

Part 11

Merger, Interest Exchange, Conversion, and Domestication

48-2e-1101 Definitions.

In this part:

- (1) "Acquired entity" means the entity, all of one or more classes or series of interests in which are acquired in an interest exchange.
- (2) "Acquiring entity" means the entity that acquires all of one or more classes or series of interests of the acquired entity in an interest exchange.
- (3) "Conversion" means a transaction authorized by Sections 48-2e-1141 through 48-2e-1146.
- (4) "Converted entity" means the converting entity as it continues in existence after a conversion.
- (5) "Converting entity" means the domestic entity that approves a plan of conversion pursuant to Section 48-2e-1143 or the foreign entity that approves a conversion pursuant to the law of its jurisdiction of formation.
- (6) "Distributional interest" means the right under an unincorporated entity's organic law and organic rules to receive distributions from the entity.
- (7) "Domestic," with respect to an entity, means governed as to its internal affairs by the law of this state.
- (8) "Domesticated limited partnership" means the domesticating limited partnership as it continues in existence after a domestication.
- (9) "Domesticating limited partnership" means the domestic limited partnership that approves a plan of domestication pursuant to Section 48-2e-1153 or the foreign limited partnership that approves a domestication pursuant to the law of its jurisdiction of formation.
- (10) "Domestication" means a transaction authorized by Sections 48-2e-1151 through 48-2e-1156.
- (11) "Entity":
 - (a) means:
 - (i) a business corporation;
 - (ii) a nonprofit corporation;
 - (iii) a general partnership, including a limited liability partnership;
 - (iv) a limited partnership, including a limited liability limited partnership;
 - (v) a limited liability company;
 - (vi) a limited cooperative association;
 - (vii) an unincorporated nonprofit association;
 - (viii) a statutory trust, business trust, or common-law business trust; or
 - (ix) any other person that has:
 - (A) a legal existence separate from any interest holder of that person; or
 - (B) the power to acquire an interest in real property in its own name; and
 - (b) does not include:
 - (i) an individual;
 - (ii) a trust with a predominantly donative purpose, or a charitable trust;
 - (iii) an association or relationship that is not a partnership solely by reason of Subsection 48-1d-202(3) or a similar provision of the law of another jurisdiction;
 - (iv) a decedent's estate; or
 - (v) a government or a governmental subdivision, agency, or instrumentality.
- (12) "Filing entity" means an entity whose formation requires the filing of a public organic record.
- (13) "Foreign," with respect to an entity, means an entity governed as to its internal affairs by the law of a jurisdiction other than this state.

- (14) "Governance interest" means a right under the organic law or organic rules of an unincorporated entity, other than as a governor, agent, assignee, or proxy, to:
- (a) receive or demand access to information concerning, or the books and records of, the entity;
 - (b) vote for or consent to the election of the governors of the entity; or
 - (c) receive notice of or vote on or consent to an issue involving the internal affairs of the entity.
- (15) "Governor" means:
- (a) a director of a business corporation;
 - (b) a director or trustee of a nonprofit corporation;
 - (c) a general partner of a general partnership;
 - (d) a general partner of a limited partnership;
 - (e) a manager of a manager-managed limited liability company;
 - (f) a member of a member-managed limited liability company;
 - (g) a director of a limited cooperative association;
 - (h) a manager of an unincorporated nonprofit association;
 - (i) a trustee of a statutory trust, business trust, or common-law business trust; or
 - (j) any other person under whose authority the powers of an entity are exercised and under whose direction the activities and affairs of the entity are managed pursuant to the organic law and organic rules of the entity.
- (16) "Interest" means:
- (a) a share in a business corporation;
 - (b) a membership in a nonprofit corporation;
 - (c) a partnership interest in a general partnership;
 - (d) a partnership interest in a limited partnership;
 - (e) a membership interest in a limited liability company;
 - (f) a member's interest in a limited cooperative association;
 - (g) a membership in an unincorporated nonprofit association;
 - (h) a beneficial interest in a statutory trust, business trust, or common-law business trust; or
 - (i) a governance interest or distributional interest in any other type of unincorporated entity.
- (17) "Interest exchange" means a transaction authorized by Sections 48-2e-1131 through 48-2e-1136.
- (18) "Interest holder" means:
- (a) a shareholder of a business corporation;
 - (b) a member of a nonprofit corporation;
 - (c) a general partner of a general partnership;
 - (d) a general partner of a limited partnership;
 - (e) a limited partner of a limited partnership;
 - (f) a member of a limited liability company;
 - (g) a member of a limited cooperative association;
 - (h) a member of an unincorporated nonprofit association;
 - (i) a beneficiary or beneficial owner of a statutory trust, business trust, or common-law business trust; or
 - (j) any other direct holder of an interest.
- (19) "Interest holder liability" means:
- (a) personal liability for a liability of an entity which is imposed on a person:
 - (i) solely by reason of the status of the person as an interest holder; or
 - (ii) by the organic rules of the entity which make one or more specified interest holders or categories of interest holders liable in their capacity as interest holders for all or specified liabilities of the entity; or

