

**Senator Lyle W. Hillyard** proposes the following substitute bill:

**UNINCORPORATED BUSINESS ENTITY UNIFORM ACTS**

2011 GENERAL SESSION

STATE OF UTAH

**Chief Sponsor: Lyle W. Hillyard**

House Sponsor: John Dougall

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**LONG TITLE**

**General Description:**

This bill repeals the existing Partnership Act, Utah Revised Uniform Limited Partnership Act, and Utah Revised Limited Liability Company Act, and enacts with modifications the Utah Uniform Partnership Act, Utah Uniform Limited Partnership Act, and Utah Revised Uniform Limited Liability Company Act.

**Highlighted Provisions:**

This bill:

▶ enacts provisions related to partnerships, including:

- enacting general provisions related to partnerships such as defining terms, addressing what constitutes knowledge and notice, addressing the effect of a partnership agreement, designating supplemental principles of law, providing for execution, filing, and recording of statements, addressing what is the governing law, and the affects of amendments or repeals to the chapter;
- addressing the nature of a partnership;
- addressing the relations of partners to persons dealing with a partnership;
- addressing relations of partners to each other and to the partnership;
- addressing transferees and creditors of partners;
- providing for a partner's dissociation including when business is not wound up;



- 26           • providing for winding up partnership business;
- 27           • providing for conversion and merger; and
- 28           • providing for a limited liability partnership, a limited liability partnership that
- 29 provides a professional service, and foreign limited liability partnership;
- 30           ▶ enacts provisions related to limited partnerships, including:
- 31           • providing for general provisions related to limited partnerships;
- 32           • addressing formation of limited partnerships and various filing requirements;
- 33           • addressing limited partners;
- 34           • addressing general partners;
- 35           • providing for contributions and distributions;
- 36           • providing for dissociation;
- 37           • addressing transferable interests and rights of transferees and creditors;
- 38           • providing for dissolution;
- 39           • addressing foreign limited partnerships;
- 40           • providing for actions by partners; and
- 41           • providing for conversions and mergers;
- 42           ▶ enacts provisions related to limited liability companies, including:
- 43           • addressing various general provisions related to limited liability companies;
- 44           • providing for the formation and filings of limited liability companies;
- 45           • addressing relations of members and managers to a person dealing with a
- 46 limited liability company;
- 47           • addressing relations of members to each other and to the limited liability
- 48 company;
- 49           • addressing transferable interests and rights of transferees and creditors;
- 50           • providing for dissociation;
- 51           • providing for dissolution and winding up;
- 52           • addressing foreign limited liability companies;
- 53           • providing for actions by members;
- 54           • providing for merger, conversion, and domestication;
- 55           • providing for professional services companies;
- 56           • providing for series; and

- 57           • providing for low-profit limited liability company act;
- 58           ▸ includes miscellaneous provisions such as providing for uniformity of application,
- 59 severability, and savings; and
- 60           ▸ makes technical and conforming amendments.

61 **Money Appropriated in this Bill:**

62           None

63 **Other Special Clauses:**

64           This bill takes effect on July 1, 2012.

65 **Utah Code Sections Affected:**

66 AMENDS:

- 67           **7-1-810**, as last amended by Laws of Utah 2008, Chapter 382
- 68           **7-3-10**, as last amended by Laws of Utah 2007, Chapter 277
- 69           **7-8-3**, as last amended by Laws of Utah 2004, Chapter 92
- 70           **13-34-114**, as last amended by Laws of Utah 2010, Chapter 218
- 71           **16-6a-1008.7**, as last amended by Laws of Utah 2006, Chapter 228
- 72           **16-10a-401**, as last amended by Laws of Utah 2010, Chapters 218 and 378
- 73           **16-10a-1008.7**, as enacted by Laws of Utah 2002, Chapter 193
- 74           **16-11-16**, as last amended by Laws of Utah 2010, Chapters 218 and 378
- 75           **16-16-111**, as last amended by Laws of Utah 2010, Chapter 378
- 76           **16-17-102**, as enacted by Laws of Utah 2008, Chapter 364
- 77           **31A-37a-102**, as enacted by Laws of Utah 2008, Chapter 302
- 78           **46-4-503**, as last amended by Laws of Utah 2008, Chapter 382
- 79           **53C-1-201**, as last amended by Laws of Utah 2010, Chapter 218
- 80           **61-2b-25**, as last amended by Laws of Utah 2010, Chapter 379
- 81           **61-2f-401**, as last amended by Laws of Utah 2010, Chapter 184 and renumbered and
- 82 amended by Laws of Utah 2010, Chapter 379
- 83           **75-7-1011**, as enacted by Laws of Utah 2004, Chapter 89

84 ENACTS:

- 85           **48-1a-101**, Utah Code Annotated 1953
- 86           **48-1a-102**, Utah Code Annotated 1953
- 87           **48-1b-101**, Utah Code Annotated 1953

- 88           **48-1b-102**, Utah Code Annotated 1953
- 89           **48-1b-103**, Utah Code Annotated 1953
- 90           **48-1b-104**, Utah Code Annotated 1953
- 91           **48-1b-105**, Utah Code Annotated 1953
- 92           **48-1b-106**, Utah Code Annotated 1953
- 93           **48-1b-107**, Utah Code Annotated 1953
- 94           **48-1b-201**, Utah Code Annotated 1953
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- 103          **48-1b-306**, Utah Code Annotated 1953
- 104          **48-1b-307**, Utah Code Annotated 1953
- 105          **48-1b-308**, Utah Code Annotated 1953
- 106          **48-1b-401**, Utah Code Annotated 1953
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- 108          **48-1b-403**, Utah Code Annotated 1953
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- 112          **48-1b-501**, Utah Code Annotated 1953
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- 116          **48-1b-601**, Utah Code Annotated 1953
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- 118          **48-1b-603**, Utah Code Annotated 1953

- 119            **48-1b-701**, Utah Code Annotated 1953
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- 141            **48-1b-911**, Utah Code Annotated 1953
- 142            **48-1b-912**, Utah Code Annotated 1953
- 143            **48-1b-913**, Utah Code Annotated 1953
- 144            **48-1b-914**, Utah Code Annotated 1953
- 145            **48-1b-915**, Utah Code Annotated 1953
- 146            **48-1b-1001**, Utah Code Annotated 1953
- 147            **48-1b-1002**, Utah Code Annotated 1953
- 148            **48-1b-1003**, Utah Code Annotated 1953
- 149            **48-1b-1004**, Utah Code Annotated 1953

- 150        **48-1b-1101**, Utah Code Annotated 1953
- 151        **48-1b-1102**, Utah Code Annotated 1953
- 152        **48-1b-1102.1**, Utah Code Annotated 1953
- 153        **48-1b-1103**, Utah Code Annotated 1953
- 154        **48-1b-1104**, Utah Code Annotated 1953
- 155        **48-1b-1105**, Utah Code Annotated 1953
- 156        **48-1b-1201**, Utah Code Annotated 1953
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- 159        **48-1b-1204**, Utah Code Annotated 1953
- 160        **48-1b-1205**, Utah Code Annotated 1953
- 161        **48-2d-101**, Utah Code Annotated 1953
- 162        **48-2d-102**, Utah Code Annotated 1953
- 163        **48-2d-103**, Utah Code Annotated 1953
- 164        **48-2d-104**, Utah Code Annotated 1953
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- 167        **48-2d-107**, Utah Code Annotated 1953
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- 174        **48-2d-114**, Utah Code Annotated 1953
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- 179        **48-2d-205**, Utah Code Annotated 1953
- 180        **48-2d-206**, Utah Code Annotated 1953

- 181            **48-2d-207**, Utah Code Annotated 1953
- 182            **48-2d-208**, Utah Code Annotated 1953
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- 204            **48-2d-506**, Utah Code Annotated 1953
- 205            **48-2d-507**, Utah Code Annotated 1953
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- 211            **48-2d-604**, Utah Code Annotated 1953

