

# SB0041

~~{Omitted text}~~ shows text that was in SB0041 but was omitted in SB0041S02

inserted text shows text that was not in SB0041 but was inserted into SB0041S02

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## Business Entity Technical Amendments

2026 GENERAL SESSION

STATE OF UTAH

**Chief Sponsor: Evan J. Vickers**

House Sponsor:David Shallenberger

# LONG TITLE

### General Description:

This bill amends provisions relating to business entities.

### Highlighted Provisions:

This bill:

- renumbers Title 48, Chapter 3a, Utah Revised Uniform Limited Liability Company Act, to Title 16, Chapter 20, Utah Revised Uniform Limited Liability Company Act;
  - renumbers Title 48, Chapter 4, Benefit Limited Liability Company Act, to Title 16, Chapter 21, Benefit Limited Liability Company Act;
  - renumbers Title 48, Chapter 5, Decentralized Autonomous Organization Act, to Title 16, Chapter 22, Decentralized Autonomous Organization Act;
  - updates cross references for provisions enacted by this bill and Business Entity Amendments;
- and
- makes technical and conforming changes.

### Money Appropriated in this Bill:

None

## SB0041 compared with SB0041S02

### Other Special Clauses:

This bill provides a special effective date.

### Utah Code Sections Affected:

#### AMENDS:

**3-1-25 , as last amended by Laws of Utah 2000, Chapter 300**

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**3-1-44** , as last amended by Laws of Utah 2008, Chapter 364

**7-1-810** , as last amended by Laws of Utah 2018, Chapter 281

**7-3-10** , as last amended by Laws of Utah 2018, Chapter 281

**7-8-3** , as last amended by Laws of Utah 2018, Chapter 281

**7-23-201** , as last amended by Laws of Utah 2020, Chapter 121

**13-1-2** , as last amended by Laws of Utah 2023, Chapter 26

**13-11-6** , as last amended by Laws of Utah 2025, Chapter 442

**16-6a-102** , as last amended by Laws of Utah 2025, First Special Session, Chapter 9

**16-6a-113 , as enacted by Laws of Utah 2000, Chapter 300**

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**16-6a-118** , as last amended by Laws of Utah 2006, Chapter 21

**16-6a-202** , as last amended by Laws of Utah 2010, Chapter 43

**16-6a-203** , as last amended by Laws of Utah 2024, Chapter 102

~~{16-6a-402 , as enacted by Laws of Utah 2000, Chapter 300}~~

**16-6a-704** , as last amended by Laws of Utah 2009, Chapter 388

**16-6a-1002** , as last amended by Laws of Utah 2015, Chapter 240

**16-6a-1006** , as last amended by Laws of Utah 2015, Chapter 240

**16-6a-1008.7** , as last amended by Laws of Utah 2020, Chapter 354

**16-6a-1404** , as enacted by Laws of Utah 2000, Chapter 300

~~{16-6a-1412 , as last amended by Laws of Utah 2024, Chapter 232}~~

~~{16-6a-1503 , as last amended by Laws of Utah 2024, Chapter 102}~~

~~{16-6a-1504 , as last amended by Laws of Utah 2008, Chapter 364}~~

~~{16-6a-1506 , as last amended by Laws of Utah 2002, Chapter 197}~~

~~{16-6a-1507 , as last amended by Laws of Utah 2002, Chapter 197}~~

~~{16-6a-1518 , as enacted by Laws of Utah 2000, Chapter 300}~~

**16-6a-1601 , as enacted by Laws of Utah 2000, Chapter 300**

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~~{16-6a-1607 , as last amended by Laws of Utah 2008, Chapter 364}~~

## SB0041 compared with SB0041S02

**16-6a-1701 , as last amended by Laws of Utah 2015, Chapter 258**

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**16-7-12 , as last amended by Laws of Utah 2004, Chapter 16**

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**16-7-15** , as last amended by Laws of Utah 2008, Chapter 364

**16-10a-102** , as last amended by Laws of Utah 2008, Chapter 249

**16-10a-128 , as enacted by Laws of Utah 1992, Chapter 277**

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**16-10a-202** , as last amended by Laws of Utah 2010, Chapters 43, 378

**16-10a-203** , as enacted by Laws of Utah 1992, Chapter 277

**16-10a-1002** , as last amended by Laws of Utah 2008, Chapter 364

**16-10a-1007** , as last amended by Laws of Utah 2010, Chapter 378

**16-10a-1008.7** , as last amended by Laws of Utah 2021, Chapter 64

**16-10a-1104** , as last amended by Laws of Utah 1993, Chapter 184

**16-10a-1302** , as last amended by Laws of Utah 2025, Chapter 302

**16-10a-1404** , as last amended by Laws of Utah 2010, Chapter 378

~~**{16-10a-1421 , as last amended by Laws of Utah 2009, Chapter 386}**~~

~~**{16-10a-1422 , as last amended by Laws of Utah 2024, Chapter 232}**~~

~~**{16-10a-1503 , as last amended by Laws of Utah 2010, Chapter 43}**~~

~~**{16-10a-1504 , as last amended by Laws of Utah 2008, Chapter 364}**~~

~~**{16-10a-1506 , as last amended by Laws of Utah 2010, Chapter 378}**~~

~~**{16-10a-1507 , as last amended by Laws of Utah 2010, Chapter 378}**~~

~~**{16-10a-1533 , as last amended by Laws of Utah 2010, Chapter 378}**~~

**16-10a-1533.5 , as enacted by Laws of Utah 2012, Chapter 184**

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**16-10a-1601 , as enacted by Laws of Utah 1992, Chapter 277**

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~~**{16-10a-1607 , as last amended by Laws of Utah 2010, Chapter 378}**~~

**16-10b-402 , as last amended by Laws of Utah 2015, Chapter 20**

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**16-11-14 , as last amended by Laws of Utah 2000, Chapter 261**

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~~**{16-15-103 , as enacted by Laws of Utah 1995, Chapter 310}**~~

**16-15-104** , as last amended by Laws of Utah 2008, Chapter 364

**16-15-108** , as last amended by Laws of Utah 2009, Chapter 183

**16-16-113** , as last amended by Laws of Utah 2014, Chapter 189

**16-16-118** , as last amended by Laws of Utah 2010, Chapter 378

**16-16-302** , as last amended by Laws of Utah 2010, Chapter 378

## SB0041 compared with SB0041S02

64        **16-16-407** , as last amended by Laws of Utah 2010, Chapter 378  
65        **16-16-502** , as enacted by Laws of Utah 2008, Chapter 363  
66        **16-16-1101** , as enacted by Laws of Utah 2008, Chapter 363  
67        **16-16-1102** , as enacted by Laws of Utah 2008, Chapter 363  
68        ~~**{16-16-1212 , as last amended by Laws of Utah 2024, Chapter 232}**~~  
69        **16-16-1402** , as last amended by Laws of Utah 2018, Chapter 149  
70        **16-16-1405** , as last amended by Laws of Utah 2010, Chapter 378  
71        **16-16-1407** , as last amended by Laws of Utah 2010, Chapter 378  
72        **31A-5-201** , as last amended by Laws of Utah 1995, Chapter 344  
73        **31A-5-203** , as last amended by Laws of Utah 2008, Chapter 364  
74        **31A-5-401** , as last amended by Laws of Utah 2008, Chapter 364  
75        **31A-7-201** , as last amended by Laws of Utah 2004, Chapter 90  
76        **31A-8-202** , as last amended by Laws of Utah 2008, Chapter 364  
77        **31A-11-111** , as last amended by Laws of Utah 1992, Chapter 277  
78        **31A-14-204** , as last amended by Laws of Utah 2008, Chapter 364  
79        **31A-14-205 , as last amended by Laws of Utah 2000, Chapter 300**  
80        **31A-14-210 , as last amended by Laws of Utah 2000, Chapter 300**  
81        **31A-37-301** , as last amended by Laws of Utah 2025, Chapter 175  
82        **46-4-503** , as last amended by Laws of Utah 2021, Chapter 344  
83        **53-2a-1203** , as enacted by Laws of Utah 2014, Chapter 376  
84        **53-9-115** , as last amended by Laws of Utah 2025, Chapter 359  
85        **53C-1-201** , as last amended by Laws of Utah 2021, Chapter 344  
86        **57-8-55** , as enacted by Laws of Utah 2013, Chapter 152  
87        **57-8a-601** , as enacted by Laws of Utah 2013, Chapter 152  
88        **58-28-606** , as last amended by Laws of Utah 2020, Chapter 354  
89        **58-55-102** , as last amended by Laws of Utah 2025, Chapters 176, 268  
90        **58-63-102** , as last amended by Laws of Utah 2023, Chapter 223  
91        **59-8-103 , as last amended by Laws of Utah 2002, Chapter 286**  
92        **61-2c-201** , as last amended by Laws of Utah 2019, Chapter 337  
93        **61-2f-401** , as last amended by Laws of Utah 2025, Chapter 263  
94        **61-2g-103** , as last amended by Laws of Utah 2018, Chapter 281

## SB0041 compared with SB0041S02

**70-3a-405 , as last amended by Laws of Utah 2023, Chapter 401**

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**75B-2-1011** , as renumbered and amended by Laws of Utah 2025, Chapter 310

**76-5c-304** , as renumbered and amended by Laws of Utah 2025, Chapter 173

**78A-5a-101** , as last amended by Laws of Utah 2024, Chapter 158

**78B-3-204** , as last amended by Laws of Utah 2010, Chapter 43

**78B-3-205 , as last amended by Laws of Utah 2025, Chapter 426**

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**78B-6-2601** , as enacted by Laws of Utah 2024, Chapter 166

### RENUMBERS AND AMENDS:

**16-20-901** , (Renumbered from 48-3a-1101, as last amended by Laws of Utah 2019, Chapter 349)

**16-20-902** , (Renumbered from 48-3a-1102, as enacted by Laws of Utah 2013, Chapter 412)

**16-20-903** , (Renumbered from 48-3a-1103, as enacted by Laws of Utah 2013, Chapter 412)

**16-20-904** , (Renumbered from 48-3a-1104, as enacted by Laws of Utah 2013, Chapter 412)

**16-20-905** , (Renumbered from 48-3a-1105, as enacted by Laws of Utah 2013, Chapter 412)

**16-20-906** , (Renumbered from 48-3a-1106, as enacted by Laws of Utah 2013, Chapter 412)

**16-20-907** , (Renumbered from 48-3a-1107, as enacted by Laws of Utah 2013, Chapter 412)

**16-20-908** , (Renumbered from 48-3a-1108, as enacted by Laws of Utah 2013, Chapter 412)

**16-20-909** , (Renumbered from 48-3a-1109, as enacted by Laws of Utah 2013, Chapter 412)

**16-20-910** , (Renumbered from 48-3a-1110, as enacted by Laws of Utah 2013, Chapter 412)

**16-20-911** , (Renumbered from 48-3a-1111, as last amended by Laws of Utah 2023, Chapter 401)

**16-20-912** , (Renumbered from 48-3a-1112, as enacted by Laws of Utah 2013, Chapter 412)

**16-20-1001** , (Renumbered from 48-3a-1201, as enacted by Laws of Utah 2013, Chapter 412)

**16-20-1002** , (Renumbered from 48-3a-1202, as last amended by Laws of Utah 2015, Chapter 227)

**16-20-1003** , (Renumbered from 48-3a-1203, as enacted by Laws of Utah 2013, Chapter 412)

**16-20-1004** , (Renumbered from 48-3a-1204, as enacted by Laws of Utah 2013, Chapter 412)

**16-20-1005** , (Renumbered from 48-3a-1205, as enacted by Laws of Utah 2013, Chapter 412)

**16-20-1006** , (Renumbered from 48-3a-1206, as enacted by Laws of Utah 2013, Chapter 412)

**16-20-1007** , (Renumbered from 48-3a-1207, as enacted by Laws of Utah 2013, Chapter 412)

**16-20-1008** , (Renumbered from 48-3a-1208, as enacted by Laws of Utah 2013, Chapter 412)

**16-20-1009** , (Renumbered from 48-3a-1209, as enacted by Laws of Utah 2013, Chapter 412)

**16-20-1101** , (Renumbered from 48-3a-1301, as enacted by Laws of Utah 2013, Chapter 412)

**16-20-1102** , (Renumbered from 48-3a-1302, as enacted by Laws of Utah 2013, Chapter 412)

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148       **16-20-1103** , (Renumbered from 48-3a-1303, as enacted by Laws of Utah 2013, Chapter 412)  
150       **16-20-1104** , (Renumbered from 48-3a-1304, as enacted by Laws of Utah 2013, Chapter 412)  
152       **16-20-1201** , (Renumbered from 48-3a-1401, as enacted by Laws of Utah 2013, Chapter 412)  
154       **16-20-1202** , (Renumbered from 48-3a-1402, as enacted by Laws of Utah 2013, Chapter 412)  
156       **16-20-1203** , (Renumbered from 48-3a-1403, as enacted by Laws of Utah 2013, Chapter 412)  
158       **16-20-1204** , (Renumbered from 48-3a-1404, as enacted by Laws of Utah 2013, Chapter 412)  
160       **16-20-1205** , (Renumbered from 48-3a-1405, as last amended by Laws of Utah 2024, Chapter 165)  
162       **16-21-101** , (Renumbered from 48-4-102, as last amended by Laws of Utah 2019, Chapter 136)  
164       **16-21-102** , (Renumbered from 48-4-103, as enacted by Laws of Utah 2018, Chapter 201)  
166       **16-21-103** , (Renumbered from 48-4-104, as enacted by Laws of Utah 2018, Chapter 201)  
168       **16-21-201** , (Renumbered from 48-4-201, as enacted by Laws of Utah 2018, Chapter 201)  
170       **16-21-301** , (Renumbered from 48-4-301, as last amended by Laws of Utah 2019, Chapter 136)  
172       **16-21-302** , (Renumbered from 48-4-302, as enacted by Laws of Utah 2018, Chapter 201)  
174       **16-21-303** , (Renumbered from 48-4-303, as enacted by Laws of Utah 2018, Chapter 201)  
176       **16-21-401** , (Renumbered from 48-4-401, as enacted by Laws of Utah 2018, Chapter 201)  
178       **16-21-402** , (Renumbered from 48-4-402, as enacted by Laws of Utah 2018, Chapter 201)  
180       **16-22-101** , (Renumbered from 48-5-101, as enacted by Laws of Utah 2023, Chapter 85)  
182       **16-22-102** , (Renumbered from 48-5-102, as enacted by Laws of Utah 2023, Chapter 85)  
184       **16-22-103** , (Renumbered from 48-5-103, as last amended by Laws of Utah 2024, Chapter 161)  
186       **16-22-104** , (Renumbered from 48-5-104, as enacted by Laws of Utah 2023, Chapter 85)  
188       **16-22-105** , (Renumbered from 48-5-106, as enacted by Laws of Utah 2023, Chapter 85)  
196       ~~**{16-22-106 , (Renumbered from 48-5-107, as enacted by Laws of Utah 2023, Chapter 85)}**~~  
190       **16-22-106** , (Renumbered from 48-5-109, as enacted by Laws of Utah 2023, Chapter 85)  
198       ~~**{16-22-107 , (Renumbered from 48-5-108, as enacted by Laws of Utah 2023, Chapter 85)}**~~  
192       **16-22-201** , (Renumbered from 48-5-201, as last amended by Laws of Utah 2024, Chapter 161)  
194       **16-22-202** , (Renumbered from 48-5-202, as enacted by Laws of Utah 2023, Chapter 85)  
196       **16-22-203** , (Renumbered from 48-5-203, as enacted by Laws of Utah 2023, Chapter 85)  
208       ~~**{16-22-204 , (Renumbered from 48-5-204, as enacted by Laws of Utah 2023, Chapter 85)}**~~  
198       **16-22-301** , (Renumbered from 48-5-301, as enacted by Laws of Utah 2023, Chapter 85)  
200       **16-22-302** , (Renumbered from 48-5-302, as enacted by Laws of Utah 2023, Chapter 85)  
202       **16-22-303** , (Renumbered from 48-5-303, as enacted by Laws of Utah 2023, Chapter 85)

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204 **16-22-304** , (Renumbered from 48-5-304, as enacted by Laws of Utah 2023, Chapter 85)  
206 **16-22-305** , (Renumbered from 48-5-305, as enacted by Laws of Utah 2023, Chapter 85)  
208 **16-22-306** , (Renumbered from 48-5-306, as enacted by Laws of Utah 2023, Chapter 85)  
210 **16-22-307** , (Renumbered from 48-5-307, as enacted by Laws of Utah 2023, Chapter 85)  
212 **16-22-401** , (Renumbered from 48-5-401, as enacted by Laws of Utah 2023, Chapter 85)  
214 **16-22-402** , (Renumbered from 48-5-402, as enacted by Laws of Utah 2023, Chapter 85)  
216 **16-22-403** , (Renumbered from 48-5-403, as enacted by Laws of Utah 2023, Chapter 85)  
218 **16-22-404** , (Renumbered from 48-5-404, as enacted by Laws of Utah 2023, Chapter 85)  
220 **16-22-405** , (Renumbered from 48-5-405, as enacted by Laws of Utah 2023, Chapter 85)  
222 **16-22-406** , (Renumbered from 48-5-406, as enacted by Laws of Utah 2023, Chapter 85)

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

226 Section 1. Section **3-1-25** is amended to read:

227 **3-1-25. Filing of annual reports.**

Domestic associations and foreign associations admitted to do business in this state shall file an annual report in accordance with Section [~~16-6a-1607~~] 16-1a-212.

230 Section 2. Section **3-1-44** is amended to read:

231 **3-1-44. Registered office and agent.**

- 240 (1) An association shall continuously maintain a registered office in this state. The registered office  
may be the principal place of business of the association.
- 242 (2)
- (a) An association shall designate a registered agent.
- 243 (b) The registered agent may be a person residing in this state, a domestic corporation, or a foreign  
corporation authorized to transact business in this state.
- 245 (c) The registered agent's address shall be the same as that of the registered office.
- 246 (3)
- (a) An association shall file a statement with the Division of Corporations and Commercial Code  
designating or changing its registered office, its registered agent, or both.
- 249 (b) The statement in Subsection (3)(a) shall set forth:
- 250 (i) the name of the association;
- 251 (ii) the address of the association's registered office;



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- 252 (iii) the name of the association's registered agent and the registered agent's address; and  
254 (iv) a statement that the designation or change was authorized by a resolution of the board of directors.  
256 (4)
- (a) A registered agent of an association may resign by filing with the division a signed written notice of resignation, including a statement that a signed copy of the notice has been given to the association at its principal place of business.
- 259 (b) The appointment of the agent terminates 30 days after notice is filed with the division.
- 261 (5) Service of process, notice, or any demand upon an association shall be made as provided in [~~Title 16, Chapter 17, Model Registered Agents Act~~] Title 16, Chapter 1a, Part 4, Registered Agent of an Entity.
- 256 Section 3. Section **7-1-810** is amended to read:  
257 **7-1-810. Limited liability companies.**
- 266 (1) Notwithstanding any other provision of this title and subject to Subsection (8), if the conditions of this section are met, the following may be organized as or convert to a limited liability company under [~~Title 48, Chapter 3a, Utah Revised Uniform Limited Liability Company Act~~] Title 16, Chapter 20, Utah Revised Uniform Limited Liability Company Act:
- 271 (a) an industrial bank chartered under Chapter 8, Industrial Banks;  
272 (b) an industrial loan company as defined in Section 7-8-21; or  
273 (c) any of the following if the institution is an S Corporation, as defined in Section 1361, Internal Revenue Code, immediately before becoming a limited liability company:
- 275 (i) a bank chartered under Chapter 3, Banks; or  
276 (ii) a depository institution holding company.  
277 (2)
- (a) Before an institution described in Subsection (1) may organize as or convert to a limited liability company, the institution shall obtain approval of the commissioner.
- 279 (b)
- (i) To obtain the approval under this section from the commissioner, the institution shall file a request for approval with the commissioner at least 30 days before the day on which the institution becomes a limited liability company.
- 282 (ii) If the commissioner does not disapprove the request for approval within 30 days from the day on which the commissioner receives the request, the request is considered approved.



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- 285 (iii) When taking action on a request for approval filed under this section, the commissioner may:
- 287 (A) approve the request;
- 288 (B) approve the request subject to terms and conditions the commissioner considers necessary; or
- 290 (C) disapprove the request.
- 291 (3) To approve a request for approval, the commissioner shall find:
- 292 (a) for an institution described in Subsection (1) that is required to be insured by a federal deposit  
insurance agency, that the institution:
- 294 (i) will operate in a safe and sound manner;
- 295 (ii) has the following characteristics:
- 296 (A) the institution is not subject to automatic termination, dissolution, or suspension upon the  
happening of some event other than the passage of time;
- 298 (B) the exclusive authority to manage the institution is vested in a board of managers or directors that:
- 300 (I) is elected or appointed by the owners;
- 301 (II) is not required to have owners of the institution included on the board;
- 302 (III) possesses adequate independence and authority to supervise the operation of the institution; and
- 304 (IV) operates with substantially the same rights, powers, privileges, duties, and responsibilities as the  
board of directors of a corporation;
- 306 (C) neither state law, nor the institution's operating agreement, bylaws, or other organizational  
documents provide that an owner of the institution is liable for the debts, liabilities, and obligations  
of the institution in excess of the amount of the owner's investment; and
- 310 (D)
- (I) neither state law, nor the institution's operating agreement, bylaws, or other organizational  
documents require the consent of any other owner of the institution in order for an owner to transfer  
an ownership interest in the institution, including voting rights; and
- 314 (II) the institution is able to obtain new investment funding if needed to maintain adequate capital; and
- 316 (iii) is able to comply with all legal and regulatory requirements for an insured depository institution  
under applicable federal and state law; and
- 318 (b) for an institution described in Subsection (1) that is not required to be insured by a federal deposit  
insurance agency, that the institution will operate in a safe and sound manner.

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(4) An institution described in Subsection (3)(a) that is organized as a limited liability company shall maintain the characteristics listed in Subsection (3)(a)(ii) during such time as it is authorized to conduct business under this title as a limited liability company.

(5)

(a) All rights, privileges, powers, duties, and obligations of an institution described in Subsection (1) that is organized as a limited liability company and its members and managers shall be governed by ~~[Title 48, Chapter 3a, Utah Revised Uniform Limited Liability Company Act]~~ Title 16, Chapter 20, Utah Revised Uniform Limited Liability Company Act, except:

(i) the following do not apply to an institution that is described in Subsection (3)(a):

(A) Section ~~[48-3a-111]~~ 16-1a-402;

(B) Section ~~[48-3a-113]~~ 16-20-108;

(C) Section ~~[48-3a-201]~~ 16-20-201;

(D) Section ~~[48-3a-401]~~ 16-20-401;

(E) Subsections ~~[48-3a-407(1)]~~ 16-20-407(1) and (3)(c);

(F) Section ~~[48-3a-410]~~ 16-20-410;

(G) Subsection ~~[48-3a-502(1)(e)]~~ 16-20-502(1)(c);

(H) ~~[Title 48, Chapter 3a, Part 6, Dissociation]~~ Title 16, Chapter 20, Part 6, Dissociation;

~~{(I)}~~ and

(I) Section ~~[48-3a-701]~~ 16-20-701; and

(J) ~~{(J)}~~ Title 48, Chapter 3a, Part 9, Foreign Limited Liability Companies ~~{ }~~ Title 16, Chapter 20, Part 9, Foreign Limited Liability Companies ~~}; and~~

(ii) as otherwise provided in this title.

(b) Notwithstanding Subsection (5)(a), for an institution that is described in Subsection (3)(a):

(i) for purposes of transferring a member's interests in the institution, a member's interest in the institution shall be treated like a share of stock in a corporation; and

(ii) if a member's interest in the institution is transferred voluntarily or involuntarily to another person, the person who receives the member's interest shall obtain the member's entire rights associated with the member's interest in the institution including:

(A) all economic rights; and

(B) all voting rights.

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- (c) An institution described in Subsection (3)(a) may not by agreement or otherwise change the application of Subsection (5)(a) to the institution.
- 355 (6) Unless the context requires otherwise, for the purpose of applying this title to an institution described in Subsection (1) that is organized as a limited liability company:
- 357 (a) a citation to Title 16, Chapter 10a, Utah Revised Business Corporation Act, includes the equivalent citation to ~~[Title 48, Chapter 3a, Utah Revised Uniform Limited Liability Company Act]~~ Title 16, Chapter 20, Utah Revised Uniform Limited Liability Company Act;
- 361 (b) "articles of incorporation" includes a limited liability company's certificate of organization as that term is used in Section ~~[48-3a-201]~~ 16-20-201;
- 363 (c) "board of directors" includes one or more persons who have, with respect to an institution described in Subsection (1), authority substantially similar to that of a board of directors of a corporation;
- 366 (d) "bylaws" includes a limited liability company's operating agreement as that term is defined in Section ~~[48-3a-201]~~ 16-20-201;
- 368 (e) "corporation" includes a limited liability company organized under ~~[Title 48, Chapter 3a, Utah Revised Uniform Limited Liability Company Act]~~ Title 16, Chapter 20, Utah Revised Uniform Limited Liability Company Act;
- 371 (f) "director" includes any of the following of a limited liability company:
- 372 (i) a manager;
- 373 (ii) a director; or
- 374 (iii) other person who has with respect to the institution described in Subsection (1), authority substantially similar to that of a director of a corporation;
- 376 (g) "dividend" includes distributions made by a limited liability company under ~~[Title 48, Chapter 3a, Part 4, Relations of Members to Each Other and to Limited Liability Company]~~ Title 16, Chapter 20, Part 4, Relations of Members to Each Other and to a Limited Liability Company;
- 380 (h) "incorporator" includes an organizer of a limited liability company as provided in ~~[Title 48, Chapter 3a, Part 2, Formation -- Certificate of Organization and Other Filings]~~ Title 16, Chapter 20, Part 2, Formation -- Certificate of Organization and Other Filings;
- 384 (i) "officer" includes any of the following of an institution described in Subsection (1):
- 385 (i) an officer; or
- 386 (ii) other person who has with respect to the institution described in Subsection (1) authority substantially similar to that of an officer of a corporation;

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- 388 (j) "security," "shares," or "stock" of a corporation includes:
- 389 (i) a membership interest in a limited liability company as provided in [~~Title 48, Chapter 3a, Part 4,~~  
~~Relations of Members to Each Other and to Limited Liability Company~~] Title 16, Chapter 20, Part  
4, Relations of Members to Each Other and to a Limited Liability Company; and
- 393 (ii) a certificate or other evidence of an ownership interest in a limited liability company; and
- 395 (k) "shareholder" or "stockholder" includes an owner of an interest in an institution described in  
Subsection (1) including a member as provided in [~~Title 48, Chapter 3a, Part 4, Relations of~~  
~~Members to Each Other and to Limited Liability Company~~] Title 16, Chapter 20, Part 4, Relations  
of Members to Each Other and to Limited Liability Company.
- 400 (7) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the commissioner  
shall make rules governing the form of a request for approval filed under this section.
- 403 (8) A depository institution organized under the laws of this state may not be organized as or converted  
to a series of transferable interests in a limited liability company as provided in [~~Title 48, Chapter~~  
~~3a, Part 12, Series Limited Liability Companies~~] Title 16, Chapter 20, Part {~~H~~} 10, Series Limited  
Liability Companies.
- 398 Section 4. Section **7-3-10** is amended to read:
- 399 **7-3-10. Organization -- Powers, rights, and privileges of banking corporation -- Other**  
**business activities.**
- 410 (1) A bank chartered under this chapter shall be:
- 411 (a) a domestic corporation under Title 16, Chapter 10a, Utah Revised Business Corporation Act; or
- 413 (b) subject to Section 7-1-810, including the requirement that the bank be an S Corporation immediately  
before becoming a limited liability company, a limited liability company created under [~~Title 48,~~  
~~Chapter 3a, Utah Revised Uniform Limited Liability Company Act~~] Title 16, Chapter 20, Utah  
Revised Uniform Limited Liability Company Act.
- 418 (2) A bank has all the rights, privileges, and powers necessary or incidental to carrying on the business  
of banking in addition to the powers granted:
- 420 (a) if the bank is a corporation, under Title 16, Chapter 10a, Utah Revised Business Corporation Act; or
- 422 (b) subject to Section 7-1-810, if the bank is a limited liability company, under [~~Title 48, Chapter 3a,~~  
~~Utah Revised Uniform Limited Liability Company Act~~] Title 16, Chapter 20, Utah Revised Uniform  
Limited Liability Company Act.

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(3) The commissioner may, by rule or order, determine that necessary or incidental rights, privileges, and powers include:

(a) the rights, privileges, and powers held by national banks; or

(b) other business activities so long as the commissioner's determination is not inconsistent with the rules, regulations, or other actions of the board of governors of the Federal Reserve System under Section 4(c)(8) of the Bank Holding Company Act of 1956, 12 U.S.C. Sec. 1843(c)(8).

(4) The commissioner shall implement this section in a manner consistent with the purposes set forth in Section 7-1-102.

Section 5. Section **7-8-3** is amended to read:

### **7-8-3. Organization -- Authorization to conduct business -- Deposit insurance.**

(1) Subject to Subsection (4), the commissioner may authorize a person described in Subsection (2) to conduct business as an industrial bank.

(2)

(a) Each person organized to conduct the business of an industrial bank in this state shall be organized under:

(i) Title 16, Chapter 10a, Utah Revised Business Corporation Act; or

(ii) in accordance with Section 7-1-810 or [~~Title 48, Chapter 3a, Utah Revised Uniform Limited Liability Company Act~~] Title 16, Chapter 20, Utah Revised Uniform Limited Liability Company Act.

(b) A person may not conduct business as an industrial bank authorized under this chapter to conduct business as an industrial bank in any form of entity other than those provided in Subsection (2)(a).

(3)

(a) All rights, privileges, powers, duties, and obligations of a corporation authorized to conduct business as an industrial bank and its officers, directors, and stockholders shall be governed by Title 16, Chapter 10a, Utah Revised Business Corporation Act, except as otherwise provided in this title.

(b) All rights, privileges, powers, duties, and obligations of a limited liability company authorized to conduct business as an industrial bank and its members and managers shall be governed by [~~Title 48, Chapter 3a, Utah Revised Uniform Limited Liability Company Act~~] Title 16, Chapter 20, Utah Revised Uniform Limited Liability Company Act, except as otherwise provided in this title.

(4)

(a) An industrial bank is authorized to receive and hold deposits.

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(b) An industrial bank may not conduct business under this chapter as an industrial bank unless the industrial bank obtains insurance from the Federal Deposit Insurance Corporation or a successor federal deposit insurance entity for any deposits received or held by the industrial bank.

Section 6. Section **7-23-201** is amended to read:

### **7-23-201. Registration -- Rulemaking.**

(1)

(a) It is unlawful for a person to engage in the business of cashing checks or the business of deferred deposit lending in Utah or with a Utah resident unless the person:

(i) registers with the department in accordance with this chapter; and

(ii) maintains a valid registration.

(b) It is unlawful for a person to operate a mobile facility in this state to engage in the business of:

(i) cashing checks; or

(ii) deferred deposit lending.

(c) An officer or employee of a person required to register under Subsection (1)(a) is not required to register if the person for whom the individual is an officer or employee is registered.

(2)

(a) A registration and a renewal of a registration expires on December 31 of each year unless on or before that date the person renews the registration.

(b) To register under this section, a person shall:

(i) pay an original registration fee established under Subsection 7-1-401(8);

(ii) submit a registration statement containing the information described in Subsection (2)(d);

(iii) submit evidence satisfactory to the commissioner that the person is authorized to conduct business in this state as a domestic or foreign entity pursuant to filings with the Division of Corporations and Commercial Code under [~~Title 16, Corporations, or Title 48, Unincorporated Business Entity Act~~] Title 16, Business Entities; and

(iv) if the person engages in the business of deferred deposit lending, submit evidence satisfactory to the commissioner that the person is registered with the nationwide database.

(c) To renew a registration under this section, a person shall:

(i) pay the annual fee established under Subsection 7-1-401(5);

(ii) submit a renewal statement containing the information described in Subsection (2)(d);

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- (iii) submit evidence satisfactory to the commissioner that the person is authorized to conduct business in this state as a domestic or foreign entity pursuant to filings with the Division of Corporations and Commercial Code under [~~Title 16, Corporations, or Title 48, Unincorporated Business Entity Act~~] Title 16, Business Entities;
- 497 (iv) if the person engages in the business of deferred deposit lending, submit evidence satisfactory to the commissioner that the person is registered with the nationwide database; and
- 500 (v) if the person engages in the business of deferred deposit lending, submit an operations statement containing the information described in Subsections (2)(e) and (f).
- 503 (d) A registration or renewal statement shall state:
- 504 (i) the name of the person;
- 505 (ii) the name in which the business will be transacted if different from that required in Subsection (2)(d) (i);
- 507 (iii) the address of the person's principal business office, which may be outside this state;
- 509 (iv) the addresses of all offices in this state at which the person conducts the business of:
- 511 (A) cashing checks; or
- 512 (B) deferred deposit lending;
- 513 (v) if the person conducts the business of cashing checks or the business of deferred deposit lending in this state but does not maintain an office in this state, a brief description of the manner in which the business is conducted;
- 516 (vi) the name and address in this state of a designated agent upon whom service of process may be made;
- 518 (vii) whether there is a conviction of a crime:
- 519 (A) involving an act of fraud, dishonesty, breach of trust, or money laundering; and
- 521 (B) with respect to that person, an officer, director, manager, operator, or principal of that person, or an employee of that person engaged in the business described in this chapter; and
- 524 (viii) any other information required by the rules of the department.
- 525 (e) An operations statement required for a deferred deposit lender to renew a registration shall state for the immediately preceding calendar year:
- 527 (i) the average principal amount of the deferred deposit loans extended by the deferred deposit lender;
- 529 (ii) for deferred deposit loans paid in full, the average number of days a deferred deposit loan is outstanding for the duration of time that interest is charged;



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- 531 (iii) the total number of deferred deposit loans rescinded by the deferred deposit lender at the request of  
the customer pursuant to Subsection 7-23-401(3)(b);
- 533 (iv) of the persons to whom the deferred deposit lender extended a deferred deposit loan, the percentage  
that entered into an extended payment plan under Section 7-23-403;
- 536 (v) the total dollar amount of deferred deposit loans rescinded by the deferred deposit lender at the  
request of the customer pursuant to Subsection 7-23-401(3)(b);
- 538 (vi) the average annual percentage rate charged on deferred deposit loans;
- 539 (vii) the range of annual percentage rates charged on deferred deposit loans;
- 540 (viii) the average dollar amount of extended payment plans entered into under Section 7-23-403 by the  
deferred deposit lender;
- 542 (ix) the number of deferred deposit loans carried to the maximum 10 weeks after the day on which the  
deferred deposit loan is extended;
- 544 (x) the total dollar amount of deferred deposit loans carried to the maximum 10 weeks after the day on  
which the deferred deposit loan is extended;
- 546 (xi) the number of deferred deposit loans not paid in full at the end of 10 weeks after the day on which  
the deferred deposit loan is extended;
- 548 (xii) the total dollar amount of deferred deposit loans not paid in full at the end of 10 weeks after the  
day on which the deferred deposit loan is extended;
- 550 (xiii) the percentage of deferred deposit loans against which the deferred deposit lender initiates civil  
action to collect on the deferred deposit loan; and
- 552 (xiv) for the civil actions described in Subsection (2)(e)(xiii), the percentage of those civil actions  
whose deferred deposit loans have the following payment history:
  - 554 (A) no payments;
  - 555 (B) one payment;
  - 556 (C) two payments;
  - 557 (D) three payments;
  - 558 (E) four payments;
  - 559 (F) five payments;
  - 560 (G) six payments;
  - 561 (H) seven payments;
  - 562 (I) eight payments;

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- 563 (J) nine payments; and  
564 (K) 10 or more payments.
- 565 (f) In addition to the information in Subsection (2)(e), an operations statement required for a deferred  
deposit lender to renew a registration shall state for the immediately preceding calendar year:
- 568 (i) the total number of deferred deposit loans extended by the deferred deposit lender;  
569 (ii) the total dollar amount of deferred deposit loans extended by the deferred deposit lender;  
571 (iii) the total number of individuals to whom the deferred deposit lender extended a deferred deposit  
loan; and
- 573 (iv) the percentage of deferred deposit loans not repaid according to the terms of the loan.
- 575 (g) The commissioner may by rule, made in accordance with Title 63G, Chapter 3, Utah Administrative  
Rulemaking Act, provide for the transition of persons registering with the nationwide database.
- 578 (3)
- (a) Information provided by a deferred deposit lender under Subsections (2)(e) and (f) is:
- 580 (i) confidential in accordance with Section 7-1-802; and  
581 (ii) not subject to Title 63G, Chapter 2, Government Records Access and Management Act.
- 583 (b) The department shall:
- 584 (i) only use information a deferred deposit lender provides to the department under Subsection (2)(f) to  
determine compliance with this chapter; and
- 586 (ii) delete or otherwise destroy information a deferred deposit lender provides to the department under  
Subsection (2)(f) within two years after the day on which the deferred deposit lender provides the  
information.
- 589 (4)
- (a) The commissioner may impose an administrative fine determined under Subsection (4)(b) on a  
person if:
- 591 (i) the person is required to be registered under this chapter;  
592 (ii) the person fails to register or renew a registration in accordance with this chapter;  
593 (iii) the department notifies the person that the person is in violation of this chapter for failure to be  
registered; and
- 595 (iv) the person fails to register within 30 days after the day on which the person receives the notice  
described in Subsection (4)(a)(iii).
- 597 (b) Subject to Subsection (4)(c), the administrative fine imposed under this section is:

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- 598 (i) \$500 if the person:
- 599 (A) has no office in this state at which the person conducts the business of:
- 600 (I) cashing checks; or
- 601 (II) deferred deposit lending; or
- 602 (B) has one office in this state at which the person conducts the business of:
- 603 (I) cashing checks; or
- 604 (II) deferred deposit lending; or
- 605 (ii) if the person has two or more offices in this state at which the person conducts the business of  
cashing checks or the business of deferred deposit lending, \$500 for each office at which the person  
conducts the business of:
- 608 (A) cashing checks; or
- 609 (B) deferred deposit lending.
- 610 (c) The commissioner may reduce or waive a fine imposed under this Subsection (4) if the person  
shows good cause.
- 612 (5) If the information in a registration, renewal, or operations statement required under Subsection (2)  
becomes inaccurate after filing, a person is not required to notify the department until:
- 615 (a) that person is required to renew the registration; or
- 616 (b) the department specifically requests earlier notification.
- 617 (6) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the department may  
make rules consistent with this section providing for:
- 619 (a) the form, content, and filing of a registration and renewal statement described in Subsection (2)(d);  
and
- 621 (b) the form and filing of an operations statement described in Subsection (2)(e).
- 622 (7) A deferred deposit loan that is made by a person who is required to be registered under this chapter  
but who is not registered is void, and the person may not collect, receive, or retain any principal or  
other interest or fees in connection with the deferred deposit loan.
- 625 (8)
- (a) At the time a person registers under this section, the person shall disclose a conviction of a crime  
described in Subsection (2)(d)(vii) that is:
- 627 (i) known to the person; or
- 628 (ii) included in:

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- 629 (A) a Utah Bureau of Criminal Identification report; or  
630 (B) a background check acceptable to the department that provides information similar to a Utah  
Bureau of Criminal Identification report.
- 632 (b) To comply with Subsection (8)(a), a person registered under this chapter shall, for each individual  
described in Subsection (2)(d)(vii):
- 634 (i) obtain a Utah Bureau of Criminal Identification report; or  
635 (ii) conduct a background check acceptable to the commissioner that provides information similar to a  
Utah Bureau of Criminal Identification report.
- 637 (c) A person registered under this section shall keep a record of the information described in Subsection  
(8)(b) for the time period required by the department by rule made in accordance with Title 63G,  
Chapter 3, Utah Administrative Rulemaking Act.
- 631 Section 7. Section **13-1-2** is amended to read:
- 632 **13-1-2. Creation and functions of department -- Divisions created -- Fees -- Commerce  
Service Account.**
- 643 (1)
- (a) There is created the Department of Commerce.
- 644 (b) The department shall:
- 645 (i) execute and administer state laws regulating business activities and occupations affecting the public  
interest; and
- 647 (ii) ensure that any training or certification required of a public official or public employee, as those  
terms are defined in Section 63G-22-102, complies with Title 63G, Chapter 22, State Training and  
Certification Requirements, if the training or certification is required:
- 651 (A) under this title;
- 652 (B) by the department; or
- 653 (C) by an agency or division within the department.
- 654 (2) Within the department the following divisions are created:
- 655 (a) the Division of Professional Licensing;
- 656 (b) the Division of Real Estate;
- 657 (c) the Division of Securities;
- 658 (d) the Division of Public Utilities;
- 659 (e) the Division of Consumer Protection; and

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- 660 (f) the Division of Corporations and Commercial Code.  
661 (3)
- (a) Unless otherwise provided by statute, the department may adopt a schedule of fees assessed for services provided by the department by following the procedures and requirements of Section 63J-1-504.
- 664 (b) The department shall submit each fee established in this manner to the Legislature for the Legislature's approval as part of the department's annual appropriations request.
- 667 (c)
- (i) There is created a restricted account within the General Fund known as the "Commerce Service Account."
- 669 (ii) The restricted account created in Subsection (3)(c)(i) consists of fees collected by each division and by the department.
- 671 (iii) The undesignated account balance may not exceed \$1,000,000 at the end of each fiscal year.
- 673 (iv) At the end of each fiscal year, the director of the Division of Finance shall transfer into the General Fund any undesignated funds in the account that exceed the amount necessary to maintain the undesignated account balance at \$1,000,000.
- 676 (d) The department may not charge or collect a fee or expend money from the restricted account without approval by the Legislature.
- 678 (4)
- (a) As used in this Subsection (4):
- 679 (i) "Business entity" means a sole proprietorship, partnership, limited partnership, limited liability company, corporation, or other entity or association used to carry on a business for profit.
- 682 (ii) "Fund" means the Single Sign-On Expendable Special Revenue Fund, created in Subsection (4) (c).
- 684 (iii) "Renewal fee" means a fee that the Division of Corporations and Commercial Code, established in Section [~~13-1a-1~~] 13-1a-102, is authorized or required to charge a business entity in connection with the business entity's periodic renewal of the business entity's status with the Division of Corporations and Commercial Code.
- 689 (iv) "Single sign-on fee" means a fee described in Subsection (4)(b) to pay for the establishment and maintenance of the single sign-on business portal.
- 691 (v) "Single sign-on business portal" means the same as that term is defined in Section 63A-16-802.