- (b) an obligation of an interest holder under the organic rules of an entity to contribute to the entity.
- (20) "Jurisdiction of formation" means the jurisdiction whose law includes the organic law of an entity.
- (21) "Merger" means a transaction authorized by Sections 48-2e-1121 through 48-2e-1126.
- (22) "Merging entity" means an entity that is a party to a merger and exists immediately before the merger becomes effective.
- (23) "Organic law" means the law of an entity's jurisdiction of formation governing the internal affairs of the entity.
- (24) "Organic rules" means the public organic record and private organic rules of an entity.
- (25) "Plan" means a plan of merger, plan of interest exchange, plan of conversion, or plan of domestication.
- (26) "Plan of conversion" means a plan under Section 48-2e-1142.
- (27) "Plan of domestication" means a plan under Section 48-2e-1152.
- (28) "Plan of interest exchange" means a plan under Section 48-2e-1132.
- (29) "Plan of merger" means a plan under Section 48-2e-1122.
- (30) "Private organic rules" means the rules, whether or not in a record, that govern the internal affairs of an entity, are binding on all its interest holders, and are not part of its public organic record, if any. The term includes:
 - (a) the bylaws of a business corporation;
 - (b) the bylaws of a nonprofit corporation;
 - (c) the partnership agreement of a general partnership;
 - (d) the partnership agreement of a limited partnership;
 - (e) the operating agreement of a limited liability company;
 - (f) the bylaws of a limited cooperative association;
 - (g) the governing principles of an unincorporated nonprofit association; and
 - (h) the trust instrument of a statutory trust or similar rules of a business trust or a common-law business trust.
- (31) "Protected agreement" means:
 - (a) a record evidencing indebtedness and any related agreement in effect on January 1, 2014;
 - (b) an agreement that is binding on an entity on January 1, 2014;
 - (c) the organic rules of an entity in effect on January 1, 2014; or
 - (d) an agreement that is binding on any of the governors or interest holders of an entity on January 1, 2014.
- (32) "Public organic record" means the record, the filing of which by the division is required to form an entity, and any amendment to or restatement of that record. The term includes:
 - (a) the articles of incorporation of a business corporation;
 - (b) the articles of incorporation of a nonprofit corporation;
 - (c) the certificate of limited partnership of a limited partnership;
 - (d) the certificate of organization of a limited liability company;
 - (e) the articles of organization of a limited cooperative association; and
 - (f) the certificate of trust of a statutory trust or similar record of a business trust.
- (33) "Registered foreign entity" means a foreign entity that is registered to do business in this state pursuant to a record filed by the division.
- (34) "Statement of conversion" means a statement under Section 48-2e-1145.
- (35) "Statement of domestication" means a statement under Section 48-2e-1155.
- (36) "Statement of interest exchange" means a statement under Section 48-2e-1135.
- (37) "Statement of merger" means a statement under Section 48-2e-1125.

(38) "Surviving entity" means the entity that continues in existence after or is created by a merger.

(39) "Type of entity" means a generic form of entity:

- (a) recognized at common law; or
- (b) formed under an organic law, whether or not some entities formed under that organic law are subject to provisions of that law that create different categories of the form of entity.

Enacted by Chapter 412, 2013 General Session

48-2e-1102 Relationship of part to other laws.

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

Enacted by Chapter 412, 2013 General Session

48-2e-1103 Required notice or approval.

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

Amended by Chapter 401, 2023 General Session

48-2e-1104 Status of filings.

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

Enacted by Chapter 412, 2013 General Session

48-2e-1105 Nonexclusivity.

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

Enacted by Chapter 412, 2013 General Session

48-2e-1106 Reference to external facts.

A plan may refer to facts ascertainable outside the plan if the manner in which the facts will operate upon the plan is specified in the plan. The facts may include the occurrence of an event or

a determination or action by a person, whether or not the event, determination, or action is within the control of a party to the transaction.

Enacted by Chapter 412, 2013 General Session

48-2e-1107 Alternative means of approval of transactions.

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

Enacted by Chapter 412, 2013 General Session

48-2e-1108 Appraisal rights.

- (1) An interest holder of a domestic merging, acquired, converting, or domesticating entity is entitled to appraisal rights in connection with the transaction if the interest holder would have been entitled to appraisal rights under the entity's organic law in connection with a merger in which the interest of the interest holder was changed, converted, or exchanged unless:
 - (a) the organic law permits the organic rules to limit the availability of appraisal rights; and
 - (b) the organic rules provide such a limit.
- (2) An interest holder of a domestic merging, acquired, converting, or domesticating entity is entitled to contractual appraisal rights in connection with a transaction under this part to the extent provided in:
 - (a) the entity's organic rules; or
 - (b) the plan.

Enacted by Chapter 412, 2013 General Session

48-2e-1121 Merger authorized.