- 212 **48-2d-605**, Utah Code Annotated 1953
- 213 **48-2d-606**, Utah Code Annotated 1953
- 214 **48-2d-607**, Utah Code Annotated 1953
- 215 **48-2d-701**, Utah Code Annotated 1953
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- 227 **48-2d-809**, Utah Code Annotated 1953
- 228 **48-2d-810**, Utah Code Annotated 1953
- 229 **48-2d-811**, Utah Code Annotated 1953
- 230 **48-2d-812**, Utah Code Annotated 1953
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- 249            **48-2d-1106**, Utah Code Annotated 1953
- 250            **48-2d-1107**, Utah Code Annotated 1953
- 251            **48-2d-1108**, Utah Code Annotated 1953
- 252            **48-2d-1109**, Utah Code Annotated 1953
- 253            **48-2d-1110**, Utah Code Annotated 1953
- 254            **48-2d-1111**, Utah Code Annotated 1953
- 255            **48-2d-1112**, Utah Code Annotated 1953
- 256            **48-2d-1113**, Utah Code Annotated 1953
- 257            **48-2d-1114**, Utah Code Annotated 1953
- 258            **48-2d-1115**, Utah Code Annotated 1953
- 259            **48-2d-1116**, Utah Code Annotated 1953
- 260            **48-2d-1117**, Utah Code Annotated 1953
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- 300 **48-3-410**, Utah Code Annotated 1953
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- 336 **48-3-1005**, Utah Code Annotated 1953
- 337 **48-3-1006**, Utah Code Annotated 1953
- 338 **48-3-1007**, Utah Code Annotated 1953
- 339 **48-3-1008**, Utah Code Annotated 1953
- 340 **48-3-1009**, Utah Code Annotated 1953
- 341 **48-3-1010**, Utah Code Annotated 1953
- 342 **48-3-1011**, Utah Code Annotated 1953
- 343 **48-3-1012**, Utah Code Annotated 1953
- 344 **48-3-1013**, Utah Code Annotated 1953
- 345 **48-3-1014**, Utah Code Annotated 1953
- 346 **48-3-1015**, Utah Code Annotated 1953
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- 354 **48-3-1108**, Utah Code Annotated 1953
- 355 **48-3-1109**, Utah Code Annotated 1953
- 356 **48-3-1110**, Utah Code Annotated 1953
- 357 **48-3-1111**, Utah Code Annotated 1953
- 358 **48-3-1112**, Utah Code Annotated 1953
- 359 **48-3-1201**, Utah Code Annotated 1953
- 360 **48-3-1202**, Utah Code Annotated 1953
- 361 **48-3-1203**, Utah Code Annotated 1953
- 362 **48-3-1204**, Utah Code Annotated 1953
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- 365 **48-3-1207**, Utah Code Annotated 1953
- 366 **48-3-1208**, Utah Code Annotated 1953

- 367            **48-3-1209**, Utah Code Annotated 1953
- 368            **48-3-1210**, Utah Code Annotated 1953
- 369            **48-3-1301**, Utah Code Annotated 1953
- 370            **48-3-1302**, Utah Code Annotated 1953
- 371            **48-3-1303**, Utah Code Annotated 1953
- 372            **48-3-1304**, Utah Code Annotated 1953
- 373            **48-3-1401**, Utah Code Annotated 1953
- 374            **48-3-1402**, Utah Code Annotated 1953
- 375            **48-3-1403**, Utah Code Annotated 1953
- 376            **48-3-1404**, Utah Code Annotated 1953
- 377            **48-3-1405**, Utah Code Annotated 1953
- 378            REPEALS:
- 379            **48-1-1**, as last amended by Laws of Utah 2008, Chapter 249
- 380            **48-1-2**, Utah Code Annotated 1953
- 381            **48-1-3**, as last amended by Laws of Utah 1994, Chapter 61
- 382            **48-1-3.1**, as enacted by Laws of Utah 1985, Chapter 14
- 383            **48-1-4**, Utah Code Annotated 1953
- 384            **48-1-5**, Utah Code Annotated 1953
- 385            **48-1-6**, Utah Code Annotated 1953
- 386            **48-1-7**, Utah Code Annotated 1953
- 387            **48-1-8**, Utah Code Annotated 1953
- 388            **48-1-9**, Utah Code Annotated 1953
- 389            **48-1-10**, Utah Code Annotated 1953
- 390            **48-1-11**, Utah Code Annotated 1953
- 391            **48-1-12**, as last amended by Laws of Utah 1994, Chapter 61
- 392            **48-1-13**, Utah Code Annotated 1953
- 393            **48-1-14**, Utah Code Annotated 1953
- 394            **48-1-15**, as last amended by Laws of Utah 1994, Chapter 61
- 395            **48-1-16**, Utah Code Annotated 1953
- 396            **48-1-17**, Utah Code Annotated 1953
- 397            **48-1-18**, Utah Code Annotated 1953

- 398            **48-1-19**, Utah Code Annotated 1953
- 399            **48-1-20**, Utah Code Annotated 1953
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- 405            **48-1-26**, Utah Code Annotated 1953
- 406            **48-1-27**, Utah Code Annotated 1953
- 407            **48-1-28**, Utah Code Annotated 1953
- 408            **48-1-29**, Utah Code Annotated 1953
- 409            **48-1-30**, Utah Code Annotated 1953
- 410            **48-1-31**, as last amended by Laws of Utah 1994, Chapter 61
- 411            **48-1-32**, Utah Code Annotated 1953
- 412            **48-1-33**, as last amended by Laws of Utah 1994, Chapter 61
- 413            **48-1-34**, Utah Code Annotated 1953
- 414            **48-1-35**, Utah Code Annotated 1953
- 415            **48-1-36**, Utah Code Annotated 1953
- 416            **48-1-37**, as last amended by Laws of Utah 1994, Chapter 61
- 417            **48-1-38**, Utah Code Annotated 1953
- 418            **48-1-39**, Utah Code Annotated 1953
- 419            **48-1-40**, Utah Code Annotated 1953
- 420            **48-1-41**, as enacted by Laws of Utah 1994, Chapter 61
- 421            **48-1-42**, as last amended by Laws of Utah 2009, Chapter 183
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- 435            **48-2a-108**, as enacted by Laws of Utah 2001, Chapter 260
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- 438            **48-2a-111**, as enacted by Laws of Utah 2001, Chapter 260
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- 443            **48-2a-202.5**, as last amended by Laws of Utah 2008, Chapter 364
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- 448            **48-2a-206**, as last amended by Laws of Utah 2009, Chapter 183
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- 459            **48-2a-402**, as last amended by Laws of Utah 2010, Chapter 324

