A. that registers the D.B.A. with the division signs.

8766 (3) "D.B.A. name" means the name a D.B.A. uses when carrying on, conducting, or transacting business in this state that is different from the legal name of the person.

8768 (4) "Director" means the director of the division appointed under Section 13-1a-103.

8769 (5) "Division" means the Division of Corporations and Commercial Code established in Section 13-1a-102.

8771 (6) "True name" means the legal name of a person.

8781 Section 288. Section **288** is enacted to read:

42-2-102. Governing law.

A D.B.A. is governed by:

8775 (1) this chapter; and

8776 (2) for a provision on which this chapter is silent, Title 16, Chapter 1a, Provisions Applicable to All Business Entities.

SB0040S01 compared with SB0040S02

8787 Section 289. Section **42-2-103** is renumbered and amended to read:

8789 **[42-2-7] 42-2-103. Recordkeeping-- Fees -- Evidence.**

8781 (1) The [Division of Corporations and Commercial Code] division shall:

8782 (a) keep [an active alphabetical index of all persons filing the certificates provided for in] a record of
8783 each D.B.A. registered under this chapter; and

8784 (b) collect the required [indexing and] filing fees.

8785 (2) A copy of [any such] each D.B.A. certificate [certified by] the [Division of Corporations and
8786 Commercial Code shall be] division certifies is presumptive evidence of the facts contained in the
8787 certificate.

8797 Section 290. Section **42-2-104** is renumbered and amended to read:

8799 **[42-2-9] 42-2-104. Corporate names, limited liability company names, and trademark,
8800 service mark, and trade name rights not affected.**

8792 (1) This chapter does not affect or apply to [any] a corporation organized under the laws of any state if
8793 [it] the corporation does business under [its] the corporation's true [eorporate]name.

8795 (2)

8796 (a) This chapter does not affect the statutory or common law trademark, service mark, or trade name
8797 rights granted by state or federal statute.

8798 (b) An act listed in Subsection (2)(c) of itself does not authorize the use in this state of [an assumed
8799 name] a D.B.A. in violation of the rights of another as established under:

8800 (i) this chapter;

8801 (ii) Title 70, Chapter 3a, Registration and Protection of Trademarks and Service Marks Act;

8802 (iii) the state law relating to names of corporations, partnerships, and other legal business entities;

8803 (iv) the federal Trademark Act of 1946, 15 U.S.C. Section 1051 et seq.; or

8804 (v) the common law, including rights in a trade name.

8805 (c) Subsection (2)(b) applies to:

8806 (i) a filing under this chapter;

8807 (ii) an approval by the [Division of Corporations and Commercial Code pursuant to] division in
8808 accordance with this chapter; or

8809 (iii) the use of [an assumed name] a D.B.A. name.

8810 (3) This chapter does not affect or apply to any limited liability company doing business in this state
8811 under [its] the limited liability company's true name.

SB0040S01 compared with SB0040S02

8822 Section 291. Section **42-2-105** is renumbered and amended to read:

8824 **[42-2-6.6] 42-2-105. D.B.A. name.**

8816 (1) [The assumed-] A D.B.A. name:

8817 (a) may not contain:

8818 (i) a word or phrase that indicates or implies that the business is organized for a purpose other than a purpose contained in the business's application;[-or]

8820 (ii) for [an assumed] a D.B.A. name that is changed or approved on or after May 4, 2022, the number sequence "911";

8822 (iii) without the consent of the Department of Financial Institutions, the words described in Section 7-1-701;

8824 (iv) the term or abbreviation:

8825 (A) "limited liability company";

8826 (B) "LLC"; or

8827 (C) "L.L.C."; or

8828 (v) a term or abbreviation that is of similar import to a term or abbreviation described in Subsection (1)
(a)(iv);

8830 (b) shall be distinguishable from [any] a registered name or trademark of record in the offices of the [Division of Corporations and Commercial Code] division,[as defined in Subsection 16-10a-401(5),] in accordance with Section 16-1a-302 except as [authorized by]the [Division of Corporations and Commercial Code] division authorizes under Subsection (2);

8835 (c) without the written consent of the United States Olympic Committee, may not contain the words:

8837 (i) "Olympic";

8838 (ii) "Olympiad"; or

8839 (iii) "Citius Altius Fortius"; and

8840 (d) [an assumed name]authorized for use in this state on or after May 1, 2000, may not contain the [words] terms:

8842 (i) unless the person that owns the D.B.A. is a corporation registered in this state:

8843 [(i)] (A) "incorporated";