- (1) By complying with Sections 48-2e-1121 through 48-2e-1126:
 - (a) one or more domestic limited partnerships may merge with one or more domestic or foreign entities into a domestic or foreign surviving entity; and
 - (b) two or more foreign entities may merge into a domestic limited partnership.
- (2) By complying with the provisions of Sections 48-2e-1121 through 48-2e-1126 applicable to foreign entities, a foreign entity may be a party to a merger under Sections 48-2e-1121 through 48-2e-1126 or may be the surviving entity in such a merger if the merger is authorized by the law of the foreign entity's jurisdiction of formation.

Enacted by Chapter 412, 2013 General Session

48-2e-1122 Plan of merger.

- (1) A domestic limited partnership may become a party to a merger under Sections 48-2e-1121 through 48-2e-1126 by approving a plan of merger. The plan must be in a record and contain:
 - (a) as to each merging entity, its name, jurisdiction of formation, and type of entity;
 - (b) if the surviving entity is to be created in the merger, a statement to that effect and the entity's name, jurisdiction of formation, and type of entity;
 - (c) the manner of converting the interests in each party to the merger into interests, securities, obligations, money, other property, rights to acquire interests or securities, or any combination of the foregoing;

- (d) if the surviving entity exists before the merger, any proposed amendments to its public organic record, if any, or to its private organic rules that are, or are proposed to be, in a record;
 - (e) if the surviving entity is to be created in the merger, its proposed public organic record, if any, and the full text of its private organic rules that are proposed to be in a record;
 - (f) the other terms and conditions of the merger; and
 - (g) any other provision required by the law of a merging entity's jurisdiction of formation or the organic rules of a merging entity.
- (2) In addition to the requirements of Subsection (1), a plan of merger may contain any other provision not prohibited by law.

Enacted by Chapter 412, 2013 General Session

48-2e-1123 Approval of merger.

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

Enacted by Chapter 412, 2013 General Session

48-2e-1124 Amendment or abandonment of plan of merger.

- (1) A plan of merger may be amended only with the consent of each party to the plan, except as otherwise provided in the plan.
- (2) A domestic merging limited partnership may approve an amendment of a plan of merger:
- (a) in the same manner as the plan was approved, if the plan does not provide for the manner in which it may be amended; or
 - (b) by the partners in the manner provided in the plan, but a partner that was entitled to vote on or consent to approval of the merger is entitled to vote on or consent to any amendment of the plan that will change:
 - (i) the amount or kind of interests, securities, obligations, money, other property, rights to acquire interests or securities, or any combination of the foregoing, to be received by the interest holders of any party to the plan;
 - (ii) the public organic record, if any, or private organic rules of the surviving entity that will be in effect immediately after the merger becomes effective, except for changes that do not require approval of the interest holders of the surviving entity under its organic law or organic rules; or

- (iii) any other terms or conditions of the plan, if the change would adversely affect the partner in any material respect.
- (3) After a plan of merger has been approved and before a statement of merger becomes effective, the plan may be abandoned as provided in the plan. Unless prohibited by the plan, a domestic merging limited partnership may abandon the plan in the same manner as the plan was approved.
- (4) If a plan of merger is abandoned after a statement of merger has been delivered to the division for filing and before the statement becomes effective, a statement of abandonment, signed by a party to the plan, must be delivered to the division for filing before the statement of merger becomes effective. The statement of abandonment takes effect on filing, and the merger is abandoned and does not become effective. The statement of abandonment must contain:
 - (a) the name of each party to the plan of merger;
 - (b) the date on which the statement of merger was delivered to the division for filing; and
 - (c) a statement that the merger has been abandoned in accordance with this section.

Enacted by Chapter 412, 2013 General Session

48-2e-1125 Statement of merger.

- (1) A statement of merger must be signed by each merging entity and delivered to the division for filing.
- (2) A statement of merger must contain:
 - (a) the name, jurisdiction of formation, and type of entity of each merging entity that is not the surviving entity;
 - (b) the name, jurisdiction of formation, and type of entity of the surviving entity;
 - (c) a statement that the merger was approved by each domestic merging entity, if any, in accordance with Sections 48-2e-1121 through 48-2e-1126 and by each foreign merging entity, if any, in accordance with the law of its jurisdiction of formation;
 - (d) if the surviving entity exists before the merger and is a domestic filing entity, any amendment to its public organic record approved as part of the plan of merger;
 - (e) if the surviving entity is created by the merger and is a domestic filing entity, its public organic record, as an attachment;
 - (f) if the surviving entity is created by the merger and is a domestic limited liability partnership, its statement of qualification, as an attachment; and
 - (g) if the surviving entity is a foreign entity that is not a registered foreign entity, a mailing address to which the division may send any process served on the division pursuant to Subsection 48-2e-1126(5).
- (3) In addition to the requirements of Subsection (2), a statement of merger may contain any other provision not prohibited by law.
- (4) If the surviving entity is a domestic entity, its public organic record, if any, must satisfy the requirements of the law of this state, but the public organic record does not need to be signed.
- (5) A plan of merger that is signed by all the merging entities and meets all the requirements of Subsection (2) may be delivered to the division for filing instead of a statement of merger and on filing has the same effect. If a plan of merger is filed as provided in this Subsection (5), references in this part to a statement of merger refer to the plan of merger filed under this Subsection (5).