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- 523            **48-2c-122**, as enacted by Laws of Utah 2001, Chapter 260
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- 525            **48-2c-202**, as enacted by Laws of Utah 2001, Chapter 260
- 526            **48-2c-203**, as last amended by Laws of Utah 2009, Chapter 141
- 527            **48-2c-204**, as last amended by Laws of Utah 2008, Chapter 364
- 528            **48-2c-205**, as enacted by Laws of Utah 2001, Chapter 260
- 529            **48-2c-206**, as enacted by Laws of Utah 2001, Chapter 260
- 530            **48-2c-207**, as enacted by Laws of Utah 2001, Chapter 260
- 531            **48-2c-208**, as enacted by Laws of Utah 2001, Chapter 260
- 532            **48-2c-209**, as enacted by Laws of Utah 2001, Chapter 260
- 533            **48-2c-210**, as enacted by Laws of Utah 2001, Chapter 260
- 534            **48-2c-211**, as last amended by Laws of Utah 2008, Chapter 364
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- 537            **48-2c-214**, as last amended by Laws of Utah 2009, Chapter 141
- 538            **48-2c-305**, as enacted by Laws of Utah 2001, Chapter 260
- 539            **48-2c-309**, as last amended by Laws of Utah 2008, Chapter 364
- 540            **48-2c-311**, as enacted by Laws of Utah 2001, Chapter 260
- 541            **48-2c-401**, as last amended by Laws of Utah 2005, Chapter 141
- 542            **48-2c-402**, as enacted by Laws of Utah 2001, Chapter 260
- 543            **48-2c-403**, as last amended by Laws of Utah 2009, Chapter 141
- 544            **48-2c-404**, as enacted by Laws of Utah 2001, Chapter 260
- 545            **48-2c-405**, as last amended by Laws of Utah 2009, Chapter 141
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- 547            **48-2c-407**, as enacted by Laws of Utah 2001, Chapter 260
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- 554            **48-2c-502**, as enacted by Laws of Utah 2001, Chapter 260
- 555            **48-2c-503**, as enacted by Laws of Utah 2001, Chapter 260
- 556            **48-2c-504**, as enacted by Laws of Utah 2001, Chapter 260
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- 560            **48-2c-602**, as last amended by Laws of Utah 2002, Chapter 193
- 561            **48-2c-603**, as enacted by Laws of Utah 2001, Chapter 260
- 562            **48-2c-604**, as enacted by Laws of Utah 2001, Chapter 260
- 563            **48-2c-605**, as enacted by Laws of Utah 2001, Chapter 260
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- 568            **48-2c-610**, as enacted by Laws of Utah 2006, Chapter 92
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- 579            **48-2c-705**, as enacted by Laws of Utah 2001, Chapter 260
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- 581            **48-2c-707**, as last amended by Laws of Utah 2002, Chapter 193
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- 596            **48-2c-902**, as enacted by Laws of Utah 2001, Chapter 260
- 597            **48-2c-903**, as last amended by Laws of Utah 2005, Chapter 141
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- 599            **48-2c-905**, as enacted by Laws of Utah 2001, Chapter 260
- 600            **48-2c-906**, as enacted by Laws of Utah 2001, Chapter 260
- 601            **48-2c-1001**, as enacted by Laws of Utah 2001, Chapter 260
- 602            **48-2c-1002**, as enacted by Laws of Utah 2001, Chapter 260
- 603            **48-2c-1003**, as enacted by Laws of Utah 2001, Chapter 260
- 604            **48-2c-1004**, as enacted by Laws of Utah 2001, Chapter 260
- 605            **48-2c-1005**, as enacted by Laws of Utah 2001, Chapter 260
- 606            **48-2c-1006**, as enacted by Laws of Utah 2001, Chapter 260
- 607            **48-2c-1007**, as enacted by Laws of Utah 2001, Chapter 260
- 608            **48-2c-1008**, as enacted by Laws of Utah 2001, Chapter 260
- 609            **48-2c-1101**, as enacted by Laws of Utah 2001, Chapter 260
- 610            **48-2c-1102**, as enacted by Laws of Utah 2001, Chapter 260
- 611            **48-2c-1103**, as last amended by Laws of Utah 2005, Chapter 141
- 612            **48-2c-1104**, as enacted by Laws of Utah 2001, Chapter 260
- 613            **48-2c-1105**, as enacted by Laws of Utah 2001, Chapter 260
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- 615            **48-2c-1201**, as last amended by Laws of Utah 2005, Chapter 141
- 616            **48-2c-1202**, as enacted by Laws of Utah 2001, Chapter 260
- 617            **48-2c-1203**, as enacted by Laws of Utah 2001, Chapter 260
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- 619            **48-2c-1205**, as enacted by Laws of Utah 2001, Chapter 260
- 620            **48-2c-1206**, as last amended by Laws of Utah 2008, Chapter 364
- 621            **48-2c-1207**, as last amended by Laws of Utah 2009, Chapter 141
- 622            **48-2c-1208**, as last amended by Laws of Utah 2009, Chapter 141
- 623            **48-2c-1209**, as last amended by Laws of Utah 2009, Chapter 141
- 624            **48-2c-1210**, as enacted by Laws of Utah 2001, Chapter 260
- 625            **48-2c-1211**, as last amended by Laws of Utah 2008, Chapter 364
- 626            **48-2c-1212**, as enacted by Laws of Utah 2001, Chapter 260
- 627            **48-2c-1213**, as enacted by Laws of Utah 2001, Chapter 260
- 628            **48-2c-1214**, as enacted by Laws of Utah 2001, Chapter 260
- 629            **48-2c-1301**, as enacted by Laws of Utah 2001, Chapter 260
- 630            **48-2c-1302**, as enacted by Laws of Utah 2001, Chapter 260
- 631            **48-2c-1303**, as enacted by Laws of Utah 2001, Chapter 260
- 632            **48-2c-1304**, as enacted by Laws of Utah 2001, Chapter 260
- 633            **48-2c-1305**, as enacted by Laws of Utah 2001, Chapter 260
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- 638            **48-2c-1401**, as last amended by Laws of Utah 2009, Chapter 141
- 639            **48-2c-1402**, as enacted by Laws of Utah 2001, Chapter 260
- 640            **48-2c-1403**, as enacted by Laws of Utah 2001, Chapter 260
- 641            **48-2c-1404**, as last amended by Laws of Utah 2005, Chapter 141
- 642            **48-2c-1405**, as enacted by Laws of Utah 2001, Chapter 260
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- 644            **48-2c-1407**, as enacted by Laws of Utah 2001, Chapter 260
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- 646            **48-2c-1409**, as enacted by Laws of Utah 2001, Chapter 260
- 647            **48-2c-1410**, as enacted by Laws of Utah 2001, Chapter 260
- 648            **48-2c-1411**, as enacted by Laws of Utah 2009, Chapter 141
- 649            **48-2c-1501**, as enacted by Laws of Utah 2001, Chapter 260
- 650            **48-2c-1502**, as last amended by Laws of Utah 2010, Chapter 379
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- 652            **48-2c-1504**, as enacted by Laws of Utah 2001, Chapter 260
- 653            **48-2c-1505**, as enacted by Laws of Utah 2001, Chapter 260
- 654            **48-2c-1506**, as enacted by Laws of Utah 2001, Chapter 260
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- 657            **48-2c-1509**, as enacted by Laws of Utah 2001, Chapter 260
- 658            **48-2c-1510**, as enacted by Laws of Utah 2001, Chapter 260
- 659            **48-2c-1511**, as last amended by Laws of Utah 2008, Chapter 364
- 660            **48-2c-1512**, as enacted by Laws of Utah 2001, Chapter 260
- 661            **48-2c-1513**, as enacted by Laws of Utah 2001, Chapter 260
- 662            **48-2c-1601**, as enacted by Laws of Utah 2001, Chapter 260
- 663            **48-2c-1602**, as enacted by Laws of Utah 2001, Chapter 260
- 664            **48-2c-1603**, as last amended by Laws of Utah 2008, Chapter 364
- 665            **48-2c-1604**, as last amended by Laws of Utah 2008, Chapters 249 and 364
- 666            **48-2c-1605**, as enacted by Laws of Utah 2001, Chapter 260
- 667            **48-2c-1606**, as enacted by Laws of Utah 2001, Chapter 260
- 668            **48-2c-1607**, as enacted by Laws of Utah 2001, Chapter 260
- 669            **48-2c-1608**, as enacted by Laws of Utah 2001, Chapter 260
- 670            **48-2c-1609**, as enacted by Laws of Utah 2001, Chapter 260
- 671            **48-2c-1610**, as enacted by Laws of Utah 2001, Chapter 260
- 672            **48-2c-1611**, as last amended by Laws of Utah 2008, Chapter 364
- 673            **48-2c-1612**, as last amended by Laws of Utah 2008, Chapter 364
- 674            **48-2c-1613**, as last amended by Laws of Utah 2009, Chapter 141
- 675            **48-2c-1614**, as last amended by Laws of Utah 2008, Chapter 364
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- 677            **48-2c-1701**, as enacted by Laws of Utah 2001, Chapter 260
- 678            **48-2c-1702**, as enacted by Laws of Utah 2001, Chapter 260
- 679            **48-2c-1703**, as enacted by Laws of Utah 2001, Chapter 260
- 680            **48-2c-1704**, as enacted by Laws of Utah 2001, Chapter 260
- 681            **48-2c-1705**, as enacted by Laws of Utah 2001, Chapter 260
- 682            **48-2c-1706**, as enacted by Laws of Utah 2001, Chapter 260
- 683            **48-2c-1801**, as enacted by Laws of Utah 2001, Chapter 260
- 684            **48-2c-1802**, as enacted by Laws of Utah 2001, Chapter 260
- 685            **48-2c-1803**, as enacted by Laws of Utah 2001, Chapter 260
- 686            **48-2c-1804**, as enacted by Laws of Utah 2001, Chapter 260
- 687            **48-2c-1805**, as enacted by Laws of Utah 2001, Chapter 260
- 688            **48-2c-1806**, as enacted by Laws of Utah 2001, Chapter 260
- 689            **48-2c-1807**, as enacted by Laws of Utah 2001, Chapter 260
- 690            **48-2c-1808**, as enacted by Laws of Utah 2001, Chapter 260
- 691            **48-2c-1809**, as enacted by Laws of Utah 2001, Chapter 260
- 692            **48-2c-1901**, as enacted by Laws of Utah 2001, Chapter 260
- 693            **48-2c-1902**, as enacted by Laws of Utah 2001, Chapter 260



694  
695 *Be it enacted by the Legislature of the state of Utah:*

696            Section 1. Section **7-1-810** is amended to read:

697            **7-1-810. Limited liability companies.**

698            (1) Notwithstanding any other provision of this title and subject to Subsection (8), if  
699 the conditions of this section are met, the following may be organized as or convert to a limited  
700 liability company under Title 48, Chapter [2c] 3, Utah Revised Uniform Limited Liability  
701 Company Act:

- 702            (a) an industrial bank chartered under Chapter 8, Industrial Banks;
- 703            (b) an industrial loan company as defined in Section 7-8-21; or
- 704            (c) any of the following if the institution is an S Corporation, as defined in Section  
705 1361, Internal Revenue Code, immediately before becoming a limited liability company:
  - 706            (i) a bank chartered under Chapter 3, Banks;
  - 707            (ii) a savings and loan association chartered under Chapter 7, Savings and Loan

708 Associations Act; or

709 (iii) a depository institution holding company.

