Title 48. Unincorporated Business Entity Act

Chapter 1c
General Provisions

48-1c-101 Title.
(1) This title is known as the "Unincorporated Business Entity Act."
(2) This chapter is known as "General Provisions."

Enacted by Chapter 412, 2013 General Session

Chapter 1d
Utah Uniform Partnership Act

Part 1
General Provisions

48-1d-101 Title.
This chapter may be cited as the "Utah Uniform Partnership Act."

Enacted by Chapter 412, 2013 General Session

48-1d-102 Definitions.
As used in this chapter:
(1) "Business" includes every trade, occupation, and profession.
(2) "Contribution," except in the phrase "right of contribution," means property or a benefit described in Section 48-1d-501 which is provided by a person to a partnership to become a partner or in the person's capacity as a partner.
(3) "Debtor in bankruptcy" means a person that is the subject of:
(a) an order for relief under Title 11 of the United States Code or a comparable order under a successor statute of general application; or
(b) a comparable order under federal, state, or foreign law governing insolvency.
(4) "Distribution" means a transfer of money or other property from a partnership to a person on account of a transferable interest or in a person's capacity as a partner. The term:
(a) includes:
(i) a redemption or other purchase by a partnership of a transferable interest; and
(ii) a transfer to a partner in return for the partner's relinquishment of any right to participate as a partner in the management or conduct of the partnership's activities and affairs or have access to records or other information concerning the partnership's activities and affairs; and
(b) does not include amounts constituting reasonable compensation for present or past service or payments made in the ordinary course of business under a bona fide retirement plan or other bona fide benefits program.
(5) "Division" means the Division of Corporations and Commercial Code.

(6) "Foreign limited liability partnership" means a foreign partnership whose partners have limited liability for the debts, obligations, or other liabilities of the foreign partnership under a provision similar to Subsection 48-1d-306(3).
(7) "Foreign partnership" means an unincorporated entity formed under the law of a jurisdiction other than this state which would be a partnership if formed under the law of this state. The term includes a foreign limited liability partnership.
(8) "Jurisdiction," used to refer to a political entity, means the United States, a state, a foreign country, or a political subdivision of a foreign country.
(9) "Jurisdiction of formation" means, with respect to an entity, the jurisdiction:
(a) under whose law the entity is formed; or
(b) in the case of a limited liability partnership or foreign limited liability partnership, in which the partnership's statement of qualification is filed.
(10) "Limited liability partnership," except in the phrase "foreign limited liability partnership," means a partnership that has filed a statement of qualification under Section 48-1d-1101 and does not have a similar statement in effect in any other jurisdiction.
(11) "Partner" means a person that:
(a) has become a partner in a partnership under Section 48-1d-401 or was a partner in a partnership when the partnership became subject to this chapter under Section 48-1d-1405; and
(b) has not dissociated as a partner under Section 48-1d-701.
(12) "Partnership" means an association of two or more persons to carry on as co-owners a business for profit formed under this chapter or that becomes subject to this chapter under Part 10, Merger, Interest Exchange, Conversion, and Domestication, or Section 48-1d-1405. The term includes a limited liability partnership.
(13) "Partnership agreement" means the agreement, whether or not referred to as a partnership agreement, and whether oral, implied, in a record, or in any combination thereof, of all the partners of a partnership concerning the matters described in Subsection 48-1d-106(1). The term includes the agreement as amended or restated.
(14) "Partnership at will" means a partnership in which the partners have not agreed to remain partners until the expiration of a definite term or the completion of a particular undertaking.
(15) "Person" means an individual, business corporation, nonprofit corporation, partnership, limited partnership, limited liability company, limited cooperative association, unincorporated nonprofit association, statutory trust, business trust, common-law business trust, estate, trust, association, joint venture, public corporation, government or governmental subdivision, agency, or instrumentality, or any other legal or commercial entity.
(16) "Principal office" means the principal executive office of a partnership or a foreign limited liability partnership, whether or not the office is located in this state.
(17) "Professional services" means a personal service provided by:
(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;
(b) an architect holding a license under Title 58, Chapter 3a, Architects Licensing Act, or a subsequent law regulating the practice of architecture;
(c) an attorney granted the authority to practice law by the:
(i) Utah Supreme Court; or
(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:
(A) a supreme court;
(B) a court other than a supreme court;

(C) an agency;
(D) an instrumentality; or
(E) a regulating board;
(d) a chiropractor holding a license under Title 58, Chapter 73, Chiropractic Physician Practice Act, or a subsequent law regulating the practice of chiropractics;
(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;
(f) a professional engineer registered under Title 58, Chapter 22, Professional Engineers and Professional Land Surveyors Licensing Act, or a subsequent law regulating the practice of engineers or land surveyors;
(g) a naturopath holding a license under Title 58, Chapter 71, Naturopathic Physician Practice Act, or a subsequent law regulating the practice of naturopathy;
(h) a nurse licensed under Title 58, Chapter 31b, Nurse Practice Act, or Chapter 44a, Nurse Midwife Practice Act, or a subsequent law regulating the practice of nursing;
(i) an optometrist holding a license under Title 58, Chapter 16a, Utah Optometry Practice Act, or a subsequent law regulating the practice of optometry;
(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;
(k) a pharmacist holding a license under Title 58, Chapter 17b, Pharmacy Practice Act, or a subsequent law regulating the practice of pharmacy;
(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;
(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;
(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;
(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;
(p) a psychologist holding a license under Title 58, Chapter 61, Psychologist Licensing Act, or a subsequent law regulating the practice of psychology;
(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;
(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;
(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;
(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
(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.
(18) "Property" means all property, whether real, personal, or mixed, or tangible or intangible, or any right or interest therein.
(19) "Record," used as a noun, means information that is inscribed on a tangible medium or that is stored in an electronic or other medium and is retrievable in perceivable form.

(20) "Registered agent" means an agent of a limited liability partnership or foreign limited liability partnership which is authorized to receive service of any process, notice, or demand required or permitted by law to be served on the partnership.
(21) "Registered foreign limited liability partnership" means a foreign limited liability partnership that is registered to do business in this state pursuant to a statement of registration filed by the division.
(22) "Sign" means, with present intent to authenticate or adopt a record:
(a) to execute or adopt a tangible symbol; or
(b) to attach to or logically associate with the record an electronic symbol, sound, or process.
(23) "State" means a state of the United States, the District of Columbia, Puerto Rico, the United States Virgin Islands, or any territory or insular possession subject to the jurisdiction of the United States.
(24) "Transfer" includes:
(a) an assignment;
(b) a conveyance;
(c) a sale;
(d) a lease;
(e) an encumbrance, including a mortgage or security interest;
(f) a gift; and
(g) a transfer by operation of law.
(25) "Transferable interest" means the right, as initially owned by a person in the person's capacity as a partner, to receive distributions from a partnership in accordance with the partnership agreement, whether or not the person remains a partner or continues to own any part of the right. The term applies to any fraction of the interest, by whomever owned.
(26) "Transferee" means a person to which all or part of a transferable interest has been transferred, whether or not the transferor is a partner.
(27) "Tribal partnership" means a partnership:
(a) formed under the law of a tribe; and
(b) that is at least 51% owned or controlled by the tribe under whose law the partnership is formed.
(28) "Tribe" means a tribe, band, nation, pueblo, or other organized group or community of Indians, including an Alaska Native village, that is legally recognized as eligible for and is consistent with a special program, service, or entitlement provided by the United States to Indians because of their status as Indians.

Amended by Chapter 349, 2019 General Session

48-1d-103 Knowledge -- Notice.
(1) A person knows a fact if the person:
(a) has actual knowledge of it; or
(b) is deemed to know it under Subsection (4)(a) or law other than this chapter.
(2) A person has notice of a fact if the person:
(a) has reason to know the fact from all the facts known to the person at the time in question; or
(b) is deemed to have notice of the fact under Subsection (4)(b).
(3) Subject to Subsection 48-1d-116(6), a person notifies another person of a fact by taking steps reasonably required to inform the other person in ordinary course, whether or not those steps cause the other person to know the fact.
(4) A person not a partner is deemed:

(a) to know of a limitation on authority to transfer real property as provided in Subsection 48-1d-303(7); and
(b) to have notice of:
(i) a partner's dissociation 90 days after a statement of dissociation under Section 48-1d-804 becomes effective; and
(ii) a partnership's:
(A) dissolution 90 days after a statement of dissolution under Subsection 48-1d-902(2)(b)(i) becomes effective;
(B) termination 90 days after a statement of termination under Subsection 48-1d-902(2)(b)(vi) becomes effective;
(C) participation in a merger, interest exchange, conversion, or domestication 90 days after a statement of merger, interest exchange, conversion, or domestication under Part 10, Merger, Interest Exchange, Conversion, and Domestication, becomes effective; and
(D) abandonment of a merger, interest exchange, conversion, or domestication 90 days after a statement of abandonment of merger, interest exchange, conversion, or domestication under Part 10, Merger, Interest Exchange, Conversion, and Domestication, becomes effective.
(5) A partner's knowledge or notice of a fact relating to the partnership is effective immediately as knowledge of or notice to the partnership, except in the case of a fraud on the partnership committed by or with the consent of that partner.

Enacted by Chapter 412, 2013 General Session

48-1d-104 Governing law.

The internal affairs of a partnership and the liability of a partner as a partner for the debts, obligations, or other liabilities of the partnership are governed by:
(1) in the case of a limited liability partnership, the law of this state; and
(2) in the case of a partnership that is not a limited liability partnership, the law of the state of the jurisdiction in which the partnership has its principal office.

Enacted by Chapter 412, 2013 General Session

48-1d-105 Supplemental principles of law.

Unless displaced by particular provisions of this chapter, the principles of law and equity supplement this chapter.

Enacted by Chapter 412, 2013 General Session

48-1d-106 Partnership agreement -- Scope, function, and limitations.

(1) Except as otherwise provided in Subsections (3) and (4), the partnership agreement governs:
(a) relations among the partners as partners and between the partners and the partnership;
(b) the activities and affairs of the partnership and the conduct of those activities and affairs; and
(c) the means and conditions for amending the partnership agreement.
(2) To the extent the partnership agreement does not provide for a matter described in Subsection (1), this chapter governs the matter.
(3) A partnership agreement may not:
(a) vary the law applicable under Section 48-1d-104;
(b) vary the provisions of Section 48-1d-111;

(c) vary the provisions of Section 48-1d-307;
(d) unreasonably restrict the duties and rights under Section 48-1d-403, but the partnership agreement may impose reasonable restrictions on the availability and use of information obtained under that section and may define appropriate remedies, including liquidated damages, for a breach of any reasonable restriction on use;
(e) eliminate the duty of loyalty or the duty of care, except as otherwise provided in Subsection (4);
(f) eliminate the contractual obligation of good faith and fair dealing under Subsection 48-1d-405(4), but the partnership agreement may prescribe the standards, if not unconscionable or against public policy, by which the performance of the obligation is to be measured;
(g) relieve or exonerate a person from liability for conduct involving bad faith, willful misconduct, or recklessness;
(h) vary the power to dissociate as a partner under Subsection 48-1d-702(1), except to require the notice under Subsection 48-1d-701(1) to be in a record;
(i) vary the right of a court to expel a partner in the events specified in Subsection 48-1d-701(5);
(j) vary the causes of dissolution specified in Subsection 48-1d-901(4), (5), or (6);
(k) vary the requirement to wind up the partnership's activities and affairs as specified in Subsections 48-1d-902(1), (2)(a), and (4);
(l) vary the right of a partner to approve a merger, interest exchange, conversion, or domestication under Subsection 48-1d-1023(1)(b), 48-1d-1033(1)(b), 48-1d-1043(1)(b), or 48-1d-1053(1)(b);
(m) vary any requirement, procedure, or other provision of this chapter pertaining to:
(i) registered agents; or
(ii) the division, including provisions pertaining to records authorized or required to be delivered to the division for filing under this chapter; or
(n) except as otherwise provided in Section 48-1d-107 and Subsection 48-1d-108(2), restrict the rights under this chapter of a person other than a partner.

(4) Subject to Subsection (3)(e), without limiting other terms that may be included in a partnership agreement, the following rules apply:
(a) The partnership agreement may specify the method by which a specific act or transaction that would otherwise violate the duty of loyalty may be authorized or ratified by one or more disinterested and independent persons after full disclosure of all material facts.
(b) If not unconscionable or against public policy, the partnership agreement may:
(i) alter or eliminate the aspects of the duty of loyalty stated in Subsection 48-1d-405(2);
(ii) identify specific types or categories of activities that do not violate the duty of loyalty;
(iii) alter the duty of care, except to authorize intentional misconduct or knowing violation of law; and
(iv) alter or eliminate any other fiduciary duty.

(5) The court shall decide as a matter of law whether a term of a partnership agreement is unconscionable or against public policy under Subsection (3)(f) or (4)(b). The court:
(a) shall make its determination as of the time the challenged term became part of the partnership agreement and by considering only circumstances existing at that time; and
(b) may invalidate the term only if, in light of the purposes and business of the partnership, it is readily apparent that:
(i) the objective of the term is unconscionable or against public policy; or
(ii) the means to achieve the term's objective is unconscionable or against public policy.

Enacted by Chapter 412, 2013 General Session

48-1d-107 Partnership agreement -- Effect on partnership and person becoming partner -- Preformation agreement.

(1) A partnership is bound by and may enforce the partnership agreement, whether or not the partnership has itself manifested assent to the partnership agreement.
(2) A person that becomes a partner of a partnership is deemed to assent to the partnership agreement.
(3) Two or more persons intending to become the initial partners of a partnership may make an agreement providing that upon the formation of the partnership the agreement will become the partnership agreement.

Enacted by Chapter 412, 2013 General Session

48-1d-108 Partnership agreement -- Effect on third parties and relationship to records effective on behalf of partnership.

(1) A partnership agreement may specify that its amendment requires the approval of a person that is not a party to the partnership agreement or the satisfaction of a condition. An amendment is ineffective if its adoption does not include the required approval or satisfy the specified condition.
(2) The obligations of a partnership and its partners to a person in the person's capacity as a transferee or person dissociated as a partner are governed by the partnership agreement. Subject only to a court order issued under Subsection 48-1d-604(2)(b) to effectuate a charging order, an amendment to the partnership agreement made after a person becomes a transferee or is dissociated as a partner:
  (a) is effective with regard to any debt, obligation, or other liability of the partnership or its partners to the person in the person's capacity as a transferee or person dissociated as a partner; and
  (b) is not effective to the extent the amendment:
    (i) imposes a new debt, obligation, or other liability on the transferee or person dissociated as a partner; or
    (ii) prejudices the rights under Section 48-1d-801 of a person that dissociated as a partner before the amendment was made.
(3) If a record delivered by a partnership to the division for filing becomes effective under this chapter and contains a provision that would be ineffective under Subsection 48-1d-106(3) or (4) (b) if contained in the partnership agreement, the provision is ineffective in the record.
(4) Subject to Subsection (3), if a record delivered by a partnership to the division for filing becomes effective under this chapter and conflicts with a provision of the partnership agreement:
  (a) the partnership agreement prevails as to partners, persons dissociated as partners, and transferees; and
  (b) the record prevails as to other persons to the extent they reasonably rely on the record.

Enacted by Chapter 412, 2013 General Session

48-1d-109 Delivery of record.

(1) Except as otherwise provided in this chapter, permissible means of delivery of a record include delivery by hand, the United States Postal Service, commercial delivery service, and electronic transmission.
(2) Delivery to the division is effective only when a record is received by the division.

Enacted by Chapter 412, 2013 General Session

48-1d-110 Signing of records to be delivered for filing to division.
(1) A record delivered to the division for filing pursuant to this chapter must be signed as follows:
  (a) Except as otherwise provided in Subsections (1)(b) and (c), a record signed by a partnership must be signed by a person authorized by the partnership.
  (b) A record filed on behalf of a dissolved partnership that has no partner must be signed by the person winding up the partnership's activities and affairs under Subsection 48-1d-902(3) or a person appointed under Subsection 48-1d-902(4) to wind up the business.
  (c) A statement of denial by a person under Section 48-1d-304 must be signed by that person.
  (d) Any other record delivered on behalf of a person to the division for filing must be signed by that person.
(2) Any record filed under this chapter may be signed by an agent. Whenever this chapter requires a particular individual to sign a record and the individual is deceased or incompetent, the record may be signed by a legal representative of the individual.
(3) A person that signs a record as an agent or legal representative thereby affirms as a fact that the person is authorized to sign the record.

Enacted by Chapter 412, 2013 General Session

Superseded 7/1/2024
48-1d-111 Signing and filing pursuant to judicial order.
(1) If a person required by this chapter to sign a record or deliver a record to the division for filing under this chapter does not do so, any other person that is aggrieved may petition the district court to order:
  (a) the person to sign the record;
  (b) the person to deliver the record to the division for filing; or
  (c) the division to file the record unsigned.
(2) If a petitioner under Subsection (1) is not the partnership or foreign limited liability partnership to which the record pertains, the petitioner shall make the partnership or foreign limited liability partnership a party to the action.
(3) A record filed under Subsection (1)(c) is effective without being signed.

Enacted by Chapter 412, 2013 General Session

Effective 7/1/2024
48-1d-111 Signing and filing pursuant to judicial order.
(1) If a person required by this chapter to sign a record or deliver a record to the division for filing under this chapter does not do so, any other person that is aggrieved may petition a court with jurisdiction under Title 78A, Judiciary and Judicial Administration, to order:
  (a) the person to sign the record;
  (b) the person to deliver the record to the division for filing; or
  (c) the division to file the record unsigned.

(2) If a petitioner under Subsection (1) is not the partnership or foreign limited liability partnership to which the record pertains, the petitioner shall make the partnership or foreign limited liability partnership a party to the action.
(3) A record filed under Subsection (1)(c) is effective without being signed.

Amended by Chapter 401, 2023 General Session

48-1d-112 Filing requirements.
(1) To be filed by the division pursuant to this chapter, a record must be received by the division, comply with this chapter, and satisfy the following:
  (a) The filing of the record must be required or permitted by this chapter.
  (b) The record must be physically delivered in written form unless and to the extent the division permits electronic delivery of records.
  (c) The words in the record must be in English, and numbers must be in Arabic or Roman numerals, but the name of an entity need not be in English if written in English letters or Arabic or Roman numerals.
  (d) The record must be signed by a person authorized or required under this chapter to sign the record.
  (e) The record must state the name and capacity, if any, of each individual who signed it, either on behalf of the individual or the person authorized or required to sign the record, but need not contain a seal, attestation, acknowledgment, or verification.
(2) If law other than this chapter prohibits the disclosure by the division of information contained in a record delivered to the division for filing, the division shall accept the record if the record otherwise complies with this chapter but the division may redact the information.
(3) When a record is delivered to the division for filing, any fee required under this chapter and any fee, tax, interest, or penalty required to be paid under this chapter or law other than this chapter must be paid in a manner permitted by the division or by that law.
(4) The division may require that a record delivered in written form be accompanied by an identical or conformed copy.

Enacted by Chapter 412, 2013 General Session

48-1d-113 Effective time and date.
Except as otherwise provided in Section 48-1d-114 and subject to Subsection 48-1d-115(3), a record filed under this chapter is effective:
(1) on the date and at the time of its filing by the division, as provided in Section 48-1d-116;
(2) on the date of filing and at the time specified in the record as its effective time, if later than the time under Subsection (1);
(3) at a specified delayed effective time and date, which may not be more than 90 days after the date of filing; or
(4) if a delayed effective date is specified, but no time is specified, at 12:01 a.m. on the date specified, which may not be more than 90 days after the date of filing.

Enacted by Chapter 412, 2013 General Session

48-1d-114 Withdrawal of filed record before effectiveness.

(1) Except as otherwise provided in Sections 48-1d-1024, 48-1d-1034, 48-1d-1044, and 48-1d-1054, a record delivered to the division for filing may be withdrawn before it takes effect by delivering to the division for filing a statement of withdrawal.
(2) A statement of withdrawal must:
  (a) be signed by each person that signed the record being withdrawn, except as otherwise agreed by those persons;
  (b) identify the record to be withdrawn; and
  (c) if signed by fewer than all the persons that signed the record being withdrawn, state that the record is withdrawn in accordance with the agreement of all the persons that signed the record.
(3) On filing by the division of a statement of withdrawal, the action or transaction evidenced by the original record does not take effect.

Enacted by Chapter 412, 2013 General Session

48-1d-115 Correcting filed record.
(1) A person on whose behalf a filed record was delivered to the division for filing may correct the record if:
  (a) the record at the time of filing was inaccurate;
  (b) the record was defectively signed; or
  (c) the electronic transmission of the record to the division was defective.
(2) To correct a filed record, a person on whose behalf the record was delivered to the division must deliver to the division for filing a statement of correction.
(3) A statement of correction:
  (a) may not state a delayed effective date;
  (b) must be signed by the person correcting the filed record;
  (c) must identify the filed record to be corrected;
  (d) must specify the inaccuracy or defect to be corrected; and
  (e) must correct the inaccuracy or defect.
(4) A statement of correction is effective as of the effective date of the filed record that it corrects except for purposes of Subsection 48-1d-103(4) and as to persons relying on the uncorrected filed record and adversely affected by the correction. For those purposes and as to those persons, the statement of correction is effective when filed.

Enacted by Chapter 412, 2013 General Session

Superseded 7/1/2024
48-1d-116 Duty of division to file -- Review of refusal to file -- Transmission of information by division.
(1) The division shall file a record delivered to the division for filing which satisfies this chapter. The duty of the division under this section is ministerial.
(2) When the division files a record, the division shall record it as filed on the date and at the time of its delivery. After filing a record, the division shall deliver to the person that submitted the record a copy of the record with an acknowledgment of the date and time of filing and, in the case of a statement of denial, also to the partnership to which the statement pertains.
(3) If the division refuses to file a record, the division, not later than 15 business days after the record is delivered, shall:
  (a) return the record or notify the person that submitted the record of the refusal; and

(b) provide a brief explanation in a record of the reason for the refusal.
(4) If the division refuses to file a record, the person that submitted the record may petition the district court to compel filing of the record. The record and the explanation of the division of the refusal to file must be attached to the petition. The court may decide the matter in a summary proceeding.
(5) The filing of or refusal to file a record does not create a presumption that the information contained in the record is correct or incorrect.
(6) Except as otherwise provided by Section 16-17-301 or by law other than this chapter, the division may deliver any record to a person by delivering it:
(a) in person to the person that submitted it;
(b) to the address of the person's registered agent;
(c) to the principal office of the person; or
(d) to another address the person provides to the division for delivery.

Enacted by Chapter 412, 2013 General Session

Effective 7/1/2024
48-1d-116 Duty of division to file -- Review of refusal to file -- Transmission of information by division.
(1) The division shall file a record delivered to the division for filing which satisfies this chapter. The duty of the division under this section is ministerial.
(2) When the division files a record, the division shall record it as filed on the date and at the time of its delivery. After filing a record, the division shall deliver to the person that submitted the record a copy of the record with an acknowledgment of the date and time of filing and, in the case of a statement of denial, also to the partnership to which the statement pertains.
(3) If the division refuses to file a record, the division, not later than 15 business days after the record is delivered, shall:
(a) return the record or notify the person that submitted the record of the refusal; and
(b) provide a brief explanation in a record of the reason for the refusal.
(4)
(a) If the division refuses to file a record, the person that submitted the record may petition a court with jurisdiction under Title 78A, Judiciary and Judicial Administration, to compel filing of the record.
(b) The record and the explanation of the division of the refusal to file must be attached to the petition.
(c) The court may decide the matter in a summary proceeding.
(5) The filing of or refusal to file a record does not create a presumption that the information contained in the record is correct or incorrect.
(6) Except as otherwise provided by Section 16-17-301 or by law other than this chapter, the division may deliver any record to a person by delivering it:
(a) in person to the person that submitted it;
(b) to the address of the person's registered agent;
(c) to the principal office of the person; or
(d) to another address the person provides to the division for delivery.

Amended by Chapter 401, 2023 General Session

48-1d-117 Liability for inaccurate information in filed record.

(1) If a record delivered to the division for filing under this chapter and filed by the division contains inaccurate information, a person that suffers loss by reliance on the information may recover damages for the loss from:
(a) a person that signed the record, or caused another to sign it on the person's behalf, and knew the information to be inaccurate at the time the record was signed; and
(b) a partner, if:
(i) the record was delivered for filing on behalf of the partnership; and
(ii) the partner had notice of the inaccuracy for a reasonably sufficient time before the information was relied upon so that, before the reliance, the partner reasonably could have:
(A) effected an amendment under Subsection 48-1d-1101(6);
(B) filed a petition under Section 48-1d-111; or
(C) delivered to the division for filing a statement of change under Section 16-17-206 or a statement of correction under Section 48-1d-115.
(2) An individual who signs a record authorized or required to be filed under this chapter affirms under penalty of perjury that the information stated in the record is accurate.

Enacted by Chapter 412, 2013 General Session

48-1d-118 Reservation of power to amend or repeal.

The Legislature of this state has power to amend or repeal all or part of this chapter at any time, and all domestic and foreign limited liability partnerships subject to this chapter are governed by the amendment or repeal.

Enacted by Chapter 412, 2013 General Session

Part 2
Nature of Partnership

48-1d-201 Partnership as entity.

(1) A partnership is an entity distinct from its partners.
(2) A partnership is the same entity regardless of whether the partnership has a statement of qualification in effect under Section 48-1d-1101.

Enacted by Chapter 412, 2013 General Session

48-1d-202 Formation of partnership.

(1) Except as otherwise provided in Subsection (2), the association of two or more persons to carry on as co-owners a business for profit forms a partnership, whether or not the persons intend to form a partnership.
(2) An association formed under a statute other than this chapter, a predecessor statute, or a comparable statute of another jurisdiction is not a partnership under this chapter.
(3) In determining whether a partnership is formed, the following rules apply:
(a) Joint tenancy, tenancy in common, tenancy by the entireties, joint property, common property, or part ownership does not by itself establish a partnership, even if the co-owners share profits made by the use of the property.

(b) The sharing of gross returns does not by itself establish a partnership, even if the persons sharing them have a joint or common right or interest in property from which the returns are derived.
(c) A person who receives a share of the profits of a business is presumed to be a partner in the business, unless the profits were received in payment:
(i) of a debt by installments or otherwise;
(ii) for services as an independent contractor or of wages or other compensation to an employee;
(iii) of rent;
(iv) of an annuity or other retirement or health benefit to a deceased or retired partner or a beneficiary, representative, or designee of a deceased or retired partner;
(v) of interest or other charge on a loan, even if the amount of payment varies with the profits of the business, including a direct or indirect present or future ownership of the collateral, or rights to income, proceeds, or increase in value derived from the collateral; or
(vi) for the sale of the goodwill of a business or other property by installments or otherwise.

Enacted by Chapter 412, 2013 General Session

48-1d-203 Partnership property.

Property acquired by a partnership is property of the partnership and not of the partners individually.

Enacted by Chapter 412, 2013 General Session

48-1d-204 When property is partnership property.

(1) Property is partnership property if acquired in the name of:
(a) the partnership; or
(b) one or more partners with an indication in the instrument transferring title to the property of the person's capacity as a partner or of the existence of a partnership but without an indication of the name of the partnership.
(2) Property is acquired in the name of the partnership by a transfer to:
(a) the partnership in its name; or
(b) one or more partners in their capacity as partners in the partnership, if the name of the partnership is indicated in the instrument transferring title to the property.
(3) Property is presumed to be partnership property if purchased with partnership assets, even if not acquired in the name of the partnership or of one or more partners with an indication in the instrument transferring title to the property of the person's capacity as a partner or of the existence of a partnership.
(4) Property acquired in the name of one or more of the partners, without an indication in the instrument transferring title to the property of the person's capacity as a partner or of the existence of a partnership and without use of partnership assets, is presumed to be separate property, even if used for partnership purposes.

Enacted by Chapter 412, 2013 General Session

Part 3

Relations of Partners to Persons Dealing with Partnership

48-1d-301 Partner agent of partnership.

Subject to the effect of a statement of partnership authority under Section 48-1d-303, the following rules apply:

(1) Each partner is an agent of the partnership for the purpose of its activities and affairs. An act of a partner, including the signing of an instrument in the partnership name, for apparently carrying on in the ordinary course the partnership's activities and affairs or activities and affairs of the kind carried on by the partnership binds the partnership, unless the partner did not have authority to act for the partnership in the particular matter and the person with which the partner was dealing knew, or had notice, that the partner lacked authority.

(2) An act of a partner, which is not apparently for carrying on in the ordinary course the partnership's activities and affairs or activities and affairs of the kind carried on by the partnership, binds the partnership only if the act was actually authorized by all the other partners.

Enacted by Chapter 412, 2013 General Session

48-1d-302 Transfer of partnership property.

(1) Partnership property may be transferred as follows:

(a) Subject to the effect of a statement of partnership authority under Section 48-1d-303, partnership property held in the name of the partnership may be transferred by an instrument of transfer executed by a partner in the partnership name.

(b) Partnership property held in the name of one or more partners with an indication in the instrument transferring the property to them of their capacity as partners or of the existence of a partnership, but without an indication of the name of the partnership, may be transferred by an instrument of transfer executed by the persons in whose name the property is held.

(c) Partnership property held in the name of one or more persons other than the partnership, without an indication in the instrument transferring the property to them of their capacity as partners or of the existence of a partnership, may be transferred by an instrument of transfer executed by the persons in whose name the property is held.

(2) A partnership may recover partnership property from a transferee only if it proves that execution of the instrument of initial transfer did not bind the partnership under Section 48-1d-301 and:

(a) as to a subsequent transferee who gave value for property transferred under Subsection (1)(a) or (1)(b), proves that the subsequent transferee knew or had received a notification that the person who executed the instrument of initial transfer lacked authority to bind the partnership; or

(b) as to a transferee who gave value for property transferred under Subsection (1)(c), proves that the transferee knew or had received a notification that the property was partnership property and that the person who executed the instrument of initial transfer lacked authority to bind the partnership.

(3) A partnership may not recover partnership property from a subsequent transferee if the partnership would not have been entitled to recover the property, under Subsection (2), from any earlier transferee of the property.

(4) If a person holds all the partners' interests in the partnership, all the partnership property vests in that person. The person may execute a document in the name of the partnership to evidence vesting of the property in that person and may file or record the document.

Enacted by Chapter 412, 2013 General Session

48-1d-303 Statement of partnership authority.

(1) A partnership may deliver to the division for filing a statement of partnership authority. The statement:
  (a) must include:
    (i) the name of the partnership; and
    (ii) if the partnership is not a limited liability partnership, the street and mailing addresses of its principal office;
  (b) with respect to any position that exists in or with respect to the partnership, may state the authority, or limitations on the authority, of all persons holding the position to:
    (i) execute an instrument transferring real property held in the name of the partnership; or
    (ii) enter into other transactions on behalf of, or otherwise act for or bind, the partnership; and
  (c) may state the authority, or limitations on the authority, of a specific person to:
    (i) execute an instrument transferring real property held in the name of the partnership; or
    (ii) enter into other transactions on behalf of, or otherwise act for or bind, the partnership.

(2) To amend or cancel a statement of authority filed by the division, a partnership must deliver to the division for filing an amendment or cancellation stating:
  (a) the name of the partnership;
  (b) the street and mailing addresses of the partnership's principal office;
  (c) the date the statement of authority being affected became effective; and
  (d) the contents of the amendment or a declaration that the statement of authority is canceled.

(3) A statement of authority affects only the power of a person to bind a partnership to persons that are not partners.

(4) Subject to Subsection (3) and Subsection 48-1d-103(4)(a), and except as otherwise provided in Subsections (6), (7), and (8), a limitation on the authority of a person or a position contained in an effective statement of authority is not by itself evidence of any person's knowledge or notice of the limitation.

(5) Subject to Subsection (3), a grant of authority not pertaining to transfers of real property and contained in an effective statement of authority is conclusive in favor of a person that gives value in reliance on the grant, except to the extent that if the person gives value:
  (a) the person has knowledge to the contrary;
  (b) the statement of authority has been canceled or restrictively amended under Subsection (2); or
  (c) a limitation on the grant is contained in another statement of authority that became effective after the statement of authority containing the grant became effective.

(6) Subject to Subsection (3), an effective statement of authority that grants authority to transfer real property held in the name of the partnership and a certified copy of which is recorded in the office for recording transfers of the real property is conclusive in favor of a person that gives value in reliance on the grant without knowledge to the contrary, except to the extent that when the person gives value:
  (a) the statement of authority has been canceled or restrictively amended under Subsection (2), and a certified copy of the cancellation or restrictive amendment has been recorded in the office for recording transfers of the real property; or
  (b) a limitation on the grant is contained in another statement of authority that became effective after the statement of authority containing the grant became effective, and a certified copy of

the later-effective statement of authority is recorded in the office for recording transfers of the real property.

(7) Subject to Subsection (3), if a certified copy of an effective statement of authority containing a limitation on the authority to transfer real property held in the name of a partnership is recorded in the office for recording transfers of that real property, all persons are deemed to know of the limitation.

(8) Subject to Subsection (9), an effective statement of dissolution is a cancellation of any filed statement of authority for the purposes of Subsection (6) and is a limitation on authority for purposes of Subsection (7).

(9) After a statement of dissolution becomes effective, a partnership may deliver to the division for filing and, if appropriate, may record a statement of authority that is designated as a postdissolution statement of authority. The postdissolution statement of authority operates as provided in Subsections (6) and (7).

(10) Unless canceled earlier, an effective statement of authority is canceled by operation of law five years after the date on which the statement of authority, or its most recent amendment, becomes effective. Cancellation is effective without recording under Subsection (6) or (7).

(11) An effective statement of denial operates as a restrictive amendment under this section and may be recorded by certified copy for purposes of Subsection (6)(a).

Enacted by Chapter 412, 2013 General Session

48-1d-304 Statement of denial.

A person named in a filed statement of authority granting that person authority may deliver to the division for filing a statement of denial that:

(1) provides the name of the partnership and the caption of the statement of authority to which the statement of denial pertains; and

(2) denies the grant of authority.

Enacted by Chapter 412, 2013 General Session

48-1d-305 Partnership liable for partner's actionable conduct.

(1) A partnership is liable for loss or injury caused to a person, or for a penalty incurred, as a result of a wrongful act or omission, or other actionable conduct, of a partner acting in the ordinary course of activities and affairs of the partnership or with the actual or apparent authority of the partnership.

(2) If, in the course of the partnership's activities and affairs or while acting with actual or apparent authority of the partnership, a partner receives or causes the partnership to receive money or property of a person not a partner, and the money or property is misapplied by a partner, the partnership is liable for the loss.

Enacted by Chapter 412, 2013 General Session

48-1d-306 Partner's liability.

(1) Except as otherwise provided in Subsections (2) and (3), all partners are liable jointly and severally for all debts, obligations, and other liabilities of the partnership unless otherwise agreed to by the claimant or provided by law.

(2) A person that becomes a partner is not personally liable for a debt, obligation, or other liability of the partnership incurred before the person became a partner.

(3) A debt, obligation, or other liability of a partnership incurred while the partnership is a limited liability partnership is solely the debt, obligation, or other liability of the limited liability partnership. A partner is not personally liable, directly or indirectly, by way of contribution or otherwise, for a debt, obligation, or other liability of the limited liability partnership solely by reason of being or acting as a partner. This Subsection (3) applies:
  (a) despite anything inconsistent in the partnership agreement that existed immediately before the vote or consent required to become a limited liability partnership under Subsection 48-1d-1101(2); and
  (b) regardless of the dissolution of the limited liability partnership.
(4) The failure of a limited liability partnership to observe any formalities relating to the exercise of its powers or management of its activities and affairs is not a ground for imposing liability on any partner of the limited liability partnership for a debt, obligation, or other liability of the limited liability partnership.
(5) The cancellation or administrative revocation of a limited liability partnership's statement of qualification does not affect the limitation under this section on the liability of a partner for a debt, obligation, or other liability of the partnership incurred while the statement was in effect.
(6) Subsection (3) and Part 11, Limited Liability Partnerships, do not alter any law applicable to the relationship between a person providing a professional service and a person receiving the professional service, including liability arising out of those professional services. A person providing a professional service remains personally liable for a result of that person's act or omission.

Enacted by Chapter 412, 2013 General Session

48-1d-307 Actions by and against partnership and partners.
(1) A partnership may sue and be sued in the name of the partnership.
(2) To the extent not inconsistent with Section 48-1d-306, a partner may be joined in an action against the partnership or named in a separate action.
(3) A judgment against a partnership is not by itself a judgment against a partner. A judgment against a partnership may not be satisfied from a partner's assets unless there is also a judgment against the partner.
(4) A judgment creditor of a partner may not levy execution against the assets of the partner to satisfy a judgment based on a claim against the partnership unless the partner is personally liable for the claim under Section 48-1d-306, and:
  (a) a judgment based on the same claim has been obtained against the partnership and a writ of execution on the judgment has been returned unsatisfied in whole or in part;
  (b) the partnership is a debtor in bankruptcy;
  (c) the partner has agreed that the creditor need not exhaust partnership assets;
  (d) a court grants permission to the judgment creditor to levy execution against the assets of a partner based on a finding that partnership assets subject to execution are clearly insufficient to satisfy the judgment, that exhaustion of partnership assets is excessively burdensome, or that the grant of permission is an appropriate exercise of the court's equitable powers; or
  (e) liability is imposed on the partner by law or contract independent of the existence of the partnership.
(5) This section applies to any partnership liability or obligation resulting from a representation by a partner or purported partner under Section 48-1d-308.

Enacted by Chapter 412, 2013 General Session

48-1d-308 Liability of purported partner.

(1) If a person, by words or conduct, purports to be a partner, or consents to being represented by another as a partner, in a partnership or with one or more persons not partners, the purported partner is liable to a person to whom the representation is made, if that person, relying on the representation, enters into a transaction with the actual or purported partnership. If the representation, either by the purported partner or by a person with the purported partner's consent, is made in a public manner, the purported partner is liable to a person who relies upon the purported partnership even if the purported partner is not aware of being held out as a partner to the claimant. If partnership liability results, the purported partner is liable with respect to that liability as if the purported partner were a partner. If no partnership liability results, the purported partner is liable with respect to that liability jointly and severally with any other person consenting to the representation.

(2) If a person is thus represented to be a partner in an existing partnership, or with one or more persons not partners, the purported partner is an agent of persons consenting to the representation to bind them to the same extent and in the same manner as if the purported partner were a partner, with respect to persons who enter into transactions in reliance upon the representation. If all the partners of the existing partnership consent to the representation, a partnership act or obligation results. If fewer than all the partners of the existing partnership consent to the representation, the person acting and the partners consenting to the representation are jointly and severally liable.

(3) A person is not liable as a partner merely because the person is named by another in a statement of partnership authority.

(4) A person does not continue to be liable as a partner merely because of a failure to file a statement of dissociation or to amend a statement of partnership authority to indicate the partner's dissociation from the partnership.

(5) Except as otherwise provided in Subsections (1) and (2), persons who are not partners as to each other are not liable as partners to other persons.

Enacted by Chapter 412, 2013 General Session

Part 4
Relations of Partners to Each Other and to Partnership

48-1d-401 Becoming partner.

(1) Upon formation of a partnership, a person becomes a partner under Subsection 48-1d-202(1).

(2) After formation of a partnership, a person becomes a partner:

(a) as provided in the partnership agreement;

(b) as a result of a transaction effective under Part 10, Merger, Interest Exchange, Conversion, and Domestication; or

(c) with the consent of all the partners.

(3) A person may become a partner without either:

(a) acquiring a transferable interest; or

(b) making or being obligated to make a contribution to the partnership.

Enacted by Chapter 412, 2013 General Session

48-1d-402 Management rights of partners.

(1) Each partner has equal rights in the management and conduct of the partnership's activities and affairs.
(2) A partner may use or possess partnership property only on behalf of the partnership.
(3) A partner is not entitled to remuneration for services performed for the partnership, except for reasonable compensation for services rendered in winding up the activities and affairs of the partnership.
(4) A difference arising among partners as to a matter in the ordinary course of the activities of the partnership shall be decided by a majority of the partners.
(5) An act outside the ordinary course of the activities and affairs of the partnership may be undertaken only with the consent of all partners. An act outside the ordinary course of business of a partnership, an amendment to the partnership agreement, and the approval of a transaction under Part 10, Merger, Interest Exchange, Conversion, and Domestication, may be undertaken only with the affirmative vote or consent of all of the partners.

Enacted by Chapter 412, 2013 General Session

48-1d-403 Rights of partners and person dissociated as partner to information.

(1) A partnership shall keep its books and records, if any, at its principal office.
(2) On reasonable notice, a partner may inspect and copy during regular business hours, at a reasonable location specified by the partnership, any record maintained by the partnership regarding the partnership's activities, affairs, financial condition, and other circumstances, to the extent the information is material to the partner's rights and duties under the partnership agreement or this chapter.
(3) The partnership shall furnish to each partner:
  (a) without demand, any information concerning the partnership's activities, affairs, financial condition, and other circumstances which the partnership knows and is material to the proper exercise of the partner's rights and duties under the partnership agreement or this chapter, except to the extent the partnership can establish that it reasonably believes the partner already knows the information; and
  (b) on demand, any other information concerning the partnership's activities, affairs, financial condition, and other circumstances, except to the extent the demand or information demanded is unreasonable or otherwise improper under the circumstances.
(4) The duty to furnish information under Subsection (3) also applies to each partner to the extent the partner knows any of the information described in Subsection (3).
(5) Subject to Subsection (8), on 10 days' demand made in a record received by a partnership, a person dissociated as a partner may have access to information to which the person was entitled while a partner if:
  (a) the information pertains to the period during which the person was a partner;
  (b) the person seeks the information in good faith; and
  (c) the person satisfies the requirements imposed on a partner by Subsection (2).
(6) Not later than 10 days after receiving a demand under Subsection (5), the partnership in a record shall inform the person that made the demand of:
  (a) the information that the partnership will provide in response to the demand and when and where the partnership will provide the information; and
  (b) the partnership's reasons for declining, if the partnership declines to provide any demanded information.

(7) A partnership may charge a person that makes a demand under this section the reasonable costs of copying, limited to the costs of labor and material.
(8) A partner or person dissociated as a partner may exercise rights under this section through an agent or, in the case of an individual under legal disability, a legal representative. Any restriction or condition imposed by the partnership agreement or under Subsection (11) applies both to the agent or legal representative and the partner or person dissociated as a partner.
(9) The rights under this section do not extend to a person as transferee.
(10) If a partner dies, Section 48-1d-605 applies.
(11) In addition to any restriction or condition stated in the partnership agreement, a partnership, as a matter within the ordinary course of its business, may impose reasonable restrictions and conditions on access to and use of information to be furnished under this section, including designating information confidential and imposing nondisclosure and safeguarding obligations on the recipient. In a dispute concerning the reasonableness of a restriction under this subsection, the partnership has the burden of proving reasonableness.

Enacted by Chapter 412, 2013 General Session

48-1d-404 Reimbursement, indemnification, advancement, and insurance.
(1) A partnership shall reimburse a partner for any payment made by the partner in the course of the partner's activities on behalf of the partnership, if the partner complied with Sections 48-1d-402 and 48-1d-405 in making the payment.
(2) A partnership shall indemnify and hold harmless a person with respect to any claim or demand against the person and any debt, obligation, or other liability incurred by the person by reason of the person's former or present capacity as a partner, if the claim, demand, debt, obligation, or other liability does not arise from the person's breach of Section 48-1d-402, 48-1d-405, or 48-1d-504.
(3) In the ordinary course of its activities and affairs, a partnership may advance reasonable expenses, including attorney's fees and costs, incurred by a person in connection with a claim or demand against the person by reason of the person's former or present capacity as a partner, if the person promises to repay the partnership if the person ultimately is determined not to be entitled to be indemnified under Subsection (2).
(4) A partnership may purchase and maintain insurance on behalf of a partner against liability asserted against or incurred by the partner in that capacity or arising from that status even if, under Subsection 48-1d-106(3)(g), the partnership agreement could not eliminate or limit the person's liability to the partnership for the conduct giving rise to the liability.
(5) A partnership shall reimburse a partner for an advance to the partnership beyond the amount of capital the partner agreed to contribute.
(6) A payment or advance made by a partner which gives rise to a partnership obligation under Subsection (1) or (5) constitutes a loan to the partnership which accrues interest from the date of the payment or advance.

Enacted by Chapter 412, 2013 General Session

48-1d-405 Standards of conduct for partners.
(1) A partner owes to the partnership and the other partners the duties of loyalty and care stated in Subsections (2) and (3).
(2) The duty of loyalty of a partner includes the duties:

(a) to account to the partnership and hold as trustee for it any property, profit, or benefit derived by the partner:
(i) in the conduct or winding up of the partnership's activities and affairs;
(ii) from a use by the partner of the partnership's property; or
(iii) from the appropriation of a partnership opportunity;
(b) to refrain from dealing with the partnership in the conduct or winding up of the partnership's activities and affairs as or on behalf of a person having an interest adverse to the partnership; and
(c) to refrain from competing with the partnership in the conduct of the partnership's activities and affairs before the dissolution of the partnership.
(3) The duty of care of a partner in the conduct or winding up of the partnership's activities and affairs is to refrain from engaging in grossly negligent or reckless conduct, intentional misconduct, or a knowing violation of law.
(4) A partner shall discharge the duties and obligations under this chapter or under the partnership agreement and exercise any rights consistently with the contractual obligation of good faith and fair dealing.
(5) A partner does not violate a duty or obligation under this chapter or under the partnership agreement solely because the partner's conduct furthers the partner's own interest.
(6) All the partners may authorize or ratify, after full disclosure of all material facts, a specific act or transaction that otherwise would violate the duty of loyalty.
(7) It is a defense to a claim under Subsection (2)(b) and any comparable claim in equity or at common law that the transaction was fair to the partnership.
(8) If, as permitted by Subsection (6) or the partnership agreement, a partner enters into a transaction with the partnership which otherwise would be prohibited by Subsection (2)(b), the partner's rights and obligations arising from the transaction are the same as those of a person that is not a partner.

Enacted by Chapter 412, 2013 General Session

48-1d-406 Actions by partnership and partners.
(1) A partnership may maintain an action against a partner for a breach of the partnership agreement, or for the violation of a duty to the partnership, causing harm to the partnership.
(2) A partner may maintain an action against the partnership or another partner for legal or equitable relief, with or without an accounting as to the partnership's activities and affairs, to:
(a) enforce the partner's rights under the partnership agreement;
(b) enforce the partner's rights under this chapter; or
(c) enforce the rights and otherwise protect the interests of the partner, including rights and interests arising independently of the partnership relationship.
(3) The accrual of, and any time limitation on, a right of action for a remedy under this section is governed by other law. A right to an accounting upon a dissolution and winding up does not revive a claim barred by law.

Enacted by Chapter 412, 2013 General Session

48-1d-407 Continuation of partnership beyond definite term or particular undertaking.
(1) If a partnership for a definite term or particular undertaking is continued, without an express agreement, after the expiration of the term or completion of the undertaking, the rights and

duties of the partners remain the same as they were at the expiration or completion, so far as is consistent with a partnership at will.

(2) If the partners, or those of them who habitually acted in the business during the term or undertaking, continue the business without any settlement or liquidation of the partnership, they are presumed to have agreed that the partnership will continue.

Enacted by Chapter 412, 2013 General Session

Part 5
Contributions and Distributions

48-1d-501 Form of contribution.

A contribution may consist of property transferred to, services performed for, or other benefit provided to the partnership or an agreement to transfer property to, perform services for, or provide another benefit to the partnership.

Enacted by Chapter 412, 2013 General Session

48-1d-502 Liability for contribution.

(1) A person's obligation to make a contribution to a partnership is not excused by the person's death, disability, dissolution, or other inability to perform personally.

(2) If a person does not fulfill an obligation to make a contribution other than money, the person is obligated at the option of the partnership to contribute money equal to the value of the part of the contribution which has not been made.

(3) The obligation of a person to make a contribution may be compromised only by consent of all partners. If a creditor of a limited liability partnership extends credit or otherwise acts in reliance on an obligation described in Subsection (1), without notice of a compromise under this Subsection (3), the creditor may enforce the obligation.

Enacted by Chapter 412, 2013 General Session

48-1d-503 Sharing of and right to distributions before dissolution.

(1) Any distributions made by a partnership before its dissolution and winding up must be in equal shares among partners, except to the extent necessary to comply with a transfer effective under Section 48-1d-603 or charging order in effect under Section 48-1d-604.

(2) A person has a right to a distribution before the dissolution and winding up of a partnership only if the partnership decides to make an interim distribution.

(3) A person does not have a right to demand or receive a distribution from a partnership in any form other than money. Except as otherwise provided in Section 48-1d-906, a partnership may distribute an asset in kind only if each part of the asset is fungible with each other part and each person receives a percentage of the asset equal in value to the person's share of distributions.

(4) If a partner or transferee becomes entitled to receive a distribution, the partner or transferee has the status of, and is entitled to all remedies available to, a creditor of the partnership with respect to the distribution. However, the partnership's obligation to make a distribution is subject to offset for any amount owed to the partnership by the partner or a person dissociated as partner on whose account the distribution is made.

Enacted by Chapter 412, 2013 General Session

48-1d-504 Limitation on distributions by limited liability partnership.

(1) A limited liability partnership may not make a distribution, including a distribution under Section 48-1d-906, if after the distribution:
  (a) the limited liability partnership would not be able to pay its debts as they become due in the ordinary course of the partnership's activities and affairs; or
  (b) the limited liability partnership's total assets would be less than the sum of its total liabilities plus, unless the partnership agreement permits otherwise, the amount that would be needed, if the partnership were to be dissolved and wound up at the time of the distribution, to satisfy the preferential rights upon dissolution and winding up of partners and transferees whose preferential rights are superior to the right to receive distributions of the persons receiving the distribution.

(2) A limited liability partnership may base a determination that a distribution is not prohibited under Subsection (1) on:
  (a) financial statements prepared on the basis of accounting practices and principles that are reasonable in the circumstances; or
  (b) a fair valuation or other method that is reasonable under the circumstances.

(3) Except as otherwise provided in Subsection (5), the effect of a distribution under Subsection (1) is measured:
  (a) in the case of a distribution as defined in Subsection 48-1d-102(4)(a), as of the earlier of the date:
    (i) money or other property is transferred or debt is incurred by the limited liability partnership; or
    (ii) the person entitled to the distribution ceases to own the interest or rights being acquired by the limited liability partnership in return for the distribution;
  (b) in the case of any other distribution of indebtedness, as of the date the indebtedness is distributed; and
  (c) in all other cases, as of the date:
    (i) the distribution is authorized, if the payment occurs not later than 120 days after that date; or
    (ii) the payment is made, if the payment occurs more than 120 days after the distribution is authorized.

(4) A limited liability partnership's indebtedness to a partner or transferee incurred by reason of a distribution made in accordance with this section is at parity with the limited liability partnership's indebtedness to its general, unsecured creditors, except to the extent subordinated by agreement.

(5) A limited liability partnership's indebtedness, including indebtedness issued as a distribution, is not a liability for purposes of Subsection (1) if the terms of the indebtedness provide that payment of principal and interest is made only if and to the extent that a payment of a distribution could then be made under this section. If the indebtedness is issued as a distribution, each payment of principal or interest is treated as a distribution, the effect of which is measured on the date the payment is made.

(6) In measuring the effect of a distribution under Section 48-1d-906, the liabilities of a dissolved limited liability partnership do not include any claim that has been disposed of under Sections 48-1d-907, 48-1d-908, and 48-1d-909.

Enacted by Chapter 412, 2013 General Session

48-1d-505 Liability for improper distributions by a limited liability partnership.

(1) If a partner of a limited liability partnership consents to a distribution made in violation of Section 48-1d-504 and in consenting to the distribution fails to comply with Section 48-1d-405, the partner is personally liable to the limited liability partnership for the amount of the distribution which exceeds the amount that could have been distributed without the violation of Section 48-1d-504.

(2) A person that receives a distribution knowing that the distribution violated Section 48-1d-504 is personally liable to the limited liability partnership but only to the extent that the distribution received by the person exceeded the amount that could have been properly paid under Section 48-1d-504.

(3) A person against which an action is commenced because the person is liable under Subsection (1) may:

(a) implead any other person that is liable under Subsection (1) and seek to enforce a right of contribution from the person; and

(b) implead any person that received a distribution in violation of Subsection (2) and seek to enforce a right of contribution from the person in the amount the person received in violation of Subsection (2).

(4) An action under this section is barred unless commenced not later than two years after the distribution.

Enacted by Chapter 412, 2013 General Session

Part 6
Transferable Interests and Rights of Transferees and Creditors

48-1d-601 Partner not co-owner of partnership property.

A partner is not a co-owner of partnership property and has no interest in partnership property which can be transferred, either voluntarily or involuntarily.

Enacted by Chapter 412, 2013 General Session

48-1d-602 Nature of transferable interest.

A transferable interest is personal property.

Enacted by Chapter 412, 2013 General Session

48-1d-603 Transfer of transferable interest.

(1) A transfer, in whole or in part, of a transferable interest:

(a) is permissible;

(b) does not by itself cause a person's dissociation or a dissolution and winding up of the partnership's activities and affairs; and

(c) subject to Section 48-1d-605, does not entitle the transferee to:

(i) participate in the management or conduct of the partnership's activities and affairs; or

(ii) except as otherwise provided in Subsection (3), have access to records or other information concerning the partnership's activities and affairs.

(2) A transferee has the right to:
(a) receive, in accordance with the transfer, distributions to which the transferor would otherwise be entitled; and
(b) seek under Subsection 48-1d-901(5) a judicial determination that it is equitable to wind up the partnership's activities and affairs.
(3) In a dissolution and winding up of a partnership, a transferee is entitled to an account of the partnership's transactions only from the date of the last account agreed to by the partners.
(4) A partnership need not give effect to a transferee's rights under this section until the partnership knows or has notice of the transfer.
(5) A transfer of a transferable interest in violation of a restriction on transfer contained in the partnership agreement is ineffective as to a person having knowledge or notice of the restriction at the time of transfer.
(6) Except as otherwise provided in Subsection 48-1d-701(4)(b), if a partner transfers a transferable interest, the transferor retains the rights of a partner other than the transferable interest transferred and retains all duties and obligations of a partner.
(7) If a partner transfers a transferable interest to a person that becomes a partner with respect to the transferred interest, the transferee is liable for the transferor's obligations under Sections 48-1d-502 and 48-1d-505 known to the transferee when the transferee becomes a partner.

Enacted by Chapter 412, 2013 General Session

48-1d-604 Charging order.
(1) On application by a judgment creditor of a partner or transferee, a court may enter a charging order against the transferable interest of the judgment debtor for the unsatisfied amount of the judgment. A charging order constitutes a lien on a judgment debtor's transferable interest and, after the partnership has been served with the charging order, requires the partnership to pay over to the person to which the charging order was issued any distribution that otherwise would be paid to the judgment debtor.
(2) To the extent necessary to effectuate the collection of distributions pursuant to a charging order in effect under Subsection (1), the court may:
(a) appoint a receiver of the distributions subject to the charging order, with the power to make all inquiries the judgment debtor might have made; and
(b) make all other orders necessary to give effect to the charging order.
(3) Upon a showing that distributions under a charging order will not pay the judgment debt within a reasonable time, the court may foreclose the lien and order the sale of the transferable interest. The purchaser at the foreclosure sale obtains only the transferable interest, does not thereby become a partner, and is subject to Section 48-1d-603.
(4) At any time before foreclosure under Subsection (3), the partner or transferee whose transferable interest is subject to a charging order under Subsection (1) may extinguish the charging order by satisfying the judgment and filing a certified copy of the satisfaction with the court that issued the charging order.
(5) At any time before foreclosure under Subsection (3), a partnership or one or more partners whose transferable interests are not subject to the charging order may pay to the judgment creditor the full amount due under the judgment and thereby succeed to the rights of the judgment creditor, including the charging order.
(6) This chapter does not deprive any partner or transferee of the benefit of any exemption law applicable to the transferable interest of the partner or transferee.

(7) This section provides the exclusive remedy by which a person seeking to enforce a judgment against a partner or transferee, in the capacity of judgment creditor, may satisfy the judgment from the judgment debtor's transferable interest.

Enacted by Chapter 412, 2013 General Session

48-1d-605 Power of legal representative of deceased partner.

If a partner dies, the deceased partner's legal representative may exercise:

(1) the rights of a transferee provided in Subsection 48-1d-603(3); and

(2) for purposes of settling the estate, the rights the deceased partner had under Section 48-1d-403.

Enacted by Chapter 412, 2013 General Session

Part 7
Dissociation

48-1d-701 Events causing dissociation.

A person is dissociated as a partner when:

(1) the partnership has notice of the person's express will to withdraw as a partner, but, if the person specified a withdrawal date later than the date the partnership had notice, on that later date;

(2) an event stated in the partnership agreement as causing the person's dissociation occurs;

(3) the person is expelled as a partner pursuant to the partnership agreement;

(4) the person is expelled as a partner by the unanimous vote or consent of the other partners if:

(a) it is unlawful to carry on the partnership's activities and affairs with the person as a partner;

(b) there has been a transfer of all of the person's transferable interest in the partnership, other than:

(i) a transfer for security purposes; or

(ii) a charging order in effect under Section 48-1d-604, which has not been foreclosed;

(c) the person is a corporation and:

(i) the partnership notifies the person that it will be expelled as a partner because the person has filed a statement of dissolution or the equivalent, its charter has been revoked, or its right to conduct business has been suspended by the jurisdiction of its incorporation; and

(ii) not later than 90 days after the notification, the statement of dissolution or the equivalent has not been revoked or the charter or right to conduct business has not been reinstated; or

(d) the person is an unincorporated entity that has been dissolved and whose business is being wound up;

(5) on application by the partnership or another partner, the person is expelled as a partner by judicial order because the person:

(a) has engaged or is engaging in wrongful conduct that has affected adversely and materially, or will affect adversely and materially, the partnership's activities and affairs;

(b) has committed willfully or persistently, or is committing willfully or persistently, a material breach of the partnership agreement or a duty or obligation under Section 48-1d-405; or

(c) engaged or is engaging in conduct relating to the partnership's activities and affairs which makes it not reasonably practicable to carry on the partnership's activities and affairs with the person as a partner;
(6) in the case of an individual:
(a) the individual dies;
(b) a guardian or general conservator for the individual is appointed; or
(c) a court orders that the individual has otherwise become incapable of performing the individual's duties as a partner under this chapter or the partnership agreement;
(7) the person:
(a) becomes a debtor in bankruptcy;
(b) executes an assignment for the benefit of creditors; or
(c) seeks, consents to, or acquiesces in the appointment of a trustee, receiver, or liquidator of the person or of all, or substantially all, of the person's property;
(8) in the case of a person that is a testamentary or inter vivos trust or is acting as a partner by virtue of being a trustee of such a trust, the trust's entire transferable interest in the partnership is distributed;
(9) in the case of a person that is an estate or is acting as a partner by virtue of being a personal representative of an estate, the estate's entire transferable interest in the partnership is distributed, but not merely by reason of the substitution of a successor personal representative;
(10) in the case of a person that is not an individual, corporation, unincorporated entity, trust, or estate, the existence of the person terminates;
(11) the partnership participates in a merger under Part 10, Merger, Interest Exchange, Conversion, and Domestication, and:
(a) the partnership is not the surviving entity; or
(b) otherwise as a result of the merger, the person ceases to be a partner;
(12) the partnership participates in an interest exchange under Part 10, Merger, Interest Exchange, Conversion, and Domestication, and, as a result of the interest exchange, the person ceases to be a partner;
(13) the partnership participates in a conversion under Part 10, Merger, Interest Exchange, Conversion, and Domestication;
(14) the partnership participates in a domestication under Part 10, Merger, Interest Exchange, Conversion, and Domestication, and, as a result of the domestication, the person ceases to be a partner; or
(15) the partnership dissolves and completes winding up.

Enacted by Chapter 412, 2013 General Session

48-1d-702 Power to dissociate as partner -- Wrongful dissociation.
(1) A person has the power to dissociate as a partner at any time, rightfully or wrongfully, by withdrawing as a partner by express will under Subsection 48-1d-701(1).
(2) A person's dissociation as a partner is wrongful only if the dissociation:
(a) is in breach of an express provision of the partnership agreement; or
(b) in the case of a partnership for a definite term or particular undertaking, occurs before the expiration of the term or the completion of the undertaking and:
(i) the person withdraws by express will, unless the withdrawal follows not later than 90 days after another person's dissociation by death or otherwise under Subsections 48-1d-701(6) through (10) or wrongful dissociation under this subsection;
(ii) the person is expelled by judicial order under Subsection 48-1d-701(5);

(iii) the person is dissociated under Subsection 48-1d-701(7); or
(iv) in the case of a person that is not a trust other than a business trust, an estate, an individual, or a trust other than a business trust, the person is expelled or otherwise dissociated because it willfully dissolved or terminated.
(3) A person that wrongfully dissociates is liable to the partnership and to the other partners for damages caused by the dissociation. The liability is in addition to any debt, obligation, or other liability of the partner to the partnership or the other partners.

Enacted by Chapter 412, 2013 General Session

48-1d-703 Effect of dissociation.
(1) If a person's dissociation results in a dissolution and winding up of the partnership's activities and affairs, Part 9, Dissolution and Winding Up, applies, otherwise, Part 8, Partner's Dissociation When Business Not Wound Up, applies.
(2) If a person is dissociated as a partner:
(a) the person's right to participate in the management and conduct of the partnership's activities and affairs terminates, except as otherwise provided in Subsection 48-1d-902(3); and
(b) the person's duties and obligations under Section 48-1d-405:
(i) end with regard to matters arising and events occurring after the person's dissociation; and
(ii) continue only with regard to matters arising and events occurring before the person's dissociation, unless the partner participates in winding up the partnership's activities and affairs pursuant to Section 48-1d-902.
(3) A person's dissociation does not of itself discharge the person from a debt, obligation, or other liability to the partnership or the other partners which the person incurred while a partner.

Enacted by Chapter 412, 2013 General Session

Part 8
Partner's Dissociation When Business Not Wound Up

48-1d-801 Purchase of interest of person dissociated as partner.
(1) If a person is dissociated as a partner without the dissociation resulting in a dissolution and winding up of the partnership's activities and affairs under Section 48-1d-901, the partnership shall cause the person's interest in the partnership to be purchased for a buyout price determined pursuant to Subsection (2).
(2) The buyout price of the interest of a person dissociated as a partner is the amount that would have been distributable to the person under Subsection 48-1d-906(2) if, on the date of dissociation, the assets of the partnership were sold and the partnership were wound up, with the sale price equal to the greater of:
(a) the liquidation value; or
(b) the value based on a sale of the entire business as a going concern without the person.
(3) Interest accrues on the buyout price from the date of dissociation to the date of payment, but damages for wrongful dissociation under Subsection 48-1d-702(2), and all other amounts owing, whether or not presently due, from the person dissociated as a partner to the partnership, must be offset against the buyout price.

(4) A partnership shall defend, indemnify, and hold harmless a person dissociated as a partner whose interest is being purchased against all partnership liabilities, whether incurred before or after the dissociation, except liabilities incurred by an act of the person dissociated as a partner under Section 48-1d-802.
(5) If no agreement for the purchase of the interest of a person dissociated as a partner is reached not later than 120 days after a written demand for payment, the partnership shall pay, or cause to be paid, in money to the person the amount the partnership estimates to be the buyout price and accrued interest, reduced by any offsets and accrued interest under Subsection (3).
(6) If a deferred payment is authorized under Subsection (8), the partnership may tender a written offer to pay the amount it estimates to be the buyout price and accrued interest, reduced by any offsets under Subsection (3), stating the time of payment, the amount and type of security for payment, and the other terms and conditions of the obligation.
(7) The payment or tender required by Subsection (5) or (6) must be accompanied by the following:
  (a) a statement of partnership assets and liabilities as of the date of dissociation;
  (b) the latest available partnership balance sheet and income statement, if any;
  (c) an explanation of how the estimated amount of the payment was calculated; and
  (d) written notice that the payment is in full satisfaction of the obligation to purchase unless, not later than 120 days after the written notice, the person dissociated as a partner commences an action to determine the buyout price, any offsets under Subsection (3), or other terms of the obligation to purchase.
(8) A person that wrongfully dissociates as a partner before the expiration of a definite term or the completion of a particular undertaking is not entitled to payment of any part of the buyout price until the expiration of the term or completion of the undertaking, unless the person establishes to the satisfaction of the court that earlier payment will not cause undue hardship to the business of the partnership. A deferred payment must be adequately secured and bear interest.
(9) A person dissociated as a partner may maintain an action against the partnership, pursuant to Subsection 48-1d-406(2), to determine the buyout price of that person's interest, any offsets under Subsection (3), or other terms of the obligation to purchase. The action must be commenced not later than 120 days after the partnership has tendered payment or an offer to pay or within one year after written demand for payment if no payment or offer to pay is tendered. The court shall determine the buyout price of the person's interest, any offset due under Subsection (3), and accrued interest, and enter judgment for any additional payment or refund. If deferred payment is authorized under Subsection (8), the court shall also determine the security for payment and other terms of the obligation to purchase. The court may assess reasonable attorney's fees and the fees and expenses of appraisers or other experts for a party to the action, in amounts the court finds equitable, against a party that the court finds acted arbitrarily, vexatiously, or not in good faith. The finding may be based on the partnership's failure to tender payment or an offer to pay or to comply with Subsection (7).