8844 [(ii)] (B) "inc."; or

8845 [(iii)] (C) a variation of "incorporated" or "inc."; or

8846 (ii) unless the person that owns the D.B.A. is a limited liability company registered in this state:

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8848 (A) "limited liability company";
8849 (B) "LLC";
8850 (C) "L.L.C."; or
8851 (D) a variation of "limited liability company", "LLC", or "L.L.C."
8852 [(2) Notwithstanding Subsection (1)(d), an assumed name may contain a word listed in Subsection (1)(d) if the Division of Corporations and Commercial Code authorizes the use of the name by a corporation as defined in:]
8855 [(a) Subsection 16-6a-102(27);]
8856 [(b) Subsection 16-6a-102(36);]
8857 [(c) Subsection 16-10a-102(11); or]
8858 [(d) Subsection 16-10a-102(20).]
8859 [(3)] (2) The [Division of Corporations and Commercial Code] division shall authorize [the] an applicant's use of the D.B.A. name [applied for] if:
8861 (a) the name is distinguishable from one or more of the names and trademarks [that are] on the division's records; or
8863 (b) the applicant delivers to the division a certified copy of the final judgment of a court [of competent] with jurisdiction establishing the applicant's right to use the D.B.A. name [applied for] in this state.
8866 [(4)] (3) [The assumed] Before the day on which the division records the name of a D.B.A., the applicant shall translate into English or transliterate into letters of the English alphabet the D.B.A. name, [for purposes of recordation, shall be either translated into English or transliterated into letters of the English alphabet] if the [assumed] D.B.A. name is not in English.
8871 [(5)] (4) The [Division of Corporations and Commercial Code] division may not approve an application for [an assumed] a D.B.A. name to a person [violating] that violates this section.
8874 [(6)] (5) The director [of the Division of Corporations and Commercial Code shall have the power and authority reasonably necessary to] shall:
8876 (a) interpret and efficiently administer this section; and
8877 (b) [to] perform the duties imposed on the division by this section.
8878 [(7)] (6) [A] The division may not approve for filing a D.B.A. name that implies by a word in the name that the business is an agency of the state or a political subdivision of the state, if the business is

SB0040S01 compared with SB0040S02

not [actually such a legally established agency, may not be approved for filing by the Division of Corporations and Commercial Code] an agency of the state or a political subdivision of the state.

8883 [(8)] (7) Section 16-10a-403 applies to this chapter.

8884 [(9)] (8)

(a) The requirements of Subsection (1)(d) do not apply to a person [who] that filed a certificate of assumed and of true name with the [Division of Corporations and Commercial Code] division on or before May 4, 1998, until December 31, 1998.

8887 (b) On or after January 1, 1999, a person [who] that carries on, conducts, or transacts business in this state under [an assumed name] a D.B.A. shall comply with the requirements of Subsection (1)(d).

8899 Section 292. Section 292 is enacted to read:

42-2-201. Registration as a D.B.A.

2. Registration, Filings, and Penalties

8893 (1) To register as a D.B.A., a person shall:

8894 (a) file a D.B.A. certificate with the division no later than 30 days after the day on which the entity begins to carry out, conduct, or transact the entity's business; and

8896 (b) designate and maintain a registered agent in this state in accordance with Title 16, Chapter 1a, Part 4, Registered Agent of an Entity.

8898 (2) To register a general partnership as a D.B.A. if the general partnership is not registered with the division, the general partnership's partners shall each register as a D.B.A. in accordance with Subsection (1).

8901 (3) A person filing a D.B.A. certificate in accordance with Subsection (1) shall include in a conspicuous place on the face of the D.B.A. certificate a notice that states: NOTICE - THE FILING OF THIS APPLICATION AND THIS APPLICATION'S APPROVAL BY THE DIVISION OF CORPORATIONS AND COMMERCIAL CODE DOES NOT AUTHORIZE THE USE IN THE STATE OF UTAH OF AN ASSUMED NAME IN VIOLATION OF THE RIGHTS OF ANOTHER FEDERAL STATUTE, STATE STATUTE, OR COMMON LAW. (SEE UTAH CODE ANN. 42-2-201).

8908 (4) A registration statement filed in accordance with Subsection (1) is considered effective on the day on which the division:

8910 (a) receives and approves, as to form, the registration statement; and

8911 (b) marks on the face of the registration statement a stamp or seal that indicates:

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8912 (i) the time and date of approval;
8913 (ii) the name of the division; and
8914 (iii)
8915 (A) the director's signature and division seal; or
8916 (B) a facsimile of the director's signature and division seal.