710 (2) (a) Before an institution described in Subsection (1) may organize as or convert to a  
711 limited liability company, the institution shall obtain approval of the commissioner.

712 (b) (i) To obtain the approval under this section from the commissioner, the institution  
713 shall file a request for approval with the commissioner at least 30 days before the day on which  
714 the institution becomes a limited liability company.

715 (ii) If the commissioner does not disapprove the request for approval within 30 days  
716 from the day on which the commissioner receives the request, the request is considered  
717 approved.

718 (iii) When taking action on a request for approval filed under this section, the  
719 commissioner may:

720 (A) approve the request;

721 (B) approve the request subject to terms and conditions the commissioner considers  
722 necessary; or

723 (C) disapprove the request.

724 (3) To approve a request for approval, the commissioner shall find:

725 (a) for an institution described in Subsection (1) that is required to be insured by a  
726 federal deposit insurance agency, that the institution:

727 (i) will operate in a safe and sound manner;

728 (ii) has the following characteristics:

729 (A) the institution is not subject to automatic termination, dissolution, or suspension  
730 upon the happening of some event other than the passage of time;

731 (B) the exclusive authority to manage the institution is vested in a board of managers  
732 or directors that:

733 (I) is elected or appointed by the owners;

734 (II) is not required to have owners of the institution included on the board;

735 (III) possesses adequate independence and authority to supervise the operation of the  
736 institution; and

737 (IV) operates with substantially the same rights, powers, privileges, duties, and  
738 responsibilities as the board of directors of a corporation;



739 (C) neither state law, nor the institution's operating agreement, bylaws, or other  
 740 organizational documents provide that an owner of the institution is liable for the debts,  
 741 liabilities, and obligations of the institution in excess of the amount of the owner's investment;  
 742 and

743 (D) (I) neither state law, nor the institution's operating agreement, bylaws, or other  
 744 organizational documents require the consent of any other owner of the institution in order for  
 745 any owner to transfer an ownership interest in the institution, including voting rights; and

746 (II) the institution is able to obtain new investment funding if needed to maintain  
 747 adequate capital; and

748 (iii) is able to comply with all legal and regulatory requirements for an insured  
 749 depository institution under applicable federal and state law; and

750 (b) for an institution described in Subsection (1) that is not required to be insured by a  
 751 federal deposit insurance agency, that the institution will operate in a safe and sound manner.

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

755 (5) (a) All rights, privileges, powers, duties, and obligations of an institution described  
 756 in Subsection (1) that is organized as a limited liability company and its members and  
 757 managers shall be governed by Title 48, Chapter ~~[2c]~~ 3, Utah Revised Uniform Limited  
 758 Liability Company Act, except:

759 (i) the following ~~[sections]~~ do not apply to an institution that is described in Subsection  
 760 (3)(a):

761 [~~(A) Subsection 48-2c-402(2)(a)(ii);~~]

762 [~~(B) Section 48-2c-604;~~]

763 [~~(C) Section 48-2c-703;~~]

764 [~~(D) Section 48-2c-708;~~]

765 [~~(E) Subsection 48-2c-801(2);~~]

766 [~~(F) Section 48-2c-1102;~~]

767 [~~(G) Section 48-2c-1104; and~~]

768 [~~(H) Subsections 48-2c-1201(2) through (5); and~~]

769 (A) Section 48-3-110;

- 770           (B) Section 48-3-112;
- 771           (C) Section 48-3-201;
- 772           (D) Section 48-3-401;
- 773           (E) Subsections 48-3-407(1) and (3)(d);
- 774           (F) Section 48-3-410;
- 775           (G) Subsection 48-3-502(1)(c);
- 776           (H) Title 48, Chapter 3, Part 6, Member's Dissociation;
- 777           (I) Section 48-3-701; and
- 778           (J) Title 48, Chapter 3, Part 8, Foreign Limited Liability Companies; and
- 779           (ii) as otherwise provided in this title.
- 780           (b) Notwithstanding Subsection (5)(a), for an institution that is described in Subsection
- 781           (3)(a):
- 782           (i) for purposes of transferring a member's interests in the institution, a member's
- 783           interest in the institution shall be treated like a share of stock in a corporation; and
- 784           (ii) if a member's interest in the institution is transferred voluntarily or involuntarily to
- 785           another person, the person who receives the member's interest shall obtain the member's entire
- 786           rights associated with the member's interest in the institution including:
- 787           (A) all economic rights; and
- 788           (B) all voting rights.
- 789           (c) An institution described in Subsection (3)(a) may not by agreement or otherwise
- 790           change the application of Subsection (5)(a) to the institution.
- 791           (6) Unless the context requires otherwise, for the purpose of applying this title to an
- 792           institution described in Subsection (1) that is organized as a limited liability company:
- 793           (a) a citation to Title 16, Chapter 10a, Utah Revised Business Corporation Act,
- 794           includes the equivalent citation to Title 48, Chapter ~~[2c]~~ 3, Utah Revised Uniform Limited
- 795           Liability Company Act;
- 796           (b) "articles of incorporation" includes a limited liability company's ~~[articles]~~
- 797           certificate of organization as that term is used in Section ~~[48-2c-403]~~ 48-3-201;
- 798           (c) "board of directors" includes one or more persons who have, with respect to an
- 799           institution described in Subsection (1), authority substantially similar to that of a board of
- 800           directors of a corporation;

801 (d) "bylaws" includes a limited liability company's operating agreement as that term is  
802 defined in Section [~~48-2c-102~~] 48-3-102;

803 (e) "corporation" includes a limited liability company organized under Title 48,  
804 Chapter [~~2c~~] 3, Utah Revised Uniform Limited Liability Company Act;

805 (f) "director" includes any of the following of a limited liability company:

806 (i) a manager;

807 (ii) a director; or

808 (iii) other person who has with respect to the institution described in Subsection (1),  
809 authority substantially similar to that of a director of a corporation;

810 (g) "dividend" includes distributions made by a limited liability company under Title  
811 48, Chapter [~~2c, Part 10, Distributions~~] 3, Part 4, Relations of Members to Each Other and to  
812 Limited Liability Company;

813 (h) "incorporator" includes [~~the organizers~~] an organizer of a limited liability company  
814 as provided in Title 48, Chapter [~~2c, Part 4, Formation~~] 3, Part 2, Formation - Certificate of  
815 Organization and Other Filings;

816 (i) "officer" includes any of the following of an institution described in Subsection (1):

817 (i) an officer; or

818 (ii) other person who has with respect to the institution described in Subsection (1)  
819 authority substantially similar to that of an officer of a corporation;

820 (j) "security," "shares," or "stock" of a corporation includes:

821 (i) a membership interest in a limited liability company as provided in Title 48,

822 Chapter [~~2c, Part 7, Members~~] 3, Part 4, Relations of Members to Each Other and to Limited  
823 Liability Company; and

824 (ii) [~~any~~] a certificate or other evidence of an ownership interest in a limited liability  
825 company; and

826 (k) "stockholder" or "shareholder" includes an owner of an interest in an institution  
827 described in Subsection (1) including a member as provided in Title 48, Chapter [~~2c, Part 7,~~  
828 ~~Members~~] 3, Part 4, Relations of Members to Each Other and to Limited Liability Company.

829 (7) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the  
830 commissioner shall make rules governing the form of a request for approval filed under this  
831 section.

832 (8) A depository institution organized under the laws of this state may not be organized  
833 as or converted to a series of [~~members, managers, or~~] transferable interests in a limited  
834 liability company as provided in [~~Section 48-2c-606~~] Title 48, Chapter 3, Part 12, Series  
835 Limited Liability Companies.

836 Section 2. Section **7-3-10** is amended to read:

837 **7-3-10. Organization -- Powers, rights, and privileges of banking corporation --**  
838 **Other business activities.**

839 (1) A bank chartered under this chapter shall be:

840 (a) a domestic corporation under Title 16, Chapter 10a, Utah Revised Business  
841 Corporation Act; or

842 (b) subject to Section 7-1-810, including the requirement that the bank be an S  
843 Corporation immediately before becoming a limited liability company, a limited liability  
844 company created under Title 48, Chapter [~~2c~~] 3, Utah Revised Uniform Limited Liability  
845 Company Act.

846 (2) A bank has all the rights, privileges, and powers necessary or incidental to carrying  
847 on the business of banking in addition to the powers granted:

848 (a) if the bank is a corporation, under Title 16, Chapter 10a, Utah Revised Business  
849 Corporation Act; or

850 (b) subject to Section 7-1-810, if the bank is a limited liability company, under Title  
851 48, Chapter [~~2c~~] 3, Utah Revised Uniform Limited Liability Company Act.