Enacted by Chapter 412, 2013 General Session

48-1d-802 Power to bind and liability of person dissociated as partner.
(1) After a person is dissociated as a partner without the dissociation resulting in a dissolution and winding up of the partnership's activities and affairs and before the partnership is merged out of existence, converted, or domesticated under Part 10, Merger, Interest Exchange, Conversion, and Domestication, or dissolved, the partnership is bound by an act of the person only if:
  (a) the act would have bound the partnership under Section 48-1d-301 before dissociation; and

(b) at the time the other party enters into the transaction:
(i) less than two years has passed since the dissociation; and
(ii) the other party does not know or have notice of the dissociation and reasonably believes that the person is a partner.
(2) If a partnership is bound under Subsection (1), the person dissociated as a partner which caused the partnership to be bound is liable:
(a) to the partnership for any damage caused to the partnership arising from the obligation incurred under Subsection (1); and
(b) if a partner or another person dissociated as a partner is liable for the obligation, to the partner or other person for any damage caused to the partner or other person arising from the liability.

Enacted by Chapter 412, 2013 General Session

48-1d-803 Liability of person dissociated as partner to other persons.
(1) A person's dissociation as a partner does not of itself discharge the person's liability as a partner for a debt, obligation, or other liability of the partnership incurred before dissociation. Except as otherwise provided in Subsection (2), the person is not liable for a partnership obligation incurred after dissociation.
(2) A person that has dissociated as a partner without the dissociation resulting in a dissolution and winding up of the partnership's activities and affairs is liable on a transaction entered into by the partnership after the dissociation only if:
(a) a partner would be liable on the transaction; and
(b) at the time the other party enters into the transaction:
(i) less than two years has passed since the dissociation; and
(ii) the other party does not have knowledge or notice of the dissociation and reasonably believes that the person is a partner.
(3) By agreement with a creditor of a partnership and the partnership, a person dissociated as a partner may be released from liability for an obligation of the partnership.
(4) A person dissociated as a partner is released from liability for an obligation of the partnership if the partnership's creditor, with knowledge or notice of the person's dissociation but without the person's consent, agrees to a material alteration in the nature or time of payment of the obligation.

Enacted by Chapter 412, 2013 General Session

48-1d-804 Statement of dissociation.
(1) A person dissociated as a partner or the partnership may file a statement of dissociation stating the name of the partnership and that the partner is dissociated from the partnership.
(2) A statement of dissociation is a limitation on the authority of a person dissociated as a partner for the purposes of Subsections 48-1d-303(4) and (5).

Enacted by Chapter 412, 2013 General Session

48-1d-805 Continued use of partnership name.
Continued use of a partnership name, or name of a person dissociated as a partner as part of the partnership name, by partners continuing the business does not of itself make the person

dissociated as a partner liable for an obligation of the partners or the partnership continuing the business.

Enacted by Chapter 412, 2013 General Session

Part 9
Dissolution and Winding Up

Superseded 7/1/2024

48-1d-901 Events causing dissolution.

A partnership is dissolved, and its activities and affairs must be wound up, upon the occurrence of any of the following:

(1) in a partnership at will, the partnership has notice of a person's express will to withdraw as a partner, other than a partner that has dissociated under Subsections 48-1d-701(2) through (10), but, if the person specifies a withdrawal date later than the date the partnership had notice, on the later date;

(2) in a partnership for a definite term or particular undertaking:

(a) within 90 days after a person's dissociation by death or otherwise under Subsections 48-1d-701(6) through (10) or wrongful dissociation under Subsection 48-1d-702(2), the affirmative vote or consent of at least half of the remaining partners to wind up the partnership's activities and affairs, for which purpose a person's rightful dissociation pursuant to Subsection 48-1d-702(2)(b)(i) constitutes the expression of that partner's consent to wind up the partnership's activities and affairs;

(b) the express consent of all the partners to wind up the partnership's activities and affairs; or

(c) the expiration of the term or the completion of the undertaking;

(3) an event or circumstance that the partnership agreement states causes dissolution;

(4) on application by a partner, the entry by the district court of an order dissolving the partnership on the ground that:

(a) the conduct of all or substantially all the partnership's activities and affairs is unlawful;

(b) the economic purpose of the partnership is likely to be unreasonably frustrated;

(c) another partner has engaged in conduct relating to the partnership's activities and affairs which makes it not reasonably practicable to carry on the business in partnership with that partner; or

(d) it is not otherwise reasonably practicable to carry on the partnership's activities and affairs in conformity with the partnership agreement;

(5) on application by a transferee, the entry by the district court of an order dissolving the partnership on the ground that it is equitable to wind up the partnership's activities and affairs:

(a) after the expiration of the term or completion of the undertaking, if the partnership was for a definite term or particular undertaking at the time of the transfer or entry of the charging order that gave rise to the transfer; or

(b) at any time, if the partnership was a partnership at will at the time of the transfer or entry of the charging order that gave rise to the transfer; or

(6) the passage of 90 consecutive days during which the partnership does not have at least two partners.

Enacted by Chapter 412, 2013 General Session

Effective 7/1/2024

48-1d-901 Events causing dissolution.

A partnership is dissolved, and the partnership's activities and affairs must be wound up, upon the occurrence of any of the following:

(1) in a partnership at will, the partnership has notice of a person's express will to withdraw as a partner, other than a partner that has dissociated under Subsections 48-1d-701(2) through (10), but, if the person specifies a withdrawal date later than the date the partnership had notice, on the later date;

(2) in a partnership for a definite term or particular undertaking:

(a) within 90 days after a person's dissociation by death or otherwise under Subsections 48-1d-701(6) through (10) or wrongful dissociation under Subsection 48-1d-702(2), the affirmative vote or consent of at least half of the remaining partners to wind up the partnership's activities and affairs, for which purpose a person's rightful dissociation pursuant to Subsection 48-1d-702(2)(b)(i) constitutes the expression of that partner's consent to wind up the partnership's activities and affairs;

(b) the express consent of all the partners to wind up the partnership's activities and affairs; or

(c) the expiration of the term or the completion of the undertaking;

(3) an event or circumstance that the partnership agreement states causes dissolution;

(4) upon a petition brought by a partner, the entry of a court order dissolving the partnership on the ground that:

(a) the conduct of all or substantially all the partnership's activities and affairs is unlawful;

(b) the economic purpose of the partnership is likely to be unreasonably frustrated;

(c) another partner has engaged in conduct relating to the partnership's activities and affairs which makes it not reasonably practicable to carry on the business in partnership with that partner; or

(d) it is not otherwise reasonably practicable to carry on the partnership's activities and affairs in conformity with the partnership agreement;

(5) upon a petition brought by a transferee, the entry of a court order dissolving the partnership on the ground that it is equitable to wind up the partnership's activities and affairs:

(a) after the expiration of the term or completion of the undertaking, if the partnership was for a definite term or particular undertaking at the time of the transfer or entry of the charging order that gave rise to the transfer; or

(b) at any time, if the partnership was a partnership at will at the time of the transfer or entry of the charging order that gave rise to the transfer; or

(6) the passage of 90 consecutive days during which the partnership does not have at least two partners.

Amended by Chapter 401, 2023 General Session

Superseded 7/1/2024

48-1d-902 Winding up.

(1) A dissolved partnership shall wind up its activities and affairs and, except as otherwise provided in Section 48-1d-903, the partnership continues after dissolution only for the purpose of winding up.

(2) In winding up its activities and affairs, the partnership:

(a) shall discharge the partnership's debts, obligations, and other liabilities, settle and close the partnership's activities and affairs, and marshal and distribute the assets of the partnership; and
(b) may:
(i) deliver to the division for filing a statement of dissolution stating the name of the partnership and that the partnership is dissolved;
(ii) preserve the partnership's activities and affairs and property as a going concern for a reasonable time;
(iii) prosecute and defend actions and proceedings, whether civil, criminal, or administrative;
(iv) transfer the partnership's property;
(v) settle disputes by mediation or arbitration;
(vi) deliver to the division for filing a statement of termination stating the name of the partnership and that the partnership is terminated; and
(vii) perform other acts necessary or appropriate to the winding up.
(3) A person whose dissociation as a partner resulted in dissolution may participate in winding up as if still a partner, unless the dissociation was wrongful.
(4) If a dissolved partnership does not have a partner and no person has the right to participate in winding up under Subsection (3), the personal or legal representative of the last person to have been a partner may wind up the partnership's activities and affairs. If the representative does not exercise that right, a person to wind up the partnership's activities and affairs may be appointed by the consent of transferees owning a majority of the rights to receive distributions at the time the consent is to be effective. A person appointed under this Subsection (4) has the powers of a partner under Section 48-1d-904 but is not liable for the debts, obligations, and other liabilities of the partnership solely by reason of having or exercising those powers or otherwise acting to wind up the partnership's activities and affairs.
(5) On the application of any partner or person entitled under Subsection (3) to participate in winding up, the district court may order judicial supervision of the winding up of a dissolved partnership, including the appointment of a person to wind up the partnership's activities and affairs, if:
(a) the partnership does not have a partner, and within a reasonable time following the dissolution no person has been appointed under Subsection (4); or
(b) the applicant establishes other good cause.

Enacted by Chapter 412, 2013 General Session

Effective 7/1/2024
48-1d-902 Winding up.
(1)
(a) A dissolved partnership shall wind up the partnership's activities and affairs.
(b) Except as otherwise provided in Section 48-1d-903, a partnership only continues after dissolution for the purpose of winding up.
(2) In winding up a partnership's activities and affairs, the partnership:
(a) shall discharge the partnership's debts, obligations, and other liabilities, settle and close the partnership's activities and affairs, and marshal and distribute the assets of the partnership; and
(b) may:
(i) deliver to the division for filing a statement of dissolution stating the name of the partnership and that the partnership is dissolved;

(ii) preserve the partnership's activities and affairs and property as a going concern for a reasonable time;
(iii) prosecute and defend actions and proceedings, whether civil, criminal, or administrative;
(iv) transfer the partnership's property;
(v) settle disputes by mediation or arbitration;
(vi) deliver to the division for filing a statement of termination stating the name of the partnership and that the partnership is terminated; and
(vii) perform other acts necessary or appropriate to the winding up.

(3) A person whose dissociation as a partner resulted in dissolution may participate in winding up as if still a partner, unless the dissociation was wrongful.

(4) If a dissolved partnership does not have a partner and no person has the right to participate in winding up under Subsection (3), the personal or legal representative of the last person to have been a partner may wind up the partnership's activities and affairs. If the representative does not exercise that right, a person to wind up the partnership's activities and affairs may be appointed by the consent of transferees owning a majority of the rights to receive distributions at the time the consent is to be effective. A person appointed under this Subsection (4) has the powers of a partner under Section 48-1d-904 but is not liable for the debts, obligations, and other liabilities of the partnership solely by reason of having or exercising those powers or otherwise acting to wind up the partnership's activities and affairs.

(5) Upon a petition brought by any partner or person entitled under Subsection (3) to participate in winding up, a court may order judicial supervision of the winding up of a dissolved partnership, including the appointment of a person to wind up the partnership's activities and affairs, if:
(a) the partnership does not have a partner, and within a reasonable time following the dissolution no person has been appointed under Subsection (4); or
(b) the applicant establishes other good cause.

Amended by Chapter 401, 2023 General Session

Superseded 7/1/2024

48-1d-903 Rescinding dissolution.

(1) A partnership may rescind its dissolution, unless a statement of termination applicable to the partnership is effective or the district court has entered an order under Subsection 48-1d-901(4) or (5) dissolving the partnership.

(2) Rescinding dissolution under this section requires:
(a) the affirmative vote or consent of each partner;
(b) if a statement of dissolution applicable to the partnership has been filed by the division but has not become effective, delivery to the division for filing of a statement of withdrawal under Section 48-1d-114 applicable to the statement of dissolution; and
(c) if a statement of dissolution applicable to the partnership is effective, the delivery to the division for filing of a statement of correction under Section 48-1d-115 stating that dissolution has been rescinded under this section.

(3) If a partnership rescinds its dissolution:
(a) the partnership resumes carrying on its activities and affairs as if dissolution had never occurred;
(b) subject to Subsection (3)(c), any liability incurred by the partnership after the dissolution and before the rescission is effective is determined as if dissolution had never occurred; and
(c) the rights of a third party arising out of conduct in reliance on the dissolution before the third party knew or had notice of the rescission may not be adversely affected.

Enacted by Chapter 412, 2013 General Session

Effective 7/1/2024

48-1d-903 Rescinding dissolution.

(1) A partnership may rescind the partnership's dissolution, unless a statement of termination applicable to the partnership is effective or the court has entered an order under Subsection 48-1d-901(4) or (5) dissolving the partnership.

(2) Rescinding dissolution under this section requires:

(a) the affirmative vote or consent of each partner;

(b) if a statement of dissolution applicable to the partnership has been filed by the division but has not become effective, delivery to the division for filing of a statement of withdrawal under Section 48-1d-114 applicable to the statement of dissolution; and

(c) if a statement of dissolution applicable to the partnership is effective, the delivery to the division for filing of a statement of correction under Section 48-1d-115 stating that dissolution has been rescinded under this section.

(3) If a partnership rescinds the partnership's dissolution:

(a) the partnership resumes carrying on its activities and affairs as if dissolution had never occurred;

(b) subject to Subsection (3)(c), any liability incurred by the partnership after the dissolution and before the rescission is effective is determined as if dissolution had never occurred; and

(c) the rights of a third party arising out of conduct in reliance on the dissolution before the third party knew or had notice of the rescission may not be adversely affected.

Amended by Chapter 401, 2023 General Session

48-1d-904 Power to bind partnership after dissolution.

(1) A partnership is bound by a partner's act after dissolution which:

(a) is appropriate for winding up the partnership's activities and affairs; or

(b) would have bound the partnership under Section 48-1d-301 before dissolution, if, at the time the other party enters into the transaction, the other party does not know or have notice of the dissolution.

(2) A person dissociated as a partner binds a partnership through an act occurring after dissolution if at the time the other party enters into the transaction:

(a) less than two years has passed since the dissociation;

(b) the other party does not have notice of the dissociation and reasonably believes that the person is a partner; and

(c) the act:

(i) is appropriate for winding up the partnership's activities and affairs; or

(ii) would have bound the partnership under Section 48-1d-301 before dissolution, and at the time the other party enters into the transaction the other party does not know or have notice of the dissolution.

Enacted by Chapter 412, 2013 General Session

48-1d-905 Liability after dissolution.

(1) If a partner having knowledge of the dissolution causes a partnership to incur an obligation under Subsection 48-1d-904(1) by an act that is not appropriate for winding up the partnership's activities and affairs, the partner is liable:
  (a) to the partnership for any damage caused to the partnership arising from the obligation; and
  (b) if another partner or person dissociated as a partner is liable for the obligation, to that other partner or person for any damage caused to that other partner or person arising from the liability.
(2) If a person dissociated as a partner causes a partnership to incur an obligation under Subsection 48-1d-904(2), the person is liable:
  (a) to the partnership for any damage caused to the partnership arising from the obligation; and
  (b) if a partner or another person dissociated as a partner is liable for the obligation, to the partner or other person for any damage caused to the partner or other person arising from the obligation.

Enacted by Chapter 412, 2013 General Session

48-1d-906 Disposition of assets in winding up -- When contributions required.
(1) In winding up its activities and affairs, a partnership shall apply its assets, including the contributions required by this section, to discharge the partnership's obligations to creditors, including partners that are creditors.
(2) After a partnership complies with Subsection (1), any surplus must be distributed in the following order, subject to any charging order in effect under Section 48-1d-604:
  (a) to each person owning a transferable interest that reflects contributions made and not previously returned, an amount equal to the value of the unreturned contributions; and
  (b) among partners in proportion to their respective rights to share in distributions immediately before the dissolution of the partnership, except to the extent necessary to comply with any transfer effective under Section 48-1d-603.
(3) If a partnership's assets are insufficient to satisfy all its obligations under Subsection (1), with respect to each unsatisfied obligation incurred when the partnership was not a limited liability partnership, the following rules apply:
  (a) Each person that was a partner when the obligation was incurred and that has not been released from the obligation under Subsections 48-1d-803(3) and (4) shall contribute to the partnership to enable the partnership to satisfy the obligation. The contribution due from each of those persons is in proportion to the right to receive distributions in the capacity of partner in effect for each of those persons when the obligation was incurred.
  (b) If a person does not contribute the full amount required under Subsection (3)(a) with respect to an unsatisfied obligation of the partnership, the other persons required to contribute by Subsection (3)(a) on account of the obligation shall contribute the additional amount necessary to discharge the obligation. The additional contribution due from each of those other persons is in proportion to the right to receive distributions in the capacity of partner in effect for each of those other persons when the obligation was incurred.
  (c) If a person does not make the additional contribution required by Subsection (3)(b), further additional contributions are determined and due in the same manner as provided in that subsection.
  (d) A person that makes an additional contribution under Subsection (3)(b) or (3)(c) may recover from any person whose failure to contribute under Subsection (3)(a) or (3)(b) necessitated the additional contribution. A person may not recover under this Subsection (3) more than the

amount additionally contributed. A person's liability under this Subsection (3) may not exceed the amount the person failed to contribute.

(4) If a partnership does not have sufficient surplus to comply with Subsection (2)(a), any surplus must be distributed among the owners of transferable interests in proportion to the value of the respective unreturned contributions.

(5) All distributions made under Subsections (2) and (4) must be paid in money.

Enacted by Chapter 412, 2013 General Session

48-1d-907 Known claims against dissolved limited liability partnership.

(1) Except as otherwise provided in Subsection (4), a dissolved limited liability partnership may give notice of a known claim under Subsection (2), which has the effect provided in Subsection (3).

(2) A dissolved limited liability partnership may in a record notify its known claimants of the dissolution. The notice must:

(a) specify the information required to be included in a claim;

(b) state that the claim must be in writing and provide a mailing address to which the claim is to be sent;

(c) state the deadline for receipt of a claim, which may not be less than 120 days after the date of the notice is received by the claimant;

(d) state that the claim will be barred if not received by the deadline; and

(e) unless the partnership has been throughout its existence a limited liability partnership, state that the barring of a claim against the partnership will also bar any corresponding claim against any partner or person dissociated as a partner which is based on Section 48-1d-305.

(3) A claim against a dissolved limited liability partnership is barred if the requirements of Subsection (2) are met and:

(a) the claim is not received by the specified deadline; or

(b) if the claim is timely received but rejected by the limited liability partnership:

(i) the partnership causes the claimant to receive a notice in a record stating that the claim is rejected and will be barred unless the claimant commences an action against the partnership to enforce the claim not later than 90 days after the claimant receives the notice; and

(ii) the claimant does not commence the required action not later than 90 days after the claimant receives the notice.

(4) This section does not apply to a claim based on an event occurring after the effective date of dissolution or a liability that on that date is contingent.

Enacted by Chapter 412, 2013 General Session

48-1d-908 Other claims against dissolved limited liability partnership.

(1) A dissolved limited liability partnership may publish notice of its dissolution and request persons having claims against the dissolved limited liability partnership to present them in accordance with the notice.

(2) A notice under Subsection (1) must:

(a) be published at least once in a newspaper of general circulation in the county in this state in which the dissolved limited liability partnership's principal office is located or, if the principal office is not located in this state, in the county in which the office of the dissolved limited

liability partnership's registered agent is or was last located and in accordance with Section 45-1-101;

(b) describe the information required to be contained in a claim, state that the claim must be in writing, and provide a mailing address to which the claim is to be sent;

(c) state that a claim against the dissolved limited liability partnership is barred unless an action to enforce the claim is commenced not later than three years after publication of the notice; and

(d) unless the dissolved limited liability partnership has been throughout its existence a limited liability partnership, state that the barring of a claim against the dissolved limited liability partnership will also bar any corresponding claim against any partner or person dissociated as a partner which is based on Section 48-1d-306.

(3) If a dissolved limited liability partnership publishes a notice in accordance with Subsection (2), the claim of each of the following claimants is barred unless the claimant commences an action to enforce the claim against the dissolved limited liability partnership not later than three years after the publication date of the notice:

(a) a claimant that did not receive notice in a record under Section 48-1d-907;

(b) a claimant whose claim was timely sent to the partnership but not acted on; and

(c) a claimant whose claim is contingent at, or based on an event occurring after, the effective date of dissolution.

(4) A claim not barred under this section or Section 48-1d-907 may be enforced:

(a) against a dissolved limited liability partnership, to the extent of its undistributed assets;

(b) except as otherwise provided in Section 48-1d-909, if assets of the dissolved limited liability partnership have been distributed after dissolution, against a partner or transferee to the extent of that person's proportionate share of the claim or of the dissolved limited liability partnership's assets distributed to the partner or transferee after dissolution, whichever is less, but a person's total liability for all claims under this subsection may not exceed the total amount of assets distributed to the person after dissolution; and

(c) against any person liable on the claim under Sections 48-1d-306, 48-1d-803, and 48-1d-905.

Enacted by Chapter 412, 2013 General Session

Superseded 7/1/2024

48-1d-909 Court proceedings.

(1) A dissolved limited liability partnership that has published a notice under Section 48-1d-908 may file an application with the district court in the county where the dissolved limited liability partnership's principal office is located or, if the principal office is not located in this state, where the office of its registered agent is located, for a determination of the amount and form of security to be provided for payment of claims that are contingent, have not been made known to the dissolved limited liability partnership, or are based on an event occurring after the effective date of dissolution but which, based on the facts known to the dissolved limited liability partnership, are reasonably expected to arise after the effective date of dissolution. Security is not required for any claim that is or is reasonably anticipated to be barred under Subsection 48-1d-907(3).

(2) Not later than 10 days after the filing of an application under Subsection (1), the dissolved limited liability partnership shall give notice of the proceeding to each claimant holding a contingent claim known to the dissolved limited liability partnership.

(3) In any proceeding under this section, the district court may appoint a guardian ad litem to represent all claimants whose identities are unknown. The reasonable fees and expenses of

the guardian, including all reasonable expert witness fees, must be paid by the dissolved limited liability partnership.

(4) A dissolved limited liability partnership that provides security in the amount and form ordered by the district court under Subsection (1) satisfies the dissolved limited liability partnership's obligations with respect to claims that are contingent, have not been made known to the dissolved limited liability partnership, or are based on an event occurring after the effective date of dissolution, and the claims may not be enforced against a partner or transferee who receives assets in liquidation.

(5) This section applies only to a debt, obligation, or other liability incurred while a partnership was a limited liability partnership.

Enacted by Chapter 412, 2013 General Session

Effective 7/1/2024

48-1d-909 Court proceedings.

(1)

(a) A dissolved limited liability partnership that has published a notice under Section 48-1d-908 may petition a court with jurisdiction under Title 78A, Judiciary and Judicial Administration, for a determination of the amount and form of security to be provided for payment of claims that are contingent, have not been made known to the dissolved limited liability partnership, or are based on an event occurring after the effective date of dissolution but which, based on the facts known to the dissolved limited liability partnership, are reasonably expected to arise after the effective date of dissolution.

(b) Security is not required for any claim that is or is reasonably anticipated to be barred under Subsection 48-1d-907(3).

(2) No later than 10 days after the filing of an application under Subsection (1), the dissolved limited liability partnership shall give notice of the proceeding to each claimant holding a contingent claim known to the dissolved limited liability partnership.

(3)

(a) In any proceeding under this section, the court may appoint a guardian ad litem to represent all claimants whose identities are unknown.

(b) The reasonable fees and expenses of the guardian, including all reasonable expert witness fees, must be paid by the dissolved limited liability partnership.

(4) A dissolved limited liability partnership that provides security in the amount and form ordered by the court under Subsection (1) satisfies the dissolved limited liability partnership's obligations with respect to claims that are contingent, have not been made known to the dissolved limited liability partnership, or are based on an event occurring after the effective date of dissolution, and the claims may not be enforced against a partner or transferee who receives assets in liquidation.

(5) This section applies only to a debt, obligation, or other liability incurred while a partnership was a limited liability partnership.

Amended by Chapter 401, 2023 General Session

48-1d-910 Liability of partner and person dissociation as partner when claim against limited liability partnership is barred.

If a claim against a dissolved limited liability partnership is barred under Section 48-1d-907, 48-1d-908, or 48-1d-909, any corresponding claim under Section 48-1d-306, 48-1d-803, or 48-1d-905 is also barred.

Enacted by Chapter 412, 2013 General Session

Part 10
Merger, Interest Exchange, Conversion, and Domestication

48-1d-1001 Definitions.

In this part:

(1) "Acquired entity" means the entity, all of one or more classes or series of interests in which are acquired in an interest exchange.

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

(3) "Conversion" means a transaction authorized by Sections 48-1d-1041 through 48-1d-1046.

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

(5) "Converting entity" means the domestic entity that approves a plan of conversion pursuant to Section 48-1d-1043 or the foreign entity that approves a conversion pursuant to the law of its jurisdiction of formation.

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

(7) "Domestic," with respect to an entity, means governed as to its internal affairs by the law of this state.

(8) "Domesticated limited liability partnership" means a domesticating limited liability partnership as it continues in existence after a domestication.

(9) "Domesticating limited liability partnership" means a domestic limited liability partnership that approves a plan of domestication pursuant to Section 48-1d-1053 or foreign limited liability partnership that approves a domestication pursuant to the law of its jurisdiction of formation.

(10) "Domestication" means a transaction authorized by Sections 48-1d-1051 through 48-1d-1056.

(11) "Entity":

(a) means:

(i) a business corporation;

(ii) a nonprofit corporation;

(iii) a general partnership, including a limited liability partnership;

(iv) a limited partnership, including a limited liability limited partnership;

(v) a limited liability company;

(vi) a limited cooperative association;

(vii) an unincorporated nonprofit association;

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

(ix) any other person that has:

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

(B) the power to acquire an interest in real property in its own name; and

(b) does not include:

(i) an individual;

(ii) a trust with a predominantly donative purpose, or a charitable trust;

(iii) an association or relationship that is not a partnership solely by reason of Subsection 48-1d-202(3) or a similar provision of the law of another jurisdiction;
(iv) a decedent's estate; or
(v) a government or a governmental subdivision, agency, or instrumentality.
(12) "Filing entity" means an entity whose formation requires the filing of a public organic record.
(13) "Foreign," with respect to an entity, means an entity governed as to its internal affairs by the law of a jurisdiction other than this state.
(14) "Governance interest" means a right under the organic law or organic rules of an unincorporated entity, other than as a governor, agent, assignee, or proxy, to:
(a) receive or demand access to information concerning, or the books and records of, the entity;
(b) vote for or consent to the election of the governors of the entity; or
(c) receive notice of or vote on or consent to an issue involving the internal affairs of the entity.
(15) "Governor" means:
(a) a director of a business corporation;
(b) a director or trustee of a nonprofit corporation;
(c) a general partner of a general partnership;
(d) a general partner of a limited partnership;
(e) a manager of a manager-managed limited liability company;
(f) a member of a member-managed limited liability company;
(g) a director of a limited cooperative association;
(h) a manager of an unincorporated nonprofit association;
(i) a trustee of a statutory trust, business trust, or common-law business trust; or
(j) any other person under whose authority the powers of an entity are exercised and under whose direction the activities and affairs of the entity are managed pursuant to the organic law and organic rules of the entity.
(16) "Interest" means:
(a) a share in a business corporation;
(b) a membership in a nonprofit corporation;
(c) a partnership interest in a general partnership;
(d) a partnership interest in a limited partnership;
(e) a membership interest in a limited liability company;
(f) a member's interest in a limited cooperative association;
(g) a membership in an unincorporated nonprofit association;
(h) a beneficial interest in a statutory trust, business trust, or common-law business trust; or
(i) a governance interest or distributional interest in any other type of unincorporated entity.
(17) "Interest exchange" means a transaction authorized by Sections 48-1d-1031 through 48-1d-1036.
(18) "Interest holder" means:
(a) a shareholder of a business corporation;
(b) a member of a nonprofit corporation;
(c) a general partner of a general partnership;
(d) a general partner of a limited partnership;
(e) a limited partner of a limited partnership;
(f) a member of a limited liability company;
(g) a member of a limited cooperative association;
(h) a member of an unincorporated nonprofit association;
(i) a beneficiary or beneficial owner of a statutory trust, business trust, or common-law business trust; or

(j) any other direct holder of an interest.

(19) "Interest holder liability" means:

(a) personal liability for a liability of an entity which is imposed on a person:

(i) solely by reason of the status of the person as an interest holder; or

(ii) by the organic rules of the entity which make one or more specified interest holders or categories of interest holders liable in their capacity as interest holders for all or specified liabilities of the entity; or

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

(20) "Jurisdiction of formation" means the jurisdiction whose law includes the organic law of an entity.

(21) "Merger" means a transaction authorized by Sections 48-1d-1021 through 48-1d-1026.

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

(23) "Organic law" means the law of an entity's jurisdiction of formation governing the internal affairs of the entity.

(24) "Organic rules" means the public organic record and private organic rules of an entity.

(25) "Plan" means a plan of merger, plan of interest exchange, plan of conversion, or plan of domestication.

(26) "Plan of conversion" means a plan under Section 48-1d-1042.

(27) "Plan of domestication" means a plan under Section 48-1d-1052.

(28) "Plan of interest exchange" means a plan under Section 48-1d-1032.

(29) "Plan of merger" means a plan under Section 48-1d-1022.

(30) "Private organic rules" means the rules, whether or not in a record, that govern the internal affairs of an entity, are binding on all its interest holders, and are not part of its public organic record, if any. The term includes:

(a) the bylaws of a business corporation;

(b) the bylaws of a nonprofit corporation;

(c) the partnership agreement of a general partnership;

(d) the partnership agreement of a limited partnership;

(e) the operating agreement of a limited liability company;

(f) the bylaws of a limited cooperative association;

(g) the governing principles of an unincorporated nonprofit association; and

(h) the trust instrument of a statutory trust or similar rules of a business trust or common-law business trust.

(31) "Protected agreement" means:

(a) a record evidencing indebtedness and any related agreement in effect on January 1, 2014;

(b) an agreement that is binding on an entity on January 1, 2014;

(c) the organic rules of an entity in effect on January 1, 2014; or

(d) an agreement that is binding on any of the governors or interest holders of an entity on January 1, 2014.

(32) "Public organic record" means the record the filing of which by the division is required to form an entity and any amendment to or restatement of that record. The term includes:

(a) the articles of incorporation of a business corporation;

(b) the articles of incorporation of a nonprofit corporation;

(c) the certificate of limited partnership of a limited partnership;

(d) the certificate of organization of a limited liability company;

(e) the articles of organization of a limited cooperative association; and

(f) the certificate of trust of a statutory trust or similar record of a business trust.
(33) "Registered foreign entity" means a foreign entity that is registered to do business in this state pursuant to a record filed by the division.
(34) "Statement of conversion" means a statement under Section 48-1d-1045.
(35) "Statement of domestication" means a statement under Section 48-1d-1055.
(36) "Statement of interest exchange" means a statement under Section 48-1d-1035.
(37) "Statement of merger" means a statement under Section 48-1d-1025.
(38) "Surviving entity" means an entity that continues in existence after or is created by a merger.
(39) "Type of entity" means a generic form of entity:
(a) recognized at common law; or
(b) formed under an organic law, whether or not some entities formed under that organic law are subject to provisions of that law that create different categories of the form of entity.

Enacted by Chapter 412, 2013 General Session

48-1d-1002 Relationship of part to other laws.

This part does not authorize an act prohibited by, and does not affect the application or requirements of, law other than this part.

Enacted by Chapter 412, 2013 General Session

Superseded 7/1/2024

48-1d-1003 Required notice or approval.

(1) A domestic or foreign entity that is required to give notice to, or obtain the approval of, a governmental agency or officer of this state to be a party to a merger must give the notice or obtain the approval to be a party to an interest exchange, conversion, or domestication.
(2) Property held for a charitable purpose under the law of this state by a domestic or foreign entity immediately before a transaction under this part becomes effective may not, as a result of the transaction, be diverted from the objects for which it was donated, granted, devised, or otherwise transferred unless, to the extent required by or pursuant to the law of this state concerning cy pres or other law dealing with nondiversion of charitable assets, the entity obtains an appropriate order of the district court specifying the disposition of the property.
(3) A bequest, devise, gift, grant, or promise contained in a will or other instrument of donation, subscription, or conveyance that is made to a merging entity that is not the surviving entity and that takes effect or remains payable after the merger inures to the surviving entity. A trust obligation that would govern property if transferred to the nonsurviving entity applies to property that is transferred to the surviving entity under this section.

Enacted by Chapter 412, 2013 General Session

Effective 7/1/2024

48-1d-1003 Required notice or approval.

(1) A domestic or foreign entity that is required to give notice to, or obtain the approval of, a governmental agency or officer of this state to be a party to a merger must give the notice or obtain the approval to be a party to an interest exchange, conversion, or domestication.
(2) Property held for a charitable purpose under the law of this state by a domestic or foreign entity immediately before a transaction under this part becomes effective may not, as a result of the transaction, be diverted from the objects for which it was donated, granted, devised,

or otherwise transferred unless, to the extent required by or pursuant to the law of this state concerning cy pres or other law dealing with nondiversion of charitable assets, the entity obtains a court order specifying the disposition of the property.

(3) A bequest, devise, gift, grant, or promise contained in a will or other instrument of donation, subscription, or conveyance that is made to a merging entity that is not the surviving entity and that takes effect or remains payable after the merger inures to the surviving entity. A trust obligation that would govern property if transferred to the nonsurviving entity applies to property that is transferred to the surviving entity under this section.

Amended by Chapter 401, 2023 General Session

48-1d-1004 Status of filings.

A filing under this part signed by a domestic entity becomes part of the public organic record of the entity if the entity's organic law provides that similar filings under that law become part of the public organic record of the entity.

Enacted by Chapter 412, 2013 General Session

48-1d-1005 Nonexclusivity.

The fact that a transaction under this part produces a certain result does not preclude the same result from being accomplished in any other manner permitted by law other than this part.

Enacted by Chapter 412, 2013 General Session

48-1d-1006 Reference to external facts.

A plan may refer to facts ascertainable outside the plan if the manner in which the facts will operate upon the plan is specified in the plan. The facts may include the occurrence of an event or a determination or action by a person, whether or not the event, determination, or action is within the control of a party to the transaction.

Enacted by Chapter 412, 2013 General Session

48-1d-1007 Alternative means of approval of transactions.

Except as otherwise provided in the organic law or organic rules of a domestic entity, approval of a transaction under this part by the unanimous vote or consent of its interest holders satisfies the requirements of this part for approval of the transaction.

Enacted by Chapter 412, 2013 General Session

48-1d-1008 Appraisal rights.

(1) An interest holder of a domestic merging, acquired, converting, or domesticating entity is entitled to appraisal rights in connection with the transaction if the interest holder would have been entitled to appraisal rights under the entity's organic law in connection with a merger in which the interest of the interest holder was changed, converted, or exchanged unless:

(a) the organic law permits the organic rules to limit the availability of appraisal rights; and

(b) the organic rules provide such a limit.

(2) An interest holder of a domestic merging, acquired, converting, or domesticating entity is entitled to contractual appraisal rights in connection with a transaction under this part to the extent provided in:
(a) the entity's organic rules; or
(b) the plan.

Enacted by Chapter 412, 2013 General Session

48-1d-1021 Merger authorized.
(1) By complying with Sections 48-1d-1021 through 48-1d-1026:
(a) one or more domestic partnerships may merge with one or more domestic or foreign entities into a domestic or foreign surviving entity; and
(b) two or more foreign entities may merge into a domestic partnership.
(2) By complying with the provisions of Sections 48-1d-1021 through 48-1d-1026 applicable to foreign entities, a foreign entity may be a party to a merger under Sections 48-1d-1021 through 48-1d-1026 or may be the surviving entity in such a merger if the merger is authorized by the law of the foreign entity's jurisdiction of formation.

Enacted by Chapter 412, 2013 General Session

48-1d-1022 Plan of merger.
(1) A domestic partnership may become a party to a merger under Sections 48-1d-1021 through 48-1d-1026 by approving a plan of merger. The plan must be in a record and contain:
(a) as to each merging entity, its name, jurisdiction of formation, and type of entity;
(b) if the surviving entity is to be created in the merger, a statement to that effect and the entity's name, jurisdiction of formation, and type of entity;
(c) the manner of converting the interests in each party to the merger into interests, securities, obligations, money, other property, rights to acquire interests or securities, or any combination of the foregoing;
(d) if the surviving entity exists before the merger, any proposed amendments to its public organic record, if any, or to its private organic rules that are, or are proposed to be, in a record;
(e) if the surviving entity is to be created in the merger, its proposed public organic record, if any, and the full text of its private organic rules that are proposed to be in a record;
(f) the other terms and conditions of the merger; and
(g) any other provision required by the law of a merging entity's jurisdiction of formation or the organic rules of a merging entity.
(2) In addition to the requirements of Subsection (1), a plan of merger may contain any other provision not prohibited by law.

Enacted by Chapter 412, 2013 General Session

48-1d-1023 Approval of merger.
(1) A plan of merger is not effective unless it has been approved:
(a) by a domestic merging partnership, by all the partners of the partnership entitled to vote on or consent to any matter; and

(b) in a record, by each partner of a domestic merging partnership that will have interest holder liability for debts, obligations, and other liabilities that arise after the merger becomes effective, unless:
(i) the partnership agreement of the partnership provides in a record for the approval of a merger in which some or all of its partners become subject to interest holder liability by the vote or consent of fewer than all the partners; and
(ii) the partner consented in a record to or voted for that provision of the partnership agreement or became a partner after the adoption of that provision.
(2) A merger involving a domestic merging entity that is not a partnership is not effective unless the merger is approved by that entity in accordance with its organic law.
(3) A merger involving a foreign merging entity is not effective unless the merger is approved by the foreign entity in accordance with the law of the foreign entity's jurisdiction of formation.

Enacted by Chapter 412, 2013 General Session

48-1d-1024 Amendment or abandonment of plan of merger.
(1) A plan of merger may be amended only with the consent of each party to the plan, except as otherwise provided in the plan.
(2) A domestic merging partnership may approve an amendment of a plan of merger:
(a) in the same manner as the plan was approved, if the plan does not provide for the manner in which it may be amended; or
(b) by the partners in the manner provided in the plan, but a partner that was entitled to vote on or consent to approval of the merger is entitled to vote on or consent to any amendment of the plan that will change:
(i) the amount or kind of interests, securities, obligations, money, other property, rights to acquire interests or securities, or any combination of the foregoing, to be received by the interest holders of any party to the plan;
(ii) the public organic record, if any, or private organic rules of the surviving entity that will be in effect immediately after the merger becomes effective, except for changes that do not require approval of the interest holders of the surviving entity under its organic law or organic rules; or
(iii) any other terms or conditions of the plan, if the change would adversely affect the partner in any material respect.
(3) After a plan of merger has been approved and before a statement of merger becomes effective, the plan may be abandoned as provided in the plan. Unless prohibited by the plan, a domestic merging partnership may abandon the plan in the same manner as the plan was approved.
(4) If a plan of merger is abandoned after a statement of merger has been delivered to the division for filing and before the statement of merger becomes effective, a statement of abandonment, signed by a party to the plan, must be delivered to the division for filing before the statement of merger becomes effective. The statement of abandonment takes effect on filing, and the merger is abandoned and does not become effective. The statement of abandonment must contain:
(a) the name of each party to the plan of merger;
(b) the date on which the statement of merger was delivered to the division for filing; and
(c) a statement that the merger has been abandoned in accordance with this section.

Enacted by Chapter 412, 2013 General Session

48-1d-1025 Statement of merger.

(1) A statement of merger must be signed by each merging entity and delivered to the division for filing.

(2) A statement of merger must contain:

(a) the name, jurisdiction of formation, and type of entity of each merging entity that is not the surviving entity;

(b) the name, jurisdiction of formation, and type of entity of the surviving entity;

(c) a statement that the merger was approved by each domestic merging entity, if any, in accordance with Sections 48-1d-1021 through 48-1d-1026 and by each foreign merging entity, if any, in accordance with the law of its jurisdiction of formation;

(d) if the surviving entity exists before the merger and is a domestic filing entity, any amendment to its public organic record approved as part of the plan of merger;

(e) if the surviving entity is created by the merger and is a domestic filing entity, its public organic record, as an attachment;

(f) if the surviving entity is created by the merger and is a domestic limited liability partnership, its statement of qualification, as an attachment; and

(g) if the surviving entity is a foreign entity that is not a registered foreign entity, a mailing address to which the division may send any process served on the division pursuant to Subsection 48-1d-1026(5).

(3) In addition to the requirements of Subsection (2), a statement of merger may contain any other provision not prohibited by law.

(4) If the surviving entity is a domestic entity, its public organic record, if any, must satisfy the requirements of the law of this state, except that the public organic record does not need to be signed.

(5) A plan of merger that is signed by all the merging entities and meets all the requirements of Subsection (2) may be delivered to the division for filing instead of a statement of merger and on filing has the same effect. If a plan of merger is filed as provided in this Subsection (5), references in this part to a statement of merger refer to the plan of merger filed under this Subsection (5).

Enacted by Chapter 412, 2013 General Session

48-1d-1026 Effect of merger.

(1) When a merger becomes effective:

(a) the surviving entity continues or comes into existence;

(b) each merging entity that is not the surviving entity ceases to exist;

(c) all property of each merging entity vests in the surviving entity without transfer, reversion, or impairment;

(d) all debts, obligations, and other liabilities of each merging entity are debts, obligations, and liabilities of the surviving entity;

(e) except as otherwise provided by law or the plan of merger, all the rights, privileges, immunities, powers, and purposes of each merging entity vest in the surviving entity;

(f) if the surviving entity exists before the merger:

(i) all its property continues to be vested in it without transfer, reversion, or impairment;

(ii) it remains subject to all its debts, obligations, and other liabilities; and

(iii) all its rights, privileges, immunities, powers, and purposes continue to be vested in it;

(g) the name of the surviving entity may be substituted for the name of any merging entity that is a party to any pending action or proceeding;

(h) if the surviving entity exists before the merger:
(i) its public organic record, if any, is amended as provided in the statement of merger; and
(ii) its private organic rules that are to be in a record, if any, are amended to the extent provided in the plan of merger;
(i) if the surviving entity is created by the merger:
(i) its public organic record, if any, is effective; and
(ii) its private organic rules are effective; and
(j) the interests in each merging entity which are to be converted in the merger are converted, and the interest holders of those interests are entitled only to the rights provided to them under the plan of merger and to any appraisal rights they have under Section 48-1d-1008 and the merging entity's organic law.

(2) Except as otherwise provided in the organic law or organic rules of a merging entity, the merger does not give rise to any rights that an interest holder, governor, or third party would have upon a dissolution, liquidation, or winding up of the merging entity.

(3) When a merger becomes effective, a person that did not have interest holder liability with respect to any of the merging entities and becomes subject to interest holder liability with respect to a domestic entity as a result of the merger has interest holder liability only to the extent provided by the organic law of that entity and only for those debts, obligations, and other liabilities that arise after the merger becomes effective.

(4) When a merger becomes effective, the interest holder liability of a person that ceases to hold an interest in a domestic merging entity with respect to which the person had interest holder liability is as follows:
(a) The merger does not discharge any interest holder liability under the organic law of the domestic merging entity to the extent the interest holder liability arose before the merger became effective.
(b) The person does not have interest holder liability under the organic law of the domestic merging entity for any debt, obligation, or other liability that arises after the merger becomes effective.
(c) The organic law of the domestic merging entity continues to apply to the release, collection, or discharge of any interest holder liability preserved under Subsection (4)(a) as if the merger had not occurred and the surviving entity were the domestic merging entity.
(d) The person has whatever rights of contribution from any other person as are provided by law other than this chapter, this chapter, or the organic rules of the domestic merging entity with respect to any interest holder liability preserved under Subsection (4)(a) as if the merger had not occurred.

(5) When a merger becomes effective, a foreign entity that is the surviving entity may be served with process in this state for the collection and enforcement of any debts, obligations, or other liabilities of a domestic merging entity as provided in Section 16-17-301.

(6) When a merger becomes effective, the registration to do business in this state of any foreign merging entity that is not the surviving entity is canceled.

Enacted by Chapter 412, 2013 General Session

48-1d-1031 Interest exchange authorized.

(1) By complying with Sections 48-1d-1031 through 48-1d-1036:
(a) a domestic partnership may acquire all of one or more classes or series of interests of another domestic or foreign entity in exchange for interests, securities, obligations, money, other property, rights to acquire interests or securities, or any combination of the foregoing; or

(b) all of one or more classes or series of interests of a domestic partnership may be acquired by another domestic or foreign entity in exchange for interests, securities, obligations, money, other property, rights to acquire interests or securities, or any combination of the foregoing.

(2) By complying with the provisions of Sections 48-1d-1031 through 48-1d-1036 applicable to foreign entities, a foreign entity may be the acquiring or acquired entity in an interest exchange under Sections 48-1d-1031 through 48-1d-1036 if the interest exchange is authorized by the law of the foreign entity's jurisdiction of formation.

(3) If a protected agreement contains a provision that applies to a merger of a domestic partnership but does not refer to an interest exchange, the provision applies to an interest exchange in which the domestic partnership is the acquired entity as if the interest exchange were a merger until the provision is amended after January 1, 2014.

Enacted by Chapter 412, 2013 General Session

48-1d-1032 Plan of interest exchange.

(1) A domestic partnership may be the acquired entity in an interest exchange under Sections 48-1d-1031 through 48-1d-1036 by approving a plan of interest exchange. The plan must be in a record and contain:

(a) the name of the acquired entity;

(b) the name, jurisdiction of formation, and type of entity of the acquiring entity;

(c) the manner of converting the interests in the acquired entity into interests, securities, obligations, money, other property, rights to acquire interests or securities, or any combination of the foregoing;

(d) any proposed amendments to the partnership agreement that are, or are proposed to be, in a record of the acquired entity;

(e) the other terms and conditions of the interest exchange; and

(f) any other provision required by the law of this state or the partnership agreement of the acquired entity.

(2) In addition to the requirements of Subsection (1), a plan of interest exchange may contain any other provision not prohibited by law.

Enacted by Chapter 412, 2013 General Session

48-1d-1033 Approval of interest exchange.

(1) A plan of interest exchange is not effective unless it has been approved:

(a) by all the partners of a domestic acquired partnership entitled to vote on or consent to any matter; and

(b) in a record, by each partner of the domestic acquired partnership that will have interest holder liability for debts, obligations, and other liabilities that arise after the interest exchange becomes effective, unless:

(i) the partnership agreement of the partnership provides in a record for the approval of an interest exchange or a merger in which some or all its partners become subject to interest holder liability by the vote or consent of fewer than all the partners; and

(ii) the partner consented in a record to or voted for that provision of the partnership agreement or became a partner after the adoption of that provision.

(2) An interest exchange involving a domestic acquired entity that is not a partnership is not effective unless it is approved by the domestic entity in accordance with its organic law.

(3) An interest exchange involving a foreign acquired entity is not effective unless it is approved by the foreign entity in accordance with the law of the foreign entity's jurisdiction of formation.
(4) Except as otherwise provided in its organic law or organic rules, the interest holders of the acquiring entity are not required to approve the interest exchange.

Enacted by Chapter 412, 2013 General Session

48-1d-1034 Amendment or abandonment of plan of interest exchange.
(1) A plan of interest exchange may be amended only with the consent of each party to the plan, except as otherwise provided in the plan.
(2) A domestic acquired partnership may approve an amendment of a plan of interest exchange:
  (a) in the same manner as the plan was approved, if the plan does not provide for the manner in which it may be amended; or
  (b) by the partners of the acquired partnership in the manner provided in the plan, but a partner that was entitled to vote on or consent to approval of the interest exchange is entitled to vote on or consent to any amendment of the plan that will change:
    (i) the amount or kind of interests, securities, obligations, money, other property, rights to acquire interests or securities, or any combination of the foregoing, to be received by any of the partners of the acquired partnership under the plan;
    (ii) the partnership agreement of the acquired partnership that will be in effect immediately after the interest exchange becomes effective, except for changes that do not require approval of the partners of the acquired partnership under this chapter or the partnership agreement; or
    (iii) any other terms or conditions of the plan, if the change would adversely affect the partner in any material respect.
(3) After a plan of interest exchange has been approved and before a statement of interest exchange becomes effective, the plan may be abandoned as provided in the plan. Unless prohibited by the plan, a domestic acquired partnership may abandon the plan in the same manner as the plan was approved.
(4) If a plan of interest exchange is abandoned after a statement of interest exchange has been delivered to the division for filing and before the statement becomes effective, a statement of abandonment, signed by the acquired partnership, must be delivered to the division for filing before the statement of interest exchange becomes effective. The statement of abandonment takes effect on filing, and the interest exchange is abandoned and does not become effective. The statement of abandonment must contain:
  (a) the name of the acquired partnership;
  (b) the date on which the statement of interest exchange was delivered to the division for filing; and
  (c) a statement that the interest exchange has been abandoned in accordance with this section.

Enacted by Chapter 412, 2013 General Session

48-1d-1035 Statement of interest exchange.
(1) A statement of interest exchange must be signed by a domestic acquired partnership and delivered to the division for filing.
(2) A statement of interest exchange must contain:
  (a) the name of the acquired partnership;
  (b) the name, jurisdiction of formation, and type of entity of the acquiring entity; and

(c) a statement that the plan of interest exchange was approved by the acquired entity in accordance with Sections 48-1d-1031 through 48-1d-1036.

(3) In addition to the requirements of Subsection (2), a statement of interest exchange may contain any other provision not prohibited by law.

(4) A plan of interest exchange that is signed by a domestic acquired partnership and meets all the requirements of Subsection (2) may be delivered to the division for filing instead of a statement of interest exchange and on filing has the same effect. If a plan of interest exchange is filed as provided in this subsection, references in this part to a statement of interest exchange refer to the plan of interest exchange filed under this Subsection (4).

Enacted by Chapter 412, 2013 General Session

48-1d-1036 Effect of interest exchange.

(1) When an interest exchange in which the acquired entity is a domestic partnership becomes effective:

(a) the interests in the domestic acquired partnership that are the subject of the interest exchange cease to exist or are converted or exchanged, and the partners holding those interests are entitled only to the rights provided to them under the plan of interest exchange and to any appraisal rights they have under Section 48-1d-1008;

(b) the acquiring entity becomes the interest holder of the interests in the acquired partnership stated in the plan of interest exchange to be acquired by the acquiring entity; and

(c) the provisions of the partnership agreement of the acquired partnership that are to be in a record, if any, are amended to the extent provided in the plan of interest exchange.

(2) Except as otherwise provided in the partnership agreement of a domestic acquired partnership, the interest exchange does not give rise to any rights that a partner or third party would have upon a dissolution, liquidation, or winding up of the acquired partnership.

(3) When an interest exchange becomes effective, a person that did not have interest holder liability with respect to a domestic acquired partnership and becomes subject to interest holder liability with respect to a domestic entity as a result of the interest exchange has interest holder liability only to the extent provided by the organic law of the entity and only for those debts, obligations, and other liabilities that arise after the interest exchange becomes effective.

(4) When an interest exchange becomes effective, the interest holder liability of a person that ceases to hold an interest in a domestic acquired partnership with respect to which the person had interest holder liability is as follows:

(a) The interest exchange does not discharge any interest holder liability to the extent the interest holder liability arose before the interest exchange became effective.

(b) The person does not have interest holder liability for any debt, obligation, or other liability that arises after the interest exchange becomes effective.

(c) The person has whatever rights of contribution from any other person as are provided by law other than this chapter, this chapter, or the partnership agreement of the acquired entity with respect to any interest holder liability preserved under Subsection (4)(a) as if the interest exchange had not occurred.

Enacted by Chapter 412, 2013 General Session

48-1d-1041 Conversion authorized.

(1) As used in Sections 48-1d-1041 through 48-1d-1046, the term "subject entity" includes a corporation, a business trust or association, a real estate investment trust, a common-law

trust, or any other unincorporated business, including a limited liability company, a general partnership, a registered limited liability partnership, or a foreign limited partnership.

(2) A subject entity may convert to a domestic partnership by complying with Sections 48-1d-1041 through 48-1d-1046.

(3) By complying with Sections 48-1d-1041 through 48-1d-1046, a domestic partnership may become:

(a) a domestic entity that is a different type of entity; or

(b) a foreign entity that is a different type of entity, if the conversion is authorized by the law of the foreign jurisdiction.

(4) By complying with the provisions of Sections 48-1d-1041 through 48-1d-1046 applicable to foreign entities, a foreign entity that is not a foreign partnership may become a domestic partnership if the conversion is authorized by the law of the foreign entity's jurisdiction of formation.

(5) If a protected agreement contains a provision that applies to a merger of a domestic partnership but does not refer to a conversion, the provision applies to a conversion of the entity as if the conversion were a merger until the provision is amended after January 1, 2014.

Amended by Chapter 227, 2015 General Session

48-1d-1042 Plan of conversion.

(1) A subject entity may convert to a domestic partnership or a domestic partnership may convert to a different type of entity under Sections 48-1d-1041 through 48-1d-1046 by approving a plan of conversion. The plan must be in a record and contain:

(a) the name of the converting subject entity or partnership;

(b) the name, jurisdiction of formation, and type of entity of the converted entity;

(c) the manner of converting the interests in the converting subject entity or partnership into interests, securities, obligations, money, other property, rights to acquire interests or securities, or any combination of the foregoing;

(d) the proposed public organic record of the converted entity if it will be a filing entity;

(e) the full text of the private organic rules of the converted entity that are proposed to be in a record;

(f) the other terms and conditions of the conversion; and

(g) any other provision required by the law of this state or the partnership agreement of the converting partnership.

(2) In addition to the requirements of Subsection (1), a plan of conversion may contain any other provision not prohibited by law.

Amended by Chapter 227, 2015 General Session

48-1d-1043 Approval of conversion.

(1) A plan of conversion is not effective unless it has been approved:

(a) by a domestic converting partnership by all the partners of the partnership entitled to vote on or consent to any matter; and

(b) in a record, by each partner of a domestic converting partnership that will have interest holder liability for debts, obligations, and other liabilities that arise after the conversion becomes effective:

(i) the partnership agreement provides in a record for the approval of a conversion or a merger in which some or all of its partners become subject to interest holder liability by the vote or consent of fewer than all the interest holders; and
(ii) the partner voted for or consented in a record to that provision of the partnership agreement or became a partner after the adoption of that provision.
(2) A conversion involving a domestic converting entity that is not a partnership, including a subject entity, is not effective unless it is approved by the domestic converting entity in accordance with its organic law.
(3) A conversion of a foreign converting entity is not effective unless it is approved by the foreign entity in accordance with the law of the foreign entity's jurisdiction of formation.

Amended by Chapter 227, 2015 General Session

48-1d-1044 Amendment or abandonment of plan of conversion.
(1) A plan of conversion of a subject entity or domestic converting partnership may be amended:
(a) in the same manner as the plan was approved, if the plan does not provide for the manner in which it may be amended; or
(b) by the partners of the entity in the manner provided in the plan, but a partner that was entitled to vote on or consent to approval of the conversion is entitled to vote on or consent to any amendment of the plan that will change:
(i) the amount or kind of interests, securities, obligations, money, other property, rights to acquire interests or securities, or any combination of the foregoing, to be received by any of the partners of the converting entity under the plan;
(ii) the public organic record or private organic rules of the converted entity that will be in effect immediately after the conversion becomes effective, except for changes that do not require approval of the interest holders of the converted entity under its organic law or organic rules; or
(iii) any other terms or conditions of the plan, if the change would adversely affect the partner in any material respect.
(2) After a plan of conversion has been approved and before a statement of conversion becomes effective, the plan may be abandoned as provided in the plan. Unless prohibited by the plan, a domestic converting partnership may abandon the plan in the same manner as the plan was approved.
(3) If a plan of conversion is abandoned after a statement of conversion has been delivered to the division for filing and before the statement of conversion becomes effective, a statement of abandonment, signed by the converting entity, must be delivered to the division for filing before the time the statement of conversion becomes effective. The statement of abandonment takes effect on filing, and the conversion is abandoned and does not become effective. The statement of abandonment must contain:
(a) the name of the converting subject entity or partnership;
(b) the date on which the statement of conversion was delivered to the division for filing; and
(c) a statement that the conversion has been abandoned in accordance with this section.

Amended by Chapter 227, 2015 General Session

48-1d-1045 Statement of conversion.
(1) A statement of conversion must be signed by the converting entity and delivered to the division for filing.

(2) A statement of conversion must contain:
(a) the name, jurisdiction of formation, and type of entity of the converting entity;
(b) the name, jurisdiction of formation, and type of entity of the converted entity;
(c) if the converting entity is a domestic entity, a statement that the plan of conversion was approved in accordance with Sections 48-1d-1041 through 48-1d-1046 or, if the converting entity is a foreign entity, a statement that the conversion was approved by the foreign converting entity in accordance with the law of its jurisdiction of formation;
(d) if the converted entity is a domestic filing entity, the text of its public organic record, as an attachment;
(e) if the converted entity is a domestic limited liability partnership, the text of its statement of qualification, as an attachment; and
(f) if the converted entity is a foreign entity that is not a registered foreign entity, a mailing address to which the division may send any process served on the division pursuant to Subsection 48-1d-1046(5).
(3) In addition to the requirements of Subsection (2), a statement of conversion may contain any other provision not prohibited by law.
(4) If the converted entity is a domestic entity, its public organic record, if any, must satisfy the requirements of the law of this state, except that the public organic record does not need to be signed.
(5) A plan of conversion that is signed by a domestic converting entity and meets all the requirements of Subsection (2) may be delivered to the division for filing instead of a statement of conversion and on filing has the same effect. If a plan of conversion is filed as provided in this Subsection (5), references in this part to a statement of conversion refer to the plan of conversion filed under this Subsection (5).

Enacted by Chapter 412, 2013 General Session

48-1d-1046 Effect of conversion.
(1) When a conversion in which the converted entity is a subject entity or domestic partnership becomes effective:
(a) the converted entity is:
(i) organized under and subject to this chapter; and
(ii) the same entity without interruption as the converting entity;
(b) all property of the converting entity continues to be vested in the converted entity without transfer, reversion, or impairment;
(c) all debts, obligations, and other liabilities of the converting entity continue as debts, obligations, and other liabilities of the converted entity;
(d) except as otherwise provided by law or the plan of conversion, all the rights, privileges, immunities, powers, and purposes of the converting entity remain in the converted entity;
(e) the name of the converted entity may be substituted for the name of the converting entity in any pending action or proceeding;
(f) if the converted entity is a limited liability partnership, its statement of qualification is effective simultaneously;
(g) the provisions of the partnership agreement of the converted entity that are to be in a record, if any, approved as part of the plan of conversion are effective; and
(h) the interests in the converting entity are converted, and the interest holders of the converting entity are entitled only to the rights provided to them under the plan of conversion and to any appraisal rights they have under Section 48-1d-1008 and the converting entity's organic law.

(2) Except as otherwise provided in the partnership agreement of a domestic converting partnership, the conversion does not give rise to any rights that a partner or third party would otherwise have upon a dissolution, liquidation, or winding up of the converting entity.
(3) When a conversion becomes effective, a person that did not have interest holder liability with respect to the converting entity and becomes subject to interest holder liability with respect to a domestic entity as a result of the conversion has interest holder liability only to the extent provided by the organic law of the entity and only for those debts, obligations, and other liabilities that arise after the conversion becomes effective.
(4) When a conversion becomes effective, the interest holder liability of a person that ceases to hold an interest in a domestic partnership with respect to which the person had interest holder liability is as follows:
  (a) The conversion does not discharge any interest holder liability to the extent the interest holder liability arose before the conversion became effective.
  (b) The person does not have interest holder liability for any debt, obligation, or other liability that arises after the conversion becomes effective.
  (c) The person has whatever rights of contribution from any other person as are provided by law other than this chapter, this chapter, or the partnership agreement of the converting entity with respect to any interest holder liability preserved under Subsection (4)(a) as if the conversion had not occurred.
(5) When a conversion becomes effective, a foreign entity that is the converted entity may be served with process in this state for the collection and enforcement of any of its debts, obligations, and other liabilities as provided in Section 16-17-301.
(6) If the converting entity is a registered foreign entity, its registration to do business in this state is canceled when the conversion becomes effective.
(7) A conversion does not require the entity to wind up its affairs and does not constitute or cause the dissolution of the entity.

Amended by Chapter 227, 2015 General Session

48-1d-1051 Domestication authorized.
(1) By complying with Sections 48-1d-1051 through 48-1d-1056, a domestic limited liability partnership may become a foreign limited liability partnership if the domestication is authorized by the law of the foreign jurisdiction.
(2) By complying with the provisions of Sections 48-1d-1051 through 48-1d-1056 applicable to foreign limited liability partnerships, a foreign limited liability partnership may become a domestic limited liability partnership if the domestication is authorized by the law of the foreign limited liability partnership's jurisdiction of formation.
(3) If a protected agreement contains a provision that applies to a merger of a domestic limited liability partnership but does not refer to a domestication, the provision applies to a domestication of the limited liability partnership as if the domestication were a merger until the provision is amended after January 1, 2014.

Enacted by Chapter 412, 2013 General Session

48-1d-1052 Plan of domestication.
(1) A domestic limited liability partnership may become a foreign limited liability partnership in a domestication by approving a plan of domestication. The plan must be in a record and contain:
  (a) the name of the domesticating limited liability partnership;

(b) the name and jurisdiction of formation of the domesticated limited liability partnership;
(c) the manner of converting the interests in the domesticating limited liability partnership into interests, securities, obligations, money, other property, rights to acquire interests or securities, or any combination of the foregoing;
(d) the proposed statement of qualification of the domesticated limited liability partnership;
(e) the full text of the partnership agreement of the domesticated limited liability partnership that are proposed to be in a record;
(f) the other terms and conditions of the domestication; and
(g) any other provision required by the law of this state or the partnership agreement of the domesticating limited liability partnership.
(2) In addition to the requirements of Subsection (1), a plan of domestication may contain any other provision not prohibited by law.

Enacted by Chapter 412, 2013 General Session

48-1d-1053 Approval of domestication.
(1) A plan of domestication of a domestic domesticating limited liability partnership is not effective unless it has been approved:
(a) by all the partners entitled to vote on or consent to any matter; and
(b) in a record, by each partner that will have interest holder liability for debts, obligations, and other liabilities that arise after the domestication becomes effective, unless:
(i) the partnership agreement of the entity provides in a record for the approval of a domestication or merger in which some or all of its partners become subject to interest holder liability by the vote or consent of fewer than all the partners; and
(ii) the partner voted for or consented in a record to that provision of the partnership agreement or became a partner after the adoption of that provision.
(2) A domestication of a foreign domesticating limited liability partnership is not effective unless it is approved in accordance with the law of the foreign limited liability partnership's jurisdiction of formation.

Enacted by Chapter 412, 2013 General Session

48-1d-1054 Amendment or abandonment of plan of domestication.
(1) A plan of domestication of a domestic domesticating limited liability partnership may be amended:
(a) in the same manner as the plan was approved, if the plan does not provide for the manner in which it may be amended; or
(b) by the partners of the limited liability partnership in the manner provided in the plan, but a partner that was entitled to vote on or consent to approval of the domestication is entitled to vote on or consent to any amendment of the plan that will change:
(i) the amount or kind of interests, securities, obligations, money, other property, rights to acquire interests or securities, or any combination of the foregoing, to be received by any of the partners of the domesticating limited liability partnership under the plan;
(ii) the partnership agreement of the domesticated limited liability partnership that will be in effect immediately after the domestication becomes effective, except for changes that do not require approval of the partners of the domesticated limited liability partnership under its organic law or partnership agreement; or

(iii) any other terms or conditions of the plan, if the change would adversely affect the partner in any material respect.

(2) After a plan of domestication has been approved by a domestic domesticating limited liability partnership and before a statement of domestication becomes effective, the plan may be abandoned as provided in the plan. Unless prohibited by the plan, a domestic domesticating limited liability partnership may abandon the plan in the same manner as the plan was approved.

(3) If a plan of domestication is abandoned after a statement of domestication has been delivered to the division for filing and before the statement of domestication becomes effective, a statement of abandonment, signed by the limited liability partnership, must be delivered to the division for filing before the time the statement of domestication becomes effective. The statement of abandonment takes effect on filing, and the domestication is abandoned and does not become effective. The statement of abandonment must contain:

(a) the name of the domesticating limited liability partnership;

(b) the date on which the statement of domestication was delivered to the division for filing; and

(c) a statement that the domestication has been abandoned in accordance with this section.

Enacted by Chapter 412, 2013 General Session

48-1d-1055 Statement of domestication.

(1) A statement of domestication must be signed by the domesticating limited liability partnership and delivered to the division for filing.

(2) A statement of domestication must contain:

(a) the name of the domesticating limited liability partnership and the name of the jurisdiction whose law governs the domesticating limited liability partnership's internal affairs;

(b) the name of the domesticated limited liability partnership and the name of the jurisdiction whose law governs the domesticating limited liability partnership's internal affairs;

(c) if the domesticating limited liability partnership is a domestic limited liability partnership, a statement that the plan of domestication was approved in accordance with Sections 48-1d-1051 through 48-1d-1056 or, if the domesticating limited liability partnership is a foreign limited liability partnership, a statement that the domestication was approved in accordance with the law of the jurisdiction whose law governs the internal affairs of the foreign limited liability partnership;

(d) the statement of qualification of the domesticated limited liability partnership, as an attachment; and

(e) if the domesticated foreign limited liability partnership is not a registered foreign limited liability partnership, a mailing address to which the division may send any process served on the division pursuant to Subsection 48-1d-1056(5).

(3) In addition to the requirements of Subsection (2), a statement of domestication may contain any other provision not prohibited by law.

(4) The statement of qualification of a domesticated domestic limited liability partnership must satisfy the requirements of the law of this state, but the statement does not need to be signed.

(5) A plan of domestication that is signed by a domesticating domestic limited liability partnership and meets all the requirements of Subsection (2) may be delivered to the division for filing instead of a statement of domestication and on filing has the same effect. If a plan of domestication is filed as provided in this Subsection (5), references in this part to a statement of domestication refer to the plan of domestication filed under this Subsection (5).

Enacted by Chapter 412, 2013 General Session

48-1d-1056 Effect of domestication.