8917 Section 293. Section **293** is enacted to read:

8918 **42-2-202. Amending a D.B.A. certificate.**

8919 (1) A D.B.A. may amend a D.B.A. certificate only while the D.B.A. is actively registered with the
8920 division as a D.B.A.
8921 (2) A D.B.A. may not amend an expired or canceled D.B.A. certificate.
8922 (3) A D.B.A. may amend any information contained in the D.B.A. certificate.
8923 (4) To amend a D.B.A. certificate, a D.B.A. shall file with the division an amendment that states:
8924 (a) the D.B.A. name; and
8925 (b) the requested changes to the D.B.A. certificate.
8926 (5) The person or authorized representative of the D.B.A. shall sign the amendment described in
8927 Subsection (4).

8928 Section 294. Section **294** is enacted to read:

8929 **42-2-203. Transfer of ownership of a D.B.A.**

8930 (1) A D.B.A. may transfer ownership only while the D.B.A. is actively registered with the division as a
8931 D.B.A.
8932 (2) To transfer ownership of a D.B.A., the D.B.A. shall file a letter of transfer with the division that
8933 states:
8934 (a) the D.B.A. name;
8935 (b) the true name and address of each current owner of the D.B.A.;
8936 (c) the true name and address of each new owner of the D.B.A.; and
8937 (d) the principal address of the D.B.A.'s place of business.
8938 (3) Except as otherwise provided in Section 16-1a-302, each current owner and each new owner shall
8939 sign the letter of transfer described in Subsection (2).

8940 Section 295. Section **295** is enacted to read:

8941 **42-2-204. Expiration, renewal, and cancellation of registration.**

8942 (1)

SB0040S01 compared with SB0040S02

(a) A D.B.A registration is effective for three years after the day on which a person registers as a D.B.A.

8944 (b) A D.B.A. may renew a D.B.A. registration beginning 60 days before the day on which the period described in Subsection (1)(a) expires.

8946 (c) If a D.B.A. does not renew a D.B.A. registration before the end of the period described in Subsection (1)(a), the division shall send notice to the D.B.A.'s registered agent that the registration is expired.

8949 (d) If the D.B.A. does not renew the D.B.A. registration within 30 days after the day on which the division sends the notice described in Subsection (1)(c):

8951 (i) the D.B.A. registration is permanently expired; and

8952 (ii) a person may immediately claim the D.B.A.'s name.

8953 (2) A D.B.A. may renew a D.B.A. registration by filing a statement of renewal that an authorized representative of the D.B.A. signs.

8955 (3)

8957 (a) A D.B.A. may update information contained in the D.B.A. certificate when renewing a D.B.A. registration.

8959 (b) An update to a D.B.A. registration that a D.B.A. makes during renewal is considered an amendment.

8961 (c) A D.B.A. shall comply with the requirements of Section 42-2-202 when making an update in accordance with this Subsection (3).

8963 (4) To cancel an active D.B.A. registration, the D.B.A. shall file a letter of cancellation with the division that:

8964 (a) states:

8965 (i) the D.B.A. name;

8966 (ii) the effective date of the cancellation;

8967 (iii) the mailing address for service of process after the cancellation; and

8968 (b) an authorized representative of the D.B.A. signs.

8969 Section 296. Section **296** is enacted to read:

8970 **42-2-205. Penalties.**

8971 (1) A person that carries on, conducts, or transacts business as a D.B.A. without complying with the provisions of this chapter may not bring an action in a court of this state as a D.B.A. until the person complies with the provisions of this chapter.

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8973 (2) The director may impose a late filing fee that the director determines in an amount not to exceed
three times the fee described in Section 42-2-103 in accordance with Section 63J-1-504.

8985 Section 297. **Repealer.**

This Bill Repeals:

8986 This bill repeals:

8987 Section **16-6a-105, Filing requirements.**

8988 Section **16-6a-106, Forms.**

8989 Section **16-6a-108, Effective time and date of filed documents.**

8990 Section **16-6a-109, Correcting filed documents.**

8991 Section **16-6a-110, Filing duty of division.**

8992 Section **16-6a-401, Corporate name.**

8993 Section **16-6a-402, Reserved name.**

8994 Section **16-6a-1101, Merger.**

8995 Section **16-6a-1102, Action on plan of merger.**

8996 Section **16-6a-1103, Articles of merger.**

8997 Section **16-6a-1104, Effect of merger.**

8998 Section **16-6a-1105, Merger with foreign nonprofit corporation.**

8999 Section **16-6a-1410, Grounds for administrative dissolution.**

9000 Section **16-6a-1411, Procedure for and effect of administrative dissolution.**

9001 Section **16-6a-1412, Reinstatement following administrative dissolution -- Reinstatement**
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9003 Section **16-6a-1413, Appeal from denial of reinstatement.**