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- 693 (b)
- (i) The schedule of fees adopted by the department under Subsection (3) shall include a single sign-on fee, not to exceed \$5, as part of a renewal fee.
- 695 (ii) The department shall deposit all single sign-on fee revenue into the fund.
- 696 (c)
- (i) There is created the Single Sign-On Expendable Special Revenue Fund.
- 697 (ii) The fund consists of:
- 698 (A) money that the department collects from the single sign-on fee; and
- 699 (B) money that the Legislature appropriates to the fund.
- 700 (d) The department shall use the money in the fund to pay for costs:
- 701 (i) to design, create, operate, and maintain the single sign-on business portal; and
- 702 (ii) incurred by:
- 703 (A) the Department of Technology Services, created in Section 63A-16-103; or
- 704 (B) a third-party vendor working under a contract with the Department of Technology Services.
- 706 (e) The department shall report on fund revenues and expenditures to the Public Utilities, Energy, and Technology Interim Committee of the Legislature annually and at any other time requested by the committee.
- 709 (5)
- (a) As used in this Subsection (5):
- 710 (i) "Costs of electronic payments" means:
- 711 (A) any charge, discount fee, or processing fee that a credit card company or processing agent charges to process an electronic payment; or
- 713 (B) the costs associated with the purchase of equipment necessary for processing electronic payments.
- 715 (ii) "Electronic payment" means any form of payment processed through electronic means, including a credit card, debit card, or automatic clearinghouse transaction.
- 717 (iii) "Electronic payment fee" means the fee the department adopts in accordance with this Subsection (5) to defray the costs of electronic payments.
- 719 (b) As part of the schedule of fees described in Subsection (3)(a), the department shall establish an electronic payment fee.
- 721 (c) The department:
- 722

## SB0041 compared with SB0041S02

(i) may collect an electronic payment fee from each person who applies for or renews a license or registration issued by the department or a division of the department; and

(ii) shall deposit into the Commerce Electronic Payment Fee Restricted Account created in Section 13-1-17 each electronic payment fee the department collects.

(d) The electronic payment fee described in this Subsection (5) is not subject to Subsection 63J-1-105(3) or (4).

(e)

(i) If the department imposes an electronic payment fee, the department shall collect the electronic payment fee from each person described in Subsection (5)(c)(i) regardless of whether the person makes an electronic payment.

(ii) The department is not required to separately identify an electronic payment charged to a person described in Subsection (5)(c)(i).

Section 8. Section **13-11-6** is amended to read:

### **13-11-6. Service of process.**

(1) In addition to any other method provided by rule or statute, personal jurisdiction over a supplier may be acquired in a civil action or proceeding instituted in a court with jurisdiction by the service of process as provided in Subsection (3).

(2)

(a) A supplier that engages in any act or practice in this state governed by this chapter, or engages in a consumer transaction subject to this chapter, may designate an agent upon whom service of process may be made in the state.

(b) A supplier shall make a designation of an agent under Subsection (2)(a) in writing and file the designation with the Division of Corporations and Commercial Code.

(c) An agent designated under this Subsection (2) shall be a resident of or a corporation authorized to do business in the state.

(3)

(a) Subject to Subsection (3)(b), process upon a supplier may be served as provided in Section ~~[16-17-301]~~ 16-1a-412 if:

(i) a designation is not made and filed under Subsection (2); or

(ii) process cannot be served in the state upon the designated agent.



## SB0041 compared with SB0041S02

(b) Service upon a supplier is not effective unless the plaintiff promptly mails a copy of the process and pleadings by registered or certified mail to the supplier at the supplier's last reasonably ascertainable address.

(c) The plaintiff shall file an affidavit of compliance with this section:

(i) with the clerk of the court; and

(ii) on or before the return day of the process, if any, or within any future time the court allows.

Section 9. Section **16-6a-102** is amended to read:

### **16-6a-102. Definitions.**

As used in this chapter:

(1)

(a) "Address" means a location where mail can be delivered by the United States Postal Service.

(b) "Address" includes:

(i) a post office box number;

(ii) a rural free delivery route number; and

(iii) a street name and number.

(2) "Affiliate" means a person that directly or indirectly through one or more intermediaries controls, or is controlled by, or is under common control with, the person specified.

(3) "Articles of incorporation" include:

(a) amended articles of incorporation;

(b) restated articles of incorporation;

(c) articles of merger; and

(d) a document of a similar import to the documents described in Subsections (3)(a) through (c).

(4) "Assumed corporate name" means a name assumed for use in this state:

(a) by a:

(i) foreign corporation ~~[as described in Section 16-10a-1506]~~ in accordance with Section 16-1a-507; or

(ii) ~~[a]~~ foreign nonprofit corporation ~~[as described in Section 16-6a-1506]~~ in accordance with Section 16-1a-507; and

(b) because the corporate name of the foreign corporation described in Subsection (4)(a) is not available for use in this state.

(5)

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(a) Except as provided in Subsection (5)(b), "board of directors" means the body authorized to manage the affairs of a domestic or foreign nonprofit corporation.

(b) Notwithstanding Subsection (5)(a), a person may not be considered a member of the board of directors because of a power delegated to that person under Subsection 16-6a-801(2).

(6)

(a) "Bylaws" means the one or more codes of rules, other than the articles of incorporation, adopted under this chapter for the regulation or management of the affairs of a domestic or foreign nonprofit corporation irrespective of the one or more names by which the codes of rules are designated.

(b) "Bylaws" includes:

(i) amended bylaws; and

(ii) restated bylaws.

(7)

(a) "Cash" or "money" means:

(i) legal tender;

(ii) a negotiable instrument; or

(iii) other cash equivalent readily convertible into legal tender.

(b) "Cash" and "money" are used interchangeably in this chapter.

(8) "Charitable organization" means the same as that term is defined in Section 13-22-2.

(9)

(a) "Class" means a group of memberships that has the same right with respect to voting, dissolution, redemption, transfer, or other characteristics.

(b) For purposes of Subsection (9)(a), a right is considered the same if it is determined by a formula applied uniformly to a group of memberships.

(10)

(a) "Conspicuous" means so written that a reasonable person against whom the writing is to operate should have noticed the writing.

(b) "Conspicuous" includes printing or typing in:

(i) italics;

(ii) boldface;

(iii) contrasting color;

(iv) capitals; or

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- 809 (v) underlining.
- 810 (11) "Control" or a "controlling interest" means the direct or indirect possession of the power to direct  
or cause the direction of the management and policies of an entity by:
- 812 (a) the ownership of voting shares;
- 813 (b) contract; or
- 814 (c) a means other than those specified in Subsection (11)(a) or (b).
- 815 (12) Subject to Section 16-6a-207, "cooperative nonprofit corporation" or "cooperative" means a  
nonprofit corporation organized or existing under this chapter.
- 817 (13) "Corporate name" means:
- 818 (a) the name of a domestic corporation as stated in the domestic corporation's articles of incorporation;
- 820 (b) the name of a domestic nonprofit corporation as stated in the domestic nonprofit corporation's  
articles of incorporation;
- 822 (c) the name of a foreign corporation as stated in the foreign corporation's:
- 823 (i) articles of incorporation; or
- 824 (ii) document of similar import to articles of incorporation; or
- 825 (d) the name of a foreign nonprofit corporation as stated in the foreign nonprofit corporation's:
- 827 (i) articles of incorporation; or
- 828 (ii) document of similar import to articles of incorporation.
- 829 (14)
- (a) "Corporate records" means the records described in Section 16-6a-1601.
- 830 (b) "Corporate records" does not include correspondence, communications, notes, or other similar  
information, regardless of format or method of storage, that are not an official decision, published  
document, or record of the corporation.
- 833 (15) "Corporation" or "domestic corporation" means a corporation for profit that:
- 834 (a) is not a foreign corporation; and
- 835 (b) is incorporated under or subject to Chapter 10a, Utah Revised Business Corporation Act.
- 837 (16) "Delegate" means a person elected or appointed to vote in a representative assembly:
- 838 (a) for the election of a director; or
- 839 (b) on matters other than the election of a director.
- 840 (17) "Deliver" includes delivery by mail or another means of transmission authorized by Section  
16-6a-103, except that delivery to the division means actual receipt by the division.

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- 843 (18) "Director" means a member of the board of directors.  
844 (19)
- (a) "Distribution" means the payment of a dividend or any part of the income or profit of a nonprofit corporation to the nonprofit corporation's:
- 846 (i) members;  
847 (ii) directors; or  
848 (iii) officers.
- (b) "Distribution" does not include a fair-value payment for:
- 850 (i) a good sold; or  
851 (ii) a service received.
- 852 (20) "Division" means the Division of Corporations and Commercial Code.
- 853 (21) "Effective date," when referring to a document filed by the division, means the time and date determined in accordance with Section [~~16-6a-108~~] 16-1a-204.
- 855 (22) "Effective date of notice" means the date notice is effective as provided in Section 16-6a-103.
- 857 (23) "Electronic transmission" or "electronically transmitted" means a process of communication not directly involving the physical transfer of paper that is suitable for the receipt, retention, retrieval, and reproduction of information by the recipient, whether by email, texting, facsimile, or otherwise.
- 861 (24)
- (a) "Employee" includes an officer of a nonprofit corporation.
- 862 (b)
- (i) Except as provided in Subsection (24)(b)(ii), "employee" does not include a director of a nonprofit corporation.
- 864 (ii) Notwithstanding Subsection (24)(b)(i), a director may accept one or more duties that make that director an employee of a nonprofit corporation.
- 866 (25) "Entity" includes:
- 867 (a) a domestic or foreign corporation;  
868 (b) a domestic or foreign nonprofit corporation;  
869 (c) a limited liability company;  
870 (d) a profit or nonprofit unincorporated association;  
871 (e) a business trust;  
872 (f) an estate;

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- 873 (g) a partnership;  
874 (h) a trust;  
875 (i) two or more persons having a joint or common economic interest;  
876 (j) a state;  
877 (k) the United States; or  
878 (l) a foreign government.
- 879 (26) "Executive director" means the executive director of the Department of Commerce.
- 880 (27) "Foreign corporation" means a corporation for profit incorporated under a law other than the laws  
of this state.
- 882 (28) "Foreign nonprofit corporation" means an entity:  
883 (a) incorporated under a law other than the laws of this state; and  
884 (b) that would be a nonprofit corporation if formed under the laws of this state.
- 885 (29) "Governmental entity" means:  
886 (a)  
887 (i) the executive branch of the state;  
888 (ii) the judicial branch of the state;  
889 (iii) the legislative branch of the state;  
890 (iv) an independent entity, as defined in Section 63E-1-102;  
891 (v) a political subdivision of the state;  
892 (vi) an institution of higher education, as defined in Section 53H-1-101;  
893 (vii) an entity within the state system of public education; or  
894 (viii) the National Guard; or  
(b) any of the following that is established or controlled by a governmental entity listed in Subsection  
(29)(a) to carry out the public's business:  
896 (i) an office;  
897 (ii) a division;  
898 (iii) an agency;  
899 (iv) a board;  
900 (v) a bureau;  
901 (vi) a committee;  
902 (vii) a department;

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- 903 (viii) an advisory board;
- 904 (ix) an administrative unit; or
- 905 (x) a commission.
- 906 (30) "Governmental subdivision" means:
- 907 (a) a county;
- 908 (b) a city;
- 909 (c) a town; or
- 910 (d) another type of governmental subdivision authorized by the laws of this state.
- 911 (31) "Individual" means:
- 912 (a) a natural person;
- 913 (b) the estate of an incompetent individual; or
- 914 (c) the estate of a deceased individual.
- 915 (32) "Internal Revenue Code" means the federal "Internal Revenue Code of 1986," as amended from  
time to time, or to corresponding provisions of subsequent internal revenue laws of the United States  
of America.
- 918 (33)
- (a) "Mail," "mailed," or "mailing" means deposit, deposited, or depositing in the United States mail,  
properly addressed, first-class postage prepaid.
- 920 (b) "Mail," "mailed," or "mailing" includes registered or certified mail for which the proper fee is paid.
- 922 (34)
- (a) "Member" means one or more persons identified or otherwise appointed as a member of a domestic  
or foreign nonprofit corporation as provided:
- 924 (i) in the articles of incorporation;
- 925 (ii) in the bylaws;
- 926 (iii) by a resolution of the board of directors; or
- 927 (iv) by a resolution of the members of the nonprofit corporation.
- 928 (b) "Member" includes:
- 929 (i) "voting member"; and
- 930 (ii) a shareholder in a water company.
- 931 (35) "Membership" refers to the rights and obligations of a member or members.
- 932 (36) "Mutual benefit corporation" means a nonprofit corporation:

## SB0041 compared with SB0041S02

- 933 (a) that issues shares of stock to its members evidencing a right to receive distribution of water or  
otherwise representing property rights; or
- 935 (b) all of whose assets are contributed or acquired by or for the members of the nonprofit corporation or  
the members' predecessors in interest to serve the mutual purposes of the members.
- 938 (37) "Nonprofit corporation" or "domestic nonprofit corporation" means an entity that:
- 939 (a) is not a foreign nonprofit corporation; and
- 940 (b) is incorporated under or subject to this chapter.
- 941 (38) "Notice" means the same as that term is defined in Section 16-6a-103.
- 942 (39) "Party related to a director" means:
- 943 (a) the spouse of the director;
- 944 (b) a child of the director;
- 945 (c) a grandchild of the director;
- 946 (d) a sibling of the director;
- 947 (e) a parent of the director;
- 948 (f) the spouse of an individual described in Subsections (39)(b) through (e);
- 949 (g) an individual having the same home as the director;
- 950 (h) a trust or estate of which the director or another individual specified in this Subsection (39) is a  
substantial beneficiary; or
- 952 (i) any of the following of which the director is a fiduciary:
- 953 (i) a trust;
- 954 (ii) an estate;
- 955 (iii) an incompetent;
- 956 (iv) a conservatee; or
- 957 (v) a minor.
- 958 (40) "Person" means an:
- 959 (a) individual; or
- 960 (b) entity.
- 961 (41) "Principal office" means:
- 962 (a) the office, in or out of this state, designated by a domestic or foreign nonprofit corporation as its  
principal office in the most recent document on file with the division providing that information,  
including:



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- 965 (i) an annual report;
- 966 (ii) an application for a certificate of authority; or
- 967 (iii) a notice of change of principal office; or
- 968 (b) if no principal office can be determined, a domestic or foreign nonprofit corporation's registered office.
- 970 (42) "Proceeding" includes:
- 971 (a) a civil suit;
- 972 (b) arbitration;
- 973 (c) mediation;
- 974 (d) a criminal action;
- 975 (e) an administrative action; or
- 976 (f) an investigatory action.
- 977 (43) "Receive," when used in reference to receipt of a writing or other document by a domestic or foreign nonprofit corporation, means the writing or other document is actually received:
- 980 (a) by the domestic or foreign nonprofit corporation at:
- 981 (i) its registered office in this state; or
- 982 (ii) its principal office;
- 983 (b) by the secretary of the domestic or foreign nonprofit corporation, wherever the secretary is found; or
- 985 (c) by another person authorized by the bylaws or the board of directors to receive the writing or other document, wherever that person is found.
- 987 (44)
- (a) "Record date" means the date established under Part 6, Members, or Part 7, Member Meetings and Voting, on which a nonprofit corporation determines the identity of the nonprofit corporation's members.
- 990 (b) The determination described in Subsection (44)(a) shall be made as of the close of business on the record date unless another time for doing so is specified when the record date is fixed.
- 993 (45) "Registered agent" means the registered agent of:
- 994 (a) a domestic nonprofit corporation; or
- 995 (b) a foreign nonprofit corporation.
- 996

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(46) "Registered office" means the office within this state designated by a domestic or foreign nonprofit corporation as its registered office in the most recent document on file with the division providing that information, including:

(a) articles of incorporation;

(b) an application for a certificate of authority; or

(c) a notice of change of registered office.

(47) "Secretary" means the corporate officer to whom the bylaws or the board of directors delegates responsibility under Subsection 16-6a-818(3) for:

(a) the preparation and maintenance of:

(i) minutes of the meetings of:

(A) the board of directors; or

(B) the members; and

(ii) the other records and information required to be kept by the nonprofit corporation as described in Section 16-6a-1601; and

(b) authenticating records of the nonprofit corporation.

(48) "Share" means a unit of interest in a nonprofit corporation.

(49) "Shareholder" means a person in whose name a share is registered in the records of a nonprofit corporation.

(50) "State," when referring to a part of the United States, includes:

(a) a state;

(b) a commonwealth;

(c) the District of Columbia;

(d) an agency or governmental and political subdivision of a state, commonwealth, or District of Columbia;

(e) territory or insular possession of the United States; or

(f) an agency or governmental and political subdivision of a territory or insular possession of the United States.

(51) "Street address" means:

(a)

(i) street name and number;

(ii) city or town; and

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- 1026 (iii) United States post office zip code designation; or
- 1027 (b) if, by reason of rural location or otherwise, a street name, number, city, or town does not exist, an appropriate description other than that described in Subsection (51)(a) fixing as nearly as possible the actual physical location, but only if the information includes:
- 1031 (i) the rural free delivery route;
- 1032 (ii) the county; and
- 1033 (iii) the United States post office zip code designation.
- 1034 (52) "Tribal nonprofit corporation" means a nonprofit corporation:
- 1035 (a) incorporated under the law of a tribe; and
- 1036 (b) that is at least 51% owned or controlled by the tribe.
- 1037 (53) "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 the tribe's status as Indians.
- 1041 (54) "United States" includes a district, authority, office, bureau, commission, department, and another agency of the United States of America.
- 1043 (55) "Vote" includes authorization by:
- 1044 (a) written ballot; and
- 1045 (b) written consent.
- 1046 (56)
- (a) "Voting group" means all the members of one or more classes of members or directors that, under this chapter, the articles of incorporation, or the bylaws, are entitled to vote and be counted together collectively on a matter.
- 1049 (b) All members or directors entitled by this chapter, the articles of incorporation, or the bylaws to vote generally on a matter are for that purpose a single voting group.
- 1051 (57)
- (a) "Voting member" means a person entitled to vote for all matters required or permitted under this chapter to be submitted to a vote of the members, except as otherwise provided in the articles of incorporation or bylaws.
- 1054 (b) A person is not a voting member solely because of:
- 1055 (i) a right the person has as a delegate;

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- 1056 (ii) a right the person has to designate a director; or  
1057 (iii) a right the person has as a director.  
1058 (c) Except as the bylaws may otherwise provide, "voting member" includes a "shareholder" if the  
nonprofit corporation has shareholders.  
1060 (58) "Water company" means:  
1061 (a) the same as that term is defined in Subsection 16-4-102(5); or  
1062 (b) a mutual benefit corporation, when the stock in the mutual benefit corporation represents a right to  
receive a distribution of water for beneficial use.

1057 Section 10. Section 16-6a-113 is amended to read:

1058 **16-6a-113. Certificates issued by the division.**

- 1059 (1) Any person may apply to the division for:  
1060 (a) a certificate of existence for a domestic nonprofit corporation;  
1061 (b) a certificate of authorization for a foreign nonprofit corporation; or  
1062 (c) a certificate that sets forth any facts of record in the division.  
1063 (2) A certificate of existence or certificate of authorization sets forth:  
1064 (a)  
1065 (i) the domestic nonprofit corporation's corporate name; or  
1066 (ii) the foreign nonprofit corporation's corporate name registered in this state;  
1067 (b) that:  
1068 (i)  
1069 (A) the domestic nonprofit corporation is incorporated under the law of this state; and  
1070 (B) the date of its incorporation; or  
1071 (ii) the foreign nonprofit corporation is authorized to conduct affairs in this state;  
1072 (c) that all fees, taxes, and penalties owed to this state have been paid, if:  
1073 (i) payment is reflected in the records of the division; and  
1074 (ii) nonpayment affects the existence or authorization of the domestic or foreign nonprofit corporation;  
1075 (d) that the domestic or foreign nonprofit corporation's most recent annual report required by Section  
[16-6a-1607] 16-1a-212 has been filed by the division;  
1077 (e) that articles of dissolution have not been filed by the division; and  
1078 (f) other facts of record in the division that may be requested by the applicant.  
1079

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- (3) Subject to any qualification stated in the certificate, a certificate issued by the division may be relied upon as conclusive evidence of the facts set forth in the certificate.

1081 Section 11. Section **16-6a-118** is amended to read:

1082 **16-6a-118. Electronic documents.**

- 1066 (1) Notwithstanding the other requirements of this chapter except subject to Section  
[16-6a-106] 16-1a-203, the division may by rule permit a writing required or permitted to be filed  
with the division under this chapter:
- 1069 (a) to be delivered, mailed, or filed:
- 1070 (i) in an electronic medium; or
- 1071 (ii) by electronic transmission; or
- 1072 (b) to be signed by photographic, electronic, or other means prescribed by rule, except that a writing  
signed in an electronic medium shall be signed by electronic signature in accordance with Title 46,  
Chapter 4, Uniform Electronic Transactions Act.
- 1075 (2) The division may by rule provide for any writing required or permitted to be prepared, delivered, or  
mailed by the division under this chapter to be prepared, delivered, or mailed:
- 1078 (a) in an electronic medium; or
- 1079 (b) by electronic transmission.
- 1097 Section 12. Section **16-6a-202** is amended to read:
- 1098 **16-6a-202. Articles of incorporation.**
- 1082 (1) The articles of incorporation shall set forth:
- 1083 (a) one or more purposes for which the nonprofit corporation is organized;
- 1084 (b) a corporate name for the nonprofit corporation that satisfies the requirements of Section  
[16-6a-401] 16-1a-302;
- 1086 (c) the information required by [Subsection 16-17-203(1)] Section 16-1a-404;
- 1087 (d) the name and address of each incorporator;
- 1088 (e) whether or not the nonprofit corporation will have voting members;
- 1089 (f) if the nonprofit corporation is to issue shares of stock evidencing membership in the nonprofit  
corporation or interests in water or other property rights:
- 1091 (i) the aggregate number of shares that the nonprofit corporation has authority to issue; and
- 1093 (ii) if the shares are to be divided into classes:
- 1094 (A) the number of shares of each class;

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- 1095 (B) the designation of each class; and
- 1096 (C) a statement of the preferences, limitations, and relative rights of the shares of each class; and
- 1098 (g) provisions not inconsistent with law regarding the distribution of assets on dissolution.
- 1100 (2) The articles of incorporation may but need not set forth:
- 1101 (a) the names and addresses of the individuals who are to serve as the initial directors;
- 1102 (b) provisions not inconsistent with law regarding:
- 1103 (i) managing the business and regulating the affairs of the nonprofit corporation;
- 1104 (ii) defining, limiting, and regulating the powers of:
- 1105 (A) the nonprofit corporation;
- 1106 (B) the board of directors of the nonprofit corporation; and
- 1107 (C) the members of the nonprofit corporation or any class of members;
- 1108 (iii) whether cumulative voting will be permitted; and
- 1109 (iv) the characteristics, qualifications, rights, limitations, and obligations attaching to each or any class of members; and
- 1111 (c) any provision that under this chapter is permitted to be in the articles of incorporation or required or permitted to be set forth in the bylaws, including elective provisions that in accordance with this chapter shall be included in the articles of incorporation to be effective.
- 1115 (3)
- 1118 (a) It is sufficient under Subsection (1)(a) to state, either alone or with other purposes, that the purpose of the nonprofit corporation is to engage in any lawful act for which a nonprofit corporation may be organized under this chapter.
- 1121 (b) If the articles of incorporation include the statement described in Subsection (3)(a), all lawful acts and activities shall be within the purposes of the nonprofit corporation, except for express limitations, if any.
- 1123 (4) The articles of incorporation need not set forth any corporate power enumerated in this chapter.
- 1124 (5) The articles of incorporation shall:
- 1125 (a) be signed by each incorporator; and
- 1126 (b) meet the filing requirements of Section [~~16-6a-105~~] 16-1a-202.
- (6)
- (a) If this chapter conditions any matter upon the presence of a provision in the bylaws, the condition is satisfied if the provision is present either in:

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- 1128 (i) the articles of incorporation; or  
1129 (ii) the bylaws.
- 1130 (b) If this chapter conditions any matter upon the absence of a provision in the bylaws, the condition is  
satisfied only if the provision is absent from both:
- 1132 (i) the articles of incorporation; and  
1133 (ii) the bylaws.
- 1151 Section 13. Section **16-6a-203** is amended to read:  
1152 **16-6a-203. Incorporation -- Required filings.**
- 1136 (1) A nonprofit corporation is incorporated, and its corporate existence begins:  
1137 (a) when the articles of incorporation are filed by the division; or  
1138 (b) if a delayed effective date is specified as described in [~~Subsection 16-6a-108(2)~~] Section 16-1a-204,  
on the delayed effective date, unless a certificate of withdrawal is filed prior to the delayed effective  
date.
- 1141 (2) Notwithstanding [~~Subsection 16-6a-110(4)~~] Section 16-1a-207, the filing of the articles of  
incorporation by the division is conclusive proof that all conditions precedent to incorporation have  
been satisfied, except in a proceeding by the state to:
- 1144 (a) cancel or revoke the incorporation; or  
1145 (b) involuntarily dissolve the nonprofit corporation.
- 1146 (3) Beginning January 1, 2025, a nonprofit corporation that is a charitable organization, unless  
exempted by Section 13-22-15, shall file with the division the information described by Section  
13-22-15 in the form described in Section 13-22-15.
- 1149 ~~{Section 12. Section 16-6a-402 is amended to read: }~~  
1150 **16-6a-402. Reserved name.**  
1151 (1)  
(a) Any person may apply for the reservation of the exclusive use of a corporate name by delivering an  
application for reservation of name to the division for filing, setting forth:  
1154 (i) the name and address of the applicant; and  
1155 (ii) the name proposed to be reserved.  
1156 (b)

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(i) If the division finds that the name applied for would be available for corporate use, the division shall reserve the name for the applicant's exclusive use for 120 days from the day the division receives the application under Subsection (1)(a).

(ii) A reservation may be renewed.

(2) The owner of a reserved corporate name may transfer the reservation to any other person by delivery to the division for filing of a notice of the transfer that has been executed by the owner and states:

(a) the reserved name;

(b) the name of the owner; and

(c) the name and address of the transferee.

(3)

(a) The corporate name set forth in a document described in Subsection (3)(b) is reserved until the document:

(i) becomes effective pursuant to [~~Subsection 16-6a-108(2)~~] Section 16a-1a-204; or

(ii) is withdrawn under [~~Subsection 16-6a-108(3)~~] Section 16-1a-205.

(b) Subsection (3)(a) applies to a document that:

(i) is one of the following:

(A) articles of incorporation;

(B) articles of amendment to articles of incorporation;

(C) restated articles of incorporation; or

(D) articles of merger;

(ii) specifies a delayed effective date [~~pursuant to Subsection 16-6a-108(2)~~] in accordance with Section 16-1a-204;

(iii) sets forth a new corporate name; and

(iv) is filed by the division.

Section 14. Section **16-6a-704** is amended to read:

### **16-6a-704. Notice of meeting.**

(1) A nonprofit corporation shall give to each member entitled to vote at the meeting notice consistent with its bylaws of meetings of members in a fair and reasonable manner.

(2) Any notice that conforms to the requirements of Subsection (3) is fair and reasonable, but other means of giving notice may also be fair and reasonable when all the circumstances are considered.

(3) Notice is fair and reasonable if:



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- 1188 (a) the nonprofit corporation notifies its members of the place, date, and time of each annual, regular,  
and special meeting of members:
- 1190 (i) no fewer than 10 days before the meeting;
- 1191 (ii) if notice is mailed by other than first-class or registered mail, no fewer than 30 days, nor more than  
60 days before the meeting date; and
- 1193 (iii) if notice is given:
- 1194 (A) by newspaper as provided in Subsection 16-6a-103(2)(b)(i)(A), by publication three separate times  
with:
- 1196 (I) the first of the publications no more than 60 days before the meeting date; and
- 1198 (II) the last of the publications no fewer than 10 days before the meeting date; and
- 1200 (B)
- (I) by publication in accordance with Section 45-1-101; and
- 1201 (II) as provided in Subsection 16-6a-103(2)(b)(i)(B), for 60 days before the meeting date;
- 1203 (b) the notice of an annual or regular meeting includes a description of any matter or matters that:
- 1205 (i) must be approved by the members; or
- 1206 (ii) for which the members' approval is sought under Sections 16-1a-703, 16-6a-825, 16-6a-910,  
16-6a-1003, 16-6a-1010, [~~16-6a-1102~~], 16-6a-1202, and 16-6a-1402; and
- 1209 (c) unless otherwise provided by this chapter or the bylaws, the notice of a special meeting includes a  
description of the purpose or purposes for which the meeting is called.
- 1212 (4)
- (a) Unless otherwise provided by the bylaws, if an annual, regular, or special meeting of members is  
adjourned to a different date, time, or place, notice need not be given of the new date, time, or place,  
if the new date, time, or place is announced at the meeting before adjournment.
- 1216 (b) Notwithstanding Subsection (4)(a), if a new record date for the adjourned meeting is or shall be  
fixed under Section 16-6a-706, notice of the adjourned meeting shall be given under this section to  
the members of record as of the new record date.
- 1219 (5) When giving notice of an annual, regular, or special meeting of members, a nonprofit corporation  
shall give notice of a matter a member intends to raise at the meeting if:
- 1221 (a) requested in writing to do so by a person entitled to call a special meeting; and
- 1222 (b) the request is received by the secretary or president of the nonprofit corporation at least 10 days  
before the nonprofit corporation gives notice of the meeting.

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- 1210 Section 15. Section **16-6a-1002** is amended to read:
- 1211 **16-6a-1002. Amendment of articles of incorporation by board of directors or incorporators.**
- 1227 (1) Unless otherwise provided in the articles of incorporation, the board of directors may adopt, without  
member approval, one or more amendments to the articles of incorporation to:
- 1230 (a) delete the names and addresses of the initial directors;
- 1231 (b) change the information required by [~~Subsection 16-17-203(1)~~] Section 16-1a-404, but an  
amendment is not required to change the information;
- 1233 (c) change the corporate name by:
- 1234 (i) substituting the word "corporation," "incorporated," "company," "limited," or an abbreviation of any  
such word for a similar word or abbreviation in the name; or
- 1236 (ii) adding, deleting, or changing a geographical attribution; or
- 1237 (d) make any other change expressly permitted by this chapter to be made without member action.
- 1239 (2) The board of directors may adopt, without member action, one or more amendments to the articles  
of incorporation to change the corporate name, if necessary, in connection with the reinstatement of  
a nonprofit corporation pursuant to Section ~~[16-6a-1412]~~ 16-1a-604.
- 1242 (3)
- (a) Subject to any approval required pursuant to Section 16-6a-1013, if a nonprofit corporation has no  
members, no members entitled to vote on amendments, or no members yet admitted to membership,  
one or more amendments to the nonprofit corporation's articles of incorporation may be adopted by:
- 1246 (i) its incorporators until directors have been chosen; or
- 1247 (ii) its directors after the directors have been chosen.
- 1248 (b) A nonprofit corporation described in Subsection (3)(a) shall provide notice of any meeting at which  
an amendment is to be voted upon.
- 1250 (c) The notice required by Subsection (3)(b) shall:
- 1251 (i) be in accordance with Section 16-6a-814;
- 1252 (ii) state that the purpose, or one of the purposes, of the meeting is to consider a proposed amendment to  
the articles of incorporation; and
- 1254 (iii)
- (A) contain or be accompanied by a copy or summary of the amendment; or
- 1255 (B) state the general nature of the amendment.
- 1256 (d) An amendment described in Subsection (3)(a) shall be approved:

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- 1257 (i) by a majority of the incorporators, until directors have been chosen; or  
1258 (ii) after directors are chosen by a majority of the directors in office at the time the amendment is  
adopted or such greater number as is set forth in the bylaws.
- 1247 Section 16. Section **16-6a-1006** is amended to read:  
1248 **16-6a-1006. Restated articles of incorporation.**
- 1262 (1)  
(a) The board of directors may restate the articles of incorporation at any time with or without member  
action.
- 1264 (b) The incorporators of a nonprofit corporation may restate the articles of incorporation at any time if  
the nonprofit corporation:  
1266 (i) has no members; and  
1267 (ii) no directors have been chosen.
- 1268 (2)  
(a) The restatement may include one or more amendments to the articles of incorporation.
- 1270 (b) Notwithstanding Subsection (1), if the restatement includes an amendment requiring member  
approval, it shall be adopted as provided in Section 16-6a-1003.
- 1272 (3)  
(a) If the board of directors submits a restatement for member action, the nonprofit corporation  
shall give notice, in accordance with Section 16-6a-704, to each member entitled to vote on the  
restatement of the members' meeting at which the restatement will be voted upon.
- 1276 (b) The notice required by Subsection (3)(a) shall:  
1277 (i) state that the purpose, or one of the purposes, of the meeting is to consider the restatement; and  
1279 (ii) contain or be accompanied by a copy of the restatement that identifies any amendment or other  
change it would make in the articles of incorporation.
- 1281 (4) A nonprofit corporation restating its articles of incorporation shall deliver to the division for filing  
articles of restatement setting forth:  
1283 (a) the name of the nonprofit corporation;  
1284 (b) the text of the restated articles of incorporation;  
1285 (c) if the restatement contains an amendment to the articles of incorporation that was adopted by the  
members, the information required by Subsection 16-6a-1005(5);  
1287

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(d) if the restatement was adopted by the board of directors or incorporators without member action, a statement to that effect and that member action was not required; and

1290 (e) the restatement does not need to contain the name or address of the incorporator or incorporators that were included in the articles of incorporation when originally filed.

1292 (5) Upon filing by the division or at any later effective date determined pursuant to Section [16-6a-108] 16-1a-204, restated articles of incorporation supersede the original articles of incorporation and all prior amendments to the original articles of incorporation.

1282 Section 17. Section **16-6a-1008.7** is amended to read:

1283 **16-6a-1008.7. Conversion to or from a domestic limited liability company.**

1297 (1)

(a) A domestic nonprofit corporation may convert to a domestic limited liability company subject to [Title 48, Chapter 3a, Utah Revised Uniform Limited Liability Company Act] Chapter 20, Utah Revised Uniform Limited Liability Company Act, pursuant to Section [48-3a-1405] {16-20-1305} 16-20-1205, by complying with:

1301 (i) this Subsection (1); and

1302 (ii) Section [48-3a-1041] 16-1a-902.

1303 (b) If a domestic nonprofit corporation converts to a domestic limited liability company in accordance with this Subsection (1), the articles of conversion or statement of conversion, as applicable, shall:

1306 (i) comply with Sections [48-3a-1042] 16-1a-903 and [48-3a-1045] 16-1a-906; and

1307 (ii) if the corporation has any members, provide for:

1308 (A) the cancellation of any membership; or

1309 (B) the conversion of any membership in the domestic nonprofit corporation to a membership interest in the domestic limited liability company.

1311 (c) Before articles of conversion or statement of conversion may be filed with the division, the conversion shall be approved:

1313 (i) in the manner provided for the articles of incorporation or bylaws of the domestic nonprofit corporation; or

1315 (ii) if the articles of incorporation or bylaws of the domestic nonprofit corporation do not provide the method for approval:

1317 (A) if the domestic nonprofit corporation has voting members, by all of the members of the domestic nonprofit corporation regardless of limitations or restrictions on the voting rights of the members; or

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- 1320 (B) if the nonprofit domestic corporation does not have voting members, by a majority of:  
1322 (I) the directors in office at the time the conversion is approved by the board of directors; or  
1324 (II) if directors have not been appointed or elected, the incorporators.
- 1325 (2) A domestic limited liability company may convert to a domestic nonprofit corporation subject to  
this chapter by:  
1327 (a) filing articles of incorporation in accordance with this chapter; and  
1328 (b) complying with Section ~~[48-3a-1041]~~ 16-1a-902, pursuant to Section ~~[48-3a-1405]~~ {16-20-1305}  
16-20-1205.
- 1330 (3) Any conversion under this section may not result in a violation, directly or indirectly, of:  
1331 (a) Section 16-6a-1301; or  
1332 (b) any other provision of this chapter.
- 1320 Section 18. Section **16-6a-1404** is amended to read:  
1321 **16-6a-1404. Revocation of dissolution.**
- 1335 (1) A nonprofit corporation may revoke its dissolution within 120 days after the effective date of the  
dissolution.
- 1337 (2)  
(a) Except as provided in Subsection (2)(b), revocation of dissolution shall be authorized in the same  
manner as the dissolution was authorized.
- 1339 (b) The board of directors may revoke the dissolution without member action if:  
1340 (i) the dissolution is authorized pursuant to Section 16-6a-1402; and  
1341 (ii) the authorization permitted revocation by action of the board of directors alone.
- 1342 (3)  
(a) After the revocation of dissolution is authorized, the nonprofit corporation may revoke the  
dissolution by delivering to the division for filing, within 120 days after the effective date of  
dissolution:  
1345 (i) articles of revocation of dissolution; and  
1346 (ii) a copy of its articles of dissolution.
- 1347 (b) The articles of revocation of dissolution shall set forth:  
1348 (i) the name of the nonprofit corporation;  
1349 (ii) the effective date of the dissolution that was revoked;  
1350 (iii) the date that the revocation of dissolution was authorized;

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- 1351 (iv) if, pursuant to Subsection (2), the directors or the incorporators revoked a dissolution authorized  
under Section 16-6a-1401, a statement that the revocation of dissolution was authorized by the  
directors or the incorporators, as the case may be;
- 1355 (v) if, pursuant to Subsection (2), the directors revoked a dissolution approved by the members, a  
statement that the revocation was permitted by action of the directors pursuant to that approval; and
- 1358 (vi) if the revocation of dissolution was approved pursuant to Subsection (2) by the members, a  
statement that the number of votes cast for revocation of dissolution by each voting group entitled to  
vote separately on the proposal to dissolve was sufficient for approval by that voting group.
- 1362 (4)
- (a) Revocation of dissolution is effective as provided in [~~Subsection 16-6a-108(1)~~] Section 16-1a-205.
- 1364 (b) A delayed effective date may not be specified pursuant to [~~Subsection 16-6a-108(2)~~] Section  
16-1a-204.
- 1366 (5) When the revocation of dissolution is effective:
- 1367 (a) the revocation relates back to and takes effect as of the effective date of the dissolution; and
- 1369 (b) the nonprofit corporation may carry on its activities and use its corporate name as if dissolution had  
never occurred.
- 1371 ~~{Section 18. Section 16-6a-1412 is amended to read: }~~
- 1372 **16-6a-1412. Reinstatement following administrative dissolution -- Reinstatement after**
- 1374 **voluntary dissolution.**
- (1) A nonprofit corporation administratively dissolved under Section 16-6a-1411 may apply to the  
division for reinstatement under the nonprofit corporation's same name at any time after the  
effective date of dissolution if the nonprofit corporation's name is available and the nonprofit  
corporation delivers to the division for filing an application for reinstatement that:
- 1379 (a) states:
- 1380 (i) the effective date of the nonprofit corporation's administrative dissolution and the nonprofit  
corporation's corporate name on the effective date of dissolution;
- 1382 (ii) that the ground or grounds for dissolution:
- 1383 (A) did not exist; or
- 1384 (B) have been eliminated;
- 1385 (iii) the corporate name under which the nonprofit corporation is being reinstated;
- 1386 (iv) the corporate name that satisfies the requirements of Section [~~16-6a-401~~] 16-1a-302;

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- 1388 (v) that the nonprofit corporation has paid all fees or penalties imposed under this chapter or other  
applicable state law;
- 1390 (vi) that the nonprofit corporation:
- 1391 (A) has paid any taxes, fees, or penalties owed to the State Tax Commission; or
- 1392 (B) is current on a payment plan with the State Tax Commission for any taxes, fees, or penalties owed  
to the State Tax Commission;
- 1394 (vii) the address of the nonprofit corporation's registered office;
- 1395 (viii) the name of the nonprofit corporation's registered agent at the office stated in Subsection (1)(a)  
(vii);
- 1397 (ix) the federal employer identification number of the nonprofit corporation; and
- 1398 (x) any additional information the division determines is necessary or appropriate; and
- 1399 (b) includes the written consent to appointment by the designated registered agent.
- 1400 (2) A nonprofit corporation administratively dissolved under Section 16-6a-1411 on or after May  
1, 2019, but before May 1, 2024, may apply for reinstatement under the nonprofit corporation's  
same corporate name if the nonprofit corporation's name is available and the nonprofit corporation  
delivers to the division for filing an application for reinstatement that satisfies the requirements of  
Subsections (1)(a)(i), (1)(a)(iii) through (x), and (1)(b).
- 1406 (3) A nonprofit corporation administratively dissolved under Section 16-6a-1411 retains the  
nonprofit corporation's corporate name and ~~[assumed name]~~ D.B.A., as described in Section  
~~[42-2-6.6]~~ 42-2-105, for five years after the day on which the dissolution is effective.
- 1410 (4)
- (a) After receiving a nonprofit corporation's application for reinstatement, the division shall:
- 1412 (i) provide the State Tax Commission with the nonprofit corporation's federal employer  
identification number; and
- 1414 (ii) request that the State Tax Commission certify that the nonprofit corporation is in good standing.
- 1416 (b) The State Tax Commission shall certify that a nonprofit corporation is in good standing if the  
nonprofit corporation:
- 1418 (i) has paid all taxes, fees, and penalties the nonprofit corporation owed to the State Tax Commission;  
or
- 1420 (ii) is current on a payment plan with the State Tax Commission for all taxes, fees, and penalties the  
nonprofit corporation owes to the State Tax Commission.