Enacted by Chapter 412, 2013 General Session

48-2e-1126 Effect of merger.

- (1) When a merger becomes effective:
 - (a) the surviving entity continues or comes into existence;
 - (b) each merging entity that is not the surviving entity ceases to exist;
 - (c) all property of each merging entity vests in the surviving entity without transfer, reversion, or impairment;
 - (d) all debts, obligations, and other liabilities of each merging entity are debts, obligations, and other liabilities of the surviving entity;
 - (e) except as otherwise provided by law or the plan of merger, all the rights, privileges, immunities, powers, and purposes of each merging entity vest in the surviving entity;
 - (f) if the surviving entity exists before the merger:
 - (i) all its property continues to be vested in it without transfer, reversion, or impairment;
 - (ii) it remains subject to all its debts, obligations, and other liabilities; and
 - (iii) all its rights, privileges, immunities, powers, and purposes continue to be vested in it;
 - (g) the name of the surviving entity may be substituted for the name of any merging entity that is a party to any pending action or proceeding;
 - (h) if the surviving entity exists before the merger:
 - (i) its public organic record, if any, is amended as provided in the statement of merger; and
 - (ii) its private organic rules that are to be in a record, if any, are amended to the extent provided in the plan of merger;
 - (i) if the surviving entity is created by the merger:
 - (i) its public organic record, if any, is effective; and
 - (ii) its private organic rules are effective; and
 - (j) the interests in each merging entity which are to be converted in the merger are converted, and the interest holders of those interests are entitled only to the rights provided to them under the plan of merger and to any appraisal rights they have under Section 48-2e-1108 and the merging entity's organic law.
- (2) Except as otherwise provided in the organic law or organic rules of a merging entity, the merger does not give rise to any rights that an interest holder, governor, or third party would otherwise have upon a dissolution, liquidation, or winding up of the merging entity.
- (3) When a merger becomes effective, a person that did not have interest holder liability with respect to any of the merging entities and becomes subject to interest holder liability with respect to a domestic entity as a result of the merger has interest holder liability only to the extent provided by the organic law of that entity and only for those debts, obligations, and other liabilities that arise after the merger becomes effective.
- (4) When a merger becomes effective, the interest holder liability of a person that ceases to hold an interest in a domestic merging entity with respect to which the person had interest holder liability is as follows:
 - (a) The merger does not discharge any interest holder liability under the organic law of the domestic merging entity to the extent the interest holder liability arose before the merger became effective.
 - (b) The person does not have interest holder liability under the organic law of the domestic merging entity for any debt, obligation, or other liability that arises after the merger becomes effective.
 - (c) The organic law of the domestic merging entity continues to apply to the release, collection, or discharge of any interest holder liability preserved under Subsection (4)(a) as if the merger had not occurred and the surviving entity were the domestic merging entity.

- (d) The person has whatever rights of contribution from any other person as are provided by law other than this chapter, this chapter, or the organic rules of the domestic merging entity with respect to any interest holder liability preserved under Subsection (4)(a) as if the merger had not occurred.
- (5) When a merger becomes effective, a foreign entity that is the surviving entity may be served with process in this state for the collection and enforcement of any debts, obligations, or other liabilities of a domestic merging entity as provided in Section 16-17-301.
- (6) When a merger becomes effective, the registration to do business in this state of any foreign merging entity that is not the surviving entity is canceled.

Enacted by Chapter 412, 2013 General Session

48-2e-1131 Interest exchange authorized.

- (1) By complying with Sections 48-2e-1131 through 48-2e-1136:
 - (a) a domestic limited partnership may acquire all of one or more classes or series of interests of another domestic or foreign entity in exchange for interests, securities, obligations, money, other property, rights to acquire interests or securities, or any combination of the foregoing; or
 - (b) all of one or more classes or series of interests of a domestic limited partnership may be acquired by another domestic or foreign entity in exchange for interests, securities, obligations, rights to acquire interests or securities, money, or other property, or any combination of the foregoing.
- (2) By complying with the provisions of Sections 48-2e-1131 through 48-2e-1136 applicable to foreign entities, a foreign entity may be the acquiring or acquired entity in an interest exchange under Sections 48-2e-1131 through 48-2e-1136 if the interest exchange is authorized by the law of the foreign entity's jurisdiction of formation.
- (3) If a protected agreement contains a provision that applies to a merger of a domestic limited partnership but does not refer to an interest exchange, the provision applies to an interest exchange in which the domestic limited partnership is the acquired entity as if the interest exchange were a merger until the provision is amended after January 1, 2014.

Enacted by Chapter 412, 2013 General Session

48-2e-1132 Plan of interest exchange.