(1) When a domestication becomes effective:
  (a) the domesticated limited liability partnership is:
    (i) organized under and subject to the organic law of the domesticated limited liability partnership; and
    (ii) the same entity without interruption as the domesticating limited liability partnership;
  (b) all property of the domesticating limited liability partnership continues to be vested in the domesticated entity without transfer, reversion, or impairment;
  (c) all debts, obligations, and other liabilities of the domesticating limited liability partnership continue as debts, obligations, and other liabilities of the domesticated limited liability partnership;
  (d) except as otherwise provided by law or the plan of domestication, all the rights, privileges, immunities, powers, and purposes of the domesticating limited liability partnership remain in the domesticated limited liability partnership;
  (e) the name of the domesticated limited liability partnership may be substituted for the name of the domesticating limited liability partnership in any pending action or proceeding;
  (f) the statement of qualification of the domestic limited liability partnership is effective;
  (g) the provisions of the partnership agreement of the domesticated limited liability partnership that are to be in a record, if any, approved as part of the plan of domestication are effective; and
  (h) the interests in the domesticating limited liability partnership are converted to the extent and as approved in connection with the domestication, and the partners of the domesticating limited liability partnership are entitled only to the rights provided to them under the plan of domestication and to any appraisal rights they have under Section 48-1d-1008.
(2) Except as otherwise provided in the organic law or partnership agreement of the domesticating limited liability partnership, the domestication does not give rise to any rights that a partner or third party would have upon a dissolution, liquidation, or winding up of the domesticating limited liability partnership.
(3) When a domestication becomes effective, a person that did not have interest holder liability with respect to the domesticating limited liability partnership and becomes subject to interest holder liability with respect to a domestic limited liability partnership as a result of the domestication has interest holder liability only to the extent provided by the organic law of the domestic limited liability partnership and only for those debts, obligations, and other liabilities that arise after the domestication becomes effective.
(4) When a domestication becomes effective:
  (a) The domestication does not discharge any interest holder liability under this part to the extent the interest holder liability arose before the domestication became effective.
  (b) A person does not have interest holder liability under this chapter for any debt, obligation, or other liability that arise after the domestication becomes effective.
  (c) A person has whatever rights of contribution from any other person as are provided by law other than this chapter, or this chapter, or the partnership agreement of a domestic domesticating limited liability partnership with respect to any interest holder liability preserved under Subsection (4)(a) as if the domestication had not occurred.
(5) When a domestication becomes effective, a foreign limited liability partnership that is the domesticated limited liability partnership may be served with process in this state for the

collection and enforcement of any of its debts, obligations, and other liabilities as provided in Section 16-17-301.

(6) If the domesticating limited liability partnership is a registered foreign limited liability partnership, the registration of the foreign limited liability partnership is canceled when the domestication becomes effective.

(7) A domestication does not require the limited liability partnership to wind up its business and does not constitute or cause the dissolution of the limited liability partnership.

Enacted by Chapter 412, 2013 General Session

Part 11
Limited Liability Partnerships

48-1d-1101 Statement of qualification.

(1) A partnership may become a limited liability partnership pursuant to this section.

(2) The terms and conditions on which a partnership becomes a limited liability partnership must be approved by the vote or consent necessary to amend the partnership agreement except, in the case of a partnership agreement that expressly addresses obligations to contribute to the partnership, the vote or consent necessary to amend those provisions.

(3) After the approval required by Subsection (2), a partnership may become a limited liability partnership by delivering to the division for filing a statement of qualification. The statement of qualification must contain:

(a) the name of the limited liability partnership;

(b) the street address of the limited liability partnership's principal office and, if different, the street address of an office in this state, if any;

(c) the information required by Subsection 16-17-203(1); and

(d) a statement that the partnership elects to become a limited liability partnership.

(4) A partnership's status as a limited liability partnership remains effective, regardless of changes in the limited liability partnership, until it is canceled pursuant to Subsection (6) or administratively revoked pursuant to Section 48-1d-1102.

(5) The status of a partnership as a limited liability partnership and the liability of its partners for the debts, obligations, or other liabilities of the partnership while it is a limited liability partnership is not affected by errors or later changes in the information required to be contained in the statement of qualification.

(6) A limited liability partnership may amend or cancel its statement of qualification by delivering to the division for filing a statement of amendment or cancellation. The statement must be consented to by all partners and state the name of the limited liability partnership and in the case of:

(a) an amendment, state the amendment; and

(b) a cancellation, state that the statement of qualification is canceled.

Enacted by Chapter 412, 2013 General Session

48-1d-1102 Administrative revocation of statement of qualification.

(1) The division may commence a proceeding under Subsections (2) and (3) to revoke the statement of qualification of a limited liability partnership administratively if the limited liability partnership does not:
  (a) pay any fee, tax, or penalty required to be paid to the division not later than 60 days after it is due;
  (b) deliver an annual report to the division not later than 60 days after it is due; or
  (c) have a registered agent in this state for 60 consecutive days.
(2) If the division determines that one or more grounds exist for administratively revoking a statement of qualification, the division shall serve the limited liability partnership with notice in a record of the division's determination.
(3) If a limited liability partnership, not later than 60 days after service of the notice is effected under Subsection (2), does not cure each ground for revocation or demonstrate to the satisfaction of the division that each ground determined by the division does not exist, the division shall administratively revoke the statement of qualification by signing a statement of administrative revocation that recites the grounds for revocation and the effective date of the revocation. The division shall file the statement and serve a copy on the limited liability partnership pursuant to Section 48-1d-116.
(4) An administrative revocation under Subsection (3) affects only a partnership's status as a limited liability partnership and is not an event causing dissolution of the partnership.
(5) The administrative revocation of a statement of qualification of a limited liability partnership does not terminate the authority of its registered agent.

Enacted by Chapter 412, 2013 General Session

48-1d-1103 Reinstatement.

(1) A limited liability partnership whose statement of qualification has been revoked administratively under Section 48-1d-1102 may apply to the division for reinstatement of the statement of qualification under the limited liability partnership's same name, at any time after the effective date of the revocation if the limited liability partnership's name is available and the limited liability partnership delivers to the division for filing an application for reinstatement of the statement of qualification that states:
  (a) the name of the partnership at the time of the administrative revocation of its statement of qualification and, if needed, a different name that satisfies Section 48-1d-1105;
  (b) the address of the principal office of the partnership and information required under Subsection 16-17-203(1);
  (c) the effective date of administrative revocation of the partnership's statement of qualification; and
  (d) that the grounds for revocation did not exist or have been cured.
(2) A limited liability partnership whose statement of qualification has been revoked administratively under Section 48-1d-1102 on or after May 1, 2019, but before May 1, 2024, may apply for reinstatement under the limited liability partnership's same name if the limited liability partnership's name is available and the limited liability partnership delivers to the division for filing an application for reinstatement of the statement of qualification that satisfies the requirements of Subsections (1)(a) through (c).
(3) A limited liability partnership retains the limited liability partnership's name and assumed name, as described in Section 42-2-6.6, for five years after the day on which the administrative revocation of the statement of qualification is effective.

(4) To have its statement of qualification reinstated, a partnership whose statement of qualification has been revoked administratively must pay all fees, taxes, and penalties that were due to the division at the time of the administrative revocation and all fees, taxes, and penalties that would have been due to the division while the partnership's statement of qualification was revoked administratively.
(5) If the division determines that the application contains the information required by Subsection (1) or (2), is satisfied that the information is correct, and determines that all payments required to be made to the division by Subsection (4) have been made, the division shall:
(a) cancel the statement of revocation and prepare a statement of reinstatement that states the division's determination and the effective date of reinstatement;
(b) file the statement of revocation; and
(c) serve a copy of the statement of revocation on the limited liability partnership.
(6) When reinstatement under this section is effective, the following rules apply:
(a) the reinstatement relates back to and takes effect as of the effective date of the administrative revocation; and
(b) the partnership's status as a limited liability partnership continues as if the revocation had not occurred, except for the rights of a person arising out of an act or omission in reliance on the revocation before the person knew or had notice of the reinstatement are not affected.

Amended by Chapter 232, 2024 General Session

48-1d-1104 Judicial review of denial of reinstatement.
(1) If the division denies a limited liability partnership's application for reinstatement following administrative revocation of the limited liability partnership's statement of qualification, the division shall serve the limited liability company partnership with notice in a record that explains the reasons for the denial.
(2) A limited liability partnership may seek judicial review of denial of reinstatement in the district court not later than 30 days after service of the notice of denial.

Enacted by Chapter 412, 2013 General Session

48-1d-1105 Permitted names.
(1) The name of a partnership that is not a limited liability partnership may not contain the phrase "Registered Limited Liability Partnership" or "Limited Liability Partnership" or the abbreviation "R.L.L.P.", "L.L.P.", "RLLP", or "LLP".
(2) The name of a limited liability partnership must contain the words "Registered Limited Liability Partnership", "Limited Liability Partnership", "R.L.L.P.", "L.L.P.", "RLLP", or "LLP".
(3) Except as otherwise provided in Subsection (6), the name of a limited liability partnership and the name under which a foreign limited liability partnership may register to do business in this state must be distinguishable on the records of the division from any:
(a) name of an existing person whose formation required the filing of a record by the division;
(b) name of a limited liability partnership;
(c) name of a person that is registered to do business in this state by the filing of a record by the division;
(d) name reserved under Section 48-1d-1106 or other law of this state providing for the reservation of a name by the filing of a record by the division;
(e) name registered under Section 48-1d-1107 or other law of this state providing for the registration of a name by the filing of a record by the division; or

(f) assumed name registered under Title 42, Chapter 2, Conducting Business Under Assumed Name.

(4) If a person consents in a record to the use of the person's name and submits an undertaking in a form satisfactory to the division to change the person's name to a name that is distinguishable on the records of the division from any name in any category of names in Subsection (3), the name of the consenting person may be used by the person to which the consent was given.

(5) Except as otherwise provided in Subsection (6), in determining whether a name is the same as or not distinguishable on the records of the division from the name of another entity, words, phrases, or abbreviations indicating the type of entity, such as "corporation", "corp.", "incorporated", "Inc.", "professional corporation", "PC", "P.C.", "professional association", "PA", "P.A.", "Limited", "Ltd.", "limited partnership", "LP", "L.P.", "limited liability partnership", "LLP", "L.L.P.", "registered limited liability partnership", "RLLP", "R.L.L.P.", "limited liability limited partnership", "LLLP", "L.L.L.P.", "registered limited liability limited partnership", "RLLLP", "R.L.L.L.P.", "limited liability company", or "LLC", "L.L.C.", "professional limited liability company", "PLLC", or "P.L.L.C.", may not be taken into account.

(6) A person may consent in a record to the use of a name that is not distinguishable on the records of the division from the person's name except for the addition of a word, phrase, or abbreviation indicating the type of person as provided in Subsection (5). In such a case, the person need not change person's name pursuant to Subsection (4).

(7) The division may not approve for filing a name that implies that a limited liability partnership is an agency of this state or any of the state's political subdivisions, if the limited liability partnership is not actually such a legally established agency or subdivision.

(8) The authorization to file a certificate under or to reserve or register a limited liability partnership name as granted by the division does not:

(a) abrogate or limit the law governing unfair competition or unfair trade practices;

(b) derogate from the common law, the principles of equity, or the statutes of this state or of the United States with respect to the right to acquire and protect names and trademarks; or

(c) create an exclusive right in geographic or generic terms contained within a name.

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

(a) the words:

(i) "association";

(ii) "corporation";

(iii) "incorporated";

(iv) "limited liability company";

(v) "limited company";

(vi) "limited partnership"; or

(vii) "Ltd.";

(b) any word or abbreviation that is of like import to the words listed in Subsection (9)(a);

(c) without the written consent of the United States Olympic Committee, the words:

(i) "Olympic";

(ii) "Olympiad"; or

(iii) "Citius Altius Fortius"; or

(d) for a limited liability partnership that changes the limited liability partnership's name or registers to do business in the state on or after May 4, 2022, the number sequence "911."

Amended by Chapter 458, 2023 General Session

48-1d-1106 Reservation of name.

(1) A person may reserve the exclusive use of a name that complies with Section 48-1d-1105 by delivering an application to the division for filing. The application must state the name and address of the applicant and the name to be reserved. If the division finds that the name is available, the division shall reserve the name for the applicant's exclusive use for a period of 120 days.
(2) The owner of a reserved name may transfer the reservation to another person by delivering to the division a signed notice in a record of the transfer, which states the name and address of the transferee.

Enacted by Chapter 412, 2013 General Session

48-1d-1107 Registration of name.
(1) A foreign limited liability partnership not registered to do business in this state under Part 12, Foreign Limited Liability Partnerships, may register its name, or an alternate name adopted pursuant to Section 48-1d-1206, if the name is distinguishable on the records of the division from the names that are not available under Section 48-1d-1105.
(2) To register its name or an alternate name adopted pursuant to Section 48-1d-1206, a foreign limited liability partnership must deliver to the division for filing an application stating the foreign limited liability partnership's name, the jurisdiction and date of its formation, and any alternate name adopted pursuant to Section 48-1d-1206. If the division finds that the name applied for is available, the division shall register the name for the applicant's exclusive use.
(3) The registration of a name under this section is effective for one year after the date of registration.
(4) A foreign limited liability partnership whose name registration is effective may renew the registration for successive one-year periods by delivering, not earlier than three months before the expiration of the registration, to the division for filing a renewal application that complies with this section. When filed, the renewal application renews the registration for a succeeding one-year period.
(5) A foreign limited liability partnership whose name registration is effective may register as a foreign limited liability company under the registered name or consent in a signed record to the use of that name by another person that is not an individual.

Enacted by Chapter 412, 2013 General Session

48-1d-1108 Registered agent.
(1) Each limited liability partnership and each registered foreign limited liability partnership shall designate in accordance with Subsection 16-17-203(1) and maintain a registered agent in this state.
(2) A limited liability partnership or registered foreign limited liability partnership may change its registered agent or the address of its registered agent by filing with the division a statement of change in accordance with Section 16-17-206.

Enacted by Chapter 412, 2013 General Session

48-1d-1109 Annual report for division.
(1) Each limited liability partnership and registered foreign limited liability partnership shall deliver to the division for filing an annual report that states:
(a) the name of the limited liability partnership or foreign limited liability partnership;

(b) the information required under Subsection 16-17-203(1);
(c) the street and mailing addresses of its principal office;
(d) the name of at least one partner; and
(e) in the case of a foreign limited liability partnership, its jurisdiction of formation and any alternate name adopted under Subsection 48-1d-1206(1).

(2) Information in an annual report must be current as of the date the report is signed by the limited liability partnership or registered foreign limited liability partnership.

(3) A report must be delivered to the division for each year following the calendar year in which the limited liability partnership's statement of qualification became effective or the registered foreign limited liability partnership registered to do business in this state:
(a) in the case of a limited liability partnership, the annual report must be delivered to the division during the month in which is the anniversary date on which the limited liability partnership statement of qualification became effective; and
(b) in the case of a registered foreign limited liability partnership, the annual report must be delivered to the division during the month in which is the anniversary date on which the registered foreign limited liability partnership registered to do business in this state.

(4) If an annual report does not contain the information required by this section, the division promptly shall notify the reporting limited liability partnership or registered foreign limited liability partnership in a record and return the report for correction.

(5) If an annual report contains the name or address of a registered agent which differs from the information shown in the records of the division immediately before the annual report becomes effective, the differing information in the annual report is considered a statement of change under Section 16-17-206.

Enacted by Chapter 412, 2013 General Session

Part 12
Foreign Limited Liability Partnerships

48-1d-1201 Governing law.

(1) The law of the jurisdiction in which the statement of qualification or equivalent filing of a foreign limited liability partnership is filed governs:
(a) the internal affairs of the foreign limited liability partnership; and
(b) the liability of a partner as partner for a debt, obligation, or other liability of the foreign limited liability partnership.

(2) A foreign limited liability partnership is not precluded from registering to do business in this state because of any difference between the law of this state and the jurisdiction under which the foreign limited liability partnership's statement of qualification or equivalent filing is filed.

(3) Registration of a foreign limited liability partnership to do business in this state does not authorize the foreign limited liability partnership to engage in any business or exercise any power that a domestic limited liability partnership may not engage in or exercise in this state as a limited liability partnership.

(4)
(a) The division may permit a tribal limited liability partnership to apply for authority to transact business in the state in the same manner as a foreign limited liability partnership formed in another state.

(b) If a tribal limited liability partnership elects to apply for authority to transact business in the state, for purposes of this chapter, the tribal limited liability partnership shall be treated in the same manner as a foreign limited liability partnership formed under the laws of another state.

Enacted by Chapter 412, 2013 General Session

48-1d-1202 Registration to do business in this state.

(1) A foreign limited liability partnership may not do business in this state until it registers with the division under this part.
(2) A foreign limited liability partnership doing business in this state may not maintain an action or proceeding in this state unless it has registered to do business in this state.
(3) The failure of a foreign limited liability partnership to register to do business in this state does not impair the validity of a contract or act of the foreign limited liability partnership or preclude it from defending an action or proceeding in this state.
(4) A limitation on the liability of a partner of a foreign limited liability partnership is not waived solely because the foreign limited liability partnership does business in this state without registering to do business in this state.
(5) Subsections 48-1d-1201(1) and (2) apply even if a foreign limited liability partnership fails to register under this part.

Enacted by Chapter 412, 2013 General Session

48-1d-1203 Foreign registration statement.

To register to do business in this state, a foreign limited liability partnership must deliver a foreign registration statement to the division for filing. The statement must state:

(1) the name of the foreign limited liability partnership and, if the name does not comply with Section 48-1d-1105, an alternate name adopted pursuant to Subsection 48-1d-1206(1);
(2) that the limited liability partnership is a foreign limited liability partnership;
(3) the jurisdiction in which the foreign limited liability partnership's statement of qualification or equivalent filing is filed;
(4) the street and mailing addresses of the foreign limited liability partnership's principal office and, if the law of the jurisdiction in which the foreign limited liability partnership's statement of qualification or equivalent filing is filed requires the foreign limited liability partnership to maintain an office in that jurisdiction, the street and mailing addresses of the required office; and
(5) the information required by Subsection 16-17-203(1).

Enacted by Chapter 412, 2013 General Session

48-1d-1204 Amendment of foreign registration statement.

A registered foreign limited liability partnership shall deliver to the division for filing an amendment to its foreign registration statement if there is a change in:

(1) the name of the foreign limited liability partnership;
(2) the jurisdiction in which the foreign limited liability partnership's statement of qualification or equivalent filing is filed;
(3) an address required by Subsection 48-1d-1203(4); or
(4) the information required by Subsection 48-1d-1203(5).

Enacted by Chapter 412, 2013 General Session

48-1d-1205 Activities not constituting doing business.

(1) Activities of a foreign limited liability partnership which do not constitute doing business in this state under this part include:
  (a) maintaining, defending, mediating, arbitrating, and settling an action or proceeding;
  (b) carrying on any activity concerning its internal affairs, including meetings of its partners;
  (c) maintaining accounts in financial institutions;
  (d) maintaining offices or agencies for the transfer, exchange, and registration of securities of the foreign limited liability partnership or maintaining trustees or depositories with respect to those securities;
  (e) selling through independent contractors;
  (f) soliciting or obtaining orders by any means if the orders require acceptance outside this state before they become contracts;
  (g) creating or acquiring indebtedness, mortgages, or security interests in property;
  (h) securing or collecting debts or enforcing mortgages or security interests in property securing the debts, and holding, protecting, or maintaining property;
  (i) conducting an isolated transaction that is not in the course of similar transactions;
  (j) owning, without more, property; and
  (k) doing business in interstate commerce.
(2) A person does not do business in this state solely by being a partner of a foreign limited liability partnership that does business in this state.
(3) This section does not apply in determining the contacts or activities that may subject a foreign limited liability partnership to service of process, taxation, or regulation under law of this state other than this chapter.

Enacted by Chapter 412, 2013 General Session

48-1d-1206 Noncomplying name of foreign limited liability partnership.

(1) A foreign limited liability partnership whose name does not comply with Section 48-1d-1105 may not register to do business in this state until it adopts, for the purpose of doing business in this state, an alternate name that complies with Section 48-1d-1105. A registered foreign limited liability partnership that registers under an alternate name under this Subsection (1) need not comply with Title 42, Chapter 2, Conducting Business Under Assumed Name. After registering to do business in this state with an alternate name, a registered foreign partnership shall do business in this state under:
  (a) the alternate name;
  (b) the foreign limited liability partnership's name, with the addition of its jurisdiction in which the foreign limited liability partnership's statement of qualification or equivalent filing is filed; or
  (c) an assumed or fictitious name the foreign limited liability partnership is authorized to use under Title 42, Chapter 2, Conducting Business Under Assumed Name.
(2) If a registered foreign limited liability partnership changes its name to one that does not comply with Section 48-1d-1105, it may not do business in this state until it complies with Subsection (1) by amending its registration to adopt an alternate name that complies with Section 48-1d-1105.

Enacted by Chapter 412, 2013 General Session

48-1d-1207 Withdrawal deemed on conversion to domestic filing entity or domestic limited liability partnership.

A registered foreign limited liability partnership that converts to a domestic limited liability partnership or to a domestic entity that is organized, incorporated, or otherwise formed through the delivery of a record to the division for filing is deemed to have withdrawn its registration on the effective date of the conversion.

Enacted by Chapter 412, 2013 General Session

48-1d-1208 Withdrawal on dissolution or conversion to nonfiling entity other than limited liability partnership.

(1) A registered foreign limited liability partnership that has dissolved and completed winding up or has converted to a domestic or foreign entity that is not organized, incorporated, or otherwise formed through the public filing of a record, other than a limited liability partnership, shall deliver a statement of withdrawal to the division for filing. The statement must state:
  (a) in the case of a foreign limited liability partnership that has completed winding up:
    (i) its name and the jurisdiction in which the foreign limited liability partnership's statement of qualification is filed; and
    (ii) that the foreign limited liability partnership surrenders its registration to do business in this state; and
  (b) in the case of a foreign limited liability partnership that has converted:
    (i) the name of the converting foreign limited liability partnership and the jurisdiction in which its statement of qualification is filed;
    (ii) the type of entity to which the foreign limited liability partnership has converted and its jurisdiction of formation;
    (iii) that the converted entity surrenders the converting foreign limited liability partnership's registration to do business and revokes the authority of the converting foreign limited liability partnership's registered agent to act as registered agent in this state on behalf of the foreign limited liability partnership or the converted entity; and
    (iv) a mailing address to which service of process may be made under Subsection (2).
(2) After a withdrawal under this section of a foreign limited liability partnership that has converted to another type of entity is effective, service of process in any action or proceeding based on a cause of action arising during the time the foreign limited liability partnership was registered to do business in this state may be made pursuant to Subsection 16-17-301(2).

Enacted by Chapter 412, 2013 General Session

48-1d-1209 Transfer of registration.

(1) When a registered foreign limited liability partnership has merged into a foreign entity that is not registered to do business in this state or has converted to a foreign entity required to register with the division to do business in this state, the foreign entity shall deliver to the division for filing an application for transfer of registration. The application must state:
  (a) the name of the registered foreign limited liability partnership before the merger or conversion;
  (b) that before the merger or conversion the registration pertained to a foreign limited liability partnership;
  (c) the name of the applicant foreign entity into which the foreign limited liability partnership has merged or to which it has been converted, and, if the name does not comply with Section 48-1d-1105, an alternate name adopted pursuant to Subsection 48-1d-1206(1) or similar

provision of law of this state governing a foreign entity registered to do business in this state of the same type as the applicable foreign entity;

(d) the type of entity of the applicant foreign entity and its jurisdiction of formation;

(e) the street and mailing addresses of the principal office of the applicant foreign entity and, if the law of that entity's jurisdiction of formation requires the entity to maintain an office in that jurisdiction, the street and mailing addresses of that office; and

(f) the information required under Subsection 16-17-203(1).

(2) When an application for transfer of registration takes effect, the registration of the foreign limited liability partnership to do business in this state is transferred without interruption to the foreign entity into which the foreign limited liability partnership has merged or to which it has been converted.

Enacted by Chapter 412, 2013 General Session

48-1d-1210 Termination of registration.

(1) The division may terminate the registration of a registered foreign limited liability partnership in the manner provided in Subsections (2) and (3) if the foreign limited liability partnership does not:

(a) pay, not later than 60 days after the due date, any fee, tax, interest, or penalty required to be paid to the division under this chapter or law other than this chapter;

(b) deliver to the division for filing, not later than 60 days after the due date, the annual report required under Section 48-1d-1109;

(c) have a registered agent as required by Section 48-1d-1108; or

(d) deliver to the division for filing a statement of a change under Section 16-17-206 not later than 30 days after a change has occurred in the name or address of the registered agent.

(2) The division may terminate the registration of a registered foreign limited liability partnership by:

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

(b) delivering a copy of the notice or the information in the notation to the foreign limited liability partnership's registered agent, or if the foreign limited liability partnership does not have a registered agent, to the foreign limited liability partnership's principal office.

(3) A notice or information in a notation under Subsection (2) must include:

(a) the effective date of the termination, which must be at least 60 days after the date the division delivers the copy; and

(b) the grounds for termination under Subsection (1).

(4) The authority of a registered foreign limited liability partnership to do business in this state ceases on the effective date of the notice of termination or notation under Subsection (2), unless before that date the foreign limited liability partnership cures each ground for termination stated in the notice or notation. If the foreign limited liability partnership cures each ground, the division shall file a record so stating.

Enacted by Chapter 412, 2013 General Session

48-1d-1211 Withdrawal of registration of registered foreign limited liability partnership.

(1) A registered foreign limited liability partnership may withdraw its registration by delivering a statement of withdrawal to the division for filing. The statement of withdrawal must state:

(a) the name of the foreign limited liability partnership and the jurisdiction in which the foreign limited liability partnership's statement of qualification or equivalent filing is filed;

(b) that the foreign limited liability partnership is not doing business in this state and that it withdraws its registration to do business in this state;
(c) that the foreign limited liability partnership revokes the authority of its registered agent to accept service on its behalf in this state; and
(d) an address to which service of process may be made under Subsection (2).
(2) After the withdrawal of the registration of a foreign limited liability partnership, service of process in any action or proceeding based on a cause of action arising during the time the foreign limited liability partnership was registered to do business in this state may be made pursuant to Subsection 16-17-301(2).

Enacted by Chapter 412, 2013 General Session

48-1d-1212 Action by attorney general.

The attorney general may maintain an action to enjoin a foreign limited liability partnership from doing business in this state in violation of this part.

Enacted by Chapter 412, 2013 General Session

Part 13
Professional Services Limited Liability Partnerships

48-1d-1301 Definitions.

As used in this part:
(1) "Professional services partnership" means a limited liability partnership organized in accordance with this part to provide professional services.
(2) "Regulating board" means the entity organized pursuant to state law that licenses and regulates the practice of the profession that a limited liability partnership is organized to provide.

Enacted by Chapter 412, 2013 General Session

48-1d-1302 Application of this part.

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

Enacted by Chapter 412, 2013 General Session

48-1d-1303 Name limitations.

(1) The name of a domestic professional services partnership and of a foreign professional services partnership authorized to transact business in this state, in addition to complying with Sections 48-1d-1105 and 48-1d-1206:
(a) may not contain language stating or implying that it is formed for a purpose other than that authorized by Section 48-1d-1304; and
(b) must conform with any rule made by the regulating board having jurisdiction over a professional service to be rendered by the professional service partnership.
(2) Sections 48-1d-1105 and 48-1d-1206 do not prevent the use of a name otherwise prohibited by those sections if the name is:

(a) the personal name of an individual partner or individual former partner of the professional services partnership; or
(b) the name of an individual who was associated with a predecessor of the professional services partnership.

Enacted by Chapter 412, 2013 General Session

48-1d-1304 Providing a professional service.

(1) Subject to Section 48-1d-1305, a professional services partnership may provide a professional service in this state only through an individual licensed or otherwise authorized in this state to provide the professional service.
(2) Subsection (1) does not:
(a) require an individual employed by a professional services partnership to be licensed to perform a service for the professional services company if a license is not otherwise required;
(b) prohibit a licensed individual from providing a professional service in the individual's professional capacity although the individual is a partner, employee, or agent of a professional services partnership; or
(c) prohibit an individual licensed in another state from providing a professional service for a professional services partnership in this state if not prohibited by the regulating board.

Enacted by Chapter 412, 2013 General Session

48-1d-1305 Limit of one profession.

(1) A professional services partnership organized to provide a professional service under this part may provide only:
(a) one specific type of professional service; and
(b) services ancillary to the professional service described in Subsection (1)(a).
(2) A professional services partnership organized to provide a professional service under this part may not engage in a business other than to provide:
(a) the professional service that it was organized to provide; and
(b) services ancillary to the professional service described in Subsection (2)(a).
(3) Notwithstanding Subsections (1) and (2), a professional services partnership may:
(a) own real and personal property necessary or appropriate for providing the type of professional service it was organized to provide; and
(b) invest the professional services partnership's money in one or more of the following:
(i) real estate;
(ii) mortgages;
(iii) stocks;
(iv) bonds; or
(v) another type of investment.

Amended by Chapter 189, 2014 General Session

48-1d-1306 Activity limitations.

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

Enacted by Chapter 412, 2013 General Session

48-1d-1307 This part does not limit regulating board.

This part does not restrict the authority or duty of a regulating board to license an individual providing a professional service or the practice of the profession that is within the jurisdiction of the regulating board, notwithstanding that the individual:

(1) is a partner or employee of a professional services partnership; or

(2) provides the professional service or engages in the practice of the profession through a professional services partnership.

Enacted by Chapter 412, 2013 General Session

48-1d-1308 Partner of a professional services partnership.

A professional services partnership organized to provide a professional service:

(1) may include a partner or employee who is authorized under the laws of the jurisdiction where the partner or employee resides to provide a similar professional service;

(2) may include a partner who is not licensed or registered by the state to provide the professional service to the extent allowed by the applicable licensing or registration act relating to the professional service; and

(3) may render a professional service in this state only through a partner or employee who is licensed or registered by this state to render the professional service.

Enacted by Chapter 412, 2013 General Session

48-1d-1309 Restriction on transfer by partner.

(1) Except as provided in Subsections (2) and (3), a partner of a professional services partnership may sell or transfer the partner's interest in the professional services partnership only to:

(a) the professional services partnership; 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 partnership is organized, or who otherwise satisfies the requirements of Subsection 48-1d-1308(1) or (2).

(2) Upon the death or incapacity of a partner of a professional services partnership, the partner's interest in the professional services partnership may be transferred to the personal representative or estate of the deceased or incapacitated partner.

(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.

Enacted by Chapter 412, 2013 General Session

Superseded 7/1/2024

48-1d-1310 Purchase of interest upon death, incapacity, or disqualification of member.

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

(a) the partnership agreement; or

(b) a private agreement.

(2) In the absence of a provision described in Subsection (1), a professional services partnership shall purchase the interest of a partner who is deceased, incapacitated, or no longer qualified to own an interest in the professional services partnership within 90 days after the day on which the professional services partnership is notified of the death, incapacity, or disqualification.
(3) If a professional services partnership purchases a partner's interest under Subsection (2), the professional services company shall purchase the interest at a price that is the reasonable fair market value as of the date of death, incapacity, or disqualification.
(4) If a professional services partnership fails to purchase a partner's interest as required by Subsection (2) at the end of the 90-day period described in Subsection (2), one of the following may bring an action in the district court of the county in which the principal office or place of practice of the professional services partnership is located to enforce Subsection (2):
  (a) the personal representative of a deceased partner;
  (b) the guardian or conservator of an incapacitated partner; or
  (c) the disqualified partner.
(5) A court in which an action is brought under Subsection (4) may:
  (a) award the person bringing the action the reasonable fair market value of the interest; or
  (b) within its jurisdiction, order the liquidation of the professional services partnership.
(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.

Enacted by Chapter 412, 2013 General Session

Effective 7/1/2024

48-1d-1310 Purchase of interest upon death, incapacity, or disqualification of member.

(1) Subject to this part, one or more of the following may provide for the purchase of a partner's interest in a professional services partnership upon the death, incapacity, or disqualification of the partner:
  (a) the partnership agreement; or
  (b) a private agreement.
(2) In the absence of a provision described in Subsection (1), a professional services partnership shall purchase the interest of a partner who is deceased, incapacitated, or no longer qualified to own an interest in the professional services partnership within 90 days after the day on which the professional services partnership is notified of the death, incapacity, or disqualification.
(3) If a professional services partnership purchases a partner's interest under Subsection (2), the professional services company shall purchase the interest at a price that is the reasonable fair market value as of the date of death, incapacity, or disqualification.
(4) If a professional services partnership fails to purchase a partner's interest as required by Subsection (2) at the end of the 90-day period described in Subsection (2), the following persons may bring an action in a court with jurisdiction under Title 78A, Judiciary and Judicial Administration, to enforce Subsection (2):
  (a) the personal representative of a deceased partner;
  (b) the guardian or conservator of an incapacitated partner; or
  (c) the disqualified partner.
(5) A court in which an action is brought under Subsection (4) may:
  (a) award the person bringing the action the reasonable fair market value of the interest; or
  (b) within the court's jurisdiction, order the liquidation of the professional services partnership.
(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.

Amended by Chapter 401, 2023 General Session

Part 14
Miscellaneous Provisions

48-1d-1401 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 subject matter among states that enact the uniform act upon which this chapter is based.

Enacted by Chapter 412, 2013 General Session

48-1d-1402 Severability clause.

If any provision of this chapter or its 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.

Enacted by Chapter 412, 2013 General Session

48-1d-1403 Relation to Electronic Signatures in Global and National Commerce Act.

This chapter modifies, limits, and supersedes the Electronic Signatures in Global and National Commerce Act, 15 U.S.C. Sec. 7001 et seq., but this chapter does not modify, limit, or supersede Sec. 101(c) of that act, 15 U.S.C. Sec. 7001(c), or authorize electronic delivery of any of the notices described in Sec. 103(b) of that act, 15 U.S.C. Sec. 7003(b).

Enacted by Chapter 412, 2013 General Session

48-1d-1404 Savings clause.

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

Enacted by Chapter 412, 2013 General Session

48-1d-1405 Application to existing relationships.

(1) Before January 1, 2016, this chapter governs only:
  (a) a partnership formed on or after January 1, 2014; and
  (b) except as otherwise provided in Subsection (3), a partnership formed before January 1, 2014, which elects, in the manner provided in its partnership agreement or by law for amending the partnership agreement, to be subject to this chapter.
(2) Except as otherwise provided in Subsection (3), on and after January 1, 2016, this chapter governs all partnerships.
(3) With respect to a partnership that elects pursuant to Subsection (1)(b) to be subject to this chapter, after the election takes effect the provisions of this chapter relating to the liability of the partnership's partners to third parties apply:

(a) before January 1, 2016, to:
(i) a third party that had not done business with the partnership in the year before the election took effect; and
(ii) a third party that had done business with the partnership in the year before the election took effect only if the third party knows or has received a notification of the election; and
(b) on and after January 1, 2016, to all third parties, but those provisions remain inapplicable to any obligation incurred while those provisions were inapplicable under Subsection (3)(a)(ii).

Enacted by Chapter 412, 2013 General Session

Chapter 2e
Utah Uniform Limited Partnership Act

Part 1
General Provisions

48-2e-101 Title.

This chapter is known as the "Utah Uniform Limited Partnership Act."

Enacted by Chapter 412, 2013 General Session

48-2e-102 Definitions.

As used in this chapter:
(1) "Certificate of limited partnership" means the certificate required by Section 48-2e-201. The term includes the certificate as amended or restated.
(2) "Contribution," except in the phrase "right of contribution," means property or a benefit described in Section 48-2e-501 which is provided by a person to a limited partnership to become a partner or in the person's capacity as a partner.
(3) "Debtor in bankruptcy" means a person that is the subject of:
(a) an order for relief under Title 11 of the United States Code or a comparable order under a successor statute of general application; or
(b) a comparable order under federal, state, or foreign law governing insolvency.
(4) "Distribution" means a transfer of money or other property from a limited partnership to a person on account of a transferable interest or in the person's capacity as a partner. The term:
(a) includes:
(i) a redemption or other purchase by a limited partnership of a transferable interest; and
(ii) a transfer to a partner in return for the partner's relinquishment of any right to participate as a partner in the management or conduct of the limited partnership's activities and affairs or to have access to records or other information concerning the limited partnership's activities and affairs; and
(b) does not include amounts constituting reasonable compensation for present or past service or payments made in the ordinary course of business under a bona fide retirement plan or other bona fide benefits program.
(5) "Division" means the Division of Corporations and Commercial Code.

(6) "Foreign limited liability limited partnership" means a foreign limited partnership whose general partners have limited liability for the debts, obligations, or other liabilities of the foreign limited partnership under a provision similar to Subsection 48-2e-404(3).
(7) "Foreign limited partnership" means an unincorporated entity formed under the law of a jurisdiction other than this state which would be a limited partnership if formed under the law of this state. The term includes a foreign limited liability limited partnership.
(8) "General partner" means a person that:
(a) has become a general partner under Section 48-2e-401 or was a general partner in a limited partnership when the limited partnership became subject to this chapter under Section 48-2e-1205; and
(b) has not dissociated as a general partner under Section 48-2e-603.
(9) "Jurisdiction," used to refer to a political entity, means the United States, a state, a foreign country, or a political subdivision of a foreign country.
(10) "Jurisdiction of formation" means, with respect to an entity, the jurisdiction:
(a) under whose law the entity is formed; or
(b) in the case of a limited liability partnership or foreign limited liability partnership, in which the partnership's statement of qualification is filed.
(11) "Limited liability limited partnership," except in the phrase "foreign limited liability limited partnership," means a limited partnership whose certificate of limited partnership states that the partnership is a limited liability limited partnership.
(12) "Limited partner" means a person that:
(a) has become a limited partner under Section 48-2e-301 or was a limited partner in a limited partnership when the limited partnership became subject to this chapter under Section 48-2e-1205; and
(b) has not dissociated under Section 48-2e-601.
(13) "Limited partnership" means an entity formed under this chapter or which becomes subject to this chapter under Part 11, Merger, Interest Exchange, Conversion, and Domestication, or Section 48-2e-1205. The term includes a limited liability limited partnership.
(14) "Partner" means a limited partner or general partner.
(15) "Partnership agreement" means the agreement, whether or not referred to as a partnership agreement, and whether oral, implied, in a record, or in any combination thereof, of all the partners of a limited partnership concerning the matters described in Subsection 48-2e-112(1). The term includes the agreement as amended or restated.
(16) "Person" means an individual, business corporation, nonprofit corporation, partnership, limited partnership, limited liability company, limited cooperative association, unincorporated nonprofit association, statutory trust, business trust, common-law business trust, estate, trust, association, joint venture, public corporation, government or governmental subdivision, agency, or instrumentality, or any other legal or commercial entity.
(17) "Principal office" means the principal executive office of a limited partnership or foreign limited partnership, whether or not the office is located in this state.
(18) "Property" means all property, whether real, personal, or mixed or tangible or intangible, or any right or interest therein.
(19) "Record," used as a noun, means information that is inscribed on a tangible medium or that is stored in an electronic or other medium and is retrievable in perceivable form.
(20) "Registered agent" means an agent of a limited partnership or foreign limited partnership which is authorized to receive service of any process, notice, or demand required or permitted by law to be served on the limited partnership.

(21) "Registered foreign limited partnership" means a foreign limited partnership that is registered to do business in this state pursuant to a statement of registration filed by the division.
(22) "Required information" means the information that a limited partnership is required to maintain under Section 48-2e-115.
(23) "Sign" means, with present intent to authenticate or adopt a record:
(a) to execute or adopt a tangible symbol; or
(b) to attach to or logically associate with the record an electronic symbol, sound, or process.
(24) "State" means a state of the United States, the District of Columbia, Puerto Rico, the United States Virgin Islands, or any territory or insular possession subject to the jurisdiction of the United States.
(25) "Transfer" includes:
(a) an assignment;
(b) a conveyance;
(c) a sale;
(d) a lease;
(e) an encumbrance, including a mortgage or security interest;
(f) a gift; and
(g) a transfer by operation of law.
(26) "Transferable interest" means the right, as initially owned by a person in the person's capacity as a partner, to receive distributions from a limited partnership in accordance with the partnership agreement, whether or not the person remains a partner or continues to own any part of the right. The term applies to any fraction of the interest, by whomever owned.
(27) "Transferee" means a person to which all or part of a transferable interest has been transferred, whether or not the transferor is a partner. The term includes a person that owns a transferable interest under Subsection 48-2e-602(1)(c) or 48-2e-605(1)(d).
(28) "Tribal limited partnership" means a limited partnership:
(a) formed under the law of a tribe; and
(b) that is at least 51% owned or controlled by the tribe under whose law the limited partnership is formed.
(29) "Tribe" means a tribe, band, nation, pueblo, or other organized group or community of Indians, including an Alaska Native village, that is legally recognized as eligible for and is consistent with a special program, service, or entitlement provided by the United States to Indians because of their status as Indians.

Enacted by Chapter 412, 2013 General Session

48-2e-103 Knowledge -- Notice.
(1) A person knows a fact if the person:
(a) has actual knowledge of it; or
(b) is deemed to know it under law other than this chapter.
(2) A person has notice of a fact if the person:
(a) has reason to know the fact from all of the facts known to the person at the time in question; or
(b) is deemed to have notice of the fact under Subsection (3) or (4).
(3) A certificate of limited partnership on file in the office of the division is notice that the partnership is a limited partnership and the persons designated in the certificate as general partners are general partners. Except as otherwise provided in Subsection (4), the certificate is not notice of any other fact.

(4) A person not a partner is deemed to have notice of:
(a) another person's dissociation as a general partner 90 days after the effective date of an amendment to the certificate of limited partnership which states that the other person has dissociated or 90 days after the effective date of a statement of dissociation pertaining to the other person, whichever occurs first;
(b) a limited partnership's:
(i) dissolution 90 days after an amendment to the certificate of limited partnership stating that the limited partnership becomes effective;
(ii) termination 90 days after a statement of termination under Subsection 48-2e-802(2)(b)(vi) becomes effective;
(iii) participation in a merger, interest exchange, conversion, or domestication 90 days after a statement of merger, interest exchange, conversion, or domestication under Part 11, Merger, Interest Exchange, Conversion, and Domestication, becomes effective; and
(iv) abandonment of a merger, interest exchange, conversion, or domestication 90 days after a statement of abandonment of merger, interest exchange, conversion, or domestication under Part 11, Merger, Interest Exchange, Conversion, and Domestication, becomes effective.
(5) Subject to Subsection 48-2e-209(6), a person notifies another person of a fact by taking steps reasonably required to inform the other person in ordinary course, whether or not those steps cause the other person to know the fact.
(6) A general partner's knowledge or notice of a fact relating to the limited partnership is effective immediately as knowledge of or notice to the limited partnership, except in the case of a fraud on the limited partnership committed by or with the consent of the general partner. A limited partner's knowledge or notice of a fact relating to the limited partnership is not effective as knowledge of or notice to the limited partnership.

Enacted by Chapter 412, 2013 General Session

48-2e-104 Nature, purpose, and duration of limited partnership.
(1) A limited partnership is an entity distinct from its partners. A limited partnership is the same entity regardless of whether its certificate states that the limited partnership is a limited liability limited partnership.
(2) A limited partnership may have any lawful purpose, regardless of whether for profit.
(3) A limited partnership has perpetual duration.

Enacted by Chapter 412, 2013 General Session

48-2e-105 Powers.
A limited partnership has the capacity to sue and be sued in its own name and the power to do all things necessary or convenient to carry on its activities and affairs.

Enacted by Chapter 412, 2013 General Session

48-2e-106 Governing law.
The law of this state governs:
(1) the internal affairs of a limited partnership; and
(2) the liability of a partner as partner for the debts, obligations, or other liabilities of a limited partnership.

Enacted by Chapter 412, 2013 General Session

48-2e-107 Supplemental principles of law.

Unless displaced by particular provisions of this chapter, the principles of law and equity supplement this chapter.

Enacted by Chapter 412, 2013 General Session

48-2e-108 Permitted names.

(1) The name of a limited partnership may contain the name of any partner.
(2) The name of a limited partnership that is not a limited liability limited partnership shall contain the words "limited partnership" or the abbreviation "L.P." or "LP" and may not contain the words "limited liability limited partnership" or the abbreviation "L.L.L.P." or "LLLP".
(3) The name of a limited liability limited partnership shall contain the words "limited liability limited partnership" or the abbreviation "LLLP" or "L.L.L.P." and may not contain the abbreviation "L.P." or "LP".
(4) Except as otherwise provided in Subsection (7), the name of a limited partnership, and the name under which a foreign limited partnership may register to do business in this state, shall be distinguishable on the records of the division from:
  (a) the name of an existing person whose formation required the filing of a record by the division;
  (b) the name of a limited liability partnership;
  (c) the name of a person that is registered to do business in this state by the filing of a record by the division;
  (d) each name reserved under Section 48-2e-109 or other law of this state providing for the reservation of a name by the filing of a record by the division;
  (e) each name registered under Section 48-2e-110 or other law of this state providing for the registration of a name by the filing of a record by the division; or
  (f) an assumed name registered under Title 42, Chapter 2, Conducting Business Under Assumed Name.
(5) If a person consents in a record to the use of the person's name and submits an undertaking in a form satisfactory to the division to change the person's name to a name that is distinguishable on the records of the division from any name in any category of names in Subsection (4), the name of the consenting person may be used by the person to which the consent was given.
(6) Except as otherwise provided in Subsection (7), in determining whether a name is the same as or not distinguishable on the records of the division from the name of another entity, words, phrases, or abbreviations indicating the type of entity, such as "corporation", "corp.", "incorporated", "Inc.", "professional corporation", "PC", "P.C.", "professional association", "PA", "P.A.", "Limited", "Ltd.", "limited partnership", "LP", "L.P.", "limited liability partnership", "LLP", "L.L.P.", "registered limited liability partnership", "RLLP", "R.L.L.P.", "limited liability limited partnership", "LLLP", "L.L.L.P.", "registered limited liability limited partnership", "RLLLP", "R.L.L.L.P.", "limited liability company", "LLC", "L.L.C.", "professional limited liability company", "PLLC", or "P.L.L.C.", may not be taken into account.
(7) A person may consent in a record to the use of a name that is not distinguishable on the records of the division from the person's name except for the addition of a word, phrase, or abbreviation indicating the type of person as provided in Subsection (6). In such a case, the person is not required to change the person's name pursuant to Subsection (5).

(8) The division may not approve for filing a name that implies that a limited partnership is an agency of this state or any of the state's political subdivisions, if the limited partnership is not actually such a legally established agency or subdivision.
(9) The authorization to file a certificate under or to reserve or register a limited partnership name as granted by the division does not:
  (a) abrogate or limit the law governing unfair competition or unfair trade practices;
  (b) derogate from the common law, the principles of equity, or the statutes of this state or of the United States with respect to the right to acquire and protect names and trademarks; or
  (c) create an exclusive right in geographic or generic terms contained within a name.
(10) The name of a limited partnership or foreign limited partnership may not contain:
  (a) the words:
    (i) "association";
    (ii) "corporation";
    (iii) "incorporated";
    (iv) "limited liability company"; or
    (v) "limited company";
  (b) any word or abbreviation that is of like import to the words listed in Subsection (10)(a);
  (c) without the written consent of the United States Olympic Committee, the words:
    (i) "Olympic";
    (ii) "Olympiad"; or
    (iii) "Citius Altius Fortius"; or
  (d) for a limited partnership that changes the limited partnership's name or is formed on or after May 4, 2022, the number sequence "911."

Amended by Chapter 458, 2023 General Session

48-2e-109 Reservation of name.
(1) A person may reserve the exclusive use of a name that complies with Section 48-2e-108 by delivering an application to the division for filing. The application must state the name and address of the applicant and the name to be reserved. If the division finds that the name is available, the division shall reserve the name for the applicant's exclusive use for 120 days.
(2) The owner of a reserved name may transfer the reservation to another person by delivering to the division a signed notice in a record of the transfer which states the name and address of the transferee.

Enacted by Chapter 412, 2013 General Session

48-2e-110 Registration of name.
(1) A foreign limited partnership not registered to do business in this state under Part 9, Foreign Limited Partnerships, may register its name, or an alternate name adopted pursuant to Section 48-2e-906, if the name is distinguishable on the records of the division from the names that are not available under Section 48-2e-108.
(2) To register its name or an alternate name adopted pursuant to Section 48-2e-906, a foreign limited partnership must deliver to the division for filing an application stating the foreign limited partnership's name, the jurisdiction and date of its formation, and any alternate name adopted pursuant to Section 48-2e-906. If the division finds that the name applied for is available, the division shall register the name for the applicant's exclusive use.

(3) The registration of a name under this section is effective for one year after the date of registration.
(4) A foreign limited partnership whose name registration is effective may renew the registration for successive one-year periods by delivering, not earlier than three months before the expiration of the registration, to the division for filing a renewal application that complies with this section. When filed, the renewal application renews the registration for a succeeding one-year period.
(5) A foreign limited partnership whose name registration is effective may register as a foreign limited partnership under the registered name or consent in a signed record to the use of that name by another person that is not an individual.

Enacted by Chapter 412, 2013 General Session

48-2e-111 Registered agent.
(1) Each limited partnership and each registered foreign limited partnership shall designate in accordance with Section 16-17-203(1) and maintain a registered agent in this state.
(2) A limited partnership or registered foreign limited partnership may change its registered agent or the address of its registered agent by filing with the division a statement of change in accordance with Section 16-17-206.

Enacted by Chapter 412, 2013 General Session

48-2e-112 Partnership agreement -- Scope, function, and limitations.
(1) Except as otherwise provided in Subsections (3) and (4), the partnership agreement governs:
  (a) relations among the partners as partners and between the partners and the limited partnership;
  (b) the activities and affairs of the limited partnership and the conduct of those activities and affairs; and
  (c) the means and conditions for amending the partnership agreement.
(2) To the extent the partnership agreement does not provide for a matter described in Subsection (1), this chapter governs the matter.
(3) A partnership agreement may not:
  (a) vary a limited partnership's capacity under Section 48-2e-105 to sue and be sued in its own name;
  (b) vary the law applicable under Section 48-2e-106;
  (c) vary any requirement, procedure, or other provision of this chapter pertaining to:
    (i) registered agents; or
    (ii) the division, including provisions pertaining to records authorized or required to be delivered to the division for filing under this chapter;
  (d) vary the provisions of Section 48-2e-204;
  (e) vary the right of a general partner under Subsection 48-2e-406(2)(b) to vote on or consent to an amendment to the certificate of limited partnership which deletes a statement that the limited partnership is a limited liability limited partnership;
  (f) eliminate the duty of loyalty or the duty of care except as otherwise provided in Subsection (4);
  (g) eliminate the contractual obligation of good faith and fair dealing under Subsections 48-2e-305(1) and 48-2e-409(4), but the partnership agreement may prescribe the standards, if not unconscionable or against public policy, by which the performance of the obligation is to be measured;

(h) relieve or exonerate a person from liability for conduct involving bad faith, willful misconduct, or recklessness;
(i) vary the information required under Section 48-2e-115 or unreasonably restrict the duties and rights under Section 48-2e-304 or 48-2e-407, but the partnership agreement may impose reasonable restrictions on the availability and use of information obtained under those sections and may define appropriate remedies, including liquidated damages, for a breach of any reasonable restriction on use;
(j) vary the power of a person to dissociate as a general partner under Subsection 48-2e-604(1) except to require that the notice under Subsection 48-2e-603(1) be in a record;
(k) vary the causes of dissolution specified in Subsection 48-2e-801(1)(f);
(l) vary the requirement to wind up the limited partnership's activities and affairs as specified in Subsections 48-2e-802(1), (2)(a), and (4);
(m) unreasonably restrict the right of a partner to maintain an action under Part 10, Actions by Partners;
(n) vary the provisions of Section 48-2e-1005, but the partnership agreement may provide that the limited partnership may not have a special litigation committee;
(o) vary the right of a partner to approve a merger, interest exchange, conversion, or domestication under Subsection 48-2e-1123(1)(b), 48-2e-1133(1)(b), 48-2e-1143(1)(b), or 48-2e-1153(1)(b); or
(p) except as otherwise provided in Section 48-2e-113 and Subsection 48-2e-114(2), restrict the rights under this chapter of a person other than a partner.

(4) Subject to Subsection (3)(h), without limiting other terms that may be included in a partnership agreement, the following rules apply:
(a) The partnership agreement may specify the method by which a specific act or transaction that would otherwise violate the duty of loyalty may be authorized or ratified by one or more disinterested and independent persons after full disclosure of all material facts.
(b) If not unconscionable or against public policy, the partnership agreement may:
(i) alter or eliminate the aspects of the duty of loyalty stated in Subsection 48-2e-409(2);
(ii) identify specific types or categories of activities that do not violate the duty of loyalty;
(iii) alter the duty of care, but may not authorize intentional misconduct or knowing violation of law; and
(iv) alter or eliminate any other fiduciary duty.

(5) The court shall decide as a matter of law whether a term of a partnership agreement is unconscionable or against public policy under Subsection (3)(g) or (4)(b). The court:
(a) shall make its determination as of the time the challenged term became part of the partnership agreement and by considering only circumstances existing at that time; and
(b) may invalidate the term only if, in light of the purposes, activities, and affairs of the limited partnership, it is readily apparent that:
(i) the objective of the term is unconscionable or against public policy; or
(ii) the means to achieve the term's objective is unconscionable or against public policy.

Enacted by Chapter 412, 2013 General Session

48-2e-113 Partnership agreement -- Effect on limited partnership and person becoming partner -- Preformation agreement.

(1) A limited partnership is bound by and may enforce the partnership agreement, whether or not the limited partnership has itself manifested assent to the partnership agreement.

(2) A person that becomes a partner of a limited partnership is deemed to assent to the partnership agreement.
(3) Two or more persons intending to become the initial partners of a limited partnership may make an agreement providing that upon the formation of the limited partnership the agreement will become the limited partnership agreement.

Enacted by Chapter 412, 2013 General Session

48-2e-114 Partnership agreement -- Effect on third parties and relationship to records effective on behalf of limited partnership.

(1) A partnership agreement may specify that its amendment requires the approval of a person that is not a party to the partnership agreement or the satisfaction of a condition. An amendment is ineffective if its adoption does not include the required approval or satisfy the specified condition.
(2) The obligations of a limited partnership and its partners to a person in the person's capacity as a transferee or person dissociated as a partner are governed by the partnership agreement. Subject only to a court order issued under Subsection 48-2e-703(2)(b) to effectuate a charging order, an amendment to the partnership agreement made after a person becomes a transferee or is dissociated as a partner:
  (a) is effective with regard to any debt, obligation, or other liability of the limited partnership or its partners to the person in the person's capacity as a transferee or person dissociated as a partner; and
  (b) is not effective to the extent the amendment imposes a new debt, obligation, or other liability on the transferee or person dissociated as a partner.
(3) If a record delivered by a limited partnership to the division for filing becomes effective and contains a provision that would be ineffective under Subsection 48-2e-112(3) or (4)(b) if contained in the partnership agreement, the provision is ineffective in the record.
(4) Subject to Subsection (3), if a record delivered by a limited partnership to the division for filing becomes effective and conflicts with a provision of the partnership agreement:
  (a) the partnership agreement prevails as to partners, persons dissociated as partners, and transferees; and
  (b) the record prevails as to other persons to the extent they reasonably rely on the record.

Enacted by Chapter 412, 2013 General Session

48-2e-115 Required information.

A limited partnership shall maintain at its principal office the following information:
(1) a current list showing the full name and last known street and mailing address of each partner, separately identifying the general partners, in alphabetical order, and the limited partners, in alphabetical order;
(2) a copy of the initial certificate of limited partnership and all amendments to and restatements of the certificate, together with signed copies of any powers of attorney under which any certificate, amendment, or restatement has been signed;
(3) a copy of any filed statement of merger, interest exchange, conversion, or domestication;
(4) a copy of the limited partnership's federal, state, and local income tax returns and reports, if any, for the three most recent years;
(5) a copy of any partnership agreement made in a record and any amendment made in a record to any partnership agreement;

(6) a copy of any financial statement of the limited partnership for the three most recent years;
(7) a copy of the three most recent annual reports delivered by the limited partnership to the division pursuant to Section 48-2e-212;
(8) a copy of any record made by the limited partnership during the past three years of any consent given by or vote taken of any partner pursuant to this chapter or the partnership agreement; and
(9) unless contained in a partnership agreement made in a record, a record stating:
  (a) a description and statement of the agreed value of contributions other than money made and agreed to be made by each partner;
  (b) the times at which, or events on the happening of which, any additional contributions agreed to be made by each partner are to be made;
  (c) for any person that is both a general partner and a limited partner, a specification of what transferable interest the person owns in each capacity; and
  (d) any events upon the happening of which the limited partnership is to be dissolved and its activities and affairs wound up.

Enacted by Chapter 412, 2013 General Session

48-2e-116 Dual capacity.

A person may be both a general partner and a limited partner. A person that is both a general and limited partner has the rights, powers, duties, and obligations provided by this chapter and the partnership agreement in each of those capacities. When the person acts as a general partner, the person is subject to the obligations, duties, and restrictions under this chapter and the partnership agreement for general partners. When the person acts as a limited partner, the person is subject to the obligations, duties, and restrictions under this chapter and the partnership agreement for limited partners.

Enacted by Chapter 412, 2013 General Session

48-2e-117 Delivery of record.

(1) Except as otherwise provided in this chapter, permissible means of delivery of a record include delivery by hand, the United States Postal Service, a commercial delivery service, and electronic transmission.
(2) Delivery to the division is effective only when a record is received by the division.

Enacted by Chapter 412, 2013 General Session

48-2e-118 Reservation of power to amend or repeal.

The Legislature of this state has power to amend or repeal all or part of this chapter at any time, and all domestic and foreign limited partnerships subject to this chapter are governed by the amendment or repeal.

Enacted by Chapter 412, 2013 General Session

Part 2
Formation -- Certificate of Limited Partnership and Other Filings

48-2e-201 Formation of limited partnership -- Certificate of limited partnership.

(1) To form a limited partnership, a person must deliver a certificate of limited partnership to the division for filing.

(2) The certificate of limited partnership must state:

(a) the name of the limited partnership, which must comply with Section 48-2e-108;

(b) the street and mailing address of the limited partnership's principal office;

(c) the information required by Subsection 16-17-203(1);

(d) the name and the street and mailing addresses of each general partner; and

(e) whether the limited partnership is a limited liability limited partnership.

(3) A certificate of limited partnership may contain statements as to matters other than those required by Subsection (2), but may not vary or otherwise affect the provisions specified in Subsection 48-2e-112(3) in a manner inconsistent with that Subsection (2).

(4) A limited partnership is formed when:

(a) the certificate of limited partnership has become effective;

(b) at least two persons have become partners;

(c) at least one person has become a general partner; and

(d) at least one person has become a limited partner.

Enacted by Chapter 412, 2013 General Session

48-2e-202 Amendment of restatement of certificate of limited partnership.

(1) A certificate of limited partnership may be amended or restated at any time.

(2) To amend its certificate of limited partnership, a limited partnership must deliver to the division for filing an amendment stating:

(a) the name of the limited partnership;

(b) the date of filing of its initial certificate of limited partnership; and

(c) the changes the amendment makes to the certificate of limited partnership as most recently amended or restated.

(3) To restate its certificate of limited partnership, a limited partnership must deliver to the division for filing a restatement designated as such in its heading.

(4) A limited partnership shall promptly deliver to the division for filing an amendment to a certificate of limited partnership to reflect:

(a) the admission of a new general partner;

(b) the dissociation of a person as a general partner; or

(c) the appointment of a person to wind up the limited partnership's activities and affairs under Subsection 48-2e-802(3) or (4).

(5) If a general partner knows that any information in a filed certificate of limited partnership was inaccurate when the certificate of limited partnership was filed or has become inaccurate due to changed circumstances, the general partner shall promptly:

(a) cause the certificate of limited partnership to be amended; or

(b) if appropriate, deliver to the division for filing a statement of change under Section 16-17-206 or a statement of correction under Section 48-2e-208.

Enacted by Chapter 412, 2013 General Session

48-2e-203 Signing of records to be delivered for filing to division.

(1) A record delivered to the division for filing pursuant to this chapter must be signed as follows:

(a) An initial certificate of limited partnership must be signed by all general partners listed in the certificate of limited partnership.
(b) An amendment to the certificate of limited partnership adding or deleting a statement that the limited partnership is a limited liability limited partnership must be signed by all general partners listed in the certificate of limited partnership.
(c) An amendment to the certificate of limited partnership designating as general partner a person admitted under Subsection 48-2e-801(1)(c)(ii) following the dissociation of a limited partnership's last general partner must be signed by that person.
(d) An amendment to the certificate of limited partnership required by Subsection 48-2e-802(3) following the appointment of a person to wind up the dissolved limited partnership's activities and affairs must be signed by that person.
(e) Any other amendment to the certificate of limited partnership must be signed by:
(i) at least one general partner listed in the certificate of limited partnership;
(ii) each other person designated in the amendment as a new general partner; and
(iii) each person that the amendment indicates has dissociated as a general partner, unless:
(A) the person is deceased or a guardian or general conservator has been appointed for the person and the amendment so states; or
(B) the person has previously delivered to the division for filing a statement of dissociation.
(f) A restated certificate of limited partnership must be signed by at least one general partner listed in the certificate of limited partnership, and, to the extent the restated certificate of limited partnership effects a change under any other subsection of this section, the certificate of limited partnership must be signed in a manner that satisfies that subsection.
(g) A statement of termination must be signed by all general partners listed in the certificate of limited partnership or, if the certificate of a dissolved limited partnership lists no general partners, by the person appointed pursuant to Subsection 48-2e-802(3) or (4) to wind up the dissolved limited partnership's activities and affairs.
(h) Any other record delivered by a limited partnership to the division for filing must be signed by at least one general partner listed in the certificate of limited partnership.
(i) A statement by a person pursuant to Subsection 48-2e-605(1)(c) stating that the person has dissociated as a general partner must be signed by that person.
(j) A statement of negation by a person pursuant to Subsection 48-2e-306(1)(b) must be signed by that person.
(k) A record delivered on behalf of a foreign limited partnership to the division for filing must be signed by at least one general partner of the foreign limited partnership.
(l) Any other record delivered on behalf of any person to the division for filing must be signed by that person.
(2) Any record filed under this chapter may be signed by an agent. Whenever this chapter requires a particular individual to sign a record and the individual is deceased or incompetent, the record may be signed by a legal representative of the individual.
(3) A person that signs a record as an agent or legal representative thereby affirms as a fact that the person is authorized to sign the record.

Enacted by Chapter 412, 2013 General Session

Superseded 7/1/2024
48-2e-204 Signing and filing pursuant to judicial order.

(1) If a person required by this chapter to sign a record or deliver a record to the division for filing under this chapter does not do so, any other person that is aggrieved may petition the district court to order:
  (a) the person to sign the record;
  (b) the person to deliver the record to the division for filing; or
  (c) the division to file the record unsigned.
(2) If the petitioner under Subsection (1) is not the limited partnership or foreign limited partnership to which the record pertains, the petitioner shall make the limited partnership or foreign limited partnership a party to the action.
(3) A record filed under Subsection (1)(c) is effective without being signed.

Enacted by Chapter 412, 2013 General Session

Effective 7/1/2024
48-2e-204 Signing and filing pursuant to judicial order.
(1) If a person required by this chapter to sign a record or deliver a record to the division for filing under this chapter does not do so, any other person that is aggrieved may petition a court with jurisdiction under Title 78A, Judiciary and Judicial Administration, to order:
  (a) the person to sign the record;
  (b) the person to deliver the record to the division for filing; or
  (c) the division to file the record unsigned.
(2) If the petitioner under Subsection (1) is not the limited partnership or foreign limited partnership to which the record pertains, the petitioner shall make the limited partnership or foreign limited partnership a party to the action.
(3) A record filed under Subsection (1)(c) is effective without being signed.

Amended by Chapter 401, 2023 General Session

48-2e-205 Filing requirements.
(1) To be filed by the division pursuant to this chapter, a record must be received by the division, comply with this chapter, and satisfy the following:
  (a) The filing of the record must be required or permitted by this chapter.
  (b) The record must be physically delivered in written form unless and to the extent the division permits electronic delivery of records.
  (c) The record must be typewritten or computer generated.
  (d) The words in the record must be in English, and numbers must be in Arabic or Roman numerals, but the name of an entity need not be in English if written in English letters or Arabic or Roman numerals.
  (e) The record must be signed by a person authorized under this chapter to sign the record.
  (f) The record must state the name and capacity, if any, of each individual who signed it, either on behalf of the individual or the person authorized or required to sign the record, but need not contain a seal, attestation, acknowledgment, or verification.
(2) If law other than this chapter prohibits the disclosure by the division of information contained in a record delivered to the division for filing, the division shall accept the record if the record otherwise complies with this chapter but the division may redact the information.
(3) When a record is delivered to the division for filing, any fee required under this chapter and any fee, tax, interest, or penalty required to be paid under this chapter, or law other than this chapter, must be paid in a manner permitted by the division or by that law.

(4) The division may require that a record delivered in written form be accompanied by an identical or conformed copy.

Amended by Chapter 227, 2015 General Session

48-2e-206 Effective time and date.

Except as otherwise provided in Section 48-2e-207 and subject to Subsection 48-2e-208(4), a record filed under this chapter is effective:

(1) on the date and at the time of its filing by the division, as provided in Section 48-2e-209;

(2) on the date of filing and at the time specified in the record as its effective time, if later than the time under Subsection (1);

(3) at a specified delayed effective time and date, which may not be more than 90 days after the date of filing; or

(4) if a delayed effective date is specified, but no time is specified, at 12:01 a.m. on the date specified, which may not be more than 90 days after the date of filing.