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

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

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

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

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

862 **7-8-3. Organization -- Authorization to conduct business -- Deposit insurance.**

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

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

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

868 (ii) in accordance with Section 7-1-810, Title 48, Chapter ~~[2c]~~ 3, Utah Revised  
869 Uniform Limited Liability Company Act.

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

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

877 (b) All rights, privileges, powers, duties, and obligations of a limited liability company  
878 authorized to conduct business as an industrial bank and its members and managers shall be  
879 governed by Title 48, Chapter ~~[2c, Utah Revised]~~ 3, Uniform Limited Liability Company Act,  
880 except as otherwise provided in this title.

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

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

886 Section 4. Section **13-34-114** is amended to read:

887 **13-34-114. Consent to use of educational terms in business names.**

888 (1) For purposes of this section:

889 (a) "Business name" means a name filed with the Division of Corporations and  
890 Commercial Code under:

891 (i) Section 16-6a-401;

892 (ii) Section 16-10a-401;

893 (iii) Section 16-11-16;

- 894 (iv) Section 42-2-6.6;
- 895 (v) Section [~~48-2a-102~~] 48-2d-108; or
- 896 (vi) Section [~~48-2c-106~~] 48-3-108.

897 (b) "Educational term" means the term:

- 898 (i) "university";
- 899 (ii) "college"; or
- 900 (iii) "institute" or "institution."

901 (2) If a statute listed in Subsection (1)(a) requires the written consent of the division to  
902 file a business name with the Division of Corporations and Commercial Code that includes an  
903 educational term, the division may consent to the use of an educational term in accordance with  
904 this statute.

905 (3) The division shall consent to the use of an educational term in a business name if  
906 the person seeking to file the name:

- 907 (a) is registered under this chapter;
- 908 (b) is exempt from the chapter under Section 13-34-105; or
- 909 (c) (i) is not engaged in educational activities; and
- 910 (ii) does not represent that it is engaged in educational activities.

911 (4) The division may withhold consent to use of an educational term in a business  
912 name if the person seeking to file the name:

- 913 (a) offers, sells, or awards a degree or any other type of educational credential; and
- 914 (b) fails to provide bona fide instruction through student-faculty interaction according  
915 to the standards and criteria established by the division under Subsection 13-34-104(5).

916 Section 5. Section **16-6a-1008.7** is amended to read:

917 **16-6a-1008.7. Conversion to or from a domestic limited liability company.**

918 (1) (a) A domestic nonprofit corporation may convert to a domestic limited liability  
919 company subject to Title 48, Chapter [~~2e~~] 3, Utah Revised Uniform Limited Liability Company  
920 Act, by complying with:

- 921 (i) this Subsection (1); and
- 922 (ii) Section [~~48-2c-1401~~] 48-3-1006.

923 (b) If a domestic nonprofit corporation converts to a domestic limited liability company  
924 in accordance with this Subsection (1), the articles of conversion shall:

- 925 (i) comply with Section [~~48-2c-1402~~] 48-3-1008; and
- 926 (ii) if the corporation has any members, provide for:
- 927 (A) the cancellation of any membership; or
- 928 (B) the conversion of any membership in the domestic nonprofit corporation to a
- 929 membership interest in the domestic limited liability company.
- 930 (c) [~~In accordance with Section 48-2c-1404, before~~] Before articles of conversion may
- 931 be filed with the division, the conversion shall be approved:
- 932 (i) in the manner provided for the articles of incorporation or bylaws of the domestic
- 933 nonprofit corporation; or
- 934 (ii) if the articles of incorporation or bylaws of the domestic nonprofit corporation do
- 935 not provide the method for approval:
- 936 (A) if the domestic nonprofit corporation has voting members, by all of the members of
- 937 the domestic nonprofit corporation regardless of limitations or restrictions on the voting rights
- 938 of the members; or
- 939 (B) if the nonprofit domestic corporation does not have voting members, by a majority
- 940 of:
- 941 (I) the directors in office at the time the conversion is approved by the board of
- 942 directors; or
- 943 (II) if directors have not been appointed or elected, the incorporators.
- 944 (2) A domestic limited liability company may convert to a domestic nonprofit
- 945 corporation subject to this chapter by:
- 946 (a) filing articles of incorporation in accordance with this chapter; and
- 947 (b) complying with Section [~~48-2c-1406~~] 48-3-1006.
- 948 (3) Any conversion under this section may not result in a violation, directly or
- 949 indirectly, of:
- 950 (a) Section 16-6a-1301; or
- 951 (b) any other provision of this chapter.
- 952 Section 6. Section **16-10a-401** is amended to read:
- 953 **16-10a-401. Corporate name.**
- 954 (1) The name of a corporation:
- 955 (a) except for the name of a depository institution as defined in Section 7-1-103, shall

956 contain:

957 (i) the word:

958 (A) "corporation";

959 (B) "incorporated"; or

960 (C) "company";

961 (ii) the abbreviation:

962 (A) "corp.";

963 (B) "inc."; or

964 (C) "co."; or

965 (iii) words or abbreviations of like import to the words or abbreviations listed in

966 Subsections (1)(a)(i) and (ii) in another language;

967 (b) may not contain language stating or implying that the corporation is organized for a

968 purpose other than that permitted by:

969 (i) Section 16-10a-301; and

970 (ii) the corporation's articles of incorporation;

971 (c) without the written consent of the United States Olympic Committee, may not

972 contain the words:

973 (i) "Olympic";

974 (ii) "Olympiad"; or

975 (iii) "Citius Altius Fortius"; and

976 (d) without the written consent of the Division of Consumer Protection issued in

977 accordance with Section 13-34-114, may not contain the words:

978 (i) "university";

979 (ii) "college"; or

980 (iii) "institute" or "institution."

981 (2) Except as authorized by Subsections (3) and (4), the name of a corporation shall be

982 distinguishable, as defined in Subsection (5), upon the records of the division from:

983 (a) the name of any domestic corporation incorporated in or foreign corporation

984 authorized to transact business in this state;

985 (b) the name of any domestic or foreign nonprofit corporation incorporated or

986 authorized to transact business in this state;



987 (c) the name of any domestic or foreign limited liability company formed or authorized  
988 to transact business in this state;

989 (d) the name of any limited partnership formed or authorized to transact business in  
990 this state;

991 (e) any name reserved or registered with the division for a corporation, limited liability  
992 company, or general or limited partnership, under the laws of this state; and

993 (f) any business name, fictitious name, assumed name, trademark, or service mark  
994 registered by the division.

995 (3) (a) A corporation may apply to the division for authorization to file its articles of  
996 incorporation under, or to register or reserve, a name that is not distinguishable upon its records  
997 from one or more of the names described in Subsection (2).

998 (b) The division shall approve the application filed under Subsection (3)(a) if:

999 (i) the other person whose name is not distinguishable from the name under which the  
1000 applicant desires to file, or which the applicant desires to register or reserve:

1001 (A) consents to the filing, registration, or reservation in writing; and

1002 (B) submits an undertaking in a form satisfactory to the division to change its name to  
1003 a name that is distinguishable from the name of the applicant; or

1004 (ii) the applicant delivers to the division a certified copy of the final judgment of a  
1005 court of competent jurisdiction establishing the applicant's right to make the requested filing in  
1006 this state under the name applied for.

1007 (4) A corporation may make a filing under the name, including the fictitious name, of  
1008 another domestic or foreign corporation that is used or registered in this state if:

1009 (a) the other corporation is incorporated or authorized to transact business in this state;  
1010 and

1011 (b) the filing corporation:

1012 (i) has merged with the other corporation; or

1013 (ii) has been formed by reorganization of the other corporation.

1014 (5) (a) A name is distinguishable from other names, trademarks, and service marks on  
1015 the records of the division if it:

1016 (i) contains one or more different letters or numerals; or

1017 (ii) has a different sequence of letters or numerals from the other names on the

- 1018 division's records.
- 1019 (b) Differences which are not distinguishing are:
- 1020 (i) the words or abbreviations of the words:
- 1021 (A) "corporation";
- 1022 (B) "company";
- 1023 (C) "incorporated";
- 1024 (D) "limited partnership";
- 1025 (E) "L.P.";
- 1026 (F) "limited";
- 1027 [~~(G)~~ "Ltd."];
- 1028 [~~(H)~~ (G) "limited liability company";
- 1029 (H) "limited company";
- 1030 (I) "L.C."; or
- 1031 [~~(K)~~ (J) "L.L.C.";
- 1032 (ii) the presence or absence of the words or symbols of the words "the," "and," or "a";
- 1033 (iii) differences in punctuation and special characters;
- 1034 (iv) differences in capitalization;
- 1035 (v) differences between singular and plural forms of words for a corporation:
- 1036 (A) incorporated in or authorized to do business in this state on or after May 4, 1998;
- 1037 or
- 1038 (B) that changes its name on or after May 4, 1998;
- 1039 (vi) differences in whether the letters or numbers immediately follow each other or are
- 1040 separated by one or more spaces if:
- 1041 (A) the sequence of letters or numbers is identical; and
- 1042 (B) the corporation:
- 1043 (I) is incorporated in or authorized to do business in this state on or after May 3, 1999;
- 1044 or
- 1045 (II) changes its name on or after May 3, 1999; or
- 1046 (vii) differences in abbreviations, for a corporation:
- 1047 (A) incorporated in or authorized to do business in this state on or after May 1, 2000;
- 1048 or

1049 (B) that changes its name on or after May 1, 2000.