- (1) A domestic limited partnership may be the acquired entity in an interest exchange under Sections 48-2e-1131 through 48-2e-1136 by approving a plan of interest exchange. The plan must be in a record and contain:
 - (a) the name of the acquired entity;
 - (b) the name, jurisdiction of formation, and type of entity of the acquiring entity;
 - (c) the manner of converting the interests in the acquired entity into interests, securities, obligations, money, other property, rights to acquire interests or securities, or any combination of the foregoing;
 - (d) any proposed amendments to the certificate of limited partnership or partnership agreement that are, or are proposed to be, in a record of the acquired entity;
 - (e) the other terms and conditions of the interest exchange; and
 - (f) any other provision required by the law of this state or the partnership agreement of the acquired entity.
- (2) In addition to the requirements of Subsection (1), a plan of interest exchange may contain any other provision not prohibited by law.

Enacted by Chapter 412, 2013 General Session

48-2e-1133 Approval of interest exchange.

- (1) A plan of interest exchange is not effective unless it has been approved:
 - (a) by all the partners of a domestic acquired limited partnership entitled to vote on or consent to any matter; and
 - (b) in a record, by each partner of the domestic acquired limited partnership that will have interest holder liability for debts, obligations, and other liabilities that arise after the interest exchange becomes effective, unless:
 - (i) the partnership agreement of the limited partnership in a record provides for the approval of an interest exchange or a merger in which some or all of its partners become subject to interest holder liability by the vote or consent of fewer than all of the partners; and
 - (ii) the partner consented in a record to or voted for that provision of the partnership agreement or became a partner after the adoption of that provision.
- (2) An interest exchange involving a domestic acquired entity that is not a limited partnership is not effective unless it is approved by the domestic entity in accordance with its organic law.
- (3) An interest exchange involving a foreign acquired entity is not effective unless it is approved by the foreign entity in accordance with the law of the foreign entity's jurisdiction of formation.
- (4) Except as otherwise provided in its organic law or organic rules, the interest holders of the acquiring entity are not required to approve the interest exchange.

Enacted by Chapter 412, 2013 General Session

48-2e-1134 Amendment or abandonment of plan of interest exchange.

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

- (4) If a plan of interest exchange is abandoned after a statement of interest exchange has been delivered to the division for filing and before the statement becomes effective, a statement of abandonment, signed by the acquired limited partnership, must be delivered to the division for filing before the statement of interest exchange becomes effective. The statement of abandonment takes effect on filing, and the interest exchange is abandoned and does not become effective. The statement of abandonment must contain:
- (a) the name of the acquired limited partnership;
 - (b) the date on which the statement of interest exchange was delivered to the division for filing; and
 - (c) a statement that the interest exchange has been abandoned in accordance with this section.

Enacted by Chapter 412, 2013 General Session

48-2e-1135 Statement of interest exchange.

- (1) A statement of interest exchange must be signed by a domestic acquired limited partnership and delivered to the division for filing.
- (2) A statement of interest exchange must contain:
 - (a) the name of the acquired limited partnership;
 - (b) the name, jurisdiction of formation, and type of entity of the acquiring entity;
 - (c) a statement that the plan of interest exchange was approved by the acquired entity in accordance with Sections 48-2e-1131 through 48-2e-1136; and
 - (d) any amendments to the acquired limited partnership's certificate of limited partnership approved as part of the plan of interest exchange.
- (3) In addition to the requirements of Subsection (2), a statement of interest exchange may contain any other provision not prohibited by law.
- (4) A plan of interest exchange that is signed by a domestic acquired limited partnership and meets all the requirements of Subsection (2) may be delivered to the division for filing instead of a statement of interest exchange and on filing has the same effect. If a plan of interest exchange is filed as provided in this Subsection (4), references in this part to a statement of interest exchange refer to the plan of interest exchange filed under this Subsection (4).

Enacted by Chapter 412, 2013 General Session

48-2e-1136 Effect of interest exchange.

- (1) When an interest exchange in which the acquired entity is a domestic limited partnership becomes effective:
 - (a) the interests in the domestic acquired limited partnership that are the subject of the interest exchange cease to exist or are converted or exchanged, and the partners holding those interests are entitled only to the rights provided to them under the plan of interest exchange and to any appraisal rights they have under Section 48-2e-1108;
 - (b) the acquiring entity becomes the interest holder of the interests in the acquired limited partnership stated in the plan of interest exchange to be acquired by the acquiring entity;
 - (c) the certificate of limited partnership of the acquired limited partnership is amended as provided in the statement of interest exchange; and
 - (d) the provisions of the partnership agreement of the acquired limited partnership that are to be in a record, if any, are amended to the extent provided in the plan of interest exchange.