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- 1422 (c) If a nonprofit corporation is not in good standing as described in Subsection (4)(b), the State Tax  
Commission shall:
- 1424 (i) notify the division, stating that the nonprofit corporation is not in good standing; and
- 1426 (ii) notify the nonprofit corporation, explaining in detail why the nonprofit corporation is not in good  
standing.
- 1428 (5)
- 1429 (a) The division shall revoke the administrative dissolution if:
- 1431 (i) the division determines that the application for reinstatement contains the information required  
under Subsection (1) or (2);
- 1432 (ii) the division determines that the information in the application is correct; and
- 1433 (iii) the State Tax Commission certifies that the nonprofit corporation is in good standing as  
described in Subsection (4)(b).
- 1434 (b) The division shall mail written notice of the revocation to the nonprofit corporation in the manner  
provided in Subsection 16-6a-1411(5) stating the effective date of the dissolution.
- 1437 (6) When the reinstatement is effective:
- 1438 (a) the reinstatement relates back to and takes effect as of the effective date of the administrative  
dissolution;
- 1440 (b) the nonprofit corporation may carry on the nonprofit corporation's activities, under the name  
provided in the application for reinstatement, as if the administrative dissolution had never occurred;  
and
- 1443 (c) an act of the nonprofit corporation during the period of dissolution is effective and enforceable as if  
the administrative dissolution had never occurred.
- 1445 (7)
- 1447 (a) The division may make rules for the reinstatement of a nonprofit corporation voluntarily dissolved.
- 1448 (b) The rules made under Subsection (7)(a) shall be substantially similar to the requirements of this  
section for reinstatement of a nonprofit corporation that is administratively dissolved.
- 1450 ~~{Section 19. Section 16-6a-1503 is amended to read: }~~
- 1451 **16-6a-1503. Application for authority to conduct affairs.**
- 1452 (1) A foreign nonprofit corporation may apply for authority to conduct affairs in this state by delivering  
to the division for filing an application for authority to conduct affairs setting forth:
- 1455 (a) its corporate name and its assumed corporate name, if any;



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- 1456 (b) the name of the state or country under whose law it is incorporated;  
1457 (c) its date of incorporation;  
1458 (d) its period of duration;  
1459 (e) the street address of its principal office;  
1460 (f) the information required by ~~[Subsection 16-17-203(1)]~~ Section 16-1a-404;  
1461 (g) the names and usual business addresses of its current directors and officers;  
1462 (h) the date it commenced or expects to commence conducting affairs in this state; and  
1463 (i) the additional information the division determines is necessary or appropriate to determine whether  
the application for authority to conduct affairs should be filed.
- 1465 (2) With the completed application required by Subsection (1) the foreign nonprofit corporation shall  
deliver to the division for a certificate of existence, or a document of similar import that is:
- 1468 (a) authenticated by the division or other official having custody of corporate records in the state or  
country under whose law it is incorporated; and
- 1470 (b) dated within 90 days before the day on which the application for authority to conduct affairs is filed.
- 1472 (3) The foreign nonprofit corporation shall include in the application for authority to conduct affairs, or  
in an accompanying document, written consent to appointment by its designated registered agent.
- 1475 (4) Beginning January 1, 2025, a foreign nonprofit corporation that is a charitable organization, unless  
exempted by Section 13-22-15, shall file the information described in Section 13-22-15 in the form  
described in Section 13-22-15.
- 1478 (5)
- (a) The division may permit a tribal nonprofit corporation to apply for authority to conduct affairs in  
this state in the same manner as a nonprofit corporation incorporated in another state.
- 1481 (b) If a tribal nonprofit corporation elects to apply for authority to conduct affairs in this state, for  
purposes of this chapter, the tribal nonprofit corporation shall be treated in the same manner as a  
foreign nonprofit corporation incorporated under the laws of another state.
- 1485 ~~{Section 20. Section 16-6a-1504 is amended to read: }~~
- 1486 **16-6a-1504. Amended application for authority to conduct affairs.**
- 1487 (1) A foreign nonprofit corporation authorized to conduct affairs in this state shall deliver an amended  
application for authority to conduct affairs to the division for filing if the foreign nonprofit  
corporation changes:
- 1490 (a) its corporate name;

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- 1491 (b) its assumed corporate name;
- 1492 (c) the period of its duration;
- 1493 (d) the state or country of its incorporation; or
- 1494 (e) any of the information required by [~~Subsection 16-17-203(1)~~] Section 16-1a-404.
- 1495 (2) The requirements of Section 16-6a-1503 for filing an original application for authority to conduct  
affairs apply to filing an amended application for authority to conduct affairs under this section.
- 1498 ~~{Section 21. Section 16-6a-1506 is amended to read: }~~
- 1499 **16-6a-1506. Corporate name and assumed corporate name of foreign nonprofit corporation.**
- 1501 (1)
- (a) Except as provided in Subsection (2), if the corporate name of a foreign nonprofit corporation does  
not satisfy the requirements of Section [~~16-6a-401~~] 16-1a-302, to obtain authority to conduct affairs  
in this state, the foreign nonprofit corporation shall assume for use in this state a name that satisfies  
the requirements of Section [~~16-6a-401~~] 16-1a-302.
- 1506 (b) Section [~~16-6a-401~~] 16-1a-302 applies to a domestic nonprofit corporation.
- 1507 (2) A foreign nonprofit corporation may obtain authority to conduct affairs in this state with a name that  
does not meet the requirements of Subsection (1) because it is not distinguishable as required under  
[~~Subsection 16-6a-401(2)~~] Section 16-1a-302, if the foreign nonprofit corporation delivers to the  
division for filing either:
- 1511 (a)
- (i) a written consent to the foreign nonprofit corporation's use of the name, given and signed by the  
other person entitled to the use of the name; and
- 1513 (ii) a written undertaking by the other person, in a form satisfactory to the division, to change its name  
to a name that is distinguishable from the name of the applicant; or
- 1516 (b) a certified copy of a final judgment of a court of competent jurisdiction establishing the prior right  
of the foreign nonprofit corporation to use the requested name in this state.
- 1519 (3) A foreign nonprofit corporation may use in this state the name, including the fictitious name, of  
another domestic or foreign nonprofit corporation that is used or registered in this state if:
- 1522 (a) the other corporation is incorporated or authorized to conduct affairs in this state; and
- 1523 (b) the foreign nonprofit corporation:
- 1524 (i) has merged with the other corporation; or
- 1525 (ii) has been formed by reorganization of the other corporation.

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- 1526 (4) If a foreign nonprofit corporation authorized to conduct affairs in this state, whether under its  
corporate name or an assumed corporate name, changes its corporate name to one that does  
not satisfy the requirements of Subsections (1) through (3), or the requirements of Section  
[16-6a-401] 16-1a-302, the foreign nonprofit corporation:
- 1530 (a) may not conduct affairs in this state under the changed name;
- 1531 (b) shall use an assumed corporate name that does meet the requirements of this section; and
- 1533 (c) shall deliver to the division for filing an amended application for authority to conduct affairs  
pursuant to Section 16-6a-1504.
- 1535 ~~{Section 22. Section 16-6a-1507 is amended to read: }~~
- 1536 **16-6a-1507. Registered name of foreign nonprofit corporation.**
- 1537 (1)
- (a) A foreign nonprofit corporation may register its corporate name as provided in this section if the  
name would be available for use as a corporate name for a domestic nonprofit corporation under  
Section [16-6a-401] 16-1a-302.
- 1540 (b) If the foreign nonprofit corporation's corporate name would not be available for use as a corporate  
name for a domestic nonprofit corporation, the foreign nonprofit corporation may register its  
corporate name modified by the addition of any of the following words or abbreviations, if the  
modified name would be available for use under Section [16-6a-401] 16-1a-302:
- 1545 (i) "corporation";
- 1546 (ii) "incorporated";
- 1547 (iii) "company";
- 1548 (iv) "corp.";
- 1549 (v) "inc."; or
- 1550 (vi) "co."
- 1551 (2) A foreign nonprofit corporation registers its corporate name, or its corporate name with any addition  
permitted by Subsection (1), by delivering to the division for filing an application for registration:
- 1554 (a) setting forth:
- 1555 (i) its corporate name;
- 1556 (ii) the name to be registered that shall meet the requirements of Section [16-6a-401] 16-1a-302 that  
apply to domestic nonprofit corporations;
- 1558 (iii) the state or country and date of incorporation; and

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- 1559 (iv) a brief description of the nature of the business in which it is engaged; and
- 1560 (b) accompanied by a certificate of existence, or a document of similar import from the state or country  
of incorporation as evidence that the foreign nonprofit corporation is in existence or has authority to  
conduct affairs under the laws of the state or country in which it is organized.
- 1564 (3)
- (a) A name is registered for the applicant upon the effective date of the application.
- 1565 (b) An initial registration is effective for one year.
- 1566 (4)
- (a) A foreign nonprofit corporation that has in effect a registration of its corporate name as permitted  
by Subsection (1) may renew the registration by delivering to the division for filing a renewal  
application for registration, that complies with the requirements of Subsection (2).
- 1570 (b) When filed, the renewal application for registration renews the registration for the year following  
filing.
- 1572 (5)
- (a) A foreign nonprofit corporation that has in effect registration of its corporate name may:
- 1574 (i) apply for authority to conduct affairs in this state under the registered name in accordance with  
the procedure set forth in this part; or
- 1576 (ii) assign the registration to another foreign nonprofit corporation by delivering to the division for  
filing an assignment of the registration that states:
- 1578 (A) the registered name;
- 1579 (B) the name of the assigning foreign nonprofit corporation;
- 1580 (C) the name of the assignee; and
- 1581 (D) the assignee's application for registration of the name.
- 1582 (b) The assignee's application for registration of the name required by Subsection (5)(a) shall meet the  
requirements of this part.
- 1584 (6)
- (a) A foreign nonprofit corporation that has in effect registration of its corporate name may terminate  
the registration at any time by delivering to the division for filing a statement of termination:
- 1587 (i) setting forth the corporate name; and
- 1588 (ii) stating that the registration is terminated.
- 1589

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(b) A registration automatically terminates upon the filing of an application for authority to conduct affairs in this state under the registered name.

1591 (7) The registration of a corporate name under Subsection (1) constitutes authority by the division to  
file an application meeting the requirements of this part for authority to conduct affairs in this state  
under the registered name, but the authorization is subject to the limitations applicable to corporate  
names as set forth in Section 16-6a-403.

1595 ~~{Section 23. Section 16-6a-1518 is amended to read: }~~

1596 **16-6a-1518. Domestication of foreign nonprofit corporations.**

1597 (1)

(a) Any foreign nonprofit corporation may become a domestic nonprofit corporation:

1598 (i) by delivering to the division for filing articles of domestication meeting the requirements of  
Subsection (2);

1600 (ii) if the board of directors of the foreign nonprofit corporation adopts the articles of  
domestication; and

1602 (iii) ~~[its-]~~ if the foreign nonprofit corporation's members, if any, approve the domestication.

1604 (b) The adoption and approval of the domestication shall be in accordance with the consent  
requirements of Section 16-6a-1003 for amending articles of incorporation.

1606 (2)

(a) The articles of domestication shall meet the requirements applicable to articles of incorporation set  
forth in Sections ~~[16-6a-105]~~ 16-1a-202 and 16-6a-202, except that:

1608 (i) the articles of domestication need not name, or be signed by, the incorporators of the foreign  
nonprofit corporation; and

1610 (ii) any reference to the foreign nonprofit corporation's registered office, registered agent, or  
directors shall be to:

1612 (A) the registered office and agent in Utah; and

1613 (B) the directors in office at the time of filing the articles of domestication.

1614 (b) The articles of domestication shall set forth:

1615 (i) the date on which and jurisdiction where the foreign nonprofit corporation was first formed,  
incorporated, or otherwise came into being;

1617 (ii) the name of the foreign nonprofit corporation immediately prior to the filing of the articles of  
domestication;

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- 1619 (iii) any jurisdiction that constituted the seat, location of incorporation, principal place of business, or  
central administration of the foreign nonprofit corporation immediately prior to the filing of the  
articles of domestication; and
- 1622 (iv) a statement that the articles of domestication were:
- 1623 (A) adopted by the foreign nonprofit corporation's board of directors; and
- 1624 (B) approved by its members, if any.
- 1625 (3)
- (a) Upon the filing of articles of domestication with the division, the foreign nonprofit corporation shall:
- 1627 (i) be domesticated in this state;
- 1628 (ii) be subject to all of the provisions of this chapter after the date of filing the articles of  
domestication; and
- 1630 (iii) continue as if it had been incorporated under this chapter.
- 1631 (b) Notwithstanding any other provisions of this chapter, the existence of the foreign nonprofit  
corporation shall be considered to have commenced on the date the foreign nonprofit corporation  
commenced its existence in the jurisdiction in which the foreign nonprofit corporation was first  
formed, incorporated, or otherwise came into being.
- 1636 (4) The articles of domestication, upon filing with the division, shall:
- 1637 (a) become the articles of incorporation of the foreign nonprofit corporation; and
- 1638 (b) be subject to amendments or restatement the same as any other articles of incorporation under this  
chapter.
- 1640 (5) The domestication of any foreign nonprofit corporation in this state may not be considered to affect  
any obligation or liability of the foreign nonprofit corporation incurred prior to its domestication.
- 1643 (6) The filing of the articles of domestication may not affect the choice of law applicable to the foreign  
nonprofit corporation, except that from the date the articles of domestication are filed, the law of  
Utah, including the provisions of this chapter, shall apply to the foreign nonprofit corporation to the  
same extent as if the foreign nonprofit corporation had been incorporated as a domestic nonprofit  
corporation of this state on that date.

1358 Section 19. Section 16-6a-1601 is amended to read:

1359 **16-6a-1601. Corporate records.**

- 1360 (1) A nonprofit corporation shall keep as permanent records:
- 1361 (a) minutes of all meetings of its members and board of directors;

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- 1362 (b) a record of all actions taken by the members or board of directors without a meeting;  
1363 (c) a record of all actions taken by a committee of the board of directors in place of the board of  
directors on behalf of the nonprofit corporation; and  
1365 (d) a record of all waivers of notices of meetings of members and of the board of directors or any  
committee of the board of directors.
- 1367 (2) A nonprofit corporation shall maintain appropriate accounting records.
- 1368 (3) A nonprofit corporation or its agent shall maintain a record of its members in a form that permits  
preparation of a list of the name and address of all members:
- 1370 (a) in alphabetical order, by class; and  
1371 (b) showing the number of votes each member is entitled to vote.
- 1372 (4) A nonprofit corporation shall maintain its records in written form or in another form capable of  
conversion into written form within a reasonable time.
- 1374 (5) A nonprofit corporation shall keep a copy of each of the following records at its principal office:
- 1376 (a) its articles of incorporation;  
1377 (b) its bylaws;  
1378 (c) resolutions adopted by its board of directors relating to the characteristics, qualifications, rights,  
limitations, and obligations of members or any class or category of members;  
1381 (d) the minutes of all members' meetings for a period of three years;  
1382 (e) records of all action taken by members without a meeting, for a period of three years;  
1383 (f) all written communications to members generally as members for a period of three years;  
1385 (g) a list of the names and business or home addresses of its current directors and officers;  
1387 (h) a copy of its most recent annual report delivered to the division under Section  
[16-6a-1607] 16-1a-212; and  
1389 (i) all financial statements prepared for periods ending during the last three years that a member could  
have requested under Section 16-6a-1606.
- 1648 ~~{Section 24. Section 16-6a-1607 is amended to read: }~~  
1649 **16-6a-1607. Annual report for division.**  
1650 (1) Each domestic nonprofit corporation, and each foreign nonprofit corporation authorized to conduct  
affairs in this state, shall deliver to the division for filing an annual report on a form provided by the  
division that sets forth:  
1653 (a)

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- (i) the corporate name of the domestic or foreign nonprofit corporation; and
- 1654 (ii) any assumed corporate name of the foreign nonprofit corporation;
- 1655 (b) the jurisdiction under whose law it is incorporated;
- 1656 (c) the information required by Subsection [~~16-17-203(1)~~] 16-1a-404(1);
- 1657 (d) the street address of its principal office, wherever located; and
- 1658 (e) the names and addresses of its directors and principal officers.
- 1659 (2) The division shall deliver a copy of the prescribed form of annual report to each domestic nonprofit corporation and each foreign nonprofit corporation authorized to conduct affairs in this state.
- 1662 (3) Information in the annual report shall be current as of the date the annual report is executed on behalf of the nonprofit corporation.
- 1664 (4)
- (a) The annual report of a domestic or foreign nonprofit corporation shall be delivered annually to the division no later than 60 days past the date the report was mailed by the division.
- 1667 (b) Proof to the satisfaction of the division that the nonprofit corporation has mailed an annual report form is considered in compliance with this Subsection (4).
- 1669 (5)
- (a) If an annual report contains the information required by this section, the division shall file it.
- 1671 (b) If an annual report does not contain the information required by this section, the division shall promptly notify the reporting domestic or foreign nonprofit corporation in writing and return the annual report to it for correction.
- 1674 (c) If an annual report that is rejected under Subsection (5)(b) was otherwise timely filed and is corrected to contain the information required by this section and delivered to the division within 30 days after the effective date of the notice of rejection, the annual report is considered to be timely filed.
- 1678 (6) 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 nonprofit corporation.
- 1681 (7) The annual report form provided by the division may be designed to provide a simplified certification by the nonprofit corporation if no changes have been made in the required information from the last preceding report filed.
- 1684



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(8) A domestic or foreign nonprofit corporation may, but may not be required to, deliver to the division for filing an amendment to its annual report reflecting any change in the information contained in its annual report as last amended.

Section 20. Section 16-6a-1701 is amended to read:

**16-6a-1701. Application to existing domestic nonprofit corporations -- Reports of domestic and foreign nonprofit corporation.**

(1) Except as otherwise provided in Section 16-6a-1704, this chapter applies to domestic nonprofit corporations as follows:

(a) domestic nonprofit corporations in existence on April 30, 2001, that were incorporated under any general statute of this state providing for incorporation of nonprofit corporations, including all nonprofit corporations organized under any former provisions of Title 16, Chapter 6;

(b) mutual irrigation, canal, ditch, reservoir, and water companies and water users' associations organized and existing under the laws of this state on April 30, 2001;

(c) corporations organized under the provisions of Title 16, Chapter 7, Corporations Sole, for purposes of applying all provisions relating to merger or consolidation; and

(d) to actions taken by the directors, officers, and members of the entities described in Subsections (1) (a), (b), and (c) after April 30, 2001.

(2) Domestic nonprofit corporations to which this chapter applies, that are organized and existing under the laws of this state on April 30, 2001:

(a) shall continue in existence with all the rights and privileges applicable to nonprofit corporations organized under this chapter; and

(b) from April 30, 2001, shall have all the rights and privileges and shall be subject to all the remedies, restrictions, liabilities, and duties prescribed in this chapter except as otherwise specifically provided in this chapter.

(3) Every existing domestic nonprofit corporation and foreign nonprofit corporation qualified to conduct affairs in this state on April 30, 2001, shall file an annual report with the division setting forth the information prescribed by Section [~~16-6a-1607~~] 16-1a-212. The annual report shall be filed at such time as would have been required had this chapter not taken effect and shall be filed annually thereafter as required in Section [~~16-6a-1607~~] 16-1a-212.

Section 21. Section 16-7-12 is amended to read:

**16-7-12. Dissolution of corporation sole.**

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- 1421 (1) A corporation sole may be dissolved and its affairs wound up voluntarily by filing with the Division  
of Corporations and Commercial Code articles of dissolution, fully executed and signed under  
penalty of perjury, by the chief officer of the corporation. If any corporation sole ceases to have  
assets, has failed to function, or desires to terminate its existence, the articles of dissolution may  
be filed by any officer of the corporation authorized to administer the affairs and property of the  
corporation.
- 1427 (2) An original and a copy of the articles of dissolution shall be submitted to the Division of  
Corporations and Commercial Code. If it conforms to law, the division shall file it and issue a  
certificate of dissolution. After the issuance of this certificate, the corporation shall cease to carry  
on business, except for the purpose of adjusting and winding up its affairs.
- 1432 (3) The articles of dissolution shall set forth:
- 1433 (a) the name of the corporation;
- 1434 (b) the reason for its dissolution or winding up;
- 1435 (c) that dissolution of the corporation has been duly authorized by the organization governed by the  
corporation sole;
- 1437 (d) the names and addresses of the persons who are to supervise the winding up of the affairs of the  
corporation;
- 1439 (e) that all debts, obligations, and liabilities of the corporation sole have been paid and discharged or  
that adequate provision has been made therefor;
- 1441 (f) that all the remaining property and assets of the corporation sole have been transferred, conveyed, or  
distributed in accordance with the purposes of Section 16-7-1; and
- 1444 (g) that there are no suits pending against the corporation sole in any court, or that adequate provision  
has been made for the satisfaction of any judgment, order, or decree which may be entered against it  
in any pending suit.
- 1447 (4) The Division of Corporations and Commercial Code may administratively dissolve a corporation  
sole that does not comply with Subsection 16-7-15(1) in accordance with the relevant procedures  
for administrative dissolution of a nonprofit corporation under Sections [~~16-6a-1411~~] 16-6a-1411,  
[~~16-6a-1412~~] 16-6a-1412, and [~~16-6a-1413~~] 16-6a-1413.
- 1452 Section 22. Section **16-7-15** is amended to read:
- 1453 **16-7-15. Official representative -- Registered office -- Registered agent.**
- 1689 (1)

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- (a) A corporation sole altering, amending, or restating its articles of incorporation on or after May 3, 2004, shall continuously maintain with the Division of Corporations and Commercial Code the name, title, and Utah street address of an official representative for the corporation sole.
- 1693 (b) The official representative described in Subsection (1)(a) shall, on behalf of the corporation sole, receive communication, notices, or demands from:
- 1695 (i) the Division of Corporations and Commercial Code; or
- 1696 (ii) any other state or federal authority, agency, or official.
- 1697 (c) If a corporation sole appoints a registered agent pursuant to Subsection (2), that registered agent is the official representative of the corporation sole for purposes of this Subsection (1).
- 1700 (2)
- (a) A corporation sole formed under this chapter may maintain a registered office and registered agent in Utah by complying with [~~Title 16, Chapter 17, Model Registered Agents Act~~] Chapter 1a, Part 4, Registered Agent of an Entity.
- 1703 (b) A corporation sole maintaining registered agent may change the registered agent by complying with the requirements of [~~Title 16, Chapter 17, Model Registered Agents Act~~] Chapter 1a, Part 4, Registered Agent of an Entity.
- 1706 (c) A registered agent of a corporation sole may resign by complying with the requirements imposed on a registered agent under [~~Title 16, Chapter 17, Model Registered Agents Act~~] Chapter 1a, Part 4, Registered Agent of an Entity.
- 1709 (d) A registered agent described in this Subsection (2) is the agent of the corporation sole for service of:
- 1711 (i) process;
- 1712 (ii) notice;
- 1713 (iii) demand; or
- 1714 (iv) any type required or permitted by law to be served on the corporation sole.

1480 Section 23. Section **16-10a-102** is amended to read:

1481 **16-10a-102. Definitions.**

As used in this chapter:

- 1718 (1)
- (a) "Address" means a location where mail can be delivered by the United States Postal Service.
- 1720 (b) "Address" includes:
- 1721 (i) a post office box number;

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- 1722 (ii) a rural free delivery route number; and  
1723 (iii) a street name and number.
- 1724 (2) "Affiliate" means a person that directly or indirectly through one or more intermediaries controls, or  
is controlled by, or is under common control with, the person specified.
- 1726 (3) "Assumed corporate name" means a name assumed for use in this state by a foreign corporation  
pursuant to Section ~~[16-10a-1506]~~ 16-1a-507 because its corporate name is not available for use in  
this state.
- 1729 (4) "Articles of incorporation" include:  
1730 (a) amended and restated articles of incorporation;  
1731 (b) articles of merger; and  
1732 (c) a document of a similar import to those described in Subsections (4)(a) and (b).
- 1733 (5) "Authorized shares" means the shares of all classes a domestic or foreign corporation is authorized  
to issue.
- 1735 (6) "Bylaws" includes amended bylaws and restated bylaws.
- 1736 (7) "Cash" and "money" are used interchangeably in this chapter and mean:  
1737 (a) legal tender;  
1738 (b) a negotiable instrument; and  
1739 (c) a cash equivalent readily convertible into legal tender.
- 1740 (8) "Conspicuous" means so written that a reasonable person against whom the writing is to operate  
should have noticed it, including printing or typing in:  
1742 (a) italics;  
1743 (b) boldface;  
1744 (c) contrasting color;  
1745 (d) capitals; or  
1746 (e) underlining.
- 1747 (9) "Control" or a "controlling interest" 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 otherwise.
- 1750 (10) "Corporate name" means:  
1751 (a) the name of a domestic corporation or a domestic nonprofit corporation as stated in its articles of  
incorporation; or

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- 1753 (b) the name of a foreign corporation or a foreign nonprofit corporation as stated in its articles of  
incorporation or document of similar import.
- 1755 (11) "Corporation" or "domestic corporation" means a corporation for profit that:
- 1756 (a) is not a foreign corporation; and
- 1757 (b) is incorporated under or subject to this chapter.
- 1758 (12) "Deliver" includes delivery by mail or another means of transmission authorized by Section  
16-10a-103, except that delivery to the division means actual receipt by the division.
- 1761 (13)
- (a) "Distribution" means the following by a corporation to or for the benefit of its shareholders in  
respect of any of the corporation's shares:
- 1763 (i) a direct or indirect transfer of money or other property, other than a corporation's own shares; or
- 1765 (ii) incurrence of indebtedness by the corporation.
- 1766 (b) A distribution may be in the form of:
- 1767 (i) a declaration or payment of a dividend;
- 1768 (ii) a purchase, redemption, or other acquisition of shares;
- 1769 (iii) distribution of indebtedness; or
- 1770 (iv) another form.
- 1771 (14) "Division" means the Division of Corporations and Commercial Code.
- 1772 (15) "Effective date," when referring to a document filed by the division, means the time and date  
determined in accordance with Section [~~16-10a-123~~] 16-1a-204.
- 1774 (16) "Effective date of notice" means the date notice is effective as provided in Section 16-10a-103.
- 1776 (17) "Electronic transmission" or "electronically transmitted" means a process of communication not  
directly involving the physical transfer of paper that is suitable for the receipt, retention, retrieval,  
and reproduction of information by the recipient, whether by e-mail, facsimile, or otherwise.
- 1780 (18) "Employee" includes an officer but not a director, unless the director accepts a duty that makes that  
director also an employee.
- 1782 (19) "Entity" includes:
- 1783 (a) a domestic and foreign corporation;
- 1784 (b) a nonprofit corporation;
- 1785 (c) a limited liability company;
- 1786 (d) a profit or nonprofit unincorporated association;

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- 1787 (e) a business trust;
- 1788 (f) an estate;
- 1789 (g) a partnership;
- 1790 (h) a trust;
- 1791 (i) two or more persons having a joint or common economic interest;
- 1792 (j) a state;
- 1793 (k) the United States; and
- 1794 (l) a foreign government.
- 1795 (20) "Foreign corporation" means a corporation for profit incorporated under a law other than the law of this state.
- 1797 (21) "Governmental subdivision" means:
- 1798 (a) county;
- 1799 (b) municipality; or
- 1800 (c) another type of governmental subdivision authorized by the laws of this state.
- 1801 (22) "Individual" means:
- 1802 (a) a natural person;
- 1803 (b) the estate of an incompetent individual; or
- 1804 (c) the estate of a deceased individual.
- 1805 (23) "Mail," "mailed," or "mailing" means deposit, deposited, or depositing in the United States mail, properly addressed, first class postage prepaid, and includes registered or certified mail for which the proper fee is paid.
- 1808 (24) "Notice" ~~[is as provided]~~ means the same as that term is defined in Section 16-10a-103.
- 1809 (25) "Principal office" means the office, in or out of this state, designated by a domestic or foreign corporation as its principal office in the most recent document on file with the division providing the information, including:
- 1812 (a) an annual report;
- 1813 (b) an application for a certificate of authority; or
- 1814 (c) a notice of change of principal office.
- 1815 (26) "Proceeding" includes:
- 1816 (a) a civil suit;
- 1817 (b) arbitration or mediation; and

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- 1818 (c) a criminal, administrative, or investigatory action.
- 1819 (27) "Qualified shares" means, with respect to a director's conflicting interest transaction pursuant to  
Section 16-10a-853, one or more shares entitled to vote on the transaction, except a share:
- 1822 (a) that, to the knowledge, before the vote, of the secretary, other officer, or agent of the corporation  
authorized to tabulate votes, is beneficially owned; or
- 1824 (b) the voting of which is controlled, by:
- 1825 (i) a director who has a conflicting interest respecting the transaction;
- 1826 (ii) a related person of that director; or
- 1827 (iii) a person referred to in Subsections (27)(b)(i) and (ii).
- 1828 (28) "Receive," when used in reference to receipt of a writing or other document by a domestic or  
foreign corporation, means the writing or other document is actually received by:
- 1831 (a) the corporation at its:
- 1832 (i) registered office in this state; or
- 1833 (ii) principal office;
- 1834 (b) the secretary of the corporation, wherever the secretary is found; or
- 1835 (c) another person authorized by the bylaws or the board of directors to receive the writing or other  
document, wherever that person is found.
- 1837 (29)
- (a) "Record date" means the date established under Part 6, Shares and Distributions, or Part 7,  
Shareholders, on which a corporation determines the identity of its shareholders.
- 1840 (b) The determination under Subsection (29)(a) shall be made as of the close of business on the record  
date unless another time for doing so is specified when the record date is fixed.
- 1843 (30) "Registered office" means the office within this state designated by a domestic or foreign  
corporation as its registered office in the most recent document on file with the division providing  
that information, including:
- 1846 (a) articles of incorporation;
- 1847 (b) an application for a certificate of authority; or
- 1848 (c) a notice of change of registered office.
- 1849 (31) "Related person" of a director means:
- 1850 (a) the spouse of the director;
- 1851 (b) a child, grandchild, sibling, or parent of the director;

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- 1852 (c) the spouse of a child, grandchild, sibling, or parent of the director;  
1853 (d) an individual having the same home as the director;  
1854 (e) a trust or estate of which the director or any other individual specified in this Subsection (31) is a  
substantial beneficiary; or  
1856 (f) a trust, estate, incompetent, conservatee, or minor of which the director is a fiduciary.
- 1857 (32) "Secretary" means the corporate officer to whom the bylaws or the board of directors delegates  
responsibility under Subsection 16-10a-830(3) for:
- 1859 (a) the preparation and maintenance of:  
1860 (i) minutes of the meetings of the board of directors and of the shareholders; and  
1861 (ii) the other records and information required to be kept by the corporation by Section 16-10a-830; and  
1863 (b) authenticating records of the corporation.
- 1864 (33) " Share" means the unit into which the proprietary interests in a corporation are divided.  
1866 (34)
- (a) "Shareholder" means:  
1867 (i) the person in whose name a share is registered in the records of a corporation; or  
1868 (ii) the beneficial owner of a share to the extent recognized pursuant to Section 16-10a-723.
- 1870 (b) For purposes of this chapter:  
1871 (i) the following, identified as a shareholder in a corporation's current record of shareholders, constitute  
one shareholder:  
1873 (A)  
(I) three or fewer coowners; or  
1874 (II) in the case of more than three coowners, each coowner in excess of the first three is counted as a  
separate shareholder;  
1876 (B) a corporation, limited liability company, partnership, trust, estate, or other entity; and  
1878 (C) the trustees, guardians, custodians, or other fiduciaries of a single trust, estate, or account;  
1880 (ii) shareholdings registered in substantially similar names constitute one shareholder if it is reasonable  
to believe that the names represent the same person; and  
1882 (iii) if the record of a shareholder is not maintained in accordance with accepted practice, an additional  
person who would be identified as an owner on that record if it had been maintained in accordance  
with accepted practice shall be included as a holder of record.  
1886



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(35) "Subscriber" means a person who subscribes for shares in a corporation, whether before or after incorporation.

1888 (36) "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.

1892 (37) "Tribal corporation" means a corporation:

1893 (a) incorporated under the law of a tribe; and

1894 (b) that is at least 51% owned or controlled by the tribe.

1895 (38)

(a) "Voting group" means all shares of one or more classes or series that under the articles of incorporation or this chapter are entitled to vote and be counted together collectively on a matter at a meeting of shareholders.

1898 (b) All shares entitled by the articles of incorporation or this chapter to vote generally on the matter are for that purpose a single voting group.

1665 Section 24. Section 16-10a-128 is amended to read:

1666 **16-10a-128. Certificates issued by the division.**

1667 (1) Anyone may apply to the division for a certificate of existence for a domestic corporation, a certificate of authorization for a foreign corporation, or a certificate that sets forth any facts of record in the office of the division.

1670 (2) A certificate of existence or authorization sets forth:

1671 (a) the domestic corporation's corporate name or the foreign corporation's corporate name registered in this state;

1673 (b) that:

1674 (i) the domestic corporation is duly incorporated under the law of this state and the date of its incorporation; or

1676 (ii) the foreign corporation is authorized to transact business in this state;

1677 (c) that all fees, taxes, and penalties owed to this state have been paid, if:

1678 (i) payment is reflected in the records of the division; and

1679 (ii) nonpayment affects the existence or authorization of the domestic or foreign corporation;

1681

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(d) that its most recent annual report required by Section ~~[16-10a-1607]~~ 16-1a-212 has been filed by the division;

(e) that articles of dissolution have not been filed; and

(f) other facts of record in the office of the division that may be requested by the applicant.

(3) Subject to any qualification stated in the certificate, a certificate issued by the division may be relied upon as conclusive evidence of the facts set forth in the certificate.

Section 25. Section **16-10a-202** is amended to read:

### **16-10a-202. Articles of incorporation.**

(1) The articles of incorporation shall set forth:

(a) the purpose or purposes for which the corporation is organized;

(b) a corporate name for the corporation that satisfies the requirements of Section ~~[16-10a-401]~~ 16-1a-302;

(c) the number of shares the corporation is authorized to issue;

(d) the information required by Section 16-10a-601 with respect to each class of shares the corporation is authorized to issue;

(e) the information required by ~~[Subsection 16-17-203(1)]~~ Section 16-1a-404; and

(f) the name and address of each incorporator.

(2) The articles of incorporation may set forth:

(a) the names and addresses of the individuals who are to serve as the initial directors;

(b) provisions not inconsistent with law regarding:

(i) managing the business and regulating the affairs of the corporation;

(ii) defining, limiting, and regulating the powers of the corporation, its board of directors, and its shareholders;

(iii) a par value for authorized shares or classes of shares; and

(iv) the imposition of personal liability on shareholders for the debts of the corporation to a specified extent and upon specified conditions; and

(c) any provision that under this chapter is permitted to be in the articles of incorporation or required or permitted to be set forth in the bylaws including elective provisions which, to be effective, shall be included in the articles of incorporation, as provided in this chapter.

(3) It shall be sufficient under Subsection (1)(a) to state, either alone or with other purposes, that the purpose of the corporation is to engage in any lawful act or activity for which corporations may be

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organized under this chapter, and by such statement all lawful acts and activities shall be within the purposes of the corporation, except for express limitations, if any.

- 1929 (4) The articles of incorporation need not set forth any of the corporate powers enumerated in this chapter.
- 1931 (5) The articles of incorporation shall be signed by each incorporator and meet the filing requirements of Section [~~16-10a-120~~] 16-1a-202.
- 1933 (6)
- (a) If this chapter conditions any matter upon the presence of a provision in the bylaws, the condition is satisfied if the provision is present either in the articles of incorporation or the bylaws.
- 1936 (b) If this chapter conditions any matter upon the absence of a provision in the bylaws, the condition is satisfied only if the provision is absent from both the articles of incorporation and the bylaws.

1727 Section 26. Section **16-10a-203** is amended to read:

1728 **16-10a-203. Incorporation.**

- 1941 (1) A corporation is incorporated, and its corporate existence begins, when the articles of incorporation are filed by the division, unless a delayed effective date is specified pursuant to [~~Subsection 16-10a-123(2)~~] Section 16-1a-204, in which case the incorporation is effective, and the corporate existence begins, on the delayed effective date, unless a certificate of withdrawal is filed prior to the delayed effective date.
- 1946 (2) The filing of the articles of incorporation by the division is conclusive proof that all conditions precedent to incorporation have been satisfied, except in a proceeding by the state to cancel or revoke the incorporation or involuntarily dissolve the corporation.

1737 Section 27. Section **16-10a-1002** is amended to read:

1738 **16-10a-1002. Amendment by board of directors.**

- 1951 (1) Unless otherwise provided in the articles of incorporation, a corporation's board of directors may adopt, without shareholder action, one or more amendments to the corporation's articles of incorporation to:
- 1954 (a) delete the names and addresses of incorporators or initial directors or both from the articles of incorporation;
- 1956 (b) change the information required by [~~Subsection 16-17-203(1)~~] Section 16-1a-404, but an amendment is not required to change the information;

1958

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- (c) change each issued and unissued authorized share of a class into a greater number of whole shares if the corporation has only shares of that class outstanding;
- 1960 (d) change the corporate name by adding the word "corporation," "incorporated," or "company," or an abbreviation of these words, or by substituting any such word or abbreviation for a similar word or abbreviation in the name; or
- 1963 (e) make any other change expressly permitted by this chapter to be made without shareholder action.
- 1965 (2) The board of directors may adopt, without shareholder action, one or more amendments to the articles of incorporation to change the corporate name, if necessary, in connection with the reinstatement of a corporation pursuant to Section ~~16-10a-1422~~ 16-1a-604.
- 1756 Section 28. Section **16-10a-1007** is amended to read:
- 1757 **16-10a-1007. Restated articles of incorporation.**
- 1970 (1) A corporation's board of directors may restate its articles of incorporation at any time with or without shareholder action. A corporation's incorporators may restate its articles of incorporation at any time if the corporation has not issued shares and if no directors have been appointed.
- 1974 (2) The restatement may include one or more amendments to the articles of incorporation. If the restatement includes an amendment requiring shareholder approval, it must be adopted as provided in Section 16-10a-1003.
- 1977 (3) If the board of directors submits a restatement for shareholder action, the corporation shall give notice, in accordance with Section 16-10a-705, to each shareholder entitled to vote on the restatement, of the proposed shareholders' meeting at which the restatement will be voted upon. The notice shall state that the purpose, or one of the purposes, of the meeting is to consider the proposed restatement and the notice shall contain or be accompanied by a copy of the restatement that identifies any amendment or other change it would make in the articles of incorporation.
- 1984 (4) A corporation restating its articles of incorporation shall deliver to the division for filing articles of restatement setting forth:
- 1986 (a) the name of the corporation;
- 1987 (b) the text of the restated articles of incorporation;
- 1988 (c) if the restatement contains an amendment to the articles of incorporation, the information required to be set forth in articles of amendment by Section 16-10a-1006;
- 1990 (d) if the restatement does not contain an amendment to the articles of incorporation, a statement to that effect; and

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- 1992 (e) if the restatement was adopted by the board of directors or incorporators without shareholder action,  
a statement as to how the restatement was adopted and that shareholder action was not required.
- 1995 (5) Upon filing by the division or at any later effective date determined pursuant to Section  
[~~16-10a-123~~] 16-1a-204, restated articles of incorporation supersede the original articles of  
incorporation and all prior amendments to them.
- 1786 Section 29. Section **16-10a-1008.7** is amended to read:
- 1787 **16-10a-1008.7. Conversion to or from a domestic limited liability company.**
- 2000 (1)
- (a) A corporation may convert to a domestic limited liability company subject to [~~Title 48, Chapter 3a,~~  
~~Utah Revised Uniform Limited Liability Company Act~~] Chapter 20, Utah Revised Uniform Limited  
Liability Company Act, as appropriate pursuant to Section [~~48-3a-1405~~] {16-20-1305} 16-20-1205  
by complying with:
- 2004 (i) this Subsection (1); and
- 2005 (ii) Section [~~48-3a-1041~~] 16-1a-902.
- 2006 (b) If a corporation converts to a domestic limited liability company in accordance with this Subsection  
(1), the articles of conversion shall:
- 2008 (i) comply with Sections [~~48-3a-1045~~] 16-1a-906 and [~~48-3a-1046~~] 16-1a-907; and
- 2009 (ii) if the corporation has issued shares, provide for:
- 2010 (A) the cancellation of any issued share; or
- 2011 (B) the conversion of any issued share to a membership interest in the domestic limited liability  
company.
- 2013 (c) Before a statement of conversion, in accordance with Section [~~48-3a-1045~~] 16-1a-906, may be filed  
with the division, the conversion shall be approved:
- 2015 (i) in the manner provided for the articles of incorporation or bylaws of the corporation; or
- 2017 (ii) if the articles of incorporation or bylaws of the corporation do not provide the method for approval:
- 2019 (A) if the corporation has issued shares, by all of the outstanding shares of all classes of shares of the  
corporation regardless of limitations or restrictions on the voting rights of the shares; or
- 2022 (B) if the corporation has not issued shares, by a majority of:
- 2023 (I) the directors in office at the time that the conversion is approved by the board of directors; or
- 2025 (II) if directors have not been appointed or elected, the incorporators.
- 2026 (2) A domestic limited liability company may convert to a corporation subject to this chapter by:

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- 2028 (a) filing articles of incorporation in accordance with this chapter; and
- 2029 (b) complying with Section ~~[48-3a-1041]~~ 16-1a-902, as appropriate pursuant to Section  
[48-3a-1405] {~~16-20-1305~~} 16-20-1205.
- 1819 Section 30. Section **16-10a-1104** is amended to read:
- 1820 **16-10a-1104. Merger of parent and subsidiary.**
- 2033 (1) By complying with the provision of this section, a parent corporation owning at least 90% of the  
outstanding shares of each class of a subsidiary corporation may either merge the subsidiary into  
itself or merge itself into the subsidiary.
- 2036 (2) The board of directors of the parent shall adopt and its shareholders, if required by Subsection (3),  
shall approve a plan of merger that sets forth:
- 2038 (a) the names of the parent and subsidiary and the name of the surviving entity;
- 2039 (b) the terms and conditions of the merger;
- 2040 (c) the manner and basis of converting the shares of each corporation into shares, obligations, or other  
securities of the surviving or any other corporation or into money or other property in whole or part;
- 2043 (d) any amendments to the articles of incorporation of the surviving corporation to be effected by the  
merger; and
- 2045 (e) any other provisions relating to the merger as may be determined to be necessary or desirable.
- 2047 (3) A vote of the shareholders of the subsidiary is not required with respect to the merger. If the  
subsidiary will be the surviving corporation, the approval of the shareholders of the parent shall  
be sought in the manner provided in [~~Subsections 16-10a-1103(1) through (6)~~] Section 16-1a-704.  
If the parent will be the surviving corporation, no vote of its shareholders is required if all of the  
provisions of [~~Subsection 16-10a-1103(7)~~] Section 16-1a-704 are met with respect to the merger. If  
all the provisions are not met, the approval of the shareholders of the parent shall be sought in the  
manner provided in [~~Subsections 16-10a-1103(1) through (6)~~] Section 16-1a-704.
- 2055 (4) The parent shall mail a copy or summary of the plan of merger to each shareholder of the subsidiary  
(other than the parent) who does not waive this mailing requirement in writing.
- 2058 (5) The effective date of the merger may not be earlier than the date on which all shareholders of the  
subsidiary waived the mailing requirement of Subsection (4) or 10 days after the date the parent  
mailed a copy or summary of the plan of merger to each shareholder of the subsidiary who did not  
waive the mailing requirement.
- 1850 Section 31. Section **16-10a-1302** is amended to read:

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1851           **16-10a-1302. Right to dissent.**

- 2064           (1) A shareholder, whether or not entitled to vote, is entitled to dissent from, and obtain payment of the  
fair value of shares held by the shareholder in the event of, any of the following corporate actions:
- 2067           (a) consummation of a plan of merger to which the corporation is a party if:
- 2068           (i) shareholder approval is required for the merger by Section [~~16-10a-1103~~] 16-1a-703 or the articles of  
incorporation; or
- 2070           (ii) the corporation is a subsidiary that is merged with its parent under Section 16-10a-1104;
- 2072           (b) consummation of a plan of share exchange to which the corporation is a party as the corporation  
whose shares will be acquired;
- 2074           (c) consummation of a sale, lease, exchange, or other disposition of all, or substantially all, of  
the property of the corporation for which a shareholder vote is required under Subsection  
16-10a-1202(1), but not including a sale for cash pursuant to a plan by which all or substantially all  
of the net proceeds of the sale will be distributed to the shareholders within one year after the date of  
sale; and
- 2079           (d) consummation of a sale, lease, exchange, or other disposition of all, or substantially all, of the  
property of an entity controlled by the corporation if the shareholders of the corporation were  
entitled to vote upon the consent of the corporation to the disposition pursuant to Subsection  
16-10a-1202(2).
- 2083           (2) A shareholder is entitled to dissent and obtain payment of the fair value of the shareholder's shares  
in the event of any other corporate action to the extent the articles of incorporation, bylaws, or a  
resolution of the board of directors so provides.
- 2086           (3) Notwithstanding the other provisions of this part, except to the extent otherwise provided in  
the articles of incorporation, bylaws, or a resolution of the board of directors, and subject to the  
limitations set forth in Subsection (4), a shareholder is not entitled to dissent and obtain payment  
under Subsection (1) of the fair value of the shares of any class or series of shares which either  
were listed on a national securities exchange registered under the federal Securities Exchange Act  
of 1934, as amended, or on the National Market System of the National Association of Securities  
Dealers Automated Quotation System, or were held of record by more than 2,000 shareholders, at  
the time of:
- 2095           (a) the record date fixed under Section 16-10a-707 to determine the shareholders entitled to receive  
notice of the shareholders' meeting at which the corporate action is submitted to a vote;

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- 2098 (b) the record date fixed under Section 16-10a-704 to determine shareholders entitled to sign writings  
consenting to the proposed corporate action; or
- 2100 (c) the effective date of the corporate action if the corporate action is authorized other than by a vote of  
shareholders.
- 2102 (4) The limitation set forth in Subsection (3) does not apply if the shareholder will receive for the  
shareholder's shares, pursuant to the corporate action, anything except:
- 2104 (a) shares of the corporation surviving the consummation of the plan of merger or share exchange;
- 2106 (b) shares of a corporation which at the effective date of the plan of merger or share exchange either  
will be listed on a national securities exchange registered under the federal Securities Exchange Act  
of 1934, as amended, or on the National Market System of the National Association of Securities  
Dealers Automated Quotation System, or will be held of record by more than 2,000 shareholders;
- 2111 (c) cash in lieu of fractional shares; or
- 2112 (d) any combination of the shares described in Subsection (4), or cash in lieu of fractional shares.
- 2114 (5) A shareholder entitled to dissent and obtain payment for the shareholder's shares under this part may  
not challenge the corporate action creating the entitlement unless the action is unlawful or fraudulent  
with respect to the shareholder or to the corporation.
- 1905 Section 32. Section **16-10a-1404** is amended to read:
- 1906 **16-10a-1404. Revocation of dissolution.**
- 2119 (1) A corporation may revoke its dissolution within 120 days after the effective date of the dissolution.
- 2121 (2) Revocation of dissolution shall be authorized in the same manner as the dissolution was authorized  
unless, in the case of authorization pursuant to Section 16-10a-1402, that authorization permitted  
revocation by action of the board of directors alone, in which event the board of directors may  
revoke the dissolution without shareholder action.
- 2125 (3) After the revocation of dissolution is authorized, the corporation may revoke the dissolution by  
delivering to the division for filing articles of revocation of dissolution, together with a copy of its  
articles of dissolution, that set forth:
- 2128 (a) the name of the corporation;
- 2129 (b) the effective date of the dissolution that was revoked;
- 2130 (c) the date that the revocation of dissolution was authorized;
- 2131 (d) if pursuant to Subsection (2) the corporation's board of directors or incorporators revoked the  
dissolution authorized under Section 16-10a-1401, a statement to that effect;



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- 2134 (e) if pursuant to Subsection (2) the corporation's board of directors revoked a dissolution approved by  
the shareholders, a statement that the revocation was permitted by action by the board of directors  
alone pursuant to that authorization; and
- 2137 (f) if the revocation of dissolution was approved pursuant to Subsection (2) by the shareholders, the  
information required by Subsection 16-10a-1403(1)(e).
- 2139 (4) Revocation of dissolution is effective as provided in [~~Subsection 16-10a-123(1)~~] Section 16-1a-204.  
A provision may not be made for a delayed effective date for revocation [~~pursuant to Subsection~~  
~~16-10a-123(2)~~] in accordance with Section 16-1a-204.
- 2142 (5) When the revocation of dissolution is effective, it relates back to and takes effect as of the effective  
date of the dissolution and the corporation may carry on its business as if dissolution had never  
occurred.
- 2145 ~~{Section 35. Section 16-10a-1421 is amended to read: }~~
- 2146 **16-10a-1421. Procedure for and effect of administrative dissolution.**
- 2147 (1) If the division determines that one or more grounds exist under Section 16-10a-1420 for dissolving a  
corporation, it shall mail the corporation written notice of:
- 2149 (a) the division's determination that one or more grounds exist for dissolving; and
- 2150 (b) the grounds for dissolving the corporation.
- 2151 (2)
- (a) If the corporation does not correct each ground for dissolution, or demonstrate to the reasonable  
satisfaction of the division that each ground does not exist, within 60 days after mailing the notice  
provided by Subsection (1), the division shall administratively dissolve the corporation.
- 2155 (b) If a corporation is dissolved under Subsection (2)(a), the division shall mail written notice of the  
administrative dissolution to the dissolved corporation, stating the date of dissolution specified in  
Subsection (2)(d).
- 2158 (c) The division shall mail a copy of the notice of administrative dissolution to:
- 2159 (i) the last registered agent of the dissolved corporation; or
- 2160 (ii) if there is no registered agent of record, at least one officer of the corporation.
- 2161 (d) A corporation's date of dissolution is five days after the date the division mails the written notice of  
dissolution under Subsection (2)(b).
- 2163

## SB0041 compared with SB0041S02

(e) On the date of dissolution, any assumed names filed on behalf of the dissolved corporation under ~~[Title 42, Chapter 2, Conducting Business Under Assumed Name]~~ Title 42, Chapter 2, Conducting Business as a D.B.A., are canceled.

2166 (f) Notwithstanding Subsection (2)(e), the name of the corporation that is dissolved and any assumed names filed on its behalf are not available for two years from the date of dissolution for use by any other person:

2169 (i) transacting business in this state; or

2170 (ii) doing business under an assumed name under ~~[Title 42, Chapter 2, Conducting Business Under Assumed Name]~~ Title 42, Chapter 2, Conducting Business as a D.B.A.

2173 (g) Notwithstanding Subsection (2)(e), if the corporation that is dissolved is reinstated in accordance with Section 16-10a-1422, the registration of the name of the corporation and any assumed names filed on its behalf are reinstated back to the date of dissolution.

2177 (3)

(a) Except as provided in Subsection (3)(b), a corporation administratively dissolved under this section continues its corporate existence, but may not carry on any business except:

2180 (i) the business necessary to wind up and liquidate its business and affairs under Section 16-10a-1405; and

2182 (ii) to give notice to claimants in the manner provided in Sections 16-10a-1406 and 16-10a-1407.

2184 (b) If the corporation is reinstated in accordance with Section 16-10a-1422, business conducted by the corporation during a period of administrative dissolution is unaffected by the dissolution.

2187 (4) The administrative dissolution of a corporation does not terminate the authority of its registered agent.

2189 (5) A notice mailed under this section shall be:

2190 (a) mailed first-class, postage prepaid; and

2191 (b) addressed to the most current mailing address appearing on the records of the division for:

2193 (i) the registered agent of the corporation, if the notice is required to be mailed to the registered agent; or

2195 (ii) the officer of the corporation that is mailed the notice, if the notice is required to be mailed to an officer of the corporation.

2197 ~~{Section 36. Section 16-10a-1422 is amended to read: }~~

2198 **16-10a-1422. Reinstatement following dissolution.**

## SB0041 compared with SB0041S02

- 2199 (1) A corporation dissolved under Section 16-10a-1403 or 16-10a-1421 may apply to the division  
for reinstatement under the corporation's same corporate name at any time after the effective date  
of dissolution if the corporation's corporate name is available and the corporation delivers to the  
division for filing an application for reinstatement that:
- 2203 (a) states:
- 2204 (i) the effective date of the corporation's dissolution;
- 2205 (ii) the corporation's corporate name as of the effective date of dissolution;
- 2206 (iii) that the grounds for dissolution either did not exist or have been eliminated;
- 2207 (iv) the corporate name under which the corporation is being reinstated;
- 2208 (v) that the name stated in Subsection (1)(a)(iv) satisfies the requirements of Section  
[16-10a-401] 16-1a-302;
- 2210 (vi) that the corporation has paid all fees or penalties imposed under this chapter or other applicable  
state law;
- 2212 (vii) that the corporation:
- 2213 (A) has paid any taxes, fees, or penalties owed to the State Tax Commission; or
- 2214 (B) is current on a payment plan with the State Tax Commission for any taxes, fees, or penalties owed  
to the State Tax Commission;
- 2216 (viii) the address of the corporation's registered office in this state;
- 2217 (ix) the name of the corporation's registered agent at the office stated in Subsection (1)(a)(viii);
- 2219 (x) the federal employer identification number of the corporation; and
- 2220 (xi) any additional information the division determines to be necessary or appropriate; and
- 2222 (b) includes the written consent to appointment by the designated registered agent.
- 2223 (2) A corporation administratively dissolved under Section 16-10a-1403 or 16-10a-1421 on or after  
May 1, 2019, but before May 1, 2024, may apply for reinstatement under the corporation's same  
corporate name if the corporation's name is available and the corporation delivers to the division for  
filing an application for reinstatement that satisfies the requirements of Subsections (1)(a)(i), (1)(a)  
(ii), (1)(a)(iv) through (xi), and (1)(b).
- 2229 (3) A corporation administratively dissolved under Section 16-10a-1403 or 16-10a-1421 retains  
the corporation's corporate name and [assumed name] D.B.A., as described in Section  
[42-2-6.6] 42-2-105, for five years after the day on which the dissolution is effective.
- 2233 (4)

## SB0041 compared with SB0041S02

- 2234 (a) After receiving a corporation's application for reinstatement, the division shall:
- 2236 (i) provide the State Tax Commission with the corporation's federal employer identification number; and
- 2238 (ii) request that the State Tax Commission certify that the corporation is in good standing.
- 2240 (b) The State Tax Commission shall certify that a corporation is in good standing if the corporation:
- 2242 (i) has paid all taxes, fees, and penalties the corporation owed to the State Tax Commission; or
- 2244 (ii) is current on a payment plan with the State Tax Commission for all taxes, fees, and penalties the corporation owes to the State Tax Commission.
- 2246 (c) If a corporation is not in good standing as described in Subsection (4)(b), the State Tax Commission shall:
- 2247 (i) notify the division, stating that the corporation is not in good standing; and
- 2249 (ii) notify the corporation, explaining in detail why the corporation is not in good standing.
- 2250 (5)
- 2252 (a) The division shall revoke the administrative dissolution if:
- 2253 (i) the division determines that the application for reinstatement contains the information required under Subsection (1) or (2);
- 2255 (ii) the division determines that the information in the application is correct; and
- 2257 (iii) the State Tax Commission certifies that the corporation is in good standing as described in Subsection (4)(b).
- 2259 (b) The division shall mail to the corporation in the manner provided in Subsection 16-10a-1421(5) written notice of:
- 2261 (i) the revocation; and
- 2262 (ii) the effective date of the revocation.
- 2264 (6)
- (a) When the reinstatement is effective, the reinstatement relates back to the effective date of the administrative dissolution.
- (b) Upon reinstatement:
- (i) an act of the corporation during the period of dissolution is effective and enforceable as if the administrative dissolution had never occurred; and
- (ii) the corporation may carry on the corporation's business, under the name provided in the application for reinstatement, as if the administrative dissolution had never occurred.

## SB0041 compared with SB0041S02

2267 ~~{Section 37. Section 16-10a-1503 is amended to read: }~~

2268 **16-10a-1503. Application for authority to transact business.**

- 2269 (1) A foreign corporation may apply for authority to transact business in this state by delivering to the  
division for filing an application for authority to transact business setting forth:
- 2272 (a) its corporate name and its assumed name, if any;
- 2273 (b) the name of the state or country under whose law it is incorporated;
- 2274 (c) its date of incorporation and period of its corporate duration;
- 2275 (d) the street address of its principal office;
- 2276 (e) the information required by ~~[Subsection 16-17-203(1)]~~ Section 16-1a-404;
- 2277 (f) the names and usual business addresses of its current directors and officers;
- 2278 (g) the date it commenced or expects to commence transacting business in this state; and
- 2279 (h) any additional information the division may determine is necessary or appropriate to determine  
whether the application for authority to transact business should be filed.
- 2281 (2) The foreign corporation shall deliver with the completed application for authority to transact  
business a certificate of existence, or a document of similar import, duly authorized by the lieutenant  
governor or other official having custody of corporate records in the state or country under whose  
law it is incorporated. The certificate of existence shall be dated within 90 days before the day on  
which the application for authority to transact business by the division is filed.
- 2287 (3)
- (a) The division may permit a tribal corporation to apply for authority to transact business in this state  
in the same manner as a foreign corporation incorporated in another state.
- 2290 (b) If a tribal corporation elects to apply for authority to transact business in this state, for purposes  
of this chapter, the tribal corporation shall be treated in the same manner as a foreign corporation  
incorporated under the laws of another state.

2293 ~~{Section 38. Section 16-10a-1504 is amended to read: }~~

2294 **16-10a-1504. Amended application for authority to transact business.**

- 2295 (1) A foreign corporation authorized to transact business in this state shall deliver an amended  
application for authority to transact business to the division for filing if the foreign corporation  
changes:
- 2298 (a) its corporate name or its assumed corporate name;
- 2299 (b) the period of its duration;

## SB0041 compared with SB0041S02

- 2300 (c) the state or country of its incorporation; or
- 2301 (d) any of the information required by [~~Subsection 16-17-203(1)~~] Section 16-1a-404.
- 2302 (2) The requirements of Section 16-10a-1503 for obtaining an original application for authority to transact business apply to filing an amended application for authority to transact business under this section.
- 2305 ~~{Section 39. Section 16-10a-1506 is amended to read: }~~
- 2306 **16-10a-1506. Corporate name and assumed corporate name of foreign corporation.**
- 2308 (1) Except as provided in Subsection (2), if the corporate name of a foreign corporation does not satisfy the requirements of Section [~~16-10a-401~~] 16-1a-302, which applies to domestic corporations, the foreign corporation, in order to obtain authority to transact business in this state, shall assume for use in this state a name that satisfies the requirements of Section [~~16-10a-401~~] 16-1a-302.
- 2313 (2) A foreign corporation may obtain authority to transact business in this state with a name that does not meet the requirements of Subsection (1) because it is not distinguishable as required under [~~Subsection 16-10a-401(2)~~] Section 16-1a-302, if the foreign corporation delivers to the division for filing either:
- 2317 (a) a written consent to the foreign corporation's use of the name, given and signed by the other person entitled to the use of the name together with a written undertaking by the other person, in a form satisfactory to the division, to change its name to a name that is distinguishable from the name of the applicant; or
- 2321 (b) a certified copy of a final judgment of a court of competent jurisdiction establishing the prior right of the foreign corporation to use the requested name in this state.
- 2323 (3) A foreign corporation may use in this state the name, including the fictitious name, of another domestic or foreign corporation that is used or registered in this state if the other corporation is incorporated or authorized to transact business in this state and the foreign corporation:
- 2327 (a) has merged with the other corporation; or
- 2328 (b) has been formed by reorganization of the other corporation.
- 2329 (4) If a foreign corporation authorized to transact business in this state, whether under its corporate name or an assumed corporate name, changes its corporate name to one that does not satisfy the requirements of Subsections (1) through (3), or the requirements of Section [~~16-10a-401~~] 16-1a-302, it may not transact business in this state under the changed name but shall use an assumed corporate

## SB0041 compared with SB0041S02

name that does meet the requirements of this section and shall deliver to the division for filing an amended application for authority to transact business pursuant to Section 16-10a-1504.

~~{Section 40. Section 16-10a-1507 is amended to read: }~~

### **16-10a-1507. Registered name of foreign corporation.**

(1)

(a) A foreign corporation may register its corporate name as provided in this section if the name would be available for use as a corporate name for a domestic corporation under Section ~~[16-10a-401]~~ 16-1a-302.

(b) ~~[-]~~If the foreign corporation's corporate name would not be available for such use, then the foreign corporation may register ~~[its]~~ the foreign corporation's corporate name modified by the addition of any of the following words or abbreviations, if the modified name would be available for use under Section ~~[16-10a-401]~~ 16-1a-302:

(i) ~~[-]~~"corporation~~[-]~~";

(ii) ~~[-]~~"incorporated~~[-]~~";

(iii) ~~[-]~~"company~~[-]~~";

(iv) ~~[-]~~"corp.~~[-]~~";

(v) ~~[-]~~"inc.~~[-]~~" or

(vi) ~~[-]~~"co."

(2) A foreign corporation registers its corporate name, or its corporate name with any addition permitted by Subsection (1), by delivering to the division for filing an application for registration:

(a) setting forth its corporate name, the name to be registered which shall meet the requirements of Section ~~[16-10a-401]~~ 16-1a-302 that apply to domestic corporations, the state or country and date of incorporation, and a brief description of the nature of the business in which it is engaged; and

(b) accompanied by a certificate of existence, or a document of similar import from the state or country of incorporation as evidence that the foreign corporation is in existence or has authority to transact business under the laws of the state or country in which it is organized.

(3) The name is registered for the applicant upon the effective date of the application, and the initial registration is effective until the end of the calendar year in which it became effective.

(4) A foreign corporation that has in effect a registration of its corporate name as permitted by Subsection (1) may renew the registration for the following year by delivering to the division for filing a renewal application for registration, which complies with the requirements of Subsection



## SB0041 compared with SB0041S02

(2), between October 1 and December 31 of the preceding year. When filed, the renewal application for registration renews the registration for the following calendar year.

2371 (5) A foreign corporation that has in effect registration of its corporate name may apply for authority to transact business in this state under the registered name in accordance with the procedure set forth in this part or it may assign the registration to another foreign corporation by delivering to the division for filing an assignment of the registration that states the registered name, the name of the assigning foreign corporation, and the name of the assignee, concurrently with the delivery to the division for filing of the assignee's application for registration of the name. The assignee's application shall meet the requirements of this part.

2379 (6)  
(a) A foreign corporation that has in effect registration of its corporate name may terminate the registration at any time by delivering to the division for filing a statement of termination setting forth the corporate name and stating that the registration is terminated.

2383 (b) A registration automatically terminates upon the filing of an application for authority to transact business in this state under the registered name.

2385 (7) The registration of a corporate name under Subsection (1) constitutes authority by the division to file an application meeting the requirements of this part for authority to transact business in this state under the registered name, but the authorization is subject to the limitations applicable to corporate names as set forth in Section 16-10a-403.

2389 ~~{Section 41. Section 16-10a-1533 is amended to read: }~~

2390 **16-10a-1533. Domestication of foreign corporations.**

2391 (1)  
(a) Any foreign corporation may become a domestic corporation by delivering to the division for filing articles of domestication meeting the requirements of Subsection (2) if the board of directors of the corporation adopts, and its shareholders approve, the domestication.

2395 (b) The adoption and approval of the domestication shall be in accordance with the consent requirements of Section 16-10a-1003 for amending articles of incorporation.

2397 (2)  
(a) The articles of domestication shall meet the requirements applicable to articles of incorporation set forth in Sections ~~[16-10a-120]~~ 16-1a-202 and 16-10a-202, except that:

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## SB0041 compared with SB0041S02

- (i) the articles of domestication need not name, or be signed by, the incorporators of the foreign corporation; and
- 2402 (ii) any reference to the corporation's registered office, registered agent, or directors shall be to the registered office and agent in Utah, and the directors then in office at the time of filing the articles of domestication.
- 2405 (b) The articles of domestication shall set forth:
- 2406 (i) the date on which and jurisdiction where the corporation was first formed, incorporated, or otherwise came into being;
- 2408 (ii) the name of the corporation immediately prior to the filing of the articles of domestication;
- 2410 (iii) any jurisdiction that constituted the seat, location of incorporation, principal place of business, or central administration of the corporation immediately prior to the filing of the articles of domestication; and
- 2413 (iv) a statement that the articles of domestication were adopted by the corporation's board of directors and approved by its shareholders.
- 2415 (3)
- (a) Upon the filing of articles of domestication with the division, the corporation shall be domesticated in this state, shall thereafter be subject to all of the provisions of this chapter, and shall continue as if it had been incorporated under this chapter.
- 2418 (b) Notwithstanding any other provisions of this chapter, the existence of the corporation shall be considered to have commenced on the date the corporation commenced its existence in the jurisdiction in which the corporation was first formed, incorporated, or otherwise came into being.
- 2422 (4) The articles of domestication, upon filing with the division, shall become the articles of incorporation of the corporation, and shall be subject to amendments or restatement the same as any other articles of incorporation under this chapter.
- 2425 (5) The domestication of any corporation in this state may not be considered to affect any obligation or liability of the corporation incurred prior to its domestication.
- 2427 (6) The filing of the articles of domestication does not affect the choice of law applicable to the corporation, except that from the date the articles of domestication are filed, the law of Utah, including the provisions of this chapter, shall apply to the corporation to the same extent as if the corporation had been incorporated as a corporation of this state on that date.

1933 Section 33. Section 16-10a-1533.5 is amended to read:

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### Part 15. Transfer to Another State

1935

#### **16-10a-1533.5. Transfer to another state.**

1936

(1) A domestic corporation may transfer to or domesticate in a jurisdiction other than this state if:

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(a) that jurisdiction permits the transfer to or domestication of the corporation in the jurisdiction; and

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(b) the transfer is approved by the shareholders as provided in the corporation's bylaws or, if the bylaws do not so provide, by all of the shareholders.

1942

(2)

(a) A domestic corporation transfers to or domesticates in a jurisdiction other than this state by delivering to the division for filing articles of transfer meeting the requirements of Subsection (2)

(b).

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(b) Articles of transfer shall state:

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(i) the name of the corporation;

1947

(ii) the date of filing of the corporation's original articles of incorporation with the division;

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(iii) the jurisdiction to which the corporation is to be transferred or in which it is to be domesticated;

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(iv) the future effective date, which shall be a date certain, of the transfer or domestication if it is not to be effective upon the filing of the articles of transfer;

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(v) that the transfer or domestication has been approved by the shareholders;

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(vi) that the existence of the corporation as a domestic corporation of this state shall cease when the articles of transfer become effective;

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(vii) the agreement of the corporation that it may be served with process in this state in any proceeding for enforcement of any obligation of the corporation arising while it was a corporation under the laws of this state; and

1959

(viii) if the corporation does not apply for authority to transact business in this state as a foreign corporation pursuant to Section [~~16-10a-1503~~] 16-1a-504, the address to which a copy of service of process may be made under Subsection (2)(b)(vii).

1962

(3) When the articles of transfer are filed with the division, or upon the future, delayed effective date of the articles of transfer, and after payment to the division of the fees prescribed under this chapter, the corporation shall cease to exist as a domestic corporation of this state. Thereafter, a certificate of the division as to the transfer is prima facie evidence of the transfer or domestication by the corporation out of this state.

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## SB0041 compared with SB0041S02

(4) Transfer or domestication of a corporation out of this state in accordance with this section and the resulting cessation of its existence as a domestic corporation of this state may not be considered to affect:

1970 (a) an obligation or liability of the corporation incurred before the transfer or domestication or the personal liability of any person incurred before the transfer or domestication, including, any taxes owing to this state; or

1973 (b) the choice of law applicable to the corporation with respect to matters arising before the transfer or domestication.

1975 Section 34. Section 16-10a-1601 is amended to read:

1976 **16-10a-1601. Corporate records.**

1977 (1) A corporation shall keep as permanent records minutes of all meetings of its shareholders and board of directors, a record of all actions taken by the shareholders or board of directors without a meeting, and a record of all actions taken on behalf of the corporation by a committee of the board of directors in place of the board of directors, and a record of all waivers of notices of meetings of shareholders, meetings of the board of directors, or any meetings of committees of the board of directors.

1983 (2) A corporation shall maintain appropriate accounting records.

1984 (3) A corporation or its agent shall maintain a record of the names and addresses of its shareholders, in a form that permits preparation of a list of shareholders:

1986 (a) that is arranged by voting group and within each voting group by class or series of shares;

1988 (b) that is in alphabetical order within each class or series; and

1989 (c) that shows the address of and the number of shares of each class and series held by each shareholder.

1991 (4) A corporation shall maintain its records in written form or in any form capable of conversion into written form within a reasonable time.

1993 (5) A corporation shall keep a copy of the following records at its principal office:

1994 (a) its articles of incorporation currently in effect;

1995 (b) its bylaws currently in effect;

1996 (c) the minutes of all shareholders' meetings, and records of all action taken by shareholders without a meeting, for the past three years;

1998

## SB0041 compared with SB0041S02

- (d) all written communications within the past three years to shareholders as a group or to the holders of any class or series of shares as a group;
- (e) a list of the names and business addresses of its current officers and directors;
- (f) its most recent annual report delivered to the division under Section ~~[16-10a-1607]~~ 16-1a-212; and
- (g) all financial statements prepared for periods ending during the last three years that a shareholder could request under Section 16-10a-1605.

~~{Section 42. Section 16-10a-1607 is amended to read: }~~

### **16-10a-1607. Annual report for division.**

- (1) Each domestic corporation, and each foreign corporation authorized to transact business in this state, shall deliver to the division for filing an annual report on a form provided by the division that sets forth:
  - (a) the corporate name of the domestic or foreign corporation and any assumed corporate name of the foreign corporation;
  - (b) the jurisdiction under whose law it is incorporated;
  - (c) the information required by ~~[Subsection 16-17-203(1)]~~ Section 16-1a-404;
  - (d) the street address of its principal office, wherever located; and
  - (e) the names of its principal officers.
- (2) The division shall deliver a copy of the prescribed form of annual report to each domestic corporation and each foreign corporation authorized to transact business in this state.
- (3) Information in the annual report shall be current as of the date the annual report is executed on behalf of the corporation.
- (4) The annual report of a domestic or foreign corporation shall be delivered annually to the division no later than the end of the second calendar month following the calendar month in which the report form is mailed by the division. Proof to the satisfaction of the division that the corporation has mailed an annual report form is considered in compliance with this subsection.
- (5) If an annual report contains the information required by this section, the division shall file it. If a report does not contain the information required by this section, the division shall promptly notify the reporting domestic or foreign corporation in writing and return the report to it for correction. If the report was otherwise timely filed and is corrected to contain the information required by this section and delivered to the division within 30 days after the effective date of the notice of rejection, the annual report is considered to be timely filed.

## SB0041 compared with SB0041S02

- 2460 (6) 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 corporation.
- 2463 (7) The annual report form provided by the division may be designed to provide a simplified  
certification by the corporation if no changes have been made in the required information from the  
last preceding report filed.
- 2466 (8) A domestic or foreign corporation may, but may not be required to, deliver to the division for filing  
an amendment to its annual report reflecting any change in the information contained in its annual  
report as last amended.
- 2005 Section 35. Section 16-10b-402 is amended to read:
- 2006 **16-10b-402. Availability of annual benefit report.**
- 2007 (1) A benefit corporation shall send its annual benefit report required by Section 16-10b-401 to each  
shareholder on the earlier of:
- 2009 (a) 120 days following the end of the fiscal year of the benefit corporation; or
- 2010 (b) the same time that the benefit corporation delivers another annual report to its shareholders.
- 2012 (2) A benefit corporation shall post all of its annual benefit reports on the public portion of its Internet  
website, if any, but financial or proprietary information included in the annual benefit reports may  
be omitted from the annual benefit reports as posted.
- 2015 (3) If a benefit corporation does not have an Internet website, the benefit corporation shall provide a  
copy of its most recent annual benefit report, without charge, to a person that requests a copy, but  
financial or proprietary information included in the annual benefit report may be omitted from the  
copy of the benefit report provided.
- 2019 (4)
- (a) At the same time that the benefit corporation files its annual report with the division in accordance  
with Section [~~16-10a-1607~~] 16-1a-212, the benefit corporation shall deliver the most recent copy of  
the annual benefit report to the division for filing, but financial or proprietary information included  
in the annual benefit report may be omitted from the annual benefit report as delivered to the  
division.
- 2024 (b) The division shall charge a fee established by the division in accordance with Section 63J-1-504 for  
filing an annual benefit report.
- 2026 (c) The benefit corporation shall file the annual benefit report in addition to the annual report required  
by Section [~~16-10a-1607~~] 16-1a-212.

## SB0041 compared with SB0041S02

2028 Section 36. Section **16-11-14** is amended to read:

2029 **16-11-14. Annual certificate -- Filing -- Contents -- Filing fee.**

During the month of the anniversary date of incorporation, each professional corporation shall file with the division an annual report as specified by Section [~~16-10a-1607~~] 16-1a-212, giving the names and residence addresses of all shareholders of the professional corporation as of its anniversary date of incorporation next preceding, and certifying that all of the shareholders are duly licensed to render the same specific professional services as those for which the corporation was organized or otherwise qualify to be shareholders pursuant to the applicable licensing act for the profession for which the corporation was organized.

2469 ~~{Section 43. Section **16-15-103** is amended to read: }~~

2470 **16-15-103. Name.**

- 2471 (1) The words "business trust" shall be the last words of the name of every business trust registered under this chapter. The name of a business trust registered under this chapter shall be distinguishable, as provided in [~~Subsection 16-10a-401(5)~~] Section 16-1a-302, on the records of the division from any corporation, partnership, or limited liability company, and from any business name, or trademark of record with the division.
- 2476 (2) A person who 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.

2037 Section 37. Section **16-15-104** is amended to read:

2038 **16-15-104. Registration required -- Certificate of registration.**

- 2481 (1) A business trust shall register with the division before doing business in the state.
- 2482 (2) The certificate of registration of a business trust shall set forth:
- 2483 (a) the name of the business trust;
- 2484 (b) the period of its duration;
- 2485 (c) the business purpose for which the business trust is organized;
- 2486 (d) the information required by [~~Subsection 16-17-203(1)~~] Section 16-1a-404; and
- 2487 (e) the name, signature, and street address of all trustees of the business trust.

2046 Section 38. Section **16-15-108** is amended to read:

2047 **16-15-108. When amendments are required.**

- 2490 (1) An amended certificate shall be filed with the division not later than 30 days after any change in:

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- 2492 (a) any person acting as a trustee of the trust, or the address of any trustee;  
2493 (b) the registered agent of the trust;  
2494 (c) the registered office of the business trust; or  
2495 (d) in any information required to be filed with the division under this chapter.  
2496 (2) The amended certificate shall be signed by each trustee of the business trust and filed in the same  
manner as [~~a certificate of registration under Section 16-15-105~~] an entity filing under Section  
16-1a-202.
- 2499 (3) The division may charge a fee in accordance with Section 63J-1-504 for amending a certificate of  
registration.
- 2059 Section 39. Section **16-16-113** is amended to read:  
2060 **16-16-113. Effect of organic rules.**
- 2503 (1) The relations between a limited cooperative association and its members are consensual. Unless  
required, limited, or prohibited by this chapter, the organic rules may provide for any matter  
concerning the relations among the members of the association and between the members and the  
association, the activities of the association, and the conduct of its activities.
- 2508 (2) The matters referred to in Subsections (2)(a) through (i) may be varied only in the articles of  
organization. The articles may:
- 2510 (a) state a term of existence for the association under Subsection 16-16-105(3);  
2511 (b) limit or eliminate the acceptance of new or additional members by the initial board of directors  
under Subsection 16-16-303(2);  
2513 (c) vary the limitations on the obligations and liability of members for association obligations under  
Section 16-16-504;  
2515 (d) require a notice of an annual members meeting to state a purpose of the meeting under Subsection  
16-16-508(2);  
2517 (e) vary the board of directors meeting quorum under Subsection 16-16-815(1);  
2518 (f) vary the matters the board of directors may consider in making a decision under Section 16-16-820;  
2520 (g) specify causes of dissolution under Subsection 16-16-1202(1);  
2521 (h) delegate amendment of the bylaws to the board of directors pursuant to Subsection 16-16-405(6);  
2523 (i) provide for member approval of asset dispositions under Section 16-16-1501; and  
2524 (j) provide for any matters that may be contained in the organic rules, including those under Subsection  
(3).

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- 2526 (3) The matters referred to in Subsections (3)(a) through (y) may be varied only in the organic rules.  
The organic rules may:
- 2528 (a) require more information to be maintained under Section 16-16-114 or provided to members under  
Subsection 16-16-505(11);
- 2530 (b) provide restrictions on transactions between a member and an association under Section 16-16-115;
- 2532 (c) provide for the percentage and manner of voting on amendments to the organic rules by district,  
class, or voting group under Subsection 16-16-404(1);
- 2534 (d) provide for the percentage vote required to amend the bylaws concerning the admission of new  
members under Subsection 16-16-405(5)(e);
- 2536 (e) provide for terms and conditions to become a member under Section 16-16-502;
- 2537 (f) restrict the manner of conducting members meetings under Subsections 16-16-506(3) and  
16-16-507(5);
- 2539 (g) designate the presiding officer of members meetings under Subsections 16-16-506(5) and  
16-16-507(7);
- 2541 (h) require a statement of purposes in the annual meeting notice under Subsection 16-16-508(2);
- 2543 (i) increase quorum requirements for members meetings under Section 16-16-510 and board of directors  
meetings under Section 16-16-815;
- 2545 (j) allocate voting power among members, including patron members and investor members, and  
provide for the manner of member voting and action as permitted by Sections 16-16-511 through  
16-16-517;
- 2548 (k) authorize investor members and expand or restrict the transferability of members' interests to the  
extent provided in Sections 16-16-602 through 16-16-604;
- 2550 (l) provide for enforcement of a marketing contract under Subsection 16-16-704(1);
- 2551 (m) provide for qualification, election, terms, removal, filling vacancies, and member approval for  
compensation of directors in accordance with Sections 16-16-803 through 16-16-805, 16-16-807,  
16-16-809, and 16-16-810;
- 2554 (n) restrict the manner of conducting board meetings and taking action without a meeting under  
Sections 16-16-811 and 16-16-812;
- 2556 (o) provide for frequency, location, notice and waivers of notice for board meetings under Sections  
16-16-813 and 16-16-814;
- 2558 (p) increase the percentage of votes necessary for board action under Subsection 16-16-816(2);



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- 2560 (q) provide for the creation of committees of the board of directors and matters related to the  
committees in accordance with Section 16-16-817;
- 2562 (r) provide for officers and their appointment, designation, and authority under Section 16-16-822;
- 2564 (s) provide for forms and values of contributions under Section 16-16-1002;
- 2565 (t) provide for remedies for failure to make a contribution under Subsection 16-16-1003(2);
- 2567 (u) provide for the allocation of profits and losses of the association, distributions, and the redemption  
or repurchase of distributed property other than money in accordance with Sections 16-16-1004  
through 16-16-1007;
- 2570 (v) specify when a member's dissociation is wrongful and the liability incurred by the dissociating  
member for damage to the association under Subsections 16-16-1101(2) and (3);
- 2573 (w) provide the personal representative, or other legal representative of, a deceased member or a  
member adjudged incompetent with additional rights under Section 16-16-1103;
- 2576 (x) increase the percentage of votes required for board of director approval of:
- 2577 (i) a resolution to dissolve under Subsection 16-16-1205(1)(a);
- 2578 (ii) a proposed amendment to the organic rules under Subsection 16-16-402(1)(a);
- 2579 (iii) a plan of conversion under [~~Subsection 16-16-1603(1)~~] Section 16-1a-904;
- 2580 (iv) a plan of merger under [~~Subsection 16-16-1607(1)~~] Section 16-1a-704; and
- 2581 (v) a proposed disposition of assets under Subsection 16-16-1503(1); and
- 2582 (y) vary the percentage of votes required for members' approval of:
- 2583 (i) a resolution to dissolve under Section 16-16-1205;
- 2584 (ii) an amendment to the organic rules under Section 16-16-405;
- 2585 (iii) a plan of conversion under Section [~~16-16-1603~~] 16-1a-904;
- 2586 (iv) a plan of merger under Section [~~16-16-1608~~] 16-1a-704; and
- 2587 (v) a disposition of assets under Section 16-16-1504.
- 2588 (4) The organic rules shall address members' contributions pursuant to Section 16-16-1001.
- 2147 Section 40. Section **16-16-118** is amended to read:
- 2148 **16-16-118. Change of designated office or agent for service of process.**
- 2591 (1) Except as otherwise provided in [~~Subsection 16-16-207(5)~~] Section 16-1a-407, to change its  
designated office, its agent for service of process, or the street address or, if different, mailing  
address of its principal office, a limited cooperative association shall deliver to the division for filing  
a statement of change containing:

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- 2595 (a) the name of the limited cooperative association;
- 2596 (b) the street address and, if different, mailing address of its designated office;
- 2597 (c) if the designated office is to be changed, the street address and, if different, mailing address of the  
new designated office;
- 2599 (d) the name of its agent for service of process; and
- 2600 (e) if the agent for service of process is to be changed, the name of the new agent.
- 2601 (2) Except as otherwise provided in [~~Subsection 16-16-207(5)~~] Section 16-1a-407, to change its agent  
for service of process, the address of its designated office, or the street address or, if different,  
mailing address of its principal office, a foreign cooperative shall deliver to the division for filing a  
statement of change containing:
- 2605 (a) the name of the foreign cooperative;
- 2606 (b) the name, street address and, if different, mailing address of its designated office;
- 2607 (c) if the current agent for service of process or an address of the designated office is to be changed, the  
new information;
- 2609 (d) the street address and, if different, mailing address of its principal office; and
- 2610 (e) if the street address or, if different, the mailing address of its principal office is to be changed, the  
street address and, if different, the mailing address of the new principal office.
- 2613 (3) Except as otherwise provided in Section 16-16-204, a statement of change is effective when filed by  
the division.
- 2173 Section 41. Section **16-16-302** is amended to read:
- 2174 **16-16-302. Formation of limited cooperative association -- Articles of organization.**
- 2618 (1) To form a limited cooperative association, an organizer of the association shall deliver articles of  
organization to the division for filing. The articles shall state:
- 2620 (a) the name of the association;
- 2621 (b) the purposes for which the association is formed;
- 2622 (c) the street address and, if different, mailing address of the association's initial designated office and  
the name of the association's initial agent for service of process at the designated office;
- 2625 (d) the street address and, if different, mailing address of the initial principal office;
- 2626 (e) the name and street address and, if different, mailing address of each organizer; and
- 2627 (f) the term for which the association is to exist if other than perpetual.
- 2628

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(2) Subject to Subsection 16-16-113(1), articles of organization may contain any other provisions in addition to those required by Subsection (1).

2630 (3) A limited cooperative association is formed after articles of organization that substantially comply with Subsection (1) are delivered to the division, are filed, and become effective under [~~Subsection 16-16-203(3)~~] Section 16-1a-204.

2633 (4) If articles of organization filed by the division state a delayed effective date, a limited cooperative association is not formed if, before the articles take effect, an organizer signs and delivers to the division for filing a statement of cancellation.

2194 Section 42. Section **16-16-407** is amended to read:

2195 **16-16-407. Amendment or restatement of articles of organization -- Filing.**

2638 (1) To amend its articles of organization, a limited cooperative association shall deliver to the division for filing an amendment of the articles, or restated articles of organization or articles of conversion or merger pursuant to [~~Part 16, Conversion and Merger~~] Chapter 1a, Part 7, Merger, or Chapter 1a, Part 9, Conversion, which contain one or more amendments of the articles of organization, stating:

2643 (a) the name of the association;

2644 (b) the date of filing of the association's initial articles; and

2645 (c) the changes the amendment makes to the articles as most recently amended or restated.

2647 (2) Before the beginning of the initial meeting of the board of directors, an organizer who knows that information in the filed articles of organization was inaccurate when the articles were filed or has become inaccurate due to changed circumstances shall promptly:

2651 (a) cause the articles to be amended; or

2652 (b) if appropriate, deliver an amendment to the division for filing pursuant to Section [~~16-16-203~~] 16-1a-206.

2654 (3) If restated articles of organization are adopted, the restated articles may be delivered to the division for filing in the same manner as an amendment.

2656 (4) Upon filing, an amendment of the articles of organization or other record containing an amendment of the articles which has been properly adopted by the members is effective as provided in [~~Subsection 16-16-203(3)~~] Section 16-1a-206.