1050 (c) The director of the division has the power and authority reasonably necessary to  
1051 interpret and efficiently administer this section and to perform the duties imposed on the  
1052 division by this section.

1053 (6) A name that implies that the corporation is an agency of this state or of any of its  
1054 political subdivisions, if it is not actually such a legally established agency or subdivision, may  
1055 not be approved for filing by the division.

1056 (7) (a) The requirements of Subsection (1)(d) do not apply to a corporation  
1057 incorporated in or authorized to do business in this state on or before May 4, 1998, until  
1058 December 31, 1998.

1059 (b) On or after January 1, 1999, any corporation incorporated in or authorized to do  
1060 business in this state shall comply with the requirements of Subsection (1)(d).

1061 Section 7. Section **16-10a-1008.7** is amended to read:

1062 **16-10a-1008.7. Conversion to or from a domestic limited liability company.**

1063 (1) (a) A corporation may convert to a domestic limited liability company subject to  
1064 Title 48, Chapter [2e] 3, Utah Revised Uniform Limited Liability Company Act, by complying  
1065 with:

1066 (i) this Subsection (1); and

1067 (ii) Section [~~48-2c-1401~~] 48-3-1006.

1068 (b) If a corporation converts to a domestic limited liability company in accordance with  
1069 this Subsection (1), the articles of conversion shall:

1070 (i) comply with Section [~~48-2c-1402~~] 48-3-1008; and

1071 (ii) if the corporation has issued shares, provide for:

1072 (A) the cancellation of any issued share; or

1073 (B) the conversion of any issued share to a membership interest in the domestic limited  
1074 liability company.

1075 (c) [~~In accordance with Section 48-2c-1404, before~~] Before articles of conversion may  
1076 be filed with the division, the conversion shall be approved:

1077 (i) in the manner provided for the articles of incorporation or bylaws of the  
1078 corporation; or

1079 (ii) if the articles of incorporation or bylaws of the corporation do not provide the

1080 method for approval:

1081 (A) if the corporation has issued shares, by all of the outstanding shares of all classes  
1082 of shares of the corporation regardless of limitations or restrictions on the voting rights of the  
1083 shares; or

1084 (B) if the corporation has not issued shares, by a majority of:

1085 (I) the directors in office at the time that the conversion is approved by the board of  
1086 directors; or

1087 (II) if directors have not been appointed or elected, the incorporators.

1088 (2) A domestic limited liability company may convert to a corporation subject to this  
1089 chapter by:

1090 (a) filing articles of incorporation in accordance with this chapter; and

1091 (b) complying with Section [~~48-2c-1406~~] 48-3-1006.

1092 Section 8. Section **16-11-16** is amended to read:

1093 **16-11-16. Corporate name.**

1094 (1) The name of each professional corporation as set forth in its articles of  
1095 incorporation:

1096 (a) shall contain the terms:

1097 (i) "professional corporation"; or

1098 (ii) "P.C.";

1099 (b) may not contain the words:

1100 (i) "incorporated"; or

1101 (ii) "inc.";

1102 (c) may not contain language stating or implying that the professional corporation is  
1103 organized for a purpose other than that permitted by:

1104 (i) Section 16-11-6; and

1105 (ii) the professional corporation's articles of incorporation;

1106 (d) without the written consent of the United States Olympic Committee, may not  
1107 contain the words:

1108 (i) "Olympic";

1109 (ii) "Olympiad"; or

1110 (iii) "Citius Altius Fortius"; and

1111 (e) without the written consent of the Division of Consumer Protection in accordance  
1112 with Section 13-34-114, may not contain the words:

- 1113 (i) "university";
- 1114 (ii) "college"; or
- 1115 (iii) "institute" or "institution."

1116 (2) The professional corporation may not imply by any word in the name that it is an  
1117 agency of the state or of any of its political subdivisions.

1118 (3) A person, other than a professional corporation formed or registered under this  
1119 chapter, may not use in its name in this state any of the terms:

- 1120 (a) "professional corporation"; or
- 1121 (b) "P.C."

1122 (4) Except as authorized by Subsection (5), the name of the professional corporation  
1123 shall be distinguishable, as defined in Subsection (6), upon the records of the division from:

- 1124 (a) the name of any domestic corporation incorporated in or foreign corporation  
1125 authorized to transact business in this state;
- 1126 (b) the name of any domestic or foreign nonprofit corporation incorporated or  
1127 authorized to transact business in this state;
- 1128 (c) the name of any domestic or foreign limited liability company formed or authorized  
1129 to transact business in this state;
- 1130 (d) the name of any limited partnership formed or authorized to transact business in  
1131 this state;

1132 (e) any name reserved or registered with the division for a corporation, limited liability  
1133 company, or general or limited partnership, under the laws of this state; and

1134 (f) any business name, fictitious name, assumed name, trademark, or service mark  
1135 registered by the division.

1136 (5) (a) A professional corporation may apply to the division for authorization to file its  
1137 articles of incorporation under, or to register or reserve, a name that is not distinguishable upon  
1138 its records from one or more of the names described in Subsection (4).

1139 (b) The division shall approve the application filed under Subsection (5)(a) if:

- 1140 (i) the other person whose name is not distinguishable from the name under which the  
1141 applicant desires to file, or which the applicant desires to register or reserve:

- 1142 (A) consents to the filing, registration, or reservation in writing; and
- 1143 (B) submits an undertaking in a form satisfactory to the division to change its name to
- 1144 a name that is distinguishable from the name of the applicant; or
- 1145 (ii) the applicant delivers to the division a certified copy of the final judgment of a
- 1146 court of competent jurisdiction establishing the applicant's right to make the requested filing in
- 1147 this state under the name applied for.
- 1148 (6) (a) A name is distinguishable from other names, trademarks, and service marks
- 1149 registered with the division if it:
- 1150 (i) contains one or more different letters or numerals from other names upon the
- 1151 division's records; or
- 1152 (ii) has a different sequence of letter or numerals from the other names on the division's
- 1153 records.
- 1154 (b) The following differences are not distinguishable:
- 1155 (i) the words or abbreviations of the words:
- 1156 (A) "corporation";
- 1157 (B) "incorporated";
- 1158 (C) "company";
- 1159 (D) "limited partnership";
- 1160 (E) "limited";
- 1161 (F) "L.P.";
- 1162 [~~G~~] "~~Ltd.~~";
- 1163 [~~H~~] (G) "limited liability company";
- 1164 [~~I~~] (H) "limited company";
- 1165 [~~J~~] (I) "L.C."; or
- 1166 [~~K~~] (J) "L.L.C.";
- 1167 (ii) the presence or absence of the words or symbols of the words "the," "and," "a," or
- 1168 "plus";
- 1169 (iii) differences in punctuation and special characters;
- 1170 (iv) differences in capitalization; or
- 1171 (v) differences in abbreviations.
- 1172 (7) The director of the division shall have the power and authority reasonably necessary

1173 to interpret and efficiently administer this section and to perform the duties imposed upon the  
1174 division by this section.

1175 Section 9. Section **16-16-111** is amended to read:

1176 **16-16-111. Name.**

1177 (1) Use of the term "cooperative" or its abbreviation under this chapter is not a  
1178 violation of the provisions restricting the use of the term under any other law of this state.

1179 (2) (a) Notwithstanding Section [~~48-2a-102~~] 48-2d-108, the name of a limited  
1180 cooperative association shall contain:

1181 (i) the words "limited cooperative association" or "limited cooperative"; or

1182 (ii) the abbreviation "L.C.A." or "LCA". [~~"Limited" may be abbreviated as "Ltd.".~~]

1183 (b) "Cooperative" may be abbreviated as "Co-op" or "Coop".

1184 (c) "Association" may be abbreviated as "Assoc." or "Assn.".

1185 (d) (i) Use of the term "cooperative" or its abbreviation as permitted by this chapter is  
1186 not a violation of the provisions restricting the use of the term under any other law of this state.

1187 (ii) A limited cooperative association or a member may enforce the restrictions on the  
1188 use of the term "cooperative" under this chapter and any other law of this state.