Enacted by Chapter 412, 2013 General Session

48-2e-207 Withdrawal of filed record before effectiveness.

(1) Except as otherwise provided in Sections 48-2e-1124, 48-2e-1134, 48-2e-1144, and 48-2e-1154, a record delivered to the division for filing may be withdrawn before it takes effect by delivering to the division for filing a statement of withdrawal.

(2) A statement of withdrawal must:

(a) be signed by each person that signed the record being withdrawn, except as otherwise agreed by those persons;

(b) identify the record to be withdrawn; and

(c) if signed by fewer than all the persons that signed the record being withdrawn, state that the record is withdrawn in accordance with the agreement of all the persons that signed the record.

(3) On filing by the division of a statement of withdrawal, the action or transaction evidenced by the original record does not take effect.

Enacted by Chapter 412, 2013 General Session

48-2e-208 Correcting filed record.

(1) A person on whose behalf a filed record was delivered to the division for filing may correct the record if:

(a) the record at the time of filing was inaccurate;

(b) the record was defectively signed; or

(c) the electronic transmission of the record to the division was defective.

(2) To correct a filed record, a person on whose behalf the record was delivered to the division must deliver to the division for filing a statement of correction.

(3) A statement of correction:

(a) may not state a delayed effective date;

(b) must be signed by the person correcting the filed record;

(c) must identify the filed record to be corrected;

(d) must specify the inaccuracy or defect to be corrected; and

(e) must correct the inaccuracy or defect.

(4) A statement of correction is effective as of the effective date of the filed record that it corrects except for purposes of Subsection 48-2e-103(4) and as to persons relying on the uncorrected filed record and adversely affected by the correction. For those purposes and as to those persons, the statement of correction is effective when filed.

Enacted by Chapter 412, 2013 General Session

Superseded 7/1/2024

48-2e-209 Duty of division to file -- Review of refusal to file -- Transmission of information by the division.

(1) The division shall file a record delivered to the division for filing which satisfies this chapter. The duty of the division under this section is ministerial.
(2) When the division files a record, the division shall record it as filed on the date and at the time of its delivery. After filing a record, the division shall deliver to the person that submitted the record a copy of the record with an acknowledgment of the date and time of filing.
(3) If the division refuses to file a record, the division, not later than 15 business days after the record is delivered, shall:
  (a) return the record or notify the person that submitted the record of the refusal; and
  (b) provide a brief explanation in a record of the reason for the refusal.
(4) If the division refuses to file a record, the person that submitted the record may petition the district court to compel filing of the record. The record and the explanation of the division of the refusal to file must be attached to the petition. The court may decide the matter in a summary proceeding.
(5) The filing of or refusal to file a record does not create a presumption that the information contained in the filing is correct or incorrect.
(6) Except as otherwise provided by Section 16-17-301 or by law other than this chapter, the division may deliver any record to a person by delivering it:
  (a) in person to the person that submitted it;
  (b) to the address of the person's registered agent;
  (c) to the principal office of the person; or
  (d) to another address the person provides to the division for delivery.

Enacted by Chapter 412, 2013 General Session

Effective 7/1/2024

48-2e-209 Duty of division to file -- Review of refusal to file -- Transmission of information by the division.

(1) The division shall file a record delivered to the division for filing which satisfies this chapter. The duty of the division under this section is ministerial.
(2) When the division files a record, the division shall record it as filed on the date and at the time of its delivery. After filing a record, the division shall deliver to the person that submitted the record a copy of the record with an acknowledgment of the date and time of filing.
(3) If the division refuses to file a record, the division, not later than 15 business days after the record is delivered, shall:
  (a) return the record or notify the person that submitted the record of the refusal; and
  (b) provide a brief explanation in a record of the reason for the refusal.
(4)

(a) If the division refuses to file a record, the person that submitted the record may petition a court with jurisdiction under Title 78A, Judiciary and Judicial Administration, to compel filing of the record.
(b) The record and the explanation of the division of the refusal to file must be attached to the petition.
(c) The court may decide the matter in a summary proceeding.
(5) The filing of or refusal to file a record does not create a presumption that the information contained in the filing is correct or incorrect.
(6) Except as otherwise provided by Section 16-17-301 or by law other than this chapter, the division may deliver any record to a person by delivering it:
(a) in person to the person that submitted it;
(b) to the address of the person's registered agent;
(c) to the principal office of the person; or
(d) to another address the person provides to the division for delivery.

Amended by Chapter 401, 2023 General Session

48-2e-210 Liability for inaccurate information in filed record.
(1) If a record delivered to the division for filing under this chapter and filed by the division contains inaccurate information, a person that suffers loss by reliance on the information may recover damages for the loss from:
(a) a person that signed the record, or caused another to sign it on the person's behalf, and knew the information to be inaccurate at the time the record was signed; and
(b) a general partner if:
(i) the record was delivered for filing on behalf of the limited partnership; and
(ii) the general partner had notice of the inaccuracy for a reasonably sufficient time before the information was relied upon so that, before the reliance, the general partner reasonably could have:
(A) effected an amendment under Section 48-2e-202;
(B) filed a petition under Section 48-2e-204; or
(C) delivered to the division for filing a statement of change under Section 16-17-206 or a statement of correction under Section 48-2e-208.
(2) An individual who signs a record authorized or required to be filed under this chapter affirms under penalty of perjury that the information stated in the record is accurate.

Enacted by Chapter 412, 2013 General Session

48-2e-211 Certificate of existence or registration.
(1) On request of any person, the division shall issue a certificate of existence for a limited partnership or a certificate of registration for a registered foreign limited partnership.
(2) A certificate under Subsection (1) must state:
(a) the limited partnership's name or the registered foreign limited partnership's name used in this state;
(b) in the case of a limited partnership:
(i) that a certificate of limited partnership has been filed and has taken effect;
(ii) the date the certificate of limited partnership became effective;
(iii) the period of the limited partnership's duration if the records of the division reflect that its period of duration is less than perpetual; and

(iv) that:
(A) no statement of dissolution, statement of administrative dissolution, or statement of termination has been filed;
(B) the records of the division do not otherwise reflect that the limited partnership has been dissolved or terminated; and
(C) a proceeding is not pending under Section 48-2e-810;
(c) in the case of a registered foreign limited partnership, that it is registered to do business in this state;
(d) that all fees, taxes, interest, and penalties owed to this state by the limited partnership or the registered foreign limited partnership and collected through the division have been paid, if:
(i) payment is reflected in the records of the division; and
(ii) nonpayment affects the good standing or registration of the limited partnership or registered foreign limited partnership;
(e) that the most recent annual report required by Section 48-2e-212 has been delivered to the division for filing; and
(f) other facts reflected in the records of the division pertaining to the limited partnership or foreign limited partnership which the person requesting the certificate reasonably requests.
(3) Subject to any qualification stated in the certificate, a certificate issued by the division under Subsection (1) may be relied upon as conclusive evidence of the facts stated in the certificate.

Amended by Chapter 149, 2018 General Session

48-2e-212 Annual report for division.
(1) A limited partnership or a registered foreign limited partnership shall deliver to the division for filing an annual report that states:
(a) the name of the limited partnership or foreign limited partnership;
(b) the information required by Subsection 16-17-203(1);
(c) the street and mailing addresses of its principal office;
(d) the name of at least one general partner; and
(e) in the case of a foreign limited partnership, the jurisdiction whose law governs the foreign limited partnership's internal affairs and any alternate name adopted under Subsection 48-2e-906(1).
(2) Information in the annual report must be current as of the date the report is signed by the limited partnership or registered foreign limited partnership.
(3) A report must be delivered to the division for each year following the calendar year in which the limited partnership's certificate of limited partnership became effective or the registered foreign limited partnership registered to do business in this state:
(a) in the case of a limited partnership, the annual report must be delivered to the division during the month in which is the anniversary date on which the limited partnership certificate of limited partnership became effective; and
(b) in the case of a registered foreign limited partnership, the annual report must be delivered to the division during the month in which is the anniversary date on which the registered foreign limited partnership registered to do business in this state.
(4) If an annual report does not contain the information required by this section, the division promptly shall notify the reporting limited partnership or registered foreign limited partnership in a record and return the report for correction.
(5) If an annual report contains the name or address of a registered agent which differs from the information shown in the records of the division immediately before the annual report becomes

effective, the differing information in the annual report is considered a statement of change under Section 16-17-206.

Enacted by Chapter 412, 2013 General Session

Part 3
Limited Partners

48-2e-301 Becoming limited partners.

(1) Upon formation of a limited partnership, a person becomes a limited partner as agreed among the persons that are to be the initial partners.
(2) After formation, a person becomes a limited partner:
  (a) as provided in the partnership agreement;
  (b) as the result of a transaction effective under Part 11, Merger, Interest Exchange, Conversion, and Domestication;
  (c) with the affirmative vote or consent of all the partners; or
  (d) as provided in Subsection 48-2e-801(1)(d) or (1)(e).
(3) A person may become a partner without:
  (a) acquiring a transferable interest; or
  (b) making or being obligated to make a contribution to the limited partnership.

Enacted by Chapter 412, 2013 General Session

48-2e-302 No agency power of limited partner as limited partner.

(1) A limited partner is not an agent of a limited partnership solely by reason of being a limited partner.
(2) A person's status as a limited partner does not prevent or restrict law other than this chapter from imposing liability on a limited partnership because of the person's conduct.

Enacted by Chapter 412, 2013 General Session

48-2e-303 No liability as limited partner for limited partnership obligations.

(1) A debt, obligation, or other liability of a limited partnership is not the debt, obligation, or other liability of a limited partner. A limited partner is not personally liable, directly or indirectly, by way of contribution or otherwise, for a debt, obligation, or other liability of the limited partnership solely by reason of being or acting as a limited partner, even if the limited partner participates in the management and control of the limited partnership.
(2) The failure of a limited partnership to observe formalities relating to the exercise of its powers or management of its activities and affairs is not a ground for imposing liability on a limited partner for a debt, obligation, or other liability of the limited partnership.

Enacted by Chapter 412, 2013 General Session

48-2e-304 Rights to information of limited partner and person dissociated as limited partner.

(1) On 10 days' demand, made in a record received by the limited partnership, a limited partner may inspect and copy required information during regular business hours in the limited

partnership's principal office. The limited partner need not have any particular purpose for seeking the information.

(2) During regular business hours and at a reasonable location specified by the limited partnership, a limited partner may inspect and copy information regarding the activities, affairs, financial condition, and other circumstances of the limited partnership as is just and reasonable if:

(a) the limited partner seeks the information for a purpose reasonably related to the partner's interest as a limited partner;

(b) the limited partner makes a demand in a record received by the limited partnership, describing with reasonable particularity the information sought and the purpose for seeking the information; and

(c) the information sought is directly connected to the limited partner's purpose.

(3) Not later than 10 days after receiving a demand pursuant to Subsection (2), the limited partnership in a record shall inform the limited partner that made the demand of:

(a) the information the limited partnership will provide in response to the demand and when and where the limited partnership will provide the information; and

(b) the limited partnership's reasons for declining, if the limited partnership declines to provide any demanded information.

(4) Whenever this chapter or a partnership agreement provides for a limited partner to vote on or give or withhold consent to a matter, before the vote is cast or consent is given or withheld, the limited partnership shall, without demand, provide the limited partner with all information that is known to the limited partnership and is material to the limited partner's decision.

(5) Subject to Subsection (10), on 10 days' demand made in a record received by a limited partnership, a person dissociated as a limited partner may have access to information to which the person was entitled while a limited partner if:

(a) the information pertains to the period during which the person was a limited partner;

(b) the person seeks the information in good faith; and

(c) the person satisfies the requirements imposed on a limited partner by Subsection (2).

(6) The limited partnership shall respond to a demand made pursuant to Subsection (5) in the manner provided in Subsection (3).

(7) A limited partnership may charge a person that makes a demand under this section reasonable costs of copying, limited to the costs of labor and material.

(8) A limited partner or person dissociated as a limited partner may exercise the rights under this section through an agent or, in the case of an individual under legal disability, a legal representative. Any restriction or condition imposed by the partnership agreement or under Subsection (11) applies both to the agent or legal representative and to the limited partner or person dissociated as a limited partner.

(9) Subject to Subsection (10), the rights under this section do not extend to a person as transferee.

(10) If a limited partner dies, Section 48-2e-704 applies.

(11) In addition to any restriction or condition stated in its partnership agreement, a limited partnership, as a matter within the ordinary course of its activities and affairs, may impose reasonable restrictions and conditions on access to and use of information to be furnished under this section, including designating information confidential and imposing nondisclosure and safeguarding obligations on the recipient. In a dispute concerning the reasonableness of a restriction under this Subsection (11), the limited partnership has the burden of proving reasonableness.

Enacted by Chapter 412, 2013 General Session

48-2e-305 Limited duties of limited partners.

(1) A limited partner shall discharge any duties to the limited partnership and the other partners under the partnership agreement and exercise any rights under this chapter or the partnership agreement consistently with the contractual obligation of good faith and fair dealing.

(2) Except as otherwise provided in Subsection (1), a limited partner does not have any duty to the limited partnership or to any other partner solely by reason of acting as a limited partner.

(3) If a limited partner enters into a transaction with a limited partnership, the limited partner's rights and obligations arising from the transaction are the same as those of a person that is not a partner.

Enacted by Chapter 412, 2013 General Session

48-2e-306 Person erroneously believing self to be limited partner.

(1) Except as otherwise provided in Subsection (2), a person that makes an investment in a business enterprise and erroneously but in good faith believes that the person has become a limited partner in the enterprise is not liable for the enterprise's obligations by reason of making the investment, receiving distributions from the enterprise, or exercising any rights of or appropriate to a limited partner, if, on ascertaining the mistake, the person:

(a) causes an appropriate certificate of limited partnership, amendment, or statement of correction to be signed and delivered to the division for filing; or

(b) withdraws from future participation as an owner in the enterprise by signing and delivering to the division for filing a statement of negation under this section.

(2) A person that makes an investment described in Subsection (1) is liable to the same extent as a general partner to any third party that enters into a transaction with the enterprise, believing in good faith that the person is a general partner, before the division files a statement of negation, certificate of limited partnership, amendment, or statement of correction to show that the person is not a general partner.

(3) If a person makes a diligent effort in good faith to comply with Subsection (1)(a) and is unable to cause the appropriate certificate of limited partnership, amendment, or statement of correction to be signed and delivered to the division for filing, the person has the right to withdraw from the enterprise pursuant to Subsection (1)(b) even if the withdrawal would otherwise breach an agreement with others that are or have agreed to become co-owners of the enterprise.

Enacted by Chapter 412, 2013 General Session

Part 4
General Partners

48-2e-401 Becoming general partner.

(1) A person becomes a general partner:

(a) upon formation of a limited partnership, as agreed among the persons that are to be the initial partners; and

(b) after formation:

(i) as provided in the partnership agreement;

(ii) under Subsection 48-2e-801(1)(c)(ii) following the dissociation of a limited partnership's last general partner;
(iii) as the result of a transaction effective under Part 11, Merger, Interest Exchange, Conversion, and Domestication; or
(iv) with the affirmative vote or consent of all the partners.
(2) A person may become a general partner without:
(a) acquiring a transferable interest; or
(b) making or being obligated to make a contribution to the limited partnership.

Enacted by Chapter 412, 2013 General Session

48-2e-402 General partner agent of limited partnership.
(1) Each general partner is an agent of the limited partnership for the purposes of its activities and affairs. An act of a general partner, including the signing of a record in the limited partnership's name, for apparently carrying on in the ordinary course the limited partnership's activities and affairs or activities and affairs of the kind carried on by the limited partnership binds the limited partnership, unless the general partner did not have authority to act for the limited partnership in the particular matter and the person with which the general partner was dealing knew or had notice that the general partner lacked authority.
(2) An act of a general partner which is not apparently for carrying on in the ordinary course the limited partnership's activities and affairs or activities and affairs of the kind carried on by the limited partnership binds the limited partnership only if the act was actually authorized by all the other partners.

Enacted by Chapter 412, 2013 General Session

48-2e-403 Limited partnership liable for general partner's actionable conduct.
(1) A limited partnership is liable for loss or injury caused to a person, or for a penalty incurred, as a result of a wrongful act or omission, or other actionable conduct, of a general partner acting in the ordinary course of activities and affairs of the limited partnership or with the actual or apparent authority of the limited partnership.
(2) If, in the course of a limited partnership's activities and affairs or while acting with actual or apparent authority of the limited partnership, a general partner receives or causes the limited partnership to receive money or property of a person not a partner, and the money or property is misapplied by a general partner, the limited partnership is liable for the loss.

Enacted by Chapter 412, 2013 General Session

48-2e-404 General partner's liability.
(1) Except as otherwise provided in Subsections (2) and (3), all general partners are liable jointly and severally for all debts, obligations, and other liabilities of the limited partnership unless otherwise agreed by the claimant or provided by law.
(2) A person that becomes a general partner of an existing limited partnership is not personally liable for a debt, obligation, or other liability of the limited partnership incurred before the person became a general partner.
(3) A debt, obligation, or other liability of a limited partnership incurred while the limited partnership is a limited liability limited partnership is solely the debt, obligation, or other liability of the limited liability limited partnership. A general partner is not personally liable, directly or indirectly, by

way of contribution or otherwise, for a debt, obligation, or other liability of the limited liability limited partnership solely by reason of being or acting as a general partner. This Subsection (3) applies despite anything inconsistent in the partnership agreement that existed immediately before the vote or consent required to become a limited liability limited partnership under Subsection 48-2e-406(2)(b).

(4) The failure of a limited liability limited partnership to observe formalities relating to the exercise of its powers or management of its activities and affairs is not a ground for imposing liability on a general partner of the limited liability limited partnership for a debt, obligation, or liability of the limited partnership.

(5) An amendment of a certificate of limited partnership which deletes a statement that the limited partnership is a limited liability limited partnership does not affect the limitation in this section on liability of a general partner for a debt, obligation, or other liability of the limited partnership incurred before the amendment became effective.

Enacted by Chapter 412, 2013 General Session

48-2e-405 Actions by and against partnership and partners.

(1) To the extent not inconsistent with Section 48-2e-404, a general partner may be joined in an action against the limited partnership or named in a separate action.

(2) A judgment against a limited partnership is not by itself a judgment against a general partner. A judgment against a limited partnership may not be satisfied from a general partner's assets unless there is also a judgment against the general partner.

(3) A judgment creditor of a general partner may not levy execution against the assets of the general partner to satisfy a judgment based on a claim against the limited partnership, unless the general partner is personally liable for the claim under Section 48-2e-404, and:

(a) a judgment based on the same claim has been obtained against the limited partnership and a writ of execution on the judgment has been returned unsatisfied in whole or in part;

(b) the limited partnership is a debtor in bankruptcy;

(c) the general partner has agreed that the creditor need not exhaust limited partnership assets;

(d) a court grants permission to the judgment creditor to levy execution against the assets of a general partner based on a finding that the limited partnership assets subject to execution are clearly insufficient to satisfy the judgment, that exhaustion of assets is excessively burdensome, or that the grant of permission is an appropriate exercise of the court's equitable powers; or

(e) liability is imposed on the general partner by law or contract independent of the existence of the limited partnership.

Enacted by Chapter 412, 2013 General Session

48-2e-406 Management rights of general partner.

(1) Each general partner has equal rights in the management and conduct of the limited partnership's activities and affairs. Except as otherwise provided in this chapter, any matter relating to the activities and affairs of the limited partnership is decided exclusively by the general partner or, if there is more than one general partner, by a majority of the general partners.

(2) The affirmative vote or consent of all partners is required to:

(a) amend the partnership agreement;

(b) amend the certificate of limited partnership to add or delete a statement that the limited partnership is a limited liability limited partnership;
(c) sell, lease, exchange, or otherwise dispose of all, or substantially all, of the limited partnership's property, with or without the good will, other than in the usual and regular course of the limited partnership's activities and affairs; and
(d) approve a transaction under Part 11, Merger, Interest Exchange, Conversion, and Domestication.
(3) A limited partnership shall reimburse a general partner for an advance to the limited partnership beyond the amount of capital the general partner agreed to contribute.
(4) A payment or advance made by a general partner which gives rise to an obligation of the limited partnership under Subsection (3) or Subsection 48-2e-408(1) constitutes a loan to the limited partnership which accrues interest from the date of the payment or advance.
(5) A general partner is not entitled to remuneration for services performed for the limited partnership.

Enacted by Chapter 412, 2013 General Session

48-2e-407 Rights to information of general partner and person dissociated as general partner.
(1) A general partner may inspect and copy required information during regular business hours in the limited partnership's principal office, without having any particular purpose for seeking the information.
(2) On reasonable notice, a general partner may inspect and copy during regular business hours, at a reasonable location specified by the limited partnership, any record maintained by the limited partnership regarding the limited partnership's activities, affairs, financial condition, and other circumstances, to the extent the information is material to the general partner's rights and duties under the partnership agreement or this chapter.
(3) A limited partnership shall furnish to each general partner:
(a) without demand, any information concerning the limited partnership's activities, affairs, financial condition, and other circumstances which the limited partnership knows and are material to the proper exercise of the general partner's rights and duties under the partnership agreement or this chapter, except to the extent the limited partnership can establish that it reasonably believes the general partner already knows the information; and
(b) on demand, any other information concerning the limited partnership's activities, affairs, financial condition, and other circumstances, except to the extent the demand or the information demanded is unreasonable or otherwise improper under the circumstances.
(4) The duty to furnish information under Subsection (2) also applies to each general partner to the extent the general partner knows any of the information described in Subsection (2).
(5) Subject to Subsection (8), on 10 days' demand made in a record received by the limited partnership, a person dissociated as a general partner may have access to the information and records described in Subsections (1) and (2) at the locations specified in those subsections if:
(a) the information or record pertains to the period during which the person was a general partner;
(b) the person seeks the information or record in good faith; and
(c) the person satisfies the requirements imposed on a limited partner by Subsection 48-2e-304(2).
(6) The limited partnership shall respond to a demand made pursuant to Subsection (3) in the manner provided in Subsection 48-2e-304(3).

(7) A limited partnership may charge a person that makes a demand under this section the reasonable costs of copying, limited to the costs of labor and material.
(8) A general partner or person dissociated as a general partner may exercise rights under this section through an agent or, in the case of an individual under legal disability, a legal representative. Any restriction or condition imposed by the partnership agreement or under Subsection (9) applies both to the agent or legal representative and the general partner or person dissociated as a general partner.
(9) The rights under this section do not extend to a person as transferee, but if:
(a) a general partner dies, Section 48-2e-704 applies; and
(b) an individual dissociates as a general partner under Subsection 48-2e-603(7)(b) or (7)(c), the legal representative of the individual may exercise the rights under Subsection (4) of a person dissociated as a general partner.
(10) In addition to any restriction or condition stated in the partnership agreement, a limited partnership, as a matter within the ordinary course of its activities and affairs, may impose reasonable restrictions and conditions on access to and use of information to be furnished under this section, including designating information confidential and imposing nondisclosure and safeguarding obligations on the recipient. In a dispute concerning the reasonableness of a restriction under this Subsection (10), the limited partnership has the burden of proving reasonableness.

Enacted by Chapter 412, 2013 General Session

48-2e-408 Reimbursement, indemnification, advancement, and insurance.
(1) A limited partnership shall reimburse a general partner for any payment made by the general partner in the course of the general partner's activities on behalf of the limited partnership, if the general partner complied with Sections 48-2e-406, 48-2e-409, and 48-2e-504 in making the payment.
(2) A limited partnership shall indemnify and hold harmless a person with respect to any claim or demand against the person and any debt, obligation, or other liability incurred by the person by reason of the person's former or present capacity as a general partner, if the claim, demand, debt, obligation, or other liability does not arise from the person's breach of Section 48-2e-406, 48-2e-409, or 48-2e-504.
(3) In the ordinary course of its activities and affairs, a limited partnership may advance reasonable expenses, including attorney's fees and costs, incurred by a person in connection with a claim or demand against the person by reason of the person's former or present capacity as a general partner, if the person promises to repay the limited partnership if the person ultimately is determined not to be entitled to be indemnified under Subsection (2).
(4) A limited partnership may purchase and maintain insurance on behalf of a general partner against liability asserted against or incurred by the general partner in that capacity or arising from that status even if, under Subsection 48-2e-112(3)(h), the partnership agreement could not eliminate or limit the person's liability to the limited partnership for the conduct giving rise to the liability.

Enacted by Chapter 412, 2013 General Session

48-2e-409 Standards of conduct for general partners.
(1) A general partner owes to the limited partnership and, subject to Subsection 48-2e-1001(1), the other partners the duties of loyalty and care stated in Subsections (2) and (3).

(2) The duty of loyalty of a general partner includes the duties:
  (a) to account to the limited partnership and hold as trustee for it any property, profit, or benefit derived by the general partner:
    (i) in the conduct or winding up of the limited partnership's activities and affairs;
    (ii) from a use by the general partner of the limited partnership's property; or
    (iii) from the appropriation of a limited partnership opportunity;
  (b) to refrain from dealing with the limited partnership in the conduct or winding up of the limited partnership's activities and affairs as or on behalf of a person having an interest adverse to the limited partnership; and
  (c) to refrain from competing with the limited partnership in the conduct or winding up of the limited partnership's activities and affairs.
(3) The duty of care of a general partner in the conduct or winding up of the limited partnership's activities and affairs is to refrain from engaging in grossly negligent or reckless conduct, intentional misconduct, or a knowing violation of law.
(4) A general partner shall discharge the duties and obligations under this chapter or under the partnership agreement and exercise any rights consistently with the contractual obligation of good faith and fair dealing.
(5) A general partner does not violate a duty or obligation under this chapter or under the partnership agreement solely because the general partner's conduct furthers the general partner's own interest.
(6) All the partners of a limited partnership may authorize or ratify, after full disclosure of all material facts, a specific act or transaction by a general partner that otherwise would violate the duty of loyalty.
(7) It is a defense to a claim under Subsection (2)(b) and any comparable claim in equity or at common law that the transaction was fair to the limited partnership.
(8) If, as permitted by Subsection (6) or the partnership agreement, a general partner enters into a transaction with the limited partnership which otherwise would be prohibited by Subsection (2)(b), the general partner's rights and obligations arising from the transaction are the same as those of a person that is not a general partner.

Enacted by Chapter 412, 2013 General Session

Part 5
Contributions and Distributions

48-2e-501 Form of contribution.

A contribution may consist of property transferred to, services performed for, or another benefit provided to the limited partnership or an agreement to transfer property to, perform services for, or provide another benefit to the limited partnership.

Enacted by Chapter 412, 2013 General Session

48-2e-502 Liability for contribution.

(1) A person's obligation to make a contribution to a limited partnership is not excused by the person's death, disability, dissolution, or other inability to perform personally.

(2) If a person does not fulfill an obligation to make a contribution other than money, the person is obligated at the option of the limited partnership to contribute money equal to the value, as stated in the required information, of the part of the contribution which has not been made.
(3) The obligation of a person to make a contribution may be compromised only by the affirmative vote or consent of all partners. If a creditor of a limited partnership extends credit or otherwise acts in reliance on an obligation described in Subsection (1) without notice of any compromise under this subsection, the creditor may enforce the original obligation.

Enacted by Chapter 412, 2013 General Session

48-2e-503 Sharing of and right to distributions before dissolution.
(1) Except to the extent necessary to comply with a transfer effective under Section 48-2e-702 or charging order in effect under Section 48-2e-703, any distributions made by a limited partnership before its dissolution and winding up must be in equal shares among partners and persons dissociated as partners.
(2) A person has a right to a distribution before the dissolution and winding up of a limited partnership only if the limited partnership decides to make an interim distribution. A person's dissociation does not entitle the person to a distribution.
(3) A person does not have a right to demand or receive a distribution from a limited partnership in any form other than money. Except as otherwise provided in Subsection 48-2e-813(5), a partnership may distribute an asset in kind only if each part of the asset is fungible with each other part and each person receives a percentage of the asset equal in value to the person's share of distributions.
(4) If a partner or transferee becomes entitled to receive a distribution, the partner or transferee has the status of, and is entitled to all remedies available to, a creditor of the limited partnership with respect to the distribution. However, the limited partnership's obligation to make a distribution is subject to offset for any amount owed to the limited partnership by the partner or a person dissociated as a partner on whose account the distribution is made.

Enacted by Chapter 412, 2013 General Session

48-2e-504 Limitations on distributions.
(1) A limited partnership may not make a distribution, including a distribution under Section 48-2e-813, if after the distribution:
  (a) the limited partnership would not be able to pay its debts as they become due in the ordinary course of the limited partnership's activities and affairs; or
  (b) the limited partnership's total assets would be less than the sum of its total liabilities plus, unless the partnership agreement permits otherwise, the amount that would be needed, if the limited partnership were to be dissolved and wound up at the time of the distribution, to satisfy the preferential rights upon dissolution and winding up of partners and transferees whose preferential rights are superior to those of persons receiving the distribution.
(2) A limited partnership may base a determination that a distribution is not prohibited under Subsection (1) on:
  (a) financial statements prepared on the basis of accounting practices and principles that are reasonable in the circumstances; or
  (b) a fair valuation or other method that is reasonable under the circumstances.
(3) Except as otherwise provided in Subsection (5), the effect of a distribution under Subsection (1) is measured:

(a) in the case of distribution as defined in Subsection 48-2e-102(4)(a), as of the earlier of:
(i) the date money or other property is transferred or debt is incurred by the limited partnership; or
(ii) the date the person entitled to the distribution ceases to own the interest or right being acquired by the limited partnership in return for the distribution;
(b) in the case of any other distribution of indebtedness, as of the date the indebtedness is distributed; and
(c) in all other cases, as of the date:
(i) the distribution is authorized, if the payment occurs not later than 120 days after that date; or
(ii) the payment is made, if payment occurs more than 120 days after the distribution is authorized.
(4) A limited partnership's indebtedness to a partner or transferee incurred by reason of a distribution made in accordance with this section is at parity with the limited partnership's indebtedness to its general, unsecured creditors, except to the extent subordinated by agreement.
(5) A limited partnership's indebtedness, including indebtedness issued as a distribution, is not considered a liability for purposes of Subsection (1) if the terms of the indebtedness provide that payment of principal and interest is made only if and to the extent that payment of a distribution could then be made under this section. If the indebtedness is issued as a distribution, each payment of principal or interest is treated as a distribution, the effect of which is measured on the date the payment is made.
(6) In measuring the effect of a distribution under Section 48-2e-813, the liabilities of a dissolved limited partnership do not include any claim that has been disposed of under Section 48-2e-806, 48-2e-807, or 48-2e-808.

Enacted by Chapter 412, 2013 General Session

48-2e-505 Liability for improper distributions.
(1) If a general partner consents to a distribution made in violation of Section 48-2e-504 and in consenting to the distribution fails to comply with Section 48-2e-409, the general partner is personally liable to the limited partnership for the amount of the distribution which exceeds the amount that could have been distributed without the violation of Section 48-2e-504.
(2) A person that receives a distribution knowing that the distribution violated Section 48-2e-504 is personally liable to the limited partnership but only to the extent that the distribution received by the person exceeded the amount that could have been properly paid under Section 48-2e-504.
(3) A general partner against which an action is commenced because the general partner is liable under Subsection (1) may:
(a) implead any other person that is liable under Subsection (1) and seek to enforce a right of contribution from the person; and
(b) implead any person that received a distribution in violation of Subsection (2) and seek to enforce a right of contribution from the person in the amount the person received in violation of Subsection (2).
(4) An action under this section is barred unless commenced not later than two years after the distribution.

Enacted by Chapter 412, 2013 General Session

Part 6
Dissociation

48-2e-601 Dissociation as limited partner.

(1) A person does not have a right to dissociate as a limited partner before the completion of the winding up of the limited partnership.

(2) A person is dissociated as a limited partner when:

(a) the limited partnership has notice of the person's express will to withdraw as a limited partner, but, if the person specified a withdrawal date later than the date the limited partnership had notice, on that later date;

(b) an event stated in the partnership agreement as causing the person's dissociation as a limited partner occurs;

(c) the person is expelled as a limited partner pursuant to the partnership agreement;

(d) the person is expelled as a limited partner by the unanimous vote or consent of the other partners if:

(i) it is unlawful to carry on the limited partnership's activities and affairs with the person as a limited partner;

(ii) there has been a transfer of all of the person's transferable interest in the limited partnership, other than:

(A) a transfer for security purposes; or

(B) a charging order in effect under Section 48-2e-703 which has not been foreclosed;

(iii) the person is a corporation and:

(A) the limited partnership notifies the person that it will be expelled as a limited partner because the person has filed a statement of dissolution or the equivalent, its charter has been revoked, or its right to conduct business has been suspended by the jurisdiction of its incorporation; and

(B) not later than 90 days after the notification the statement of dissolution or the equivalent has not been revoked or its charter or right to conduct business has not been reinstated; or

(iv) the person is an unincorporated entity that has been dissolved and whose business is being wound up;

(e) on application by the limited partnership, the person is expelled as a limited partner by judicial order because the person:

(i) has engaged or is engaging in wrongful conduct that has affected adversely and materially, or will affect adversely and materially, the limited partnership's activities and affairs;

(ii) has committed willfully or persistently, or is committing willfully or persistently, a material breach of the partnership agreement or the contractual obligation of good faith and fair dealing under Subsection 48-2e-305(1); or

(iii) has engaged or is engaging in conduct relating to the limited partnership's activities and affairs which makes it not reasonably practicable to carry on the activities and affairs with the person as a limited partner;

(f) in the case of a person who is an individual, the individual dies;

(g) in the case of a person that is a testamentary or inter vivos trust or is acting as a limited partner by virtue of being a trustee of such a trust, the trust's entire transferable interest in the limited partnership is distributed;

(h) in the case of a person that is an estate or is acting as a limited partner by virtue of being a personal representative of an estate, the estate's entire transferable interest in the limited partnership is distributed;
(i) in the case of a person that is not an individual, corporation, unincorporated entity, trust, or estate, the existence of the person terminates;
(j) the limited partnership participates in a merger under Part 11, Merger, Interest Exchange, Conversion, and Domestication, and:
(i) the limited partnership is not the surviving entity; or
(ii) otherwise as a result of the merger, the person ceases to be a limited partner;
(k) the limited partnership participates in an interest exchange under Part 11, Merger, Interest Exchange, Conversion, and Domestication, and as a result of the interest exchange, the person ceases to be a limited partner;
(l) the limited partnership participates in a conversion under Part 11, Merger, Interest Exchange, Conversion, and Domestication;
(m) the limited partnership participates in a domestication under Part 11, Merger, Interest Exchange, Conversion, and Domestication, and as a result of the domestication, the person ceases to be a limited partner; or
(n) the limited partnership dissolves and completes winding up.

Enacted by Chapter 412, 2013 General Session

48-2e-602 Effect of dissociation as limited partner.

(1) If a person is dissociated as a limited partner:
(a) subject to Section 48-2e-704, the person does not have further rights as a limited partner;
(b) the person's contractual obligation of good faith and fair dealing as a limited partner under Subsection 48-2e-305(1) ends with regard to matters arising and events occurring after the person's dissociation; and
(c) subject to Section 48-2e-704 and Part 11, Merger, Interest Exchange, Conversion, and Domestication, any transferable interest owned by the person in the person's capacity as a limited partner immediately before dissociation is owned by the person solely as a transferee.
(2) A person's dissociation as a limited partner does not of itself discharge the person from any debt, obligation, or other liability to the limited partnership or the other partners which the person incurred while a limited partner.

Enacted by Chapter 412, 2013 General Session

48-2e-603 Dissociation as general partner.

A person is dissociated as a general partner when:
(1) the limited partnership has notice of the person's express will to withdraw as a general partner, but, if the person specifies a withdrawal date later than the date the limited partnership had notice, on that later date;
(2) an event stated in the partnership agreement as causing the person's dissociation as a general partner occurs;
(3) the person is expelled as a general partner pursuant to the partnership agreement;
(4) the person is expelled as a general partner by the unanimous vote or consent of the other partners if:
(a) it is unlawful to carry on the limited partnership's activities and affairs with the person as a general partner;

(b) there has been a transfer of all of the person's transferable interest in the limited partnership, other than:
(i) a transfer for security purposes; or
(ii) a charging order in effect under Section 48-2e-703 which has not been foreclosed;
(c) the person is a corporation, and:
(i) the limited partnership notifies the person that it will be expelled as a general partner because the person has filed a statement of dissolution or the equivalent, its charter has been revoked, or its right to conduct business has been suspended by the jurisdiction of its incorporation; and
(ii) not later than 90 days after the notification the statement of dissolution or the equivalent has not been revoked or its charter or right to conduct business has not been reinstated; or
(d) the person is an unincorporated entity that has been dissolved and whose business is being wound up;
(5) on application by the limited partnership or a partner in a direct action under Section 48-2e-1001, the person is expelled as a general partner by judicial order because the person:
(a) has engaged or is engaging in wrongful conduct that has affected adversely and materially, or will affect adversely and materially, the limited partnership's activities and affairs;
(b) has committed willfully or persistently, or is committing willfully or persistently, a material breach of the partnership agreement or a duty or obligation under Section 48-2e-409; or
(c) has engaged or is engaging in conduct relating to the limited partnership's activities and affairs which makes it not reasonably practicable to carry on the activities or affairs of the limited partnership with the person as a general partner;
(6) in the case of a person who is an individual:
(a) the individual dies;
(b) a guardian or general conservator for the individual is appointed; or
(c) a court orders that the individual has otherwise become incapable of performing the individual's duties as a general partner under this chapter or the partnership agreement;
(7) the person:
(a) becomes a debtor in bankruptcy;
(b) executes an assignment for the benefit of creditors; or
(c) seeks, consents to, or acquiesces in the appointment of a trustee, receiver, or liquidator of the person or of all or substantially all of the person's property;
(8) in the case of a person that is a testamentary or inter vivos trust or is acting as a general partner by virtue of being a trustee of such a trust, the trust's entire transferable interest in the limited partnership is distributed;
(9) in the case of a person that is an estate or is acting as a general partner by virtue of being a personal representative of an estate, the estate's entire transferable interest in the limited partnership is distributed;
(10) in the case of a person that is not an individual, corporation, unincorporated entity, trust, or estate, the existence of the person terminates;
(11) the limited partnership participates in a merger under Part 11, Merger, Interest Exchange, Conversion, and Domestication, and:
(a) the limited partnership is not the surviving entity; or
(b) otherwise as a result of the merger, the person ceases to be a general partner;
(12) the limited partnership participates in an interest exchange under Part 11, Merger, Interest Exchange, Conversion, and Domestication, and, as a result of the interest exchange, the person ceases to be a general partner;

(13) the limited partnership participates in a conversion under Part 11, Merger, Interest Exchange, Conversion, and Domestication;
(14) the limited partnership participates in a domestication under Part 11, Merger, Interest Exchange, Conversion, and Domestication, and, as a result of the domestication, the person ceases to be a general partner; or
(15) the limited partnership dissolves and completes winding up.

Enacted by Chapter 412, 2013 General Session

48-2e-604 Power to dissociate as general partner -- Wrongful dissociation.
(1) A person has the power to dissociate as a general partner at any time, rightfully or wrongfully, by withdrawing as a general partner by express will under Subsection 48-2e-603(1).
(2) A person's dissociation as a general partner is wrongful only if the dissociation:
  (a) is in breach of an express provision of the partnership agreement; or
  (b) occurs before the completion of the winding up of the limited partnership, and:
    (i) the person withdraws as a general partner by express will;
    (ii) the person is expelled as a general partner by judicial order under Subsection 48-2e-603(5);
    (iii) the person is dissociated as a general partner under Subsection 48-2e-603(7); or
    (iv) in the case of a person that is not a trust other than a business trust, an estate, or an individual, the person is expelled or otherwise dissociated as a general partner because it willfully dissolved or terminated.
(3) A person that wrongfully dissociates as a general partner is liable to the limited partnership and, subject to Section 48-2e-1001, to the other partners for damages caused by the dissociation. The liability is in addition to any debt, obligation, or other liability of the general partner to the limited partnership or the other partners.

Enacted by Chapter 412, 2013 General Session

48-2e-605 Effect of dissociation as general partner.
(1) If a person is dissociated as a general partner:
  (a) the person's right to participate as a general partner in the management and conduct of the limited partnership's activities and affairs terminates;
  (b) the person's duties and obligations as a general partner under Section 48-2e-409 end with regard to matters arising and events occurring after the person's dissociation;
  (c) the person may sign and deliver to the division for filing a statement of dissociation pertaining to the person and, at the request of the limited partnership, shall sign an amendment to the certificate of limited partnership which states that the person has dissociated as a general partner; and
  (d) subject to Section 48-2e-704 and Part 11, Merger, Interest Exchange, Conversion, and Domestication, any transferable interest owned by the person immediately before dissociation in the person's capacity as a general partner is owned by the person solely as a transferee.
(2) A person's dissociation as a general partner does not of itself discharge the person from any debt, obligation, or other liability to the limited partnership or the other partners which the person incurred while a general partner.

Enacted by Chapter 412, 2013 General Session

48-2e-606 Power to bind and liability of person dissociated as general partner.

(1) After a person is dissociated as a general partner and before the limited partnership is merged out of existence, converted, or domesticated under Part 11, Merger, Interest Exchange, Conversion, and Domestication, or dissolved, the limited partnership is bound by an act of the person only if:
  (a) the act would have bound the limited partnership under Section 48-2e-402 before the dissociation; and
  (b) at the time the other party enters into the transaction:
    (i) less than two years has passed since the dissociation; and
    (ii) the other party does not know or have notice of the dissociation and reasonably believes that the person is a general partner.
(2) If a limited partnership is bound under Subsection (1), the person dissociated as a general partner which caused the limited partnership to be bound is liable:
  (a) to the limited partnership for any damage caused to the limited partnership arising from the obligation incurred under Subsection (1); and
  (b) if a general partner or another person dissociated as a general partner is liable for the obligation, to the general partner or other person for any damage caused to the general partner or other person arising from the liability.

Enacted by Chapter 412, 2013 General Session

48-2e-607 Liability to other persons of person dissociated as general partner.

(1) A person's dissociation as a general partner does not of itself discharge the person's liability as a general partner for a debt, obligation, or other liability of the limited partnership incurred before dissociation. Except as otherwise provided in Subsections (2) and (3), the person is not liable for a limited partnership obligation incurred after dissociation.
(2) A person whose dissociation as a general partner resulted in a dissolution and winding up of the limited partnership's activities and affairs is liable to the same extent as a general partner under Section 48-2e-404 on an obligation incurred by the limited partnership under Section 48-2e-804.
(3) A person that has dissociated as a general partner but whose dissociation did not result in a dissolution and winding up of the limited partnership's activities and affairs is liable on a transaction entered into by the limited partnership after the dissociation only if:
  (a) a general partner would be liable on the transaction; and
  (b) at the time the other party enters into the transaction:
    (i) less than two years has passed since the dissociation; and
    (ii) the other party does not have knowledge or notice of the dissociation and reasonably believes that the person is a general partner.
(4) By agreement with a creditor of a limited partnership and the limited partnership, a person dissociated as a general partner may be released from liability for an obligation of the limited partnership.
(5) A person dissociated as a general partner is released from liability for an obligation of the limited partnership if the limited partnership's creditor, with knowledge or notice of the person's dissociation as a general partner but without the person's consent, agrees to a material alteration in the nature or time of payment of the obligation.

Enacted by Chapter 412, 2013 General Session

Part 7
Transferable Interest and Rights

48-2e-701 Nature of transferable interest.

The only interest of a partner which is transferable is the partner's transferable interest. A transferable interest is personal property.

Enacted by Chapter 412, 2013 General Session

48-2e-702 Transfer of transferable interest.

(1) A transfer, in whole or in part, of a transferable interest:
  (a) is permissible;
  (b) does not by itself cause the person's dissociation or a dissolution and winding up of the limited partnership's activities and affairs; and
  (c) subject to Section 48-2e-704, does not entitle the transferee to:
    (i) participate in the management or conduct of the limited partnership's activities or affairs; or
    (ii) except as otherwise provided in Subsection (3), have access to required information, records, or other information concerning the limited partnership's activities and affairs.
(2) A transferee has the right to receive, in accordance with the transfer, distributions to which the transferor would otherwise be entitled.
(3) In a dissolution and winding up of a limited partnership, a transferee is entitled to an account of the limited partnership's transactions only from the date of dissolution.
(4) A transferable interest may be evidenced by a certificate of the interest issued by a limited partnership in a record, and, subject to this section, the interest represented by the certificate may be transferred by a transfer of the certificate.
(5) A limited partnership need not give effect to a transferee's rights under this section until the limited partnership knows or has notice of the transfer.
(6) A transfer of a transferable interest in violation of a restriction on transfer contained in the partnership agreement is ineffective as to a person having knowledge or notice of the restriction at the time of transfer.
(7) Except as otherwise provided in Subsections 48-2e-601(2)(d)(ii) and 48-2e-603(4)(b), if a general or limited partner transfers a transferable interest, the transferor retains the rights of a general or limited partner other than the transferable interest transferred and retains all the duties and obligations of a general or limited partner.
(8) If a general or limited partner transfers a transferable interest to a person that becomes a general or limited partner with respect to the transferred interest, the transferee is liable for the transferor's obligations under Sections 48-2e-502 and 48-2e-505 known to the transferee when the transferee becomes a partner.

Enacted by Chapter 412, 2013 General Session

48-2e-703 Charging order.

(1) On application by a judgment creditor of a partner or transferee, a court may enter a charging order against the transferable interest of the judgment debtor for the unsatisfied amount of the judgment. A charging order constitutes a lien on a judgment debtor's transferable interest and, after the limited partnership has been served with the charging order, requires the limited

partnership to pay over to the person to which the charging order was issued any distribution that otherwise would be paid to the judgment debtor.

(2) To the extent necessary to effectuate the collection of distributions pursuant to a charging order in effect under Subsection (1), the court may:

(a) appoint a receiver of the distributions subject to the charging order, with the power to make all inquiries the judgment debtor might have made; and

(b) make all other orders necessary to give effect to the charging order.

(3) Upon a showing that distributions under a charging order will not pay the judgment debt within a reasonable time, the court may foreclose the lien and order the sale of the transferable interest. The purchaser at the foreclosure sale obtains only the transferable interest, does not thereby become a partner, and is subject to Section 48-2e-702.

(4) At any time before foreclosure under Subsection (3), the partner or transferee whose transferable interest is subject to a charging order under Subsection (1) may extinguish the charging order by satisfying the judgment and filing a certified copy of the satisfaction with the court that issued the charging order.

(5) At any time before foreclosure under Subsection (3), a limited partnership or one or more partners whose transferable interests are not subject to the charging order may pay to the judgment creditor the full amount due under the judgment and thereby succeed to the rights of the judgment creditor, including the charging order.

(6) This chapter does not deprive any partner or transferee of the benefit of any exemption law applicable to the transferable interest of the partner or transferee.

(7) This section provides the exclusive remedy by which a person seeking to enforce a judgment against a partner or transferee may, in the capacity of judgment creditor, satisfy the judgment from the judgment debtor's transferable interest.

Enacted by Chapter 412, 2013 General Session

48-2e-704 Power of legal representative of deceased partner.

If a partner dies, the deceased partner's legal representative may exercise:

(1) the rights of a transferee provided in Subsection 48-2e-702(3); and

(2) for the purposes of settling the estate, the rights of a current limited partner under Section 48-2e-304.

Enacted by Chapter 412, 2013 General Session

Part 8
Dissolution and Winding up

Superseded 7/1/2024

48-2e-801 Events causing dissolution.

(1) A limited partnership is dissolved, and its activities and affairs must be wound up, upon the occurrence of any of the following:

(a) an event or circumstance that the partnership agreement states causes dissolution;

(b) the affirmative vote or consent of all general partners and of limited partners owning a majority of the rights to receive distributions as limited partners at the time the vote or consent is to be effective;

(c) after the dissociation of a person as a general partner:
(i) if the limited partnership has at least one remaining general partner, the vote or consent to dissolve the limited partnership not later than 90 days after the dissociation by partners owning a majority of the rights to receive distributions as partners at the time the vote or consent is to be effective; or
(ii) if the limited partnership does not have a remaining general partner, the passage of 90 days after the dissociation, unless before the end of the period:
(A) consent to continue the activities and affairs of the limited partnership and admit at least one general partner is given by limited partners owning a majority of the rights to receive distributions as limited partners at the time the consent is to be effective; and
(B) at least one person is admitted as a general partner in accordance with the consent;
(d) the passage of 90 consecutive days after the dissociation of the limited partnership's last limited partner, unless before the end of the period the limited partnership admits at least one limited partner;
(e) the passage of 90 consecutive days during which the limited partnership has only one partner, unless before the end of the period:
(i) the limited partnership admits at least one person as a partner;
(ii) if the previously sole remaining partner is only a general partner, the limited partnership admits the person as a limited partner; and
(iii) if the previously sole remaining partner is only a limited partner, the limited partnership admits a person as a general partner;
(f) on application by a partner, the entry by the district court of an order dissolving the limited partnership on the grounds that:
(i) the conduct of all or substantially all the limited partnership's activities and affairs is unlawful; or
(ii) it is not reasonably practicable to carry on the limited partnership's activities and affairs in conformity with the partnership agreement; or
(g) the signing and filing of a statement of administrative dissolution by the division under Section 48-2e-810.
(2) If an event occurs that imposes a deadline on a limited partnership under Subsection (1) and before the limited partnership has met the requirements of the deadline, another event occurs that imposes a different deadline on the limited partnership under Subsection (1):
(a) the occurrence of the second event does not affect the deadline caused by the first event; and
(b) the limited partnership's meeting of the requirements of the first deadline does not extend the second deadline.

Enacted by Chapter 412, 2013 General Session

Effective 7/1/2024
48-2e-801 Events causing dissolution.
(1) A limited partnership is dissolved, and the limited partnership's activities and affairs must be wound up, upon the occurrence of any of the following:
(a) an event or circumstance that the partnership agreement states causes dissolution;
(b) the affirmative vote or consent of all general partners and of limited partners owning a majority of the rights to receive distributions as limited partners at the time the vote or consent is to be effective;
(c) after the dissociation of a person as a general partner:

(i) if the limited partnership has at least one remaining general partner, the vote or consent to dissolve the limited partnership not later than 90 days after the dissociation by partners owning a majority of the rights to receive distributions as partners at the time the vote or consent is to be effective; or

(ii) if the limited partnership does not have a remaining general partner, the passage of 90 days after the dissociation, unless before the end of the period:

(A) consent to continue the activities and affairs of the limited partnership and admit at least one general partner is given by limited partners owning a majority of the rights to receive distributions as limited partners at the time the consent is to be effective; and

(B) at least one person is admitted as a general partner in accordance with the consent;

(d) the passage of 90 consecutive days after the dissociation of the limited partnership's last limited partner, unless before the end of the period the limited partnership admits at least one limited partner;

(e) the passage of 90 consecutive days during which the limited partnership has only one partner, unless before the end of the period:

(i) the limited partnership admits at least one person as a partner;

(ii) if the previously sole remaining partner is only a general partner, the limited partnership admits the person as a limited partner; and

(iii) if the previously sole remaining partner is only a limited partner, the limited partnership admits a person as a general partner;

(f) upon a petition brought by a partner, the entry of a court order dissolving the limited partnership on the grounds that:

(i) the conduct of all or substantially all the limited partnership's activities and affairs is unlawful; or

(ii) it is not reasonably practicable to carry on the limited partnership's activities and affairs in conformity with the partnership agreement; or

(g) the signing and filing of a statement of administrative dissolution by the division under Section 48-2e-810.

(2) If an event occurs that imposes a deadline on a limited partnership under Subsection (1) and before the limited partnership has met the requirements of the deadline, another event occurs that imposes a different deadline on the limited partnership under Subsection (1):

(a) the occurrence of the second event does not affect the deadline caused by the first event; and

(b) the limited partnership's meeting of the requirements of the first deadline does not extend the second deadline.

Amended by Chapter 401, 2023 General Session

Superseded 7/1/2024

48-2e-802 Winding up.

(1) A dissolved limited partnership shall wind up its activities and affairs, and, except as otherwise provided in Section 48-2e-803, the limited partnership continues after dissolution only for the purpose of winding up.

(2) In winding up its activities and affairs, the limited partnership:

(a) shall discharge the limited partnership's debts, obligations, and other liabilities, settle and close the limited partnership's activities and affairs, and marshal and distribute the assets of the limited partnership; and

(b) may:

(i) amend its certificate of limited partnership to state that the limited partnership is dissolved;

(ii) preserve the limited partnership activities, affairs, and property as a going concern for a reasonable time;
(iii) prosecute and defend actions and proceedings, whether civil, criminal, or administrative;
(iv) transfer the limited partnership's property;
(v) settle disputes by mediation or arbitration;
(vi) deliver to the division for filing a statement of termination stating the name of the limited partnership and that the limited partnership is terminated; and
(vii) perform other acts necessary or appropriate to the winding up.

(3) If a dissolved limited partnership does not have a general partner, a person to wind up the dissolved limited partnership's activities and affairs may be appointed by the affirmative vote or consent of limited partners owning a majority of the rights to receive distributions as limited partners at the time the vote or consent is to be effective. A person appointed under this Subsection (3):
(a) has the powers of a general partner under Section 48-2e-804 but is not liable for the debts, obligations, and other liabilities of the limited partnership solely by reason of having or exercising those powers or otherwise acting to wind up the dissolved limited partnership's activities and affairs; and
(b) shall deliver promptly to the division for filing an amendment to the certificate of limited partnership stating:
(i) that the limited partnership does not have a general partner;
(ii) the name and street and mailing addresses of the person; and
(iii) that the person has been appointed pursuant to this subsection to wind up the limited partnership.

(4) On the application of any partner, the district court may order judicial supervision of the winding up of a dissolved limited partnership, including the appointment of a person to wind up the limited partnership's activities and affairs, if:
(a) the limited partnership does not have a general partner and within a reasonable time following the dissolution no person has been appointed pursuant to Subsection (3); or
(b) the applicant establishes other good cause.

Enacted by Chapter 412, 2013 General Session

Effective 7/1/2024
48-2e-802 Winding up.

(1)
(a) A dissolved limited partnership shall wind up the limited partnership's activities and affairs.
(b) Except as otherwise provided in Section 48-2e-803, the limited partnership only continues after dissolution for the purpose of winding up.

(2) In winding up the limited partnership's activities and affairs, the limited partnership:
(a) shall discharge the limited partnership's debts, obligations, and other liabilities, settle and close the limited partnership's activities and affairs, and marshal and distribute the assets of the limited partnership; and
(b) may:
(i) amend its certificate of limited partnership to state that the limited partnership is dissolved;
(ii) preserve the limited partnership activities, affairs, and property as a going concern for a reasonable time;
(iii) prosecute and defend actions and proceedings, whether civil, criminal, or administrative;
(iv) transfer the limited partnership's property;

(v) settle disputes by mediation or arbitration;
(vi) deliver to the division for filing a statement of termination stating the name of the limited partnership and that the limited partnership is terminated; and
(vii) perform other acts necessary or appropriate to the winding up.
(3)
(a) If a dissolved limited partnership does not have a general partner, a person to wind up the dissolved limited partnership's activities and affairs may be appointed by the affirmative vote or consent of limited partners owning a majority of the rights to receive distributions as limited partners at the time the vote or consent is to be effective.
(b) A person appointed under this Subsection (3):
(i) has the powers of a general partner under Section 48-2e-804 but is not liable for the debts, obligations, and other liabilities of the limited partnership solely by reason of having or exercising those powers or otherwise acting to wind up the dissolved limited partnership's activities and affairs; and
(ii) shall deliver promptly to the division for filing an amendment to the certificate of limited partnership stating:
(A) that the limited partnership does not have a general partner;
(B) the name and street and mailing addresses of the person; and
(C) that the person has been appointed pursuant to this subsection to wind up the limited partnership.
(4) Upon a petition brought by a partner, a court may order judicial supervision of the winding up of a dissolved limited partnership, including the appointment of a person to wind up the limited partnership's activities and affairs, if:
(a) the limited partnership does not have a general partner and within a reasonable time following the dissolution no person has been appointed pursuant to Subsection (3); or
(b) the applicant establishes other good cause.

Amended by Chapter 401, 2023 General Session

Superseded 7/1/2024

48-2e-803 Rescinding dissolution.

(1) A limited partnership may rescind its dissolution, unless a statement of termination applicable to the limited partnership is effective, the district court has entered an order under Subsection 48-2e-801(1)(f) dissolving the limited partnership, or the division has dissolved the limited partnership under Section 48-2e-810.
(2) Rescinding dissolution under this section requires:
(a) the affirmative vote or consent of each partner; and
(b) if the limited partnership has delivered to the division for filing an amendment to the certificate of limited partnership stating that the partnership is dissolved and if:
(i) the amendment is not effective, the filing by the limited partnership of a statement of withdrawal under Section 48-2e-207 applicable to the amendment; or
(ii) the amendment is effective, the delivery by the limited partnership to the division for filing of an amendment to the certificate of limited partnership stating that the dissolution has been rescinded under this section.
(3) If a limited partnership rescinds its dissolution:
(a) the limited partnership resumes carrying on its activities and affairs as if dissolution had never occurred;

(b) subject to Subsection (3)(c), any liability incurred by the limited partnership after the dissolution and before the rescission is effective is determined as if dissolution had never occurred; and
(c) the rights of a third party arising out of conduct in reliance on the dissolution before the third party knew or had notice of the rescission may not be adversely affected.

Enacted by Chapter 412, 2013 General Session

Effective 7/1/2024
48-2e-803 Rescinding dissolution.
(1) A limited partnership may rescind the limited partnership's dissolution, unless a statement of termination applicable to the limited partnership is effective, a court has entered an order under Subsection 48-2e-801(1)(f) dissolving the limited partnership, or the division has dissolved the limited partnership under Section 48-2e-810.
(2) Rescinding dissolution under this section requires:
(a) the affirmative vote or consent of each partner; and
(b) if the limited partnership has delivered to the division for filing an amendment to the certificate of limited partnership stating that the partnership is dissolved and if:
(i) the amendment is not effective, the filing by the limited partnership of a statement of withdrawal under Section 48-2e-207 applicable to the amendment; or
(ii) the amendment is effective, the delivery by the limited partnership to the division for filing of an amendment to the certificate of limited partnership stating that the dissolution has been rescinded under this section.
(3) If a limited partnership rescinds the limited partnership's dissolution:
(a) the limited partnership resumes carrying on the limited partnership's activities and affairs as if dissolution had never occurred;
(b) subject to Subsection (3)(c), any liability incurred by the limited partnership after the dissolution and before the rescission is effective is determined as if dissolution had never occurred; and
(c) the rights of a third party arising out of conduct in reliance on the dissolution before the third party knew or had notice of the rescission may not be adversely affected.

Amended by Chapter 401, 2023 General Session

48-2e-804 Power to bind partnership after dissolution.
(1) A limited partnership is bound by a general partner's act after dissolution which:
(a) is appropriate for winding up the limited partnership's activities and affairs; or
(b) would have bound the limited partnership under Section 48-2e-402 before dissolution, if, at the time the other party enters into the transaction, the other party does not know or have notice of the dissolution.
(2) A person dissociated as a general partner binds a limited partnership through an act occurring after dissolution if:
(a) at the time the other party enters into the transaction:
(i) less than two years has passed since the dissociation; and
(ii) the other party does not have notice of the dissociation and reasonably believes that the person is a general partner; and
(b) the act:
(i) is appropriate for winding up the limited partnership's activities and affairs; or

(ii) would have bound the limited partnership under Section 48-2e-402 before dissolution and at the time the other party enters into the transaction the other party does not have notice of the dissolution.

Enacted by Chapter 412, 2013 General Session

48-2e-805 Liability after dissolution of general partner and person dissociated as general partner to limited partnership, other general partners, and persons dissociated as general partner.

(1) If a general partner having knowledge of the dissolution causes a limited partnership to incur an obligation under Subsection 48-2e-804(1) by an act that is not appropriate for winding up the limited partnership's activities and affairs, the general partner is liable:
  (a) to the limited partnership for any damage caused to the limited partnership arising from the obligation; and
  (b) if another general partner or a person dissociated as a general partner is liable for the obligation, to that other general partner or person for any damage caused to that other general partner or person arising from the liability.
(2) If a person dissociated as a general partner causes a limited partnership to incur an obligation under Subsection 48-2e-804(2), the person is liable:
  (a) to the limited partnership for any damage caused to the limited partnership arising from the obligation; and
  (b) if a general partner or another person dissociated as a general partner is liable for the obligation, to the general partner or other person for any damage caused to the general partner or other person arising from the obligation.

Enacted by Chapter 412, 2013 General Session

48-2e-806 Known claims against dissolved limited partnership.

(1) Except as otherwise provided in Subsection (4), a dissolved limited partnership may give notice of a known claim under Subsection (2), which has the effect provided in Subsection (3).
(2) A dissolved limited partnership may in a record notify its known claimants of the dissolution. The notice must:
  (a) specify the information required to be included in a claim;
  (b) state that a claim must be in writing and provide a mailing address to which the claim is to be sent;
  (c) state the deadline for receipt of a claim, which may not be less than 120 days after the date the notice is received by the claimant;
  (d) state that the claim will be barred if not received by the deadline; and
  (e) unless the limited partnership has been throughout its existence a limited liability limited partnership, state that the barring of a claim against the limited partnership will also bar any corresponding claim against any general partner or person dissociated as a general partner which is based on Section 48-2e-404.
(3) A claim against a dissolved limited partnership is barred if the requirements of Subsection (2) are met, and:
  (a) the claim is not received by the specified deadline; or
  (b) if the claim is timely received but rejected by the limited partnership:
    (i) the limited partnership causes the claimant to receive a notice in a record stating that the claim is rejected and will be barred unless the claimant commences an action against the

limited partnership to enforce the claim not later than 90 days after the claimant receives the notice; and

(ii) the claimant does not commence the required action not later than 90 days after the claimant receives the notice.

(4) This section does not apply to a claim based on an event occurring after the effective date of dissolution or a liability that on that date is contingent.

Enacted by Chapter 412, 2013 General Session

48-2e-807 Other claims against dissolved limited partnership.

(1) A dissolved limited partnership may publish notice of its dissolution and request persons having claims against the dissolved limited partnership to present them in accordance with the notice.

(2) A notice under Subsection (1) must:

(a) be published at least once in a newspaper of general circulation in the county in this state in which the dissolved limited partnership's principal office is located or, if the principal office is not located in this state, in the county in which the office of the dissolved limited partnership's registered agent is or was last located and in accordance with Section 45-1-101;

(b) describe the information required to be contained in a claim, state that the claim must be in writing, and provide a mailing address to which the claim is to be sent;

(c) state that a claim against the dissolved limited partnership is barred unless an action to enforce the claim is commenced not later than three years after publication of the notice; and

(d) unless the dissolved limited partnership has been throughout its existence a limited liability limited partnership, state that the barring of a claim against the dissolved limited partnership will also bar any corresponding claim against any general partner or person dissociated as a general partner which is based on Section 48-2e-404.

(3) If a dissolved limited partnership publishes a notice in accordance with Subsection (2), the claim of each of the following claimants is barred unless the claimant commences an action to enforce the claim against the dissolved limited partnership not later than three years after the publication date of the notice:

(a) a claimant that did not receive notice in a record under Section 48-2e-806;

(b) a claimant whose claim was timely sent to the dissolved limited partnership but not acted on; and

(c) a claimant whose claim is contingent at, or based on an event occurring after, the effective date of dissolution.

(4) A claim not barred under this section or Section 48-2e-806 may be enforced:

(a) against the dissolved limited partnership, to the extent of its undistributed assets;

(b) except as otherwise provided in Section 48-2e-808, if the assets of the dissolved limited partnership have been distributed after dissolution, against a partner or transferee to the extent of that person's proportionate share of the claim or of the dissolved limited partnership's assets distributed to the partner or transferee after dissolution, whichever is less, but a person's total liability for all claims under this subsection may not exceed the total amount of assets distributed to the person after dissolution; and

(c) against any person liable on the claim under Sections 48-2e-404 and 48-2e-607.

Enacted by Chapter 412, 2013 General Session

Superseded 7/1/2024

48-2e-808 Court proceedings.

(1) A dissolved limited partnership that has published a notice under Section 48-2e-807 may file an application with the district court in the county where the dissolved limited partnership's principal office is located, or, if the principal office is not located in this state, where the office of its registered agent is located, for a determination of the amount and form of security to be provided for payment of claims that are contingent, have not been made known to the dissolved limited partnership, or are based on an event occurring after the effective date of dissolution but which, based on the facts known to the dissolved limited partnership, are reasonably expected to arise after the effective date of dissolution. Security is not required for any claim that is or is reasonably anticipated to be barred under Subsection 48-2e-807(3).
(2) Not later than 10 days after the filing of an application under Subsection (1), the dissolved limited partnership shall give notice of the proceeding to each claimant holding a contingent claim known to the dissolved limited partnership.
(3) In a proceeding brought under this section, the court may appoint a guardian ad litem to represent all claimants whose identities are unknown. The reasonable fees and expenses of the guardian, including all reasonable expert witness fees, must be paid by the dissolved limited partnership.
(4) A dissolved limited partnership that provides security in the amount and form ordered by the court under Subsection (1) satisfies the dissolved limited partnership's obligations with respect to claims that are contingent, have not been made known to the dissolved limited partnership, or are based on an event occurring after the effective date of dissolution, and such claims may not be enforced against a partner or transferee that received assets in liquidation.