2217 Section 43. Section **16-16-502** is amended to read:

2218 **16-16-502. Becoming a member.**

A person becomes a member:

## SB0041 compared with SB0041S02

- 2662 (1) as provided in the organic rules;
- 2663 (2) as the result of a merger or conversion under [~~Part 16, Conversion and Merger~~] Chapter 1a, Part 7,  
2665 Merger, or Chapter 1a, Part 9, Conversion; or
- 2665 (3) with the consent of all the members.
- 2224 Section 44. Section **16-16-1101** is amended to read:
- 2225 **16-16-1101. Member's dissociation.**
- 2668 (1) A person has the power to dissociate as a member at any time, rightfully or wrongfully, by express will.
- 2670 (2) Unless the organic rules otherwise provide, a member's dissociation from a limited cooperative association is wrongful only if the dissociation:
- 2672 (a) breaches an express provision of the organic rules; or
- 2673 (b) occurs before the termination of the limited cooperative association and:
- 2674 (i) the person is expelled as a member under Subsection (4)(c) or (d); or
- 2675 (ii) in the case of a person that is not an individual, trust other than a business trust, or estate, the person is expelled or otherwise dissociated as a member because it dissolved or terminated in bad faith.
- 2678 (3) Unless the organic rules otherwise provide, a person that wrongfully dissociates as a member is liable to the limited cooperative association for damages caused by the dissociation. The liability is in addition to any other debt, obligation, or liability of the person to the association.
- 2682 (4) A member is dissociated from the limited cooperative association as a member when:
- 2683 (a) the association receives notice in a record of the member's express will to dissociate as a member, or if the member specifies in the notice an effective date later than the date the association received notice, on that later date;
- 2686 (b) an event stated in the organic rules as causing the member's dissociation as a member occurs;
- 2688 (c) the member is expelled as a member under the organic rules;
- 2689 (d) the member is expelled as a member by the board of directors because:
- 2690 (i) it is unlawful to carry on the association's activities with the member as a member;
- 2691 (ii) there has been a transfer of all the member's financial rights in the association, other than:
- 2693 (A) a creation or perfection of a security interest; or
- 2694 (B) a charging order in effect under Section 16-16-505 which has not been foreclosed;
- 2696 (iii) the member is a limited liability company, association, or partnership, it has been dissolved, and its business is being wound up;

## SB0041 compared with SB0041S02

- 2698 (iv) the member is a corporation or cooperative and:
- 2699 (A) the member filed a certificate of dissolution or the equivalent, or the jurisdiction of formation  
revoked the association's charter or right to conduct business;
- 2702 (B) the association sends a notice to the member that it will be expelled as a member for a reason  
described in Subsection (4)(d)(iv)(A); and
- 2704 (C) not later than 90 days after the notice was sent under Subsection (4)(d)(iv)(B), the member did not  
revoke the member's certificate of dissolution or the equivalent, or the jurisdiction of formation did  
not reinstate the association's charter or right to conduct business; or
- 2708 (v) the member is an individual and is adjudged incompetent;
- 2709 (e) in the case of a member who is an individual, the individual dies;
- 2710 (f) in the case of a member that is a trust or is acting as a member by virtue of being a trustee of a trust,  
all the trust's financial rights in the association are distributed;
- 2712 (g) in the case of a member that is an estate, the estate's entire financial interest in the association is  
distributed;
- 2714 (h) in the case of a member that is not an individual, partnership, limited liability company, cooperative,  
corporation, trust, or estate, the member is terminated; or
- 2716 (i) the association's participation in a merger if, under the plan of merger as approved under [Part 16,  
~~Conversion and Merger~~] ~~{ - }~~ Chapter 1a, Part 7, Merger, the member ceases to be a member.
- 2277 Section 45. Section **16-16-1102** is amended to read:
- 2278 **16-16-1102. Effect of dissociation as member.**
- 2721 (1) Upon a member's dissociation:
- 2722 (a) subject to Section 16-16-1103, the person has no further rights as a member; and
- 2723 (b) subject to Section 16-16-1103 and [Part 16, ~~Conversion and Merger~~] Chapter 1a, Part 7, Merger,  
and Chapter 1a, Part 9, Conversion, any financial rights owned by the person in the person's  
capacity as a member immediately before dissociation are owned by the person as a transferee.
- 2727 (2) A person's dissociation as a member does not of itself discharge the person from any debt,  
obligation, or liability to the limited cooperative association which the person incurred under the  
organic rules, by contract, or by other means while a member.
- 2730 ~~{Section 53. Section 16-16-1212 is amended to read: }~~
- 2731 **16-16-1212. Reinstatement following administrative dissolution.**
- 2732

## SB0041 compared with SB0041S02

- (1) A limited cooperative association that has been dissolved administratively may apply to the division for reinstatement under the limited cooperative association's same name at any time after the effective date of dissolution if the limited cooperative association's name is available and the limited cooperative association delivers to the division for filing an application for reinstatement that states:
- (a) the name of the association and the effective date of its administrative dissolution;
- (b) that the grounds for dissolution either did not exist or have been eliminated; and
- (c) that the association's name satisfies the requirements of Section ~~[16-16-111]~~ 16-1a-302.
- (2) A limited cooperative association administratively dissolved on or after May 1, 2019, but before May 1, 2024, may apply for reinstatement under the limited cooperative association's same name if the limited cooperative association's name is available and the limited cooperative association delivers to the division for filing an application for reinstatement that satisfies the requirements of Subsections (1)(a) and (c).
- (3) A limited cooperative association retains the limited cooperative association's name and ~~[assumed name]~~ D.B.A., as described in Section ~~[42-2-6.6]~~ 42-2-105, for five years after the day on which the dissolution is effective.
- (4) If the division determines that an application contains the information required by Subsection (1) or (2) and that the information is correct, the division shall:
- (a) prepare a declaration of reinstatement;
- (b) file the original of the declaration; and
- (c) serve a copy of the declaration on the association.
- (5) When reinstatement under this section becomes effective, it relates back to and takes effect as of the effective date of the administrative dissolution, and the limited cooperative association may resume or continue its activities as if the administrative dissolution had not occurred.

Section 46. Section **16-16-1402** is amended to read:

### **16-16-1402. Application for certificate of authority.**

- (1) A foreign cooperative may apply for a certificate of authority by delivering an application to the division for filing. The application shall state:
- (a) the name of the foreign cooperative and, if the name does not comply with Section ~~[16-16-111]~~ 16-1a-302, an alternative name adopted pursuant to Section 16-16-1405;
- (b) the name of the state or other jurisdiction under whose law the foreign cooperative is organized;

## SB0041 compared with SB0041S02

(c) the street address and, if different, mailing address of the principal office and, if the law of the jurisdiction under which the foreign cooperative is organized requires the foreign cooperative to maintain another office in that jurisdiction, the street address and, if different, mailing address of the required office;

2770 (d) the street address and, if different, mailing address of the foreign cooperative's designated office in this state, and the name of the foreign cooperative's agent for service of process at the designated office; and

2773 (e) the name, street address and, if different, mailing address of each of the foreign cooperative's current directors and officers.

2775 (2) A foreign cooperative shall deliver with a completed application under Subsection (1) a certificate of existence or a similar record signed by the division or other official having custody of the foreign cooperative's publicly filed records in the state or other jurisdiction under whose law the foreign cooperative is organized.

2309 Section 47. Section **16-16-1405** is amended to read:

2310 **16-16-1405. Noncomplying name of foreign cooperative.**

2781 (1)

(a) A foreign cooperative whose name does not comply with Section [~~16-16-111~~] 16-1a-302 may not obtain a certificate of authority until it adopts, for the purpose of transacting business in this state, an alternative name that complies with Section [~~16-16-111~~] 16-1a-302.

2785 {~~(b)~~} [-]

2315 (b) A foreign cooperative that adopts an alternative name under this Subsection (1) and then obtains a certificate of authority with that name need not also comply with Section [~~42-2-5~~] 42-2-201.

2788 {~~(c)~~} [-]

2318 (c) After obtaining a certificate of authority with an alternative name, a foreign cooperative's business in this state shall be transacted under that name unless the foreign cooperative is authorized under Section [~~42-2-5~~] 42-2-201 to transact business in this state under another name.

2792 (2) If a foreign cooperative authorized to transact business in this state changes its name to one that does not comply with Section [~~16-16-111~~] 16-1a-302, it may not thereafter transact business in this state until it complies with Subsection (1) and obtains an amended certificate of authority.

2326 Section 48. Section **16-16-1407** is amended to read:

2327 **16-16-1407. Cancellation of certificate of authority -- Effect of failure to have certificate.**

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- 2799 (1) To cancel its certificate of authority, a foreign cooperative shall deliver to the division for filing a  
notice of cancellation. The certificate is canceled when the notice becomes effective under Section  
[16-16-203] 16-1a-204.
- 2802 (2) A foreign cooperative transacting business in this state may not maintain an action or proceeding in  
this state unless it has a certificate of authority.
- 2804 (3) The failure of a foreign cooperative to have a certificate of authority does not impair the validity  
of a contract or act of the foreign cooperative or prevent the foreign cooperative from defending an  
action or proceeding in this state.
- 2807 (4) A member of a foreign cooperative is not liable for the obligations of the foreign cooperative solely  
by reason of the foreign cooperative's having transacted business in this state without a certificate of  
authority.
- 2810 (5) If a foreign cooperative transacts business in this state without a certificate of authority or cancels its  
certificate, it appoints the division as its agent for service of process for an action arising out of the  
transaction of business in this state.

2343 Section 49. Section **16-20-901** is renumbered and amended to read:

2815 **Part 10. 9. Professional Services Companies**

2346 **[48-3a-1101] 16-20-901. Definitions.**

As used in this part:

- 2818 (1) "Professional services" means a personal service provided by:
- 2819 (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;
- 2822 (b) an architect holding a license under Title 58, Chapter 3a, Architects Licensing Act, or a subsequent  
law regulating the practice of architecture;
- 2824 (c) an attorney granted the authority to practice law by the:
- 2825 (i) Utah Supreme Court; or
- 2826 (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:
- 2828 (A) a supreme court;
- 2829 (B) a court other than a supreme court;
- 2830 (C) an agency;
- 2831 (D) an instrumentality; or



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- 2832 (E) a regulating board;
- 2833 (d) a chiropractor holding a license under Title 58, Chapter 73, Chiropractic Physician Practice Act, or  
any subsequent law regulating the practice of chiropractics;
- 2835 (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;
- 2837 (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  
and land surveyors;
- 2840 (g) a naturopath holding a license under Title 58, Chapter 71, Naturopathic Physician Practice Act, or a  
subsequent law regulating the practice of naturopathy;
- 2842 (h) a nurse licensed under Title 58, Chapter 31b, Nurse Practice Act, or Title 58, Chapter 44a, Nurse  
Midwife Practice Act, or a subsequent law regulating the practice of nursing;
- 2845 (i) an optometrist holding a license under Title 58, Chapter 16a, Utah Optometry Practice Act, or a  
subsequent law regulating the practice of optometry;
- 2847 (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;
- 2850 (k) a pharmacist holding a license under Title 58, Chapter 17b, Pharmacy Practice Act, or a subsequent  
law regulating the practice of pharmacy;
- 2852 (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;
- 2855 (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;
- 2857 (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;
- 2859 (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;
- 2861 (p) a psychologist holding a license under Title 58, Chapter 61, Psychologist Licensing Act, or any  
subsequent law regulating the practice of psychology;
- 2863 (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;

## SB0041 compared with SB0041S02

- 2866 (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;
- 2869 (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;
- 2872 (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
- 2874 (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.
- 2877 (2) "Regulating board" means the entity organized pursuant to state law that licenses and regulates the  
practice of the profession that a limited liability company is organized to provide.
- 2410 Section 50. Section **16-20-902** is renumbered and amended to read:
- 2412 **~~[48-3a-1102]~~ 16-20-902. Application of this part.**
- 2883 (1) If a conflict arises between this part and another provision of this chapter, this part controls.
- 2885 (2) Notwithstanding the other provisions of this part, on and after January 1, 2016:
- 2886 (a) a professional services company may not designate series of transferable interests; and
- 2888 (b) a limited liability company may not form a professional services company as a series of the limited  
liability company.
- 2420 Section 51. Section **16-20-903** is renumbered and amended to read:
- 2422 **~~[48-3a-1103]~~ 16-20-903. Additional requirements for certificate of organization.**
- The certificate of organization of a professional services company shall:
- 2894 (1) comply with Section ~~[48-3a-201]~~ 16-20-201; and
- 2895 (2) contain the following:
- 2896 (a) a name consistent with Section ~~[48-3a-1104]~~ ~~{ 16-20-1004 }~~ 16-20-904;
- 2897 (b) a description of the profession to be practiced through the professional services company; and
- 2899 (c) notwithstanding Section ~~[48-3a-201]~~ 16-20-201, the name and street address of each member or  
manager of the professional services company.
- 2431 Section 52. Section **16-20-904** is renumbered and amended to read:
- 2433 **~~[48-3a-1104]~~ 16-20-904. Name limitations.**
- 2904 (1) The name of a domestic professional services company and of a foreign professional services  
company authorized to transact business in this state, in addition to complying with Sections  
~~[48-3a-108]~~ 16-1a-302 and ~~[48-3a-906]~~ 16-1a-507:

## SB0041 compared with SB0041S02

- 2907 (a) may not contain language stating or implying that ~~[it]~~ the domestic professional services company or  
2910 foreign professional services company is formed for a purpose other than that authorized by:
- 2912 (i) ~~[its]~~ the domestic professional services company's or foreign professional services company's  
2913 certificate of organization; or
- 2912 (ii) Section ~~[48-3a-1106]~~ ~~{16-20-1006}~~ 16-20-906;
- 2913 (b) must conform with any rule made by the regulating board having jurisdiction over a professional  
2916 service described in the professional services company's certificate of organization; and
- 2916 (c) in lieu of the requirement of Subsection ~~[48-3a-108(1)]~~ 16-1a-303(5), must contain the words  
"professional limited liability company" or the abbreviations "P.L.L.C." or "PLLC" in:
- 2919 (i) its certificate of organization; and
- 2920 (ii) a report or document filed with the division.
- 2921 (2) Notwithstanding Subsection (1)(c), a professional services company may hold ~~[itself]~~ the  
professional service company out to the public under a name that does not contain the words  
"professional limited liability company" or the abbreviations "P.L.L.C." or "PLLC" if that name  
complies with Subsection ~~[48-3a-108(1)]~~ 16-1a-303(5).
- 2925 (3) Sections ~~[48-3a-108]~~ 16-1a-302 and ~~[48-3a-906]~~ 16-1a-507 do not prevent the use of a name  
otherwise prohibited by those sections if the name is:
- 2927 (a) the personal name of an individual member or individual former member of the professional  
services company; or
- 2929 (b) the name of an individual who was associated with a predecessor of the professional services  
company.
- 2461 Section 53. Section **16-20-905** is renumbered and amended to read:
- 2463 **~~[48-3a-1105]~~ 16-20-905. Providing a professional service.**
- 2934 (1) Subject to Section ~~[48-3a-1106]~~ ~~{16-20-1006}~~ 16-20-906, a professional services company  
may provide a professional service in this state only through an individual licensed or otherwise  
authorized in this state to provide the professional service.
- 2937 (2) Subsection (1) does not:
- 2938 (a) require an individual employed by a professional services company to be licensed to perform a  
service for the professional services company if a license is not otherwise required;
- 2941

## SB0041 compared with SB0041S02

(b) prohibit a licensed individual from providing a professional service in the individual's professional capacity although the individual is a member, manager, employee, or agent of a professional services company; or

2944 (c) prohibit an individual licensed in another state from providing a professional service for a professional services company in this state if not prohibited by the regulating board.

2477 Section 54. Section **16-20-906** is renumbered and amended to read:

2479 ~~[48-3a-1106]~~ **16-20-906. Limit of one profession.**

2950 (1) A professional services company organized to provide a professional service under this part may provide only:

2952 (a) one specific type of professional service; and

2953 (b) services ancillary to the professional service described in Subsection (1)(a).

2954 (2) A professional services company organized to provide a professional service under this part may not engage in a business other than to provide:

2956 (a) the professional service that [it] the professional services company was organized to provide; and

2958 (b) services ancillary to the professional service described in Subsection (2)(a).

2959 (3) Notwithstanding Subsections (1) and (2), a professional services company may:

2960 (a) own real and personal property necessary or appropriate for providing the type of professional service [it] the professional services company was organized to provide; and

2963 (b) invest the professional services company's money in one or more of the following:

2964 (i) real estate;

2965 (ii) mortgages;

2966 (iii) stocks;

2967 (iv) bonds; or

2968 (v) another type of investment.

2499 Section 55. Section **16-20-907** is renumbered and amended to read:

2501 ~~[48-3a-1107]~~ **16-20-907. Activity limitations.**

A professional services company may not do anything that an individual licensed to practice the profession that the professional services company is organized to provide is prohibited from doing.

2505 Section 56. Section **16-20-908** is renumbered and amended to read:

2507 ~~[48-3a-1108]~~ **16-20-908. This part does not limit regulating board.**

## SB0041 compared with SB0041S02

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:

- (1) is a member, manager, or employee of a professional services company; or
- (2) provides the professional service or engages in the practice of the profession through a professional services company.

Section 57. Section **16-20-909** is renumbered and amended to read:

**~~[48-3a-1109]~~ 16-20-909. Member or manager of a professional services company.**

A professional services company organized to provide a professional service:

- (1) may include a member, manager, or employee who is authorized under the laws of the jurisdiction where the member, manager, or employee resides to provide a similar professional service;
- (2) may include a member 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
- (3) may render a professional service in this state only through a member, manager, or employee who is licensed or registered by this state to render the professional service.

Section 58. Section **16-20-910** is renumbered and amended to read:

**~~[48-3a-1110]~~ 16-20-910. Restriction on transfer by member.**

- (1) Except as provided in Subsections (2) and (3), a member of a professional services company may sell or transfer the member's interest in the professional services company only to:
  - (a) the professional services company; or
  - (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 company is organized, or who otherwise satisfies the requirements of ~~[Subsection 48-3a-1109(1) or (2)]~~ [{Section 16-20-1009}](#) Subsection 16-20-909(1) or (2).
- (2) Upon the death or incapacity of a member of a professional services company, the member's interest in the professional services company may be transferred to the personal representative or estate of the deceased or incapacitated member.
- (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.

## SB0041 compared with SB0041S02

2543           Section 59. Section **16-20-911** is renumbered and amended to read:

2545           ~~[48-3a-1111]~~ **16-20-911. Purchase of interest upon death, incapacity, or disqualification of member.**

3018       (1) Subject to this part, one or more of the following may provide for the purchase of a member's interest in a professional services company upon the death, incapacity, or disqualification of the member:

3021       (a) the certificate of organization;

3022       (b) the operating agreement; or

3023       (c) a private agreement.

3024       (2) In the absence of a provision described in Subsection (1), a professional services company shall purchase the interest of a member who is deceased, incapacitated, or no longer qualified to own an interest in the professional services company within 90 days after the day on which the professional services company is notified of the death, incapacity, or disqualification.

3029       (3) If a professional services company purchases a member'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.

3032       (4) If a professional services company fails to purchase a member'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):

3036       (a) the personal representative of a deceased member;

3037       (b) the guardian or conservator of an incapacitated member; or

3038       (c) the disqualified member.

3039       (5) A court in which an action is brought under Subsection (4) may:

3040       (a) award the person bringing the action the reasonable fair market value of the interest; or

3042       (b) within the court's jurisdiction, order the liquidation of the professional services company.

3044       (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.

2575           Section 60. Section **16-20-912** is renumbered and amended to read:

2577           ~~[48-3a-1112]~~ **16-20-912. Conversion to nonprofessional company.**

3049

## SB0041 compared with SB0041S02

(1) A professional services company subject to this part converts into a limited liability company subject to this chapter, but not subject to this part on the day on which:

3051 (a) no member of the professional services company is licensed or registered for the professional service for which the professional services company is organized; or

3053 (b) all members entitled to vote on or consent to any matter consent not to be a professional services company subject to this part.

3055 (2) A professional services company converted as provided in Subsection (1) shall upon the event described in Subsection (1) operate as and be treated as a limited liability company subject to this chapter, but not subject to this part.

3058 (3) A limited liability company resulting from a conversion under this section may reconvert to a professional services company:

3060 (a) upon at least one member of the limited liability company being licensed or registered for the professional service for which the limited liability company is organized; and

3063 (b) each member of the limited liability company entitled to vote on or consent to any matter consents to reconvert the limited liability company to a professional services company subject to this part.

3066 (4) If a professional services company is converted or reconverted under this section, the professional services company shall file a certificate of amendment to the certificate of organization with the division within a reasonable time after the conversion or reconversion to reflect the changes.

2599 Section 61. Section **16-20-1001** is renumbered and amended to read:

3072 **Part 1110. Series Limited Liability Companies**

2602 **[48-3a-1201] 16-20-1001. Series of transferable interests.**

3074 (1)

(a) An operating agreement may establish or provide for the establishment of a designated series of transferable interests having separate rights, powers, or duties with respect to specified property or obligations of the limited liability company or profits and losses associated with specified property or obligations, and, to the extent provided in the operating agreement, any such series may have a separate business purpose or investment objective.

3080 ~~(b)~~ [-]

2609 (b) The name of each series must contain the name of the limited liability company and be distinguishable from the name of any other series.

3082

## SB0041 compared with SB0041S02

(2) Notwithstanding contrary provisions of this chapter, the debts, liabilities, and obligations incurred, contracted for, or otherwise existing with respect to a particular series shall be enforceable against the assets of that series only, and not against the assets of the limited liability company generally or any other series, if all of the following apply:

- 3087 (a) the series is established by or in accordance with the operating agreement;
- 3088 (b) separate and distinct records are maintained for the series;
- 3089 (c) the assets associated with the series are held and accounted for separately from the other assets of the limited liability company, including another series;
- 3091 (d) the operating agreement or the agreement establishing the series provides for the limitation on liabilities of the series; and
- 3093 (e) notice of the limitation on liability of the series is set forth in the limited liability company's certificate of organization in accordance with Section [48-3a-1202] ~~{16-20-1102}~~ 16-20-1002.
- 3096 (3) A series meeting all of the conditions of Subsection (2) shall:
- 3097 (a) be treated as a separate entity to the extent set forth in the certificate of organization; and
- 3099 (b) have the power and capacity to, in its own name, contract, hold title to property, grant liens and security interests, and sue and be sued.
- 3101 (4) Notwithstanding the other provisions of this section:
- 3102 (a) property and assets of a series may not be transferred to the limited liability company generally or another series if the transfer impairs the ability of the series releasing the property or assets to pay its debts existing at the time of the transfer unless fair value is given to the transferring series for the property or assets transferred; and
- 3106 (b) a tax or other liability of the limited liability company generally or of a series may not be assigned by the series against which the tax or other liability is imposed to the limited liability company generally or to another series within the limited liability company if the assignment impairs a creditor's right and ability to fully collect an amount due when owed.
- 3111 (5) Notwithstanding the other provisions of this part:
- 3112 (a) a professional services company may not designate a series of transferable interests; and
- 3114 (b) a limited liability company may not form a professional services company as a series of the limited liability company.
- 3116 (6) Except to the extent modified by this part, the provisions of this chapter which are generally applicable to a limited liability company, and [its] the limited liability company's managers,



## SB0041 compared with SB0041S02

members, and transferees, shall be applicable to each series with respect to the operations of such a series.

2649 Section 62. Section **16-20-1002** is renumbered and amended to read:

2651 ~~[48-3a-1202]~~ **16-20-1002. Notice of limitation on liability of a series.**

3123 (1)

(a) Notice in a limited liability company's certificate of organization of the limitation on liabilities of a series as referenced in Subsection ~~[48-3a-1201(2)(e)]~~ ~~{16-20-1101(2)(e)}~~ 16-20-1001(2)(e) is sufficient for all purposes of this part whether or not the limited liability company has established a series at the time the notice is included in the certificate of organization.

3128 (b) For a certificate of organization or an amendment to a certificate of organization made to include notice of series that is filed on or after May 12, 2015, notice in a company's certificate of organization is sufficient for purposes of Subsection (1) only if the notice of series appears immediately following the provision stating the name of the company.

3133 (2) The notice of a limitation on liability of a series as referenced in Subsection ~~[48-3a-1201(2)(e)]~~ ~~{16-20-1102(2)(e)}~~ 16-20-1001(2)(e) is not required to reference a specific series.

3135 (3) The filing by the division of the certificate of organization containing a notice of the limitation on liabilities of a series constitutes notice of the limitation on liabilities of the series.

2667 Section 63. Section **16-20-1003** is renumbered and amended to read:

2669 ~~[48-3a-1203]~~ **16-20-1003. Agreement to be liable.**

Notwithstanding Section ~~[48-3a-304]~~ 16-20-304, or a contrary provision in an operating agreement, a member or manager may agree to be obligated personally for any or all of the debts, obligations, or liabilities of one or more series.

2673 Section 64. Section **16-20-1004** is renumbered and amended to read:

2675 ~~[48-3a-1204]~~ **16-20-1004. Series related provisions in operating agreement.**

3147 (1) An operating agreement may provide for classes or groups of members or managers associated with a series having such relative rights, powers, and duties as the operating agreement may provide.

3150 (2) The operating agreement may provide for the future creation of additional classes or groups of members or managers associated with the series having such relative rights, powers, and duties as may from time to time be established, including rights, powers, and duties senior to existing classes and groups of members or managers associated with the series.

3155

## SB0041 compared with SB0041S02

(3) An operating agreement may provide for the taking of an action, including the amendment of the operating agreement, without the vote or approval of any member or manager or class or group of members or managers, including all action to create under the provisions of the operating agreement a class or group of the series of membership interests that was not previously outstanding.

3160 (4) An operating agreement may provide that any member or class or group of members associated with a series does not have voting rights.

3162 (5)

(a) An operating agreement may grant to all or certain identified members or managers or a specified class or group of the members or managers associated with a series the right to vote on any matter separately or with all or any class or group of the members or managers associated with the series.

3166 {~~(b)~~} [-]

2695 (b) Voting by members or managers associated with a series may be on any basis including:

3168 [~~(a)~~] (i) a per capita basis;

3169 [~~(b)~~] (ii) a number basis;

3170 [~~(c)~~] (iii) on the basis of a financial interest; or

3171 [~~(d)~~] (iv) by class or group.

2701 Section 65. Section **16-20-1005** is renumbered and amended to read:

2703 ~~[48-3a-1205]~~ **16-20-1005. Management of a series.**

3175 (1) A series is member-managed unless the operating agreement:

3176 (a) expressly provides that:

3177 (i) the series is or will be "manager-managed";

3178 (ii) the series is or will be "managed by managers"; or

3179 (iii) management of the series is or will be "vested in managers"; or

3180 (b) includes words of similar import.

3181 (2) In a member-managed series, unless modified pursuant to Section [48-3a-1204] {~~16-20-1104~~} 16-20-1004, the following rules apply:

3183 (a) The management and conduct of the series are vested in the members of the series.

3184 (b) Each series member has equal rights in the management and conduct of the series' activities.

3186 (c) A difference arising among series members as to a matter in the ordinary course of the activities of the series shall be decided by a majority of the series members.

3188

## SB0041 compared with SB0041S02

- (d) An act outside the ordinary course of the activities of the series may be undertaken only with the consent of all members of the series.
- 3190 (e) The operating agreement may be amended only with the consent of all members of the series.
- 3192 (3) In a manager-managed series, the following rules apply:
- 3193 (a) Except as otherwise expressly provided in this chapter, any matter relating to the activities of the series is decided exclusively by the managers of the series.
- 3195 (b) Each series manager has equal rights in the management and conduct of the activities of the series.
- 3197 (c) A difference arising among managers of a series as to a matter in the ordinary course of the activities of the series shall be decided by a majority of the managers of the series.
- 3200 (d) Unless modified pursuant to Section [48-3a-1204] {~~16-20-1104~~} 16-20-1004, the consent of all members of the series is required to:
- 3202 (i) sell, lease, exchange, or otherwise dispose of all, or substantially all, of the series' property, with or without the goodwill, outside the ordinary course of the series' activities;
- 3205 (ii) approve a transaction under[ ~~Part 10, Merger, Interest Exchange, Conversion, and Domestication~~] :
- 3207 (A) Chapter 1a, Part 7, Merger;
- 3208 (B) Chapter 1a, Part 8, Interest Exchange;
- 3209 (C) Chapter 1a, Part 9, Conversion; or
- 3210 (D) Chapter 1a, Part 10, Domestication;
- 3211 (iii) undertake any other act outside the ordinary course of the series' activities; and
- 3212 (iv) amend the operating agreement as it pertains to the series.
- 3213 (e)
- (i) A manager of the series may be chosen at any time by the consent of a majority of the members of the series and remains a manager of the series until a successor has been chosen, unless the series manager at an earlier time resigns, is removed, [~~or~~]dies, or, in the case of a series manager that is not an individual, terminates.
- 3217 {~~(ii)~~} [-]
- 2746 (ii) A series manager may be removed at any time by the consent of a majority of the members without notice or cause.
- 3219 (f)
- (i) A person need not be a series member to be a manager of a series, but the dissociation of a series member that is also a series manager removes the person as a manager of the series.

## SB0041 compared with SB0041S02

- 3222 {~~(ii)~~} [-]
- 2751 (ii) If a person that is both a series manager and a series member ceases to be a manager of the series, that cessation does not by itself dissociate the person as a member of the series.
- 3225 (g) A person's ceasing to be a series manager does not discharge any debt, obligation, or other liability to the series or members of the series which the person incurred while a manager of the series.
- 3228 (4) An action requiring the consent of members of a series under this chapter may be taken without a meeting, and a member of a series may appoint a proxy or other agent to consent or otherwise act for the series member by signing an appointing record, personally or by the series member's agent.
- 3232 (5) The dissolution of a series does not affect the applicability of this section. However, a person that wrongfully causes dissolution of the series loses the right to participate in management as a series member and a series manager.
- 3235 (6) This chapter does not entitle a member of a series to remuneration for services performed for a member-managed series, except for reasonable compensation for services rendered in winding up the activities of the series.
- 2767 Section 66. Section **16-20-1006** is renumbered and amended to read:
- 2769 ~~[48-3a-1206]~~ **16-20-1006. Series distributions.**
- 3241 (1) Any distribution made by a series before its dissolution and winding up must be in equal shares among the series members and dissociated series members, except to the extent necessary to comply with any transfer effective under Section [48-3a-502] 16-20-502 and any charging order in effect under Section [48-3a-503] 16-20-503.
- 3245 (2)
- (a) A person has a right to a distribution before the dissolution and winding up of a series only if the series decides to make an interim distribution.
- 3247 {~~(b)~~} [-]
- 2776 (b) A person's dissociation with respect to a series does not entitle the person to a distribution.
- 3249 (3)
- (a) A person does not have a right to demand or receive a distribution from a series in any form other than money.
- 3251 {~~(b)~~} [-]
- 2780

## SB0041 compared with SB0041S02

(b) Except as otherwise provided in Subsection [~~48-3a-711(3)~~] 16-20-708(3), a series may distribute an asset in kind 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.

3255 (4)

(a) If a series member or transferee becomes entitled to receive a distribution, the series member or transferee has the status of, and is entitled to all remedies available to, a creditor of the series with respect to the distribution.

3258 {~~(b)~~} [-]

2787 (b) However, the series' obligation to make a distribution is subject to offset for any amounts owed to the series by the member or a person dissociated as a member on whose account the distribution is made.

3261 (5) A series may not make a distribution if after the distribution:

3262 (a) the series would not be able to pay its debts as they become due in the ordinary course of the series' activities; or

3264 (b) the series' total assets would be less than the sum of its total liabilities plus the amount that would be needed, if the series were to be dissolved, wound up, and terminated at the time of the distribution, to satisfy the preferential rights upon dissolution, winding up, and termination of members whose preferential rights are superior to those of persons receiving the distribution.

3269 (6) A series may base a determination that a distribution is not prohibited under Subsection (5) on financial statements prepared on the basis of accounting practices and principles that are reasonable in the circumstances or on a fair valuation or other method that is reasonable under the circumstances.

3273 (7) Except as otherwise provided in Subsection (9), the effect of a distribution under Subsection (5) is measured:

3275 (a) in the case of a distribution by purchase, redemption, or other acquisition of a transferable interest in the series, as of the date money or other property is transferred or debt incurred by the series; or

3278 (b) in all other cases, as of the date:

3279 (i) the distribution is authorized, if the payment occurs within 120 days after that date; or

3281 (ii) the payment is made, if the payment occurs more than 120 days after the distribution is authorized.

3283 (8) A series' indebtedness to a series member incurred by reason of a distribution made in accordance with this section is at parity with the series' indebtedness to its general, unsecured creditors.

## SB0041 compared with SB0041S02

- 3286 (9)
- (a) A series' indebtedness, including indebtedness issued in connection with or as part of a distribution, is not a liability for purposes of Subsection (5) if the terms of the indebtedness provide that payment of principal and interest are made only to the extent that a distribution could be made to members of the series under this section.
- 3290 {~~(b)~~} [-]
- 2819 (b) If such indebtedness is issued as a distribution, each payment of principal or interest on the indebtedness is treated as a distribution, the effect of which is measured on the date the payment is made.
- 3293 (10) Except as otherwise provided in Subsection (11), if a member of a member-managed series or manager of a manager-managed series consents to a distribution made in violation of this section and in consenting to the distribution fails to comply with Section ~~[48-3a-409]~~ 16-20-409, the member or manager is personally liable to the series for the amount of the distribution that exceeds the amount that could have been distributed without the violation of this section.
- 3299 (11) To the extent the operating agreement of a member-managed series expressly relieves a series member of the authority and responsibility to consent to distributions and imposes that authority and responsibility on one or more other members of the series, the liability stated in Subsection (10) applies to the other members of the series and not the member of the series that the operating agreement relieves of authority and responsibility.
- 3305 (12) A person that receives a distribution from a series knowing that the distribution to that person was made in violation of this section 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 this section.
- 3309 (13) A person against which an action is commenced because the person is liable under Subsection (10) may:
- 3311 (a) implead any other person that is liable under Subsection (10) and seek to compel contribution from the person; and
- 3313 (b) implead any person that received a distribution in violation of Subsection (12) and seek to compel contribution from the person in the amount the person received in violation of Subsection (12).
- 3316 (14) An action under this section is barred if not commenced within two years after the distribution.
- 2847 Section 67. Section **16-20-1007** is renumbered and amended to read:

## SB0041 compared with SB0041S02

2849            ~~[48-3a-1207]~~ **16-20-1007. Events causing dissociation from a series.**

- 3321            (1) Unless otherwise provided in the operating agreement, a member ceases to be associated with a series and to have the power to exercise a right or power of a member with respect to the series upon the assignment of all of the member's transferable interest in the limited liability company with respect to the series.
- 3325            (2) Unless otherwise provided in an operating agreement, an event under this chapter or the operating agreement that causes a member to cease to be associated with a series does not, by itself:
- 3328            (a) cause the member to cease to be associated with another series;
- 3329            (b) terminate the continued membership of a member in the limited liability company; or
- 3330            (c) cause the termination of the series, regardless of whether the member is the last remaining member associated with the series.

2861            Section 68. Section **16-20-1008** is renumbered and amended to read:

2863            ~~[48-3a-1208]~~ **16-20-1008. Dissolution of a series.**

- 3335            (1) Except to the extent otherwise provided in the operating agreement, a series may be dissolved and its affairs wound up without causing the dissolution of the limited liability company.
- 3338            (2) The dissolution of a series does not affect the limitation on liabilities of the series under Section ~~[48-3a-1201]~~ {~~16-20-1101~~} 16-20-1001.
- 3340            (3) A series is dissolved and its affairs shall be wound up upon the dissolution of the limited liability company under Section ~~[48-3a-701]~~ 16-20-701 or upon the occurrence of any of the events described in Section ~~[48-3a-701]~~ 16-20-701, as applied to the series.
- 3343            (4) Notwithstanding Section ~~[48-3a-703]~~ 16-20-703, unless otherwise provided in the operating agreement, any of the following persons may wind up the affairs of a dissolved series:
- 3346            (a) a manager associated with a series who has not wrongfully caused the dissolution of the series;
- 3348            (b) if there is no manager that satisfies the requirements of Subsection (4)(a), the members associated with the series who have not wrongfully caused the dissolution of the series or a person approved by the members associated with the series who have not wrongfully caused the dissolution of the series; or
- 3352            (c) if there is more than one class or group of members associated with the series, then by each class or group of members associated with the series, in either case, by members who have not wrongfully caused the dissolution of the series, and either:

3355

## SB0041 compared with SB0041S02

- (i) own more than 50% of the transferable interests of the series owned by members associated with the series who have not wrongfully caused the dissolution of the series; or
- 3358 (ii) own more than 50% of the transferable interests of each class or group associated with the series owned by members associated with the series who have not wrongfully caused the dissolution of the series.
- 3361 (5)
- (a) The persons winding up the affairs of a series, in the name of the series and for and on behalf of the series, may take all actions with respect to the series as are permitted under Section [48-3a-703] 12-20-703 for a limited liability company.
- 3364 {~~(b)~~} [-]
- 2893 (b) The persons winding up the affairs of a series shall provide for the claims and obligations of the series as provided in Section [48-3a-711] 16-20-708 for a limited liability company and distribute the assets of the series as provided in Section [48-3a-711] 16-20-708 for a limited liability company.
- 3368 {~~(c)~~} [-]
- 2897 (c) An action taken pursuant to this Subsection (5) may not affect the liability of a member and may not impose liability on a liquidating trustee.
- 2899 Section 69. Section **16-20-1009** is renumbered and amended to read:
- 2901 **[48-3a-1209] 16-20-1009. Foreign limited liability company -- Series.**
- 3373 (1) A foreign limited liability company that is registered to do business in this state that is governed by an operating agreement that establishes or provides for the establishment of a series of transferable interests having separate rights, powers, or duties with respect to specified property or obligations of the foreign limited liability company, or profits and losses associated with the specified property or obligations, shall indicate that fact on the foreign registration statement filed by the division.
- 3379 (2) [~~In addition, the~~] The[-] foreign limited liability company shall state on the foreign registration statement whether the debts, liabilities, and obligations incurred, contracted for, or otherwise existing with respect to a particular series, if any, are enforceable against the assets of such series only, and not against the assets of the foreign limited liability company generally or any other series.
- 3384 {~~(3)~~} [-]
- 2913 (3) Notice in a foreign limited liability company's foreign registration statement of the limitation on liability of a series as referenced in this section shall have the same effect found in Section



## SB0041 compared with SB0041S02

[48-3a-1202] ~~{16-20-1102}~~ 16-20-1002 as a notice of limitation on liability of a series set forth in a limited liability company's certificate of organization.

2917 Section 70. Section **16-20-1101** is renumbered and amended to read:

3390 **Part 1211. Low-Profit Limited Liability Companies**

2920 ~~[48-3a-1301]~~ **16-20-1101. Application of this part.**

If a conflict arises between this part and another provision of this chapter, this part controls.

2923 Section 71. Section **16-20-1102** is renumbered and amended to read:

2925 ~~[48-3a-1302]~~ **16-20-1102. Requirements.**

3397 (1) To be a low-profit limited liability company, a limited liability company shall:

3398 (a) contain in its name the abbreviation "L3C" or "l3c";

3399 (b) state in its certificate of organization that it is a low-profit limited liability company;

3400 (c) organize under this chapter; and

3401 (d) be organized for a business purpose that satisfies, and at all times operates to satisfy each of the requirements under Subsection (2).

3403 (2) A low-profit limited liability company:

3404 (a) shall significantly further the accomplishment of one or more charitable or educational purposes within the meaning of Section 170(c)(2)(B), Internal Revenue Code;

3407 (b) shall demonstrate that it would not be formed but for the limited liability company's relationship to the accomplishment of a charitable or educational purpose;

3409 (c) subject to Subsection (3), may not have as a significant purpose the production of income or the appreciation of property; and

3411 (d) may not have as a purpose to accomplish one or more political or legislative purposes within the meaning of Section 170(c)(2)(D), Internal Revenue Code.

3413 (3) Notwithstanding Subsection (2), if a low-profit limited liability company produces significant income or capital appreciation, in the absence of other factors, the fact that the low-profit limited liability company produces significant income or capital appreciation is not conclusive evidence of a significant purpose involving the production of income or the appreciation of property.

2947 Section 72. Section **16-20-1103** is renumbered and amended to read:

2949 ~~[48-3a-1303]~~ **16-20-1103. Ceasing to be a low-profit limited liability company.**

3421

## SB0041 compared with SB0041S02

(1) If a limited liability company that is a low-profit limited liability company at its formation at any time ceases to meet a requirement to be a low-profit limited liability company under Section [48-3a-1302] {16-20-1202} 16-20-1102, the limited liability company:

(a) ceases to be a low-profit limited liability company on the day on which the limited liability company no longer meets the requirement; and

(b) if it continues to meet the requirements of this chapter to be a limited liability company, continues to exist as a limited liability company that is not a low-profit limited liability company.

(2) A low-profit limited liability company's failure to meet a requirement of Section [48-3a-1302] {16-20-1202} 16-20-1102 may be:

(a) voluntary, in order to convert to a limited liability company that is not a low-profit limited liability company; or

(b) involuntary.

(3) If a low-profit limited liability company ceases to be a low-profit limited liability company in accordance with this section, the limited liability company shall:

(a) change [its] the limited liability company's name to conform with Section [48-3a-108] 16-1a-302; and

(b) amend [its] the limited liability company's certificate of organization in accordance with Section [48-3a-202] 16-20-202.

Section 73. Section **16-20-1104** is renumbered and amended to read:

**[48-3a-1304] 16-20-1104. Merger, interest exchange, conversion, or domestication of a low-profit limited liability company.**

A low-profit limited liability company may engage in a 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, to the same extent as a limited liability company that is not a low-profit limited liability company.

Section 74. Section **16-20-1201** is renumbered and amended to read:

### **Part 1312. Miscellaneous Provisions**

**[48-3a-1401] 16-20-1201. 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

## SB0041 compared with SB0041S02

that enact the uniform act upon which this chapter is based.

2985 Section 75. Section **16-20-1202** is renumbered and amended to read:

2987 **~~[48-3a-1402]~~ 16-20-1202. 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.

2992 Section 76. Section **16-20-1203** is renumbered and amended to read:

2994 **~~[48-3a-1403]~~ 16-20-1203. 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 does not modify, limit, or supersede Section 101(c) of that act, 15 U.S.C. Sec. 7001(c), or authorize electronic delivery of any of the notices described in Section 103(b) of that act, 15 U.S.C. Sec. 7003(b).

3000 Section 77. Section **16-20-1204** is renumbered and amended to read:

3002 **~~[48-3a-1404]~~ 16-20-1204. Savings clause.**

This chapter does not affect an action commenced, proceeding brought, or right accrued before this chapter takes effect.

3005 Section 78. Section **16-20-1205** is renumbered and amended to read:

3007 **~~[48-3a-1405]~~ 16-20-1205. Application to existing relationships.**

3479 (1) Before January 1, 2016, this chapter governs only:

3480 (a) a limited liability company formed on or after January 1, 2014; and

3481 (b) except as otherwise provided in Subsection (3), a limited liability company formed before January 1, 2014, which elects, in the manner provided in its operating agreement or by law for amending the operating agreement, to be subject to this chapter.