- (2) Except as otherwise provided in the partnership agreement of a domestic acquired limited partnership, the interest exchange does not give rise to any rights that a partner or third party would have upon a dissolution, liquidation, or winding up of the acquired limited partnership.
- (3) When an interest exchange becomes effective, a person that did not have interest holder liability with respect to a domestic acquired limited partnership and becomes subject to interest holder liability with respect to a domestic entity as a result of the interest exchange has interest holder liability only to the extent provided by the organic law of the entity and only for those debts, obligations, and other liabilities that arise after the interest exchange becomes effective.
- (4) When an interest exchange becomes effective, the interest holder liability of a person that ceases to hold an interest in a domestic acquired limited partnership with respect to which the person had interest holder liability is as follows:
 - (a) The interest exchange does not discharge any interest holder liability to the extent the interest holder liability arose before the interest exchange became effective.
 - (b) The person does not have interest holder liability for any debt, obligation, or other liability that arises after the interest exchange becomes effective.
 - (c) The person has whatever rights of contribution from any other person as are provided by other law, this chapter, or the partnership agreement of the acquired entity with respect to any interest holder liability preserved under Subsection (4)(a) as if the interest exchange had not occurred.

Enacted by Chapter 412, 2013 General Session

48-2e-1141 Conversion authorized.

- (1) As used in Sections 48-2e-1141 through 48-2e-1146, the term "subject entity" includes a corporation, a business trust or association, a real estate investment trust, a common-law trust, or any other unincorporated business, including a limited liability company, a general partnership, a registered limited liability partnership, or a foreign limited partnership.
- (2) A subject entity may convert to a domestic limited partnership by complying with Sections 48-2e-1141 through 48-2e-1146.
- (3) By complying with Sections 48-2e-1141 through 48-2e-1146 a domestic limited partnership may become:
 - (a) a domestic entity that is a different type of entity; or
 - (b) a foreign entity that is a different type of entity, if the conversion is authorized by the law of the foreign jurisdiction.
- (4) By complying with the provisions of Sections 48-2e-1141 through 48-2e-1146 applicable to foreign entities, a foreign entity that is not a foreign limited partnership may become a domestic limited partnership if the conversion is authorized by the law of the foreign entity's jurisdiction of formation.
- (5) If a protected agreement contains a provision that applies to a merger of a domestic limited partnership but does not refer to a conversion, the provision applies to a conversion of the entity as if the conversion were a merger until the provision is amended after January 1, 2014.

Amended by Chapter 227, 2015 General Session

48-2e-1142 Plan of conversion.

- (1) A subject entity may convert to a domestic limited partnership or a domestic limited partnership may convert to a different type of entity under Sections 48-2e-1141 through 48-2e-1146 by approving a plan of conversion. The plan must be in a record and contain:

- (a) the name of the converting subject entity or limited partnership;
 - (b) the name, jurisdiction of formation, and type of entity of the converted entity;
 - (c) the manner of converting the interests in the converting subject entity or limited partnership into interests, securities, obligations, money, other property, rights to acquire interests or securities, or any combination of the foregoing;
 - (d) the proposed public organic record of the converted entity if it will be a filing entity;
 - (e) the full text of the private organic rules of the converted entity that are proposed to be in a record;
 - (f) the other terms and conditions of the conversion; and
 - (g) any other provision required by the law of this state or the partnership agreement of the converting limited partnership.
- (2) In addition to the requirements of Subsection (1), a plan of conversion may contain any other provision not prohibited by law.

Amended by Chapter 227, 2015 General Session

48-2e-1143 Approval of conversion.

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

Amended by Chapter 227, 2015 General Session

48-2e-1144 Amendment or abandonment of plan of conversion.

- (1) A plan of conversion of a subject entity or domestic converting limited partnership may be amended:
- (a) in the same manner as the plan was approved, if the plan does not provide for the manner in which it may be amended; or
 - (b) by the partners of the limited partnership in the manner provided in the plan, but a partner that was entitled to vote on or consent to approval of the conversion is entitled to vote on or consent to any amendment of the plan that will change:
 - (i) the amount or kind of interests, securities, obligations, money, other property, rights to acquire interests or securities, or any combination of the foregoing, to be received by any of the partners of the converting entity under the plan;

- (ii) the public organic record or private organic rules of the converted entity that will be in effect immediately after the conversion becomes effective, except for changes that do not require approval of the interest holders of the converted entity under its organic law or organic rules; or
 - (iii) any other terms or conditions of the plan, if the change would adversely affect the partner in any material respect.
- (2) After a plan of conversion has been approved and before a statement of conversion becomes effective, the plan may be abandoned as provided in the plan. Unless prohibited by the plan, a domestic converting limited partnership may abandon the plan in the same manner as the plan was approved.
- (3) If a plan of conversion is abandoned after a statement of conversion has been delivered to the division for filing and before the statement becomes effective, a statement of abandonment, signed by the converting entity, must be delivered to the division for filing before the time the statement of conversion becomes effective. The statement of abandonment takes effect on filing, and the conversion is abandoned and does not become effective. The statement of abandonment must contain:
- (a) the name of the converting subject entity or limited partnership;
 - (b) the date on which the statement of conversion was delivered to the division for filing; and
 - (c) a statement that the conversion has been abandoned in accordance with this section.

Amended by Chapter 227, 2015 General Session

48-2e-1145 Statement of conversion.