Enacted by Chapter 412, 2013 General Session

Effective 7/1/2024
48-2e-808 Court proceedings.
(1)
(a) A dissolved limited partnership that has published a notice under Section 48-2e-807 may petition a court with jurisdiction under Title 78A, Judiciary and Judicial Administration, for a determination of the amount and form of security to be provided for payment of claims that are contingent, have not been made known to the dissolved limited partnership, or are based on an event occurring after the effective date of dissolution but which, based on the facts known to the dissolved limited partnership, are reasonably expected to arise after the effective date of dissolution.
(b) Security is not required for any claim that is or is reasonably anticipated to be barred under Subsection 48-2e-807(3).
(2) No later than 10 days after the filing of an application under Subsection (1), the dissolved limited partnership shall give notice of the proceeding to each claimant holding a contingent claim known to the dissolved limited partnership.
(3)
(a) In a proceeding brought under this section, the court may appoint a guardian ad litem to represent all claimants whose identities are unknown.
(b) The reasonable fees and expenses of the guardian, including all reasonable expert witness fees, must be paid by the dissolved limited partnership.
(4) A dissolved limited partnership that provides security in the amount and form ordered by the court under Subsection (1) satisfies the dissolved limited partnership's obligations with respect to claims that are contingent, have not been made known to the dissolved limited partnership,

or are based on an event occurring after the effective date of dissolution, and such claims may not be enforced against a partner or transferee that received assets in liquidation.

Amended by Chapter 401, 2023 General Session

48-2e-809 Liability of general partner and person dissociated as general partner when claim against limited partnership barred.

If a claim against a dissolved limited partnership is barred under Section 48-2e-806, 48-2e-807, or 48-2e-808, any corresponding claim under Section 48-2e-404 or 48-2e-607 is also barred.

Enacted by Chapter 412, 2013 General Session

48-2e-810 Administrative dissolution.

(1) The division may commence a proceeding under Subsections (2) and (3) to dissolve a limited partnership administratively if the limited partnership does not:
  (a) pay any fee, tax, or penalty required to be paid to the division not later than 60 days after it is due;
  (b) deliver an annual report to the division not later than 60 days after it is due; or
  (c) have a registered agent in this state for 60 consecutive days.
(2) If the division determines that one or more grounds exist for administratively dissolving a limited partnership, the division shall serve the limited partnership with notice in a record of the division's determination.
(3) If a limited partnership, not later than 60 days after service of the notice under Subsection (2), does not cure or demonstrate to the satisfaction of the division the nonexistence of each ground determined by the division, the division shall administratively dissolve the limited partnership by signing a statement of administrative dissolution that recites the grounds for dissolution and the effective date of dissolution. The division shall file the statement and serve a copy on the limited partnership pursuant to Section 48-2e-209.
(4) A limited partnership that is administratively dissolved continues in existence as an entity but may not carry on any activities except as necessary to wind up its activities and affairs and liquidate its assets under Sections 48-2e-802, 48-2e-806, 48-2e-807, 48-2e-808, and 48-2e-813 or to apply for reinstatement under Section 48-2e-811.
(5) The administrative dissolution of a limited partnership does not terminate the authority of its registered agent.

Enacted by Chapter 412, 2013 General Session

48-2e-811 Reinstatement.

(1) A limited partnership that is administratively dissolved under Section 48-2e-810 may apply to the division for reinstatement under the limited partnership's same name at any time after the effective date of dissolution if the limited partnership's name is available and the limited partnership delivers to the division for filing an application for reinstatement that states:
  (a) the name of the limited partnership at the time of its administrative dissolution and, if needed, a different name that satisfies Section 48-2e-108;
  (b) the address of the principal office of the limited partnership and the name and address of its registered agent;
  (c) the effective date of the limited partnership's administrative dissolution; and
  (d) that the grounds for dissolution did not exist or have been cured.

(2) A limited partnership administratively dissolved under Section 48-2e-810 on or after May 1, 2019, but before May 1, 2024, may apply for reinstatement under the limited partnership's same name if the limited partnership's name is available and the limited partnership delivers to the division for filing an application for reinstatement that satisfies the requirements of Subsections (1)(a) through (c).
(3) A limited partnership retains the limited partnership's name and assumed name, as described in Section 42-2-6.6, for five years after the day on which the dissolution is effective.
(4) To be reinstated, a limited partnership must pay all fees, taxes, interest, and penalties that were due to the division at the time of its administrative dissolution and all fees, taxes, interest, and penalties that would have been due to the division while the limited partnership was administratively dissolved.
(5) If the division determines that an application under Subsection (1) or (2) contains the information required, is satisfied that the information is correct, and determines that all payments required to be made to the division by Subsection (4) have been made, the division shall:
  (a) cancel the statement of administrative dissolution and prepare a statement of reinstatement that states the division's determination and the effective date of reinstatement;
  (b) file the statement of reinstatement; and
  (c) serve a copy of the statement of reinstatement on the limited partnership.
(6) When reinstatement under this section is effective, the following rules apply:
  (a) The restatement relates back to and takes effect as of the effective date of the administrative dissolution.
  (b) The limited partnership resumes carrying on its activities and affairs as if the administrative dissolution had not occurred.
  (c) The rights of a person arising out of an act or omission in reliance on the dissolution before the person knew or had notice of the reinstatement are not affected.

Amended by Chapter 232, 2024 General Session

48-2e-812 Judicial review of denial of reinstatement.
(1) If the division denies a limited partnership's application for reinstatement following administrative dissolution, the division shall serve the limited partnership with notice in a record that explains the reasons for the denial.
(2) A limited partnership may seek judicial review of denial of reinstatement in the district court not later than 30 days after service of the notice of denial.

Enacted by Chapter 412, 2013 General Session

48-2e-813 Disposition of assets in winding up -- When contributions required.
(1) In winding up its activities and affairs, a limited partnership shall apply its assets, including the contributions required by this section, to discharge the limited partnership's obligations to creditors, including partners that are creditors.
(2) After a limited partnership complies with Subsection (1), any surplus must be distributed in the following order, subject to any charging order in effect under Section 48-2e-703:
  (a) to each person owning a transferable interest that reflects contributions made and not previously returned, an amount equal to the value of the unreturned contributions; and

(b) among partners in proportion to their respective rights to share in distributions immediately before the dissolution of the limited partnership, except to the extent necessary to comply with any transfer effective under Section 48-2e-702.

(3) If a limited partnership's assets are insufficient to satisfy all of its obligations under Subsection (1), with respect to each unsatisfied obligation incurred when the limited partnership was not a limited liability limited partnership, the following rules apply:

(a) Each person that was a general partner when the obligation was incurred and that has not been released from the obligation under Section 48-2e-607 shall contribute to the limited partnership for the purpose of enabling the limited partnership to satisfy the obligation. The contribution due from each of those persons is in proportion to the right to receive distributions in the capacity of general partner in effect for each of those persons when the obligation was incurred.

(b) If a person does not contribute the full amount required under Subsection (3)(a) with respect to an unsatisfied obligation of the limited partnership, the other persons required to contribute by Subsection (3)(a) on account of the obligation shall contribute the additional amount necessary to discharge the obligation. The additional contribution due from each of those other persons is in proportion to the right to receive distributions in the capacity of general partner in effect for each of those other persons when the obligation was incurred.

(c) If a person does not make the additional contribution required by Subsection (3)(b), further additional contributions are determined and due in the same manner as provided in that subsection.

(d) A person that makes an additional contribution under Subsection (3)(b) or (3)(c) may recover from any person whose failure to contribute under Subsection (3)(a) or (3)(b) necessitated the additional contribution. A person may not recover under this subsection more than the amount additionally contributed. A person's liability under this subsection may not exceed the amount the person failed to contribute.

(4) If a limited partnership does not have sufficient surplus to comply with Subsection (2)(a), any surplus must be distributed among the owners of transferable interests in proportion to the value of the respective unreturned contributions.

(5) All distributions made under Subsections (2) and (4) must be paid in money.

Enacted by Chapter 412, 2013 General Session

Part 9
Foreign Limited Partnerships

48-2e-901 Governing law.

(1) The law of the jurisdiction of formation of a foreign limited partnership governs:

(a) the internal affairs of the foreign limited partnership; and

(b) the liability of a partner as partner for a debt, obligation, or other liability of the foreign limited partnership.

(2) A foreign limited partnership is not precluded from registering to do business in this state because of any difference between the law of its jurisdiction of formation and the law of this state.

(3) Registration of a foreign limited partnership to do business in this state does not authorize the foreign limited partnership to engage in any activities and affairs or exercise any power that a limited partnership may not engage in or exercise in this state.
(4)
(a) The division may permit a tribal limited partnership to apply for authority to transact business in the state in the same manner as a foreign limited partnership formed in another state.
(b) If a tribal limited partnership elects to apply for authority to transact business in the state, for purposes of this chapter, the tribal limited partnership shall be treated in the same manner as a foreign limited partnership formed under the laws of another state.

Enacted by Chapter 412, 2013 General Session

48-2e-902 Registration to do business in this state.
(1) A foreign limited partnership may not do business in this state until it registers with the division under this part.
(2) A foreign limited partnership doing business in this state may not maintain an action or proceeding in this state unless it is registered to do business in this state.
(3) The failure of a foreign limited partnership to register to do business in this state does not impair the validity of a contract or act of the foreign limited partnership or preclude it from defending an action or proceeding in this state.
(4) A limitation on the liability of a general partner or limited partners of a foreign limited partnership is not waived solely because the foreign limited partnership does business in this state without registering to do business in this state.
(5) Subsections 48-2e-901(1) and (2) apply even if the foreign limited partnership fails to register under this part.

Enacted by Chapter 412, 2013 General Session

48-2e-903 Foreign registration statement.
To register to do business in this state, a foreign limited partnership must deliver a foreign registration statement to the division for filing. The statement must state:
(1) the name of the foreign limited partnership and, if the name does not comply with Section 48-2e-108, an alternate name adopted pursuant to Subsection 48-2e-906(1);
(2) that the limited partnership is a foreign limited partnership;
(3) the name of the foreign limited partnership's jurisdiction of formation;
(4) the street and mailing addresses of the foreign limited partnership's principal office and, if the law of the foreign limited partnership's jurisdiction of formation requires the foreign limited partnership to maintain an office in that jurisdiction, the street and mailing addresses of the required office; and
(5) the information required by Subsection 16-17-203(1).

Enacted by Chapter 412, 2013 General Session

48-2e-904 Amendment of foreign registration.
A registered foreign limited partnership shall deliver to the division for filing an amendment to its foreign registration statement if there is a change in:
(1) the name of the foreign limited partnership;
(2) the foreign limited partnership's jurisdiction of formation;

(3) an address required by Subsection 48-2e-903(4); or
(4) the information required by Subsection 48-2e-903(5).

Enacted by Chapter 412, 2013 General Session

48-2e-905 Activities not constituting doing business.

(1) Activities of a foreign limited partnership which do not constitute doing business in this state under this part include:
  (a) maintaining, defending, mediating, arbitrating, and settling an action or proceeding;
  (b) carrying on any activity concerning its internal affairs, including holding meetings of its partners;
  (c) maintaining accounts in financial institutions;
  (d) maintaining offices or agencies for the transfer, exchange, and registration of securities of the foreign limited partnership or maintaining trustees or depositories with respect to those securities;
  (e) selling through independent contractors;
  (f) soliciting or obtaining orders by any means, if the orders require acceptance outside this state before they become contracts;
  (g) creating or acquiring indebtedness, mortgages, or security interests in property;
  (h) securing or collecting debts or enforcing mortgages or security interests in property securing the debts, and holding, protecting, or maintaining property;
  (i) conducting an isolated transaction that is not in the course of similar transactions;
  (j) owning, without more, property; and
  (k) doing business in interstate commerce.
(2) A person does not do business in this state solely by being a partner of a foreign limited partnership that does business in this state. This section does not apply in determining the contacts or activities that may subject a foreign limited partnership to service of process, taxation, or regulation under law of this state other than this chapter.

Enacted by Chapter 412, 2013 General Session

48-2e-906 Noncomplying name of foreign limited partnership.

(1) A foreign limited partnership whose name does not comply with Section 48-2e-108 may not register to do business in this state until it adopts, for the purpose of doing business in this state, an alternate name that complies with Section 48-2e-108. A registered foreign limited partnership that registers under an alternate name under this Subsection (1) need not comply with Title 42, Chapter 2, Conducting Business Under Assumed Name. After registering to do business in this state with an alternate name, a registered foreign limited partnership shall do business in this state under:
  (a) the alternate name;
  (b) the foreign limited partnership's name, with the addition of its jurisdiction of formation; or
  (c) an assumed or fictitious name the foreign limited partnership is authorized to use under Title 42, Chapter 2, Conducting Business Under Assumed Name.
(2) If a registered foreign limited partnership changes its name to one that does not comply with Section 48-2e-108, it may not do business in this state until it complies with Subsection (1) by amending its registration to adopt an alternate name that complies with Section 48-2e-108.

Enacted by Chapter 412, 2013 General Session

48-2e-907 Withdrawal deemed on conversion to domestic filing entity or domestic limited liability partnership.

A registered foreign limited partnership that converts to a domestic limited liability partnership or to a domestic entity that is organized, incorporated, or otherwise formed through the delivery of a record to the division for filing is deemed to have withdrawn its registration on the effective date of the conversion.

Enacted by Chapter 412, 2013 General Session

48-2e-908 Withdrawal on dissolution or conversion to nonfiling entity other than limited liability partnership.

(1) A registered foreign limited partnership that has dissolved and completed winding up or has converted to a domestic or foreign entity that is not organized, incorporated, or otherwise formed through the public filing of a record, other than a limited liability partnership, shall deliver a statement of withdrawal to the division for filing. The statement must state:
  (a) in the case of a foreign limited partnership that has completed winding up:
    (i) its name and jurisdiction of formation; and
    (ii) that the foreign limited partnership surrenders its registration to do business in this state as a registered foreign limited partnership; and
  (b) in the case of a foreign limited partnership that has converted:
    (i) the name of the converting foreign limited partnership and its jurisdiction of formation;
    (ii) the type of entity to which the foreign limited partnership has converted and its jurisdiction of formation;
    (iii) that the converted entity surrenders the converting partnership's registration to do business in this state and revokes the authority of the converting foreign limited partnership's registered agent to act as registered agent in this state on the behalf of the foreign limited partnership or the converted entity; and
    (iv) a mailing address to which service of process may be made under Subsection (2).
(2) After a withdrawal under this section of a foreign limited partnership that has converted to another type of entity is effective, service of process in any action or proceeding based on a cause of action arising during the time the foreign limited partnership was registered to do business in this state may be made pursuant to Subsection 16-17-301(2).

Enacted by Chapter 412, 2013 General Session

48-2e-909 Transfer of registration.

(1) When a registered foreign limited partnership has merged into a foreign entity that is not registered to do business in this state or has converted to a foreign entity required to register with the division to do business in this state, the foreign entity shall deliver to the division for filing an application for transfer of registration. The application must state:
  (a) the name of the registered foreign limited partnership before the merger or conversion;
  (b) that before the merger or conversion the registration pertained to a foreign limited partnership;
  (c) the name of the applicant foreign entity into which the foreign limited partnership has merged or to which it has been converted, and, if the name does not comply with Section 48-2e-108 or similar provision of law of this state governing an entity of the same type as the applicant foreign entity, an alternate name adopted pursuant to Subsection 48-2e-906(1) or similar

provision of law of this state governing a foreign entity registered to do business in this state of the same type as the applicable foreign entity;
(d) the type of entity of the applicant foreign entity and its jurisdiction of formation;
(e) the street and mailing addresses of the principal office of the applicant foreign entity and, if the law of the entity's jurisdiction of formation requires the entity to maintain an office in that jurisdiction, the street and mailing addresses of that office; and
(f) the information required under Subsection 16-17-203(1).
(2) When an application for transfer of registration takes effect, the registration of the foreign limited partnership to do business in this state is transferred without interruption to the foreign entity into which the foreign limited partnership has merged or to which it has been converted.

Enacted by Chapter 412, 2013 General Session

48-2e-910 Termination of registration.
(1) The division may terminate the registration of a registered foreign limited partnership in the manner provided in Subsections (2) and (3) if the foreign limited partnership does not:
(a) pay, not later than 60 days after the due date, any fee, tax, interest, or penalty required to be paid to the division under this chapter or law other than this chapter;
(b) deliver to the division for filing, not later than 60 days after the due date, an annual report;
(c) have a registered agent as required by Section 48-2e-111; or
(d) deliver to the division for filing a statement of a change under Section 16-17-206 not later than 30 days after a change has occurred in the name or address of the registered agent.
(2) The division may terminate the registration of a registered foreign limited partnership by:
(a) filing a notice of termination or noting the termination in the records of the division; and
(b) delivering a copy of the notice or the information in the notation to the foreign limited partnership's registered agent, or if the foreign limited partnership does not have a registered agent, to the foreign limited partnership's principal office.
(3) The notice must state or the information in the notation under Subsection (2) must include:
(a) the effective date of the termination, which must be at least 60 days after the date the division delivers the copy; and
(b) the grounds for termination under Subsection (1).
(4) The authority of the registered foreign limited partnership to do business in this state ceases on the effective date of the notice of termination or notation under Subsection (2), unless before that date the foreign limited partnership cures each ground for termination stated in the notice or notation. If the foreign limited partnership cures each ground, the division shall file a record so stating.

Enacted by Chapter 412, 2013 General Session

48-2e-911 Withdrawal of registration of registered foreign limited partnership.
(1) A registered foreign limited partnership may withdraw its registration by delivering a statement of withdrawal to the division for filing. The statement of withdrawal must state:
(a) the name of the foreign limited partnership and its jurisdiction of formation;
(b) that the foreign limited partnership is not doing business in this state and that it withdraws its registration to do business in this state;
(c) that the foreign limited partnership revokes the authority of its registered agent to accept service on its behalf in this state; and
(d) an address to which service of process may be made under Subsection (2).

(2) After the withdrawal of the registration of a partnership, service of process in any action or proceeding based on a cause of action arising during the time the foreign limited partnership was registered to do business in this state may be made pursuant to Subsection 16-17-301(2).

Enacted by Chapter 412, 2013 General Session

48-2e-912 Action by attorney general.

The attorney general may maintain an action to enjoin a foreign limited partnership from doing business in this state in violation of this part.

Enacted by Chapter 412, 2013 General Session

Part 10
Actions by Partners

48-2e-1001 Direct action by partner.

(1) Subject to Subsection (2), a partner may maintain a direct action against another partner or the limited partnership, with or without an accounting as to the limited partnership's activities and affairs, to enforce the partner's rights and otherwise protect the partner's interests, including rights and interests under the partnership agreement or this chapter or arising independently of the partnership relationship.
(2) A partner maintaining a direct action under this section must plead and prove an actual or threatened injury that is not solely the result of an injury suffered or threatened to be suffered by the limited partnership.
(3) A right to an accounting upon a dissolution and winding up does not revive a claim barred by law.

Enacted by Chapter 412, 2013 General Session

48-2e-1002 Derivative action.

A partner may maintain a derivative action to enforce a right of a limited partnership if:
(1) the partner first makes a demand on the general partners, requesting that they cause the limited partnership to bring an action to enforce the right, and the general partners do not bring the action within a reasonable time; or
(2) a demand under Subsection (1) would be futile.

Enacted by Chapter 412, 2013 General Session

48-2e-1003 Proper plaintiff.

A derivative action to enforce a right of a limited partnership may be maintained only by a person that is a partner at the time the action is commenced and:
(1) which was a partner when the conduct giving rise to the action occurred; or
(2) whose status as a partner devolved on the person by operation of law or pursuant to the terms of the partnership agreement from a person that was a partner at the time of the conduct.

Enacted by Chapter 412, 2013 General Session

48-2e-1004 Pleading.

In a derivative action to enforce a right of a limited partnership, the complaint must state with particularity:

(1) the date and content of the plaintiff's demand and the response to the demand by the general partner; or

(2) why demand should be excused as futile.

Enacted by Chapter 412, 2013 General Session

48-2e-1005 Special litigation committee.

(1) If a limited partnership is named as or made a party in a derivative proceeding, the limited partnership may appoint a special litigation committee to investigate the claims asserted in the proceeding and determine whether pursuing the action is in the best interests of the limited partnership. If the limited partnership appoints a special litigation committee, on motion by the committee made in the name of the limited partnership, except for good cause shown, the court shall stay discovery for the time reasonably necessary to permit the committee to make its investigation. This subsection does not prevent the court from:
  (a) enforcing a person's right to information under Section 48-2e-304 or 48-2e-407; or
  (b) granting extraordinary relief in the form of a temporary restraining order or preliminary injunction.

(2) A special litigation committee must be composed of one or more disinterested and independent individuals, who may be partners.

(3) A special litigation committee may be appointed:
  (a) by a majority of the general partners not named as parties in the proceeding; and
  (b) if all general partners are named as parties in the proceeding, by a majority of the general partners named as defendants.

(4) After appropriate investigation, a special litigation committee may determine that it is in the best interests of the limited partnership that the proceeding:
  (a) continue under the control of the plaintiff;
  (b) continue under the control of the committee;
  (c) be settled on terms approved by the committee; or
  (d) be dismissed.

(5) After making a determination under Subsection (4), a special litigation committee shall file with the court a statement of its determination and its report supporting its determination and shall serve each party with a copy of the determination and report. The court shall determine whether the members of the committee were disinterested and independent and whether the committee conducted its investigation and made its recommendation in good faith, independently, and with reasonable care, with the committee having the burden of proof. If the court finds that the members of the committee were disinterested and independent and that the committee acted in good faith, independently, and with reasonable care, the court shall enforce the determination of the committee. Otherwise, the court shall dissolve the stay of discovery entered under Subsection (1) and allow the action to continue under the control of the plaintiff.

Enacted by Chapter 412, 2013 General Session

48-2e-1006 Proceeds and expenses.

(1) Except as otherwise provided in Subsection (2):

(a) any proceeds or other benefits of a derivative action, whether by judgment, compromise, or settlement, belong to the limited partnership and not to the plaintiff; and
(b) if the plaintiff receives any proceeds, the plaintiff shall remit them immediately to the limited partnership.
(2) If a derivative action is successful in whole or in part, the court may award the plaintiff reasonable expenses, including reasonable attorney's fees and costs, from the recovery of the limited partnership.
(3) A derivative action on behalf of a limited partnership may not be voluntarily dismissed or settled without the court's approval.

Enacted by Chapter 412, 2013 General Session

Part 11
Merger, Interest Exchange, Conversion, and Domestication

48-2e-1101 Definitions.

In this part:
(1) "Acquired entity" means the entity, all of one or more classes or series of interests in which are acquired in an interest exchange.
(2) "Acquiring entity" means the entity that acquires all of one or more classes or series of interests of the acquired entity in an interest exchange.
(3) "Conversion" means a transaction authorized by Sections 48-2e-1141 through 48-2e-1146.
(4) "Converted entity" means the converting entity as it continues in existence after a conversion.
(5) "Converting entity" means the domestic entity that approves a plan of conversion pursuant to Section 48-2e-1143 or the foreign entity that approves a conversion pursuant to the law of its jurisdiction of formation.
(6) "Distributional interest" means the right under an unincorporated entity's organic law and organic rules to receive distributions from the entity.
(7) "Domestic," with respect to an entity, means governed as to its internal affairs by the law of this state.
(8) "Domesticated limited partnership" means the domesticating limited partnership as it continues in existence after a domestication.
(9) "Domesticating limited partnership" means the domestic limited partnership that approves a plan of domestication pursuant to Section 48-2e-1153 or the foreign limited partnership that approves a domestication pursuant to the law of its jurisdiction of formation.
(10) "Domestication" means a transaction authorized by Sections 48-2e-1151 through 48-2e-1156.
(11) "Entity":
(a) means:
(i) a business corporation;
(ii) a nonprofit corporation;
(iii) a general partnership, including a limited liability partnership;
(iv) a limited partnership, including a limited liability limited partnership;
(v) a limited liability company;
(vi) a limited cooperative association;
(vii) an unincorporated nonprofit association;
(viii) a statutory trust, business trust, or common-law business trust; or

(ix) any other person that has:
(A) a legal existence separate from any interest holder of that person; or
(B) the power to acquire an interest in real property in its own name; and
(b) does not include:
(i) an individual;
(ii) a trust with a predominantly donative purpose, or a charitable trust;
(iii) an association or relationship that is not a partnership solely by reason of Subsection 48-1d-202(3) or a similar provision of the law of another jurisdiction;
(iv) a decedent's estate; or
(v) a government or a governmental subdivision, agency, or instrumentality.
(12) "Filing entity" means an entity whose formation requires the filing of a public organic record.
(13) "Foreign," with respect to an entity, means an entity governed as to its internal affairs by the law of a jurisdiction other than this state.
(14) "Governance interest" means a right under the organic law or organic rules of an unincorporated entity, other than as a governor, agent, assignee, or proxy, to:
(a) receive or demand access to information concerning, or the books and records of, the entity;
(b) vote for or consent to the election of the governors of the entity; or
(c) receive notice of or vote on or consent to an issue involving the internal affairs of the entity.
(15) "Governor" means:
(a) a director of a business corporation;
(b) a director or trustee of a nonprofit corporation;
(c) a general partner of a general partnership;
(d) a general partner of a limited partnership;
(e) a manager of a manager-managed limited liability company;
(f) a member of a member-managed limited liability company;
(g) a director of a limited cooperative association;
(h) a manager of an unincorporated nonprofit association;
(i) a trustee of a statutory trust, business trust, or common-law business trust; or
(j) any other person under whose authority the powers of an entity are exercised and under whose direction the activities and affairs of the entity are managed pursuant to the organic law and organic rules of the entity.
(16) "Interest" means:
(a) a share in a business corporation;
(b) a membership in a nonprofit corporation;
(c) a partnership interest in a general partnership;
(d) a partnership interest in a limited partnership;
(e) a membership interest in a limited liability company;
(f) a member's interest in a limited cooperative association;
(g) a membership in an unincorporated nonprofit association;
(h) a beneficial interest in a statutory trust, business trust, or common-law business trust; or
(i) a governance interest or distributional interest in any other type of unincorporated entity.
(17) "Interest exchange" means a transaction authorized by Sections 48-2e-1131 through 48-2e-1136.
(18) "Interest holder" means:
(a) a shareholder of a business corporation;
(b) a member of a nonprofit corporation;
(c) a general partner of a general partnership;
(d) a general partner of a limited partnership;

(e) a limited partner of a limited partnership;
(f) a member of a limited liability company;
(g) a member of a limited cooperative association;
(h) a member of an unincorporated nonprofit association;
(i) a beneficiary or beneficial owner of a statutory trust, business trust, or common-law business trust; or
(j) any other direct holder of an interest.

(19) "Interest holder liability" means:
(a) personal liability for a liability of an entity which is imposed on a person:
(i) solely by reason of the status of the person as an interest holder; or
(ii) by the organic rules of the entity which make one or more specified interest holders or categories of interest holders liable in their capacity as interest holders for all or specified liabilities of the entity; or
(b) an obligation of an interest holder under the organic rules of an entity to contribute to the entity.

(20) "Jurisdiction of formation" means the jurisdiction whose law includes the organic law of an entity.

(21) "Merger" means a transaction authorized by Sections 48-2e-1121 through 48-2e-1126.

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

(23) "Organic law" means the law of an entity's jurisdiction of formation governing the internal affairs of the entity.

(24) "Organic rules" means the public organic record and private organic rules of an entity.

(25) "Plan" means a plan of merger, plan of interest exchange, plan of conversion, or plan of domestication.

(26) "Plan of conversion" means a plan under Section 48-2e-1142.

(27) "Plan of domestication" means a plan under Section 48-2e-1152.

(28) "Plan of interest exchange" means a plan under Section 48-2e-1132.

(29) "Plan of merger" means a plan under Section 48-2e-1122.

(30) "Private organic rules" means the rules, whether or not in a record, that govern the internal affairs of an entity, are binding on all its interest holders, and are not part of its public organic record, if any. The term includes:
(a) the bylaws of a business corporation;
(b) the bylaws of a nonprofit corporation;
(c) the partnership agreement of a general partnership;
(d) the partnership agreement of a limited partnership;
(e) the operating agreement of a limited liability company;
(f) the bylaws of a limited cooperative association;
(g) the governing principles of an unincorporated nonprofit association; and
(h) the trust instrument of a statutory trust or similar rules of a business trust or a common-law business trust.

(31) "Protected agreement" means:
(a) a record evidencing indebtedness and any related agreement in effect on January 1, 2014;
(b) an agreement that is binding on an entity on January 1, 2014;
(c) the organic rules of an entity in effect on January 1, 2014; or
(d) an agreement that is binding on any of the governors or interest holders of an entity on January 1, 2014.

(32) "Public organic record" means the record, the filing of which by the division is required to form an entity, and any amendment to or restatement of that record. The term includes:
(a) the articles of incorporation of a business corporation;
(b) the articles of incorporation of a nonprofit corporation;
(c) the certificate of limited partnership of a limited partnership;
(d) the certificate of organization of a limited liability company;
(e) the articles of organization of a limited cooperative association; and
(f) the certificate of trust of a statutory trust or similar record of a business trust.
(33) "Registered foreign entity" means a foreign entity that is registered to do business in this state pursuant to a record filed by the division.
(34) "Statement of conversion" means a statement under Section 48-2e-1145.
(35) "Statement of domestication" means a statement under Section 48-2e-1155.
(36) "Statement of interest exchange" means a statement under Section 48-2e-1135.
(37) "Statement of merger" means a statement under Section 48-2e-1125.
(38) "Surviving entity" means the entity that continues in existence after or is created by a merger.
(39) "Type of entity" means a generic form of entity:
(a) recognized at common law; or
(b) formed under an organic law, whether or not some entities formed under that organic law are subject to provisions of that law that create different categories of the form of entity.

Enacted by Chapter 412, 2013 General Session

48-2e-1102 Relationship of part to other laws.

This part does not authorize an act prohibited by, and does not affect the application or requirements of, law other than this part.

Enacted by Chapter 412, 2013 General Session

Superseded 7/1/2024

48-2e-1103 Required notice or approval.

(1) A domestic or foreign entity that is required to give notice to, or obtain the approval of, a governmental agency or officer of this state to be a party to a merger must give the notice or obtain the approval to be a party to an interest exchange, conversion, or domestication.
(2) Property held for a charitable purpose under the law of this state by a domestic or foreign entity immediately before a transaction under this part becomes effective may not, as a result of the transaction, be diverted from the objects for which it was donated, granted, devised, or otherwise transferred unless, to the extent required by or pursuant to the law of this state concerning cy pres or other law dealing with nondiversion of charitable assets, the entity obtains an appropriate order of the district court specifying the disposition of the property.
(3) A bequest, devise, gift, grant, or promise contained in a will or other instrument of donation, subscription, or conveyance that is made to a merging entity that is not the surviving entity and that takes effect or remains payable after the merger inures to the surviving entity. A trust obligation that would govern property if transferred to the nonsurviving entity applies to property that is transferred to the surviving entity under this section.

Enacted by Chapter 412, 2013 General Session

Effective 7/1/2024

48-2e-1103 Required notice or approval.

(1) A domestic or foreign entity that is required to give notice to, or obtain the approval of, a governmental agency or officer of this state to be a party to a merger must give the notice or obtain the approval to be a party to an interest exchange, conversion, or domestication.

(2) Property held for a charitable purpose under the law of this state by a domestic or foreign entity immediately before a transaction under this part becomes effective may not, as a result of the transaction, be diverted from the objects for which it was donated, granted, devised, or otherwise transferred unless, to the extent required by or pursuant to the law of this state concerning cy pres or other law dealing with nondiversion of charitable assets, the entity obtains a court order specifying the disposition of the property.

(3) A bequest, devise, gift, grant, or promise contained in a will or other instrument of donation, subscription, or conveyance that is made to a merging entity that is not the surviving entity and that takes effect or remains payable after the merger inures to the surviving entity. A trust obligation that would govern property if transferred to the nonsurviving entity applies to property that is transferred to the surviving entity under this section.

Amended by Chapter 401, 2023 General Session

48-2e-1104 Status of filings.

A filing under this part signed by a domestic entity becomes part of the public organic record of the entity if the entity's organic law provides that similar filings under that law become part of the public organic record of the entity.

Enacted by Chapter 412, 2013 General Session

48-2e-1105 Nonexclusivity.

The fact that a transaction under this part produces a certain result does not preclude the same result from being accomplished in any other manner permitted by law other than this part.

Enacted by Chapter 412, 2013 General Session

48-2e-1106 Reference to external facts.

A plan may refer to facts ascertainable outside the plan if the manner in which the facts will operate upon the plan is specified in the plan. The facts may include the occurrence of an event or a determination or action by a person, whether or not the event, determination, or action is within the control of a party to the transaction.

Enacted by Chapter 412, 2013 General Session

48-2e-1107 Alternative means of approval of transactions.

Except as otherwise provided in the organic law or organic rules of a domestic entity, approval of a transaction under this part by the unanimous vote or consent of its interest holders satisfies the requirements of this part for approval of the transaction.

Enacted by Chapter 412, 2013 General Session

48-2e-1108 Appraisal rights.

(1) An interest holder of a domestic merging, acquired, converting, or domesticating entity is entitled to appraisal rights in connection with the transaction if the interest holder would have been entitled to appraisal rights under the entity's organic law in connection with a merger in which the interest of the interest holder was changed, converted, or exchanged unless:
  (a) the organic law permits the organic rules to limit the availability of appraisal rights; and
  (b) the organic rules provide such a limit.
(2) An interest holder of a domestic merging, acquired, converting, or domesticating entity is entitled to contractual appraisal rights in connection with a transaction under this part to the extent provided in:
  (a) the entity's organic rules; or
  (b) the plan.

Enacted by Chapter 412, 2013 General Session

48-2e-1121 Merger authorized.

(1) By complying with Sections 48-2e-1121 through 48-2e-1126:
  (a) one or more domestic limited partnerships may merge with one or more domestic or foreign entities into a domestic or foreign surviving entity; and
  (b) two or more foreign entities may merge into a domestic limited partnership.
(2) By complying with the provisions of Sections 48-2e-1121 through 48-2e-1126 applicable to foreign entities, a foreign entity may be a party to a merger under Sections 48-2e-1121 through 48-2e-1126 or may be the surviving entity in such a merger if the merger is authorized by the law of the foreign entity's jurisdiction of formation.

Enacted by Chapter 412, 2013 General Session

48-2e-1122 Plan of merger.

(1) A domestic limited partnership may become a party to a merger under Sections 48-2e-1121 through 48-2e-1126 by approving a plan of merger. The plan must be in a record and contain:
  (a) as to each merging entity, its name, jurisdiction of formation, and type of entity;
  (b) if the surviving entity is to be created in the merger, a statement to that effect and the entity's name, jurisdiction of formation, and type of entity;
  (c) the manner of converting the interests in each party to the merger into interests, securities, obligations, money, other property, rights to acquire interests or securities, or any combination of the foregoing;
  (d) if the surviving entity exists before the merger, any proposed amendments to its public organic record, if any, or to its private organic rules that are, or are proposed to be, in a record;
  (e) if the surviving entity is to be created in the merger, its proposed public organic record, if any, and the full text of its private organic rules that are proposed to be in a record;
  (f) the other terms and conditions of the merger; and
  (g) any other provision required by the law of a merging entity's jurisdiction of formation or the organic rules of a merging entity.
(2) In addition to the requirements of Subsection (1), a plan of merger may contain any other provision not prohibited by law.

Enacted by Chapter 412, 2013 General Session

48-2e-1123 Approval of merger.

(1) A plan of merger is not effective unless it has been approved:
  (a) by a domestic merging limited partnership, by all the partners of the limited partnership entitled to vote on or consent to any matter; and
  (b) in a record, by each partner of a domestic merging limited partnership that will have interest holder liability for debts, obligations, and other liabilities that arise after the merger becomes effective, unless:
    (i) the partnership agreement of the limited partnership in a record provides for the approval of a merger in which some or all of its partners become subject to interest holder liability by the vote or consent of fewer than all the partners; and
    (ii) the partner consented in a record to or voted for that provision of the partnership agreement or became a partner after the adoption of that provision.
(2) A merger involving a domestic merging entity that is not a limited partnership is not effective unless the merger is approved by that entity in accordance with its organic law.
(3) A merger involving a foreign merging entity is not effective unless the merger is approved by the foreign entity in accordance with the law of the foreign entity's jurisdiction of formation.

Enacted by Chapter 412, 2013 General Session

48-2e-1124 Amendment or abandonment of plan of merger.

(1) A plan of merger may be amended only with the consent of each party to the plan, except as otherwise provided in the plan.
(2) A domestic merging limited partnership may approve an amendment of a plan of merger:
  (a) in the same manner as the plan was approved, if the plan does not provide for the manner in which it may be amended; or
  (b) by the partners in the manner provided in the plan, but a partner that was entitled to vote on or consent to approval of the merger is entitled to vote on or consent to any amendment of the plan that will change:
    (i) the amount or kind of interests, securities, obligations, money, other property, rights to acquire interests or securities, or any combination of the foregoing, to be received by the interest holders of any party to the plan;
    (ii) the public organic record, if any, or private organic rules of the surviving entity that will be in effect immediately after the merger becomes effective, except for changes that do not require approval of the interest holders of the surviving entity under its organic law or organic rules; or
    (iii) any other terms or conditions of the plan, if the change would adversely affect the partner in any material respect.
(3) After a plan of merger has been approved and before a statement of merger becomes effective, the plan may be abandoned as provided in the plan. Unless prohibited by the plan, a domestic merging limited partnership may abandon the plan in the same manner as the plan was approved.
(4) If a plan of merger is abandoned after a statement of merger has been delivered to the division for filing and before the statement becomes effective, a statement of abandonment, signed by a party to the plan, must be delivered to the division for filing before the statement of merger becomes effective. The statement of abandonment takes effect on filing, and the merger is abandoned and does not become effective. The statement of abandonment must contain:
  (a) the name of each party to the plan of merger;
  (b) the date on which the statement of merger was delivered to the division for filing; and

(c) a statement that the merger has been abandoned in accordance with this section.

Enacted by Chapter 412, 2013 General Session

48-2e-1125 Statement of merger.

(1) A statement of merger must be signed by each merging entity and delivered to the division for filing.

(2) A statement of merger must contain:

(a) the name, jurisdiction of formation, and type of entity of each merging entity that is not the surviving entity;

(b) the name, jurisdiction of formation, and type of entity of the surviving entity;

(c) a statement that the merger was approved by each domestic merging entity, if any, in accordance with Sections 48-2e-1121 through 48-2e-1126 and by each foreign merging entity, if any, in accordance with the law of its jurisdiction of formation;

(d) if the surviving entity exists before the merger and is a domestic filing entity, any amendment to its public organic record approved as part of the plan of merger;

(e) if the surviving entity is created by the merger and is a domestic filing entity, its public organic record, as an attachment;

(f) if the surviving entity is created by the merger and is a domestic limited liability partnership, its statement of qualification, as an attachment; and

(g) if the surviving entity is a foreign entity that is not a registered foreign entity, a mailing address to which the division may send any process served on the division pursuant to Subsection 48-2e-1126(5).

(3) In addition to the requirements of Subsection (2), a statement of merger may contain any other provision not prohibited by law.

(4) If the surviving entity is a domestic entity, its public organic record, if any, must satisfy the requirements of the law of this state, but the public organic record does not need to be signed.

(5) A plan of merger that is signed by all the merging entities and meets all the requirements of Subsection (2) may be delivered to the division for filing instead of a statement of merger and on filing has the same effect. If a plan of merger is filed as provided in this Subsection (5), references in this part to a statement of merger refer to the plan of merger filed under this Subsection (5).

Enacted by Chapter 412, 2013 General Session

48-2e-1126 Effect of merger.

(1) When a merger becomes effective:

(a) the surviving entity continues or comes into existence;

(b) each merging entity that is not the surviving entity ceases to exist;

(c) all property of each merging entity vests in the surviving entity without transfer, reversion, or impairment;

(d) all debts, obligations, and other liabilities of each merging entity are debts, obligations, and other liabilities of the surviving entity;

(e) except as otherwise provided by law or the plan of merger, all the rights, privileges, immunities, powers, and purposes of each merging entity vest in the surviving entity;

(f) if the surviving entity exists before the merger:

(i) all its property continues to be vested in it without transfer, reversion, or impairment;

(ii) it remains subject to all its debts, obligations, and other liabilities; and

(iii) all its rights, privileges, immunities, powers, and purposes continue to be vested in it;
(g) the name of the surviving entity may be substituted for the name of any merging entity that is a party to any pending action or proceeding;
(h) if the surviving entity exists before the merger:
(i) its public organic record, if any, is amended as provided in the statement of merger; and
(ii) its private organic rules that are to be in a record, if any, are amended to the extent provided in the plan of merger;
(i) if the surviving entity is created by the merger:
(i) its public organic record, if any, is effective; and
(ii) its private organic rules are effective; and
(j) the interests in each merging entity which are to be converted in the merger are converted, and the interest holders of those interests are entitled only to the rights provided to them under the plan of merger and to any appraisal rights they have under Section 48-2e-1108 and the merging entity's organic law.
(2) Except as otherwise provided in the organic law or organic rules of a merging entity, the merger does not give rise to any rights that an interest holder, governor, or third party would otherwise have upon a dissolution, liquidation, or winding up of the merging entity.
(3) When a merger becomes effective, a person that did not have interest holder liability with respect to any of the merging entities and becomes subject to interest holder liability with respect to a domestic entity as a result of the merger has interest holder liability only to the extent provided by the organic law of that entity and only for those debts, obligations, and other liabilities that arise after the merger becomes effective.
(4) When a merger becomes effective, the interest holder liability of a person that ceases to hold an interest in a domestic merging entity with respect to which the person had interest holder liability is as follows:
(a) The merger does not discharge any interest holder liability under the organic law of the domestic merging entity to the extent the interest holder liability arose before the merger became effective.
(b) The person does not have interest holder liability under the organic law of the domestic merging entity for any debt, obligation, or other liability that arises after the merger becomes effective.
(c) The organic law of the domestic merging entity continues to apply to the release, collection, or discharge of any interest holder liability preserved under Subsection (4)(a) as if the merger had not occurred and the surviving entity were the domestic merging entity.
(d) The person has whatever rights of contribution from any other person as are provided by law other than this chapter, this chapter, or the organic rules of the domestic merging entity with respect to any interest holder liability preserved under Subsection (4)(a) as if the merger had not occurred.
(5) When a merger becomes effective, a foreign entity that is the surviving entity may be served with process in this state for the collection and enforcement of any debts, obligations, or other liabilities of a domestic merging entity as provided in Section 16-17-301.
(6) When a merger becomes effective, the registration to do business in this state of any foreign merging entity that is not the surviving entity is canceled.

Enacted by Chapter 412, 2013 General Session

48-2e-1131 Interest exchange authorized.
(1) By complying with Sections 48-2e-1131 through 48-2e-1136:

(a) a domestic limited partnership may acquire all of one or more classes or series of interests of another domestic or foreign entity in exchange for interests, securities, obligations, money, other property, rights to acquire interests or securities, or any combination of the foregoing; or
(b) all of one or more classes or series of interests of a domestic limited partnership may be acquired by another domestic or foreign entity in exchange for interests, securities, obligations, rights to acquire interests or securities, money, or other property, or any combination of the foregoing.

(2) By complying with the provisions of Sections 48-2e-1131 through 48-2e-1136 applicable to foreign entities, a foreign entity may be the acquiring or acquired entity in an interest exchange under Sections 48-2e-1131 through 48-2e-1136 if the interest exchange is authorized by the law of the foreign entity's jurisdiction of formation.

(3) If a protected agreement contains a provision that applies to a merger of a domestic limited partnership but does not refer to an interest exchange, the provision applies to an interest exchange in which the domestic limited partnership is the acquired entity as if the interest exchange were a merger until the provision is amended after January 1, 2014.

Enacted by Chapter 412, 2013 General Session

48-2e-1132 Plan of interest exchange.

(1) A domestic limited partnership may be the acquired entity in an interest exchange under Sections 48-2e-1131 through 48-2e-1136 by approving a plan of interest exchange. The plan must be in a record and contain:
(a) the name of the acquired entity;
(b) the name, jurisdiction of formation, and type of entity of the acquiring entity;
(c) the manner of converting the interests in the acquired entity into interests, securities, obligations, money, other property, rights to acquire interests or securities, or any combination of the foregoing;
(d) any proposed amendments to the certificate of limited partnership or partnership agreement that are, or are proposed to be, in a record of the acquired entity;
(e) the other terms and conditions of the interest exchange; and
(f) any other provision required by the law of this state or the partnership agreement of the acquired entity.

(2) In addition to the requirements of Subsection (1), a plan of interest exchange may contain any other provision not prohibited by law.

Enacted by Chapter 412, 2013 General Session

48-2e-1133 Approval of interest exchange.

(1) A plan of interest exchange is not effective unless it has been approved:
(a) by all the partners of a domestic acquired limited partnership entitled to vote on or consent to any matter; and
(b) in a record, by each partner of the domestic acquired limited partnership that will have interest holder liability for debts, obligations, and other liabilities that arise after the interest exchange becomes effective, unless:
(i) the partnership agreement of the limited partnership in a record provides for the approval of an interest exchange or a merger in which some or all of its partners become subject to interest holder liability by the vote or consent of fewer than all of the partners; and

(ii) the partner consented in a record to or voted for that provision of the partnership agreement or became a partner after the adoption of that provision.
(2) An interest exchange involving a domestic acquired entity that is not a limited partnership is not effective unless it is approved by the domestic entity in accordance with its organic law.
(3) An interest exchange involving a foreign acquired entity is not effective unless it is approved by the foreign entity in accordance with the law of the foreign entity's jurisdiction of formation.
(4) Except as otherwise provided in its organic law or organic rules, the interest holders of the acquiring entity are not required to approve the interest exchange.

Enacted by Chapter 412, 2013 General Session

48-2e-1134 Amendment or abandonment of plan of interest exchange.
(1) A plan of interest exchange may be amended only with the consent of each party to the plan, except as otherwise provided in the plan.
(2) A domestic acquired limited partnership may approve an amendment of a plan of interest exchange:
(a) in the same manner as the plan was approved, if the plan does not provide for the manner in which it may be amended; or
(b) by the partners of the limited partnership in the manner provided in the plan, but a partner that was entitled to vote on or consent to approval of the interest exchange is entitled to vote on or consent to any amendment of the plan that will change:
(i) the amount or kind of interests, securities, obligations, money, other property, rights to acquire interests or securities, or any combination of the foregoing, to be received by any of the partners of the acquired limited partnership under the plan;
(ii) the certificate of limited partnership or partnership agreement of the acquired limited partnership that will be in effect immediately after the interest exchange becomes effective, except for changes that do not require approval of the partners of the acquired limited partnership under this chapter or the partnership agreement; or
(iii) any other terms or conditions of the plan, if the change would adversely affect the partner in any material respect.
(3) After a plan of interest exchange has been approved and before a statement of interest exchange becomes effective, the plan may be abandoned as provided in the plan. Unless prohibited by the plan, a domestic acquired limited partnership may abandon the plan in the same manner as the plan was approved.
(4) If a plan of interest exchange is abandoned after a statement of interest exchange has been delivered to the division for filing and before the statement becomes effective, a statement of abandonment, signed by the acquired limited partnership, must be delivered to the division for filing before the statement of interest exchange becomes effective. The statement of abandonment takes effect on filing, and the interest exchange is abandoned and does not become effective. The statement of abandonment must contain:
(a) the name of the acquired limited partnership;
(b) the date on which the statement of interest exchange was delivered to the division for filing; and
(c) a statement that the interest exchange has been abandoned in accordance with this section.

Enacted by Chapter 412, 2013 General Session

48-2e-1135 Statement of interest exchange.

(1) A statement of interest exchange must be signed by a domestic acquired limited partnership and delivered to the division for filing.
(2) A statement of interest exchange must contain:
(a) the name of the acquired limited partnership;
(b) the name, jurisdiction of formation, and type of entity of the acquiring entity;
(c) a statement that the plan of interest exchange was approved by the acquired entity in accordance with Sections 48-2e-1131 through 48-2e-1136; and
(d) any amendments to the acquired limited partnership's certificate of limited partnership approved as part of the plan of interest exchange.
(3) In addition to the requirements of Subsection (2), a statement of interest exchange may contain any other provision not prohibited by law.
(4) A plan of interest exchange that is signed by a domestic acquired limited partnership and meets all the requirements of Subsection (2) may be delivered to the division for filing instead of a statement of interest exchange and on filing has the same effect. If a plan of interest exchange is filed as provided in this Subsection (4), references in this part to a statement of interest exchange refer to the plan of interest exchange filed under this Subsection (4).

Enacted by Chapter 412, 2013 General Session

48-2e-1136 Effect of interest exchange.
(1) When an interest exchange in which the acquired entity is a domestic limited partnership becomes effective:
(a) the interests in the domestic acquired limited partnership that are the subject of the interest exchange cease to exist or are converted or exchanged, and the partners holding those interests are entitled only to the rights provided to them under the plan of interest exchange and to any appraisal rights they have under Section 48-2e-1108;
(b) the acquiring entity becomes the interest holder of the interests in the acquired limited partnership stated in the plan of interest exchange to be acquired by the acquiring entity;
(c) the certificate of limited partnership of the acquired limited partnership is amended as provided in the statement of interest exchange; and
(d) the provisions of the partnership agreement of the acquired limited partnership that are to be in a record, if any, are amended to the extent provided in the plan of interest exchange.
(2) Except as otherwise provided in the partnership agreement of a domestic acquired limited partnership, the interest exchange does not give rise to any rights that a partner or third party would have upon a dissolution, liquidation, or winding up of the acquired limited partnership.
(3) When an interest exchange becomes effective, a person that did not have interest holder liability with respect to a domestic acquired limited partnership and becomes subject to interest holder liability with respect to a domestic entity as a result of the interest exchange has interest holder liability only to the extent provided by the organic law of the entity and only for those debts, obligations, and other liabilities that arise after the interest exchange becomes effective.
(4) When an interest exchange becomes effective, the interest holder liability of a person that ceases to hold an interest in a domestic acquired limited partnership with respect to which the person had interest holder liability is as follows:
(a) The interest exchange does not discharge any interest holder liability to the extent the interest holder liability arose before the interest exchange became effective.
(b) The person does not have interest holder liability for any debt, obligation, or other liability that arises after the interest exchange becomes effective.

(c) The person has whatever rights of contribution from any other person as are provided by other law, this chapter, or the partnership agreement of the acquired entity with respect to any interest holder liability preserved under Subsection (4)(a) as if the interest exchange had not occurred.

Enacted by Chapter 412, 2013 General Session

48-2e-1141 Conversion authorized.

(1) As used in Sections 48-2e-1141 through 48-2e-1146, the term "subject entity" includes a corporation, a business trust or association, a real estate investment trust, a common-law trust, or any other unincorporated business, including a limited liability company, a general partnership, a registered limited liability partnership, or a foreign limited partnership.
(2) A subject entity may convert to a domestic limited partnership by complying with Sections 48-2e-1141 through 48-2e-1146.
(3) By complying with Sections 48-2e-1141 through 48-2e-1146 a domestic limited partnership may become:
  (a) a domestic entity that is a different type of entity; or
  (b) a foreign entity that is a different type of entity, if the conversion is authorized by the law of the foreign jurisdiction.
(4) By complying with the provisions of Sections 48-2e-1141 through 48-2e-1146 applicable to foreign entities, a foreign entity that is not a foreign limited partnership may become a domestic limited partnership if the conversion is authorized by the law of the foreign entity's jurisdiction of formation.
(5) If a protected agreement contains a provision that applies to a merger of a domestic limited partnership but does not refer to a conversion, the provision applies to a conversion of the entity as if the conversion were a merger until the provision is amended after January 1, 2014.

Amended by Chapter 227, 2015 General Session

48-2e-1142 Plan of conversion.

(1) A subject entity may convert to a domestic limited partnership or a domestic limited partnership may convert to a different type of entity under Sections 48-2e-1141 through 48-2e-1146 by approving a plan of conversion. The plan must be in a record and contain:
  (a) the name of the converting subject entity or limited partnership;
  (b) the name, jurisdiction of formation, and type of entity of the converted entity;
  (c) the manner of converting the interests in the converting subject entity or limited partnership into interests, securities, obligations, money, other property, rights to acquire interests or securities, or any combination of the foregoing;
  (d) the proposed public organic record of the converted entity if it will be a filing entity;
  (e) the full text of the private organic rules of the converted entity that are proposed to be in a record;
  (f) the other terms and conditions of the conversion; and
  (g) any other provision required by the law of this state or the partnership agreement of the converting limited partnership.
(2) In addition to the requirements of Subsection (1), a plan of conversion may contain any other provision not prohibited by law.

Amended by Chapter 227, 2015 General Session

48-2e-1143 Approval of conversion.

(1) A plan of conversion is not effective unless it has been approved:
  (a) by a domestic converting limited partnership by all of the partners of the limited partnership entitled to vote on or consent to any matter; and
  (b) in a record, by each partner of a domestic converting limited partnership that will have interest holder liability for debts, obligations, and other liabilities that arise after the conversion becomes effective:
    (i) the partnership agreement of the limited partnership provides in a record for the approval of a conversion or a merger in which some or all of its partners become subject to interest holder liability by the vote or consent of fewer than all the interest holders; and
    (ii) the partner voted for or consented in a record to that provision of the partnership agreement or became a partner after the adoption of that provision.
(2) A conversion involving a domestic converting entity that is not a limited partnership, including a subject entity, is not effective unless it is approved by the domestic converting entity in accordance with its organic law.
(3) A conversion of a foreign converting entity is not effective unless it is approved by the foreign entity in accordance with the law of the foreign entity's jurisdiction of formation.

Amended by Chapter 227, 2015 General Session

48-2e-1144 Amendment or abandonment of plan of conversion.

(1) A plan of conversion of a subject entity or domestic converting limited partnership may be amended:
  (a) in the same manner as the plan was approved, if the plan does not provide for the manner in which it may be amended; or
  (b) by the partners of the limited partnership in the manner provided in the plan, but a partner that was entitled to vote on or consent to approval of the conversion is entitled to vote on or consent to any amendment of the plan that will change:
    (i) the amount or kind of interests, securities, obligations, money, other property, rights to acquire interests or securities, or any combination of the foregoing, to be received by any of the partners of the converting entity under the plan;
    (ii) the public organic record or private organic rules of the converted entity that will be in effect immediately after the conversion becomes effective, except for changes that do not require approval of the interest holders of the converted entity under its organic law or organic rules; or
    (iii) any other terms or conditions of the plan, if the change would adversely affect the partner in any material respect.
(2) After a plan of conversion has been approved and before a statement of conversion becomes effective, the plan may be abandoned as provided in the plan. Unless prohibited by the plan, a domestic converting limited partnership may abandon the plan in the same manner as the plan was approved.
(3) If a plan of conversion is abandoned after a statement of conversion has been delivered to the division for filing and before the statement becomes effective, a statement of abandonment, signed by the converting entity, must be delivered to the division for filing before the time the statement of conversion becomes effective. The statement of abandonment takes effect on filing, and the conversion is abandoned and does not become effective. The statement of abandonment must contain:

(a) the name of the converting subject entity or limited partnership;
(b) the date on which the statement of conversion was delivered to the division for filing; and
(c) a statement that the conversion has been abandoned in accordance with this section.

Amended by Chapter 227, 2015 General Session

48-2e-1145 Statement of conversion.

(1) A statement of conversion must be signed by the converting entity and delivered to the division for filing.
(2) A statement of conversion must contain:
(a) the name, jurisdiction of formation, and type of entity of the converting entity;
(b) the name, jurisdiction of formation, and type of entity of the converted entity;
(c) if the converting entity is a domestic entity, a statement that the plan of conversion was approved in accordance with Sections 48-2e-1141 through 48-2e-1146 or, if the converting entity is a foreign entity, a statement that the conversion was approved by the foreign converting entity in accordance with the law of its jurisdiction of formation;
(d) if the converted entity is a domestic filing entity, the text of its public organic record, as an attachment;
(e) if the converted entity is a domestic limited liability partnership, the text of its statement of qualification, as an attachment; and
(f) if the converted entity is a foreign entity that is not a registered foreign entity, a mailing address to which the division may send any process served on the division pursuant to Subsection 48-2e-1146(5).
(3) In addition to the requirements of Subsection (2), a statement of conversion may contain any other provision not prohibited by law.
(4) If the converted entity is a domestic entity, its public organic record, if any, must satisfy the requirements of the law of this state, but the public organic record does not need to be signed.
(5) A plan of conversion that is signed by a domestic converting entity and meets all the requirements of Subsection (2) may be delivered to the division for filing instead of a statement of conversion and on filing has the same effect. If a plan of conversion is filed as provided in this Subsection (5), references in this part to a statement of conversion refer to the plan of conversion filed under this Subsection (5).

Enacted by Chapter 412, 2013 General Session

48-2e-1146 Effect of conversion.

(1) When a conversion in which the converted entity is a subject entity or domestic limited partnership becomes effective:
(a) the converted entity is:
(i) organized under and subject to this chapter; and
(ii) the same entity without interruption as the converting entity;
(b) all property of the converting entity continues to be vested in the converted entity without transfer, reversion, or impairment;
(c) all debts, obligations, and other liabilities of the converting entity continue as debts, obligations, and other liabilities of the converted entity;
(d) except as otherwise provided by law or the plan of conversion, all the rights, privileges, immunities, powers, and purposes of the converting entity remain in the converted entity;

(e) the name of the converted entity may be substituted for the name of the converting entity in any pending action or proceeding;
(f) the provisions of the partnership agreement of the converted entity that are to be in a record, if any, approved as part of the plan of conversion are effective; and
(g) the interests in the converting entity are converted, and the interest holders of the converting entity are entitled only to the rights provided to them under the plan of conversion and to any appraisal rights they have under Section 48-2e-1108 and the converting entity's organic law.
(2) Except as otherwise provided in the partnership agreement of a domestic converting limited partnership, the conversion does not give rise to any rights that a partner or third party would have upon a dissolution, liquidation, or winding up of the converting entity.
(3) When a conversion becomes effective, a person that did not have interest holder liability with respect to the converting entity and becomes subject to interest holder liability with respect to a domestic entity as a result of the conversion has interest holder liability only to the extent provided by the organic law of the entity and only for those debts, obligations, and other liabilities that arise after the conversion becomes effective.
(4) When a conversion becomes effective, the interest holder liability of a person that ceases to hold an interest in a domestic limited partnership with respect to which the person had interest holder liability is as follows:
(a) The conversion does not discharge any interest holder liability to the extent the interest holder liability arose before the conversion became effective.
(b) The person does not have interest holder liability for any debt, obligation, or other liability that arises after the conversion becomes effective.
(c) The person has whatever rights of contribution from any other person as are provided by law other than this chapter, this chapter, or the partnership agreement of the converting entity with respect to any interest holder liability preserved under Subsection (4)(a) as if the conversion had not occurred.
(5) When a conversion becomes effective, a foreign entity that is the converted entity may be served with process in this state for the collection and enforcement of any of its debts, obligations, and other liabilities as provided in Section 16-17-301.
(6) If the converting entity is a registered foreign entity, its registration to do business in this state is canceled when the conversion becomes effective.
(7) A conversion does not require the entity to wind up its affairs and does not constitute or cause the dissolution of the entity.

Amended by Chapter 227, 2015 General Session

48-2e-1151 Domestication authorized.
(1) By complying with Sections 48-2e-1151 through 48-2e-1156, a domestic limited partnership may become a foreign limited partnership if the domestication is authorized by the law of the foreign jurisdiction.
(2) By complying with the provisions of Sections 48-2e-1151 through 48-2e-1156 applicable to foreign limited partnerships, a foreign limited partnership may become a domestic limited partnership if the domestication is authorized by the law of the foreign limited partnership's jurisdiction of formation.
(3) If a protected agreement contains a provision that applies to a merger of a domestic limited partnership but does not refer to a domestication, the provision applies to a domestication of the limited partnership as if the domestication were a merger until the provision is amended after January 1, 2014.

Enacted by Chapter 412, 2013 General Session

48-2e-1152 Plan of domestication.

(1) A domestic limited partnership may become a foreign limited partnership in a domestication by approving a plan of domestication. The plan must be in a record and contain:
  (a) the name of the domesticating limited partnership;
  (b) the name and jurisdiction of formation of the domesticated limited partnership;
  (c) the manner of converting the interests in the domesticating limited partnership into interests, securities, obligations, money, other property, rights to acquire interests or securities, or any combination of the foregoing;
  (d) the proposed certificate of limited partnership of the domesticated limited partnership;
  (e) the full text of the partnership agreement of the domesticated limited partnership rights to acquire interests or securities, that are proposed to be in a record;
  (f) the other terms and conditions of the domestication; and
  (g) any other provision required by the law of this state or the partnership agreement of the domesticating limited partnership.
(2) In addition to the requirements of Subsection (1), a plan of domestication may contain any other provision not prohibited by law.

Enacted by Chapter 412, 2013 General Session

48-2e-1153 Approval of domestication.

(1) A plan of domestication of a domestic domesticating limited partnership is not effective unless it has been approved:
  (a) by all the partners entitled to vote on or consent to any matter; and
  (b) in a record, by each partner that will have interest holder liability for debts, obligations, and other liabilities that arise after the domestication becomes effective, unless:
    (i) the partnership agreement of the entity in a record provide for the approval of a domestication or merger in which some or all of its partners become subject to interest holder liability by the vote or consent of fewer than all the partners; and
    (ii) the partner voted for or consented in a record to that provision of the partnership agreement or became a partner after the adoption of that provision.
(2) A domestication of a foreign domesticating limited partnership is not effective unless it is approved in accordance with the law of the foreign limited partnership's jurisdiction of formation.

Enacted by Chapter 412, 2013 General Session

48-2e-1154 Amendment or abandonment of plan of domestication.

(1) A plan of domestication of a domestic domesticating limited partnership may be amended:
  (a) in the same manner as the plan was approved, if the plan does not provide for the manner in which it may be amended; or
  (b) by the partners of the limited partnership in the manner provided in the plan, but a partner that was entitled to vote on or consent to approval of the domestication is entitled to vote on or consent to any amendment of the plan that will change:
    (i) the amount or kind of interests, securities, obligations, money, other property, rights to acquire interests or securities, or any combination of the foregoing, to be received by any of the partners of the domesticating limited partnership under the plan;

(ii) the certificate of limited partnership or partnership agreement of the domesticated limited partnership that will be in effect immediately after the domestication becomes effective, except for changes that do not require approval of the partners of the domesticated limited partnership under its organic law or partnership agreement; or

(iii) any other terms or conditions of the plan, if the change would adversely affect the partner in any material respect.

(2) After a plan of domestication has been approved by a domestic domesticating limited partnership and before a statement of domestication becomes effective, the plan may be abandoned as provided in the plan. Unless prohibited by the plan, by a domestic domesticating limited partnership may abandon the plan in the same manner as the plan was approved.

(3) If a plan of domestication is abandoned after a statement of domestication has been delivered to the division for filing and before the statement becomes effective, a statement of abandonment, signed by the limited partnership, must be delivered to the division for filing before the time the statement of domestication becomes effective. The statement of abandonment takes effect on filing, and the domestication is abandoned and does not become effective. The statement of abandonment must contain:

(a) the name of the domesticating limited partnership;

(b) the date on which the statement of domestication was delivered to the division for filing; and

(c) a statement that the domestication has been abandoned in accordance with this section.

Enacted by Chapter 412, 2013 General Session

48-2e-1155 Statement of domestication.

(1) A statement of domestication must be signed by the domesticating limited partnership and delivered to the division for filing.

(2) A statement of domestication must contain:

(a) the name and jurisdiction of formation of the domesticating limited partnership;

(b) the name and jurisdiction of formation of the domesticated limited partnership;

(c) if the domesticating limited partnership is a domestic limited partnership, a statement that the plan of domestication was approved in accordance with Sections 48-2e-1151 through 48-2e-1156 or, if the domesticating limited partnership is a foreign limited partnership, a statement that the domestication was approved in accordance with the law of its jurisdiction of formation;

(d) the certificate of limited partnership of the domesticated limited partnership, as an attachment; and

(e) if the domesticated foreign limited partnership is not a registered foreign limited partnership, a mailing address to which the division may send any process served on the division pursuant to Subsection 48-2e-1156(5).

(3) In addition to the requirements of Subsection (2), a statement of domestication may contain any other provision not prohibited by law.

(4) The certificate of limited partnership of a domesticated domestic limited partnership must satisfy the requirements of the law of this state, but the certificate does not need to be signed.

(5) A plan of domestication that is signed by a domesticating domestic limited partnership and meets all of the requirements of Subsection (2) may be delivered to the division for filing instead of a statement of domestication and on filing has the same effect. If a plan of domestication is filed as provided in this Subsection (5), references in this part to a statement of domestication refer to the plan of domestication filed under this Subsection (5).

Enacted by Chapter 412, 2013 General Session

48-2e-1156 Effect of domestication.