1189 (iii) A limited cooperative association or a member may enforce the restrictions on the  
1190 use of the term "cooperative" under any other law of this state.

1191 (3) Except as otherwise provided in Subsection (4), a limited cooperative association  
1192 may use only a name that is available. A name is available if it is distinguishable in the records  
1193 of the division from:

1194 (a) the name of any entity organized or authorized to transact business in this state;

1195 (b) a name reserved under Section 16-16-112; and

1196 (c) an alternative name approved for a foreign cooperative authorized to transact  
1197 business in this state.

1198 (4) A limited cooperative association may apply to the division for authorization to use  
1199 a name that is not available. The division shall authorize use of the name if:

1200 (a) the person with ownership rights to use the name consents in a record to the use and  
1201 applies in a form satisfactory to the division to change the name used or reserved to a name that  
1202 is distinguishable upon the records of the division from the name applied for; or

1203 (b) the applicant delivers to the division a certified copy of the final judgment of a

1204 court establishing the applicant's right to use the name in this state.

1205 Section 10. Section **16-17-102** is amended to read:

1206 **16-17-102. Definitions.**

1207 In this chapter:

1208 (1) "Appointment of agent" means a statement appointing an agent for service of  
1209 process filed by:

1210 (a) a domestic or foreign unincorporated nonprofit association under Section  
1211 16-17-204; or

1212 (b) a domestic entity that is not a filing entity or a nonqualified foreign entity under  
1213 Section 16-17-210.

1214 (2) "Commercial registered agent" means an individual or a domestic or foreign entity  
1215 listed under Section 16-17-204.

1216 (3) "Division" means the Division of Corporations and Commercial Code.

1217 (4) "Domestic entity" means an entity whose internal affairs are governed by the law of  
1218 this state.

1219 (5) "Entity" means a person that has a separate legal existence or has the power to  
1220 acquire an interest in real property in its own name other than:

1221 (a) an individual;

1222 (b) a testamentary, inter vivos, or charitable trust, with the exception of a business  
1223 trust, statutory trust, or similar trust;

1224 (c) an association or relationship that is not a partnership by reason of [~~Section 202(c)~~  
1225 ~~of the Uniform Partnership Act (1997)] Subsection 48-1a-303(3) or a similar provision of the  
1226 law of any other jurisdiction;~~

1227 (d) a decedent's estate; or

1228 (e) a public corporation, government or governmental subdivision, agency, or  
1229 instrumentality, or quasi-governmental instrumentality.

1230 (6) "Filing entity" means an entity that is created by the filing of a public organic  
1231 document.

1232 (7) "Foreign entity" means an entity other than a domestic entity.

1233 (8) "Foreign qualification document" means an application for a certificate of authority  
1234 or other foreign qualification filing with the division by a foreign entity.



1235 (9) "Governance interest" means the right under the organic law or organic rules of an  
1236 entity, other than as a governor, agent, assignee, or proxy, to:

1237 (a) receive or demand access to information concerning, or the books and records of,  
1238 the entity;

1239 (b) vote for the election of the governors of the entity; or

1240 (c) receive notice of or vote on any or all issues involving the internal affairs of the  
1241 entity.

1242 (10) "Governor" means a person by or under whose authority the powers of an entity  
1243 are exercised and under whose direction the business and affairs of the entity are managed  
1244 pursuant to the organic law and organic rules of the entity.

1245 (11) "Interest" means:

1246 (a) a governance interest in an unincorporated entity;

1247 (b) a transferable interest in an unincorporated entity; or

1248 (c) a share or membership in a corporation.

1249 (12) "Interest holder" means a direct holder of an interest.

1250 (13) "Jurisdiction of organization," with respect to an entity, means the jurisdiction  
1251 whose law includes the organic law of the entity.

1252 (14) "Noncommercial registered agent" means a person that is not listed as a  
1253 commercial registered agent under Section 16-17-204 and that is:

1254 (a) an individual or a domestic or foreign entity that serves in this state as the agent for  
1255 service of process of an entity; or

1256 (b) the individual who holds the office or other position in an entity that is designated  
1257 as the agent for service of process pursuant to Subsection 16-17-203(1)(b)(ii).

1258 (15) "Nonqualified foreign entity" means a foreign entity that is not authorized to  
1259 transact business in this state pursuant to a filing with the division.

1260 (16) "Nonresident LLP statement" means:

1261 (a) a statement of qualification of a domestic limited liability partnership that does not  
1262 have an office in this state; or

1263 (b) a statement of foreign qualification of a foreign limited liability partnership that  
1264 does not have an office in this state.

1265 (17) "Organic law" means the statutes, if any, other than this chapter, governing the

1266 internal affairs of an entity.

1267 (18) "Organic rules" means the public organic document and private organic rules of an  
1268 entity.

1269 (19) "Person" means an individual, corporation, estate, trust, partnership, limited  
1270 liability company, business or similar trust, association, joint venture, public corporation,  
1271 government or governmental subdivision, agency, or instrumentality, or any other legal or  
1272 commercial entity.

1273 (20) "Private organic rules" mean the rules, whether or not in a record, that govern the  
1274 internal affairs of an entity, are binding on all of its interest holders, and are not part of its  
1275 public organic document, if any.

1276 (21) "Public organic document" means the public record the filing of which creates an  
1277 entity, and any amendment to or restatement of that record.

1278 (22) "Qualified foreign entity" means a foreign entity that is authorized to transact  
1279 business in this state pursuant to a filing with the division.

1280 (23) "Record" means information that is inscribed on a tangible medium or that is  
1281 stored in an electronic or other medium and is retrievable in perceivable form.

1282 (24) "Registered agent" means a commercial registered agent or a noncommercial  
1283 registered agent.

1284 (25) "Registered agent filing" means:

1285 (a) the public organic document of a domestic filing entity;

1286 (b) a nonresident LLP statement;

1287 (c) a foreign qualification document; or

1288 (d) an appointment of agent.

1289 (26) "Represented entity" means:

1290 (a) a domestic filing entity;

1291 (b) a domestic or qualified foreign limited liability partnership that does not have an  
1292 office in this state;

1293 (c) a qualified foreign entity;

1294 (d) a domestic or foreign unincorporated nonprofit association for which an  
1295 appointment of agent has been filed;

1296 (e) a domestic entity that is not a filing entity for which an appointment of agent has

1297 been filed; or

1298 (f) a nonqualified foreign entity for which an appointment of agent has been filed.

1299 (27) "Sign" means, with present intent to authenticate or adopt a record:

1300 (a) to execute or adopt a tangible symbol; or

1301 (b) to attach to or logically associate with the record an electronic sound, symbol, or  
1302 process.

1303 (28) "Transferable interest" means the right under an entity's organic law to receive  
1304 distributions from the entity.

1305 (29) "Type," with respect to an entity, means a generic form of entity:

1306 (a) recognized at common law; or

1307 (b) organized under an organic law, whether or not some entities organized under that  
1308 organic law are subject to provisions of that law that create different categories of the form of  
1309 entity.

1310 Section 11. Section **31A-37a-102** is amended to read:

1311 **31A-37a-102. Definitions.**

1312 (1) For purposes of this chapter:

1313 (a) "Ceding insurer" means an insurer that:

1314 (i) is approved by the commissioner;

1315 (ii) is licensed or otherwise authorized to transact the business of insurance or  
1316 reinsurance in the insurer's state or country of domicile; and

1317 (iii) cedes risk to a special purpose financial captive insurance company pursuant to a  
1318 reinsurance contract.

1319 (b) Notwithstanding Section 31A-27a-102, "insolvency" or "insolvent" for purposes of  
1320 applying Chapter 27a, Insurer Receivership Act, to a special purpose financial captive  
1321 insurance company, means that a special purpose financial captive insurance company:

1322 (i) is unable to pay an obligation when the obligation is due, unless the obligation is the  
1323 subject of a bona fide dispute; or

1324 (ii) fails to meet the criteria and conditions for solvency of the special purpose financial  
1325 captive insurance company established by the commissioner by rule or order.