- (1) A statement of conversion must be signed by the converting entity and delivered to the division for filing.
- (2) A statement of conversion must contain:
- (a) the name, jurisdiction of formation, and type of entity of the converting entity;
 - (b) the name, jurisdiction of formation, and type of entity of the converted entity;
 - (c) if the converting entity is a domestic entity, a statement that the plan of conversion was approved in accordance with Sections 48-2e-1141 through 48-2e-1146 or, if the converting entity is a foreign entity, a statement that the conversion was approved by the foreign converting entity in accordance with the law of its jurisdiction of formation;
 - (d) if the converted entity is a domestic filing entity, the text of its public organic record, as an attachment;
 - (e) if the converted entity is a domestic limited liability partnership, the text of its statement of qualification, as an attachment; and
 - (f) if the converted entity is a foreign entity that is not a registered foreign entity, a mailing address to which the division may send any process served on the division pursuant to Subsection 48-2e-1146(5).
- (3) In addition to the requirements of Subsection (2), a statement of conversion may contain any other provision not prohibited by law.
- (4) If the converted entity is a domestic entity, its public organic record, if any, must satisfy the requirements of the law of this state, but the public organic record does not need to be signed.
- (5) A plan of conversion that is signed by a domestic converting entity and meets all the requirements of Subsection (2) may be delivered to the division for filing instead of a statement of conversion and on filing has the same effect. If a plan of conversion is filed as provided in this Subsection (5), references in this part to a statement of conversion refer to the plan of conversion filed under this Subsection (5).

Enacted by Chapter 412, 2013 General Session

48-2e-1146 Effect of conversion.

- (1) When a conversion in which the converted entity is a subject entity or domestic limited partnership becomes effective:
 - (a) the converted entity is:
 - (i) organized under and subject to this chapter; and
 - (ii) the same entity without interruption as the converting entity;
 - (b) all property of the converting entity continues to be vested in the converted entity without transfer, reversion, or impairment;
 - (c) all debts, obligations, and other liabilities of the converting entity continue as debts, obligations, and other liabilities of the converted entity;
 - (d) except as otherwise provided by law or the plan of conversion, all the rights, privileges, immunities, powers, and purposes of the converting entity remain in the converted entity;
 - (e) the name of the converted entity may be substituted for the name of the converting entity in any pending action or proceeding;
 - (f) the provisions of the partnership agreement of the converted entity that are to be in a record, if any, approved as part of the plan of conversion are effective; and
 - (g) the interests in the converting entity are converted, and the interest holders of the converting entity are entitled only to the rights provided to them under the plan of conversion and to any appraisal rights they have under Section 48-2e-1108 and the converting entity's organic law.
- (2) Except as otherwise provided in the partnership agreement of a domestic converting limited partnership, the conversion does not give rise to any rights that a partner or third party would have upon a dissolution, liquidation, or winding up of the converting entity.
- (3) When a conversion becomes effective, a person that did not have interest holder liability with respect to the converting entity and becomes subject to interest holder liability with respect to a domestic entity as a result of the conversion has interest holder liability only to the extent provided by the organic law of the entity and only for those debts, obligations, and other liabilities that arise after the conversion becomes effective.
- (4) When a conversion becomes effective, the interest holder liability of a person that ceases to hold an interest in a domestic limited partnership with respect to which the person had interest holder liability is as follows:
 - (a) The conversion does not discharge any interest holder liability to the extent the interest holder liability arose before the conversion became effective.
 - (b) The person does not have interest holder liability for any debt, obligation, or other liability that arises after the conversion becomes effective.
 - (c) The person has whatever rights of contribution from any other person as are provided by law other than this chapter, this chapter, or the partnership agreement of the converting entity with respect to any interest holder liability preserved under Subsection (4)(a) as if the conversion had not occurred.
- (5) When a conversion becomes effective, a foreign entity that is the converted entity may be served with process in this state for the collection and enforcement of any of its debts, obligations, and other liabilities as provided in Section 16-17-301.
- (6) If the converting entity is a registered foreign entity, its registration to do business in this state is canceled when the conversion becomes effective.
- (7) A conversion does not require the entity to wind up its affairs and does not constitute or cause the dissolution of the entity.

Amended by Chapter 227, 2015 General Session

48-2e-1151 Domestication authorized.

- (1) By complying with Sections 48-2e-1151 through 48-2e-1156, a domestic limited partnership may become a foreign limited partnership if the domestication is authorized by the law of the foreign jurisdiction.
- (2) By complying with the provisions of Sections 48-2e-1151 through 48-2e-1156 applicable to foreign limited partnerships, a foreign limited partnership may become a domestic limited partnership if the domestication is authorized by the law of the foreign limited partnership's jurisdiction of formation.
- (3) If a protected agreement contains a provision that applies to a merger of a domestic limited partnership but does not refer to a domestication, the provision applies to a domestication of the limited partnership as if the domestication were a merger until the provision is amended after January 1, 2014.

