

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

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

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

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

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

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

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

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

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

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

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

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

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 not later than two years after the effective date of the revocation. The application must state:
 - (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) 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.

- (3) If the division determines that the application contains the information required by Subsection (1), is satisfied that the information is correct, and determines that all payments required to be made to the division by Subsection (2) 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.
- (4) 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.

Enacted by Chapter 412, 2013 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 its name and submits an undertaking in a form satisfactory to the division to change its 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", "LLLLP", "L.L.L.P.", "registered limited liability limited partnership", "RLLLLP", "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 its 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 its 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 its political subdivisions, if it 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:
- abrogate or limit the law governing unfair competition or unfair trade practices;
 - 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
 - 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:
- the words:
 - "association";
 - "corporation";
 - "incorporated";
 - "limited liability company";
 - "limited company";
 - "limited partnership"; or
 - "Ltd.";
 - any word or abbreviation that is of like import to the words listed in Subsection (9)(a);
 - without the written consent of the United States Olympic Committee, the words:
 - "Olympic";
 - "Olympiad"; or
 - "Citius Altius Fortius"; and
 - without the written consent of the Division of Consumer Protection issued in accordance with Section 13-34-114 the words:
 - "university";
 - "college"; or
 - "institute" or "institution".

Enacted by Chapter 412, 2013 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

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

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