3485 (2) Except as otherwise provided in Subsection (3), on and after January 1, 2016, this chapter governs all limited liability companies.

3487 (3) For the purposes of applying this chapter to a limited liability company formed before January 1, 2014:

3489 (a) the limited liability company's articles of organization are deemed to be the limited liability company's certificate of organization;

## SB0041 compared with SB0041S02

3491 (b) for the purposes of applying Subsection ~~[48-3a-102(15)]~~ 16-20-101(15) and subject to Subsection  
[48-3a-114(4)] 16-20-109(4), language in the limited liability company's articles of organization  
designating the limited liability company's management structure operates as if that language were  
in the operating agreement; and

3496 (c)  
(i) the limited liability company has perpetual duration unless otherwise stated in the limited liability  
company's articles of organization; and

3498 (ii) after the limited liability company's duration ends in accordance with the articles of organization,  
the limited liability company is dissolved, and its activities and affairs must be wound up.

3030 Section 79. Section **16-21-101** is renumbered and amended to read:

3503 **CHAPTER 21. Benefit Limited Liability Company Act**

3504 **Part 1. General Provisions**

3034 **~~[48-4-102]~~ 16-21-101. Application and effect of chapter.**

3506 (1) This chapter applies to a benefit company organized under this chapter.

3507 (2)

(a) The existence of a provision in this chapter does not itself create an implication that a contrary or  
different rule of law is applicable to a limited liability company that is not a benefit company.

3510 (b) This chapter does not affect a statute or rule of law that is applicable to a limited liability company  
that is not a benefit company.

3512 (3)

(a) Except as otherwise provided in this chapter, ~~[Title 48, Chapter 3a, Utah Revised Uniform Limited  
Liability Company Act]~~ Chapter 20, Utah Revised Uniform Limited Liability Company Act, applies  
to a benefit company.

3515 (b) The provisions of this chapter control over any inconsistent provision of ~~[Title 48, Chapter 3a, Utah  
Revised Uniform Limited Liability Company Act]~~ Chapter 20, Utah Revised Uniform Limited  
Liability Company Act.

3518 (4) The operating agreement of a benefit company may not limit, be inconsistent with, or supersede a  
provision of this chapter.

3049 Section 80. Section **16-21-102** is renumbered and amended to read:

3051 **~~[48-4-103]~~ 16-21-102. Definitions.**

## **SB0041 compared with SB0041S02**

As used in this chapter:

- 3524 (1) "Benefit company" means a limited liability company:
- 3525 (a) that elects to become subject to this chapter; and
- 3526 (b) the status of which as a benefit company has not been terminated.
- 3527 (2) "Benefit enforcement proceeding" means a proceeding in a court of competent jurisdiction for:
- 3529 (a) failure of a benefit company to pursue or create general public benefit or a specific public benefit described in the benefit company's certificate of organization; or
- 3531 (b) a violation of an obligation, duty, or standard of conduct under this chapter.
- 3532 (3) "General public benefit" means a material positive impact on society and the environment:
- 3534 (a) taken as a whole;
- 3535 (b) assessed against a third-party standard; and
- 3536 (c) from the business of a benefit company.
- 3537 (4) "Immediate family member" means a parent, spouse, surviving spouse, child, or sibling.
- 3538 (5)
- (a) "Independent person" means a person who has no material relationship with a benefit company or a subsidiary of the benefit company.
- 3540 (b) "Independent person" does not include a person:
- 3541 (i) who is, or has been within the last three years, an employee of the benefit company or a subsidiary of the benefit company;
- 3543 (ii) whose immediate family member is, or has been within the last three years, an executive officer of the benefit company or a subsidiary of the benefit company;
- 3545 (iii) who owns 5% or more of the outstanding interests of the benefit company, calculated as if all outstanding rights to acquire interests in the benefit company have been exercised; or
- 3548 (iv) who owns 5% or more of the outstanding interests in an entity, calculated as if all outstanding rights to acquire interests in the entity have been exercised, that owns 5% or more of the outstanding interests of the benefit company, calculated as if all outstanding rights to acquire interests in the benefit company have been exercised.
- 3552 (6) "Minimum status vote" means:
- 3553 (a) in the case of a limited liability company, in addition to any other required approval or vote, the satisfaction of the following conditions:
- 3555

## SB0041 compared with SB0041S02

- (i) the members of every class or series may vote as a separate voting group on an action of the limited liability company regardless of a limitation state in the certificate of organization or operating agreement on the voting rights of any class or series; and
- 3559 (ii) the action of the limited liability company is required to be approved by vote of the members of each class or series entitled to cast at least two-thirds of the votes that all members of the class or series are entitled to cast on the action; or
- 3562 (b) in the case of a domestic entity other than a limited liability company, in addition to any other required approval, vote, or consent, the satisfaction of the following conditions:
  - 3565 (i) the holders of every class or series of interest in the entity that are entitled to receive a distribution of any kind from the entity may vote on or consent to the action regardless of any otherwise applicable limitation on voting or consent rights of the class or series; and
  - 3569 (ii) the action of the limited liability company is required to be approved by vote or consent of the holders described in Subsection (6)(b)(i) entitled to cast at least two-thirds of the votes or consents that all of those holders are entitled to cast on the action.
- 3573 (7) "Owns" includes ownership as the owner of record or as a beneficial owner.
- 3574 (8) "Specific public benefit" includes:
  - 3575 (a) providing low-income or underserved individuals or communities with beneficial products or services;
  - 3577 (b) promoting economic opportunity for individuals or communities beyond the creation of jobs in the normal course of business;
  - 3579 (c) protecting or restoring the environment;
  - 3580 (d) improving human health;
  - 3581 (e) promoting the arts, sciences, or advancement of knowledge;
  - 3582 (f) increasing the flow of capital to entities with a purpose to benefit society or the environment; and
  - 3584 (g) conferring any other particular benefit on society or the environment.
- 3585 (9) "Subsidiary" means, in relation to a person, an entity in which the person owns beneficially or of record, 50% or more of the outstanding equity interests, calculated as if all outstanding rights to acquire equity interests in the entity have been exercised.
- 3588 (10) "Third-party standard" means a standard for defining, reporting, and assessing overall social and environmental performance that:
- 3590

## SB0041 compared with SB0041S02

(a) assesses the effect of a business and a business's operations on the interests described in Subsections ~~[48-4-301(1)(a)(ii)]~~ 16-21-301(1)(a)(ii) through (v);

(b) is developed by an entity:

(i) that is independent of the benefit company;

(ii) whose governing body is comprised of no more than one-third of members who are representatives of any of the following:

(A) an association of businesses that operate in a specific industry whose members are measured by the standard;

(B) businesses from a specific industry or an association of businesses in that industry; or

(C) businesses whose performance is assessed against the standard;

(iii) that is not materially financed by an association or business described in Subsection (10)(b)(ii);

(iv) that has access to necessary expertise to assess overall social and environmental performance;

(v) uses a balanced multistakeholder approach to develop the standard, including a public comment period of at least 30 days; and

(vi) makes the following information publically available:

(A) the criteria considered when measuring the overall social and environmental performance of a business;

(B) the relative weightings, if any, of the criteria described in Subsection (10)(b)(vi)(A);

(C) the identity of each director, officer, material owner, and governing body of the entity that developed and controls revisions to the standard;

(D) the process by which revisions to the standard and changes to the membership of the governing body are made; and

(E) an accounting of the revenue and sources of financial support for the entity, with sufficient detail to disclose a relationship that could reasonably be considered to present a potential conflict of interest.

Section 81. Section **16-21-103** is renumbered and amended to read:

~~[48-4-104]~~ **16-21-103. Benefit company status.**

(1) A person may form a benefit company in accordance with ~~[Title 48, Chapter 3a, Utah Revised Uniform Limited Liability Company Act]~~ Chapter 20, Utah Revised Uniform Limited Liability Company Act, except the certificate of organization shall state that the limited liability company is a benefit company.

(2)

## SB0041 compared with SB0041S02

(a) A limited liability company may elect to become a benefit company by amending, in accordance with Section ~~[48-3a-202]~~ 16-20-202, the limited liability company's certificate of organization to contain a statement that the limited liability company is a benefit company.

3630 (b) An amendment described in Subsection (2)(a) is not effective unless the amendment is adopted by at least the minimum status vote.

3632 (3) If an entity that is not a benefit company is a party to a merger or is the exchanging entity in an interest exchange, and the surviving entity in the merger or interest exchange is a benefit company, the merger or interest exchange is not effective unless the merger or interest exchange is adopted by the entity by at least the minimum status vote.

3636 (4)

(a) A benefit company may terminate the benefit company's status as a benefit company and cease to be subject to this chapter by amending the benefit company's certificate of organization in accordance with Section ~~[48-3a-202]~~ 16-20-202 to delete the provision described in Subsection (1) or (2) that states that the limited liability company is a benefit company.

3641 (b) An amendment described in Subsection (4)(a) is not effective unless the amendment is adopted by at least the minimum status vote.

3643 (5)

(a) If a proposed merger or interest exchange would have the effect of terminating a benefit company's status as a benefit company, the merger or interest exchange is not effective unless the merger or interest exchange is adopted by at least the minimum status vote.

3647 (b) Unless the transaction is in the usual and regular course of the benefit company's business, a sale, lease, exchange, or other disposition of all or substantially all of the assets of a benefit company is not effective unless the transaction is approved by at least the minimum status vote.

3180 Section 82. Section **16-21-201** is renumbered and amended to read:

3653

### **Part 2. Company Purpose**

3183 ~~[48-4-201]~~ **16-21-201. Company purpose.**

3655 (1) In addition to the benefit company's purpose under Section ~~[48-3a-104]~~ 16-20-103, a benefit company shall have a purpose of creating general public benefit.

3657 (2)

(a) A benefit company's certificate of organization may identify one or more specific public benefits that are the purposes of the benefit company to create.



## SB0041 compared with SB0041S02

- 3659 (b) Identifying a specific public benefit in accordance with Subsection (2)(a) does not affect a benefit  
company's obligation to create general public benefit in accordance with Subsection (1).
- 3662 (3) The creation of general public benefit and one or more specific public benefits is in the best interests  
of the benefit company.
- 3664 (4)
- (a) A benefit company may amend the benefit company's certificate or organization to add, amend, or  
delete a specific public benefit.
- 3666 (b) An amendment described in Subsection (4)(a) is not effective unless adopted by at least the  
minimum status vote.
- 3197 Section 83. Section **16-21-301** is renumbered and amended to read:
- 3670 **Part 3. Accountability**
- 3200 **~~[48-4-301]~~ 16-21-301. Standard of conduct for members.**
- 3672 (1) When discharging a duty under this chapter, each member of a member-managed benefit company:
- 3674 (a) shall consider the effect of any action or inaction on:
- 3675 (i) the members of the benefit company;
- 3676 (ii) the employees and workforce of the benefit company;
- 3677 (iii) the interests of customers as beneficiaries of the benefit company's general public benefit purpose  
or specific public benefit purpose;
- 3679 (iv) community and societal considerations, including those of each community in which offices or  
facilities of the benefit company or the benefit company's subsidiaries or suppliers are located;
- 3682 (v) the local and global environment;
- 3683 (vi) the short-term and long-term interests of the benefit company, including benefits that may accrue to  
the benefit company from the benefit company's long-term plans and the possibility that the interests  
may be best served by the continued independence of the benefit company; and
- 3687 (vii) the ability of the benefit company to accomplish the benefit company's general public benefit  
purpose and any specific public benefit purpose; and
- 3689 (b) may consider other pertinent factors or the interests of any other group that the member considers  
appropriate.
- 3691 (2) A member is not required to prioritize the interests of a person or factor described in Subsection (1)  
(a) or (b) over the interests of any other person or factor, unless the benefit company's certificate of  
organization states an intention to give priority to certain interests related to the benefit company's

## SB0041 compared with SB0041S02

accomplishment of the benefit company's general public benefit purpose or a specific public benefit purpose identified in the benefit company's certificate of organization.

- 3697 (3) A member's consideration of interests and factors in accordance with Subsections (1) and (2) does  
not constitute a violation of Section ~~[48-3a-409]~~ 16-20-409.
- 3699 (4) A member of a member-managed limited liability company that is a benefit company does not have  
a duty to a person who is a beneficiary of the benefit company's general public benefit purpose or a  
specific public benefit purpose arising from the person's status as a beneficiary.
- 3232 Section 84. Section **16-21-302** is renumbered and amended to read:
- 3234 ~~[48-4-302]~~ **16-21-302. Standard of conduct for managers and officers.**
- 3706 (1) Each manager of a manager-managed benefit company shall consider the interests and factors  
described in Subsections ~~[48-4-301(1)]~~ 16-21-301(1) and (2) when discharging the manager's duties  
under this chapter and the operating agreement.
- 3709 (2) If a benefit company has a person serving as an officer, the person shall consider the interests and  
factors described in Subsections ~~[48-4-301(1)]~~ 16-21-301(1) and (2) when discharging the person's  
duties under this chapter and the operating agreement if:
- 3712 (a) the officer has discretion to act with respect to the matter; and
- 3713 (b) it reasonably appears to the officer that the matter may have a material effect on the benefit  
company's creation of a general public benefit or a specific public benefit identified in the benefit  
company's certificate of organization.
- 3716 (3) A manager's consideration of the interests and factors described in Subsections  
~~[48-4-301(1)]~~ 16-21-301(1) and (2) does not constitute a violation of Section  
~~[48-3a-409]~~ 16-20-409.
- 3719 (4) A manager or officer does not have a duty to a person who is a beneficiary of the benefit company's  
general public benefit purpose or a specific public benefit purpose arising from the person's status as  
a beneficiary.

3251 Section 85. Section **16-21-303** is renumbered and amended to read:

3253 ~~[48-4-303]~~ **16-21-303. Right of action.**

- 3725 (1) Except in a benefit enforcement proceeding, a person may not bring an action or assert a claim  
against a benefit company or a benefit company's member, manager, or officer with respect to:
- 3728 (a) failure to pursue or create general public benefit or a specific public benefit set forth in the benefit  
company's certificate of organization; or

## SB0041 compared with SB0041S02

- 3730 (b) violation of a duty or standard of conduct under this chapter.
- 3731 (2) A benefit company is not liable for monetary damages under this chapter for a failure of the benefit company to pursue or create general public benefit or a specific public benefit.
- 3734 (3) Only the following may commence or maintain a benefit enforcement proceeding:
- 3735 (a) the benefit company, directly; or
- 3736 (b) one or more of the following, derivatively:
- 3737 (i) a member that owned at least 2% of the total number of interests of a class or series outstanding at the time of the act or omission complained of;
- 3739 (ii) a manager of a manager-managed benefit company;
- 3740 (iii) a person or group of persons who own beneficially or of record at least 5% of the interests in an association of which the benefit company is a subsidiary at the time of the act or omission complained of; or
- 3743 (iv) any person or group of persons specified in the benefit company's certificate of organization or operating agreement.

3274 Section 86. Section **16-21-401** is renumbered and amended to read:

3747 **Part 4. Transparency**

3277 **[48-4-401] 16-21-401. Annual benefit report.**

- 3749 (1) A benefit company shall prepare an annual benefit report that includes:
- 3750 (a) a narrative description of:
- 3751 (i) the ways in which the benefit company pursued the benefit company's general public benefit purpose during the year and the extent to which general public benefit was created;
- 3754 (ii) the ways in which the benefit company pursued any specific public benefit that the benefit company's certificate of organization states is the purpose of the benefit company to create and the extent to which the specific public benefit was created;
- 3758 (iii) any circumstances that have hindered the benefit company's creation of general public benefit or any specific public benefit; and
- 3760 (iv) the process and rationale for selecting or changing the third-party standard used to prepare the benefit report;
- 3762 (b) an assessment of the overall social and environmental performance of the benefit company against a third-party standard:
- 3764 (i) applied consistently with any application of the standard in prior benefit reports; or

## SB0041 compared with SB0041S02

- 3765 (ii) accompanied by an explanation of the reasons for any inconsistent application; and  
3767 (c) any connection between the organization that established the third-party standard, or the organization's directors or officers, or a holder of 5% or more of the governance interests in the organization, and the benefit company or the benefit company's members, managers, or officers or any holder of 5% or more of the outstanding interests in the benefit company, including any financial or governance relationship that might materially affect the credibility of the use of the third-party standard.
- 3773 (2) The assessment described in Subsection (1)(b) does not need to be audited or certified by a third party.
- 3304 Section 87. Section **16-21-402** is renumbered and amended to read:  
3306 **[48-4-402] 16-21-402. Availability of annual benefit report.**
- 3778 (1) Each year, a benefit company shall send the benefit report described in Section  
[48-4-401] 16-21-401 to each member:
- 3780 (a) within 120 days after the day on which the benefit company's fiscal year ends; or  
3781 (b) the day on which the benefit company delivers any other annual report to the benefit company's members.
- 3783 (2)
- (a) Within five days after the day on which a benefit company sends a benefit report to each member in accordance with Subsection (1), the benefit company shall:
- 3785 (i) subject to Subsection (2)(b), post a copy of the benefit report on a public portion of the benefit company's website; and
- 3787 (ii) deliver a copy of the benefit report to the division for filing.
- 3788 (b) If a benefit company does not have a website, the benefit company shall provide a copy of the benefit report, without charge, to any person who requests a copy.
- 3790 (c) The benefit company may omit any financial or proprietary information from a copy of a benefit report described in Subsection (2)(a) or (b).
- 3792 (d) The division may charge a fee established by the division in accordance with Section 63J-1-504 for filing an annual benefit report in accordance with this section.

3323 Section 88. Section **16-22-101** is renumbered and amended to read:

3796 **CHAPTER 22. Decentralized Autonomous Organization Act**

3797

# SB0041 compared with SB0041S02

## Part 1. General Provisions

3327 ~~[48-5-101]~~ 16-22-101. Definitions.

As used in this chapter:

- 3800 (1) "Administrator" means a person that is appointed in a manner specified in the by-laws to make decisions for specific, predefined operations of the decentralized autonomous organization.
- 3803 (2) "Asset" means an item of value, whether on-chain or off-chain.
- 3804 (3) "By-laws" means the procedural rules and regulations that govern a decentralized autonomous organization and the interaction of the decentralized autonomous organization's members and participants.
- 3807 (4) "Cryptographic proof" means a mathematical proof that verifies that a message has not been tampered with or altered in any way and can be verified by a person that has access to the original message and the proof.
- 3810 (5) "Decentralized" means that decision-making is distributed among multiple persons.
- 3811 (6) "Decentralized autonomous organization" means an organization:
- 3812 (a) created by one or more smart contracts;
- 3813 (b) that implements rules enabling individuals to coordinate for decentralized governance of an organization; and
- 3815 (c) that is an entity formed under this chapter.
- 3816 (7)
- (a) "Developer" means a person involved in the development or maintenance of a decentralized autonomous organization.
- 3818 (b) "Developer" includes a person that provides:
- 3819 (i) software code; or
- 3820 (ii) design, business, legal, or ancillary support.
- 3821 (8)
- (a) "Dispute resolution mechanism" means an on-chain alternative dispute resolution system that enables persons to resolve disputes arising out of a decentralized autonomous organization.
- 3824 (b) "Dispute resolution mechanism" includes:
- 3825 (i) arbitration;
- 3826 (ii) expert determination; or
- 3827 (iii) an on-chain alternative court system.

## **SB0041 compared with SB0041S02**

- 3828 (9) "Division" means the Division of Corporations and Commercial Code.
- 3829 (10) "Failure event" means an error in the decentralized autonomous organization's software code or an exploit that:
- 3831 (a) renders the decentralized autonomous organization inoperative; or
- 3832 (b) fundamentally changes the expected operation of the decentralized autonomous organization.
- 3834 (11) "Graphical user interface" means a publicly accessible interface through which a person interacts with computer software through visual indicator representations.
- 3836 (12) "Hard fork" means a blockchain software upgrade that is not compatible with previous versions of the blockchain software and requires all users to upgrade to the latest version of the blockchain software.
- 3839 (13) "Legal representative" means an individual appointed in the manner specified in the by-laws of a decentralized autonomous organization to perform procedural functions off-chain on behalf of a decentralized autonomous organization.
- 3842 (14) "Majority chain" means the version of the blockchain accepted by more than half of the blockchain's validators following a hard fork.
- 3844 (15) "Meeting" means a synchronous or asynchronous event for the purpose of discussing and acting upon decentralized autonomous organization related matters by members or participants.
- 3847 (16)
- (a) "Member" means a person who has governance rights in a decentralized autonomous organization.
- 3849 (b) "Member" does not include an individual that has involuntarily received a token with governance rights, unless that person has chosen to participate in governance by undertaking a governance behavior, on-chain or off-chain, for the decentralized autonomous organization.
- 3853 (17) "Minority chain" means the version of the chain that is not the majority chain following a hard fork.
- 3855 (18) "Off-chain" means any action that is not on-chain.
- 3856 (19) "On-chain" means any action that is recorded and verified on a blockchain.
- 3857 (20) "On-chain contribution" refers to any token segregated and locked in one of the decentralized autonomous organization's smart contracts for the purpose of member buy-in to the decentralized autonomous organization and the provision of withdrawable capital.
- 3861 (21) "Organizer" means a person that submits the certificate of filing as required in Section [48-5-201] 16-22-201.

## SB0041 compared with SB0041S02

- 3863 (22) "Participant" means a person that:  
3864 (a) is not a member of a decentralized autonomous organization; and  
3865 (b) holds or interacts with a token of a decentralized autonomous organization.
- 3866 (23) "Permissionless blockchain" means a publicly distributed ledger that allows a person to transact  
and produce blocks in accordance with the blockchain protocol, in which the validity of the block is  
independent of the identity of the user.
- 3869 (24) "Public address" means a unique, durable identifier that an individual can transact with on a  
permissionless blockchain.
- 3871 (25) "Public forum" means a freely accessible online environment that is commonly used for the  
exercise of speech and public debate.
- 3873 (26) "Public signal" means a declaration authorized by the decentralized autonomous organization in a  
public forum.
- 3875 (27) "Quality assurance" means a security review of the software code of the decentralized autonomous  
organization in accordance with industry standards.
- 3877 (28) "Redeem" means to exchange a token for the value that the token represents.
- 3878 (29) "Smart contract" means software code that:  
3879 (a) is deployed on a permissionless blockchain;  
3880 (b) consists of a set of predefined instructions executed in a distributed manner by the nodes of an  
underlying blockchain network; and  
3882 (c) produces a change on the blockchain network.
- 3883 (30) "Token" means a record on a permissionless blockchain that represents an asset, participation right,  
or other entitlement.
- 3885 (31) "Transaction" means a new entry in a permissionless blockchain, including the recording of a  
change in ownership of an asset or participation in a decentralized autonomous organization.
- 3417 Section 89. Section **16-22-102** is renumbered and amended to read:  
3419 **[48-5-102] 16-22-102. Governing document hierarchy -- Governing law.**  
A decentralized autonomous organization shall be governed by the following, listed in  
order of primacy:  
3893 (1) this act;  
3894 (2) the by-laws of the decentralized autonomous organization;  
3895

## SB0041 compared with SB0041S02

(3) if this act and a decentralized autonomous organization's by-laws are silent, the provisions of  
[Chapter 3a, Utah Revised Uniform Limited Liability Company Act] Chapter 20, Utah Revised  
Uniform Limited Liability Company Act; and

(4) principles of law and equity.

Section 90. Section **16-22-103** is renumbered and amended to read:

**[48-5-103] 16-22-103. Powers of the division.**

(1)

(a) The division may make, amend, or rescind a rule, form, or order when necessary to carry out this chapter.

(b) The division shall make rules in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act.

(2) The division may by rule:

(a) provide the form and content of a registration requirement required under this chapter;

(b) provide the method of determining whether formation requirements described in Section  
[48-5-201] 16-22-201 have been met and when to file a certificate of organization; and

(c) identify industry standards for determining whether the decentralized autonomous organization has undergone security review for quality assurance.

Section 91. Section **16-22-104** is renumbered and amended to read:

**[48-5-104] 16-22-104. Legal personality.**

A decentralized autonomous organization that meets the requirements of this act:

(1) shall be deemed a legal entity separate and distinct from the decentralized autonomous organization's members;

(2) has the capacity to sue and be sued in the decentralized autonomous organization's own name and the power to do all things necessary or convenient to carry on the decentralized autonomous organization's activities and affairs;

(3) shall meet the decentralized autonomous organization's liabilities through the decentralized autonomous organization's assets;

(4) may have any lawful purpose; and

(5) has perpetual duration.

Section 92. Section **16-22-105** is renumbered and amended to read:

**[48-5-106] 16-22-105. Registered agent.**



## SB0041 compared with SB0041S02

Each decentralized autonomous organization shall designate a registered agent in this state in accordance with [~~Subsection 16-17-203(1)~~] Section 16-1a-404 and maintain a registered agent in the state.

3933 Section 101. Section **16-22-106** is renumbered and amended to read:

3935 **[48-5-107]. Fees.**

Unless otherwise provided by statute, the division shall charge and collect a fee for services established by the division in accordance with Section 63J-1-504 including fees:

- 3938 (1) for issuing a certified copy of any document, instrument, or paper relating to a decentralized autonomous organization; and
- 3940 (2) for affixing the seal to a certified copy described in Subsection (1).

3462 Section 93. Section **16-22-106** is renumbered and amended to read:

3464 **[48-5-109] 16-22-106. Electronic documents.**

- 3959 (1) Subject to Section [~~48-5-107~~] {~~16-22-106~~} 13-1a-110, the division shall by rule permit a writing required or permitted to be filed with the division under this chapter:
- 3961 (a) to be delivered, mailed, or filed:
- 3962 (i) in an electronic medium; or
- 3963 (ii) by electronic transmission; or
- 3964 (b) to be signed by photographic, electronic, or other means prescribed by rule, except that a writing signed in an electronic medium shall be signed by electronic signature in accordance with Title 46, Chapter 4, Uniform Electronic Transactions Act.
- 3967 (2) The division may by rule provide for any writing required or permitted to be prepared, delivered, or mailed by the division under this chapter to be prepared, delivered, or mailed:
- 3970 (a) in an electronic medium; or
- 3971 (b) by electronic transmission.

3941 Section 102. Section **16-22-107** is renumbered and amended to read:

3943 **[48-5-108]. Certificates issued by the division.**

- 3944 (1) Any person may apply to the division for:
- 3945 (a) a certificate of existence for a decentralized autonomous organization; or
- 3946 (b) a certificate that sets forth any facts of record in the division.
- 3947 (2) A certificate of existence or certificate of authorization sets forth:
- 3948 (a) the decentralized autonomous organization's name;

## SB0041 compared with SB0041S02

- 3949 (b) that the decentralized autonomous organization is recognized under the law of this state;  
3951 (c) the date of the decentralized autonomous organization's formation;  
3952 (d) that articles of dissolution have not been filed by the division; and  
3953 (e) other facts of record in the division that may be requested by the applicant.  
3954 (3) Subject to any qualification stated in the certificate, a certificate issued by the division may be relied upon as conclusive evidence of the facts set forth in the certificate.

3478 Section 94. Section **16-22-201** is renumbered and amended to read:

3974

### Part 2. Formation

3481 ~~[48-5-201]~~ **16-22-201. Formation requirements.**

3976 (1)

(a) One or more persons may act as organizers to form a decentralized autonomous organization by delivering to the division for filing a certificate of organization.

3978 (b) At least one of the organizers of a decentralized autonomous organization shall be an individual.

3980 (2)

(a) A certificate of organization shall provide:

3981 (i) the name of the decentralized autonomous organization, which shall comply with ~~[Section 48-5-105]~~ Sections 16-1a-302 and 16-1a-303;

3983 (ii) the name of an organizer that is an individual;

3984 (iii) the street and mailing address of the organizer described in Subsection (2)(a)(ii);

3985 (iv) the name and address of the legal representative; and

3986 (v) the information required by ~~[Subsection 16-17-203(1)]~~ Section 16-1a-404.

3987 (b) An organizer may request that the information provided in Subsections (2)(a)(ii) and (iii) is redacted by the division before any public disclosure of the filing.

3989 (3) A decentralized autonomous organization shall submit evidence to the division in a form required by the division that the decentralized autonomous organization has complied with the following requirements:

3992 (a) the decentralized autonomous organization is deployed on a permissionless blockchain;

3994 (b) the decentralized autonomous organization has a unique public address through which an individual can review and monitor the decentralized autonomous organization's transactions;

3997 (c) the software code of the decentralized autonomous organization is available in a public forum for any person to review;

## SB0041 compared with SB0041S02

- 3999 (d) the software code of the decentralized autonomous organization has undergone quality assurance;
- 4001 (e) the decentralized autonomous organization has a graphical user interface that:
- 4002 (i) allows a person to read the value of the key variables of the decentralized autonomous organization's smart contracts;
- 4004 (ii) allows a person to monitor all transactions originating from, or addressed to, the decentralized autonomous organization's smart contracts;
- 4006 (iii) specifies the restrictions on a member's ability to redeem tokens;
- 4007 (iv) makes available the decentralized autonomous organization's by-laws; and
- 4008 (v) displays the mechanism to contact the administrator of the decentralized autonomous organization;
- 4010 (f) the governance system of the decentralized autonomous organization is decentralized;
- 4011 (g) the decentralized autonomous organization has at least one member;
- 4012 (h)
- (i) there is a publicly specified communication mechanism that allows a person to contact the registered agent of the decentralized autonomous organization and provide legally recognized service; and
- 4015 (ii) a member or administrator of the decentralized autonomous organization is able to access the contents of this communication mechanism; and
- 4017 (i) the decentralized autonomous organization describes or provides a dispute resolution mechanism that is:
- 4019 (i) binding on the decentralized autonomous organization, the members, and participants of the decentralized autonomous organization; and
- 4021 (ii) able to resolve disputes with third parties capable of settlement by alternative dispute resolution.
- 4023 (4) Notwithstanding the requirements of Subsection (3)(e)(iv), a decentralized autonomous organization may redact sensitive information from the by-laws before making the by-laws available, if those redactions are necessary to protect the privacy of individual members or participants in the decentralized autonomous organization.
- 4027 (5) A decentralized autonomous organization is formed when the decentralized autonomous organization's certificate of organization becomes effective and the decentralized autonomous organization submits the evidence required in Subsection (3).
- 4030 (6) Upon formation, the decentralized autonomous organization shall have limited liability, subject to the provisions of Section [48-5-202] 16-22-202.
- 3538 Section 95. Section **16-22-202** is renumbered and amended to read:

## SB0041 compared with SB0041S02

3540            ~~[48-5-202]~~ **16-22-202. Limited liability.**

- 4035            (1) Except as set forth in Subsections (2) and (3), a member:
- 4036            (a) may only be liable for the on-chain contributions that the member has committed to the  
                 decentralized autonomous organization;
- 4038            (b) may not be held personally liable for any excess liability after the decentralized autonomous  
                 organization's assets have been exhausted;
- 4040            (c) may not be held personally liable for any obligation incurred by the decentralized autonomous  
                 organization; and
- 4042            (d) may not be held personally liable, in the member's capacity as a member, for the wrongful act or  
                 omission of any other member of the decentralized autonomous organization.
- 4045            (2) If a decentralized autonomous organization refuses to comply with an enforceable judgment, order,  
                 or award entered against the decentralized autonomous organization, the members who voted  
                 against compliance may be liable for any monetary payments ordered in the judgment, order, or  
                 award in proportion to the member's share of governance rights in the decentralized autonomous  
                 organization.
- 4050            (3) Subsections (1) and (2) do not affect the personal liability of a member in tort for a member's own  
                 wrongful act or omission.

3558            Section 96. Section **16-22-203** is renumbered and amended to read:

3560            ~~[48-5-203]~~ **16-22-203. By-laws.**

- 4055            (1) A decentralized autonomous organization shall adopt by-laws that establish internal organization  
                 and procedures for the decentralized autonomous organization.
- 4057            (2) The by-laws shall be set out in plain terms.
- 4058            (3) The by-laws of a decentralized autonomous organization may contain any provision for managing  
                 the entity and regulating the affairs of the decentralized autonomous organization that is not  
                 inconsistent with law.

4061            Section 107. Section **16-22-204** is renumbered and amended to read:

4063            ~~[48-5-204]~~ **Annual report to the division.**

- 4064            (1) A decentralized autonomous organization shall deliver to the division for filing an annual report that  
                 states:
- 4066            (a) the name of the decentralized autonomous organization; and
- 4067            (b) the information required by ~~[Subsection 16-17-203(1)]~~ Section 16-1a-404.

## SB0041 compared with SB0041S02

- 4068 (2) Information in the annual report must be current as of the date the report is signed by the  
decentralized autonomous organization.
- 4070 (3) Every 12 months after the decentralized autonomous organization has been issued a certificate of  
organization, the decentralized autonomous organization shall submit the annual report described in  
Subsection (1) to the division.

3567 Section 97. Section **16-22-301** is renumbered and amended to read:

4075 **Part 3. Members**

3570 **~~[48-5-301]~~ 16-22-301. Classes of participation rights -- Membership.**

- 4077 (1) A decentralized autonomous organization's by-laws may create multiple classes of member  
participation rights.
- 4079 (2) Where the decentralized autonomous organization has tokens providing governance powers to  
the token holder, the token holder shall be considered a member of the decentralized autonomous  
organization:
- 4082 (a) from the time the ownership of the tokens is established to be in the possession of an address; or
- 4084 (b) from the time when ownership is first acknowledged by the token holder through an on-chain  
interaction with the decentralized autonomous organization.
- 4086 (3) This section does not apply in the event of a hard fork.

3581 Section 98. Section **16-22-302** is renumbered and amended to read:

3583 **~~[48-5-302]~~ 16-22-302. Voting rights.**

- 4090 (1) The by-laws shall set out the distribution of voting rights for the classes of member participation  
rights in a decentralized autonomous organization.
- 4092 (2) The method by which these voting rights are computed and distributed shall be set out in the by-  
laws.

3588 Section 99. Section **16-22-303** is renumbered and amended to read:

3590 **~~[48-5-303]~~ 16-22-303. Proxies.**

- 4097 (1) A member may be represented by a proxy.
- 4098 (2) The by-laws of a decentralized autonomous organization may establish the requirements for  
representation by proxy.
- 4100 (3) A proxy may exercise all rights of a member.

3595 Section 100. Section **16-22-304** is renumbered and amended to read:

3597 **~~[48-5-304]~~ 16-22-304. Minority rights protection.**

## SB0041 compared with SB0041S02

The decentralized autonomous organization shall state in the by-laws whether the decentralized autonomous organization provides minority rights protection.

3600 Section 101. Section **16-22-305** is renumbered and amended to read:

3602 ~~[48-5-305]~~ **16-22-305. Administrators.**

- 4109 (1) Unless mandated in the decentralized autonomous organization's by-laws, a decentralized autonomous organization is not required to have an administrator, including a board of directors or a trustee.
- 4112 (2) In the absence of a provision requiring administrators, all the powers and tasks of an administrator shall be vested in the decentralized autonomous organization members as a class.
- 4115 (3) The voting mechanism for nominating and appointing an administrator shall be set out in the decentralized autonomous organization's by-laws.

3611 Section 102. Section **16-22-306** is renumbered and amended to read:

3613 ~~[48-5-306]~~ **16-22-306. Legal representation.**

- 4120 (1) A decentralized autonomous organization shall retain a legal representative to undertake tasks that cannot be achieved on-chain.
- 4122 (2) Legal representation of the decentralized autonomous organization shall be carried out by the legal representative in the manner provided in the by-laws, as evidenced by an authorization displayed on a public forum, and verifiable by cryptographic proof.
- 4125 (3) The legal representative may undertake and execute any and all acts and contracts included within the scope of such authorization.
- 4127 (4) The legal representative may not be required to reside in Utah.
- 4128 (5) A legal representative may not be personally liable for acts performed on behalf of the decentralized autonomous organization.

3624 Section 103. Section **16-22-307** is renumbered and amended to read:

3626 ~~[48-5-307]~~ **16-22-307. No implicit fiduciary status.**

A developer, member, participant, or legal representative of a decentralized autonomous organization may not be imputed to have fiduciary duties towards each other or third parties solely on account of their role, unless the developer, member, participant, or legal representative:

- 4137 (1) explicitly holds themselves out as a fiduciary; or

4138

## SB0041 compared with SB0041S02

- (2) stipulates to assume a fiduciary status as provided in the decentralized autonomous organization's by-laws.

3634 Section 104. Section **16-22-401** is renumbered and amended to read:

4142

### **Part 4. Miscellaneous Provisions**

3637 **~~[48-5-401]~~ 16-22-401. Asset subscription and payment.**

- 4144 (1) No minimum capital requirements may apply to a decentralized autonomous organization recognized by this act.
- 4146 (2) If the decentralized autonomous organization wishes to maintain a minimum amount of capital, the by-laws of the decentralized autonomous organization shall specify the rules for subscription and payment.
- 4149 (3) The by-laws shall provide the rules for exiting the decentralized autonomous organization that address the consequences of voluntary and involuntary member and participant exit on subscriptions and payments made by the member or participant.
- 4152 (4) No member may compel the dissolution of the decentralized autonomous organization for failure to return the member's on-chain contribution.

3648 Section 105. Section **16-22-402** is renumbered and amended to read:

3650 **~~[48-5-402]~~ 16-22-402. Meetings.**

- 4157 (1) A decentralized autonomous organization may hold meetings as provided in the decentralized autonomous organization's by-laws.
- 4159 (2) Unless explicitly specified in the by-laws, meetings are not required to be in person.
- 4160 (3) If the by-laws include a meeting requirement, the by-laws shall include an explicit and transparent mechanism of giving notice of meetings to administrators, members, or participants, and a defined time period for deliberating upon proposals submitted by an administrator, member, or participant.
- 4164 (4) Notice of any required meeting shall be communicated through a graphical user interface.
- 4166 (5) The quorum and majority requirements for meetings of a decentralized autonomous organization's administrators, members, or participants shall be specified in the by-laws.

3662 Section 106. Section **16-22-403** is renumbered and amended to read:

3664 **~~[48-5-403]~~ 16-22-403. Contentious forks in the underlying blockchain.**

- 4171 (1) Except as provided in this section, in the event of a hard fork in the underlying permissionless blockchain:

4173

## SB0041 compared with SB0041S02

(a) the legal representation of the decentralized autonomous organization remains on the majority chain;  
and

4175 (b) any off-chain assets shall belong to the decentralized autonomous organization on the majority  
chain.

4177 (2)

(a) A decentralized autonomous organization may choose to maintain legal presence on a minority  
chain if the decentralized autonomous organization expresses an intent to do so by public signal.

4180 (b) If the decentralized autonomous organization expresses an intent by public signal to maintain legal  
presence on a minority chain, any off-chain assets shall belong to the decentralized autonomous  
organization on the selected minority chain.

4183 (3) The decentralized autonomous organization may liquidate the decentralized autonomous  
organization's on-chain assets after a hard fork to move those assets to the chosen chain.

4185 (4) The decentralized autonomous organization may split into multiple legal entities after a hard fork,  
each on a separate chain, after public signal of an intent to do so, provided there is a definitive  
distribution of off-chain assets between the majority and minority chain.

3683 Section 107. Section **16-22-404** is renumbered and amended to read:

3685 **[48-5-404] 16-22-404. Restructuring.**

4192 (1) When a decentralized autonomous organization is restructured, whether through modification,  
upgrade, or migration, the decentralized autonomous organization's legal personality and limited  
liability is retained only to the extent that:

4195 (a) the new software code of the decentralized autonomous organization fulfills all the formation  
requirements of Section ~~[48-5-201]~~ 16-22-201; and

4197 (b) where the decentralized autonomous organization has to be associated with a new unique public  
address, proper notice is provided by way of public signal.

4199 (2) A decentralized autonomous organization that is restructured in compliance with Subsection (1)  
inherits the rights and obligations of the original decentralized autonomous organization as a  
successor.

3696 Section 108. Section **16-22-405** is renumbered and amended to read:

3698 **[48-5-405] 16-22-405. Failure event.**

4205



## SB0041 compared with SB0041S02

(1) In the case of a failure event, legal personality and limited liability are maintained to the extent necessary to protect decentralized autonomous organization members and participants from personal liability.

4208 (2) A failure event may trigger liability on the person deploying or upgrading the decentralized autonomous organization if that person:

4210 (a) acted in bad faith; or

4211 (b) engaged in gross negligence.

3706 Section 109. Section **16-22-406** is renumbered and amended to read:

3708 **[48-5-406] 16-22-406. Taxation.**

4215 (1) If a decentralized autonomous organization recognized by this act is eligible to elect to be classified as a corporation for federal tax purposes, and the decentralized autonomous organization makes that election, the decentralized autonomous organization shall be subject to the provisions of Title 59, Chapter 7, Corporate Franchise and Income Taxes.

4219 (2)

(a) Unless the decentralized autonomous organization makes the election described in Subsection (1), a decentralized autonomous organization recognized by this act shall be classified as a partnership for tax purposes and subject to the provisions of Title 59, Chapter 10, Part 14, Pass-Through Entities and Pass-Through Entity Taxpayers Act.

4224 (b) For purposes of taxation, a decentralized autonomous organization shall allocate the distributive share of income, gain, loss, deduction, and credit derived from the decentralized autonomous organization's activities, to each member of the decentralized autonomous organization in proportion to the member's membership interest in the entity.

3723 Section 110. Section **31A-5-201** is amended to read:

3724 **31A-5-201. Reservation and registration of corporate name.**

The reservation, registration, and renewal of the corporate name of stock corporations and mutuals is governed by Sections ~~[16-10a-402]~~ 16-1a-304, 16-10a-403, and 31A-1-109.

The reservation and registration fees provided in Section 31A-3-103 apply.

