

**Effective 5/10/2016**

**11-13-604 Segments authorized.**

- (1)
  - (a) To the extent authorized in a taxed interlocal entity's organization agreement or by a majority of the public entities that are parties to a taxed interlocal entity's organization agreement, the governing board of a taxed interlocal entity may by resolution establish or provide for the establishment of one or more segments that have separate rights, powers, privileges, authority or by a majority of the public entities that are parties to a taxed interlocal entity's organization agreement, or duties with respect to, as specified in the segment's organizing resolution, the taxed interlocal entity's:
    - (i) property;
    - (ii) assets;
    - (iii) projects;
    - (iv) undertakings;
    - (v) opportunities;
    - (vi) actions;
    - (vii) debts;
    - (viii) liabilities;
    - (ix) obligations; or
    - (x) any combination of the items listed in Subsections (1)(a)(i) through (viii).
  - (b) To the extent provided in the organization agreement of a segment's associated entity, a segment may have a separate purpose from the associated entity.
  - (c) The name of a segment shall:
    - (i) contain the name of the segment's associated entity; and
    - (ii) be distinguishable from the name of any other segment established by the associated entity.
- (2) Notwithstanding any other provision of law, the debts, liabilities, and obligations incurred, contracted for, arising out of the conduct of or otherwise existing with respect to a particular segment are only enforceable or chargeable against the assets of that segment, and not against the assets of the segment's associated entity generally or any other segment established by the segment's associated entity if:
  - (a) the segment is established by or in accordance with an organizing resolution;
  - (b) separate records are maintained for the segment to the extent necessary to avoid the segment's records constituting a fraud upon the segment's creditors;
  - (c) the assets associated with the segment are held and accounted for separately from the assets of any other segment established by the associated entity to the extent necessary to avoid the segment's accounting for the segment's assets constituting a fraud upon the segment's creditors;
  - (d) the segment's organizing resolution provides for a limitation on liabilities of the segment; and
  - (e) a notice of limitation on liabilities of the segment is recorded in accordance with Section 11-13-605.
- (3) Except as otherwise provided in the segment's organizing resolution, a segment that satisfies the conditions described in Subsections (2)(a) through (e):
  - (a) is treated as a separate interlocal entity; and
  - (b) may:
    - (i) in its own name, contract, hold title to property, grant liens and security interests, and sue and be sued;
    - (ii) exercise all or any part of the powers, privileges, rights, authority, and capacity of the segment's associated entity; and

- (iii) engage in any action in which the segment's associated entity may engage.
- (4) Except as otherwise provided in the organization agreement of the segment's associated entity or in the segment's organizing resolution, a segment is governed by the organization agreement of the segment's associated entity.
- (5) Subject to Subsection (4), a segment's organizing resolution:
  - (a) may address any matter relating to the segment, including the segment's governance or operation, to the extent that the organization agreement of a segment's associated entity does not address the matter; and
  - (b) to the extent not addressed in the organization agreement of the segment's associated entity, shall address the following matters:
    - (i) the powers delegated to the segment;
    - (ii) the manner in which the segment is to be governed, including whether the segment's governing body is the same as the governing board of the segment's associated entity;
    - (iii) subject to Subsection (6), if the segment's governing body is different from the governing board of the segment's associated entity, the manner in which the members of the segment's governing body are appointed or selected;
    - (iv) the segment's purpose;
    - (v) the manner of financing the segment's actions;
    - (vi) how the segment will establish and maintain a budget;
    - (vii) how to partially or completely terminate the segment and, upon a partial or complete termination, how to dispose of the segment's property;
    - (viii) the process, conditions, and terms for withdrawal of a participating public agency from the segment; and
    - (ix) voting rights, including whether voting is weighted, and, if so, the basis upon which the vote weight is determined.
- (6) An organizing resolution shall provide that if a segment's governing body is different from the governing board of the segment's associated entity, the Utah public agencies that are parties to the organization agreement of the segment's associated entity may appoint or select members of the segment's governing body with a majority of the voting power.
- (7) A segment may not:
  - (a) transfer the segment's property or other assets to the segment's associated entity or to another segment established by the segment's associated entity if the transfer impairs the ability of the segment to pay the segment's debts that exist at the time of the transfer, unless the segment's associated entity or the other segment gives fair value for the property or asset; or
  - (b) assign a tax or other liability imposed against the segment to the segment's associated entity or to another segment established by the segment's associated entity if the assignment impairs a creditor's ability to collect the amount due when owed.
- (8) If a segment and a segment's associated entity or another segment established by the segment's associated entity are involved in a joint action or have a common interest in a facility, the segment's or the segment's associated entity's maintenance of records and accounts related to the joint action or common interest does not constitute a violation of Subsection (2)(b) or (c).
- (9) Except as otherwise provided in this part or where clearly not applicable, the provisions of law that apply to a segment's associated entity also apply to the segment, including Subsection 11-13-205(5), as if the segment were a separate legal or administrative entity.
- (10)

- (a) To the extent an associated entity is a taxpayer as defined in Section 59-8-103, the associated entity shall pay tax on the associated entity's gross receipts at the rate of tax that would apply if all gross receipts of the associated entity and the associated entity's segments, in the aggregate, were the gross receipts of a single taxpayer.
- (b) Each segment of an associated entity that is a taxpayer as defined in Section 59-8-103 shall pay tax on the segment's gross receipts each period described in Subsection 59-8-105(1) at the same rate of tax as the rate of tax paid by the segment's associated entity for the same period.
- (c) Notwithstanding Subsections (10)(a) and (b):
  - (i) an associated entity is not liable for the tax imposed on a segment; and
  - (ii) a segment of an associated entity is not liable for the tax imposed on the segment's associated entity or on another segment of the segment's associated entity.

Enacted by Chapter 382, 2016 General Session