Enacted by Chapter 412, 2013 General Session

48-2e-1152 Plan of domestication.

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

Enacted by Chapter 412, 2013 General Session

48-2e-1153 Approval of domestication.

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

- (2) A domestication of a foreign domesticating limited partnership is not effective unless it is approved in accordance with the law of the foreign limited partnership's jurisdiction of formation.

Enacted by Chapter 412, 2013 General Session

48-2e-1154 Amendment or abandonment of plan of domestication.

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

Enacted by Chapter 412, 2013 General Session

48-2e-1155 Statement of domestication.

- (1) A statement of domestication must be signed by the domesticating limited partnership and delivered to the division for filing.
- (2) A statement of domestication must contain:
 - (a) the name and jurisdiction of formation of the domesticating limited partnership;
 - (b) the name and jurisdiction of formation of the domesticated limited partnership;
 - (c) if the domesticating limited partnership is a domestic limited partnership, a statement that the plan of domestication was approved in accordance with Sections 48-2e-1151 through 48-2e-1156 or, if the domesticating limited partnership is a foreign limited partnership, a statement that the domestication was approved in accordance with the law of its jurisdiction of formation;

- (d) the certificate of limited partnership of the domesticated limited partnership, as an attachment; and
 - (e) if the domesticated foreign limited partnership is not a registered foreign limited partnership, a mailing address to which the division may send any process served on the division pursuant to Subsection 48-2e-1156(5).
- (3) In addition to the requirements of Subsection (2), a statement of domestication may contain any other provision not prohibited by law.
- (4) The certificate of limited partnership of a domesticated domestic limited partnership must satisfy the requirements of the law of this state, but the certificate does not need to be signed.
- (5) A plan of domestication that is signed by a domesticating domestic limited partnership and meets all of the requirements of Subsection (2) may be delivered to the division for filing instead of a statement of domestication and on filing has the same effect. If a plan of domestication is filed as provided in this Subsection (5), references in this part to a statement of domestication refer to the plan of domestication filed under this Subsection (5).

Enacted by Chapter 412, 2013 General Session

48-2e-1156 Effect of domestication.

- (1) When a domestication becomes effective:
- (a) the domesticated limited partnership is:
 - (i) organized under and subject to the organic law of the domesticated limited partnership; and
 - (ii) the same entity without interruption as the domesticating limited partnership;
 - (b) all property of the domesticating limited partnership continues to be vested in the domesticated limited partnership without transfer, reversion, or impairment;
 - (c) all debts, obligations, and other liabilities of the domesticating limited partnership continue as debts, obligations, and other liabilities of the domesticated limited partnership;
 - (d) except as otherwise provided by law or the plan of domestication, all the rights, privileges, immunities, powers, and purposes of the domesticating limited partnership remain in the domesticated limited partnership;
 - (e) the name of the domesticated limited partnership may be substituted for the name of the domesticating limited partnership in any pending action or proceeding;
 - (f) the certificate of limited partnership of the domesticated limited partnership is effective;
 - (g) the provisions of the partnership agreement of the domesticated limited partnership that are to be in a record, if any, approved as part of the plan of domestication are effective; and
 - (h) the interests in the domesticating limited partnership are converted to the extent and as approved in connection with the domestication, and the partners of the domesticating limited partnership are entitled only to the rights provided to them under the plan of domestication and to any appraisal rights they have under Section 48-2e-1108.
- (2) Except as otherwise provided in the organic law or partnership agreement of the domesticating limited partnership, the domestication does not give rise to any rights that a partner or third party would have upon a dissolution, liquidation, or winding up of the domesticating limited partnership.
- (3) When a domestication becomes effective, a person that did not have interest holder liability with respect to the domesticating limited partnership and becomes subject to interest holder liability with respect to a domestic limited partnership as a result of the domestication has interest holder liability only to the extent provided by the organic law of the domestic limited partnership and only for those debts, obligations, and other liabilities that arise after the domestication becomes effective.

- (4) When a domestication becomes effective, the following rules apply:
 - (a) The domestication does not discharge any interest holder liability under this chapter to the extent the interest holder liability arose before the domestication became effective.
 - (b) A person does not have interest holder liability under this part for any debt, obligation, or other liability that arise after the domestication becomes effective.
 - (c) A person has whatever rights of contribution from any other person as are provided by law other than this chapter, this chapter, or the partnership agreement of a domestic domesticating limited partnership with respect to any interest holder liability preserved under Subsection (4)(a) as if the domestication had not occurred.
- (5) When a domestication becomes effective, a foreign limited partnership that is the domesticated limited partnership may be served with process in this state for the collection and enforcement of any of its debts, obligations, and other liabilities as provided in Section 16-17-301.
- (6) If the domesticating limited partnership is a registered foreign limited partnership, the registration of the foreign limited partnership is canceled when the domestication becomes effective.
- (7) A domestication does not require the limited partnership to wind up its affairs and does not constitute or cause the dissolution of the limited partnership.

Enacted by Chapter 412, 2013 General Session