3728 Section 111. Section **31A-5-203** is amended to read:

3729 **31A-5-203. Articles and bylaws.**

4236 (1) The articles of incorporation requirements in Section 16-10a-202 apply to the articles of a stock corporation, except that:

## SB0041 compared with SB0041S02

- 4238 (a) the name of the corporation shall comply with Sections [~~16-10a-401~~] 16-1a-302 and 31A-1-109  
and the name of any new or renamed corporation shall include the word "insurance" or a term of  
equivalent meaning;
- 4241 (b) authorized shares shall conform to Subsection 31A-5-305(1) and the capital provided for shall  
conform to Section 31A-5-211; and
- 4243 (c) beginning on July 1, 1988, the purposes of the corporation are limited to those permitted by Section  
31A-4-107.
- 4245 (2) The articles of incorporation requirements in Section 16-6a-202, except Subsections 16-6a-202(1)(f)  
and (g), apply to the articles of a mutual except that:
- 4247 (a) The name of the corporation shall comply with Sections [~~16-6a-401~~] 16-1a-302 and 31A-1-109 and  
the name of any new or renamed corporation shall include the words "mutual" and "insurance" or  
terms of equivalent meaning.
- 4250 (b) If any mutual bonds are authorized, [~~they~~] the mutual bonds shall comply with Subsection  
31A-5-305(2)(a).
- 4252 (c) The purposes of the corporation may not include doing a title insurance business, and shall be  
limited to those purposes permitted by Section 31A-4-107.
- 4254 (d) If assessable policies are permitted, the articles shall contain provisions giving assessment liabilities  
and procedures, including a provision specifying the classes of business on which assessment may  
be separately levied.
- 4257 (e)
- (i) The articles may specify those classes of persons who may be policyholders, or prescribe the  
procedure for establishing or removing restrictions on the classes of persons who may be  
policyholders.
- 4260 (ii) [~~-~~]The articles shall also state that each policyholder is a member of the corporation.
- 4262 (3)
- (a) Sections 16-10a-830 and 16-10a-831 apply to stock corporations and Section 16-6a-818 applies to  
mutuals.
- 4264 (b) [~~-~~]The articles or bylaws shall designate three or more principal offices the principal officers of the  
corporation shall hold.
- 4266 (c) [~~-~~]The principal offices shall be held by at least three separate natural persons.
- 4267 (4)

## SB0041 compared with SB0041S02

(a) The bylaws of a domestic corporation shall comply with this chapter.

4268 (b) [–]A copy of the bylaws, and any amendments to them, shall be filed with the commissioner within  
60 days after their adoption.

4270 (c) [–]Subject to this Subsection (4), Subsections 31A-5-204(2)(c) and (5), Subsection 31A-5-213(4),  
and Section 16-10a-206 apply to stock corporations and Section 16-6a-206 applies to mutuals.

3767 Section 112. Section **31A-5-401** is amended to read:

3768 **31A-5-401. Principal office and registered agent.**

4275 (1) Each domestic insurance corporation shall have its principal office and place of business in this  
state.

4277 (2) [–]By order, the commissioner may exempt a corporation from this requirement, in which case it is  
subject to the requirement of Section 31A-14-204.

4279 (3) [–]The location of a domestic insurance corporation's principal office and the existence of a  
registered agent are governed by [~~Title 16, Chapter 17, Model Registered Agents Act~~] Title 16,  
Chapter 1a, Part 4, Registered Agent of an Entity.

3776 Section 113. Section **31A-7-201** is amended to read:

3777 **31A-7-201. Organization, incorporation, and licensing.**

Chapter 5, Part 2, Organization of Corporations, governs the organization, incorporation,  
and licensing of nonprofit health service corporations with the following exceptions:

4286 (1) Section 16-6a-201 applies in place of Section 31A-5-202.

4287 (2) Sections [~~16-6a-401~~] 16-1a-302 and 31A-1-109 apply in place of Subsection 31A-5-203(2)(a).

4289 (3) The last sentence of Subsection 31A-5-203(2)(e) does not apply.

3784 Section 114. Section **31A-8-202** is amended to read:

3785 **31A-8-202. Corporate name -- Office -- Registered agent.**

4292 (1)

(a) Sections [~~16-10a-402~~] 16-1a-304, 16-10a-403, and [~~42-2-5~~] 42-2-201 apply to the reservation and  
registration of the corporate name in domestic health maintenance organizations.

4295 (b) [–]Reservation and registration fees under Section 31A-3-103 apply.

4296 (2) The location of an organization's principal office and the existence of a registered agent are  
governed by [~~Title 16, Chapter 17, Model Registered Agents Act~~] Title 16, Chapter 1a, Part 4,  
Registered Agent of an Entity.

3793 Section 115. Section **31A-11-111** is amended to read:

## SB0041 compared with SB0041S02

- 3794        **31A-11-111. Reservation and registration of corporate name.**  
Sections [~~16-10a-402~~] 16-1a-304, 16-10a-403, and [~~42-2-5~~] 42-2-201 apply to the  
reservation and registration of the corporate name of motor clubs.
- 3797        Section 116. Section **31A-14-204** is amended to read:
- 3798        **31A-14-204. Registered agent and registered office.**
- 4305        (1)
- (a) [~~Title 16, Chapter 17, Model Registered Agents Act~~] Title 16, Chapter 1a, Part 4, Registered Agent  
of an Entity, applies to the registered agent and service of process on all foreign insurers authorized  
to do business in this state.
- 4308        (b) [~~—~~]Whenever the words "Division of Corporations and Commercial Code" or "division" are used,  
they mean "insurance commissioner."
- 4310        (2) The principal office shall have sufficient personnel to provide information and assistance to Utah  
insureds, unless the insurer informs policyholders on the policy or on other written communications  
of a toll-free telephone connection accessible at normal business hours in this state.
- 3808        Section 117. Section **31A-14-205** is amended to read:
- 3809        **31A-14-205. Requirements from other applicable chapters.**
- 3810        (1) A foreign insurer may not be authorized to do business in this state, unless it strictly complies with  
the following requirements:
- 3812        (a) Foreign insurers shall comply with the solvency standard set forth in Chapter 17, Part 6, Risk-Based  
Capital, including maintenance of minimum capital or permanent surplus under Section 31A-5-211.
- 3815        (b) A foreign insurer proposing to market securities in this state shall comply with Sections 31A-5-301,  
31A-5-302, and 31A-5-305, unless this marketing is subject to United States Securities and  
Exchange Commission regulation.
- 3818        (c) Section [~~16-10a-1506~~] 16-1a-507 applies to the corporate name and the change of name of foreign  
stock insurers. Section [~~16-6a-1507~~] 16-1a-505 applies to the change of name of foreign mutual  
insurers.
- 3821        (d) Subsection 31A-5-203(2)(c) applies to other business of foreign mutual insurers.
- 3822        (e) Subsection 31A-5-404(2), as modified by Subsection 31A-5-404(4), applies to communications to  
shareholders, policyholders, or voting members of mutuals by foreign insurers.
- 3825        (f) Section 31A-5-413 applies to interlocking directorates of foreign insurers.
- 3826

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(g) Subsection 31A-5-203(2)(d) applies to assessment liability in foreign insurers issuing assessable policies in any state.

3828 (2) The commissioner may issue orders imposing and eliminating restrictions to foreign insurers under Section 31A-5-103.

3830 (3) After a hearing, the commissioner may by order apply any of the provisions of Sections 31A-5-307, 31A-5-414, 31A-5-418 to a foreign corporation after finding that it is necessary for the protection of the interests of its insureds, creditors, or the public in this state. This Subsection (3) may be applied to a foreign insurer without a hearing if done under a reciprocal agreement with the domiciliary regulatory authority.

3835 (4) If any provision made applicable to a foreign insurer under this section conflicts with the law of the insurer's domicile so that it is impossible for the corporation to comply with both laws, the law of the domicile governs.

3838 (5) This section does not excuse or exempt any foreign insurer from complying with the provisions of this title which are otherwise applicable to a foreign insurer.

3840 (6) This section does not apply to foreign fraternal insurers.

3841 (7) If a licensed foreign insurer is in rehabilitation or liquidation proceedings or is found to be insolvent in its state of domicile, the commissioner may, without hearing, suspend the insurer's certificate of authority to do business in this state.

3844 Section 118. Section 31A-14-210 is amended to read:

3845 **31A-14-210. Requirements for foreign fraternal.**

3846 (1) A foreign fraternal may not be authorized to do business in this state under Section 31A-14-203, unless it strictly complies with:

3848 (a) the financial requirements of Section 31A-9-209 and Chapter 17, Part 6, Risk-Based Capital;

3850 (b) the requirements of Section [~~16-6a-1506~~] 16-6a-1506 and Subsection 31A-5-410(1)(a), the reporting requirements of Subsection 31A-5-410(2), Section 31A-5-413 whenever removal is made involuntarily under the laws of the domicile, Section 31A-9-202, and Subsections 31A-9-204(1)(c), 31A-9-402(2), and 31A-9-602(1); and

3854 (c) for five years after the initial issuance of a certificate of authority in its domiciliary jurisdiction, the requirements of Subsection 31A-9-213(2).

3856 (2)

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- (a) No foreign fraternal may be authorized to do business in this state unless it substantially complies with Sections 31A-5-217 and 31A-5-218, except that the approval requirement of Subsection 31A-5-217(2) does not apply.
- 3859 (b) When any corporate reorganization, transformation, or liquidation of a foreign fraternal, or any levy to cover a deficiency under a law comparable to Subsection 31A-9-209(2), is formally initiated by the fraternal, by the official act of the domiciliary commissioner, or by any other official, the fraternal shall promptly give written notice to the commissioner.
- 3864 (3) The commissioner may issue orders imposing and eliminating restrictions under Section 31A-9-103 that are applicable to foreign fraternals.
- 3866 (4)
- (a) After a hearing, the commissioner may, by order, apply any of the provisions of Sections 31A-9-213, 31A-9-404, 31A-9-411, 31A-9-413, or Subsection 31A-5-415(2) to a foreign fraternal after finding that it is necessary for the protection of the interests of its members, creditors, or the public in this state.
- 3870 (b) If any provision made applicable to the foreign fraternal under Subsection (4)(a) conflicts with a provision of the law of the domicile, so that it is impossible for the fraternal to comply with both, the law of the domicile governs.
- 3873 Section 119. Section **31A-37-301** is amended to read:
- 3874 **31A-37-301. Formation.**
- 4316 (1) A captive insurance company, other than a branch captive insurance company, may form as a corporation, a limited liability company, or a not-for-profit organization.
- 4318 (2) The capital of a captive insurance company shall be held by:
- 4319 (a) the interest holders of the captive insurance company; or
- 4320 (b) a governing body elected by:
- 4321 (i) the insureds;
- 4322 (ii) one or more affiliates; or
- 4323 (iii) a combination of the persons described in Subsections (2)(b)(i) and (ii).
- 4324 (3) A captive insurance company formed in this state shall have at least one establisher who is an individual and a resident of the state.
- 4326 (4)

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(a) An applicant captive insurance company's establishers shall obtain a certificate of public good from the commissioner before filing the applicant captive insurance company's governing documents with the Division of Corporations and Commercial Code.

- 4330 (b) In considering a request for a certificate under Subsection (4)(a), the commissioner shall consider:
- 4332 (i) the character, reputation, financial standing, and purposes of the establishers;
- 4333 (ii) the character, reputation, financial responsibility, insurance experience, and business qualifications of the principal officers or members of the governing body;
- 4335 (iii) any information in:
- 4336 (A) the application for a certificate of authority; or
- 4337 (B) the department's files; and
- 4338 (iv) other aspects that the commissioner considers advisable.
- 4339 (5)

(a) Except as otherwise provided in this title, the governing body of a captive insurance company shall consist of at least three individuals as members, at least one of whom is a resident of the state.

4342 (b) One-third of the members of the governing body of a captive insurance company constitutes a quorum of the governing body.

4344 (6) A captive insurance company shall have at least three separate individuals as principal officers with duties comparable to those of president, treasurer, and secretary.

4346 (7)  
(a)

(i) A captive insurance company formed as a corporation is subject to the provisions of Title 16, Chapter 10a, Utah Revised Business Corporation Act, and this chapter.

4349 (ii) If a conflict exists between a provision of Title 16, Chapter 10a, Utah Revised Business Corporation Act, and a provision of this chapter, this chapter controls.

4351 (b) A captive insurance company formed as a limited liability company is subject to the provisions of ~~[Title 48, Chapter 3a, Utah Revised Uniform Limited Liability Company Act]~~ Title 16, Chapter 20, Utah Revised Uniform Limited Liability Company Act, and this chapter. If a conflict exists between a provision of ~~[Title 48, Chapter 3a, Utah Revised Uniform Limited Liability Company Act]~~ Title 16, Chapter 20, Utah Revised Uniform Limited Liability Company Act, and a provision of this chapter, this chapter controls.

4358

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(c) Except as provided in Subsection (7)(d), the provisions of this title that govern a merger, consolidation, conversion, mutualization, and redomestication apply to a captive insurance company in carrying out any of the transactions described in those provisions.

4362 (d) Notwithstanding Subsection (7)(c), the commissioner may waive or modify the requirements for public notice and hearing in accordance with rules adopted under Section 31A-37-106.

4365 (e) If a notice of public hearing is required, but no one requests a hearing, the commissioner may cancel the public hearing.

3926 Section 120. Section **46-4-503** is amended to read:

3927 **46-4-503. Government products and services provided electronically.**

4369 (1) Notwithstanding Section 46-4-501, a state governmental agency that administers one or more of the following transactions shall allow those transactions to be conducted electronically:

4372 (a) an application for or renewal of a professional or occupational license issued under Title 58, Occupations and Professions;

4374 (b) the renewal of a drivers license;

4375 (c) an application for a hunting or fishing license;

4376 (d) the filing of:

4377 (i) a return under Title 59, Chapter 10, Individual Income Tax Act, or Title 59, Chapter 12, Sales and Use Tax Act;

4379 (ii) a court document, as defined by the Judicial Council; or

4380 (iii) a document under Title 70A, Uniform Commercial Code;

4381 (e) a registration for:

4382 (i) a product; or

4383 (ii) a brand;

4384 (f) a renewal of a registration of a motor vehicle;

4385 (g) a registration under:

4386 (i) [~~Title 16, Corporations~~] Title 16, Business Entities; or

4387 (ii) Title 42, Names; or

4388 [~~(iii) Title 48, Unincorporated Business Entity Act~~; or]

4389 (h) submission of an application for benefits:

4390 (i) under Title 35A, Chapter 3, Employment Support Act;

4391 (ii) under Title 35A, Chapter 4, Employment Security Act; or



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- 4392 (iii) related to accident and health insurance.
- 4393 (2) The state system of public education, in coordination with the Utah Education and Telehealth  
Network, shall make reasonable progress toward making the following services available  
electronically:
- 4396 (a) secure access by parents and students to student grades and progress reports;
- 4397 (b) email communications with:
- 4398 (i) teachers;
- 4399 (ii) parent-teacher associations; and
- 4400 (iii) school administrators;
- 4401 (c) access to school calendars and schedules; and
- 4402 (d) teaching resources that may include:
- 4403 (i) teaching plans;
- 4404 (ii) curriculum guides; and
- 4405 (iii) media resources.
- 4406 (3) A state governmental agency shall:
- 4407 (a) in carrying out the requirements of this section, take reasonable steps to ensure the security and  
privacy of records that are private or controlled as defined by Title 63G, Chapter 2, Government  
Records Access and Management Act;
- 4410 (b) in addition to those transactions listed in Subsections (1) and (2), determine any additional services  
that may be made available to the public through electronic means; and
- 4413 (c) as part of the agency's information technology plan required by Section 63A-16-203, report on the  
progress of compliance with Subsections (1) through (3).
- 4415 (4) Notwithstanding the other provisions of this part, a state governmental agency is not required by this  
part to conduct a transaction electronically if:
- 4417 (a) conducting the transaction electronically is not required by federal law; and
- 4418 (b) conducting the transaction electronically is:
- 4419 (i) impractical;
- 4420 (ii) unreasonable; or
- 4421 (iii) not permitted by laws pertaining to privacy or security.
- 4422 (5)

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(a) For purposes of this Subsection (5), "one-stop shop" means the consolidation of access to diverse services and agencies at one location including virtual colocation.

(b)

(i) State agencies that provide services or offer direct assistance to the business community shall participate in the establishment, maintenance, and enhancement of an integrated Utah business web portal known as Business.utah.gov.

(ii) [-]The purpose of the business web portal is to provide "one-stop shop" assistance to businesses.

(c) State agencies shall partner with other governmental and nonprofit agencies whose primary mission is to provide services or offer direct assistance to the business community in Utah in fulfilling the requirements of this section.

(d) The following state entities shall comply with the provisions of this Subsection (5):

(i) Governor's Office of Economic Opportunity, which shall serve as the managing partner for the website;

(ii) Department of Workforce Services;

(iii) Department of Commerce;

(iv) Tax Commission;

(v) Department of Government Operations - Division of Purchasing and General Services, including other state agencies operating under a grant of authority from the division to procure goods and services in excess of \$5,000;

(vi) Department of Agriculture;

(vii) Department of Natural Resources; and

(viii) other state agencies that provide services or offer direct assistance to the business sector.

(e) The business services available on the business web portal may include:

(i) business life cycle information;

(ii) business searches;

(iii) employment needs and opportunities;

(iv) motor vehicle registration;

(v) permit applications and renewal;

(vi) tax information;

(vii) government procurement bid notifications;

(viii) general business information;

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- 4454 (ix) business directories; and  
4455 (x) business news.
- 4015 Section 121. Section **53-2a-1203** is amended to read:  
4016 **53-2a-1203. Business and employee status during disaster period.**
- 4458 (1) Notwithstanding any other provision, an out-of-state business that conducts operations within the state for purposes of performing work or services related to a declared state disaster or emergency during the disaster period:
- 4461 (a) is not considered to have established a level of presence that would require that business to be subject to any state licensing or registration requirements, provided that the out-of-state business is in substantial compliance with all applicable regulatory and licensing requirements in its state of domicile, including:
- 4465 (i) unemployment insurance;  
4466 (ii) state or local occupational licensing fees;  
4467 (iii) public service commission regulation; or  
4468 (iv) state or local licensing or regulatory requirements; and
- 4469 (b) is exempt from the registration requirements under [~~Title 16, Corporations, Title 42, Names, and Title 48, Unincorporated Business Entity Act~~] Title 16, Business Entities; and
- 4472 (c) shall, within a reasonable time after entry, upon the request of the Labor Commission or the Department of Insurance, confirm that it is in compliance with Subsections 34A-2-406(1)(a), (1)(b), and (2).
- 4475 (2) Notwithstanding any other provision, an out-of-state employee who performs disaster- or emergency-related work specific to a declared state disaster or emergency during the disaster period is not subject to any state licensing or registration requirements provided that the out-of-state employee is in substantial compliance with all applicable regulatory and licensing requirements in the employee's state of residence or state of employment.
- 4480 (3)
- (a) Income taxation related to an out-of-state employee or an out-of-state business is as provided in:
- 4482 (i) Title 59, Chapter 7, Corporate Franchise and Income Taxes; and  
4483 (ii) Title 59, Chapter 10, Individual Income Tax Act.
- 4484 (b) Sales and use taxation during a disaster period is as provided in Title 59, Chapter 12, Sales and Use Tax Act.

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- 4486 (c) Any property brought into the state temporarily during the disaster period is not subject to any state  
or local ad valorem taxes under Title 59, Chapter 2, Property Tax Act.
- 4048 Section 122. Section **53-9-115** is amended to read:
- 4049 **53-9-115. Business name and address -- Posting of license -- Advertising -- Incapacitation,  
death of agent.**
- 4492 (1) As used in this section, "no agent agency" means a licensed agency that has only one agent and for  
which the agent is incapacitated or dies.
- 4494 (2)
- (a) Subject to the provisions of this chapter, a licensee may conduct an investigative business under a  
name other than the licensee's by:
- 4496 (i) complying with the requirements of [~~Title 42, Chapter 2, Conducting Business Under Assumed  
Name~~] Title 42, Chapter 2, Conducting Business as a D.B.A.; and
- 4498 (ii) providing a copy of the filed certificate to the commissioner.
- 4499 (b) Failure to comply with Subsection (2)(a) shall result in the suspension of the license.
- 4500 (3)
- (a) Each licensee shall have at least one physical location from which the agency conducts normal  
business.
- 4502 (b) The address of this location shall be on file with the commissioner at all times and is not a public  
record in accordance with Subsection 63G-2-301(2)(b)(ii).
- 4504 (4) A licensee shall post the license certificate issued by the commissioner in a conspicuous place in the  
principal office of the licensee.
- 4506 (5) Subject to the provisions of this chapter, a licensee may solicit business through any accepted form  
of advertising.
- 4508 (a) Any advertisement shall contain the licensee's name and license number as the name and license  
number appear on the license certificate.
- 4510 (b) A licensee may not use false, deceptive, or misleading advertising.
- 4511 (6)
- (a) The bureau, after receiving notice, shall allow an agent for an agency licensed under this chapter  
to act as the agent for a no agent agency until the next scheduled or emergency board meeting,  
where the board shall consider mitigating circumstances for the no agent agency to remain operating  
permanently or temporarily.

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- 4515 (b) If the board allows the no agent agency to operate temporarily, the board shall allow sufficient time  
for the no agent agency to complete investigations that began before the incapacitation or death of  
the agent.
- 4077 Section 123. Section **53C-1-201** is amended to read:
- 4078 **53C-1-201. Creation of administration -- Purpose -- Director -- Participation in Risk  
Management Fund -- Closed meetings.**
- 4521 (1)
- (a) There is established within state government the School and Institutional Trust Lands  
Administration.
- 4523 (b) The administration shall manage all school and institutional trust lands and assets within the state,  
except as otherwise provided in Title 53C, Chapter 3, Deposit and Allocation of Revenue from Trust  
Lands, and Title 53D, Chapter 1, School and Institutional Trust Fund Management Act.
- 4527 (2) The administration is an independent state agency and not a division of any other department.
- 4529 (3)
- (a) The administration is subject to the usual legislative and executive department controls except as  
provided in this Subsection (3).
- 4531 (b)
- (i) The director may make rules as approved by the board that allow the administration to classify a  
business proposal submitted to the administration as protected under Section 63G-2-305, for as long  
as is necessary to evaluate the proposal.
- 4535 (ii) The administration shall return the proposal to the party who submitted the proposal, and incur no  
further duties under Title 63G, Chapter 2, Government Records Access and Management Act, if the  
administration determines not to proceed with the proposal.
- 4539 (iii) The administration shall classify the proposal pursuant to law if the administration decides to  
proceed with the proposal.
- 4541 (iv) Section 63G-2-403 does not apply during the review period.
- 4542 (c) The director shall make rules in compliance with Title 63G, Chapter 3, Utah Administrative  
Rulemaking Act, except that the administration is not subject to Subsections 63G-3-301(5), (6),  
(7), and (13) and Section 63G-3-601, and the director, with the board's approval, may establish a  
procedure for the expedited approval of rules, based on written findings by the director showing:
- 4547 (i) the changes in business opportunities affecting the assets of the trust;

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- 4548 (ii) the specific business opportunity arising out of those changes which may be lost without the rule or  
changes to the rule;
- 4550 (iii) the reasons the normal procedures under Section 63G-3-301 cannot be met without causing the loss  
of the specific opportunity;
- 4552 (iv) approval by at least five board members; and
- 4553 (v) that the director has filed a copy of the rule and a rule analysis, stating the specific reasons and  
justifications for the director's findings, with the Office of Administrative Rules and notified  
interested parties as provided in Subsection 63G-3-301(10).
- 4557 (d)
- (i) The administration shall comply with Title 63A, Chapter 17, Utah State Personnel Management Act,  
except as provided in this Subsection (3)(d).
- 4559 (ii)
- (A) The board may approve, upon recommendation of the director, that exemption for specific  
positions under Subsections 63A-17-301(1) and 63A-17-307(2) is required in order to enable the  
administration to efficiently fulfill the administration's responsibilities under the law.
- 4563 (B) The director shall consult with the director of the Division of Human Resource Management before  
making a recommendation under Subsection (3)(d)(ii)(A).
- 4566 (iii) The positions of director, deputy director, associate director, assistant director, legal counsel  
appointed under Section 53C-1-305, administrative assistant, and public affairs officer are exempt  
under Subsections 63A-17-301(1) and 63A-17-307(2).
- 4570 (iv)
- (A) The director shall set salaries for exempted positions, except for the director, after consultation with  
the director of the Division of Human Resource Management, within ranges approved by the board.
- 4573 (B) The board and director shall consider salaries for similar positions in private enterprise and other  
public employment when setting salary ranges.
- 4575 (v) The board may create an annual incentive and bonus plan for the director and other administration  
employees designated by the board, based upon the attainment of financial performance goals and  
other measurable criteria defined and budgeted in advance by the board.
- 4579 (e) The administration shall comply with:
- 4580 (i) subject to Subsection (8), Title 52, Chapter 4, Open and Public Meetings Act;
- 4581 (ii) Title 63G, Chapter 2, Government Records Access and Management Act; and

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- 4582 (iii) Title 63G, Chapter 6a, Utah Procurement Code, except where the board approves, upon  
recommendation of the director, exemption from the Utah Procurement Code, and simultaneous  
adoption of rules under Title 63G, Chapter 3, Utah Administrative Rulemaking Act, for  
procurement, that enable the administration to efficiently fulfill the administration's responsibilities  
under the law.
- 4588 (f)
- (i) Except as provided in Subsection (3)(f)(ii), the administration is not subject to the fee agency  
requirements of Section 63J-1-504.
- 4590 (ii) The following fees of the administration are subject to Section 63J-1-504:
- 4591 (A) application;
- 4592 (B) assignment;
- 4593 (C) amendment;
- 4594 (D) affidavit for lost documents;
- 4595 (E) name change;
- 4596 (F) reinstatement;
- 4597 (G) grazing nonuse;
- 4598 (H) extension of time;
- 4599 (I) partial conveyance;
- 4600 (J) patent reissue;
- 4601 (K) collateral assignment;
- 4602 (L) electronic payment; and
- 4603 (M) processing.
- 4604 (g)
- (i) Notwithstanding Subsection 63J-1-206(2)(c), the administration may transfer money between the  
administration's line items.
- 4606 (ii) Before transferring appropriated money between line items, the administration shall submit a  
proposal to the board for the board's approval.
- 4608 (iii) If the board gives approval to a proposal to transfer appropriated money between line items, the  
administration shall submit the proposal to the Legislative Executive Appropriations Committee for  
the Legislative Executive Appropriations Committee's review and recommendations.
- 4612 (iv) The Legislative Executive Appropriations Committee may recommend:

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- 4613 (A) that the administration transfer the appropriated money between line items;  
4614 (B) that the administration not transfer the appropriated money between line items; or  
4616 (C) to the governor that the governor call a special session of the Legislature to supplement the appropriated budget for the administration.
- 4618 (4) The administration is managed by a director of school and institutional trust lands appointed by a majority vote of the board of trustees with the consent of the governor.
- 4620 (5)  
(a) The board of trustees shall provide policies for the management of the administration and for the management of trust lands and assets.
- 4622 (b)  
(i) The board shall provide policies for the ownership and control of Native American remains that are discovered or excavated on school and institutional trust lands in consultation with the Division of Indian Affairs and giving due consideration to Title 9, Chapter 9, Part 4, Native American Grave Protection and Repatriation Act.
- 4627 (ii) The director may make rules in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, to implement policies provided by the board regarding Native American remains.
- 4630 (6) In connection with joint ventures and other transactions involving trust lands and minerals approved under Sections 53C-1-303 and 53C-2-401, the administration, with board approval, may become a member of a limited liability company under [~~Title 48, Chapter 3a, Utah Revised Uniform Limited Liability Company Act~~] Title 16, Chapter 20, Utah Revised Uniform Limited Liability Company Act, as appropriate pursuant to Section [~~48-3a-1405~~] {~~16-20-1305~~} 16-20-1205 and is considered a person under Section [~~48-3a-102~~] 16-20-101.
- 4637 (7) Subject to Subsection 63E-1-304(2), the administration may participate in coverage under the Risk Management Fund created by Section 63A-4-201.
- 4639 (8)  
(a) Notwithstanding Subsection (3), Subsection 52-4-204(2) or 52-4-205(1), and in addition to the reasons to close a meeting under Section 52-4-205, the board may hold a closed meeting if two-thirds of the members present when a quorum is present vote to close the meeting for the purpose of:
- 4643 (i) conducting a strategy session to discuss market conditions relevant to the sale of particular trust assets if the terms of the sale of any trust assets are publicly disclosed before the board approves the sale and a public discussion would:



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- 4646 (A) disclose the appraisal or estimated value of the trust assets under consideration; or
- 4648 (B) prevent the board from completing a contemplated transaction concerning the trust assets on the best possible terms; or
- 4650 (ii) conducting a strategy session to evaluate the terms of a joint venture or other business arrangement authorized under Subsection 53C-1-303(3)(e) if the terms of the joint venture or other business arrangement are publicly disclosed before the board approves the transaction and a public discussion of the transaction would:
- 4654 (A) disclose the appraisal or estimated value of the trust assets under consideration; or
- 4656 (B) prevent the board from completing the transaction concerning the joint venture or other business arrangement on the best possible terms.
- 4658 (b) The board shall comply with the procedural requirements for closing a meeting under Title 52, Chapter 4, Open and Public Meetings Act.
- 4219 Section 124. Section **57-8-55** is amended to read:
- 4220 **57-8-55. Consolidation of multiple associations of unit owners.**
- 4662 (1) Two or more associations of unit owners may be consolidated into a single association of unit owners as provided in [~~Title 16, Chapter 6a, Part 11, Merger~~] Title 16, Chapter 1a, Part 7, Merger, and this section.
- 4665 (2) Unless the declaration, articles, or bylaws otherwise provide, a declaration of consolidation between two or more associations of unit owners to consolidate into a single association of unit owners is not effective unless it is approved by the unit owners of each of the consolidating associations of unit owners, by the highest percentage of allocated voting interests of the unit owners required by each association of unit owners to amend its respective declaration, articles, or bylaws.
- 4671 (3) A declaration of consolidation under Subsection (2) shall:
- 4672 (a) be prepared, executed, and certified by the president of the association of each of the consolidating associations of unit owners; and
- 4674 (b) provide for the reallocation of the allocated interests in the consolidated association by stating:
- 4676 (i) the reallocations of the allocated interests in the consolidated association of unit owners or the formulas used to reallocate the allocated interests; or
- 4678 (ii)
- (A) the percentage of overall allocated interests of the consolidated association of unit owners that are allocated to all of the units comprising each of the consolidating associations of unit owners; and

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- 4681 (B) that the portion of the percentages allocated to each unit formerly comprising a part of a  
consolidating association of unit owners is equal to the percentages of allocated interests allocated to  
the unit by the declaration of the consolidating association of unit owners.
- 4685 (4) A declaration of consolidation under Subsection (2) is not effective until it is recorded in the office  
of each applicable county recorder.
- 4687 (5) Unless otherwise provided in the declaration of consolidation, the consolidated association of unit  
owners resulting from a consolidation under this section:
- 4689 (a) is the legal successor for all purposes of all of the consolidating associations of unit owners;
- 4691 (b) the operations and activities of all of the consolidating associations of unit owners shall be  
consolidated into the consolidated association of unit owners; and
- 4693 (c) the consolidated association of unit owners holds all powers, rights, obligations, assets, and  
liabilities of all consolidating associations of unit owners.
- 4254 Section 125. Section **57-8a-601** is amended to read:
- 4255 **57-8a-601. Consolidation of multiple associations.**
- 4697 (1) Two or more associations may be consolidated into a single association as provided in [~~Title 16,~~  
~~Chapter 6a, Part 11, Merger~~] Title 16, Chapter 1a, Part 7, Merger, and this section.
- 4700 (2) Unless the declaration, articles, or bylaws otherwise provide, a declaration of consolidation between  
two or more associations to consolidate into a single association is not effective unless it is approved  
by the lot owners of each of the consolidating associations by the highest percentage of allocated  
voting interests of the lot owners required by each association to amend its respective declaration,  
articles, or bylaws.
- 4705 (3) A declaration of consolidation under Subsection (2) shall:
- 4706 (a) be prepared, executed, and certified by the president of each of the consolidating associations; and
- 4708 (b) provide for the reallocation of the allocated interests in the consolidated association by stating:
- 4710 (i) the reallocations of the allocated interests in the consolidated association or the formulas used to  
reallocate the allocated interests; or
- 4712 (ii)
- (A) the percentage of overall allocated interests of the consolidated association that are allocated to all  
of the lots comprising each of the consolidating associations; and
- 4715

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(B) that the portion of the percentages allocated to each lot formerly comprising a part of a consolidating association is equal to the percentages of allocated interests allocated to the lot by the declaration of the consolidating association.

4718 (4) A declaration of consolidation under Subsection (2) is not effective until it is recorded in the office  
of each applicable county recorder.

4720 (5) Unless otherwise provided in the declaration of consolidation:

4721 (a) the consolidated association resulting from a consolidation under this section is the legal successor  
for all purposes of all of the consolidating associations;

4723 (b) the operations and activities of all of the consolidating associations shall be consolidated into the  
consolidated association; and

4725 (c) the consolidated association holds all powers, rights, obligations, assets, and liabilities of all  
consolidating associations.

4286 Section 126. Section **58-28-606** is amended to read:

4287 **58-28-606. Veterinary corporations, partnerships, and limited liability companies --**

**Unlicensed individuals -- Ownership of capital stock -- Service as officer or director.**

4731 (1) As used in this section:

4732 (a) "Veterinary corporation" means a professional corporation organized to render veterinary services  
under Title 16, Chapter 11, Professional Corporation Act.

4734 (b) "Veterinary limited liability company" means a limited liability company organized to render  
veterinary services under [~~Title 48, Chapter 3a, Utah Revised Uniform Limited Liability Company  
Act~~] Title 16, Chapter 20, Utah Revised Uniform Limited Liability Company Act.

4738 (c) "Veterinary partnership" means a partnership or limited liability partnership organized to render  
veterinary services under:

4740 (i) [~~Title 48, Chapter 1d, Utah Uniform Partnership Act~~] Title 16, Chapter 18, Utah Uniform  
Partnership Act; or

4742 (ii) [~~Title 48, Chapter 2e, Utah Uniform Limited Partnership Act~~] Title 16, Chapter 19, Utah Uniform  
Limited Partnership Act.

4744 (2) A veterinary corporation may issue or transfer shares of the veterinary corporation's capital stock  
to a person that is not licensed to practice veterinary medicine, surgery, and dentistry under this  
chapter.

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(3) An individual who is not licensed to practice veterinary medicine, surgery, and dentistry under this chapter:

4749 (a) may not serve as an officer or director of a veterinary corporation; and

4750 (b) may serve as secretary or treasurer of a veterinary corporation.

4751 (4) A veterinary limited liability company or a veterinary partnership may include an individual who is not licensed to practice veterinary medicine, surgery, and dentistry under this chapter.

4313 Section 127. Section **58-55-102** is amended to read:

4314 **58-55-102. Definitions.**

In addition to the definitions in Section 58-1-102, as used in this chapter:

4757 (1)

(a) "Alarm business" or "alarm company" means a person engaged in the sale, installation, maintenance, alteration, repair, replacement, servicing, or monitoring of an alarm system, except as provided in Subsection (1)(b).

4760 (b) "Alarm business" or "alarm company" does not include:

4761 (i) a person engaged in the manufacture or sale of alarm systems unless:

4762 (A) that person is also engaged in the installation, maintenance, alteration, repair, replacement, servicing, or monitoring of alarm systems;

4764 (B) the manufacture or sale occurs at a location other than a place of business established by the person engaged in the manufacture or sale; or

4766 (C) the manufacture or sale involves site visits at the place or intended place of installation of an alarm system; or

4768 (ii) an owner of an alarm system, or an employee of the owner of an alarm system who is engaged in installation, maintenance, alteration, repair, replacement, servicing, or monitoring of the alarm system owned by that owner.

4771 (2) "Alarm company agent":

4772 (a) except as provided in Subsection (2)(b), means any individual employed within this state by an alarm business; and

4774 (b) does not include an individual who:

4775 (i) is not engaged in the sale, installation, maintenance, alteration, repair, replacement, servicing, or monitoring of an alarm system; and

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(ii) does not, during the normal course of the individual's employment with an alarm business, use or have access to sensitive alarm system information.

4779 (3) "Alarm company officer" means:

4780 (a) a governing person, as defined in Section ~~[48-3a-102]~~ 16-20-101, of an alarm company;

4782 (b) an individual appointed as an officer of an alarm company that is a corporation in accordance with Section 16-10a-830;

4784 (c) a general partner, as defined in Section ~~[48-2e-102]~~ 16-19-101, of an alarm company; or

4786 (d) a partner, as defined in Section ~~[48-1d-102]~~ 16-18-101, of an alarm company.

4787 (4) "Alarm company owner" means:

4788 (a) a shareholder, as defined in Section 16-10a-102, who owns directly, or indirectly through an entity controlled by the individual, 5% or more of the outstanding shares of an alarm company that:

4791 (i) is a corporation; and

4792 (ii) is not publicly listed or traded; or

4793 (b) an individual who owns directly, or indirectly through an entity controlled by the individual, 5% or more of the equity of an alarm company that is not a corporation.

4795 (5) "Alarm company proprietor" means the sole proprietor of an alarm company that is registered as a sole proprietorship with the Division of Corporations and Commercial Code.

4798 (6) "Alarm company trustee" means an individual with control of or power of administration over property held in trust.

4800 (7)

(a) "Alarm system" means equipment and devices assembled for the purpose of:

4801 (i) detecting and signaling unauthorized intrusion or entry into or onto certain premises; or

4803 (ii) signaling a robbery or attempted robbery on protected premises.

4804 (b) "Alarm system" includes a battery-charged suspended-wire system or fence that is part of and interfaces with an alarm system for the purposes of detecting and deterring unauthorized intrusion or entry into or onto certain premises.

4807 (8) "Apprentice electrician" means a person licensed under this chapter as an apprentice electrician who is learning the electrical trade under the immediate supervision of a master electrician, residential master electrician, a journeyman electrician, or a residential journeyman electrician.

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- (9) "Apprentice plumber" means a person licensed under this chapter as an apprentice plumber who is learning the plumbing trade under the immediate supervision of a master plumber, residential master plumber, journeyman plumber, or a residential journeyman plumber.
- 4815 (10) "Approved continuing education" means instruction provided through courses under a program established under Subsection 58-55-302.5(2).
- 4817 (11)
- (a) "Approved prelicensure course provider" means a provider that is the Associated General Contractors of Utah, the Utah Chapter of the Associated Builders and Contractors, or the Utah Home Builders Association, and that meets the requirements established by rule by the commission with the concurrence of the director, to teach the 25-hour course described in Subsection 58-55-302(1)(e)(iii).
- 4822 (b) "Approved prelicensure course provider" may only include a provider that, in addition to any other locations, offers the 25-hour course described in Subsection 58-55-302(1)(e)(iii) at least six times each year in one or more counties other than Salt Lake County, Utah County, Davis County, or Weber County.
- 4826 (12) "Board" means the Alarm System Security and Licensing Board or Electricians and Plumbers Licensing Board created in Section 58-55-201.
- 4828 (13) "Combustion system" means an assembly consisting of:
- 4829 (a) piping and components with a means for conveying, either continuously or intermittently, natural gas from the outlet of the natural gas provider's meter to the burner of the appliance;
- 4832 (b) the electric control and combustion air supply and venting systems, including air ducts; and
- 4834 (c) components intended to achieve control of quantity, flow, and pressure.
- 4835 (14) "Commission" means the Construction Services Commission created under Section 58-55-103.
- 4837 (15) "Construction trade" means any trade or occupation involving:
- 4838 (a)
- (i) construction, alteration, remodeling, repairing, wrecking or demolition, addition to, or improvement of any building, highway, road, railroad, dam, bridge, structure, excavation or other project, development, or improvement to other than personal property; and
- 4842 (ii) constructing, remodeling, or repairing a manufactured home or mobile home as defined in Section 15A-1-302; or
- 4844 (b) installation or repair of a residential or commercial natural gas appliance or combustion system.

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- 4846 (16) "Construction trades instructor" means a person licensed under this chapter to teach one or more  
construction trades in both a classroom and project environment, where a project is intended for sale  
to or use by the public and is completed under the direction of the instructor, who has no economic  
interest in the project.
- 4850 (17)
- (a) "Contractor" means any person who for compensation other than wages as an employee undertakes  
any work in the construction, plumbing, or electrical trade for which licensure is required under this  
chapter and includes:
- 4853 (i) a person who builds any structure on the person's own property for the purpose of sale or who  
builds any structure intended for public use on the person's own property;
- 4856 (ii) any person who represents that the person is a contractor, or will perform a service described in  
this Subsection (17) by advertising on a website or social media, or any other means;
- 4859 (iii) any person engaged as a maintenance person, other than an employee, who regularly engages  
in activities set forth under the definition of "construction trade";
- 4861 (iv) any person engaged in, or offering to engage in, any construction trade for which licensure is  
required under this chapter; or
- 4863 (v) a construction manager, construction consultant, construction assistant, or any other person  
who, for a fee:
- 4865 (A) performs or offers to perform construction consulting;
- 4866 (B) performs or offers to perform management of construction subcontractors;
- 4867 (C) provides or offers to provide a list of subcontractors or suppliers; or
- 4868 (D) provides or offers to provide management or counseling services on a construction project.
- 4870 (b) "Contractor" does not include:
- 4871 (i) an alarm company or alarm company agent; or
- 4872 (ii) a material supplier who provides consulting to customers regarding the design and installation of the  
material supplier's products.
- 4874 (18)
- (a) "Electrical trade" means the performance of any electrical work involved in the installation,  
construction, alteration, change, repair, removal, or maintenance of facilities, buildings, or  
appendages or appurtenances.
- 4877 (b) "Electrical trade" does not include:

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- 4878 (i) transporting or handling electrical materials;
- 4879 (ii) preparing clearance for raceways for wiring;
- 4880 (iii) work commonly done by unskilled labor on any installations under the exclusive control of electrical utilities;
- 4882 (iv) work involving cable-type wiring that does not pose a shock or fire-initiation hazard;
- 4884 (v) work involving class two or class three power-limited circuits as defined in the National Electrical Code; or
- 4886 (vi) minor electrical work incidental to a mechanical or service installation when wiring is extended to no more than 10 feet from an existing outlet or disconnect and does not exceed 120 volts and 20 amperes.
- 4889 (19) "Elevator" means the same as that term is defined in Section 34A-7-202, except that for purposes of this chapter it does not mean a stair chair, a vertical platform lift, or an incline platform lift.
- 4892 (20) "Elevator contractor" means a sole proprietor, firm, or corporation licensed under this chapter that is engaged in the business of erecting, constructing, installing, altering, servicing, repairing, or maintaining an elevator.
- 4895 (21) "Elevator mechanic" means an individual who is licensed under this chapter as an elevator mechanic and who is engaged in erecting, constructing, installing, altering, servicing, repairing, or maintaining an elevator under the immediate supervision of an elevator contractor.
- 4899 (22) "Employee" means an individual as defined by the division by rule giving consideration to the definition adopted by the Internal Revenue Service and the Department of Workforce Services.
- 4902 (23) "Engage in a construction trade" means to:
- 4903 (a) engage in, represent oneself to be engaged in, or advertise oneself as being engaged in a construction trade; or
- 4905 (b) use the name "contractor" or "builder" or in any other way lead a reasonable person to believe one is or will act as a contractor.
- 4907 (24)
- (a) "Financial responsibility" means a demonstration of a current and expected future condition of financial solvency evidencing a reasonable expectation to the division and the board that an applicant or licensee can successfully engage in business as a contractor without jeopardy to the public health, safety, and welfare.