9004 Section **16-6a-1501, Authority to conduct affairs required.**

9005 Section **16-6a-1502, Consequences of conducting affairs without authority.**

9006 Section **16-6a-1503, Application for authority to conduct affairs.**

9007 Section **16-6a-1504, Amended application for authority to conduct affairs.**

9008 Section **16-6a-1505, Effect of filing an application for authority to conduct affairs.**

9009 Section **16-6a-1506, Corporate name and assumed corporate name of foreign nonprofit**
9010 corporation.

9011 Section **16-6a-1507, Registered name of foreign nonprofit corporation.**

9012 Section **16-6a-1510, Resignation of registered agent of foreign nonprofit corporation.**

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9013 Section **16-6a-1511**, Service on foreign nonprofit corporation.

9014 Section **16-6a-1512**, Merger of foreign nonprofit corporations authorized to conduct

9015 affairs in this state.

9016 Section **16-6a-1513**, Withdrawal of foreign nonprofit corporation.

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9018 Section **16-6a-1515**, Grounds for revocation.

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9023 Section **16-10a-120**, Filing requirements.

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9045 **corporation.**

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9064 **date.**

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9107 Section **48-1c-101**, **Title**.
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9146 Section **48-1d-1052**, Plan of domestication.

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9165 Section **48-1d-1208**, Withdrawal on dissolution or conversion to nonfiling entity other than limited liability partnership.

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9226 Section **48-2e-1151, Domestication authorized.**
9227 Section **48-2e-1152, Plan of domestication.**
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9229 Section **48-2e-1154, Amendment or abandonment of plan of domestication.**

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9234 Section **48-3a-110**, Registration of name.

9235 Section **48-3a-111**, Registered agent.

9236 Section **48-3a-203**, Signing of records to be delivered for filing to division.

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9242 Section **48-3a-209**, Duty of division to file -- Review of refusal to file -- Transmission of information by division.

9244 Section **48-3a-210**, Liability for inaccurate information in filed record.

9245 Section **48-3a-211**, Certificate of existence or registration.

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9249 Section **48-3a-710**, Judicial review of denial of reinstatement.

9250 Section **48-3a-901**, Governing law.

9251 Section **48-3a-902**, Registration to do business in this state.

9252 Section **48-3a-903**, Foreign registration statement.

9253 Section **48-3a-904**, Amendment of foreign registration statement.

9254 Section **48-3a-905**, Activities not constituting doing business.

9255 Section **48-3a-906**, Noncomplying name of foreign limited liability company.

9256 Section **48-3a-907**, Withdrawal deemed on conversion to domestic filing entity or domestic limited liability partnership.

9258 Section **48-3a-908**, Withdrawal on dissolution or conversion to nonfiling entity other than limited liability partnership.

9260 Section **48-3a-909**, Transfer of registration.

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9261 Section **48-3a-910**, **Termination of registration**.

9262 Section **48-3a-911**, **Withdrawal of registration of registered foreign limited liability**

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9264 Section **48-3a-912**, **Action by attorney general**.

9265 Section **48-3a-1001**, **Definitions**.

9266 Section **48-3a-1002**, **Relationship of part to other laws**.

9267 Section **48-3a-1003**, **Required notice or approval**.

9268 Section **48-3a-1004**, **Status of filings**.

9269 Section **48-3a-1005**, **Nonexclusivity**.

9270 Section **48-3a-1006**, **References to external facts**.

9271 Section **48-3a-1007**, **Alternative means of approval of transactions**.

9272 Section **48-3a-1008**, **Appraisal rights**.

9273 Section **48-3a-1021**, **Merger authorized**.

9274 Section **48-3a-1022**, **Plan of merger**.

9275 Section **48-3a-1023**, **Approval of merger**.

9276 Section **48-3a-1024**, **Amendment or abandonment of plan of merger**.

9277 Section **48-3a-1025**, **Statement of merger**.

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9283 Section **48-3a-1035**, **Statement of interest exchange**.

9284 Section **48-3a-1036**, **Effect of interest exchange**.

9285 Section **48-3a-1041**, **Conversion authorized**.

9286 Section **48-3a-1042**, **Plan of conversion**.

9287 Section **48-3a-1043**, **Approval of conversion**.

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9289 Section **48-3a-1045**, **Statement of conversion**.

9290 Section **48-3a-1046**, **Effect of conversion**.

9291 Section **48-3a-1051**, **Domestication authorized**.

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9292 Section **48-3a-1052**, Plan of domestication.
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9302 Section 298. Effective date.
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This bill takes effect on October 1, 2026.

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