(1) When a domestication becomes effective:
  (a) the domesticated limited partnership is:
    (i) organized under and subject to the organic law of the domesticated limited partnership; and
    (ii) the same entity without interruption as the domesticating limited partnership;
  (b) all property of the domesticating limited partnership continues to be vested in the domesticated limited partnership without transfer, reversion, or impairment;
  (c) all debts, obligations, and other liabilities of the domesticating limited partnership continue as debts, obligations, and other liabilities of the domesticated limited partnership;
  (d) except as otherwise provided by law or the plan of domestication, all the rights, privileges, immunities, powers, and purposes of the domesticating limited partnership remain in the domesticated limited partnership;
  (e) the name of the domesticated limited partnership may be substituted for the name of the domesticating limited partnership in any pending action or proceeding;
  (f) the certificate of limited partnership of the domesticated limited partnership is effective;
  (g) the provisions of the partnership agreement of the domesticated limited partnership that are to be in a record, if any, approved as part of the plan of domestication are effective; and
  (h) the interests in the domesticating limited partnership are converted to the extent and as approved in connection with the domestication, and the partners of the domesticating limited partnership are entitled only to the rights provided to them under the plan of domestication and to any appraisal rights they have under Section 48-2e-1108.
(2) Except as otherwise provided in the organic law or partnership agreement of the domesticating limited partnership, the domestication does not give rise to any rights that a partner or third party would have upon a dissolution, liquidation, or winding up of the domesticating limited partnership.
(3) When a domestication becomes effective, a person that did not have interest holder liability with respect to the domesticating limited partnership and becomes subject to interest holder liability with respect to a domestic limited partnership as a result of the domestication has interest holder liability only to the extent provided by the organic law of the domestic limited partnership and only for those debts, obligations, and other liabilities that arise after the domestication becomes effective.
(4) When a domestication becomes effective, the following rules apply:
  (a) The domestication does not discharge any interest holder liability under this chapter to the extent the interest holder liability arose before the domestication became effective.
  (b) A person does not have interest holder liability under this part for any debt, obligation, or other liability that arise after the domestication becomes effective.
  (c) A person has whatever rights of contribution from any other person as are provided by law other than this chapter, this chapter, or the partnership agreement of a domestic domesticating limited partnership with respect to any interest holder liability preserved under Subsection (4)(a) as if the domestication had not occurred.
(5) When a domestication becomes effective, a foreign limited partnership that is the domesticated limited partnership may be served with process in this state for the collection and enforcement of any of its debts, obligations, and other liabilities as provided in Section 16-17-301.
(6) If the domesticating limited partnership is a registered foreign limited partnership, the registration of the foreign limited partnership is canceled when the domestication becomes effective.

(7) A domestication does not require the limited partnership to wind up its affairs and does not constitute or cause the dissolution of the limited partnership.

Enacted by Chapter 412, 2013 General Session

Part 12
Miscellaneous Provisions

48-2e-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 subject matter among states that enact the uniform act upon which this chapter is based.

Enacted by Chapter 412, 2013 General Session

48-2e-1202 Severability clause.

If any provision of this chapter or its 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.

Enacted by Chapter 412, 2013 General Session

48-2e-1203 Relation to Electronic Signatures in Global and National Commerce Act.

This chapter modifies, limits, and supersedes the Electronic Signatures in Global and National Commerce Act, 15 U.S.C. Sec. 7001 et seq., but this chapter does not modify, limit, or supersede Sec. 101(c) of that act, 15 U.S.C. Sec. 7001(c), or authorize electronic delivery of any of the notices described in Sec. 103(b) of that act, 15 U.S.C. Sec. 7003(b).

Enacted by Chapter 412, 2013 General Session

48-2e-1204 Savings clause.

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

Enacted by Chapter 412, 2013 General Session

48-2e-1205 Application to existing relationships.

(1) Before January 1, 2016, this chapter governs only:
  (a) a limited partnership formed on or after January 1, 2014; and
  (b) except as otherwise provided in Subsections (3) and (4), a limited partnership formed before January 1, 2014, which elects, in the manner provided in its partnership agreement or by law for amending the partnership agreement, to be subject to this chapter.
(2) Except as otherwise provided in Subsection (3), on and after January 1, 2016, this chapter governs all limited partnerships.

(3) With respect to a limited partnership formed before January 1, 2014, the following rules apply except as the partners otherwise elect in the manner provided in the partnership agreement or by law for amending the partnership agreement:
(a) Subsection 48-2e-104(3) does not apply and the limited partnership has whatever duration it had under the law applicable immediately before January 1, 2014.
(b) Sections 48-2e-601 and 48-2e-602 do not apply and a limited partner has the same right and power to dissociate from the limited partnership, with the same consequences, as existed immediately before January 1, 2014.
(c) Subsection 48-2e-603(4) does not apply and the partners have the same right and power to expel a general partner as existed immediately before January 1, 2014.
(d) Subsection 48-2e-603(5) does not apply and a court has the same power to expel a general partner as the court had immediately before January 1, 2014.
(e) Subsection 48-2e-801(1)(c) does not apply and the connection between a person's dissociation as a general partner and the dissolution of the limited partnership is the same as existed immediately before January 1, 2014.
(4) With respect to a limited partnership that elects pursuant to Subsection (1)(b) to be subject to this chapter, after the election takes effect the provisions of this chapter relating to the liability of the limited partnership's general partners to third parties apply:
(a) before January 1, 2016, to:
(i) a third party that had not done business with the limited partnership in the year before the election took effect; and
(ii) a third party that had done business with the limited partnership in the year before the election took effect only if the third party knows or has received a notification of the election; and
(b) on and after January 1, 2016, to all third parties, but those provisions remain inapplicable to any obligation incurred while those provisions were inapplicable under Subsection (4)(a)(ii).

Enacted by Chapter 412, 2013 General Session

Chapter 3a
Utah Revised Uniform Limited Liability Company Act

Part 1
General Provisions

48-3a-101 Title.

This chapter may be cited as the "Utah Revised Uniform Limited Liability Company Act."

Enacted by Chapter 412, 2013 General Session

48-3a-102 Definitions.

As used in this chapter:
(1) "Certificate of organization" means the certificate required by Section 48-3a-201. The term includes the certificate as amended or restated.

(2) "Contribution," except in the phrase "right of contribution," means property or a benefit described in Section 48-3a-402, which is provided by a person to a limited liability company to become a member or in the person's capacity as a member.
(3) "Debtor in bankruptcy" means a person that is the subject of:
(a) an order for relief under Title 11 of the United States Code or a comparable order under a successor statute of general application; or
(b) a comparable order under federal, state, or foreign law governing insolvency.
(4) "Distribution" means a transfer of money or other property from a limited liability company to a person on account of a transferable interest or in the person's capacity as a member. The term:
(a) includes:
(i) a redemption or other purchase by a limited liability company of a transferable interest; and
(ii) a transfer to a member in return for the member's relinquishment of any right to participate as a member in the management or conduct of the company's activities and affairs or to have access to records or other information concerning the company's activities and affairs; and
(b) does not include amounts constituting reasonable compensation for present or past service or payments made in the ordinary course of business under a bona fide retirement plan or other bona fide benefits program.
(5) "Division" means the Division of Corporations and Commercial Code.
(6) "Foreign limited liability company" means an unincorporated entity formed under the law of a jurisdiction other than this state, which would be a limited liability company, including a low-profit limited liability company, if formed under the law of this state.
(7) "Governing person" means a person, alone or in concert with others, by or under whose authority the powers of the limited liability company are exercised and under whose direction the activities and affairs of the limited liability company are managed pursuant to this chapter and the limited liability company's operating agreement. The term includes:
(a) a manager of a manager-managed limited liability company;
(b) a member of a member-managed limited liability company; and
(c) the chief executive officer of a limited liability company in which officers have been appointed, regardless of the actual designated title.
(8) "Jurisdiction," used to refer to a political entity, means the United States, a state, a foreign country, or a political subdivision of a foreign country.
(9) "Jurisdiction of formation" means, with respect to an entity, the jurisdiction:
(a) under whose law the entity is formed; or
(b) in the case of a limited liability partnership or foreign limited liability partnership, in which the partnership's statement of qualification is filed.
(10) "Limited liability company," except in the phrase "foreign limited liability company," means an entity formed under this chapter or which becomes subject to this chapter under Part 10, Merger, Interest Exchange, Conversion, and Domestication, or Section 48-3a-1405.
(11) "Low-profit limited liability company" means a limited liability company meeting the requirements of Part 13, Low-Profit Limited Liability Companies.
(12) "Manager" means a person that under the operating agreement of a manager-managed limited liability company is responsible, alone or in concert with others, for performing the management functions stated in Subsection 48-3a-407(3).
(13) "Manager-managed limited liability company" means a limited liability company that qualifies under Subsection 48-3a-407(1).
(14) "Member" means a person that:

(a) has become a member of a limited liability company under Section 48-3a-401 or was a member in a company when the company became subject to this chapter under Section 48-3a-1405; and
(b) has not dissociated under Section 48-3a-602.
(15) "Member-managed limited liability company" means a limited liability company that is not a manager-managed limited liability company.
(16) "Operating agreement" means the agreement, whether or not referred to as an operating agreement and whether oral, implied, in a record, or in any combination thereof, of all the members of a limited liability company, including a sole member, concerning the matters described in Subsection 48-3a-112(1). The term includes the agreement as amended or restated.
(17) "Organizer" means a person that acts under Section 48-3a-201 to form a limited liability company.
(18) "Person" means an individual, business corporation, nonprofit corporation, partnership, limited partnership, limited liability company, limited cooperative association, unincorporated nonprofit association, statutory trust, business trust, common-law business trust, estate, trust, association, joint venture, public corporation, government or governmental subdivision, agency, or instrumentality, or any other legal or commercial entity.
(19) "Principal office" means the principal executive office of a limited liability company or foreign limited liability company, whether or not the office is located in this state.
(20) "Professional services company" means a limited liability company organized in accordance with Part 11, Professional Services Companies.
(21) "Property" means all property, whether real, personal, or mixed or tangible or intangible, or any right or interest therein.
(22) "Record," used as a noun, means information that is inscribed on a tangible medium or that is stored in an electronic or other medium and is retrievable in perceivable form.
(23) "Registered agent" means an agent of a limited liability company or foreign limited liability company which is authorized to receive service of any process, notice, or demand required or permitted by law to be served on the company.
(24) "Registered foreign limited liability company" means a foreign limited liability company that is registered to do business in this state pursuant to a statement of registration filed by the division.
(25) "Series" means a series created in accordance with Part 12, Series Limited Liability Companies.
(26) "Sign" means, with present intent to authenticate or adopt a record:
(a) to execute or adopt a tangible symbol; or
(b) to attach to or logically associate with the record an electronic symbol, sound, or process.
(27) "State" means a state of the United States, the District of Columbia, Puerto Rico, the United States Virgin Islands, or any territory or insular possession subject to the jurisdiction of the United States.
(28) "Transfer" includes:
(a) an assignment;
(b) a conveyance;
(c) a sale;
(d) a lease;
(e) an encumbrance, including a mortgage or security interest;
(f) a gift; and
(g) a transfer by operation of law.

(29) "Transferable interest" means the right, as initially owned by a person in the person's capacity as a member, to receive distributions from a limited liability company in accordance with the operating agreement, whether or not the person remains a member or continues to own any part of the right. The term applies to any fraction of the interest by whomever owned.
(30) "Transferee" means a person to which all or part of a transferable interest has been transferred, whether or not the transferor is a member. The term includes a person that owns a transferable interest under Subsection 48-3a-603(1)(c).
(31) "Tribal limited liability company" means a limited liability company that is:
(a) formed under the law of a tribe; and
(b) at least 51% owned or controlled by the tribe under whose law the limited liability company is formed.
(32) "Tribe" means a tribe, band, nation, pueblo, or other organized group or community of Indians, including an Alaska Native village that is legally recognized as eligible for and is consistent with a special program, service, or entitlement provided by the United States to Indians because of their status as Indians.

Enacted by Chapter 412, 2013 General Session

48-3a-103 Knowledge -- Notice.
(1) A person knows a fact if the person:
(a) has actual knowledge of it; or
(b) is deemed to know it under Subsection (4)(a) or law other than this chapter.
(2) A person has notice of a fact if the person:
(a) has reason to know the fact from all the facts known to the person at the time in question; or
(b) is deemed to have notice of the fact under Subsection (4)(b).
(3) Subject to Subsection 48-3a-209(6), a person notifies another person of a fact by taking steps reasonably required to inform the other person in ordinary course, whether or not those steps cause the other person to know the fact.
(4) A person not a member is deemed:
(a) to know of a limitation on authority to transfer real property as provided in Subsection 48-3a-302(7); and
(b) to have notice of a limited liability company's:
(i) dissolution 90 days after a statement of dissolution under Subsection 48-3a-703(2)(b)(i) becomes effective;
(ii) termination 90 days after a statement of termination under Subsection 48-3a-703(2)(b)(vi) becomes effective;
(iii) participation in a merger, interest exchange, conversion, or domestication 90 days after a statement of merger, interest exchange, conversion, or domestication under Part 10, Merger, Interest Exchange, Conversion, and Domestication, becomes effective; and
(iv) abandonment of a merger, interest exchange, conversion, or domestication 90 days after a statement of abandonment of merger, interest exchange, conversion, or domestication under Part 10, Merger, Interest Exchange, Conversion, and Domestication, becomes effective.

Enacted by Chapter 412, 2013 General Session

48-3a-104 Nature, purpose, and duration of limited liability company.
(1) A limited liability company is an entity distinct from its member or members.

(2) A limited liability company may have any lawful purpose, regardless of whether for profit.
(3) A limited liability company has perpetual duration.

Enacted by Chapter 412, 2013 General Session

48-3a-105 Powers.

A limited liability company has the capacity to sue and be sued in its own name and the power to do all things necessary or convenient to carry on its activities and affairs.

Enacted by Chapter 412, 2013 General Session

48-3a-106 Governing law.

The law of this state governs:
(1) the internal affairs of a limited liability company; and
(2) the liability of a member as member and a manager as manager for the debts, obligations, or other liabilities of a limited liability company.

Enacted by Chapter 412, 2013 General Session

48-3a-107 Supplemental principles of law.

Unless displaced by particular provisions of this chapter, the principles of law and equity supplement this chapter.

Enacted by Chapter 412, 2013 General Session

48-3a-108 Permitted names.

(1) Except as provided in Section 48-3a-1104 or 48-3a-1302, the name of a limited liability company shall contain the words "limited liability company" or "limited company" or the abbreviation "L.L.C.", "LLC", "L.C.", or "LC". "Limited" may be abbreviated as "Ltd.", and "company" may be abbreviated as "Co.".
(2) Except as authorized by Subsection (3), the name of a company shall be distinguishable as defined in Subsection (4) upon the records of the division from:
  (a) the actual name, reserved name, or fictitious or assumed name of any entity registered with the division; or
  (b) any tradename, trademark, or service mark registered with the division.
(3)
  (a) A company may apply to the division for approval to file the company's certificate of organization under or to reserve a name that is not distinguishable upon the division's records from one or more of the names described in Subsection (2).
  (b) The division shall approve the name for which the company applies under Subsection (3)(a) if:
    (i) the other person whose name is not distinguishable from the name under which the applicant desires to file:
      (A) consents to the filing in writing; and
      (B) submits an undertaking in a form satisfactory to the division to change the person's name to a name that is distinguishable from the name of the applicant; or
    (ii) the applicant delivers to the division a certified copy of the final judgment of a court of competent jurisdiction establishing the applicant's right to use the name in this state.

(4) A name is distinguishable from other names, trademarks, and service marks registered with the division if the name contains one or more different words, letters, or numerals from other names upon the division's records.
(5) The following differences are not distinguishing:
(a) the term:
(i) "corp.";
(ii) "corporation";
(iii) "Inc.";
(iv) "incorporated";
(v) "professional corporation";
(vi) "P.C." or "PC";
(vii) "professional association";
(viii) "P.A." or "PA";
(ix) "professional limited liability company";
(x) "P.L.L.C." or "PLLC";
(xi) "company";
(xii) "limited partnership";
(xiii) "limited";
(xiv) "L.P." or "LP";
(xv) "Ltd.";
(xvi) "limited liability company";
(xvii) "limited company";
(xviii) "L.C." or "LC";
(xix) "L.L.C." or "LLC";
(xx) "registered limited liability partnership";
(xxi) "R.L.L.P." or "RLLP";
(xxii) "limited liability partnership";
(xxiii) "L.L.P." or "LLP";
(xxiv) "limited liability limited partnership";
(xxv) "L.L.L.P." or "LLLP";
(xxvi) "registered limited liability limited partnership"; or
(xxvii) "R.L.L.L.P." or "RLLLP";
(b) an abbreviation of a word listed in Subsection (5)(a);
(c) the presence or absence of the words or symbols of the words "the," "and," "a," or "plus";
(d) differences in punctuation and special characters;
(e) differences in capitalization; or
(f) for a company that is formed in this state on or after May 4, 1998, or registered as a foreign company in this state on or after May 4, 1998, differences in singular and plural forms of words.
(6) The division may not approve for filing a name that implies that a limited liability company is an agency of this state or any of the state's political subdivisions, if the limited liability company is not actually such a legally established agency or subdivision.
(7) The authorization to file a certificate under or to reserve or register a limited liability company name as granted by the division does not:
(a) abrogate or limit the law governing unfair competition or unfair trade practices;
(b) derogate from the common law, the principles of equity, or the statutes of this state or of the United States with respect to the right to acquire and protect names and trademarks; or
(c) create an exclusive right in geographic or generic terms contained within a name.

(8) The name of a limited liability company or foreign limited liability company may not contain:
(a) the term:
(i) "association";
(ii) "corporation";
(iii) "incorporated";
(iv) "partnership";
(v) "limited partnership"; or
(vi) "L.P.";
(b) any word or abbreviation that is of like import to the words listed in Subsection (8)(a);
(c) without the written consent of the United States Olympic Committee, the words:
(i) "Olympic";
(ii) "Olympiad"; or
(iii) "Citius Altius Fortius"; or
(d) for a limited liability company that changes the limited liability company's name or is formed on or after May 4, 2022, the number sequence "911."
(9)
(a) A person, other than a company formed under this chapter or a foreign company authorized to transact business in this state, may not use in the person's name in this state the term:
(i) "limited liability company";
(ii) "limited company";
(iii) "L.L.C.";
(iv) "L.C.";
(v) "LLC"; or
(vi) "LC".
(b) Notwithstanding Subsection (2)(a):
(i) a foreign corporation whose actual name includes the term "limited" or "Ltd." may use the foreign corporation's actual name in this state if the foreign corporation also uses:
(A) "corporation" or "corp."; or
(B) "incorporated" or "Inc."; and
(ii) a limited liability partnership may use in the limited liability partnership's name the term:
(A) "limited liability partnership";
(B) "L.L.P."; or
(C) "LLP".

Amended by Chapter 458, 2023 General Session

48-3a-109 Reservation of name.

(1) A person may reserve the exclusive use of a name that complies with Section 48-3a-108 by delivering an application to the division for filing. The application must state the name and address of the applicant and the name to be reserved. If the division finds that the name is available, the division shall reserve the name for the applicant's exclusive use for 120 days.
(2) The owner of a reserved name may transfer the reservation to another person by delivering to the division a signed notice in a record of the transfer, which states the name and address of the transferee.

Enacted by Chapter 412, 2013 General Session

48-3a-110 Registration of name.

(1) A foreign limited liability company not registered to do business in this state under Part 9, Foreign Limited Liability Companies, may register its name, or an alternate name adopted pursuant to Section 48-3a-906, if the name is distinguishable on the records of the division from the names that are not available under Section 48-3a-108.
(2) To register its name or an alternate name adopted pursuant to Section 48-3a-906, a foreign limited liability company must deliver to the division for filing an application stating the foreign limited liability company's name, the jurisdiction and date of its formation, and any alternate name adopted pursuant to Section 48-3a-906. If the division finds that the name applied for is available, the division shall register the name for the applicant's exclusive use.
(3) The registration of a name under this section is effective for one year after the date of registration.
(4) A foreign limited liability company whose name registration is effective may renew the registration for successive one-year periods by delivering, not earlier than three months before the expiration of the registration, to the division for filing a renewal application that complies with this section. When filed, the renewal application renews the registration for a succeeding one-year period.
(5) A foreign limited liability company whose name registration is effective may register as a foreign limited liability company under the registered name or consent in a signed record to the use of that name by another person that is not an individual.

Enacted by Chapter 412, 2013 General Session

48-3a-111 Registered agent.

(1) Each limited liability company and each registered foreign limited liability company shall designate in accordance with Subsection 16-17-203(1) and maintain a registered agent in this state.
(2) A limited liability company or registered foreign limited liability company may change its registered agent or the address of its registered agent by filing with the division a statement of change in accordance with Section 16-17-206.

Enacted by Chapter 412, 2013 General Session

48-3a-112 Operating agreement -- Scope, functions, and limitations.

(1) Except as otherwise provided in Subsections (3) and (4), the operating agreement governs:
  (a) relations among the members as members and between the members and the limited liability company;
  (b) the rights and duties under this chapter of a person in the capacity of manager;
  (c) the activities and affairs of the limited liability company and the conduct of those activities and affairs; and
  (d) the means and conditions for amending the operating agreement.
(2) To the extent the operating agreement does not provide for a matter described in Subsection (1), this chapter governs the matter.
(3) An operating agreement may not:
  (a) vary a limited liability company's capacity under Section 48-3a-105 to sue and be sued in its own name;
  (b) vary the law applicable under Section 48-3a-106;
  (c) vary any requirement, procedure, or other provision of this chapter pertaining to:
    (i) registered agents; or

(ii) the division, including provisions pertaining to records authorized or required to be delivered to the division for filing under this chapter;

(d) vary the provisions of Section 48-3a-204;

(e) eliminate the duty of loyalty or the duty of care, except as otherwise provided in Subsection (4);

(f) eliminate the contractual obligation of good faith and fair dealing under Subsection 48-3a-409(4), but the operating agreement may prescribe the standards, if not unconscionable or against public policy, by which the performance of the obligation is to be measured;

(g) relieve or exonerate a person from liability for conduct involving bad faith, willful misconduct, or recklessness;

(h) unreasonably restrict the duties and rights under Section 48-3a-410, but the operating agreement may impose reasonable restrictions on the availability and use of information obtained under that section and may define appropriate remedies, including liquidated damages, for a breach of any reasonable restriction on use;

(i) vary the causes of dissolution specified in Subsections 48-3a-701(4)(a) and (5);

(j) vary the requirement to wind up the limited liability company's activities and affairs as specified in Subsections 48-3a-703(1), (2)(a), and (5);

(k) unreasonably restrict the right of a member to maintain an action under Part 8, Action by Members;

(l) vary the provisions of Section 48-3a-805, but the operating agreement may provide that the limited liability company may not have a special litigation committee;

(m) vary the right of a member to approve a merger, interest exchange, conversion, or domestication under Subsections 48-3a-1023(1)(b), 48-3a-1033(1)(b), 48-3a-1043(1)(b), or 48-3a-1053(1)(b); or

(n) except as otherwise provided in Section 48-3a-113 and Subsection 48-3a-114(2), restrict the rights under this chapter of a person other than a member or manager.

(4) Subject to Subsection (3)(g), without limiting other terms that may be included in an operating agreement, the following rules apply:

(a) The operating agreement may specify the method by which a specific act or transaction that would otherwise violate the duty of loyalty may be authorized or ratified by one or more disinterested and independent persons after full disclosure of all material facts.

(b) To the extent the operating agreement of a member-managed limited liability company expressly relieves a member of a responsibility that the member would otherwise have under this chapter and imposes the responsibility on one or more other members, the operating agreement may, to the benefit of the member that the operating agreement relieves of the responsibility, also eliminate or limit any fiduciary duty that would have pertained to the responsibility.

(c) If not unconscionable or against public policy, the operating agreement may:

(i) alter or eliminate the aspects of the duty of loyalty stated in Subsections 48-3a-409(2) and (9);

(ii) identify specific types or categories of activities that do not violate the duty of loyalty;

(iii) alter the duty of care, but may not authorize intentional misconduct or knowing violation of law; and

(iv) alter or eliminate any other fiduciary duty.

(5) The court shall decide as a matter of law whether a term of an operating agreement is unconscionable or against public policy under Subsection (3)(f) or (4)(c). The court:

(a) shall make its determination as of the time the challenged term became part of the operating agreement and by considering only circumstances existing at that time; and
(b) may invalidate the term only if, in light of the purposes, activities, and affairs of the limited liability company, it is readily apparent that:
(i) the objective of the term is unconscionable or against public policy; or
(ii) the means to achieve the term's objective is unconscionable or against public policy.

Enacted by Chapter 412, 2013 General Session

48-3a-113 Operating agreement -- Effect on limited liability company and person becoming member -- Preformation agreement.

(1) A limited liability company is bound by and may enforce the operating agreement, whether or not the limited liability company has itself manifested assent to the operating agreement.
(2) A person that becomes a member of a limited liability company is deemed to assent to the operating agreement.
(3) Two or more persons intending to become the initial members of a limited liability company may make an agreement providing that upon the formation of the limited liability company the agreement will become the operating agreement. One person intending to become the initial member of a limited liability company may assent to terms providing that upon the formation of the limited liability company the terms will become the operating agreement.

Enacted by Chapter 412, 2013 General Session

48-3a-114 Operating agreement -- Effect on third parties and relationship to records effective on behalf of limited liability company.

(1) An operating agreement may specify that its amendment requires the approval of a person that is not a party to the operating agreement or the satisfaction of a condition. An amendment is ineffective if its adoption does not include the required approval or satisfy the specified condition.
(2) The obligations of a limited liability company and its members to a person in the person's capacity as a transferee or a person dissociated as a member are governed by the operating agreement. Subject only to a court order issued under Subsection 48-3a-503(2)(b) to effectuate a charging order, an amendment to the operating agreement made after a person becomes a transferee or is dissociated as a member:
(a) is effective with regard to any debt, obligation, or other liability of the limited liability company or its members to the person in the person's capacity as a transferee or person dissociated as a member; and
(b) is not effective to the extent the amendment imposes a new debt, obligation, or other liability on the transferee or person dissociated as a member.
(3) If a record delivered by a limited liability company to the division for filing becomes effective and contains a provision that would be ineffective under Subsection 48-3a-112(3) or (4)(c) if contained in the operating agreement, the provision is ineffective in the record.
(4) Subject to Subsection (3), if a record delivered by a limited liability company to the division for filing becomes effective and conflicts with a provision of the operating agreement:
(a) the operating agreement prevails as to members, persons dissociated as members, transferees, and managers; and
(b) the record prevails as to other persons to the extent they reasonably rely on the record.

Enacted by Chapter 412, 2013 General Session

48-3a-115 Delivery of record.

(1) Except as otherwise provided in this chapter, permissible means of delivery of a record include delivery by hand, the United States Postal Service, a commercial delivery service, and electronic transmission.

(2) Delivery to the division is effective only when a record is received by the division.

Enacted by Chapter 412, 2013 General Session

48-3a-116 Reservation of power to amend or repeal.

The Legislature of this state has power to amend or repeal all or part of this chapter at any time, and all domestic and foreign limited liability companies subject to this chapter are governed by the amendment or repeal.

Enacted by Chapter 412, 2013 General Session

Part 2
Formation -- Certificate of Organization and Other Filings

48-3a-201 Formation of limited liability company -- Certificate of organization.

(1) One or more persons may act as organizers to form a limited liability company by delivering to the division for filing a certificate of organization.

(2) A certificate of organization must state:

(a) the name of the limited liability company, which must comply with Section 48-3a-108;

(b) the street and mailing address of the limited liability company's principal office;

(c) the information required by Subsection 16-17-203(1);

(d) if the limited liability company is a low-profit limited liability company, a statement that the limited liability company is a low-profit limited liability company;

(e) if the limited liability company is a professional services company, the information required by Section 48-3a-1103; and

(f) if the limited liability company is to have one or more series in which the liabilities of the series are to be limited as contemplated by Subsection 48-3a-1201(2), notice of the limitation on liability in accordance with Section 48-3a-1202.

(3) A certificate of organization may contain statements as to matters other than those required by Subsection (2), but may not vary or otherwise affect the provisions specified in Subsection 48-3a-112(3) in a manner inconsistent with that section. However, a statement in a certificate of organization is not effective as a statement of authority.

(4) A limited liability company is formed when the limited liability company's certificate of organization becomes effective and at least one person becomes a member.

Enacted by Chapter 412, 2013 General Session

48-3a-202 Amendment or restatement of certificate of organization.

(1) A certificate of organization may be amended or restated at any time, except that in accordance with Section 48-3a-1303, a low-profit limited liability company shall amend its certificate of organization if the limited liability company ceases to be a low-profit limited liability company.
(2) To amend its certificate of organization, a limited liability company must deliver to the division for filing an amendment stating:
  (a) the name of the limited liability company;
  (b) the date of filing of its initial certificate of organization; and
  (c) the changes the amendment makes to the certificate as most recently amended or restated.
(3) To restate its certificate of organization, a limited liability company must deliver to the division for filing a restatement designated as such in its heading.
(4) If a member of a member-managed limited liability company, or a manager of a manager-managed limited liability company, knows that any information in a filed certificate of organization was inaccurate when the certificate was filed or has become inaccurate due to changed circumstances, the member or manager shall promptly:
  (a) cause the certificate to be amended; or
  (b) if appropriate, deliver to the division for filing a statement of change under Section 16-17-206 or a statement of correction under Section 48-3a-208.

Enacted by Chapter 412, 2013 General Session

48-3a-203 Signing of records to be delivered for filing to division.
(1) A record delivered to the division for filing pursuant to this chapter must be signed as follows:
  (a) Except as otherwise provided in Subsections (1)(b) and (c), a record signed on behalf of a limited liability company must be signed by a person authorized by the limited liability company.
  (b) A limited liability company's initial certificate of organization must be signed by at least one person acting as an organizer.
  (c) A record delivered on behalf of a dissolved limited liability company that has no member must be signed by the person winding up the limited liability company's activities and affairs under Subsection 48-3a-703(3) or a person appointed under Subsection 48-3a-703(4) to wind up the activities and affairs.
  (d) A statement of denial by a person under Section 48-3a-303 must be signed by that person.
  (e) Any other record delivered on behalf of a person to the division for filing must be signed by that person.
(2) Any record filed under this chapter may be signed by an agent. Whenever this chapter requires a particular individual to sign a record and the individual is deceased or incompetent, the record may be signed by a legal representative of the individual.
(3) A person that signs a record as an agent or legal representative thereby affirms as a fact that the person is authorized to sign the record.

Enacted by Chapter 412, 2013 General Session

Superseded 7/1/2024
48-3a-204 Signing and filing pursuant to judicial order.
(1) If a person required by this chapter to sign a record or deliver a record to the division for filing under this chapter does not do so, any other person that is aggrieved may petition the district court to order:
  (a) the person to sign the record;

(b) the person to deliver the record to the division for filing; or
(c) the division to file the record unsigned.
(2) If a petitioner under Subsection (1) is not the limited liability company or foreign limited liability company to which the record pertains, the petitioner shall make the limited liability company or foreign limited liability company a party to the action.
(3) A record filed under Subsection (1)(c) is effective without being signed.

Enacted by Chapter 412, 2013 General Session

Effective 7/1/2024
48-3a-204 Signing and filing pursuant to judicial order.
(1) If a person required by this chapter to sign a record or deliver a record to the division for filing under this chapter does not do so, any other person that is aggrieved may petition a court with jurisdiction under Title 78A, Judiciary and Judicial Administration, to order:
(a) the person to sign the record;
(b) the person to deliver the record to the division for filing; or
(c) the division to file the record unsigned.
(2) If a petitioner under Subsection (1) is not the limited liability company or foreign limited liability company to which the record pertains, the petitioner shall make the limited liability company or foreign limited liability company a party to the action.
(3) A record filed under Subsection (1)(c) is effective without being signed.

Amended by Chapter 401, 2023 General Session

48-3a-205 Filing requirements.
(1) To be filed by the division pursuant to this chapter, a record must be received by the division, comply with this chapter, and satisfy the following:
(a) The filing of the record must be required or permitted by this chapter.
(b) The record must be physically delivered in written form unless and to the extent the division permits electronic delivery of records.
(c) The record must be typewritten or computer generated.
(d) The words in the record must be in English, and numbers must be in Arabic or Roman numerals, but the name of an entity need not be in English if written in English letters or Arabic or Roman numerals.
(e) The record must be signed by a person authorized or required under this chapter to sign the record.
(f) The record must state the name and capacity, if any, of each individual who signed it, either on behalf of the individual or the person authorized or required to sign the record, but need not contain a seal, attestation, acknowledgment, or verification.
(2) If law other than this chapter prohibits the disclosure by the division of information contained in a record delivered to the division for filing, the division shall accept the record if the record otherwise complies with this chapter, but the division may redact the information.
(3) When a record is delivered to the division for filing, any fee required under this chapter and any fee, tax, interest, or penalty required to be paid under this chapter or law other than this chapter must be paid in a manner permitted by the division or by that law.
(4) The division may require that a record delivered in written form be accompanied by an identical or conformed copy.

Amended by Chapter 227, 2015 General Session

48-3a-206 Effective time and date.

Except as otherwise provided in Section 48-3a-207 and subject to Subsection 48-3a-208(3), a record filed under this chapter is effective:

(1) on the date and at the time of its filing by the division, as provided in Section 48-3a-209;

(2) on the date of filing and at the time specified in the record as its effective time, if later than the time under Subsection (1);

(3) at a specified delayed effective date and time, which may not be more than 90 days after the date of filing; or

(4) if a delayed effective date is specified, but no time is specified, at 12:01 a.m. on the date specified, which may not be more than 90 days after the date of filing.

Enacted by Chapter 412, 2013 General Session

48-3a-207 Withdrawal of filed record before effectiveness.

(1) Except as otherwise provided in Sections 48-3a-1024, 48-3a-1034, 48-3a-1044, and 48-3a-1054, a record delivered to the division for filing may be withdrawn before it takes effect by delivering to the division for filing a statement of withdrawal.

(2) A statement of withdrawal must:

(a) be signed by each person that signed the record being withdrawn, except as otherwise agreed by those persons;

(b) identify the record to be withdrawn; and

(c) if signed by fewer than all the persons that signed the record being withdrawn, state that the record is withdrawn in accordance with the agreement of all the persons that signed the record.

(3) On filing by the division of a statement of withdrawal, the action or transaction evidenced by the original record does not take effect.

Enacted by Chapter 412, 2013 General Session

48-3a-208 Correcting filed record.

(1) A person on whose behalf a filed record was delivered to the division for filing may correct the record if:

(a) the record at the time of filing was inaccurate;

(b) the record was defectively signed; or

(c) the electronic transmission of the record to the division was defective.

(2) To correct a filed record, a person on whose behalf the record was delivered to the division must deliver to the division for filing a statement of correction.

(3) A statement of correction:

(a) may not state a delayed effective date;

(b) must be signed by the person correcting the filed record;

(c) must identify the filed record to be corrected;

(d) must specify the inaccuracy or defect to be corrected; and

(e) must correct the inaccuracy or defect.

(4) A statement of correction is effective as of the effective date of the filed record that it corrects except for purposes of Subsection 48-3a-103(4) and as to persons relying on the uncorrected

filed record and adversely affected by the correction. For those purposes and as to those persons, the statement of correction is effective when filed.

Enacted by Chapter 412, 2013 General Session

Superseded 7/1/2024

48-3a-209 Duty of division to file -- Review of refusal to file -- Transmission of information by division.

(1) The division shall file a record delivered to the division for filing which satisfies this chapter. The duty of the division under this section is ministerial.

(2) When the division files a record, the division shall record it as filed on the date and at the time of its delivery. After filing a record, the division shall deliver to the person that submitted the record a copy of the record with an acknowledgment of the date and time of filing and, in the case of a statement of denial, also to the limited liability company to which the statement pertains.

(3) If the division refuses to file a record, the division shall, not later than 15 business days after the record is delivered:

(a) return the record or notify the person that submitted the record of the refusal; and

(b) provide a brief explanation in a record of the reason for the refusal.

(4) If the division refuses to file a record, the person that submitted the record may petition the district court to compel filing of the record. The record and the explanation of the division of the refusal to file must be attached to the petition. The court may decide the matter in a summary proceeding.

(5) The filing of or refusal to file a record does not create a presumption that the information contained in the record is correct or incorrect.

(6) Except as otherwise provided by Section 16-17-301 or by law other than this chapter, the division may deliver any record to a person by delivering it:

(a) in person to the person that submitted it;

(b) to the address of the person's registered agent;

(c) to the principal office of the person; or

(d) to another address the person provides to the division for delivery.

Enacted by Chapter 412, 2013 General Session

Effective 7/1/2024

48-3a-209 Duty of division to file -- Review of refusal to file -- Transmission of information by division.

(1) The division shall file a record delivered to the division for filing which satisfies this chapter. The duty of the division under this section is ministerial.

(2) When the division files a record, the division shall record it as filed on the date and at the time of its delivery. After filing a record, the division shall deliver to the person that submitted the record a copy of the record with an acknowledgment of the date and time of filing and, in the case of a statement of denial, also to the limited liability company to which the statement pertains.

(3) If the division refuses to file a record, the division shall, not later than 15 business days after the record is delivered:

(a) return the record or notify the person that submitted the record of the refusal; and

(b) provide a brief explanation in a record of the reason for the refusal.

(4)
(a) If the division refuses to file a record, the person that submitted the record may petition a court with jurisdiction under Title 78A, Judiciary and Judicial Administration, to compel filing of the record.
(b) The record and the explanation of the division of the refusal to file must be attached to the petition.
(c) The court may decide the matter in a summary proceeding.
(5) The filing of or refusal to file a record does not create a presumption that the information contained in the record is correct or incorrect.
(6) Except as otherwise provided by Section 16-17-301 or by law other than this chapter, the division may deliver any record to a person by delivering it:
(a) in person to the person that submitted it;
(b) to the address of the person's registered agent;
(c) to the principal office of the person; or
(d) to another address the person provides to the division for delivery.

Amended by Chapter 401, 2023 General Session

48-3a-210 Liability for inaccurate information in filed record.
(1) If a record delivered to the division for filing under this chapter and filed by the division contains inaccurate information, a person that suffers loss by reliance on the information may recover damages for the loss from:
(a) a person that signed the record, or caused another to sign it on the person's behalf, and knew the information to be inaccurate at the time the record was signed; and
(b) subject to Subsection (2), a member of a member-managed limited liability company or the manager of a manager-managed limited liability company, if:
(i) the record was delivered for filing on behalf of the limited liability company; and
(ii) the member or manager had notice of the inaccuracy for a reasonably sufficient time before the information was relied upon so that, before the reliance, the member or manager reasonably could have:
(A) effected an amendment under Section 48-3a-202;
(B) filed a petition under Section 48-3a-204; or
(C) delivered to the division for filing a statement of change under Section 16-17-206 or a statement of correction under Section 48-3a-208.
(2) To the extent that the operating agreement of a member-managed limited liability company expressly relieves a member of responsibility for maintaining the accuracy of information contained in records delivered on behalf of the limited liability company to the division for filing under this chapter and imposes that responsibility on one or more other members, the liability stated in Subsection (1)(b) applies to those other members and not to the member that the operating agreement relieves of the responsibility.
(3) An individual who signs a record authorized or required to be filed under this chapter affirms under penalty of perjury that the information stated in the record is accurate.

Enacted by Chapter 412, 2013 General Session

48-3a-211 Certificate of existence or registration.
(1) On request of any person, the division shall issue a certificate of existence for a limited liability company or a certificate of registration for a registered foreign limited liability company.

(2) A certificate under Subsection (1) must state:
(a) the limited liability company's name or the registered foreign limited liability company's name used in this state;
(b) in the case of a limited liability company:
(i) that a certificate of organization has been filed and has taken effect;
(ii) the date the certificate of organization became effective;
(iii) the period of the limited liability company's duration if the records of the division reflect that its period of duration is less than perpetual; and
(iv) that:
(A) no statement of dissolution, statement of administrative dissolution, or statement of termination has been filed;
(B) the records of the division do not otherwise reflect that the company has been dissolved or terminated; and
(C) a proceeding is not pending under Section 48-3a-708;
(c) in the case of a registered foreign limited liability company, that it is registered to do business in this state;
(d) that all fees, taxes, interest, and penalties owed to this state by the limited liability company or foreign limited liability company and collected through the division have been paid, if:
(i) payment is reflected in the records of the division; and
(ii) nonpayment affects the status of the limited liability company or foreign limited liability company with the division;
(e) that the most recent annual report required by Section 48-3a-212 has been delivered to the division for filing; and
(f) other facts reflected in the records of the division pertaining to the limited liability company or foreign limited liability company which the person requesting the certificate reasonably requests.
(3) Subject to any qualification stated in the certificate, a certificate issued by the division under Subsection (1) may be relied upon as conclusive evidence of the facts stated in the certificate.

Amended by Chapter 149, 2018 General Session

48-3a-212 Annual report for division.
(1) A limited liability company or a registered foreign limited liability company shall deliver to the division for filing an annual report that states:
(a) the name of the limited liability company or registered foreign limited liability company;
(b) the information required by Subsection 16-17-203(1);
(c) the street and mailing addresses of its principal office;
(d) the name of at least one governing person; and
(e) in the case of a foreign limited liability company, its jurisdiction of formation and any alternate name adopted under Subsection 48-3a-906(1).
(2) Information in the annual report must be current as of the date the report is signed by the limited liability company or registered foreign limited liability company.
(3) A report must be delivered to the division for each year following the calendar year in which the limited liability company's certificate of organization became effective or the registered foreign limited liability company registered to do business in this state:
(a) in the case of a limited liability company, the annual report must be delivered to the division during the month in which is the anniversary date on which the limited liability company's certificate of formation became effective; and

(b) in the case of a registered foreign limited liability company, the annual report must be delivered to the division during the month in which is the anniversary date on which the registered foreign limited liability company registered to do business in this state.

(4) If an annual report does not contain the information required by this section, the division promptly shall notify the reporting limited liability company or registered foreign limited liability company in a record and return the report for correction.

(5) If an annual report contains the name or address of a registered agent which differs from the information shown in the records of the division immediately before the annual report becomes effective, the differing information in the annual report is considered a statement of change under Section 16-17-206.

Enacted by Chapter 412, 2013 General Session

Part 3
Relations of Members and Managers to Persons Dealing with Limited Liability Company

48-3a-301 No agency powers of member as member.

(1) A member is not an agent of a limited liability company solely by reason of being a member.

(2) A person's status as a member does not prevent or restrict law other than this chapter from imposing liability on a limited liability company because of the person's conduct.

Enacted by Chapter 412, 2013 General Session

48-3a-302 Statement of authority.

(1) A limited liability company may deliver to the division for filing a statement of authority. The statement:

(a) must include the name of the limited liability company and the street and mailing addresses of its registered agent;

(b) with respect to any position that exists in or with respect to the limited liability company, may state the authority, or limitations on the authority, of all persons holding the position to:

(i) execute an instrument transferring real property held in the name of the limited liability company; or

(ii) enter into other transactions on behalf of, or otherwise act for or bind, the limited liability company; and

(c) may state the authority, or limitations on the authority, of a specific person to:

(i) execute an instrument transferring real property held in the name of the limited liability company; or

(ii) enter into other transactions on behalf of, or otherwise act for or bind, the limited liability company.

(2) To amend or cancel a statement of authority filed by the division, a limited liability company must deliver to the division for filing an amendment or cancellation stating:

(a) the name of the limited liability company;

(b) the street and mailing addresses of the limited liability company's registered agent;

(c) the date the statement being affected became effective; and

(d) the contents of the amendment or a declaration that the statement is canceled.

(3) A statement of authority affects only the power of a person to bind a limited liability company to persons that are not members.
(4) Subject to Subsection (3) and Subsection 48-3a-103(4), and except as otherwise provided in Subsections (6), (7), and (8), a limitation on the authority of a person or a position contained in an effective statement of authority is not by itself evidence of knowledge or notice of the limitation by any person.
(5) Subject to Subsection (3), a grant of authority not pertaining to transfers of real property and contained in an effective statement of authority is conclusive in favor of a person that gives value in reliance on the grant, except to the extent that when the person gives value:
  (a) the person has knowledge to the contrary;
  (b) the statement of authority has been canceled or restrictively amended under Subsection (2); or
  (c) a limitation on the grant is contained in another statement of authority that became effective after the statement of authority containing the grant became effective.
(6) Subject to Subsection (3), an effective statement of authority that grants authority to transfer real property held in the name of the limited liability company and a certified copy of which is recorded in the office for recording transfers of the real property is conclusive in favor of a person that gives value in reliance on the grant without knowledge to the contrary, except to the extent that when the person gives value:
  (a) the statement of authority has been canceled or restrictively amended under Subsection (2), and a certified copy of the cancellation or restrictive amendment has been recorded in the office for recording transfers of the real property; or
  (b) a limitation on the grant is contained in another statement of authority that became effective after the statement of authority containing the grant became effective, and a certified copy of the later-effective statement of authority is recorded in the office for recording transfers of the real property.
(7) Subject to Subsection (3), if a certified copy of an effective statement of authority containing a limitation on the authority to transfer real property held in the name of a limited liability company is recorded in the office for recording transfers of that real property, all persons are deemed to know of the limitation.
(8) Subject to Subsection (9), an effective statement of dissolution or termination is a cancellation of any filed statement of authority for the purposes of Subsection (6) and is a limitation on authority for the purposes of Subsection (7).
(9) After a statement of dissolution becomes effective, a limited liability company may deliver to the division for filing and, if appropriate, may record a statement of authority that is designated as a postdissolution statement of authority. The postdissolution statement of authority operates as provided in Subsections (6) and (7).
(10) Unless earlier canceled, an effective statement of authority is canceled by operation of law five years after the date on which the statement of authority, or its most recent amendment, becomes effective. This cancellation operates without need for any recording under Subsection (6) or (7).
(11) An effective statement of denial operates as a restrictive amendment under this section and may be recorded by certified copy for purposes of Subsection (6)(a).

Enacted by Chapter 412, 2013 General Session

48-3a-303 Statement of denial.

A person named in a filed statement of authority granting that person authority may deliver to the division for filing a statement of denial that:
(1) provides the name of the limited liability company and the caption of the statement of authority to which the statement of denial pertains; and
(2) denies the grant of authority.

Enacted by Chapter 412, 2013 General Session

48-3a-304 Liability of members and managers.
(1) A debt, obligation, or other liability of a limited liability company is solely the debt, obligation, or other liability of the limited liability company. A member or manager is not personally liable, directly or indirectly, by way of contribution or otherwise, for a debt, obligation, or other liability of the limited liability company solely by reason of being or acting as a member or manager. This Subsection (1) applies regardless of the dissolution of the limited liability company.
(2) The failure of a limited liability company to observe formalities relating to the exercise of its powers or management of its activities and affairs is not a ground for imposing liability on a member or manager of the limited liability company for a debt, obligation, or other liability of the limited liability company.

Enacted by Chapter 412, 2013 General Session

Part 4
Relations of Members to Each Other and to Limited Liability Company

48-3a-401 Becoming a member.
(1) If a limited liability company is to have only one member upon formation, the person becomes a member as agreed by that person and the organizer of the limited liability company. That person and the organizer may be, but need not be, different persons. If different, the organizer acts on behalf of the initial member.
(2) If a limited liability company is to have more than one member upon formation, those persons become members as agreed by the persons before the formation of the limited liability company. The organizer acts on behalf of the persons in forming the limited liability company and may be, but need not be, one of the persons.
(3) After formation of a limited liability company, a person becomes a member:
  (a) as provided in the operating agreement;
  (b) as the result of a transaction effective under Part 10, Merger, Interest Exchange, Conversion, and Domestication;
  (c) with the consent of all the members; or
  (d) as provided in Subsection 48-3a-701(3).
(4) A person may become a member without:
  (a) acquiring a transferable interest; or
  (b) making or being obligated to make a contribution to the limited liability company.

Enacted by Chapter 412, 2013 General Session

48-3a-402 Form of contribution.

A contribution may consist of property transferred to, services performed for, or another benefit provided to the limited liability company or an agreement to transfer property to, perform services for, or provide another benefit to the company.

Enacted by Chapter 412, 2013 General Session

48-3a-403 Liability for contributions.

(1) A person's obligation to make a contribution to a limited liability company is not excused by the person's death, disability, or other inability to perform personally.
(2) If a person does not fulfill an obligation to make a contribution other than money, the person is obligated at the option of the limited liability company to contribute money equal to the value of the part of the contribution which has not been made.
(3) The obligation of a person to make a contribution may be compromised only by consent of all members. If a creditor of a limited liability company extends credit or otherwise acts in reliance on an obligation described in Subsection (1) without notice of a compromise under this Subsection (3), the creditor may enforce the obligation.

Enacted by Chapter 412, 2013 General Session

48-3a-404 Sharing of and right to distributions before dissolution.

(1) Any distributions made by a limited liability company before its dissolution and winding up must be in equal shares among members and persons dissociated as members, except to the extent necessary to comply with a transfer effective under Section 48-3a-502 or charging order in effect under Section 48-3a-503.
(2) A person has a right to a distribution before the dissolution and winding up of a limited liability company only if the limited liability company decides to make an interim distribution. A person's dissociation does not entitle the person to a distribution.
(3) A person does not have a right to demand or receive a distribution from a limited liability company in any form other than money. Except as otherwise provided in Subsection 48-3a-711(4), a limited liability company may distribute an asset in kind only if each part of the asset is fungible with each other part and each person receives a percentage of the asset equal in value to the person's share of distributions.
(4) If a member or transferee becomes entitled to receive a distribution, the member or transferee has the status of, and is entitled to all remedies available to, a creditor of the limited liability company with respect to the distribution. However, the limited liability company's obligation to make a distribution is subject to offset for any amount owed to the limited liability company by the member or a person dissociated as a member on whose account the distribution is made.

Enacted by Chapter 412, 2013 General Session

48-3a-405 Limitation on distributions.

(1) A limited liability company may not make a distribution, including a distribution under Section 48-3a-711, if after the distribution:
  (a) the limited liability company would not be able to pay its debts as they become due in the ordinary course of the limited liability company's activities and affairs; or
  (b) the limited liability company's total assets would be less than the sum of its total liabilities plus, unless the operating agreement permits otherwise, the amount that would be needed, if the limited liability company were to be dissolved and wound up at the time of the distribution,

to satisfy the preferential rights upon dissolution and winding up of members and transferees whose preferential rights are superior to those of persons receiving the distribution.

(2) A limited liability company may base a determination that a distribution is not prohibited under Subsection (1) on:

(a) financial statements prepared on the basis of accounting practices and principles that are reasonable in the circumstances; or

(b) a fair valuation or other method that is reasonable under the circumstances.

(3) Except as otherwise provided in Subsection (5), the effect of a distribution under Subsection (1) is measured:

(a) in the case of a distribution as defined in Subsection 48-3a-102(4)(a), as of the earlier of:

(i) the date money or other property is transferred or debt is incurred by the limited liability company; or

(ii) the date the person entitled to the distribution ceases to own the interest or right being acquired by the limited liability company in return for the distribution;

(b) in the case of any other distribution of indebtedness, as of the date the indebtedness is distributed; and

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

(i) the distribution is authorized, if the payment occurs not later than 120 days after that date; or

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

(4) A limited liability company's indebtedness to a member or transferee incurred by reason of a distribution made in accordance with this section is at parity with the limited liability company's indebtedness to its general, unsecured creditors, except to the extent subordinated by agreement.

(5) A limited liability company's indebtedness, including indebtedness issued as a distribution, is not a liability for purposes of Subsection (1) if the terms of the indebtedness provide that payment of principal and interest is made only if and to the extent that payment of a distribution could then be made under this section. If the indebtedness is issued as a distribution, each payment of principal or interest is treated as a distribution, the effect of which is measured on the date the payment is made.

(6) In measuring the effect of a distribution under Section 48-3a-711, the liabilities of a dissolved limited liability company do not include any claim that has been disposed of under Section 48-3a-705, 48-3a-706, or 48-3a-707.

Enacted by Chapter 412, 2013 General Session

48-3a-406 Liability for improper distributions.

(1) Except as otherwise provided in Subsection (2), if a member of a member-managed limited liability company or manager of a manager-managed limited liability company consents to a distribution made in violation of Section 48-3a-405 and in consenting to the distribution fails to comply with Section 48-3a-409, the member or manager is personally liable to the limited liability company for the amount of the distribution which exceeds the amount that could have been distributed without the violation of Section 48-3a-405.

(2) To the extent the operating agreement of a member-managed limited liability company expressly relieves a member of the authority and responsibility to consent to distributions and imposes that authority and responsibility on one or more other members, the liability stated in Subsection (1) applies to the other members and not the member that the operating agreement relieves of authority and responsibility.

(3) A person that receives a distribution knowing that the distribution violated Section 48-3a-405 is personally liable to the limited liability company but only to the extent that the distribution received by the person exceeded the amount that could have been properly paid under Section 48-3a-405.
(4) A person against which an action is commenced because the person is liable under Subsection (1) may:
(a) implead any other person that is liable under Subsection (1) and seek to enforce a right of contribution from the person; and
(b) implead any person that received a distribution in violation of Subsection (3) and seek to enforce a right of contribution from the person in the amount the person received in violation of Subsection (3).
(5) An action under this section is barred unless commenced not later than two years after the distribution.

Enacted by Chapter 412, 2013 General Session

48-3a-407 Management of limited liability company.
(1) A limited liability company is a member-managed limited liability company unless the operating agreement:
(a) expressly provides that:
(i) the limited liability company is or will be "manager-managed";
(ii) the limited liability company is or will be "managed by managers"; or
(iii) management of the limited liability company is or will be "vested in managers"; or
(b) includes words of similar import.
(2) In a member-managed limited liability company, the following rules apply:
(a) Except as otherwise provided in this chapter, the management and conduct of the limited liability company are vested in the members.
(b) Each member has equal rights in the management and conduct of the limited liability company's activities and affairs.
(c) A difference arising among members as to a matter in the ordinary course of the activities of the limited liability company shall be decided by a majority of the members.
(d) An act outside the ordinary course of the activities and affairs of the limited liability company may be undertaken only with the affirmative vote or consent of all members.
(e) The affirmative vote or consent of all members is required to approve a transaction under Part 10, Merger, Interest Exchange, Conversion, and Domestication.
(f) The operating agreement may be amended only with the affirmative vote or consent of all members.
(3) In a manager-managed limited liability company, the following rules apply:
(a) Except as expressly provided in this chapter, any matter relating to the activities and affairs of the limited liability company is decided exclusively by the manager, or, if there is more than one manager, by a majority of the managers.
(b) Each manager has equal rights in the management and conduct of the limited liability company's activities and affairs.
(c) The affirmative vote or consent of all members is required to:
(i) approve a transaction under Part 10, Merger, Interest Exchange, Conversion, and Domestication;
(ii) undertake any act outside the ordinary course of the limited liability company's activities and affairs; or

(iii) amend the operating agreement.

(d) A manager may be chosen at any time by the consent of a majority of the members and remains a manager until a successor has been chosen, unless the manager at an earlier time resigns, is removed, or dies, or, in the case of a manager that is not an individual, terminates. A manager may be removed at any time by the consent of a majority of the members without notice or cause.

(e) A person need not be a member to be a manager, but the dissociation of a member that is also a manager removes the person as a manager. If a person that is both a manager and a member ceases to be a manager, that cessation does not by itself dissociate the person as a member.

(f) A person's ceasing to be a manager does not discharge any debt, obligation, or other liability to the limited liability company or members which the person incurred while a manager.

(4) An action requiring the vote or consent of members under this chapter may be taken without a meeting, and a member may appoint a proxy or other agent to vote, consent, or otherwise act for the member by signing an appointing record, personally or by the member's agent.

(5) The dissolution of a limited liability company does not affect the applicability of this section. However, a person that wrongfully causes dissolution of the limited liability company loses the right to participate in management as a member and a manager.

(6) A limited liability company shall reimburse a member for an advance to the limited liability company beyond the amount of capital the member agreed to contribute.

(7) A payment or advance made by a member which gives rise to an obligation of the limited liability company under Subsection (6) or Subsection 48-3a-408(1) constitutes a loan to the limited liability company which accrues interest from the date of the payment or advance.

(8) A member is not entitled to remuneration for services performed for a member-managed limited liability company, except for reasonable compensation for services rendered in winding up the activities of the limited liability company.

Enacted by Chapter 412, 2013 General Session

48-3a-408 Reimbursement, indemnification, advancement, and insurance.

(1) A limited liability company shall reimburse a member of a member-managed limited liability company or the manager of a manager-managed limited liability company for any payment made by the member or manager in the course of the member's or manager's activities on behalf of the limited liability company, if the member or manager complied with Sections 48-3a-407 and 48-3a-409 in making the payment.

(2) A limited liability company shall indemnify and hold harmless a person with respect to any claim or demand against the person and any debt, obligation, or other liability incurred by the person by reason of the person's former or present capacity as a member or manager, if the claim, demand, debt, obligation, or other liability does not arise from the person's breach of Section 48-3a-405, 48-3a-407, or 48-3a-409.

(3) In the ordinary course of its activities and affairs, a limited liability company may advance reasonable expenses, including attorney's fees and costs, incurred by a person in connection with a claim or demand against the person by reason of the person's former or present capacity as a member or manager, if the person promises to repay the limited liability company if the person ultimately is determined not to be entitled to be indemnified under Subsection (2).

(4) A limited liability company may purchase and maintain insurance on behalf of a member or manager of the limited liability company against liability asserted against or incurred by the member or manager in that capacity or arising from that status even if, under Subsection

48-3a-112(3)(g), the operating agreement could not eliminate or limit the person's liability to the limited liability company for the conduct giving rise to the liability.

Enacted by Chapter 412, 2013 General Session

48-3a-409 Standards of conduct for members and managers.

(1) A member of a member-managed limited liability company owes to the limited liability company and, subject to Subsection 48-3a-801(1), the other members the duties of loyalty and care stated in Subsections (2) and (3).

(2) The duty of loyalty of a member in a member-managed limited liability company includes the duties:

(a) to account to the limited liability company and to hold as trustee for it any property, profit, or benefit derived by the member:

(i) in the conduct or winding up of the limited liability company's activities and affairs;

(ii) from a use by the member of the limited liability company's property; or

(iii) from the appropriation of a limited liability company opportunity;

(b) to refrain from dealing with the limited liability company in the conduct or winding up of the limited liability company's activities and affairs as or on behalf of a person having an interest adverse to the limited liability company; and

(c) to refrain from competing with the limited liability company in the conduct of the company's activities and affairs before the dissolution of the limited liability company.

(3) The duty of care of a member of a member-managed limited liability company in the conduct or winding up of the limited liability company's activities and affairs is to refrain from engaging in grossly negligent or reckless conduct, intentional misconduct, or a knowing violation of law.

(4) A member shall discharge the duties and obligations under this chapter or under the operating agreement and exercise any rights consistently with the contractual obligation of good faith and fair dealing.

(5) A member does not violate a duty or obligation under this chapter or under the operating agreement solely because the member's conduct furthers the member's own interest.

(6) All the members of a member-managed limited liability company or a manager-managed limited liability company may authorize or ratify, after full disclosure of all material facts, a specific act or transaction that otherwise would violate the duty of loyalty.

(7) It is a defense to a claim under Subsection (2)(b) and any comparable claim in equity or at common law that the transaction was fair to the limited liability company.

(8) If, as permitted by Subsection (6) or (9)(f) or the operating agreement, a member enters into a transaction with the limited liability company which otherwise would be prohibited by Subsection (2)(b), the member's rights and obligations arising from the transaction are the same as those of a person that is not a member.

(9) In a manager-managed limited liability company, the following rules apply:

(a) Subsections (1), (2), (3), and (7) apply to the manager or managers and not the members.

(b) The duty stated under Subsection (2)(c) continues until winding up is completed.

(c) Subsection (4) applies to managers and members.

(d) Subsection (5) applies only to members.

(e) The power to ratify under Subsection (6) applies only to the members.

(f) Subject to Subsection (4), a member does not have any duty to the limited liability company or to any other member solely by reason of being a member.

Enacted by Chapter 412, 2013 General Session

48-3a-410 Rights of member, manager, and person dissociated as member to information.

(1) In a member-managed limited liability company, the following rules apply:

(a) On reasonable notice, a member may inspect and copy during regular business hours, at a reasonable location specified by the limited liability company, any record maintained by the limited liability company regarding the limited liability company's activities, affairs, financial condition, and other circumstances, to the extent the information is material to the member's rights and duties under the operating agreement or this chapter.

(b) The limited liability company shall furnish to each member:

(i) without demand, any information concerning the limited liability company's activities, affairs, financial condition, and other circumstances which the limited liability company knows and is material to the proper exercise of the member's rights and duties under the operating agreement or this chapter, except to the extent the limited liability company can establish that it reasonably believes the member already knows the information; and

(ii) on demand, any other information concerning the limited liability company's activities, affairs, financial condition, and other circumstances, except to the extent the demand or information demanded is unreasonable or otherwise improper under the circumstances.

(c) The duty to furnish information under Subsection (1)(b) also applies to each member to the extent the member knows any of the information described in Subsection (1)(b).

(2) In a manager-managed limited liability company, the following rules apply:

(a) The informational rights stated in Subsection (1) and the duty stated in Subsection (1)(c) apply to the managers and not the members.

(b) During regular business hours and at a reasonable location specified by the limited liability company, a member may inspect and copy full information regarding the activities, affairs, financial condition, and other circumstances of the limited liability company as is just and reasonable if:

(i) the member seeks the information for a purpose reasonably related to the member's interest as a member;

(ii) the member makes a demand in a record received by the limited liability company, describing with reasonable particularity the information sought and the purpose for seeking the information; and

(iii) the information sought is directly connected to the member's purpose.

(c) Not later than 10 days after receiving a demand pursuant to Subsection (2)(b)(ii), the limited liability company shall in a record inform the member that made the demand of:

(i) the information that the limited liability company will provide in response to the demand and when and where the limited liability company will provide the information; and

(ii) the limited liability company's reasons for declining, if the limited liability company declines to provide any demanded information.

(d) Whenever this chapter or an operating agreement provides for a member to give or withhold consent to a matter, before the consent is given or withheld, the limited liability company shall, without demand, provide the member with all information that is known to the limited liability company and is material to the member's decision.

(3) Subject to Subsection (9), on 10 days' demand made in a record received by a limited liability company, a person dissociated as a member may have access to information to which the person was entitled while a member if:

(a) the information pertains to the period during which the person was a member;

(b) the person seeks the information in good faith; and

(c) the person satisfies the requirements imposed on a member by Subsection (2)(b).

(4) A limited liability company shall respond to a demand made pursuant to Subsection (3) in the manner provided in Subsection (2)(c).
(5) A limited liability company may charge a person that makes a demand under this section the reasonable costs of copying, limited to the costs of labor and material.
(6) A member or person dissociated as a member may exercise rights under this section through an agent or, in the case of an individual under legal disability, a legal representative. Any restriction or condition imposed by the operating agreement or under Subsection (9) applies both to the agent or legal representative and the member or person dissociated as a member.
(7) Subject to Subsection (9), the rights under this section do not extend to a person as transferee.
(8) If a member dies, Section 48-3a-504 applies.
(9) In addition to any restriction or condition stated in the operating agreement, a limited liability company, as a matter within the ordinary course of its activities and affairs, may impose reasonable restrictions and conditions on access to and use of information to be furnished under this section, including designating information confidential and imposing nondisclosure and safeguarding obligations on the recipient. In a dispute concerning the reasonableness of a restriction under this Subsection (9), the limited liability company has the burden of proving reasonableness.

Enacted by Chapter 412, 2013 General Session

Part 5
Transferable Interest and Rights of Transferees and Creditors

48-3a-501 Nature of transferable interest.

A transferable interest is personal property.

Enacted by Chapter 412, 2013 General Session

48-3a-502 Transfer of transferable interest.

(1) Subject to Subsection 48-3a-503(6), a transfer, in whole or in part, of a transferable interest:
  (a) is permissible;
  (b) does not by itself cause a member's dissociation or a dissolution and winding up of the limited liability company's activities and affairs; and
  (c) subject to Section 48-3a-504, does not entitle the transferee to:
    (i) participate in the management or conduct of the limited liability company's activities and affairs; or
    (ii) except as otherwise provided in Subsection (3), have access to records or other information concerning the limited liability company's activities and affairs.
(2) A transferee has the right to receive, in accordance with the transfer, distributions to which the transferor would otherwise be entitled.
(3) In a dissolution and winding up of a limited liability company, a transferee is entitled to an account of the limited liability company's transactions only from the date of dissolution.
(4) A transferable interest may be evidenced by a certificate of the interest issued by the limited liability company in a record, and, subject to this section, the interest represented by the certificate may be transferred by a transfer of the certificate.

(5) A limited liability company need not give effect to a transferee's rights under this section until the limited liability company knows or has notice of the transfer.
(6) A transfer of a transferable interest in violation of a restriction on transfer contained in the operating agreement is ineffective as to a person having knowledge or notice of the restriction at the time of transfer.
(7) Except as otherwise provided in Subsection 48-3a-602(5)(b), if a member transfers a transferable interest, the transferor retains the rights of a member other than the transferable interest transferred and retains all the duties and obligations of a member.
(8) If a member transfers a transferable interest to a person that becomes a member with respect to the transferred interest, the transferee is liable for the member's obligations under Section 48-3a-403 and Subsection 48-3a-406(3) known to the transferee when the transferee becomes a member.

Enacted by Chapter 412, 2013 General Session

48-3a-503 Charging order.
(1) On application by a judgment creditor of a member or transferee, a court may enter a charging order against the transferable interest of the judgment debtor for the unsatisfied amount of the judgment. Except as otherwise provided in Subsection (6), a charging order constitutes a lien on a judgment debtor's transferable interest and, after the limited liability company has been served with the charging order, requires the limited liability company to pay over to the person to which the charging order was issued any distribution that otherwise would be paid to the judgment debtor.
(2) To the extent necessary to effectuate the collection of distributions pursuant to a charging order in effect under Subsection (1), the court may:
  (a) appoint a receiver of the distributions subject to the charging order, with the power to make all inquiries the judgment debtor might have made; and
  (b) make all other orders necessary to give effect to the charging order.
(3) Upon a showing that distributions under a charging order will not pay the judgment debt within a reasonable time, the court may foreclose the lien and order the sale of the transferable interest. Except as otherwise provided in Subsection (6), the purchaser at the foreclosure sale only obtains the transferable interest, does not thereby become a member, and is subject to Section 48-3a-502.
(4) At any time before foreclosure under Subsection (3), the member or transferee whose transferable interest is subject to a charging order under Subsection (1) may extinguish the charging order by satisfying the judgment and filing a certified copy of the satisfaction with the court that issued the charging order.
(5) At any time before foreclosure under Subsection (3), a limited liability company or one or more members whose transferable interests are not subject to the charging order may pay to the judgment creditor the full amount due under the judgment and thereby succeed to the rights of the judgment creditor, including the charging order.
(6) If a court orders foreclosure of a charging order lien against the sole member of a limited liability company:
  (a) the court shall confirm the sale;
  (b) the purchaser at the sale obtains the member's entire interest, not only the member's transferable interest;
  (c) the purchaser thereby becomes a member; and

(d) the person whose interest was subject to the foreclosed charging order is dissociated as a member.