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(b) Financial responsibility may be determined by an evaluation of the total history concerning the licensee or applicant including past, present, and expected condition and record of financial solvency and business conduct.

4914 (25) "Gas appliance" means any device that uses natural gas to produce light, heat, power, steam, hot  
water, refrigeration, or air conditioning.

4916 (26)

(a) "General building contractor" means a person licensed under this chapter as a general building contractor qualified by education, training, experience, and knowledge to perform or superintend construction of structures for the support, shelter, and enclosure of persons, animals, chattels, or movable property of any kind or any of the components of that construction except plumbing, electrical work, mechanical work, work related to the operating integrity of an elevator, and manufactured housing installation, for which the general building contractor shall employ the services of a contractor licensed in the particular specialty, except that a general building contractor engaged in the construction of single-family and multifamily residences up to four units may perform the mechanical work and hire a licensed plumber or electrician as an employee.

4927 (b) The division may by rule exclude general building contractors from engaging in the performance of other construction specialties in which there is represented a substantial risk to the public health, safety, and welfare, and for which a license is required unless that general building contractor holds a valid license in that specialty classification.

4932 (27) "General electrical contractor" means a person licensed under this chapter as a general electrical contractor qualified by education, training, experience, and knowledge to perform the fabrication, construction, and installation of generators, transformers, conduits, raceways, panels, switch gear, electrical wires, fixtures, appliances, apparatus that uses electrical energy, or any other work the division authorizes by rule in accordance with Subsection 58-55-301(4).

4938 (28)

(a) "General engineering contractor" means a person licensed under this chapter as a general engineering contractor qualified by education, training, experience, and knowledge to perform or superintend construction of fixed works, or components of fixed works requiring specialized engineering knowledge and skill in:

4942 (i) airports;

4943 (ii) airport runways;

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- 4944 (iii) bridges;
- 4945 (iv) chemical plants;
- 4946 (v) drainage;
- 4947 (vi) electrical utilities;
- 4948 (vii) flood control;
- 4949 (viii) foundations;
- 4950 (ix) harbors;
- 4951 (x) highways;
- 4952 (xi) industrial plants;
- 4953 (xii) inland waterways;
- 4954 (xiii) irrigation systems;
- 4955 (xiv) piers;
- 4956 (xv) pipelines;
- 4957 (xvi) power plants;
- 4958 (xvii) railroads;
- 4959 (xviii) refineries;
- 4960 (xix) sewers;
- 4961 (xx) tunnels;
- 4962 (xxi) underground electric utility conduits;
- 4963 (xxii) utility plants;
- 4964 (xxiii) water power; or
- 4965 (xxiv) water supply.
- 4966 (b) A general engineering contractor may not perform or superintend:
- 4967 (i) construction of a structure built primarily for the support, shelter, and enclosure of persons, animals, and chattels;
- 4969 (ii) plumbing work;
- 4970 (iii) electrical work beyond underground electric utility conduit or electrical utilities;
- 4971 (iv) mechanical work; or
- 4972 (v) work where the general engineering contractor does not have the required specialized engineering knowledge and skill.
- 4974

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- (29) "General plumbing contractor" means a person licensed under this chapter as a general plumbing contractor qualified by education, training, experience, and knowledge to perform the fabrication or installation of material and fixtures to create and maintain sanitary conditions in a building by providing permanent means for a supply of safe and pure water, a means for the timely and complete removal from the premises of all used or contaminated water, fluid and semi-fluid organic wastes and other impurities incidental to life and the occupation of such premises, a safe and adequate supply of gases for lighting, heating, and industrial purposes, or other work the division authorizes by rule in accordance with Subsection 58-55-301(4).
- 4983 (30) "HVAC" means a heating, ventilation, and air conditioning system and the specific components that are a part of the system, including the gas line.
- 4985 (31) "HVAC contractor" means a person licensed under this chapter specialized in the installation, maintenance, repair, and servicing of heating, ventilation, air conditioning systems or any other work the division authorizes by rule in accordance with Subsection 58-55-301(4).
- 4989 (32) "Immediate supervision" means reasonable direction, oversight, inspection, and evaluation of the work of a person:
- 4991 (a) as the division specifies in rule;
- 4992 (b) by, as applicable, a qualified electrician or plumber;
- 4993 (c) as part of a planned program of training; and
- 4994 (d) to ensure that the end result complies with applicable standards.
- 4995 (33) "Individual" means a natural person.
- 4996 (34) "Journeyman lineman" means a person that builds and maintains an electrical power system, performs work on transmission lines or distribution lines from power plants to customers, and has completed an approved 7,000 hour certified apprenticeship program.
- 4999 (35) "Journeyman electrician" means a person licensed under this chapter as a journeyman electrician having the qualifications, training, experience, and knowledge to wire, install, and repair electrical apparatus and equipment for light, heat, power, and other purposes.
- 5002 (36) "Journeyman plumber" means a person licensed under this chapter as a journeyman plumber having the qualifications, training, experience, and technical knowledge to engage in the plumbing trade.
- 5005 (37) "Master electrician" means a person licensed under this chapter as a master electrician having the qualifications, training, experience, and knowledge to properly plan, layout, and supervise the

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wiring, installation, and repair of electrical apparatus and equipment for light, heat, power, and other purposes.

- 5009 (38) "Master plumber" means a person licensed under this chapter as a master plumber having the qualifications, training, experience, and knowledge to properly plan and layout projects and supervise persons in the plumbing trade.
- 5012 (39) "Person" means a natural person, sole proprietorship, joint venture, corporation, limited liability company, association, or organization of any type.
- 5014 (40)
- (a) "Plumbing trade" means the performance of any mechanical work pertaining to the installation, alteration, change, repair, removal, maintenance, or use in buildings, or within three feet beyond the outside walls of buildings, of pipes, fixtures, and fittings for the:
- 5018 (i) delivery of the water supply;
- 5019 (ii) discharge of liquid and water carried waste;
- 5020 (iii) building drainage system within the walls of the building; and
- 5021 (iv) delivery of gases for lighting, heating, and industrial purposes.
- 5022 (b) "Plumbing trade" includes work pertaining to the water supply, distribution pipes, fixtures and fixture traps, soil, waste and vent pipes, the building drain and roof drains, and the safe and adequate supply of gases, together with their devices, appurtenances, and connections where installed within the outside walls of the building.
- 5027 (41) "Ratio of apprentices" means the number of licensed plumber apprentices or licensed electrician apprentices that are allowed to be under the immediate supervision of a licensed supervisor as established by the provisions of this chapter and by rules made by the commission, with the concurrence of the director, in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act.
- 5032 (42) "Residential and small commercial contractor" means a person licensed under this chapter as a residential and small commercial contractor qualified by education, training, experience, and knowledge to perform or superintend the construction of single-family residences, multifamily residences up to four units, and commercial construction of not more than three stories above ground and not more than 20,000 square feet, or any of the components of that construction except plumbing, electrical work, mechanical work, and manufactured housing installation, for which the residential and small commercial contractor shall employ the services of a contractor licensed

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in the particular specialty, except that a residential and small commercial contractor engaged in the construction of single-family and multifamily residences up to four units may perform the mechanical work and hire a licensed plumber or electrician as an employee.

- 5043 (43) "Residential building," as it relates to the license classification of residential journeyman plumber and residential master plumber, means a single or multiple family dwelling of up to four units.
- 5046 (44) "Residential electrical contractor" means a person licensed under this chapter as a residential electrical contractor qualified by education, training, experience, and knowledge to perform the fabrication, construction, and installation of services, disconnecting means, grounding devices, panels, conductors, load centers, lighting and plug circuits, appliances, and fixtures in a residential unit or any other work the division authorizes by rule in accordance with Subsection 58-55-301(4).
- 5052 (45) "Residential journeyman electrician" means a person licensed under this chapter as a residential journeyman electrician having the qualifications, training, experience, and knowledge to wire, install, and repair electrical apparatus and equipment for light, heat, power, and other purposes on buildings using primarily nonmetallic sheath cable.
- 5056 (46) "Residential journeyman plumber" means a person licensed under this chapter as a residential journeyman plumber having the qualifications, training, experience, and knowledge to engage in the plumbing trade as limited to the plumbing of residential buildings.
- 5060 (47) "Residential master electrician" means a person licensed under this chapter as a residential master electrician having the qualifications, training, experience, and knowledge to properly plan, layout, and supervise the wiring, installation, and repair of electrical apparatus and equipment for light, heat, power, and other purposes on residential projects.
- 5065 (48) "Residential master plumber" means a person licensed under this chapter as a residential master plumber having the qualifications, training, experience, and knowledge to properly plan and layout projects and supervise persons in the plumbing trade as limited to the plumbing of residential buildings.
- 5069 (49) "Residential plumbing contractor" means a person licensed under this chapter as a residential plumbing contractor qualified by education, training, experience, and knowledge to perform the fabrication or installation of material and fixtures to create and maintain sanitary conditions in residential buildings by providing permanent means for a supply of safe and pure water, a means for the timely and complete removal from the premises of all used or contaminated water, fluid and semi-fluid organic wastes and other impurities incidental to life and the occupation of such

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premises, a safe and adequate supply of gases for lighting, heating, and residential purposes, or any other work the division authorizes by rule in accordance with Subsection 58-55-301(4).

5078 (50) "Residential project," as it relates to an electrician or electrical contractor, means buildings  
primarily wired with nonmetallic sheathed cable, in accordance with standard rules and regulations  
governing this work, including the National Electrical Code, and in which the voltage does not  
exceed 250 volts line to line and 125 volts to ground.

5082 (51) "Responsible management personnel" means:

5083 (a) a qualifying agent;

5084 (b) an operations manager; or

5085 (c) a site manager.

5086 (52) "Sensitive alarm system information" means:

5087 (a) a pass code or other code used in the operation of an alarm system;

5088 (b) information on the location of alarm system components at the premises of a customer of the alarm  
business providing the alarm system;

5090 (c) information that would allow the circumvention, bypass, deactivation, or other compromise of an  
alarm system of a customer of the alarm business providing the alarm system; and

5093 (d) any other similar information that the division by rule determines to be information that an  
individual employed by an alarm business should use or have access to only if the individual is  
licensed as provided in this chapter.

5096 (53)

(a) "Specialty contractor" means a person licensed under this chapter under a specialty contractor  
classification established by rule, who is qualified by education, training, experience, and  
knowledge to perform those construction trades and crafts requiring specialized skill, the regulation  
of which are determined by the division to be in the best interest of the public health, safety, and  
welfare.

5101 (b) A specialty contractor may perform work in crafts or trades other than those in which the specialty  
contractor is licensed if they are incidental to the performance of the specialty contractor's licensed  
craft or trade.

5104 (54) "Unincorporated entity" means an entity that is not:

5105 (a) an individual;

5106 (b) a corporation; or

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- 5107 (c) publicly traded.
- 5108 (55) "Unlawful conduct" means the same as that term is defined in Sections 58-1-501 and 58-55-501.
- 5110 (56) "Unprofessional conduct" means the same as that term is defined in Sections 58-1-501 and  
58-55-502 and as may be further defined by rule.
- 5112 (57) "Wages" means amounts due to an employee for labor or services whether the amount is fixed or  
ascertained on a time, task, piece, commission, or other basis for calculating the amount.
- 4674 Section 128. Section **58-63-102** is amended to read:
- 4675 **58-63-102. Definitions.**
- In addition to the definitions in Section 58-1-102, as used in this chapter:
- 5118 (1) "Agreement for services" means a written and signed agreement between a security service provider  
and a client that:
- 5120 (a) contains clear language that addresses and assigns financial responsibility;
- 5121 (b) describes the length, duties, and scope of the security services that will be provided; and
- 5123 (c) describes the compensation that will be paid by the client for the security services, including the  
compensation for each security officer.
- 5125 (2) "Armed courier service" means a person engaged in business as a contract security company who  
transports or offers to transport tangible personal property from one place or point to another under  
the control of an armed security officer employed by that service.
- 5129 (3) "Armed private security officer" means an individual:
- 5130 (a) employed by a contract security company;
- 5131 (b) whose primary duty is:
- 5132 (i) guarding personal or real property; or
- 5133 (ii) providing protection or security to the life and well being of humans or animals; and
- 5135 (c) who wears, carries, possesses, or has immediate access to a firearm in the performance of the  
individual's duties.
- 5137 (4) "Armored car company" means a person engaged in business under contract to others who  
transports or offers to transport tangible personal property, currency, valuables, jewelry, SNAP  
benefits as defined in Section 35A-1-102, or any other high value items, that require secured  
delivery from one place to another under the control of an armored car security officer employed by  
the company using a specially equipped motor vehicle offering a high degree of security.
- 5143 (5) "Armored car security officer" means an individual:

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- 5144 (a) employed by an armored car company;
- 5145 (b) whose primary duty is to guard the tangible property, currency, valuables, jewelry, SNAP benefits as defined in Section 35A-1-102, or other high value items that require secured delivery from one place to another; and
- 5148 (c) who wears, carries, possesses, or has immediate access to a firearm in the performance of the individual's duties.
- 5150 (6) "Board" means the Security Services Licensing Board created in Section 58-63-201.
- 5151 (7) "Client" means a person, company, or entity that contracts for and receives security services from a contract security company or an armored car company.
- 5153 (8) "Contract security company" means a company that is engaged in business to provide security services to another person, business, or entity on a contractual basis by assignment of an armed or unarmed private security officer.
- 5156 (9) "Company officer" means:
- 5157 (a) a governing person, as defined in Section ~~[48-3a-102]~~ 16-20-101, of an armored car company or contract security company;
- 5159 (b) an individual appointed as an officer of an armored car company or contract security company that is a corporation in accordance with Section 16-10a-830;
- 5161 (c) a general partner, as defined in Section ~~[48-2e-102]~~ 16-19-101, of an armored car company or contract security company; or
- 5163 (d) a partner, as defined in Section ~~[48-1d-102]~~ 16-18-102, of an armored car company or contract security company.
- 5165 (10) "Company owner" means:
- 5166 (a) a shareholder, as defined in Section 16-10a-102, who owns directly, or indirectly through an entity controlled by the individual, 5% or more of the outstanding shares of an armored car company or contract security company that:
- 5169 (i) is a corporation; and
- 5170 (ii) is not publicly listed or traded; or
- 5171 (b) an individual who owns directly, or indirectly through an entity controlled by the individual, 5% or more of the equity of an armored car company or contract security company that is not a corporation.

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(11) "Company proprietor" means the sole proprietor of an armored car company or contract security company that is registered as a sole proprietorship with the Division of Corporations and Commercial Code.

5177 (12) "Company trustee" means an individual with control of or power of administration over property held in trust.

5179 (13) "Financial responsibility," when referring to a contract security company, means that a contract security company may only provide security services to a client if the contract security company:

5182 (a) enters into an agreement for services with the client;

5183 (b) maintains a current general liability insurance policy with:

5184 (i) at least an annual \$1,000,000 per occurrence limit;

5185 (ii) at least an annual \$2,000,000 aggregate limit; and

5186 (iii) the following riders:

5187 (A) general liability;

5188 (B) assault and battery;

5189 (C) personal injury;

5190 (D) false arrest;

5191 (E) libel and slander;

5192 (F) invasion of privacy;

5193 (G) broad form property damage;

5194 (H) damage to property in the care, custody, or control of the security service provider; and

5196 (I) errors and omissions;

5197 (c) maintains a workers' compensation insurance policy with at least a \$1,000,000 per occurrence limit and that covers each security officer employed by the contract security company; and

5200 (d) maintains a federal employer identification number and an unemployment insurance employer account as required under state and federal law.

5202 (14) "Identification card" means a personal pocket or wallet size card issued by the division to each armored car and armed or unarmed private security officer licensed under this chapter.

5205 (15) "Law enforcement agency" means the same as that term is defined in Section 53-1-102.

5206 (16) "Peace officer" means a person who:

5207 (a) is a certified peace officer as defined in Title 53, Chapter 13, Peace Officer Classifications; and

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(b) derives total or special law enforcement powers from, and is an employee of, the federal government, the state, or a political subdivision, agency, department, branch, or service of either, of a municipality, or a unit of local government.

5212 (17) "Regular basis" means at least 20 hours per month.

5213 (18) "Responsible management personnel" means:

5214 (a) a qualifying agent;

5215 (b) an operations manager; or

5216 (c) a site manager.

5217 (19)

(a) "Security officer" means an individual who is licensed as an armed or unarmed private security officer under this chapter and who:

5219 (i) is employed by a contract security company securing, guarding, or otherwise protecting tangible personal property, real property, or the life and well being of human or animal life against:

5222 (A) trespass or other unlawful intrusion or entry;

5223 (B) larceny;

5224 (C) vandalism or other abuse;

5225 (D) arson or other criminal activity; or

5226 (E) personal injury caused by another person or as a result of an act or omission by another person;

5228 (ii) is controlling, regulating, or directing the flow of movements of an individual or vehicle; or

5230 (iii) providing street patrol service.

5231 (b) "Security officer" does not include an individual whose duties include taking admission tickets, checking credentials, ushering, or checking bags, purses, backpacks, or other materials of individuals who are entering a sports venue, concert venue, theatrical venue, convention center, fairgrounds, public assembly facility, or mass gathering location if:

5236 (i) the individual carries out these duties without the use of specialized equipment;

5237 (ii) the authority of the individual is limited to denying entry or passage of another individual into or within the facility; and

5239 (iii) the individual is not authorized to use physical force in the performance of the individual's duties under this Subsection (19)(b).

5241 (20) "Security service provider" means a contract security company or an armored car company licensed under this chapter.

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- 5243 (21) "Security system" means equipment, a device, or an instrument installed for:
- 5244 (a) detecting and signaling entry or intrusion by an individual into or onto, or exit from the premises  
protected by the system; or
- 5246 (b) signaling the commission of criminal activity at the election of an individual having control of the  
features of the security system.
- 5248 (22) "Specialized resource, motor vehicle, or equipment" means an item of tangible personal property  
specifically designed for use in law enforcement or in providing security or guard services, or that is  
specially equipped with a device or feature designed for use in providing law enforcement, security,  
or guard services, but does not include:
- 5252 (a) standardized clothing, whether or not bearing a company name or logo, if the clothing does not bear  
the words "security" or "guard"; or
- 5254 (b) an item of tangible personal property, other than a firearm or nonlethal weapon, that may be used  
without modification in providing security or guard services.
- 5256 (23) "Street patrol service" means a contract security company that provides patrols by means of foot,  
vehicle, or other method of transportation using public streets, thoroughfares, or property in the  
performance of the company's duties and responsibilities.
- 5260 (24) "Unarmed private security officer" means an individual:
- 5261 (a) employed by a contract security company;
- 5262 (b) whose primary duty is guarding personal or real property or providing protection or security to the  
life and well being of humans or animals;
- 5264 (c) who does not wear, carry, possess, or have immediate access to a firearm in the performance of the  
individual's duties; and
- 5266 (d) who wears clothing of distinctive design or fashion bearing a symbol, badge, emblem, insignia, or  
other device that identifies the individual as a security officer.
- 5268 (25) "Unlawful conduct" means the same as that term is defined in Sections 58-1-501 and 58-63-501.
- 5270 (26) "Unprofessional conduct" means the same as that term is defined in Sections 58-1-501 and  
58-63-502 and as may be further defined by rule.

4831 Section 129. Section 59-8-103 is amended to read:

4832 **59-8-103. Definitions.**

As used in this chapter:

4834 (1) "Corporation" means:

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- 4835 (a) any domestic corporation organized under Title 16, Chapter 6a, Utah Revised Nonprofit Corporation Act;
- 4837 (b) any foreign corporation engaged in business in this state under ~~[Sections 16-6a-1501 through 16-6a-1518]~~ Title 16, Chapter 1a, Part 5, Foreign Entities;
- 4839 (c) any project entity defined in Section 11-13-103; or
- 4840 (d) a public agency, as defined in Section 11-13-103, to the extent it owns an interest in facilities providing additional project capacity, as defined in Section 11-13-103.
- 4842 (2) "Engaging in business" means carrying on or causing to be carried on any activity through which goods or services are made or rendered by the taxpayer, except as provided in Section 59-7-102.
- 4845 (3) "Gross receipts" means the totality of the consideration that the taxpayer receives for any good or service produced or rendered in the state without any deduction or expense paid or accrued in respect to it.
- 4848 (4) "Taxpayer" means any corporation, other than an eleemosynary, religious, or charitable institution, any insurance company, credit union, or Subchapter S organization, any nonprofit hospital, educational, welfare, or employee representation organization, or any mutual benefit association engaged in business in the state that is not otherwise required to pay income or franchise tax to the state under Title 59, Chapter 7, Corporate Franchise and Income Taxes.
- 4854 Section 130. Section **61-2c-201** is amended to read:
- 4855 **61-2c-201. Licensure required of person engaged in the business of residential mortgage loans.**
- 5275 (1)
- (a) Except as provided in Subsection (1)(b), a person may not transact the business of residential mortgage loans without first obtaining a license under this chapter.
- 5277 (b) A person may transact the business of residential mortgage loans without first obtaining a license under this chapter if the person:
- 5279 (i) is exempt from this chapter under Section 61-2c-105; or
- 5280 (ii) qualifies for temporary authority to act as a mortgage loan originator under Section 61-2c-201.2.
- 5282 (2) For purposes of this chapter, a person transacts the business of residential mortgage loans in this state if:
- 5284 (a)
- (i) the person engages in an act that constitutes the business of residential mortgage loans;

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- 5286 (ii) the act described in Subsection (2)(a)(i) is directed to or received in this state; and
- 5287 (iii) the real property that is the subject of the act described in Subsection (2)(a)(i) is located in this state; or
- 5289 (b) the person makes a representation that the person transacts the business of residential mortgage loans in this state.
- 5291 (3) An individual who has an ownership interest in an entity required to be licensed under this chapter is not required to obtain an individual license under this chapter unless the individual transacts the business of residential mortgage loans.
- 5294 (4) Unless otherwise exempted under this chapter, licensure under this chapter is required of both:
- 5296 (a) the individual who directly transacts the business of residential mortgage loans; and
- 5297 (b) if the individual transacts business as an employee or agent of an entity or individual, the entity or individual for whom the employee or agent transacts the business of residential mortgage loans.
- 5300 (5)
- (a) If an entity that is licensed to transact the business of residential mortgage loans transacts the business of residential mortgage loans under an assumed business name, the entity shall in accordance with rules made by the division:
- 5303 (i) register the assumed name under this chapter; and
- 5304 (ii) furnish proof that the assumed business name is filed with the Division of Corporations and Commercial Code pursuant to [~~Title 42, Chapter 2, Conducting Business Under Assumed Name~~] Title 42, Chapter 2, Conducting Business as a D.B.A.
- 5308 (b) The division may charge a fee established in accordance with Section 63J-1-504 for registering an assumed name as described in this Subsection (5).
- 4892 Section 131. Section **61-2f-401** is amended to read:
- 4893 **61-2f-401. Grounds for disciplinary action.**
- The following acts are unlawful and grounds for disciplinary action for a person licensed or required to be licensed under this chapter:
- 5314 (1)
- (a) making a substantial misrepresentation, including in a licensure statement;
- 5315 (b) making an intentional misrepresentation;
- 5316 (c) pursuing a continued and flagrant course of misrepresentation;
- 5317 (d) making a false representation or promise through an agent, sales agent, advertising, or otherwise; or

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- 5319 (e) making a false representation or promise of a character likely to influence, persuade, or induce;  
5321 (2) acting for more than one party in a transaction without the informed written consent of the parties;  
5323 (3)  
(a) acting as an associate broker or sales agent while not affiliated with a principal broker;  
5325 (b) representing or attempting to represent a principal broker other than the principal broker with whom  
the person is affiliated; or  
5327 (c) representing as sales agent or having a contractual relationship similar to that of sales agent with a  
person other than a principal broker;  
5329 (4)  
(a) failing, within a reasonable time, to account for or to remit money that belongs to another and comes  
into the person's possession;  
5331 (b) commingling money described in Subsection (4)(a) with the person's own money; or  
5332 (c) diverting money described in Subsection (4)(a) from the purpose for which the money is received;  
5334 (5) paying or offering to pay valuable consideration to a person not licensed under this chapter, except  
that valuable consideration may be shared:  
5336 (a) with a principal broker of another jurisdiction; or  
5337 (b) as provided under:  
5338 (i) Title 16, Chapter 10a, Utah Revised Business Corporation Act;  
5339 (ii) Title 16, Chapter 11, Professional Corporation Act; or  
5340 (iii) Title 48, Chapter 3a, Utah Revised Uniform Limited Liability Company Act, as appropriate  
pursuant to Section [48-3a-1405] {[16-20-1305](#)} [16-20-1205](#);  
5342 (6) for a principal broker, paying or offering to pay a sales agent or associate broker who is not  
affiliated with the principal broker at the time the sales agent or associate broker earned the  
compensation;  
5345 (7) being incompetent to act as a principal broker, associate broker, or sales agent in such manner as to  
safeguard the interests of the public;  
5347 (8) failing to voluntarily furnish a copy of a document to the parties before and after the execution of a  
document;  
5349 (9) a brokerage failing to keep and make available for inspection by the division a record of each  
transaction, including:  
5351 (a) the names of buyers and sellers or lessees and lessors;

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- 5352 (b) the identification of real estate;
- 5353 (c) the sale or rental price;
- 5354 (d) money received in trust;
- 5355 (e) agreements or instructions from buyers and sellers or lessees and lessors; and
- 5356 (f) any other information required by rule;
- 5357 (10) failing to disclose, in writing, in the purchase, sale, or rental of real estate, whether the purchase,  
sale, or rental is made for that person or for an undisclosed principal;
- 5359 (11) regardless of whether the crime is related to the business of real estate:
- 5360 (a) be convicted of:
- 5361 (i) a felony; or
- 5362 (ii) any of the following involving fraud, misrepresentation, theft, or dishonesty:
- 5363 (A) a class A misdemeanor;
- 5364 (B) a class B misdemeanor; or
- 5365 (C) a criminal offense comparable to a class A or class B misdemeanor;
- 5366 (b) plead guilty or nolo contendere to:
- 5367 (i) a felony; or
- 5368 (ii) any of the following involving fraud, misrepresentation, theft, or dishonesty:
- 5369 (A) a class A misdemeanor;
- 5370 (B) a class B misdemeanor; or
- 5371 (C) a criminal offense comparable to a class A or class B misdemeanor;
- 5372 (c) enter into a plea in abeyance agreement in relation to:
- 5373 (i) a felony; or
- 5374 (ii) any of the following involving fraud, misrepresentation, theft, or dishonesty:
- 5375 (A) a class A misdemeanor;
- 5376 (B) a class B misdemeanor; or
- 5377 (C) a criminal offense comparable to a class A or class B misdemeanor;
- 5378 (12) at the time of placing an advertisement:
- 5379 (a) advertising the availability of real estate or the services of a licensee in a false, misleading, or  
deceptive manner; or
- 5381

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- (b) failing to include within the advertisement the brokerage name with which a person who is licensed is affiliated or, if the advertisement is placed online or in a digital format, a link to a website or media platform that identifies the brokerage name within one click;
- 5385 (13) in the case of a principal broker or a branch broker, failing to exercise active and reasonable supervision, as the commission may define by rule made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, over the activities of the principal broker's or branch broker's licensed or unlicensed staff;
- 5389 (14) violating or disregarding:
- 5390 (a) this chapter;
- 5391 (b) an order of the commission; or
- 5392 (c) the rules adopted by the commission and the division;
- 5393 (15) breaching a fiduciary duty owed by a licensee to the licensee's principal in a real estate transaction;
- 5395 (16) any other conduct which constitutes dishonest dealing;
- 5396 (17) having one of the following suspended, revoked, surrendered, or cancelled on the basis of misconduct in a professional capacity that relates to character, honesty, integrity, or truthfulness:
- 5399 (a) a real estate license, registration, or certificate issued by another jurisdiction; or
- 5400 (b) another license, registration, or certificate to engage in an occupation or profession issued by this state or another jurisdiction;
- 5402 (18) failing to respond to a request by the division in an investigation authorized under this chapter within 10 business days after the day on which the request is served, including:
- 5404 (a) failing to respond to a subpoena;
- 5405 (b) withholding evidence; or
- 5406 (c) failing to produce documents or records;
- 5407 (19) in the case of a dual licensed title licensee as defined in Section 31A-2-402:
- 5408 (a) providing a title insurance product or service without the approval required by Section 31A-2-405; or
- 5410 (b) knowingly providing false or misleading information in the statement required by Subsection 31A-2-405(2);
- 5412 (20) violating an independent contractor agreement between a principal broker and a sales agent or associate broker as evidenced by a final judgment of a court;
- 5414 (21) violating Title 57, Chapter 30, Residential Property Service Agreements;



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- 5415 (22)
- (a) engaging in an act of loan modification assistance that requires licensure as a mortgage officer under Chapter 2c, Utah Residential Mortgage Practices and Licensing Act, without being licensed under that chapter;
- 5418 (b) engaging in an act of foreclosure rescue without entering into a written agreement specifying what one or more acts of foreclosure rescue will be completed;
- 5420 (c) inducing a person who is at risk of foreclosure to hire the licensee to engage in an act of foreclosure rescue by:
- 5422 (i) suggesting to the person that the licensee has a special relationship with the person's lender or loan servicer; or
- 5424 (ii) falsely representing or advertising that the licensee is acting on behalf of:
- 5425 (A) a government agency;
- 5426 (B) the person's lender or loan servicer; or
- 5427 (C) a nonprofit or charitable institution; or
- 5428 (d) recommending or participating in a foreclosure rescue that requires a person to:
- 5429 (i) transfer title to real estate to the licensee or to a third-party with whom the licensee has a business relationship or financial interest;
- 5431 (ii) make a mortgage payment to a person other than the person's loan servicer; or
- 5432 (iii) refrain from contacting the person's:
- 5433 (A) lender;
- 5434 (B) loan servicer;
- 5435 (C) attorney;
- 5436 (D) credit counselor; or
- 5437 (E) housing counselor;
- 5438 (23) taking or removing from the premises of a main office or a branch office, or otherwise limiting a real estate brokerage's access to or control over, a record that:
- 5440 (a)
- (i) the real estate brokerage's licensed staff, unlicensed staff, or affiliated independent contractor prepared; and
- 5442 (ii) is related to the business of:
- 5443 (A) the real estate brokerage; or

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- 5444 (B) an associate broker, a branch broker, or a sales agent of the real estate brokerage; or  
5446 (b) is related to the business administration of the real estate brokerage;  
5447 (24) as a principal broker, placing a lien on real property, unless authorized by law;  
5448 (25) as a sales agent or associate broker, placing a lien on real property for an unpaid commission or  
other compensation related to real estate brokerage services; or  
5450 (26) failing to timely disclose to a buyer or seller an affiliated business arrangement, as defined in  
Section 31A-23a-1001, in accordance with the federal Real Estate Settlement Procedures Act, 12  
U.S.C. Sec. 2601 et seq. and any rules made thereunder.
- 5035 Section 132. Section **61-2g-103** is amended to read:  
5036 **61-2g-103. Other law unaffected.**
- This chapter may not be considered to prohibit a person licensed, certified, or registered  
under this chapter from engaging in the practice of real estate appraising as a professional  
corporation or a limited liability company in accordance with:
- 5458 (1) Title 16, Chapter 11, Professional Corporation Act; or  
5459 (2) [~~Title 48, Chapter 3a, Utah Revised Uniform Limited Liability Company Act~~] Title 16, Chapter 20,  
Utah Revised Uniform Limited Liability Company Act.
- 5043 Section 133. Section **70-3a-405** is amended to read:  
5044 **70-3a-405. Forum for actions regarding registration -- Service on out-of-state registrants.**  
5046 (1)
- (a) A person may bring an action in a court with jurisdiction under Title 78A, Judiciary and Judicial  
Administration, to require the cancellation of a mark registered under this chapter.
- 5049 (b) The division may not be made a party to an action filed under Subsection (1)(a), except that the  
division may intervene in an action filed under Subsection (1)(a).
- 5051 (2) In any action brought against a nonresident registrant, service may be effected upon the nonresident  
registrant in accordance with the procedures established for service upon nonresident corporations  
and business entities under Section [~~16-10a-1511~~] 16-1a-1511.
- 5054 Section 134. Section **75B-2-1011** is amended to read:  
5055 **75B-2-1011. Interest as general partner.**  
5463 (1) Except as otherwise provided in Subsection (3) or unless personal liability is imposed in the  
contract, a trustee who holds an interest as a general partner in a general or limited partnership is  
not personally liable on a contract entered into by the partnership after the trust's acquisition of the

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interest if the fiduciary capacity was disclosed in the contract or in a statement previously filed in accordance with [~~Title 48, Chapter 2e, Utah Uniform Limited Partnership Act~~] Title 16, Chapter 19, Utah Uniform Limited Partnership Act.

- 5469 (2) Except as otherwise provided in Subsection (3), a trustee who holds an interest as a general partner  
is not personally liable for torts committed by the partnership or for obligations arising from  
ownership or control of the interest unless the trustee is personally at fault.
- 5473 (3) The immunity provided by this section does not apply if an interest in the partnership is held by the  
trustee in a capacity other than that of trustee or is held by the trustee's spouse or one or more of the  
trustee's descendants, siblings, or parents, or the spouse of any of them.
- 5477 (4) If the trustee of a revocable trust holds an interest as a general partner, the settlor is personally liable  
for contracts and other obligations of the partnership as if the settlor were a general partner.

5073 Section 135. Section **76-5c-304** is amended to read:

5074 **76-5c-304. Change of registered office or agent by film distributor -- Service of process,  
notice, or demand on registered agent.**

- 5483 (1) A distributor qualified to distribute films in this state may change the distributor's registered office  
or registered agent in accordance with [~~Title 16, Chapter 17, Model Registered Agents Act~~] Title 16,  
Chapter 1a, Part 4, Registered Agent of an Entity.
- 5486 (2) Any process, notice, or demand required or permitted by law to be served upon the distributor may  
be served upon the registered agent of that distributor.

5081 Section 136. Section **78A-5a-101** is amended to read:

5082 **78A-5a-101. Definitions.**

- 5490 (1) "Action" means a lawsuit or case commenced in a court.
- 5491 (2)
- (a) "Asset" means property of all kinds, real or personal and tangible or intangible.
- 5492 (b) "Asset" includes:
- 5493 (i) cash, except for any reasonable compensation or salary for services rendered;
- 5494 (ii) stock or other investments;
- 5495 (iii) goodwill;
- 5496 (iv) an ownership interest;
- 5497 (v) a license;
- 5498 (vi) a cause of action; and

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- 5499 (vii) any similar property.
- 5500 (3) "Beneficial shareholder" means the same as that term is defined in Section 16-10a-1301.
- 5501 (4) "Blockchain" means the same as that term is defined in Section 63A-16-108.
- 5502 (5) "Blockchain technology" means computer software or hardware or collections of computer software or hardware, or both, that utilize or enable a blockchain.
- 5504 (6) "Board" means the board of directors or trustees of a corporation.
- 5505 (7) "Business" means any enterprise carried on for the purpose of gain or economic profit.
- 5506 (8)
- (a) "Business organization" means an organization in any form that is primarily engaged in business.
- 5508 (b) "Business organization" includes:
- 5509 (i) an association;
- 5510 (ii) a corporation;
- 5511 (iii) a joint stock company;
- 5512 (iv) a joint venture;
- 5513 (v) a limited liability company;
- 5514 (vi) a mutual fund trust;
- 5515 (vii) a partnership; or
- 5516 (viii) any other similar form of an organization described in Subsections (8)(b)(i) through (vii).
- 5518 (c) "Business organization" does not include a governmental entity as defined in Section 63G-7-102.
- 5520 (9) "Claim" means a written demand or assertion in an action.
- 5521 (10) "Commercial tenant" means the same as that term is defined in Section 78B-6-801.
- 5522 (11) "Consumer contract" means a contract entered into by a consumer for the purchase of goods or services for personal, family, or household purposes.
- 5524 (12) "Court" means the Business and Chancery Court established in Section 78A-5a-102.
- 5525 (13) "Decentralized autonomous organization" means the same as that term is defined in Section ~~[48-5-101]~~ 16-22-101.
- 5527 (14) "Franchisee" means the same as that term is defined in 16 C.F.R. Sec. 436.1.
- 5528 (15) "Franchisor" means the same as that term is defined in 16 C.F.R. Sec. 436.1.
- 5529 (16) "Governmental entity" means the same as that term is defined in Section 63G-7-102.
- 5530 (17) "Health care" means the same as that term is defined in Section 78B-3-403.
- 5531 (18) "Health care provider" means the same as that term is defined in Section 78B-3-403.

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- 5532 (19) "Monetary damages" does not include:
- 5533 (a) punitive or exemplary damages;
- 5534 (b) prejudgment or postjudgment interest; or
- 5535 (c) attorney fees or costs.
- 5536 (20) "Officer" means an individual designated by a board, or other governing body of a business organization, to act on behalf of the business organization.
- 5538 (21) "Owner" means a person who, directly or indirectly, owns or controls an ownership interest in a business organization regardless of whether the person owns or controls the ownership interest through another person, a power of attorney, or another business organization.
- 5542 (22) "Ownership interest" means an interest owned in a business organization, including any shares, membership interest, partnership interest, or governance or transferable interest.
- 5545 (23) "Personal injury" means a physical or mental injury, including wrongful death.
- 5546 (24) "Professional" means an individual whose profession requires a license, registration, or certification on the basis of experience, education, testing, or training.
- 5548 (25)
- (a) "Provisional remedy" means a temporary order by a court while an action is pending.
- 5550 (b) "Provisional remedy" includes a preliminary injunction, a temporary restraining order, a prejudgment writ, or an appointment of a receiver.
- 5552 (26) "Security" means the same as that term is defined in Section 61-1-13.
- 5553 (27) "Shareholder" means the record shareholder or the beneficial shareholder.
- 5554 (28) "Record shareholder" means the same as that term is defined in Section 16-10a-1301.
- 5555 (29) "Trustee" means a person that holds or administers an ownership interest on behalf of a third party.

5150 Section 137. Section **78B-3-204** is amended to read:

5151 **78B-3-204. Effect of failure to appoint registered agent -- Service of process upon nonresident.**

If a nonresident person doing business fails to appoint a registered agent within the state in accordance with ~~[Title 16, Chapter 17, Model Registered Agents Act]~~ Title 16, Chapter 1a, Part 4, Registered Agent of an Entity, service of process may be made by serving any person employed by or acting as an agent for the nonresident.

5157 Section 138. Section **78B-3-205** is amended to read:

5158 **78B-3-205. Acts submitting person to jurisdiction.**

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Notwithstanding Section [~~16-10a-1501~~] 16-1a-503, any person or personal representative of the person, whether or not a citizen or resident of this state, who, in person or through an agent, does any of the following enumerated acts is subject to the jurisdiction of the courts of this state as to any claim arising out of or related to:

- 5163 (1) the transaction of any business within this state;
- 5164 (2) contracting to supply services or goods in this state;
- 5165 (3) the causing of any injury within this state whether tortious or by breach of warranty;
- 5166 (4) the ownership, use, or possession of any real estate situated in this state;
- 5167 (5) contracting to insure any person, property, or risk located within this state at the time of contracting;
- 5169 (6) with respect to actions of divorce, separate maintenance, or child support, having resided, in the marital relationship, within this state notwithstanding subsequent departure from the state; or the commission in this state of the act giving rise to the claim, so long as that act is not a mere omission, failure to act, or occurrence over which the defendant had no control; or
- 5174 (7) the commission of sexual intercourse within this state which gives rise to a parentage action under Title 81, Chapter 5, Uniform Parentage Act, to determine parentage for the purpose of establishing responsibility for child support.

5177 Section 139. Section **78B-6-2601** is amended to read:

5178 **78B-6-2601. Definitions.**

As used in this part:

- 5567 (1) "Activate" means the process of powering on a device and associating the device with a user account.
- 5569 (2) "Device" means a tablet or a smart phone manufactured on or after January 1, 2025.
- 5570 (3) "Filter" means generally accepted and commercially reasonable software used on a device that is capable of preventing the device from accessing or displaying obscene material through Internet browsers or search engines owned or controlled by the manufacturer in accordance with prevailing industry standards including blocking known websites linked to obscene content via mobile data networks, wired Internet networks, and wireless Internet networks.
- 5576 (4) "Internet" means the same as that term is defined in Section 13-40-102.
- 5577 (5) "Manufacturer" means a person that:
- 5578 (a)
  - (i) is engaged in the business of manufacturing a device;

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- 5579 (ii) holds the patents for the device the person manufactures; or  
5580 (iii) holds the patents for the operating system on a device; and  
5581 (b) has a commercial registered agent as that term is defined in Section ~~[16-17-102]~~ 16-1a-101.  
5583 (6) "Minor" means an individual under the age of 18 who is not emancipated, married, or a member of  
the armed forces of the United States.  
5585 (7) "Obscenity" means the same as that term is defined in Section 32B-1-504.  
5586 (8) "Operating system" means software that manages all of the other application  
5587 programs on a device.  
5588 (9) "Password" means a string of characters or other secure method used to enable, deactivate, modify,  
or uninstall a filter on a device.  
5590 (10)  
(a) "Retailer" means a person, that is not a manufacturer, that sells a device directly to consumers.  
5592 (b) "Retailer" includes an employee of a retailer acting in the course and scope of the employee's  
employment.  
5594 (11) "Smart phone" means the same as that term is defined in Section 63A-2-101.5.  
5595 (12) "Tablet" means a mobile device that:  
5596 (a) is equipped with a mobile operating system, touchscreen display, and rechargeable battery; and  
5598 (b) has the ability to support access to a cellular network.  
5599 (13) "Video game console" means a discrete computing system, including the system's components and  
peripherals, primarily used for playing video games, but does not include a smartphone or tablet.

5215 Section 140. **Effective date.**

Effective Date.

This bill takes effect on {~~May 6,~~ October 1, 2026.

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