(7) This chapter does not deprive any member or transferee of the benefit of any exemption laws applicable to the transferable interest of the member or transferee.

(8) This section provides the exclusive remedy by which a person seeking to enforce a judgment against a member or transferee may, in the capacity of judgment creditor, satisfy the judgment from the judgment debtor's transferable interest.

Enacted by Chapter 412, 2013 General Session

48-3a-504 Power of legal representative of deceased member.

If a member dies, the deceased member's legal representative may exercise:

(1) the rights of a transferee provided in Subsection 48-3a-502(3); and

(2) for the purposes of settling the estate, the rights the deceased member had under Section 48-3a-410.

Enacted by Chapter 412, 2013 General Session

Part 6
Dissociation

48-3a-601 Power to dissociate as member -- Wrongful dissociation.

(1) A person has the power to dissociate as a member at any time, rightfully or wrongfully, by withdrawing as a member by express will under Subsection 48-3a-602(1).

(2) A person's dissociation as a member is wrongful only if the dissociation:

(a) is in breach of an express provision of the operating agreement; or

(b) occurs before the completion of the winding up of the limited liability company and:

(i) the person withdraws as a member by express will;

(ii) the person is expelled as a member by judicial order under Subsection 48-3a-602(6);

(iii) the person is dissociated under Subsection 48-3a-602(8); or

(iv) in the case of a person that is not a trust other than a business trust, an estate, or an individual, the person is expelled or otherwise dissociated as a member because it willfully dissolved or terminated.

(3) A person that wrongfully dissociates as a member is liable to the limited liability company and, subject to Section 48-3a-801, to the other members for damages caused by the dissociation. The liability is in addition to any debt, obligation, or other liability of the member to the limited liability company or the other members.

Enacted by Chapter 412, 2013 General Session

48-3a-602 Events causing dissociation.

A person is dissociated as a member when:

(1) the limited liability company has notice of the person's express will to withdraw as a member, but, if the person specified a withdrawal date later than the date the limited liability company had notice, on that later date;

(2) an event stated in the operating agreement as causing the person's dissociation occurs;

(3) the person's entire interest is transferred in a foreclosure sale under Subsection 48-3a-503(6);
(4) the person is expelled as a member pursuant to the operating agreement;
(5) the person is expelled as a member by the unanimous consent of the other members if:
(a) it is unlawful to carry on the limited liability company's activities and affairs with the person as a member;
(b) there has been a transfer of all the person's transferable interest in the limited liability company, other than:
(i) a transfer for security purposes; or
(ii) a charging order in effect under Section 48-3a-503 which has not been foreclosed;
(c) the person is a corporation, and:
(i) the limited liability company notifies the person that it will be expelled as a member because the person has filed a statement of dissolution or the equivalent, its charter has been revoked, or its right to conduct business has been suspended by the jurisdiction of its incorporation; and
(ii) not later than 90 days after the notification the statement of dissolution or the equivalent has not been revoked or its charter or right to conduct business has not been reinstated; or
(d) the person is an unincorporated entity that has been dissolved and whose business is being wound up;
(6) on application by the limited liability company or a member in a direct action under Section 48-3a-801, the person is expelled as a member by judicial order because the person:
(a) has engaged or is engaging in wrongful conduct that has affected adversely and materially, or will affect adversely and materially, the limited liability company's activities and affairs;
(b) has committed willfully or persistently, or is committing willfully or persistently, a material breach of the operating agreement or a duty or obligation under Section 48-3a-409; or
(c) has engaged or is engaging in conduct relating to the limited liability company's activities and affairs which makes it not reasonably practicable to carry on the activities and affairs with the person as a member;
(7) in the case of an individual:
(a) the individual dies; or
(b) in a member-managed limited liability company:
(i) a guardian or general conservator for the individual is appointed; or
(ii) a court orders that the individual has otherwise become incapable of performing the individual's duties as a member under this chapter or the operating agreement;
(8) in a member-managed limited liability company, the person:
(a) becomes a debtor in bankruptcy;
(b) executes an assignment for the benefit of creditors; or
(c) seeks, consents to, or acquiesces in the appointment of a trustee, receiver, or liquidator of the person or of all or substantially all the person's property;
(9) in the case of a person that is a testamentary or inter vivos trust or is acting as a member by virtue of being a trustee of such a trust, the trust's entire transferable interest in the limited liability company is distributed;
(10) in the case of a person that is an estate or is acting as a member by virtue of being a personal representative of an estate, the estate's entire transferable interest in the limited liability company is distributed, but not merely by reason of substitution of a successor personal representative;
(11) in the case of a person that is not an individual, corporation, unincorporated entity, trust, or estate, the existence of the person terminates;

(12) the limited liability company participates in a merger under Part 10, Merger, Interest Exchange, Conversion, and Domestication, and:
(a) the limited liability company is not the surviving entity; or
(b) otherwise as a result of the merger, the person ceases to be a member;
(13) the limited liability company participates in an interest exchange under Part 10, Merger, Interest Exchange, Conversion, and Domestication, and, as a result of the interest exchange, the person ceases to be a member;
(14) the limited liability company participates in a conversion under Part 10, Merger, Interest Exchange, Conversion, and Domestication;
(15) the limited liability company participates in a domestication under Part 10, Merger, Interest Exchange, Conversion, and Domestication, and, as a result of the domestication, the person ceases to be a member; or
(16) the limited liability company dissolves and completes winding up.

Enacted by Chapter 412, 2013 General Session

48-3a-603 Effect of dissociation.
(1) If a person is dissociated as a member:
(a) the person's right to participate as a member in the management and conduct of the company's activities and affairs terminates;
(b) if the limited liability company is member-managed, the person's duties and obligations under Section 48-3a-409 as a member end with regard to matters arising and events occurring after the person's dissociation; and
(c) subject to Section 48-3a-504 and Part 10, Merger, Interest Exchange, Conversion, and Domestication, any transferable interest owned by the person in the person's capacity as a member immediately before dissociation as a member is owned by the person solely as a transferee.
(2) A person's dissociation as a member does not of itself discharge the person from any debt, obligation, or other liability to the limited liability company or the other members which the person incurred while a member.

Enacted by Chapter 412, 2013 General Session

Part 7
Dissolution and Winding up

Effective until 7/1/2024
48-3a-701 Events causing dissolution.
A limited liability company is dissolved, and its activities and affairs must be wound up, upon the occurrence of any of the following:
(1) an event, circumstance, or date that the certificate of organization or operating agreement states causes dissolution;
(2) the consent of all the members;
(3) the passage of 90 consecutive days during which the limited liability company has no members unless:

(a) consent to admit at least one specified person as a member is given by transferees owning the rights to receive a majority of distributions as transferees at the time the consent is to be effective; and
(b) at least one person becomes a member in accordance with the consent;
(4) on application by a member, the entry by the district court of an order dissolving the limited liability company on the grounds that:
(a) the conduct of all or substantially all of the limited liability company's activities and affairs is unlawful; or
(b) it is not reasonably practicable to carry on the limited liability company's activities and affairs in conformity with the certificate of organization and the operating agreement;
(5) on application by a member, the entry by the district court of an order dissolving the limited liability company on the grounds that the managers or those members in control of the limited liability company:
(a) have acted, are acting, or will act in a manner that is illegal or fraudulent; or
(b) have acted, are acting, or will act in a manner that is oppressive and was, is, or will be directly harmful to the applicant; or
(6) the signing and filing of a statement of administrative dissolution by the division under Subsection 48-3a-708(3).

Amended by Chapter 165, 2024 General Session

Effective 7/1/2024

48-3a-701 Events causing dissolution.

A limited liability company is dissolved, and its activities and affairs must be wound up, upon the occurrence of any of the following:
(1) an event, circumstance, or date that the certificate of organization or operating agreement states causes dissolution;
(2) the consent of all the members;
(3) the passage of 90 consecutive days during which the limited liability company has no members unless:
(a) consent to admit at least one specified person as a member is given by transferees owning the rights to receive a majority of distributions as transferees at the time the consent is to be effective; and
(b) at least one person becomes a member in accordance with the consent;
(4) upon a petition brought by a member, the entry of a court order dissolving the limited liability company on the grounds that:
(a) the conduct of all or substantially all of the limited liability company's activities and affairs is unlawful; or
(b) it is not reasonably practicable to carry on the limited liability company's activities and affairs in conformity with the certificate of organization and the operating agreement;
(5) upon a petition brought by a member, the entry of a court order dissolving the limited liability company on the grounds that the managers or those members in control of the limited liability company:
(a) have acted, are acting, or will act in a manner that is illegal or fraudulent; or
(b) have acted, are acting, or will act in a manner that is oppressive and was, is, or will be directly harmful to the applicant; or
(6) the signing and filing of a statement of administrative dissolution by the division under Subsection 48-3a-708(3).

Superseded 7/1/2024

48-3a-702 Election to purchase in lieu of dissolution.

(1) In a proceeding under Subsection 48-3a-701(5) to dissolve a limited liability company, the limited liability company may elect or, if it fails to elect, one or more members may elect to purchase the interest in the limited liability company owned by the applicant member at the fair market value of the interest, determined as provided in this section. An election pursuant to this Subsection (1) is irrevocable unless the district court determines that it is equitable to set aside or modify the election.

(2) An election to purchase pursuant to this section may be filed with the district court at any time within 90 days after the filing of the petition in a proceeding under Subsection 48-3a-701(5) or at any later time as the district court in its discretion may allow. If the limited liability company files an election with the district court within the 90-day period, or at any later time allowed by the district court, to purchase the interest in the limited liability company owned by the applicant member, the limited liability company shall purchase the interest in the manner provided in this section.

(3) If the limited liability company does not file an election with the district court within the time period, but an election to purchase the interest in the limited liability company owned by the applicant member is filed by one or more members within the time period, the limited liability company shall, within 10 days after the later of the end of the time period allowed for the filing of elections to purchase under this section or notification from the district court of an election by members to purchase the interest in the limited liability company owned by the applicant member as provided in this section, give written notice of the election to purchase to all members of the limited liability company, other than the applicant member. The notice shall state the name and the percentage interest in the limited liability company owned by the applicant member and the name and the percentage interest in the limited liability company owned by each electing member. The notice shall advise any recipients who have not participated in the election of their right to join in the election to purchase the interest in the limited liability company in accordance with this section and of the date by which any notice of intent to participate must be filed with the district court.

(4) Members who wish to participate in the purchase of the interest in the limited liability company of the applicant member must file notice of their intention to join in the purchase by electing members no later than 30 days after the effective date of the limited liability company's notice of their right to join in the election to purchase.

(5) All members who have filed with the district court an election or notice of their intention to participate in the election to purchase the interest in the limited liability company of the applicant member thereby become irrevocably obligated to participate in the purchase of the interest from the applicant member upon the terms and conditions of this section, unless the district court otherwise directs.

(6) After an election has been filed by the limited liability company or one or more members, the proceedings under Subsection 48-3a-701(5) may not be discontinued or settled, nor may the applicant member sell or otherwise dispose of the applicant member's interest in the limited liability company, unless the district court determines that it would be equitable to the limited liability company and the members, other than the applicant member, to permit any discontinuance, settlement, sale, or other disposition.

(7) If, within 60 days after the earlier of the limited liability company filing of an election to purchase the interest in the limited liability company of the applicant member or the limited liability

company's mailing of a notice to its members of the filing of an election by the members to purchase the interest in the limited liability company of the applicant member, the applicant member and electing limited liability company or members reach agreement as to the fair market value and terms of the purchase of the applicant member's interest, the district court shall enter an order directing the purchase of the applicant member's interest, upon the terms and conditions agreed to by the parties.

(8) If the parties are unable to reach an agreement as provided for in Subsection (7), upon application of any party, the district court shall stay the proceedings under Subsection 48-3a-701(5) and determine the fair market value of the applicant member's interest in the limited liability company as of the day before the date on which the petition under Subsection 48-3a-701(5) was filed or as of any other date the district court determines to be appropriate under the circumstances and based on the factors the district court determines to be appropriate.

(9) Upon determining the fair market value of the interest in the limited liability company of the applicant member, the district court shall enter an order directing the purchase of the interest in the limited liability company upon terms and conditions the district court determines to be appropriate. The terms and conditions may include payment of the purchase price in installments, where necessary in the interest of equity, provision for security to assure payment of the purchase price and any additional costs, fees, and expenses awarded by the district court, and an allocation of the interest in the limited liability company among members if the interest in the limited liability company is to be purchased by members.

(10) In allocating the applicant member's interest in the limited liability company among holders of different classes of members, the district court shall attempt to preserve the existing distribution of voting rights among member classes to the extent practicable. The district court may direct that holders of a specific class or classes may not participate in the purchase. The district court may not require any electing member to purchase more of the interest in the limited liability company owned by the applicant member than the percentage interest that the purchasing member may have set forth in the purchasing member's election or notice of intent to participate filed with the district court.

(11) Interest may be allowed at the rate and from the date determined by the district court to be equitable. However, if the district court finds that the refusal of the applicant member to accept an offer of payment was arbitrary or otherwise not in good faith, interest may not be allowed.

(12) If the district court finds that the applicant member had probable ground for relief under Subsection 48-3a-701(5), the district court may award to the applicant member reasonable fees and expenses of counsel and experts employed by the applicant member.

(13) Upon entry of an order under Subsection (7) or (9), the district court shall dismiss the petition to dissolve the limited liability company under Subsection 48-3a-701(5) and the applicant member shall no longer have any rights or status as a member of the limited liability company, except the right to receive the amounts awarded to the applicant member by the district court. The award is enforceable in the same manner as any other judgment.

(14) The purchase ordered pursuant to Subsection (9) shall be made within 10 days after the date the order becomes final, unless before that time the limited liability company files with the district court a notice of its intention to file a statement of dissolution. The statement of dissolution must then be adopted and filed within 60 days after notice.

(15) Upon filing of a statement of dissolution, the limited liability company is dissolved and shall be wound up pursuant to Section 48-3a-703, and the order entered pursuant to Subsection (9) is no longer of any force or effect. However, the district court may award the applicant member reasonable fees and expenses in accordance with Subsection (12). The applicant

member may continue to pursue any claims previously asserted on behalf of the limited liability company.

(16) Any payment by the limited liability company pursuant to an order under Subsection (7) or (9), other than an award of fees and expenses pursuant to Subsection (12), is subject to the provisions of Sections 48-3a-405 and 48-3a-406.

Enacted by Chapter 412, 2013 General Session

Effective 7/1/2024

48-3a-702 Election to purchase in lieu of dissolution.

(1)

(a) In a proceeding under Subsection 48-3a-701(5) to dissolve a limited liability company, the limited liability company may elect or, if the limited liability company fails to elect, one or more members may elect to purchase the interest in the limited liability company owned by the applicant member at the fair market value of the interest, determined as provided in this section.

(b) An election pursuant to this Subsection (1) is irrevocable unless a court determines that it is equitable to set aside or modify the election.

(2)

(a) An election to purchase pursuant to this section may be filed with a court at any time within 90 days after the filing of the petition in a proceeding under Subsection 48-3a-701(5) or at any later time as the court in the court's discretion may allow.

(b) If the limited liability company files an election with a court within the 90-day period, or at any later time allowed by the court, to purchase the interest in the limited liability company owned by the applicant member, the limited liability company shall purchase the interest in the manner provided in this section.

(3)

(a) If the limited liability company does not file an election with a court within the time period, but an election to purchase the interest in the limited liability company owned by the applicant member is filed by one or more members within the time period, the limited liability company shall, within 10 days after the later of the end of the time period allowed for the filing of elections to purchase under this section or notification from the court of an election by members to purchase the interest in the limited liability company owned by the applicant member as provided in this section, give written notice of the election to purchase to all members of the limited liability company, other than the applicant member.

(b) The notice shall state the name and the percentage interest in the limited liability company owned by the applicant member and the name and the percentage interest in the limited liability company owned by each electing member.

(c) The notice shall advise any recipients who have not participated in the election of their right to join in the election to purchase the interest in the limited liability company in accordance with this section and of the date by which any notice of intent to participate must be filed with the court.

(4) Members who wish to participate in the purchase of the interest in the limited liability company of the applicant member must file notice of their intention to join in the purchase by electing members no later than 30 days after the effective date of the limited liability company's notice of their right to join in the election to purchase.

(5) All members who have filed with the court an election or notice of their intention to participate in the election to purchase the interest in the limited liability company of the applicant member

thereby become irrevocably obligated to participate in the purchase of the interest from the applicant member upon the terms and conditions of this section, unless the court otherwise directs.

(6) After an election has been filed by the limited liability company or one or more members, the proceedings under Subsection 48-3a-701(5) may not be discontinued or settled, nor may the applicant member sell or otherwise dispose of the applicant member's interest in the limited liability company, unless the court determines that it would be equitable to the limited liability company and the members, other than the applicant member, to permit any discontinuance, settlement, sale, or other disposition.

(7) If, within 60 days after the earlier of the limited liability company filing of an election to purchase the interest in the limited liability company of the applicant member or the limited liability company's mailing of a notice to its members of the filing of an election by the members to purchase the interest in the limited liability company of the applicant member, the applicant member and electing limited liability company or members reach agreement as to the fair market value and terms of the purchase of the applicant member's interest, the court shall enter an order directing the purchase of the applicant member's interest, upon the terms and conditions agreed to by the parties.

(8) If the parties are unable to reach an agreement as provided for in Subsection (7), upon application of any party, the court shall stay the proceedings under Subsection 48-3a-701(5) and determine the fair market value of the applicant member's interest in the limited liability company as of the day before the date on which the petition under Subsection 48-3a-701(5) was filed or as of any other date the court determines to be appropriate under the circumstances and based on the factors the court determines to be appropriate.

(9)

(a) Upon determining the fair market value of the interest in the limited liability company of the applicant member, the court shall enter an order directing the purchase of the interest in the limited liability company upon terms and conditions the court determines to be appropriate.

(b) The terms and conditions may include payment of the purchase price in installments, where necessary in the interest of equity, provision for security to assure payment of the purchase price and any additional costs, fees, and expenses awarded by the court, and an allocation of the interest in the limited liability company among members if the interest in the limited liability company is to be purchased by members.

(10)

(a) In allocating the applicant member's interest in the limited liability company among holders of different classes of members, the court shall attempt to preserve the existing distribution of voting rights among member classes to the extent practicable.

(b) The court may direct that holders of a specific class or classes may not participate in the purchase.

(c) The court may not require any electing member to purchase more of the interest in the limited liability company owned by the applicant member than the percentage interest that the purchasing member may have set forth in the purchasing member's election or notice of intent to participate filed with the court.

(11)

(a) Interest may be allowed at the rate and from the date determined by the court to be equitable.

(b) However, if the court finds that the refusal of the applicant member to accept an offer of payment was arbitrary or otherwise not in good faith, interest may not be allowed.

(12) If the court finds that the applicant member had probable ground for relief under Subsection 48-3a-701(5), the court may award to the applicant member reasonable fees and expenses of counsel and experts employed by the applicant member.
(13)
(a) Upon entry of an order under Subsection (7) or (9), the court shall dismiss the petition to dissolve the limited liability company under Subsection 48-3a-701(5) and the applicant member shall no longer have any rights or status as a member of the limited liability company, except the right to receive the amounts awarded to the applicant member by the court.
(b) The award is enforceable in the same manner as any other judgment.
(14)
(a) The purchase ordered pursuant to Subsection (9) shall be made within 10 days after the date the order becomes final, unless before that time the limited liability company files with the court a notice of the limited liability company's intention to file a statement of dissolution.
(b) The statement of dissolution must then be adopted and filed within 60 days after notice.
(15)
(a) Upon filing of a statement of dissolution, the limited liability company is dissolved and shall be wound up pursuant to Section 48-3a-703, and the order entered pursuant to Subsection (9) is no longer of any force or effect.
(b) However, the court may award the applicant member reasonable fees and expenses in accordance with Subsection (12).
(c) The applicant member may continue to pursue any claims previously asserted on behalf of the limited liability company.
(16) Any payment by the limited liability company pursuant to an order under Subsection (7) or (9), other than an award of fees and expenses pursuant to Subsection (12), is subject to the provisions of Sections 48-3a-405 and 48-3a-406.

Amended by Chapter 401, 2023 General Session

Superseded 7/1/2024

48-3a-703 Winding up.

(1) A dissolved limited liability company shall wind up its activities and affairs and, except as otherwise provided in Section 48-3a-704, the limited liability company continues after dissolution only for the purpose of winding up.
(2) In winding up its activities and affairs, a limited liability company:
(a) shall discharge the limited liability company's debts, obligations, and other liabilities, settle and close the limited liability company's activities and affairs, and marshal and distribute the assets of the limited liability company; and
(b) may:
(i) deliver to the division for filing a statement of dissolution stating the name of the limited liability company and that the limited liability company is dissolved;
(ii) preserve the limited liability company activities, affairs, and property as a going concern for a reasonable time;
(iii) prosecute and defend actions and proceedings, whether civil, criminal, or administrative;
(iv) transfer the limited liability company's property;
(v) settle disputes by mediation or arbitration;
(vi) deliver to the division for filing a statement of termination stating the name of the limited liability company and that the limited liability company is terminated; and

(vii) perform other acts necessary or appropriate to the winding up.

(3) If a dissolved limited liability company has no members, the legal representative of the last person to have been a member may wind up the activities and affairs of the limited liability company. If the person does so, the person has the powers of a sole manager under Subsection 48-3a-407(3) and is deemed to be a manager for the purposes of Subsection 48-3a-304(1).

(4) If the legal representative under Subsection (3) declines or fails to wind up the limited liability company's activities and affairs, a person may be appointed to do so by the consent of transferees owning a majority of the rights to receive distributions as transferees at the time the consent is to be effective. A person appointed under this Subsection (4):

(a) has the powers of a sole manager under Subsection 48-3a-407(3) and is deemed to be a manager for the purposes of Subsection 48-3a-304(1); and

(b) shall promptly deliver to the division for filing an amendment to the limited liability company's certificate of organization stating:

(i) that the limited liability company has no members;

(ii) the name and street and mailing addresses of the person; and

(iii) that the person has been appointed pursuant to this subsection to wind up the limited liability company.

(5) A district court may order judicial supervision of the winding up of a dissolved limited liability company, including the appointment of a person to wind up the limited liability company's activities and affairs:

(a) on application of a member, if the applicant establishes good cause;

(b) on the application of a transferee, if:

(i) the company does not have any members;

(ii) the legal representative of the last person to have been a member declines or fails to wind up the limited liability company's activities; and

(iii) within a reasonable time following the dissolution a person has not been appointed pursuant to Subsection (4); or

(c) in connection with a proceeding under Subsection 48-3a-701(4) or (5).

Enacted by Chapter 412, 2013 General Session

Effective 7/1/2024

48-3a-703 Winding up.

(1)

(a) A dissolved limited liability company shall wind up the limited liability company's activities and affairs.

(b) Except as otherwise provided in Section 48-3a-704, the limited liability company only continues after dissolution for the purpose of winding up.

(2) In winding up the limited liability company's activities and affairs, a limited liability company:

(a) shall discharge the limited liability company's debts, obligations, and other liabilities, settle and close the limited liability company's activities and affairs, and marshal and distribute the assets of the limited liability company; and

(b) may:

(i) deliver to the division for filing a statement of dissolution stating the name of the limited liability company and that the limited liability company is dissolved;

(ii) preserve the limited liability company activities, affairs, and property as a going concern for a reasonable time;

(iii) prosecute and defend actions and proceedings, whether civil, criminal, or administrative;
(iv) transfer the limited liability company's property;
(v) settle disputes by mediation or arbitration;
(vi) deliver to the division for filing a statement of termination stating the name of the limited liability company and that the limited liability company is terminated; and
(vii) perform other acts necessary or appropriate to the winding up.

(3)
(a) If a dissolved limited liability company has no members, the legal representative of the last person to have been a member may wind up the activities and affairs of the limited liability company.
(b) If the person does so, the person has the powers of a sole manager under Subsection 48-3a-407(3) and is deemed to be a manager for the purposes of Subsection 48-3a-304(1).

(4) If the legal representative under Subsection (3) declines or fails to wind up the limited liability company's activities and affairs, a person may be appointed to do so by the consent of transferees owning a majority of the rights to receive distributions as transferees at the time the consent is to be effective. A person appointed under this Subsection (4):
(a) has the powers of a sole manager under Subsection 48-3a-407(3) and is deemed to be a manager for the purposes of Subsection 48-3a-304(1); and
(b) shall promptly deliver to the division for filing an amendment to the limited liability company's certificate of organization stating:
(i) that the limited liability company has no members;
(ii) the name and street and mailing addresses of the person; and
(iii) that the person has been appointed pursuant to this subsection to wind up the limited liability company.

(5) A court may order judicial supervision of the winding up of a dissolved limited liability company, including the appointment of a person to wind up the limited liability company's activities and affairs:
(a) upon a petition by a member if the member establishes good cause;
(b) upon a petition by a transferee if:
(i) the company does not have any members;
(ii) the legal representative of the last person to have been a member declines or fails to wind up the limited liability company's activities; and
(iii) within a reasonable time following the dissolution a person has not been appointed pursuant to Subsection (4); or
(c) in connection with a proceeding under Subsection 48-3a-701(4) or (5).

Amended by Chapter 401, 2023 General Session

Superseded 7/1/2024

48-3a-704 Rescinding dissolution.

(1) A limited liability company may rescind its dissolution, unless a statement of termination applicable to the limited liability company is effective, the district court has entered an order under Subsection 48-3a-701(4) or (5) dissolving the limited liability company, or the division has dissolved the limited liability company under Section 48-3a-708.

(2) Rescinding dissolution under this section requires:
(a) the consent of each member;

(b) if a statement of dissolution applicable to the limited liability company has been filed by the division but has not become effective, the delivery to the division for filing of a statement of withdrawal under Section 48-3a-207 applicable to the statement of dissolution; and
(c) if a statement of dissolution applicable to the limited liability company is effective, the delivery to the division for filing of a statement of correction under Section 48-3a-208 stating that dissolution has been rescinded under this section.
(3) If a limited liability company rescinds its dissolution:
(a) the limited liability company resumes carrying on its activities and affairs as if dissolution had never occurred;
(b) subject to Subsection (3)(c), any liability incurred by the limited liability company after the dissolution and before the rescission is effective is determined as if dissolution had never occurred; and
(c) the rights of a third party arising out of conduct in reliance on the dissolution before the third party knew or had notice of the rescission may not be adversely affected.

Enacted by Chapter 412, 2013 General Session

Effective 7/1/2024
48-3a-704 Rescinding dissolution.
(1) A limited liability company may rescind the limited liability company's dissolution, unless a statement of termination applicable to the limited liability company is effective, a court has entered an order under Subsection 48-3a-701(4) or (5) dissolving the limited liability company, or the division has dissolved the limited liability company under Section 48-3a-708.
(2) Rescinding dissolution under this section requires:
(a) the consent of each member;
(b) if a statement of dissolution applicable to the limited liability company has been filed by the division but has not become effective, the delivery to the division for filing of a statement of withdrawal under Section 48-3a-207 applicable to the statement of dissolution; and
(c) if a statement of dissolution applicable to the limited liability company is effective, the delivery to the division for filing of a statement of correction under Section 48-3a-208 stating that dissolution has been rescinded under this section.
(3) If a limited liability company rescinds its dissolution:
(a) the limited liability company resumes carrying on its activities and affairs as if dissolution had never occurred;
(b) subject to Subsection (3)(c), any liability incurred by the limited liability company after the dissolution and before the rescission is effective is determined as if dissolution had never occurred; and
(c) the rights of a third party arising out of conduct in reliance on the dissolution before the third party knew or had notice of the rescission may not be adversely affected.

Amended by Chapter 401, 2023 General Session

48-3a-705 Known claims against dissolved limited liability company.
(1) A dissolved limited liability company in winding up may dispose of the known claims against it by following the procedures described in this section.
(2) A limited liability company in winding up, electing to dispose of known claims pursuant to this section, may give written notice of the limited liability company's dissolution to known claimants at any time after the effective date of the dissolution. The written notice must:

(a) describe the information that must be included in a claim;
(b) provide an address to which written notice of any claim must be given to the limited liability company;
(c) state the deadline, which may not be fewer than 120 days after the effective date of the notice, by which the dissolved limited liability company must receive the claim; and
(d) state that, unless sooner barred by another state statute limiting actions, the claim will be barred if not received by the deadline.

(3) Unless sooner barred by another state statute limiting actions, a claim against the dissolved limited liability company is barred if:
(a) a claimant was given notice under Subsection (2) and the claim is not received by the dissolved limited liability company by the deadline; or
(b) the dissolved limited liability company delivers to the claimant written notice of rejection of the claim within 90 days after receipt of the claim and the claimant whose claim was rejected by the dissolved limited liability company does not commence a proceeding to enforce the claim within 90 days after the effective date of the rejection notice.

(4) Claims which are not rejected by the dissolved limited liability company in writing within 90 days after receipt of the claim by the dissolved limited liability company shall be considered approved.

(5) The failure of the dissolved limited liability company to give notice to any known claimant pursuant to Subsection (2) does not affect the disposition under this section of any claim held by any other known claimant.

(6) This section does not apply to a claim based on an event occurring after the effective date of dissolution or a liability that on that date is contingent.

Enacted by Chapter 412, 2013 General Session

48-3a-706 Other claims against dissolved limited liability company.

(1) A dissolved limited liability company may publish notice of its dissolution and request persons having claims against the limited liability company to present them in accordance with the notice.

(2) A notice under Subsection (1) must:
(a) be published at least once in a newspaper of general circulation in the county in this state in which the dissolved limited liability company's principal office is located or, if the principal office is not located in this state, in the county in which the office of the limited liability company's registered agent is or was last located and in accordance with Section 45-1-101;
(b) describe the information required to be contained in a claim, state that the claim must be in writing, and provide a mailing address to which the claim is to be sent; and
(c) state that a claim against the limited liability company is barred unless an action to enforce the claim is commenced not later than three years after publication of the notice.

(3) If a dissolved limited liability company publishes a notice in accordance with Subsection (2), the claim of each of the following claimants is barred unless the claimant commences an action to enforce the claim against the limited liability company not later than three years after the publication date of the notice:
(a) a claimant that did not receive notice in a record under Section 48-3a-705;
(b) a claimant whose claim was timely sent to the limited liability company but not acted on; and
(c) a claimant whose claim is contingent at, or based on an event occurring after, the effective date of dissolution.

(4) A claim not barred under this section or Section 48-3a-705 may be enforced:

(a) against a dissolved limited liability company, to the extent of its undistributed assets; and
(b) except as otherwise provided in Section 48-3a-707, if assets of the limited liability company have been distributed after dissolution, against a member or transferee to the extent of that person's proportionate share of the claim or of the limited liability company's assets distributed to the member or transferee after dissolution, whichever is less, but a person's total liability for all claims under this subsection may not exceed the total amount of assets distributed to the person after dissolution.

Enacted by Chapter 412, 2013 General Session

Superseded 7/1/2024
48-3a-707 Court proceedings.
(1) A dissolved limited liability company that has published a notice under Section 48-3a-706 may file an application with district court in the county where the dissolved limited liability company's principal office is located, or, if the principal office is not located in this state, where the office of its registered agent is located, for a determination of the amount and form of security to be provided for payment of claims that are contingent, have not been made known to the limited liability company, or are based on an event occurring after the effective date of dissolution but which, based on the facts known to the dissolved limited liability company, are reasonably expected to arise after the effective date of dissolution. Security is not required for any claim that is or is reasonably anticipated to be barred under Subsection 48-3a-706(3).
(2) Not later than 10 days after the filing of an application under Subsection (1), the dissolved limited liability company shall give notice of the proceeding to each claimant holding a contingent claim known to the limited liability company.
(3) In any proceeding under this section, the court may appoint a guardian ad litem to represent all claimants whose identities are unknown. The reasonable fees and expenses of the guardian, including all reasonable expert witness fees, must be paid by the dissolved limited liability company.
(4) A dissolved limited liability company that provides security in the amount and form ordered by the court under Subsection (1) satisfies the limited liability company's obligations with respect to claims that are contingent, have not been made known to the limited liability company, or are based on an event occurring after the effective date of dissolution, and such claims may not be enforced against a member or transferee that received assets in liquidation.

Enacted by Chapter 412, 2013 General Session

Effective 7/1/2024
48-3a-707 Court proceedings.
(1)
(a) A dissolved limited liability company that has published a notice under Section 48-3a-706 may petition a court with jurisdiction under Title 78A, Judiciary and Judicial Administration, for a determination of the amount and form of security to be provided for payment of claims that are contingent, have not been made known to the limited liability company, or are based on an event occurring after the effective date of dissolution but which, based on the facts known to the dissolved limited liability company, are reasonably expected to arise after the effective date of dissolution.
(b) Security is not required for any claim that is or is reasonably anticipated to be barred under Subsection 48-3a-706(3).

(2) No later than 10 days after the filing of an application under Subsection (1), the dissolved limited liability company shall give notice of the proceeding to each claimant holding a contingent claim known to the limited liability company.
(3)
  (a) In any proceeding under this section, the court may appoint a guardian ad litem to represent all claimants whose identities are unknown.
  (b) The reasonable fees and expenses of the guardian, including all reasonable expert witness fees, must be paid by the dissolved limited liability company.
(4) A dissolved limited liability company that provides security in the amount and form ordered by the court under Subsection (1) satisfies the limited liability company's obligations with respect to claims that are contingent, have not been made known to the limited liability company, or are based on an event occurring after the effective date of dissolution, and such claims may not be enforced against a member or transferee that received assets in liquidation.

Amended by Chapter 401, 2023 General Session

48-3a-708 Administrative dissolution.
(1) The division may commence a proceeding under Subsections (2) and (3) to dissolve a limited liability company administratively if the limited liability company does not:
  (a) pay any fee, tax, interest, or penalty required to be paid to the division not later than 60 days after it is due;
  (b) deliver an annual report to the division not later than 60 days after it is due; or
  (c) have a registered agent in this state for 60 consecutive days.
(2) If the division determines that one or more grounds exist for administratively dissolving a limited liability company, the division shall serve the limited liability company with notice in a record of division's determination.
(3) If a limited liability company, not later than 60 days after service of the notice under Subsection (2), does not cure or demonstrate to the satisfaction of the division the nonexistence of each ground determined by the division, the division shall administratively dissolve the limited liability company by signing a statement of administrative dissolution that recites the grounds for dissolution and the effective date of dissolution. The division shall file the statement and serve a copy on the limited liability company pursuant to Section 48-3a-209.
(4) A limited liability company that is administratively dissolved continues in existence as an entity but may not carry on any activities except as necessary to wind up its activities and affairs and liquidate its assets under Sections 48-3a-703, 48-3a-705, 48-3a-706, 48-3a-707, and 48-3a-711, or to apply for reinstatement under Section 48-3a-709.
(5) The administrative dissolution of a limited liability company does not terminate the authority of its registered agent.

Enacted by Chapter 412, 2013 General Session

48-3a-709 Reinstatement.
(1) A limited liability company that is administratively dissolved under Section 48-3a-708 may apply to the division for reinstatement under the limited liability company's same name at any time after the effective date of dissolution if the limited liability company's name is available and the limited liability company delivers to the division for filing an application for reinstatement that states:

(a) the name of the limited liability company at the time of its administrative dissolution and, if needed, a different name that satisfies Section 48-3a-108;
(b) the address of the principal office of the limited liability company and the name and address of its registered agent;
(c) the effective date of the limited liability company's administrative dissolution; and
(d) that the grounds for dissolution did not exist or have been cured.

(2) A limited liability company administratively dissolved under Section 48-3a-708 on or after May 1, 2019, but before May 1, 2024, may apply for reinstatement under the limited liability company's same name if the limited liability company's name is available and the limited liability company delivers to the division for filing an application for reinstatement that satisfies the requirements of Subsections (1)(a) through (c).

(3) A limited liability company retains the limited liability company's name and assumed name, as described in Section 42-2-6.6, for five years after the day on which the dissolution is effective.

(4) To be reinstated, a limited liability company must pay all fees, taxes, interest, and penalties that were due to the division at the time of its administrative dissolution and all fees, taxes, interest, and penalties that would have been due to the division while the limited liability company was administratively dissolved.

(5) If the division determines that an application under Subsection (1) or (2) contains the information required by Subsection (1) or (2), is satisfied that the information is correct, and determines that all payments required to be made to the division by Subsection (4) have been made, the division shall:
(a) cancel the statement of administrative dissolution and prepare a statement of reinstatement that states the division's determination and the effective date of reinstatement;
(b) file the statement of reinstatement; and
(c) serve a copy of the statement of reinstatement on the limited liability company.

(6) When reinstatement under this section is effective, the following rules apply:
(a) The reinstatement relates back to and takes effect as of the effective date of the administrative dissolution.
(b) The limited liability company may resume its activities and affairs as if the administrative dissolution had not occurred.
(c) The rights of a person arising out of an act or omission in reliance on the dissolution before the person knew or had notice of the reinstatement are not affected.

Amended by Chapter 232, 2024 General Session

48-3a-710 Judicial review of denial of reinstatement.

(1) If the division denies a limited liability company's application for reinstatement following administrative dissolution, the division shall serve the limited liability company with a notice in a record that explains the reasons for the denial.

(2) A limited liability company may seek judicial review of denial of reinstatement in the district court not later than 30 days after service of the notice of denial.

Enacted by Chapter 412, 2013 General Session

48-3a-711 Disposition of assets in winding up.

(1) In winding up its activities and affairs, a limited liability company shall apply its assets to discharge its obligations to creditors, including members that are creditors.

(2) After a limited liability company complies with Subsection (1), any surplus must be distributed in the following order, subject to any charging order in effect under Section 48-3a-503:
(a) to each person owning a transferable interest that reflects contributions made and not previously returned, an amount equal to the value of the unreturned contributions; and
(b) in equal shares among members and dissociated members, except to the extent necessary to comply with any transfer effective under Section 48-3a-502.
(3) If a limited liability company does not have sufficient surplus to comply with Subsection (2)(a), any surplus must be distributed among the owners of transferable interests in proportion to the value of the respective unreturned contributions.
(4) All distributions made under Subsections (2) and (3) must be paid in money.

Enacted by Chapter 412, 2013 General Session

Part 8
Action by Members

48-3a-801 Direct action by member.
(1) Subject to Subsection (2), a member may maintain a direct action against another member, a manager, or the limited liability company to enforce the member's rights and otherwise protect the member's interests, including rights and interests under the operating agreement or this chapter or arising independently of the membership relationship.
(2) A member maintaining a direct action under this section must plead and prove an actual or threatened injury that is not solely the result of an injury suffered or threatened to be suffered by the limited liability company.

Enacted by Chapter 412, 2013 General Session

48-3a-802 Derivative action.
A member may maintain a derivative action to enforce a right of a limited liability company if:
(1) the member first makes a demand on the other members in a member-managed limited liability company, or the managers of a manager-managed limited liability company, requesting that they cause the limited liability company to bring an action to enforce the right, and the managers or other members do not bring the action within a reasonable time; or
(2) a demand under Subsection (1) would be futile.

Enacted by Chapter 412, 2013 General Session

48-3a-803 Proper plaintiff.
A derivative action to enforce a right of a limited liability company may be maintained only by a person that is a member at the time the action is commenced and:
(1) was a member when the conduct giving rise to the action occurred; or
(2) whose status as a member devolved on the person by operation of law or pursuant to the terms of the operating agreement from a person that was a member at the time of the conduct.

Enacted by Chapter 412, 2013 General Session

48-3a-804 Pleading.

In a derivative action, the complaint must state with particularity:

(1) the date and content of plaintiff's demand and the response by the managers or other members to the demand; or

(2) why the demand should be excused as futile.

Enacted by Chapter 412, 2013 General Session

48-3a-805 Special litigation committee.

(1) If a limited liability company is named as or made a party in a derivative proceeding, the limited liability company may appoint a special litigation committee to investigate the claims asserted in the proceeding and determine whether pursuing the action is in the best interests of the limited liability company. If the limited liability company appoints a special litigation committee, on motion by the committee made in the name of the limited liability company, except for good cause shown, the court shall stay discovery for the time reasonably necessary to permit the committee to make its investigation. This Subsection (1) does not prevent the court from:

(a) enforcing a person's right to information under Section 48-3a-410; or

(b) granting extraordinary relief in the form of a temporary restraining order or preliminary injunction upon a showing of good cause.

(2) A special litigation committee must be composed of one or more disinterested and independent individuals, who may be members.

(3) A special litigation committee may be appointed:

(a) in a member-managed limited liability company:

(i) by the consent of a majority of the members not named as parties in the proceeding; and

(ii) if all members are named as parties in the proceeding, by a majority of the members named as defendants; or

(b) in a manager-managed limited liability company:

(i) by a majority of the managers not named as parties in the proceeding; and

(ii) if all managers are named as parties in the proceeding, by a majority of the managers named as defendants.

(4) After appropriate investigation, a special litigation committee may determine that it is in the best interests of the limited liability company that the proceeding:

(a) continue under the control of the plaintiff;

(b) continue under the control of the committee;

(c) be settled on terms approved by the committee; or

(d) be dismissed.

(5) After making a determination under Subsection (4), a special litigation committee shall file with the court a statement of its determination and its report supporting its determination and shall serve each party with a copy of the determination and report. The court shall determine whether the members of the committee were disinterested and independent and whether the committee conducted its investigation and made its recommendation in good faith, independently, and with reasonable care, with the committee having the burden of proof. If the court finds that the members of the committee were disinterested and independent and that the committee acted in good faith, independently, and with reasonable care, the court shall enforce the determination of the committee. Otherwise, the court shall dissolve the stay of discovery entered under Subsection (1) and allow the action to continue under the control of the plaintiff.

Enacted by Chapter 412, 2013 General Session

48-3a-806 Proceeds and expenses.

(1) Except as otherwise provided in Subsection (2):
  (a) any proceeds or other benefits of a derivative action, whether by judgment, compromise, or settlement, belong to the limited liability company and not to the plaintiff; and
  (b) if the plaintiff receives any proceeds, the plaintiff shall remit them immediately to the limited liability company.
(2) If a derivative action is successful in whole or in part, the court may award the plaintiff reasonable expenses, including reasonable attorney's fees and costs, from the recovery of the limited liability company.
(3) A derivative action on behalf of a limited liability company may not be voluntarily dismissed or settled without the court's approval.

Enacted by Chapter 412, 2013 General Session

Part 9
Foreign Limited Liability Companies

48-3a-901 Governing law.

(1) The law of the jurisdiction of formation of a foreign limited liability company governs:
  (a) the internal affairs of the foreign limited liability company; and
  (b) the liability of a member as member and a manager as manager for a debt, obligation, or other liability of the company.
(2) A foreign limited liability company is not precluded from registering to do business in this state because of any difference between the law of the jurisdiction of formation and the law of this state.
(3) Registration of a foreign limited liability company to do business in this state does not authorize the foreign limited liability company to engage in any activities or affairs or exercise any power that a limited liability company may not engage in or exercise in this state.
(4)
  (a) The division may permit a tribal limited liability company to apply for authority to transact business in the state in the same manner as a foreign limited liability company formed in another state.
  (b) If a tribal limited liability company elects to apply for authority to transact business in the state, for purposes of this chapter, the tribal limited liability company shall be treated in the same manner as a foreign limited liability company formed under the laws of another state.

Enacted by Chapter 412, 2013 General Session

48-3a-902 Registration to do business in this state.

(1) A foreign limited liability company may not do business in this state until it registers with the division under this chapter.
(2) A foreign limited liability company doing business in this state may not maintain an action or proceeding in this state unless it is registered to do business in this state.

(3) The failure of a foreign limited liability company to register to do business in this state does not impair the validity of a contract or act of the foreign limited liability company or preclude it from defending an action or proceeding in this state.
(4) A limitation on the liability of a member or manager of a foreign limited liability company is not waived solely because the foreign limited liability company does business in this state without registering to do business in this state.
(5) Subsections 48-3a-901(1) and (2) apply even if a foreign limited liability company fails to register under this chapter.

Enacted by Chapter 412, 2013 General Session

48-3a-903 Foreign registration statement.

To register to do business in this state, a foreign limited liability company must deliver a foreign registration statement to the division for filing. The statement must state:
(1) the name of the foreign limited liability company and, if the name does not comply with Section 48-3a-108, an alternate name adopted pursuant to Subsection 48-3a-906(1);
(2) that the company is a foreign limited liability company;
(3) the name of the foreign limited liability company's jurisdiction of formation;
(4) the street and mailing addresses of the foreign limited liability company's principal office and, if the law of the jurisdiction of formation requires the foreign limited liability company to maintain an office in that jurisdiction, the street and mailing addresses of the required office; and
(5) the information required by Subsection 16-17-203(1).

Enacted by Chapter 412, 2013 General Session

48-3a-904 Amendment of foreign registration statement.

A registered foreign limited liability company shall deliver to the division for filing an amendment to its foreign registration statement if there is a change in:
(1) the name of the foreign limited liability company;
(2) the foreign limited liability company's jurisdiction of formation;
(3) an address required by Subsection 48-3a-903(4); or
(4) the information required by Subsection 48-3a-903(5).

Enacted by Chapter 412, 2013 General Session

48-3a-905 Activities not constituting doing business.

(1) Activities of a foreign limited liability company which do not constitute doing business in this state under this part include:
  (a) maintaining, defending, mediating, arbitrating, or settling an action or proceeding;
  (b) carrying on any activity concerning its internal affairs, including holding meetings of its members or managers;
  (c) maintaining accounts in financial institutions;
  (d) maintaining offices or agencies for the transfer, exchange, and registration of the securities of the foreign limited liability company or maintaining trustees or depositories with respect to those securities;
  (e) selling through independent contractors;
  (f) soliciting or obtaining orders by any means if the orders require acceptance outside this state before they become contracts;

(g) creating or acquiring indebtedness, mortgages, or security interests in property;
(h) securing or collecting debts or enforcing mortgages or security interests in property securing the debts and holding, protecting, or maintaining property;
(i) conducting an isolated transaction that is not in the course of similar transactions;
(j) owning, without more, property; and
(k) doing business in interstate commerce.
(2) A person does not do business in this state solely by being a member or manager of a foreign limited liability company that does business in this state.
(3) This section does not apply in determining the contacts or activities that may subject a foreign limited liability company to service of process, taxation, or regulation under law of this state other than this chapter.

Enacted by Chapter 412, 2013 General Session

48-3a-906 Noncomplying name of foreign limited liability company.
(1) A foreign limited liability company whose name does not comply with Section 48-3a-108 may not register to do business in this state until it adopts, for the purpose of doing business in this state, an alternate name that complies with Section 48-3a-108. A registered foreign limited liability company that registers under an alternate name under this Subsection (1) need not comply with Title 42, Chapter 2, Conducting Business Under Assumed Name. After registering to do business in this state with an alternate name, a registered foreign limited liability company shall do business in this state under:
(a) the alternate name;
(b) the foreign limited liability company's name, with the addition of its jurisdiction of formation; or
(c) an assumed or fictitious name the foreign limited liability company is authorized to use under Title 42, Chapter 2, Conducting Business Under Assumed Name.
(2) If a registered foreign limited liability company changes its name to one that does not comply with Section 48-3a-108, it may not do business in this state until it complies with Subsection (1) by amending its registration to adopt an alternate name that complies with Section 48-3a-108.

Enacted by Chapter 412, 2013 General Session

48-3a-907 Withdrawal deemed on conversion to domestic filing entity or domestic limited liability partnership.
A registered foreign limited liability company that converts to a domestic limited liability partnership or to a domestic entity that is organized, incorporated, or otherwise formed through the delivery of a record to the division for filing is deemed to have withdrawn its registration on the effective date of the conversion.

Enacted by Chapter 412, 2013 General Session

48-3a-908 Withdrawal on dissolution or conversion to nonfiling entity other than limited liability partnership.
(1) A registered foreign limited liability company that has dissolved and completed winding up or has converted to a domestic or foreign entity that is not organized, incorporated, or otherwise formed through the public filing of a record, other than a limited liability partnership, shall deliver a statement of withdrawal to the division for filing. The statement must state:
(a) in the case of a foreign limited liability company that has completed winding up:

(i) its name and jurisdiction of formation; and
(ii) that the foreign limited liability company surrenders its registration to do business in this state; and
(b) in the case of a foreign limited liability company that has converted:
(i) the name of the converting foreign limited liability company and its jurisdiction of formation;
(ii) the type of entity to which the foreign limited liability company has converted and its jurisdiction of formation;
(iii) that the converted entity surrenders the converting foreign limited liability company's registration to do business in this state and revokes the authority of the converting foreign limited liability company's registered agent to act as registered agent in this state on behalf of the foreign limited liability company or the converted entity; and
(iv) a mailing address to which service of process may be made under Subsection (2).
(2) After a withdrawal under this section of a foreign limited liability company that has converted to another type of entity is effective, service of process in any action or proceeding based on a cause of action arising during the time the foreign limited liability company was registered to do business in this state may be made pursuant to Subsection 16-17-301(2).

Enacted by Chapter 412, 2013 General Session

48-3a-909 Transfer of registration.
(1) When a registered foreign limited liability company has merged into a foreign entity that is not registered to do business in this state or has converted to a foreign entity required to register with the division to do business in this state, the foreign entity shall deliver to the division for filing an application for transfer of registration. The application must state:
(a) the name of the registered foreign limited liability company before the merger or conversion;
(b) that before the merger or conversion the registration pertained to a foreign limited liability company;
(c) the name of the applicant foreign entity into which the foreign limited liability company has merged or to which it has been converted, and, if the name does not comply with Section 48-3a-108 or similar provision of law of this state governing an entity of the same type as the applicant foreign entity, an alternate name adopted pursuant to Subsection 48-3a-906(1) or similar provision of law of this state governing a foreign entity registered to do business in this state of the same type as the applicable foreign entity;
(d) the type of entity of the applicant foreign entity and its jurisdiction of formation;
(e) the street and mailing addresses of the principal office of the applicant foreign entity and, if the law of the entity's jurisdiction of formation requires the entity to maintain an office in that jurisdiction, the street and mailing addresses of that office; and
(f) the information required under Subsection 16-17-203(1).
(2) When an application for transfer of registration takes effect, the registration of the foreign limited liability company to do business in this state is transferred without interruption to the foreign entity into which the foreign company has merged or to which it has been converted.

Enacted by Chapter 412, 2013 General Session

48-3a-910 Termination of registration.
(1) The division may terminate the registration of a registered foreign limited liability company in the manner provided in Subsections (2) and (3) if the foreign limited liability company does not:

(a) pay, not later than 60 days after the due date, any fee, tax, interest, or penalty required to be paid to the division under this chapter or law other than this chapter;
(b) deliver to the division for filing, not later than 60 days after the due date, an annual report required under Section 48-3a-212;
(c) have a registered agent as required by Section 48-3a-111; or
(d) deliver to the division for filing a statement of a change under Section 16-17-206 not later than 30 days after a change has occurred in the name or address of the registered agent.

(2) The division may terminate the registration of a registered foreign limited liability company by:
(a) filing a notice of termination or noting the termination in the records of the division; and
(b) delivering a copy of the notice or the information in the notation to the foreign limited liability company's registered agent, or if the foreign limited liability company does not have a registered agent, to the foreign limited liability company's principal office.

(3) A notice must state or the information in the notation must include:
(a) the effective date of the termination, which must be at least 60 days after the date the division delivers the copy; and
(b) the grounds for termination under Subsection (1).

(4) The authority of a registered foreign limited liability company to do business in this state ceases on the effective date of the notice of termination or notation under Subsection (2), unless before that date the foreign limited liability company cures each ground for termination stated in the notice or notation. If the foreign limited liability company cures each ground, the division shall file a record so stating.

Enacted by Chapter 412, 2013 General Session

48-3a-911 Withdrawal of registration of registered foreign limited liability company.

(1) A registered foreign limited liability company may withdraw its registration by delivering a statement of withdrawal to the division for filing. The statement of withdrawal must state:
(a) the name of the foreign limited liability company and its jurisdiction of formation;
(b) that the foreign limited liability company is not doing business in this state and that it withdraws its registration to do business in this state;
(c) that the foreign limited liability company revokes the authority of its registered agent to accept service on its behalf in this state; and
(d) an address to which service of process may be made under Subsection (2).

(2) After the withdrawal of the registration of a foreign limited liability company, service of process in any action or proceeding based on a cause of action arising during the time the foreign limited liability company was registered to do business in this state may be made pursuant to Subsection 16-17-301(2).

Enacted by Chapter 412, 2013 General Session

48-3a-912 Action by attorney general.

The attorney general may maintain an action to enjoin a foreign limited liability company from doing business in this state in violation of this part.

Enacted by Chapter 412, 2013 General Session

Part 10
Merger, Interest Exchange, Conversion, and Domestication

48-3a-1001 Definitions.

In this part:

(1) "Acquired entity" means the entity, all of one or more classes or series of interests which are acquired in an interest exchange.

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

(3) "Conversion" means a transaction authorized by Sections 48-3a-1041 through 48-3a-1046.

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

(5) "Converting entity" means the domestic entity that approves a plan of conversion pursuant to Section 48-3a-1043 or the foreign entity that approves a conversion pursuant to the law of its jurisdiction of formation.

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

(7) "Domestic," with respect to an entity, means governed as to its internal affairs by the law of this state.

(8) "Domesticated limited liability company" means the domesticating limited liability company as it continues in existence after a domestication.

(9) "Domesticating limited liability company" means the domestic limited liability company that approves a plan of domestication pursuant to Section 48-3a-1053 or the foreign limited liability company that approves a domestication pursuant to the law of its jurisdiction of formation.

(10) "Domestication" means a transaction authorized by Sections 48-3a-1051 through 48-3a-1056.

(11) "Entity":

(a) means:

(i) a business corporation;

(ii) a nonprofit corporation;

(iii) a general partnership, including a limited liability partnership;

(iv) a limited partnership, including a limited liability limited partnership;

(v) a limited liability company;

(vi) a limited cooperative association;

(vii) an unincorporated nonprofit association;

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

(ix) any other person that has:

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

(B) the power to acquire an interest in real property in its own name; and

(b) does not include:

(i) an individual;

(ii) a trust with a predominantly donative purpose or a charitable trust;

(iii) an association or relationship that is not a partnership solely by reason of Subsection 48-1d-202(3) or a similar provision of the law of another jurisdiction;

(iv) a decedent's estate; or

(v) a government or a governmental subdivision, agency, or instrumentality.

(12) "Filing entity" means an entity whose formation requires the filing of a public organic record.

(13) "Foreign," with respect to an entity, means an entity governed as to its internal affairs by the law of a jurisdiction other than this state.

(14) "Governance interest" means a right under the organic law or organic rules of an unincorporated entity, other than as a governor, agent, assignee, or proxy, to:
(a) receive or demand access to information concerning, or the books and records of, the entity;
(b) vote for or consent to the election of the governors of the entity; or
(c) receive notice of or vote on or consent to an issue involving the internal affairs of the entity.
(15) "Governor" means:
(a) a director of a business corporation;
(b) a director or trustee of a nonprofit corporation;
(c) a general partner of a general partnership;
(d) a general partner of a limited partnership;
(e) a manager of a manager-managed limited liability company;
(f) a member of a member-managed limited liability company;
(g) a director of a limited cooperative association;
(h) a manager of an unincorporated nonprofit association;
(i) a trustee of a statutory trust, business trust, or common-law business trust; or
(j) any other person under whose authority the powers of an entity are exercised and under whose direction the activities and affairs of the entity are managed pursuant to the organic law and organic rules of the entity.
(16) "Interest" means:
(a) a share in a business corporation;
(b) a membership in a nonprofit corporation;
(c) a partnership interest in a general partnership;
(d) a partnership interest in a limited partnership;
(e) a membership interest in a limited liability company;
(f) a member's interest in a limited cooperative association;
(g) a membership in an unincorporated nonprofit association;
(h) a beneficial interest in a statutory trust, business trust, or common-law business trust; or
(i) a governance interest or distributional interest in any other type of unincorporated entity.
(17) "Interest exchange" means a transaction authorized by Sections 48-3a-1031 through 48-3a-1036.
(18) "Interest holder" means:
(a) a shareholder of a business corporation;
(b) a member of a nonprofit corporation;
(c) a general partner of a general partnership;
(d) a general partner of a limited partnership;
(e) a limited partner of a limited partnership;
(f) a member of a limited liability company;
(g) a member of a limited cooperative association;
(h) a member of an unincorporated nonprofit association;
(i) a beneficiary or beneficial owner of a statutory trust, business trust, or common-law business trust; or
(j) any other direct holder of an interest.
(19) "Interest holder liability" means:
(a) personal liability for a liability of an entity which is imposed on a person:
(i) solely by reason of the status of the person as an interest holder; or
(ii) by the organic rules of the entity which make one or more specified interest holders or categories of interest holders liable in their capacity as interest holders for all or specified liabilities of the entity; or

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

(20) "Merger" means a transaction authorized by Sections 48-3a-1021 through 48-3a-1026.

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

(22) "Organic law" means the law of an entity's jurisdiction of formation governing the internal affairs of the entity.

(23) "Organic rules" means the public organic record and private organic rules of an entity.

(24) "Plan" means a plan of merger, plan of interest exchange, plan of conversion, or plan of domestication.

(25) "Plan of conversion" means a plan under Section 48-3a-1042.

(26) "Plan of domestication" means a plan under Section 48-3a-1052.

(27) "Plan of interest exchange" means a plan under Section 48-3a-1032.

(28) "Plan of merger" means a plan under Section 48-3a-1022.

(29) "Private organic rules" means the rules, whether or not in a record, that govern the internal affairs of an entity, are binding on all its interest holders, and are not part of its public organic record, if any. The term includes:

(a) the bylaws of a business corporation;

(b) the bylaws of a nonprofit corporation;

(c) the partnership agreement of a general partnership;

(d) the partnership agreement of a limited partnership;

(e) the operating agreement of a limited liability company;

(f) the bylaws of a limited cooperative association;

(g) the governing principles of an unincorporated nonprofit association; and

(h) the trust instrument of a statutory trust or similar rules of a business trust or common-law business trust.

(30) "Protected agreement" means:

(a) a record evidencing indebtedness and any related agreement in effect on January 1, 2014;

(b) an agreement that is binding on an entity on January 1, 2014;

(c) the organic rules of an entity in effect on January 1, 2014; or

(d) an agreement that is binding on any of the governors or interest holders of an entity on January 1, 2014.

(31) "Public organic record" means the record the filing of which by the division is required to form an entity and any amendment to or restatement of that record. The term includes:

(a) the articles of incorporation of a business corporation;

(b) the articles of incorporation of a nonprofit corporation;

(c) the certificate of limited partnership of a limited partnership;

(d) the certificate of organization of a limited liability company;

(e) the articles of organization of a limited cooperative association; and

(f) the certificate of trust of a statutory trust or similar record of a business trust.

(32) "Registered foreign entity" means a foreign entity that is registered to do business in this state pursuant to a record filed by the division.

(33) "Statement of conversion" means a statement under Section 48-3a-1045.

(34) "Statement of domestication" means a statement under Section 48-3a-1055.

(35) "Statement of interest exchange" means a statement under Section 48-3a-1035.

(36) "Statement of merger" means a statement under Section 48-3a-1025.

(37) "Surviving entity" means the entity that continues in existence after or is created by a merger.

(38) "Type of entity" means a generic form of entity:

(a) recognized at common law; or
(b) formed under an organic law, whether or not some entities formed under that organic law are subject to provisions of that law that create different categories of the form of entity.

Enacted by Chapter 412, 2013 General Session

48-3a-1002 Relationship of part to other laws.

This part does not authorize an act prohibited by, and does not affect the application or requirements of, law other than this chapter.

Enacted by Chapter 412, 2013 General Session

Superseded 7/1/2024

48-3a-1003 Required notice or approval.

(1) A domestic or foreign entity that is required to give notice to, or obtain the approval of, a governmental agency or officer of this state to be a party to a merger must give the notice or obtain the approval to be a party to an interest exchange, conversion, or domestication.
(2) Property held for a charitable purpose under the law of this state by a domestic or foreign entity immediately before a transaction under this part becomes effective may not, as a result of the transaction, be diverted from the objects for which it was donated, granted, devised, or otherwise transferred unless, to the extent required by or pursuant to the law of this state concerning cy pres or other law dealing with nondiversion of charitable assets, the entity obtains an appropriate order of the district court specifying the disposition of the property.
(3) A bequest, devise, gift, grant, or promise contained in a will or other instrument of donation, subscription, or conveyance that is made to a merging entity that is not the surviving entity and that takes effect or remains payable after the merger inures to the surviving entity. A trust obligation that would govern property if transferred to the nonsurviving entity applies to property that is transferred to the surviving entity under this section.

Enacted by Chapter 412, 2013 General Session

Effective 7/1/2024

48-3a-1003 Required notice or approval.

(1) A domestic or foreign entity that is required to give notice to, or obtain the approval of, a governmental agency or officer of this state to be a party to a merger must give the notice or obtain the approval to be a party to an interest exchange, conversion, or domestication.
(2) Property held for a charitable purpose under the law of this state by a domestic or foreign entity immediately before a transaction under this part becomes effective may not, as a result of the transaction, be diverted from the objects for which it was donated, granted, devised, or otherwise transferred unless, to the extent required by or pursuant to the law of this state concerning cy pres or other law dealing with nondiversion of charitable assets, the entity obtains a court order specifying the disposition of the property.
(3) A bequest, devise, gift, grant, or promise contained in a will or other instrument of donation, subscription, or conveyance that is made to a merging entity that is not the surviving entity and that takes effect or remains payable after the merger inures to the surviving entity. A trust obligation that would govern property if transferred to the nonsurviving entity applies to property that is transferred to the surviving entity under this section.

Amended by Chapter 401, 2023 General Session

48-3a-1004 Status of filings.

A filing under this part signed by a domestic entity becomes part of the public organic record of the entity if the entity's organic law provides that similar filings under that law become part of the public organic record of the entity.

Enacted by Chapter 412, 2013 General Session

48-3a-1005 Nonexclusivity.

The fact that a transaction under this part produces a certain result does not preclude the same result from being accomplished in any other manner permitted by law other than this part.

Enacted by Chapter 412, 2013 General Session

48-3a-1006 References to external facts.

A plan may refer to facts ascertainable outside the plan if the manner in which the facts will operate upon the plan is specified in the plan. The facts may include the occurrence of an event or a determination or action by a person, whether or not the event, determination, or action is within the control of a party to the transaction.

Enacted by Chapter 412, 2013 General Session

48-3a-1007 Alternative means of approval of transactions.

Except as otherwise provided in the organic law or organic rules of a domestic entity, approval of a transaction under this part by the unanimous vote or consent of its interest holders satisfies the requirements of this part for approval of the transaction.

Enacted by Chapter 412, 2013 General Session

48-3a-1008 Appraisal rights.

(1) An interest holder of a domestic merging, acquired, converting, or domesticating entity is entitled to appraisal rights in connection with the transaction if the interest holder would have been entitled to appraisal rights under the entity's organic law in connection with a merger in which the interest of the interest holder was changed, converted, or exchanged unless:
  (a) the organic law permits the organic rules to limit the availability of appraisal rights; and
  (b) the organic rules provide such a limit.
(2) An interest holder of a domestic merging, acquired, converting, or domesticating entity is entitled to contractual appraisal rights in connection with a transaction under this part to the extent provided in:
  (a) the entity's organic rules; or
  (b) the plan.

Enacted by Chapter 412, 2013 General Session

48-3a-1021 Merger authorized.

(1) By complying with Sections 48-3a-1021 through 48-3a-1026:

(a) one or more domestic limited liability companies may merge with one or more domestic or foreign entities into a domestic or foreign surviving entity; and
(b) two or more foreign entities may merge into a domestic limited liability company.
(2) By complying with the provisions of Sections 48-3a-1021 through 48-3a-1026 applicable to foreign entities, a foreign entity may be a party to a merger under Sections 48-3a-1021 through 48-3a-1026 or may be the surviving entity in such a merger if the merger is authorized by the law of the foreign entity's jurisdiction of formation.

Enacted by Chapter 412, 2013 General Session

48-3a-1022 Plan of merger.
(1) A domestic limited liability company may become a party to a merger under Sections 48-3a-1021 through 48-3a-1026 by approving a plan of merger. The plan must be in a record and contain:
(a) as to each merging entity, its name, jurisdiction of formation, and type of entity;
(b) if the surviving entity is to be created in the merger, a statement to that effect and the entity's name, jurisdiction of formation, and type of entity;
(c) the manner of converting the interests in each party to the merger into interests, securities, obligations, money, other property, rights to acquire interests or securities, or any combination of the foregoing;
(d) if the surviving entity exists before the merger, any proposed amendments to its public organic record, if any, or to its private organic rules that are, or are proposed to be, in a record;
(e) if the surviving entity is to be created in the merger, its proposed public organic record, if any, and the full text of its private organic rules that are proposed to be in a record;
(f) the other terms and conditions of the merger; and
(g) any other provision required by the law of a merging entity's jurisdiction of formation or the organic rules of a merging entity.
(2) In addition to the requirements of Subsection (1), a plan of merger may contain any other provision not prohibited by law.

Enacted by Chapter 412, 2013 General Session

48-3a-1023 Approval of merger.
(1) A plan of merger is not effective unless it has been approved:
(a) by a domestic merging limited liability company, by all the members of the limited liability company entitled to vote on or consent to any matter; and
(b) in a record, by each member of a domestic merging limited liability company that will have interest holder liability for debts, obligations, and other liabilities that arise after the merger becomes effective, unless:
(i) the operating agreement of the limited liability company in a record provides for the approval of a merger in which some or all of its members become subject to interest holder liability by the vote or consent of fewer than all the members; and
(ii) the member consented in a record to or voted for that provision of the operating agreement or became a member after the adoption of that provision.
(2) A merger involving a domestic merging entity that is not a limited liability company is not effective unless the merger is approved by that entity in accordance with its organic law.

(3) A merger involving a foreign merging entity is not effective unless the merger is approved by the foreign entity in accordance with the law of the foreign entity's jurisdiction of formation.

Enacted by Chapter 412, 2013 General Session

48-3a-1024 Amendment or abandonment of plan of merger.

(1) A plan of merger may be amended only with the consent of each party to the plan, except as otherwise provided in the plan.

(2) A domestic merging limited liability company may approve an amendment of a plan of merger:

(a) in the same manner as the plan was approved, if the plan does not provide for the manner in which it may be amended; or

(b) by the managers or members in the manner provided in the plan, but a member that was entitled to vote on or consent to approval of the merger is entitled to vote on or consent to any amendment of the plan that will change:

(i) the amount or kind of interests, securities, obligations, money, other property, rights to acquire interests or securities, or any combination of the foregoing, to be received by the interest holders of any party to the plan;

(ii) the public organic record, if any, or private organic rules of the surviving entity that will be in effect immediately after the merger becomes effective, except for changes that do not require approval of the interest holders of the surviving entity under its organic law or organic rules; or

(iii) any other terms or conditions of the plan, if the change would adversely affect the member in any material respect.

(3) After a plan of merger has been approved and before a statement of merger becomes effective, the plan may be abandoned as provided in the plan. Unless prohibited by the plan, a domestic merging limited liability company may abandon the plan in the same manner as the plan was approved.

(4) If a plan of merger is abandoned after a statement of merger has been delivered to the division for filing and before the statement becomes effective, a statement of abandonment, signed by a party to the plan, must be delivered to the division for filing before the statement of merger becomes effective. The statement of abandonment takes effect on filing, and the merger is abandoned and does not become effective. The statement of abandonment must contain:

(a) the name of each party to the plan of merger;

(b) the date on which the statement of merger was delivered to the division for filing; and

(c) a statement that the merger has been abandoned in accordance with this section.

Enacted by Chapter 412, 2013 General Session

48-3a-1025 Statement of merger.

(1) A statement of merger must be signed by each merging entity and delivered to the division for filing.

(2) A statement of merger must contain:

(a) the name, jurisdiction of formation, and type of entity of each merging entity that is not the surviving entity;

(b) the name, jurisdiction of formation, and type of entity of the surviving entity;

(c) a statement that the merger was approved by each domestic merging entity, if any, in accordance with Sections 48-3a-1021 through 48-3a-1026 and by each foreign merging entity, if any, in accordance with the law of its jurisdiction of formation;

(d) if the surviving entity exists before the merger and is a domestic filing entity, any amendment to its public organic record approved as part of the plan of merger;
(e) if the surviving entity is created by the merger and is a domestic filing entity, its public organic record, as an attachment;
(f) if the surviving entity is created by the merger and is a domestic limited liability partnership, its statement of qualification, as an attachment; and
(g) if the surviving entity is a foreign entity that is not a registered foreign entity, a mailing address to which the division may send any process served on the division pursuant to Subsection 48-3a-1026(5).
(3) In addition to the requirements of Subsection (2), a statement of merger may contain any other provision not prohibited by law.
(4) If the surviving entity is a domestic entity, its public organic record, if any, must satisfy the requirements of the law of this state, but the public organic record does not need to be signed.
(5) A plan of merger that is signed by all the merging entities and meets all the requirements of Subsection (2) may be delivered to the division for filing instead of a statement of merger and on filing has the same effect. If a plan of merger is filed as provided in this Subsection (5), references in this part to a statement of merger refer to the plan of merger filed under this Subsection (5).

Enacted by Chapter 412, 2013 General Session

48-3a-1026 Effect of merger.
(1) When a merger becomes effective:
(a) the surviving entity continues or comes into existence;
(b) each merging entity that is not the surviving entity ceases to exist;
(c) all property of each merging entity vests in the surviving entity without transfer, reversion, or impairment;
(d) all debts, obligations, and other liabilities of each merging entity are debts, obligations, and other liabilities of the surviving entity;
(e) except as otherwise provided by law or the plan of merger, all the rights, privileges, immunities, powers, and purposes of each merging entity vest in the surviving entity;
(f) if the surviving entity exists before the merger:
(i) all its property continues to be vested in it without transfer, reversion, or impairment;
(ii) it remains subject to all its debts, obligations, and other liabilities; and
(iii) all its rights, privileges, immunities, powers, and purposes continue to be vested in it;
(g) the name of the surviving entity may be substituted for the name of any merging entity that is a party to any pending action or proceeding;
(h) if the surviving entity exists before the merger:
(i) its public organic record, if any, is amended as provided in the statement of merger; and
(ii) its private organic rules that are to be in a record, if any, are amended to the extent provided in the plan of merger;
(i) if the surviving entity is created by the merger:
(i) its public organic record, if any, is effective; and
(ii) its private organic rules are effective; and
(j) the interests in each merging entity which are to be converted in the merger are converted, and the interest holders of those interests are entitled only to the rights provided to them under the plan of merger and to any appraisal rights they have under Section 48-3a-1008 and the merging entity's organic law.

(2) Except as otherwise provided in the organic law or organic rules of a merging entity, the merger does not give rise to any rights that an interest holder, governor, or third party would have upon a dissolution, liquidation, or winding up of the merging entity.
(3) When a merger becomes effective, a person that did not have interest holder liability with respect to any of the merging entities and becomes subject to interest holder liability with respect to a domestic entity as a result of the merger has interest holder liability only to the extent provided by the organic law of that entity and only for those debts, obligations, and other liabilities that arise after the merger becomes effective.
(4) When a merger becomes effective, the interest holder liability of a person that ceases to hold an interest in a domestic merging entity with respect to which the person had interest holder liability is as follows:
  (a) The merger does not discharge any interest holder liability under the organic law of the domestic merging entity to the extent the interest holder liability arose before the merger became effective.
  (b) The person does not have interest holder liability under the organic law of the domestic merging entity for any debt, obligation, or other liability that arises after the merger becomes effective.
  (c) The organic law of the domestic merging entity continues to apply to the release, collection, or discharge of any interest holder liability preserved under Subsection (4)(a) as if the merger had not occurred and the surviving entity were the domestic merging entity.
  (d) The person has whatever rights of contribution from any other person as are provided by law other than this chapter, this chapter, or the organic rules of the domestic merging entity with respect to any interest holder liability preserved under Subsection (4)(a) as if the merger had not occurred.
(5) When a merger becomes effective, a foreign entity that is the surviving entity may be served with process in this state for the collection and enforcement of any debts, obligations, or other liabilities of a domestic merging entity as provided in Section 16-17-301.
(6) When a merger becomes effective, the registration to do business in this state of any foreign merging entity that is not the surviving entity is canceled.

Enacted by Chapter 412, 2013 General Session

48-3a-1031 Interest exchange authorized.
(1) By complying with Sections 48-3a-1031 through 48-3a-1036:
  (a) a domestic limited liability company may acquire all of one or more classes or series of interests of another domestic or foreign entity in exchange for interests, securities, obligations, money, other property, rights to acquire interests or securities, or any combination of the foregoing; or
  (b) all of one or more classes or series of interests of a domestic limited liability company may be acquired by another domestic or foreign entity in exchange for interests, securities, obligations, money, other property, rights to acquire interests or securities, or any combination of the foregoing.
(2) By complying with the provisions of Sections 48-3a-1031 through 48-3a-1036 applicable to foreign entities, a foreign entity may be the acquiring or acquired entity in an interest exchange under Sections 48-3a-1031 through 48-3a-1036 if the interest exchange is authorized by the law of the foreign entity's jurisdiction of formation.
(3) If a protected agreement contains a provision that applies to a merger of a domestic limited liability company but does not refer to an interest exchange, the provision applies to an interest

exchange in which the domestic limited liability company is the acquired entity as if the interest exchange were a merger until the provision is amended after January 1, 2014.

Enacted by Chapter 412, 2013 General Session

48-3a-1032 Plan of interest exchange.

(1) A domestic limited liability company may be the acquired entity in an interest exchange under Sections 48-3a-1031 through 48-3a-1036 by approving a plan of interest exchange. The plan must be in a record and contain:
  (a) the name of the acquired entity;
  (b) the name, jurisdiction of formation, and type of entity of the acquiring entity;
  (c) the manner of converting the interests in the acquired entity into interests, securities, obligations, money, other property, rights to acquire interests or securities, or any combination of the foregoing;
  (d) any proposed amendments to the certificate of organization or operating agreement that are, or are proposed to be, in a record of the acquired entity;
  (e) the other terms and conditions of the interest exchange; and
  (f) any other provision required by the law of this state or the operating agreement of the acquired entity.
(2) In addition to the requirements of Subsection (1), a plan of interest exchange may contain any other provision not prohibited by law.

Enacted by Chapter 412, 2013 General Session

48-3a-1033 Approval of interest exchange.

(1) A plan of interest exchange is not effective unless it has been approved:
  (a) by all the members of a domestic acquired limited liability company entitled to vote on or consent to any matter; and
  (b) in a record, by each member of the domestic acquired limited liability company that will have interest holder liability for debts, obligations, and other liabilities that arise after the interest exchange becomes effective, unless:
    (i) the operating agreement of the limited liability company in a record provides for the approval of an interest exchange or a merger in which some or all of its members become subject to interest holder liability by the vote or consent of fewer than all the members; and
    (ii) the member consented in a record to or voted for that provision of the operating agreement or became a member after the adoption of that provision.
(2) An interest exchange involving a domestic acquired entity that is not a limited liability company is not effective unless it is approved by the domestic entity in accordance with its organic law.
(3) An interest exchange involving a foreign acquired entity is not effective unless it is approved by the foreign entity in accordance with the law of the foreign entity's jurisdiction of formation.
(4) Except as otherwise provided in its organic law or organic rules, the interest holders of the acquiring entity are not required to approve the interest exchange.

Enacted by Chapter 412, 2013 General Session

48-3a-1034 Amendment or abandonment of plan of interest exchange.

(1) A plan of interest exchange may be amended only with the consent of each party to the plan, except as otherwise provided in the plan.

(2) A domestic acquired limited liability company may approve an amendment of a plan of interest exchange:
(a) in the same manner as the plan was approved, if the plan does not provide for the manner in which it may be amended; or
(b) by the managers or members of the domestic acquired limited liability company in the manner provided in the plan, but an interest holder that was entitled to vote on or consent to approval of the interest exchange is entitled to vote on or consent to any amendment of the plan that will change:
(i) the amount or kind of interests, securities, obligations, money, other property, rights to acquire interests or securities, or any combination of the foregoing, to be received by any of the members of the acquired limited liability company under the plan;
(ii) the certificate of organization or operating agreement of the acquired limited liability company that will be in effect immediately after the interest exchange becomes effective, except for changes that do not require approval of the members of the acquired limited liability company under this chapter or the operating agreement; or
(iii) any other terms or conditions of the plan, if the change would adversely affect the member in any material respect.
(3) After a plan of interest exchange has been approved and before a statement of interest exchange becomes effective, the plan may be abandoned as provided in the plan. Unless prohibited by the plan, a domestic acquired limited liability company may abandon the plan in the same manner as the plan was approved.
(4) If a plan of interest exchange is abandoned after a statement of interest exchange has been delivered to the division for filing and before the statement becomes effective, a statement of abandonment, signed by the acquired limited liability company, must be delivered to the division for filing before the statement of interest exchange becomes effective. The statement of abandonment takes effect on filing, and the interest exchange is abandoned and does not become effective. The statement of abandonment must contain:
(a) the name of the acquired limited liability company;
(b) the date on which the statement of interest exchange was delivered to the division for filing; and
(c) a statement that the interest exchange has been abandoned in accordance with this section.

Enacted by Chapter 412, 2013 General Session

48-3a-1035 Statement of interest exchange.
(1) A statement of interest exchange must be signed by a domestic acquired limited liability company and delivered to the division for filing.
(2) A statement of interest exchange must contain:
(a) the name of the acquired limited liability company;
(b) the name, jurisdiction of formation, and type of entity of the acquiring entity;
(c) a statement that the plan of interest exchange was approved by the acquired limited liability entity in accordance with Sections 48-3a-1031 through 48-3a-1036; and
(d) any amendments to the acquired limited liability company's certificate of organization approved as part of the plan of interest exchange.
(3) In addition to the requirements of Subsection (2), a statement of interest exchange may contain any other provision not prohibited by law.
(4) A plan of interest exchange that is signed by a domestic acquired limited liability company and meets all the requirements of Subsection (2) may be delivered to the division for filing instead

of a statement of interest exchange and on filing has the same effect. If a plan of interest exchange is filed as provided in this Subsection (4), references in this part to a statement of interest exchange refer to the plan of interest exchange filed under this Subsection (4).

Enacted by Chapter 412, 2013 General Session

48-3a-1036 Effect of interest exchange.

(1) When an interest exchange in which the acquired entity is a domestic limited liability company becomes effective:
  (a) the interests in a domestic limited liability company that are the subject of the interest exchange cease to exist or are converted or exchanged, and the members holding those interests are entitled only to the rights provided to them under the plan of interest exchange and to any appraisal rights they have under Section 48-3a-1008;
  (b) the acquiring entity becomes the interest holder of the interests in the acquired limited liability company stated in the plan of interest exchange to be acquired by the acquiring entity;
  (c) the certificate of organization of the acquired limited liability company is amended as provided in the statement of interest exchange; and
  (d) the provisions of the operating agreement of the acquired limited liability company that are to be in a record, if any, are amended to the extent provided in the plan of interest exchange.

(2) Except as otherwise provided in the operating agreement of a domestic acquired limited liability company, the interest exchange does not give rise to any rights that a member, manager, or third party would have upon a dissolution, liquidation, or winding up of the acquired limited liability company.

(3) When an interest exchange becomes effective, a person that did not have interest holder liability with respect to a domestic acquired limited liability company and becomes subject to interest holder liability with respect to a domestic entity as a result of the interest exchange has interest holder liability only to the extent provided by the organic law of the entity and only for those debts, obligations, and other liabilities that arise after the interest exchange becomes effective.

(4) When an interest exchange becomes effective, the interest holder liability of a person that ceases to hold an interest in a domestic acquired limited liability company with respect to which the person had interest holder liability is as follows:
  (a) The interest exchange does not discharge any interest holder liability to the extent the interest holder liability arose before the interest exchange became effective.
  (b) The person does not have interest holder liability for any debt, obligation, or other liability that arises after the interest exchange becomes effective.
  (c) The person has whatever rights of contribution from any other person as are provided by law other than this chapter, this chapter, or the operating agreement of the acquired limited liability company with respect to any interest holder liability preserved under Subsection (4)(a) as if the interest exchange had not occurred.

Enacted by Chapter 412, 2013 General Session

48-3a-1041 Conversion authorized.

(1) As used in Sections 48-3a-1041 through 48-3a-1046, the term "subject entity" includes a corporation, a business trust or association, a real estate investment trust, a common-law trust, or any other unincorporated business, including a general partnership, a registered limited liability partnership, a limited partnership, a nonprofit corporation, or a foreign company.

(2) A subject entity may convert to a domestic company by complying with Sections 48-3a-1041 through 48-3a-1046.
(3) By complying with Sections 48-3a-1041 through 48-3a-1046, a domestic limited liability company may become:
(a) a domestic entity that is a different type of entity; or
(b) a foreign entity that is a different type of entity, if the conversion is authorized by the law of the foreign jurisdiction.
(4) By complying with the provisions of Sections 48-3a-1041 through 48-3a-1046 applicable to foreign entities, a foreign entity that is not a foreign limited liability company may become a domestic limited liability company if the conversion is authorized by the law of the foreign entity's jurisdiction of formation.
(5) If a protected agreement contains a provision that applies to a merger of a domestic limited liability company but does not refer to a conversion, the provision applies to a conversion of the entity as if the conversion were a merger until the provision is amended after January 1, 2014.

Amended by Chapter 227, 2015 General Session

48-3a-1042 Plan of conversion.
(1) A subject entity may convert to a domestic limited liability company or a domestic limited liability company may convert to a different type of entity under Sections 48-3a-1041 through 48-3a-1046 by approving a plan of conversion. The plan must be in a record and contain:
(a) the name of the converting subject entity or limited liability company;
(b) the name, jurisdiction of formation, and type of entity of the converted entity;
(c) the manner of converting the interests in the converting subject entity or limited liability company into interests, securities, obligations, money, other property, rights to acquire interests or securities, or any combination of the foregoing;
(d) the proposed public organic record of the converted entity if it will be a filing entity;
(e) the full text of the private organic rules of the converted entity that are proposed to be in a record;
(f) the other terms and conditions of the conversion; and
(g) any other provision required by the law of this state or the operating agreement of the converting limited liability company.
(2) In addition to the requirements of Subsection (1), a plan of conversion may contain any other provision not prohibited by law.

Amended by Chapter 227, 2015 General Session

48-3a-1043 Approval of conversion.
(1) A plan of conversion is not effective unless it has been approved:
(a) by a domestic converting limited liability company by all the members of the limited liability company entitled to vote on or consent to any matter; and
(b) in a record, by each member of a domestic converting limited liability company that will have interest holder liability for debts, obligations, and other liabilities that arise after the conversion becomes effective:
(i) the operating agreement of the limited liability company provides in a record for the approval of a conversion or a merger in which some or all of its interest holders become subject to interest holder liability by the vote or consent of fewer than all the interest holders; and

(ii) the member voted for or consented in a record to that provision of the operating agreement or became a member after the adoption of that provision.

(2) A conversion involving a domestic converting entity that is not a limited liability company, including a subject entity, is not effective unless it is approved by the domestic converting entity in accordance with its organic law.

(3) A conversion of a foreign converting entity is not effective unless it is approved by the foreign entity in accordance with the law of the foreign entity's jurisdiction of formation.

Amended by Chapter 227, 2015 General Session

48-3a-1044 Amendment or abandonment of plan of conversion.

(1) A plan of conversion of a subject entity or domestic converting limited liability company may be amended:

(a) in the same manner as the plan was approved, if the plan does not provide for the manner in which it may be amended; or

(b) by the managers or members of the entity in the manner provided in the plan, but a member that was entitled to vote on or consent to approval of the conversion is entitled to vote on or consent to any amendment of the plan that will change:

(i) the amount or kind of interests, securities, obligations, money, other property, rights to acquire interests or securities, or any combination of the foregoing, to be received by any of the interest holders of the converting entity under the plan;

(ii) the public organic record or private organic rules of the converted entity that will be in effect immediately after the conversion becomes effective, except for changes that do not require approval of the interest holders of the converted entity under its organic law or organic rules; or

(iii) any other terms or conditions of the plan, if the change would adversely affect the interest holder in any material respect.

(2) After a plan of conversion has been approved and before a statement of conversion becomes effective, the plan may be abandoned as provided in the plan. Unless prohibited by the plan, a subject entity or domestic converting limited liability company may abandon the plan in the same manner as the plan was approved.

(3) If a plan of conversion is abandoned after a statement of conversion has been delivered to the division for filing and before the statement of conversion becomes effective, a statement of abandonment, signed by the converting entity, must be delivered to the division for filing before the time the statement of conversion becomes effective. The statement of abandonment takes effect on filing, and the conversion is abandoned and does not become effective. The statement of abandonment must contain:

(a) the name of the converting subject entity or limited liability company;

(b) the date on which the statement of conversion was delivered to the division for filing; and

(c) a statement that the conversion has been abandoned in accordance with this section.

Amended by Chapter 227, 2015 General Session

48-3a-1045 Statement of conversion.

(1) A statement of conversion must be signed by the converting entity and delivered to the division for filing.

(2) A statement of conversion must contain:

(a) the name, jurisdiction of formation, and type of entity of the converting entity;

(b) the name, jurisdiction of formation, and type of entity of the converted entity;
(c) if the converting entity is a domestic entity, a statement that the plan of conversion was approved in accordance with Sections 48-3a-1041 through 48-3a-1046 or, if the converting entity is a foreign entity, a statement that the conversion was approved by the foreign converting entity in accordance with the law of its jurisdiction of formation;
(d) if the converted entity is a domestic filing entity, the text of its public organic record, as an attachment;
(e) if the converted entity is a domestic limited liability partnership, the text of its statement of qualification, as an attachment; and
(f) if the converted entity is a foreign entity that is not a registered foreign entity, a mailing address to which the division may send any process served on the division pursuant to Subsection 48-3a-1046(5).
(3) In addition to the requirements of Subsection (2), a statement of conversion may contain any other provision not prohibited by law.
(4) If a converted entity is a domestic entity, its public organic record, if any, must satisfy the requirements of the law of this state, but the public organic record does not need to be signed.
(5) A plan of conversion that is signed by a domestic converting entity and meets all the requirements of Subsection (2) may be delivered to the division for filing instead of a statement of conversion and on filing has the same effect. If a plan of conversion is filed as provided in this Subsection (5), references in this part to a statement of conversion refer to the plan of conversion filed under this Subsection (5).

Enacted by Chapter 412, 2013 General Session

48-3a-1046 Effect of conversion.
(1) When a conversion in which the converted entity is a subject entity or domestic limited liability company becomes effective:
(a) the converted entity is:
(i) organized under and subject to this chapter; and
(ii) the same entity without interruption as the converting entity;
(b) all property of the converting entity continues to be vested in the converted entity without transfer, reversion, or impairment;
(c) all debts, obligations, and other liabilities of the converting entity continue as debts, obligations, and other liabilities of the converted entity;
(d) except as otherwise provided by law or the plan of conversion, all the rights, privileges, immunities, powers, and purposes of the converting entity remain in the converted entity;
(e) the name of the converted entity may be substituted for the name of the converting entity in any pending action or proceeding;
(f) the provisions of the operating agreement of the converted entity that are to be in a record, if any, approved as part of the plan of conversion are effective; and
(g) the interests in the converting entity are converted, and the interest holders of the converting entity are entitled only to the rights provided to them under the plan of conversion and to any appraisal rights they have under Section 48-3a-1008 and the converting entity's organic law.
(2) Except as otherwise provided in the operating agreement of a domestic converting limited liability company, the conversion does not give rise to any rights that a member, manager, or third party would have upon a dissolution, liquidation, or winding up of the converting entity.
(3) When a conversion becomes effective, a person that did not have interest holder liability with respect to the converting entity and becomes subject to interest holder liability with respect to

a domestic entity as a result of the conversion has interest holder liability only to the extent provided by the organic law of the entity and only for those debts, obligations, and other liabilities that arise after the conversion becomes effective.

(4) When a conversion becomes effective, the interest holder liability of a person that ceases to hold an interest in a domestic limited liability company with respect to which the person had interest holder liability is as follows:

(a) the conversion does not discharge any interest holder liability to the extent the interest holder liability arose before the conversion became effective;

(b) the person does not have interest holder liability for any debt, obligation, or other liability that arises after the conversion becomes effective; and

(c) the person has whatever rights of contribution from any other person as are provided by law other than this chapter, this chapter, or the operating agreement of the converting entity with respect to any interest holder liability preserved under Subsection (4)(a) as if the conversion had not occurred.

(5) When a conversion becomes effective, a foreign entity that is the converted entity may be served with process in this state for the collection and enforcement of any of its debts, obligations, and liabilities as provided in Section 16-17-301.

(6) If the converting entity is a registered foreign entity, the registration to do business in this state of the converting entity is canceled when the conversion becomes effective.

(7) A conversion does not require the entity to wind up its affairs and does not constitute or cause the dissolution of the entity.

Amended by Chapter 227, 2015 General Session

48-3a-1051 Domestication authorized.

(1) By complying with Sections 48-3a-1051 through 48-3a-1056, a domestic limited liability company may become a foreign limited liability company if the domestication is authorized by the law of the foreign jurisdiction.

(2) By complying with the provisions of Sections 48-3a-1051 through 48-3a-1056 applicable to foreign limited liability companies, a foreign limited liability company may become a domestic limited liability company if the domestication is authorized by the law of the foreign limited liability company's jurisdiction of formation.

(3) If a protected agreement contains a provision that applies to a merger of a domestic limited liability company but does not refer to a domestication, the provision applies to a domestication of the limited liability company as if the domestication were a merger until the provision is amended after January 1, 2014.

Enacted by Chapter 412, 2013 General Session

48-3a-1052 Plan of domestication.

(1) A domestic limited liability company may become a foreign limited liability company in a domestication by approving a plan of domestication. The plan must be in a record and contain:

(a) the name of the domesticating limited liability company;

(b) the name and jurisdiction of formation of the domesticated limited liability company;

(c) the manner of converting the interests in the domesticating limited liability company into interests, securities, obligations, money, other property, rights to acquire interests or securities, or any combination of the foregoing;

(d) the proposed certificate of organization of the domesticated limited liability company;

(e) the full text of the provisions of the operating agreement of the domesticated limited liability company that are proposed to be in a record;
(f) the other terms and conditions of the domestication; and
(g) any other provision required by the law of this state or the operating agreement of the domesticating limited liability company.
(2) In addition to the requirements of Subsection (1), a plan of domestication may contain any other provision not prohibited by law.

Enacted by Chapter 412, 2013 General Session

48-3a-1053 Approval of domestication.
(1) A plan of domestication of a domestic domesticating limited liability company is not effective unless it has been approved:
(a) by all the members entitled to vote on or consent to any matter; and
(b) in a record, by each member that will have interest holder liability for debts, obligations, and other liabilities that arise after the domestication becomes effective, unless:
(i) the operating agreement of the entity in a record provides for the approval of a domestication or merger in which some or all of its members become subject to interest holder liability by the vote or consent of fewer than all the members; and
(ii) the member voted for or consented in a record to that provision of the operating agreement or became an interest holder after the adoption of that provision.
(2) A domestication of a foreign domesticating limited liability company is not effective unless it is approved in accordance with the law of the foreign limited liability company's jurisdiction of formation.

Enacted by Chapter 412, 2013 General Session

48-3a-1054 Amendment or abandonment of plan of domestication.
(1) A plan of domestication of a domestic domesticating limited liability company may be amended:
(a) in the same manner as the plan was approved, if the plan does not provide for the manner in which it may be amended; or
(b) by the managers or members of the limited liability company in the manner provided in the plan, but a member that was entitled to vote on or consent to approval of the domestication is entitled to vote on or consent to any amendment of the plan that will change:
(i) the amount or kind of interests, securities, obligations, money, other property, rights to acquire interests or securities, or any combination of the foregoing, to be received by any of the interest holders of the domesticating limited liability company under the plan;
(ii) the certificate of organization or operating agreement of the domesticated limited liability company that will be in effect immediately after the domestication becomes effective, except for changes that do not require approval of the members of the domesticated limited liability company under its organic law or operating agreement; or
(iii) any other terms or conditions of the plan, if the change would adversely affect the interest holder in any material respect.
(2) After a plan of domestication has been approved by a domestic domesticating limited liability company and before a statement of domestication becomes effective, the plan may be abandoned as provided in the plan. Unless prohibited by the plan, a domestic domesticating limited liability company may abandon the plan in the same manner as the plan was approved.

(3) If a plan of domestication is abandoned after a statement of domestication has been delivered to the division for filing and before the statement of domestication becomes effective, a statement of abandonment, signed by the domesticating limited liability company, must be delivered to the division for filing before the time the statement of domestication becomes effective. The statement of abandonment takes effect on filing, and the domestication is abandoned and does not become effective. The statement of abandonment must contain:
(a) the name of the domesticating limited liability company;
(b) the date on which the statement of domestication was delivered to the division for filing; and
(c) a statement that the domestication has been abandoned in accordance with this section.

Enacted by Chapter 412, 2013 General Session

48-3a-1055 Statement of domestication.
(1) A statement of domestication must be signed by the domesticating limited liability company and delivered to the division for filing.
(2) A statement of domestication must contain:
(a) the name and jurisdiction of formation of the domesticating limited liability company;
(b) the name and jurisdiction of formation of the domesticated limited liability company;
(c) if the domesticating limited liability company is a domestic limited liability company, a statement that the plan of domestication was approved in accordance with Sections 48-3a-1051 through 48-3a-1056 or, if the domesticating limited liability company is a foreign limited liability company, a statement that the domestication was approved in accordance with the law of its jurisdiction of formation;
(d) the certificate of organization of the domesticated limited liability company, as an attachment; and
(e) if the domesticated foreign limited liability company is not a registered foreign limited liability company, a mailing address to which the division may send any process served on the division pursuant to Subsection 48-3a-1056(5).
(3) In addition to the requirements of Subsection (2), a statement of domestication may contain any other provision not prohibited by law.
(4) The certificate of organization of a domesticated domestic limited liability company must satisfy the requirements of the law of this state, but the certificate does not need to be signed.
(5) A plan of domestication that is signed by a domesticating domestic limited liability company and meets all the requirements of Subsection (2) may be delivered to the division for filing instead of a statement of domestication and on filing has the same effect. If a plan of domestication is filed as provided in this Subsection (5), references in this part to a statement of domestication refer to the plan of domestication filed under this Subsection (5).

Enacted by Chapter 412, 2013 General Session

48-3a-1056 Effect of domestication.
(1) When a domestication becomes effective:
(a) the domesticated limited liability company is:
(i) organized under and subject to the organic law of the domesticated limited liability company; and
(ii) the same entity without interruption as the domesticating limited liability company;
(b) all property of the domesticating limited liability company continues to be vested in the domesticated limited liability company without transfer, reversion, or impairment;

(c) all debts, obligations, and other liabilities of the domesticating limited liability company continue as debts, obligations, and other liabilities of the domesticated limited liability company;
(d) except as otherwise provided by law or the plan of domestication, all the rights, privileges, immunities, powers, and purposes of the domesticating limited liability company remain in the domesticated limited liability company;
(e) the name of the domesticated limited liability company may be substituted for the name of the domesticating limited liability company in any pending action or proceeding;
(f) the certificate of organization of the domesticated limited liability company is effective;
(g) the provisions of the operating agreement of the domesticated limited liability company that are to be in a record, if any, approved as part of the plan of domestication are effective; and
(h) the interests in the domesticating limited liability company are converted to the extent and as approved in connection with the domestication, and the members of the domesticating limited liability company are entitled only to the rights provided to them under the plan of domestication and to any appraisal rights they have under Section 48-3a-1008.

(2) Except as otherwise provided in the organic law or operating agreement of the domesticating limited liability company, the domestication does not give rise to any rights that a member, manager, or third party would have upon a dissolution, liquidation, or winding up of the domesticating limited liability company.

(3) When a domestication becomes effective, a person that did not have interest holder liability with respect to the domesticating limited liability company and becomes subject to interest holder liability with respect to a domestic limited liability company as a result of the domestication has interest holder liability only to the extent provided by the organic law of the domestic limited liability company and only for those debts, obligations, and other liabilities that arise after the domestication becomes effective.

(4) When a domestication becomes effective:
(a) The domestication does not discharge any interest holder liability under this chapter to the extent the interest holder liability arose before the domestication became effective.
(b) A person does not have interest holder liability under this part for any debts, obligations, and other liabilities that arise after the domestication becomes effective.
(c) A person has whatever rights of contribution from any other person as are provided by law other than this chapter, this chapter, or the operating agreement of a domestic domesticating limited liability company with respect to any interest holder liability preserved under Subsection (4)(a) as if the domestication had not occurred.

(5) When a domestication becomes effective, a foreign limited liability company that is the domesticated limited liability company may be served with process in this state for the collection and enforcement of any of its debts, obligations, and liabilities as provided in Section 16-17-301.

(6) If the domesticating limited liability company is a registered foreign limited liability company, the registration of the foreign limited liability company is canceled when the domestication becomes effective.

(7) A domestication does not require the limited liability company to wind up its affairs and does not constitute or cause the dissolution of the company.

Enacted by Chapter 412, 2013 General Session

Part 11
Professional Services Companies

48-3a-1101 Definitions.

As used in this part:

(1) "Professional services" means a personal service provided by:

(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;

(b) an architect holding a license under Title 58, Chapter 3a, Architects Licensing Act, or a subsequent law regulating the practice of architecture;

(c) an attorney granted the authority to practice law by the:

(i) Utah Supreme Court; or

(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:

(A) a supreme court;

(B) a court other than a supreme court;

(C) an agency;

(D) an instrumentality; or

(E) a regulating board;

(d) a chiropractor holding a license under Title 58, Chapter 73, Chiropractic Physician Practice Act, or any subsequent law regulating the practice of chiropractics;

(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;

(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;

(g) a naturopath holding a license under Title 58, Chapter 71, Naturopathic Physician Practice Act, or a subsequent law regulating the practice of naturopathy;

(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;

(i) an optometrist holding a license under Title 58, Chapter 16a, Utah Optometry Practice Act, or a subsequent law regulating the practice of optometry;

(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;

(k) a pharmacist holding a license under Title 58, Chapter 17b, Pharmacy Practice Act, or a subsequent law regulating the practice of pharmacy;

(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;

(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;

(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;

(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;

(p) a psychologist holding a license under Title 58, Chapter 61, Psychologist Licensing Act, or any subsequent law regulating the practice of psychology;

(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;
(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;
(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;
(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
(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.
(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.

Amended by Chapter 349, 2019 General Session

48-3a-1102 Application of this part.
(1) If a conflict arises between this part and another provision of this chapter, this part controls.
(2) Notwithstanding the other provisions of this part, on and after January 1, 2016:
(a) a professional services company may not designate series of transferable interests; and
(b) a limited liability company may not form a professional services company as a series of the limited liability company.

Enacted by Chapter 412, 2013 General Session

48-3a-1103 Additional requirements for certificate of organization.
The certificate of organization of a professional services company shall:
(1) comply with Section 48-3a-201; and
(2) contain the following:
(a) a name consistent with Section 48-3a-1104;
(b) a description of the profession to be practiced through the professional services company; and
(c) notwithstanding Section 48-3a-201, the name and street address of each member or manager of the professional services company.

Enacted by Chapter 412, 2013 General Session

48-3a-1104 Name limitations.
(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 and 48-3a-906:
(a) may not contain language stating or implying that it is formed for a purpose other than that authorized by:
(i) its certificate of organization; or
(ii) Section 48-3a-1106;

(b) must conform with any rule made by the regulating board having jurisdiction over a professional service described in the professional services company's certificate of organization; and
(c) in lieu of the requirement of Subsection 48-3a-108(1), must contain the words "professional limited liability company" or the abbreviations "P.L.L.C." or "PLLC" in:
(i) its certificate of organization; and
(ii) a report or document filed with the division.
(2) Notwithstanding Subsection (1)(c), a professional services company may hold itself 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).
(3) Sections 48-3a-108 and 48-3a-906 do not prevent the use of a name otherwise prohibited by those sections if the name is:
(a) the personal name of an individual member or individual former member of the professional services company; or
(b) the name of an individual who was associated with a predecessor of the professional services company.

Enacted by Chapter 412, 2013 General Session

48-3a-1105 Providing a professional service.
(1) Subject to Section 48-3a-1106, 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.
(2) Subsection (1) does not:
(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;
(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
(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.

Enacted by Chapter 412, 2013 General Session

48-3a-1106 Limit of one profession.
(1) A professional services company organized to provide a professional service under this part may provide only:
(a) one specific type of professional service; and
(b) services ancillary to the professional service described in Subsection (1)(a).
(2) A professional services company organized to provide a professional service under this part may not engage in a business other than to provide:
(a) the professional service that it was organized to provide; and
(b) services ancillary to the professional service described in Subsection (2)(a).
(3) Notwithstanding Subsections (1) and (2), a professional services company may:
(a) own real and personal property necessary or appropriate for providing the type of professional service it was organized to provide; and
(b) invest the professional services company's money in one or more of the following:
(i) real estate;

(ii) mortgages;
(iii) stocks;
(iv) bonds; or
(v) another type of investment.

Enacted by Chapter 412, 2013 General Session

48-3a-1107 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.

Enacted by Chapter 412, 2013 General Session

48-3a-1108 This part does not limit regulating board.

This part does not restrict the authority or duty of a regulating board to license an individual providing a professional service or the practice of the profession that is within the jurisdiction of the regulating board, notwithstanding that the individual:
(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.

Enacted by Chapter 412, 2013 General Session

48-3a-1109 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.

Enacted by Chapter 412, 2013 General Session

48-3a-1110 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).
(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.

Enacted by Chapter 412, 2013 General Session

Superseded 7/1/2024

48-3a-1111 Purchase of interest upon death, incapacity, or disqualification of member.

(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:
  (a) the certificate of organization;
  (b) the operating agreement; or
  (c) a private agreement.
(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.
(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.
(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), one of the following may bring an action in the district court of the county in which the principal office or place of practice of the professional services company is located to enforce Subsection (2):
  (a) the personal representative of a deceased member;
  (b) the guardian or conservator of an incapacitated member; or
  (c) the disqualified member.
(5) A court in which an action is brought under Subsection (4) may:
  (a) award the person bringing the action the reasonable fair market value of the interest; or
  (b) within its jurisdiction, order the liquidation of the professional services company.
(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.

Enacted by Chapter 412, 2013 General Session

Effective 7/1/2024

48-3a-1111 Purchase of interest upon death, incapacity, or disqualification of member.

(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:
  (a) the certificate of organization;
  (b) the operating agreement; or
  (c) a private agreement.
(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.

(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.
(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):
  (a) the personal representative of a deceased member;
  (b) the guardian or conservator of an incapacitated member; or
  (c) the disqualified member.
(5) A court in which an action is brought under Subsection (4) may:
  (a) award the person bringing the action the reasonable fair market value of the interest; or
  (b) within the court's jurisdiction, order the liquidation of the professional services company.
(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.

Amended by Chapter 401, 2023 General Session

48-3a-1112 Conversion to nonprofessional company.
(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:
  (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
  (b) all members entitled to vote on or consent to any matter consent not to be a professional services company subject to this part.
(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.
(3) A limited liability company resulting from a conversion under this section may reconvert to a professional services company:
  (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
  (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.
(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.

Enacted by Chapter 412, 2013 General Session

Part 12
Series Limited Liability Companies

48-3a-1201 Series of transferable interests.

(1) 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. The name of each series must contain the name of the limited liability company and be distinguishable from the name of any other series.
(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:
  (a) the series is established by or in accordance with the operating agreement;
  (b) separate and distinct records are maintained for the series;
  (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;
  (d) the operating agreement or the agreement establishing the series provides for the limitation on liabilities of the series; and
  (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.
(3) A series meeting all of the conditions of Subsection (2) shall:
  (a) be treated as a separate entity to the extent set forth in the certificate of organization; and
  (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.
(4) Notwithstanding the other provisions of this section:
  (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
  (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.
(5) Notwithstanding the other provisions of this part:
  (a) a professional services company may not designate a series of transferable interests; and
  (b) a limited liability company may not form a professional services company as a series of the limited liability company.
(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 managers, members, and transferees, shall be applicable to each series with respect to the operations of such a series.

Enacted by Chapter 412, 2013 General Session

48-3a-1202 Notice of limitation on liability of a series.

(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) 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.

(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.

(2) The notice of a limitation on liability of a series as referenced in Subsection 48-3a-1201(2)(e) is not required to reference a specific series.

(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.

Amended by Chapter 227, 2015 General Session

48-3a-1203 Agreement to be liable.

Notwithstanding Section 48-3a-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.

Enacted by Chapter 412, 2013 General Session

48-3a-1204 Series related provisions in operating agreement.

(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.

(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.

(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.

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

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

(a) a per capita basis;

(b) a number basis;

(c) on the basis of a financial interest; or

(d) by class or group.

Enacted by Chapter 412, 2013 General Session

48-3a-1205 Management of a series.

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

(a) expressly provides that:

(i) the series is or will be "manager-managed";
(ii) the series is or will be "managed by managers"; or
(iii) management of the series is or will be "vested in managers"; or
(b) includes words of similar import.

(2) In a member-managed series, unless modified pursuant to Section 48-3a-1204, the following rules apply:
(a) The management and conduct of the series are vested in the members of the series.
(b) Each series member has equal rights in the management and conduct of the series' activities.
(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.
(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.
(e) The operating agreement may be amended only with the consent of all members of the series.

(3) In a manager-managed series, the following rules apply:
(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.
(b) Each series manager has equal rights in the management and conduct of the activities of the series.
(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.
(d) Unless modified pursuant to Section 48-3a-1204, the consent of all members of the series is required to:
(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;
(ii) approve a transaction under Part 10, Merger, Interest Exchange, Conversion, and Domestication;
(iii) undertake any other act outside the ordinary course of the series' activities; and
(iv) amend the operating agreement as it pertains to the series.
(e) 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. A series manager may be removed at any time by the consent of a majority of the members without notice or cause.
(f) 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. 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.
(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.

(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.

(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.

(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.

Enacted by Chapter 412, 2013 General Session

48-3a-1206 Series distributions.

(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 and any charging order in effect under Section 48-3a-503.

(2) 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. A person's dissociation with respect to a series does not entitle the person to a distribution.

(3) A person does not have a right to demand or receive a distribution from a series in any form other than money. Except as otherwise provided in Subsection 48-3a-711(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.

(4) 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. 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.

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

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

(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.

(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.

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

(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

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

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

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

(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.

(9) 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. 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.
(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, 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.
(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.
(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.
(13) A person against which an action is commenced because the person is liable under Subsection (10) may:
  (a) implead any other person that is liable under Subsection (10) and seek to compel contribution from the person; and
  (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).
(14) An action under this section is barred if not commenced within two years after the distribution.

Enacted by Chapter 412, 2013 General Session

48-3a-1207 Events causing dissociation from a series.

(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.
(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:
  (a) cause the member to cease to be associated with another series;
  (b) terminate the continued membership of a member in the limited liability company; or
  (c) cause the termination of the series, regardless of whether the member is the last remaining member associated with the series.

Enacted by Chapter 412, 2013 General Session

48-3a-1208 Dissolution of a series.

(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.
(2) The dissolution of a series does not affect the limitation on liabilities of the series under Section 48-3a-1201.
(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 or upon the occurrence of any of the events described in Section 48-3a-701, as applied to the series.
(4) Notwithstanding Section 48-3a-703, unless otherwise provided in the operating agreement, any of the following persons may wind up the affairs of a dissolved series:
  (a) a manager associated with a series who has not wrongfully caused the dissolution of the series;
  (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
  (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:
    (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
    (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.
(5) 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 for a limited liability company. 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 for a limited liability company and distribute the assets of the series as provided in Section 48-3a-711 for a limited liability company. 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.

Enacted by Chapter 412, 2013 General Session

48-3a-1209 Foreign limited liability company -- Series.

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. In addition, 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. 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 48-3a-1202 as a notice of limitation on liability of a series set forth in a limited liability company's certificate of organization.

Enacted by Chapter 412, 2013 General Session

Part 13
Low-Profit Limited Liability Companies

48-3a-1301 Application of this part.

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

Enacted by Chapter 412, 2013 General Session

48-3a-1302 Requirements.

(1) To be a low-profit limited liability company, a limited liability company shall:
  (a) contain in its name the abbreviation "L3C" or "l3c";
  (b) state in its certificate of organization that it is a low-profit limited liability company;
  (c) organize under this chapter; and
  (d) be organized for a business purpose that satisfies, and at all times operates to satisfy each of the requirements under Subsection (2).
(2) A low-profit limited liability company:
  (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;
  (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;
  (c) subject to Subsection (3), may not have as a significant purpose the production of income or the appreciation of property; and
  (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.
(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.

Enacted by Chapter 412, 2013 General Session

48-3a-1303 Ceasing to be a low-profit limited liability company.

(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, 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 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 name to conform with Section 48-3a-108; and
(b) amend its certificate of organization in accordance with Section 48-3a-202.

Enacted by Chapter 412, 2013 General Session

48-3a-1304 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, to the same extent as a limited liability company that is not a low-profit limited liability company.

Enacted by Chapter 412, 2013 General Session

Part 14
Miscellaneous Provisions

48-3a-1401 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 subject matter among states that enact the uniform act upon which this chapter is based.

Enacted by Chapter 412, 2013 General Session

48-3a-1402 Severability clause.

If any provision of this chapter or its 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.

Enacted by Chapter 412, 2013 General Session

48-3a-1403 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).

Enacted by Chapter 412, 2013 General Session

48-3a-1404 Savings clause.

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

Enacted by Chapter 412, 2013 General Session

48-3a-1405 Application to existing relationships.

(1) Before January 1, 2016, this chapter governs only:
  (a) a limited liability company formed on or after January 1, 2014; and
  (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.
(2) Except as otherwise provided in Subsection (3), on and after January 1, 2016, this chapter governs all limited liability companies.
(3) For the purposes of applying this chapter to a limited liability company formed before January 1, 2014:
  (a) the limited liability company's articles of organization are deemed to be the limited liability company's certificate of organization;
  (b) for the purposes of applying Subsection 48-3a-102(15) and subject to Subsection 48-3a-114(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
  (c)
    (i) the limited liability company has perpetual duration unless otherwise stated in the limited liability company's articles of organization; and
    (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.

Amended by Chapter 165, 2024 General Session

Chapter 4
Benefit Limited Liability Company Act

Part 1
General Provisions

48-4-101 Title.

This chapter is known as the "Benefit Limited Liability Company Act."

Enacted by Chapter 201, 2018 General Session

48-4-102 Application and effect of chapter.

(1) This chapter applies to a benefit company organized under this chapter.
(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.
  (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.
(3)

(a) Except as otherwise provided in this chapter, Title 48, Chapter 3a, Utah Revised Uniform Limited Liability Company Act, applies to a benefit company.
(b) The provisions of this chapter control over any inconsistent provision of Title 48, Chapter 3a, Utah Revised Uniform Limited Liability Company Act.
(4) The operating agreement of a benefit company may not limit, be inconsistent with, or supersede a provision of this chapter.

Amended by Chapter 136, 2019 General Session

48-4-103 Definitions.

As used in this chapter:
(1) "Benefit company" means a limited liability company:
(a) that elects to become subject to this chapter; and
(b) the status of which as a benefit company has not been terminated.
(2) "Benefit enforcement proceeding" means a proceeding in a court of competent jurisdiction for:
(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
(b) a violation of an obligation, duty, or standard of conduct under this chapter.
(3) "General public benefit" means a material positive impact on society and the environment:
(a) taken as a whole;
(b) assessed against a third-party standard; and
(c) from the business of a benefit company.
(4) "Immediate family member" means a parent, spouse, surviving spouse, child, or sibling.
(5)
(a) "Independent person" means a person who has no material relationship with a benefit company or a subsidiary of the benefit company.
(b) "Independent person" does not include a person:
(i) who is, or has been within the last three years, an employee of the benefit company or a subsidiary of the benefit company;
(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;
(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
(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.
(6) "Minimum status vote" means:
(a) in the case of a limited liability company, in addition to any other required approval or vote, the satisfaction of the following conditions:
(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
(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
(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:

(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

(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.

(7) "Owns" includes ownership as the owner of record or as a beneficial owner.

(8) "Specific public benefit" includes:

(a) providing low-income or underserved individuals or communities with beneficial products or services;

(b) promoting economic opportunity for individuals or communities beyond the creation of jobs in the normal course of business;

(c) protecting or restoring the environment;

(d) improving human health;

(e) promoting the arts, sciences, or advancement of knowledge;

(f) increasing the flow of capital to entities with a purpose to benefit society or the environment; and

(g) conferring any other particular benefit on society or the environment.

(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.

(10) "Third-party standard" means a standard for defining, reporting, and assessing overall social and environmental performance that:

(a) assesses the effect of a business and a business's operations on the interests described in Subsections 48-4-301(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.

Enacted by Chapter 201, 2018 General Session

48-4-104 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, except the certificate of organization shall state that the limited liability company is a benefit company.

(2)

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

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

(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.

(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 to delete the provision described in Subsection (1) or (2) that states that the limited liability company is a benefit company.

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

(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.

(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.

Enacted by Chapter 201, 2018 General Session

48-4-105 Benefit company name.

(1) The name of a benefit company may contain the words "benefit limited liability company," "benefit limited company," or "benefit company" or the abbreviation "B.L.L.C.," "BLLC," "B.L.C.," or "BLC." "Limited" may be abbreviated as "Ltd.," and "company" may be abbreviated as "Co."

(2) A benefit company that complies with Subsection (1) satisfies the requirement described in Subsection 48-3a-108(1).

Enacted by Chapter 201, 2018 General Session

Part 2
Company Purposes

48-4-201 Company purpose.

(1) In addition to the benefit company's purpose under Section 48-3a-104, a benefit company shall have a purpose of creating general public benefit.

(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.

(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).

(3) The creation of general public benefit and one or more specific public benefits is in the best interests of the benefit company.

(4)

(a) A benefit company may amend the benefit company's certificate or organization to add, amend, or delete a specific public benefit.

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

Enacted by Chapter 201, 2018 General Session

Part 3
Accountability

48-4-301 Standard of conduct for members.

(1) When discharging a duty under this chapter, each member of a member-managed benefit company:

(a) shall consider the effect of any action or inaction on:

(i) the members of the benefit company;

(ii) the employees and workforce of the benefit company;

(iii) the interests of customers as beneficiaries of the benefit company's general public benefit purpose or specific public benefit purpose;

(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;

(v) the local and global environment;

(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

(vii) the ability of the benefit company to accomplish the benefit company's general public benefit purpose and any specific public benefit purpose; and

(b) may consider other pertinent factors or the interests of any other group that the member considers appropriate.

(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 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.
(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.
(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.

Amended by Chapter 136, 2019 General Session

48-4-302 Standard of conduct for managers and officers.
(1) Each manager of a manager-managed benefit company shall consider the interests and factors described in Subsections 48-4-301(1) and (2) when discharging the manager's duties under this chapter and the operating agreement.
(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) and (2) when discharging the person's duties under this chapter and the operating agreement if:
  (a) the officer has discretion to act with respect to the matter; and
  (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.
(3) A manager's consideration of the interests and factors described in Subsections 48-4-301(1) and (2) does not constitute a violation of Section 48-3a-409.
(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.

Enacted by Chapter 201, 2018 General Session

48-4-303 Right of action.
(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:
  (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
  (b) violation of a duty or standard of conduct under this chapter.
(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.
(3) Only the following may commence or maintain a benefit enforcement proceeding:
  (a) the benefit company, directly; or
  (b) one or more of the following, derivatively:
    (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;
    (ii) a manager of a manager-managed benefit company;

(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
(iv) any person or group of persons specified in the benefit company's certificate of organization or operating agreement.

Enacted by Chapter 201, 2018 General Session

Part 4
Transparency

48-4-401 Annual benefit report.
(1) A benefit company shall prepare an annual benefit report that includes:
(a) a narrative description of:
(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;
(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;
(iii) any circumstances that have hindered the benefit company's creation of general public benefit or any specific public benefit; and
(iv) the process and rationale for selecting or changing the third-party standard used to prepare the benefit report;
(b) an assessment of the overall social and environmental performance of the benefit company against a third-party standard:
(i) applied consistently with any application of the standard in prior benefit reports; or
(ii) accompanied by an explanation of the reasons for any inconsistent application; and
(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.
(2) The assessment described in Subsection (1)(b) does not need to be audited or certified by a third party.

Enacted by Chapter 201, 2018 General Session

48-4-402 Availability of annual benefit report.
(1) Each year, a benefit company shall send the benefit report described in Section 48-4-401 to each member:
(a) within 120 days after the day on which the benefit company's fiscal year ends; or
(b) the day on which the benefit company delivers any other annual report to the benefit company's members.
(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:
(i) subject to Subsection (2)(b), post a copy of the benefit report on a public portion of the benefit company's website; and
(ii) deliver a copy of the benefit report to the division for filing.
(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.
(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).
(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.

Enacted by Chapter 201, 2018 General Session

Chapter 5
Decentralized Autonomous Organization Act

Part 1
General Provisions

48-5-101 Definitions.

As used in this chapter:
(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.
(2) "Asset" means an item of value, whether on-chain or off-chain.
(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.
(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.
(5) "Decentralized" means that decision-making is distributed among multiple persons.
(6) "Decentralized autonomous organization" means an organization:
(a) created by one or more smart contracts;
(b) that implements rules enabling individuals to coordinate for decentralized governance of an organization; and
(c) that is an entity formed under this chapter.
(7)
(a) "Developer" means a person involved in the development or maintenance of a decentralized autonomous organization.
(b) "Developer" includes a person that provides:
(i) software code; or
(ii) design, business, legal, or ancillary support.
(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.
(b) "Dispute resolution mechanism" includes:
(i) arbitration;
(ii) expert determination; or
(iii) an on-chain alternative court system.
(9) "Division" means the Division of Corporations and Commercial Code.
(10) "Failure event" means an error in the decentralized autonomous organization's software code or an exploit that:
(a) renders the decentralized autonomous organization inoperative; or
(b) fundamentally changes the expected operation of the decentralized autonomous organization.
(11) "Graphical user interface" means a publicly accessible interface through which a person interacts with computer software through visual indicator representations.
(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.
(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.
(14) "Majority chain" means the version of the blockchain accepted by more than half of the blockchain's validators following a hard fork.
(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.
(16)
(a) "Member" means a person who has governance rights in a decentralized autonomous organization.
(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.
(17) "Minority chain" means the version of the chain that is not the majority chain following a hard fork.
(18) "Off-chain" means any action that is not on-chain.
(19) "On-chain" means any action that is recorded and verified on a blockchain.
(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.
(21) "Organizer" means a person that submits the certificate of filing as required in Section 48-5-201.
(22) "Participant" means a person that:
(a) is not a member of a decentralized autonomous organization; and
(b) holds or interacts with a token of a decentralized autonomous organization.
(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.
(24) "Public address" means a unique, durable identifier that an individual can transact with on a permissionless blockchain.

(25) "Public forum" means a freely accessible online environment that is commonly used for the exercise of speech and public debate.
(26) "Public signal" means a declaration authorized by the decentralized autonomous organization in a public forum.
(27) "Quality assurance" means a security review of the software code of the decentralized autonomous organization in accordance with industry standards.
(28) "Redeem" means to exchange a token for the value that the token represents.
(29) "Smart contract" means software code that:
(a) is deployed on a permissionless blockchain;
(b) consists of a set of predefined instructions executed in a distributed manner by the nodes of an underlying blockchain network; and
(c) produces a change on the blockchain network.
(30) "Token" means a record on a permissionless blockchain that represents an asset, participation right, or other entitlement.
(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.

Enacted by Chapter 85, 2023 General Session

48-5-102 Governing document hierarchy -- Governing law.

A decentralized autonomous organization shall be governed by the following, listed in order of primacy:
(1) this act;
(2) the by-laws of the decentralized autonomous organization;
(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; and
(4) principles of law and equity.

Enacted by Chapter 85, 2023 General Session

48-5-103 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 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.

Amended by Chapter 161, 2024 General Session

48-5-104 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.

Enacted by Chapter 85, 2023 General Session

48-5-105 Permitted names.

(1)
(a) The name of a limited liability decentralized autonomous organization shall contain the words limited liability decentralized autonomous organization or limited decentralized autonomous organization or the abbreviation L.L.D., LLD, L.D., or LD.
(b) Limited may be abbreviated as Ltd., and decentralized autonomous organization may be abbreviated as DAO.
(2) Except as authorized by Subsection (3), the name of a decentralized autonomous organization shall be distinguishable as defined in Subsection (4) upon the records of the division from:
(a) the actual name, reserved name, or fictitious or assumed name of any entity registered with the division; or
(b) any tradename, trademark, or service mark registered with the division.
(3)
(a) A decentralized autonomous organization may apply to the division for approval to reserve a name that is not distinguishable upon the division's records from one or more of the names described in Subsection (2).
(b) The division shall approve the name for which the decentralized autonomous organization applies under Subsection (3)(a) if:
(i) the other person with a name that is not distinguishable from the name under which the applicant desires to file:
(A) consents to the filing in writing; and
(B) files a form approved by the division to change the person's name to a name that is distinguishable from the name of the applicant; or
(ii) the applicant delivers to the division a certified copy of the final judgment of a court of competent jurisdiction establishing the applicant's right to use the name in this state.
(4) A name is distinguishable from other names, trademarks, and service marks registered with the division if the name contains one or more different words, letters, or numerals from other names upon the division's records.
(5) The following differences are not distinguishing:
(a) the term:
(i) decentralized autonomous organization;
(ii) DAO;
(iii) limited liability decentralized autonomous organization;
(iv) L.L.D. or L.L.DAO; or
(v) L.D. or L.DAO;
(b) an abbreviation of a word listed in Subsection (5)(a);

(c) the presence or absence of the words or symbols of the words "the," "and," "a," or "plus";
(d) differences in punctuation and special characters;
(e) differences in capitalization; or
(f) differences in singular and plural forms of words.

(6) The division may not approve for filing a name that implies that a decentralized autonomous organization is an agency of this state or any of the state's political subdivisions, if the decentralized autonomous organization is not actually such a legally established agency or subdivision.

(7) The authorization to reserve or register a decentralized autonomous organization name as granted by the division does not:
(a) abrogate or limit the law governing unfair competition or unfair trade practices;
(b) derogate from the common law, the principles of equity, or the statutes of this state or of the United States with respect to the right to acquire and protect names and trademarks; or
(c) create an exclusive right in geographic or generic terms contained within a name.

(8) The name of a decentralized autonomous organization may not contain:
(a) the term:
(i) association;
(ii) corporation;
(iii) incorporated;
(iv) partnership;
(v) limited liability company;
(vi) limited partnership; or
(vii) L.P.;
(b) any word or abbreviation that is of like import to the terms listed in Subsection (8)(a);
(c) without the written consent of the United States Olympic Committee, the words:
(i) Olympic;
(ii) Olympiad; or
(iii) Citius Altius Fortius; or
(d) the number sequence 911.

(9) A person, other than a decentralized autonomous organization formed under this chapter or another decentralized autonomous organization that is authorized to transact business in this state, may not use in the person's name in this state the term:
(a) limited liability decentralized autonomous organization;
(b) limited decentralized autonomous organization;
(c) L.L.DAO or L.L.D; or
(d) L.DAO or L.D.

Amended by Chapter 161, 2024 General Session

48-5-106 Registered agent.

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

Enacted by Chapter 85, 2023 General Session

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:

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

Enacted by Chapter 85, 2023 General Session

48-5-108 Certificates issued by the division.

(1) Any person may apply to the division for:
  (a) a certificate of existence for a decentralized autonomous organization; or
  (b) a certificate that sets forth any facts of record in the division.
(2) A certificate of existence or certificate of authorization sets forth:
  (a) the decentralized autonomous organization's name;
  (b) that the decentralized autonomous organization is recognized under the law of this state;
  (c) the date of the decentralized autonomous organization's formation;
  (d) that articles of dissolution have not been filed by the division; and
  (e) other facts of record in 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.

Enacted by Chapter 85, 2023 General Session

48-5-109 Electronic documents.

(1) Subject to Section 48-5-107, the division shall by rule permit a writing required or permitted to be filed with the division under this chapter:
  (a) to be delivered, mailed, or filed:
    (i) in an electronic medium; or
    (ii) by electronic transmission; or
  (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.
(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:
  (a) in an electronic medium; or
  (b) by electronic transmission.

Enacted by Chapter 85, 2023 General Session

Part 2
Formation

48-5-201 Formation requirements.

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

(2)
(a) A certificate of organization shall provide:
(i) the name of the decentralized autonomous organization, which shall comply with Section 48-5-105;
(ii) the name of an organizer that is an individual;
(iii) the street and mailing address of the organizer described in Subsection (2)(a)(ii);
(iv) the name and address of the legal representative; and
(v) the information required by Subsection 16-17-203(1).
(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.
(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:
(a) the decentralized autonomous organization is deployed on a permissionless blockchain;
(b) the decentralized autonomous organization has a unique public address through which an individual can review and monitor the decentralized autonomous organization's transactions;
(c) the software code of the decentralized autonomous organization is available in a public forum for any person to review;
(d) the software code of the decentralized autonomous organization has undergone quality assurance;
(e) the decentralized autonomous organization has a graphical user interface that:
(i) allows a person to read the value of the key variables of the decentralized autonomous organization's smart contracts;
(ii) allows a person to monitor all transactions originating from, or addressed to, the decentralized autonomous organization's smart contracts;
(iii) specifies the restrictions on a member's ability to redeem tokens;
(iv) makes available the decentralized autonomous organization's by-laws; and
(v) displays the mechanism to contact the administrator of the decentralized autonomous organization;
(f) the governance system of the decentralized autonomous organization is decentralized;
(g) the decentralized autonomous organization has at least one member;
(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
(ii) a member or administrator of the decentralized autonomous organization is able to access the contents of this communication mechanism; and
(i) the decentralized autonomous organization describes or provides a dispute resolution mechanism that is:
(i) binding on the decentralized autonomous organization, the members, and participants of the decentralized autonomous organization; and
(ii) able to resolve disputes with third parties capable of settlement by alternative dispute resolution.
(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.

(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).
(6) Upon formation, the decentralized autonomous organization shall have limited liability, subject to the provisions of Section 48-5-202.

Amended by Chapter 161, 2024 General Session

48-5-202 Limited liability.
(1) Except as set forth in Subsections (2) and (3), a member:
  (a) may only be liable for the on-chain contributions that the member has committed to the decentralized autonomous organization;
  (b) may not be held personally liable for any excess liability after the decentralized autonomous organization's assets have been exhausted;
  (c) may not be held personally liable for any obligation incurred by the decentralized autonomous organization; and
  (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.
(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.
(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.

Enacted by Chapter 85, 2023 General Session

48-5-203 By-laws.
(1) A decentralized autonomous organization shall adopt by-laws that establish internal organization and procedures for the decentralized autonomous organization.
(2) The by-laws shall be set out in plain terms.
(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.

Enacted by Chapter 85, 2023 General Session

48-5-204 Annual report to the division.
(1) A decentralized autonomous organization shall deliver to the division for filing an annual report that states:
  (a) the name of the decentralized autonomous organization; and
  (b) the information required by Subsection 16-17-203(1).
(2) Information in the annual report must be current as of the date the report is signed by the decentralized autonomous organization.
(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.

Enacted by Chapter 85, 2023 General Session

Part 3
Members

48-5-301 Classes of participation rights -- Membership.

(1) A decentralized autonomous organization's by-laws may create multiple classes of member participation rights.

(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:

(a) from the time the ownership of the tokens is established to be in the possession of an address; or

(b) from the time when ownership is first acknowledged by the token holder through an on-chain interaction with the decentralized autonomous organization.

(3) This section does not apply in the event of a hard fork.

Enacted by Chapter 85, 2023 General Session

48-5-302 Voting rights.

(1) The by-laws shall set out the distribution of voting rights for the classes of member participation rights in a decentralized autonomous organization.

(2) The method by which these voting rights are computed and distributed shall be set out in the by-laws.

Enacted by Chapter 85, 2023 General Session

48-5-303 Proxies.

(1) A member may be represented by a proxy.

(2) The by-laws of a decentralized autonomous organization may establish the requirements for representation by proxy.

(3) A proxy may exercise all rights of a member.

Enacted by Chapter 85, 2023 General Session

48-5-304 Minority rights protection.

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

Enacted by Chapter 85, 2023 General Session

48-5-305 Administrators.

(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.

(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.
(3) The voting mechanism for nominating and appointing an administrator shall be set out in the decentralized autonomous organization's by-laws.

Enacted by Chapter 85, 2023 General Session

48-5-306 Legal representation.
(1) A decentralized autonomous organization shall retain a legal representative to undertake tasks that cannot be achieved on-chain.
(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.
(3) The legal representative may undertake and execute any and all acts and contracts included within the scope of such authorization.
(4) The legal representative may not be required to reside in Utah.
(5) A legal representative may not be personally liable for acts performed on behalf of the decentralized autonomous organization.

Enacted by Chapter 85, 2023 General Session

48-5-307 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:
(1) explicitly holds themselves out as a fiduciary; or
(2) stipulates to assume a fiduciary status as provided in the decentralized autonomous organization's by-laws.

Enacted by Chapter 85, 2023 General Session

Part 4
Miscellaneous Provisions

48-5-401 Asset subscription and payment.
(1) No minimum capital requirements may apply to a decentralized autonomous organization recognized by this act.
(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.
(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.
(4) No member may compel the dissolution of the decentralized autonomous organization for failure to return the member's on-chain contribution.

Enacted by Chapter 85, 2023 General Session

48-5-402 Meetings.

(1) A decentralized autonomous organization may hold meetings as provided in the decentralized autonomous organization's by-laws.
(2) Unless explicitly specified in the by-laws, meetings are not required to be in person.
(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.
(4) Notice of any required meeting shall be communicated through a graphical user interface.
(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.

Enacted by Chapter 85, 2023 General Session

48-5-403 Contentious forks in the underlying blockchain.

(1) Except as provided in this section, in the event of a hard fork in the underlying permissionless blockchain:
  (a) the legal representation of the decentralized autonomous organization remains on the majority chain; and
  (b) any off-chain assets shall belong to the decentralized autonomous organization on the majority chain.
(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.
  (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.
(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.
(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.

Enacted by Chapter 85, 2023 General Session

48-5-404 Restructuring.

(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:
  (a) the new software code of the decentralized autonomous organization fulfills all the formation requirements of Section 48-5-201; and
  (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.

(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.

Enacted by Chapter 85, 2023 General Session

48-5-405 Failure event.

(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.
(2) A failure event may trigger liability on the person deploying or upgrading the decentralized autonomous organization if that person:
  (a) acted in bad faith; or
  (b) engaged in gross negligence.

Enacted by Chapter 85, 2023 General Session

48-5-406 Taxation.

(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.
(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.
  (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.

Enacted by Chapter 85, 2023 General Session