1326 (c) (i) "Insurance securitization" means a transaction or a group of related transactions:

1327 (A) that may include a capital market offering;

- 1328 (B) that is effected through one or more related risk transfer instruments and  
1329 facilitating administrative agreements;
- 1330 (C) where all or part of the result of the transaction or group of related transactions is  
1331 used to fund the special purpose financial captive insurance company's obligations under a  
1332 reinsurance contract with a ceding insurer;
- 1333 (D) by which:
- 1334 (I) proceeds are obtained by a special purpose financial captive insurance company,  
1335 directly or indirectly, through the issuance of one or more securities by the special purpose  
1336 financial captive insurance company or another person; or
- 1337 (II) a person provides one or more letters of credit or other assets for the benefit of the  
1338 special purpose financial captive insurance company if the commissioner authorizes the special  
1339 purpose financial captive insurance company to treat the letter of credit or asset as an admitted  
1340 asset for purposes of the special purpose financial captive insurance company's annual report;  
1341 and
- 1342 (E) if all or a part of the proceeds, a letter of credit, or asset described in this  
1343 Subsection (1)(c) is used to fund the special purpose financial captive insurance company's  
1344 obligations under a reinsurance contract with a ceding insurer.
- 1345 (ii) "Insurance securitization" does not include the issuance of a letter of credit for the  
1346 benefit of the commissioner to satisfy all or part of the special purpose financial captive  
1347 insurance company's capital and surplus requirements under Section 31A-37a-302.
- 1348 (d) "Management" means:
- 1349 (i) a board of directors of a special purpose financial captive insurance company;
- 1350 (ii) a managing board of a special purpose financial captive insurance company; or
- 1351 (iii) one or more individuals with the overall responsibility for the management of the  
1352 affairs of the special purpose financial captive insurance company, including:
- 1353 (A) an officer elected or appointed to act on behalf of the special purpose financial  
1354 captive insurance company; or
- 1355 (B) an agent elected or appointed to act on behalf of the special purpose financial  
1356 captive insurance company.
- 1357 (e) "Organizational document" means:
- 1358 (i) in the case of a special purpose financial captive insurance company formed as a

- 1359 stock corporation, the special purpose financial captive insurance company's:
- 1360 (A) articles of incorporation; and
- 1361 (B) bylaws; and
- 1362 (ii) in the case of a special purpose financial captive insurance company formed as a
- 1363 limited liability company, the special purpose financial captive insurance company's:
- 1364 (A) [~~articles~~] certificate of organization; and
- 1365 (B) operating agreement.
- 1366 (f) "Reinsurance contract" means a contract between a special purpose financial captive
- 1367 insurance company and a ceding insurer pursuant to which the special purpose financial captive
- 1368 insurance company agrees to provide reinsurance to the ceding insurer for risks associated with
- 1369 the ceding insurer's insurance or reinsurance business.
- 1370 (g) "Security" means:
- 1371 (i) a security as defined in Section 31A-1-301; or
- 1372 (ii) one or more of the following that the commissioner designates, by rule or order, as
- 1373 a "security" for purposes of this chapter:
- 1374 (A) a debt obligation;
- 1375 (B) equity;
- 1376 (C) a surplus certificate;
- 1377 (D) a surplus note;
- 1378 (E) a funding agreement;
- 1379 (F) a derivative; or
- 1380 (G) another financial instrument.
- 1381 (h) "Special purpose financial captive insurance company" means a captive insurance
- 1382 company has a certificate of authority under this chapter from the commissioner to operate as a
- 1383 special purpose financial captive insurance company pursuant to this chapter.
- 1384 (i) "Special purpose financial captive insurance company security" means:
- 1385 (i) a security issued by a special purpose financial captive insurance company; or
- 1386 (ii) a security issued by a third party, the proceeds of which are obtained directly or
- 1387 indirectly by a special purpose financial captive insurance company.
- 1388 (j) "Surplus note" means an unsecured subordinated debt obligation that has one or
- 1389 more characteristics that are consistent with paragraph 3 of the National Association of

1390 Insurance Commissioners Statement of Statutory Accounting Principals No. 41, as amended  
1391 from time to time and as modified or supplemented by rule or order of the commissioner.

1392 (2) The terms defined in Section 31A-37-102 shall have the same meaning for  
1393 purposes of this chapter.

1394 Section 12. Section **46-4-503** is amended to read:

1395 **46-4-503. Government products and services provided electronically.**

1396 (1) Notwithstanding Section 46-4-501, a state governmental agency that administers  
1397 one or more of the following transactions shall allow those transactions to be conducted  
1398 electronically:

1399 (a) an application for or renewal of a professional or occupational license issued under  
1400 Title 58, Occupations and Professions;

1401 (b) the renewal of a drivers license;

1402 (c) an application for a hunting or fishing license;

1403 (d) the filing of:

1404 (i) a return under Title 59, Chapter 10, Individual Income Tax Act or 12, Sales and Use  
1405 Tax Act;

1406 (ii) a court document, as defined by the Judicial Council; or

1407 (iii) a document under Title 70A, Uniform Commercial Code;

1408 (e) a registration for:

1409 (i) a product; or

1410 (ii) a brand;

1411 (f) a renewal of a registration of a motor vehicle;

1412 (g) a registration under:

1413 (i) Title 16, Corporations;

1414 (ii) Title 42, Names; or

1415 (iii) Title 48, [~~Partnership~~] Unincorporated Business Entities Act; or

1416 (h) submission of an application for benefits:

1417 (i) under Title 35A, Chapter 3, Employment Support Act;

1418 (ii) under Title 35A, Chapter 4, Employment Security Act; or

1419 (iii) related to accident and health insurance.

1420 (2) The state system of public education, in coordination with the Utah Education

1421 Network, shall make reasonable progress toward making the following services available  
1422 electronically:

1423 (a) secure access by parents and students to student grades and progress reports;

1424 (b) email communications with:

1425 (i) teachers;

1426 (ii) parent-teacher associations; and

1427 (iii) school administrators;

1428 (c) access to school calendars and schedules; and

1429 (d) teaching resources that may include:

1430 (i) teaching plans;

1431 (ii) curriculum guides; and

1432 (iii) media resources.

1433 (3) A state governmental agency shall:

1434 (a) in carrying out the requirements of this section, take reasonable steps to ensure the  
1435 security and privacy of records that are private or controlled as defined by Title 63G, Chapter 2,  
1436 Government Records Access and Management Act;

1437 (b) in addition to those transactions listed in Subsections (1) and (2), determine any  
1438 additional services that may be made available to the public through electronic means; and

1439 (c) as part of the agency's information technology plan required by Section 63F-1-204,  
1440 report on the progress of compliance with Subsections (1) through (3).

1441 (4) Notwithstanding the other provisions of this part, a state governmental agency is  
1442 not required by this part to conduct a transaction electronically if:

1443 (a) conducting the transaction electronically is not required by federal law; and

1444 (b) conducting the transaction electronically is:

1445 (i) impractical;

1446 (ii) unreasonable; or

1447 (iii) not permitted by laws pertaining to privacy or security.

1448 (5) (a) For purposes of this Subsection (5), "one-stop shop" means the consolidation of  
1449 access to diverse services and agencies at one location including virtual colocation.

1450 (b) State agencies that provide services or offer direct assistance to the business  
1451 community shall participate in the establishment, maintenance, and enhancement of an

1452 integrated Utah business web portal known as Business.utah.gov. The purpose of the business  
1453 web portal is to provide "one-stop shop" assistance to businesses.

1454 (c) State agencies shall partner with other governmental and nonprofit agencies whose  
1455 primary mission is to provide services or offer direct assistance to the business community in  
1456 Utah in fulfilling the requirements of this section.

1457 (d) The following state entities shall comply with the provisions of this Subsection (5):

1458 (i) Governor's Office of Economic Development, which shall serve as the managing  
1459 partner for the website;

1460 (ii) Department of Workforce Services;

1461 (iii) Department of Commerce;

1462 (iv) Tax Commission;

1463 (v) Department of Administrative Services - Division of Purchasing and General  
1464 Services, including other state agencies operating under a grant of authority from the division  
1465 to procure goods and services in excess of \$5,000;

1466 (vi) Department of Agriculture;

1467 (vii) Department of Natural Resources; and

1468 (viii) other state agencies that provide services or offer direct assistance to the business  
1469 sector.

1470 (e) The business services available on the business web portal may include:

1471 (i) business life cycle information;

1472 (ii) business searches;

1473 (iii) employment needs and opportunities;

1474 (iv) motor vehicle registration;

1475 (v) permit applications and renewal;

1476 (vi) tax information;

1477 (vii) government procurement bid notifications;

1478 (viii) general business information;

1479 (ix) business directories; and

1480 (x) business news.

1481 Section 13. Section **48-1a-101** is enacted to read:

1482 **TITLE 48. UNINCORPORATED BUSINESS ENTITIES ACT**



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**CHAPTER 1a. GENERAL PROVISIONS**

**Part 1. General Provisions**

**48-1a-101. Title.**

(1) This title is known as the "Unincorporated Business Entities Act."

(2) This chapter is known as "General Provisions."

Section 14. Section **48-1a-102** is enacted to read:

**48-1a-102. Definitions.**

As used in this title, "division" means the Division of Corporations and Commercial Code within the Department of Commerce.

Section 15. Section **48-1b-101** is enacted to read:

**CHAPTER 1b. UTAH UNIFORM PARTNERSHIP ACT**

**Part 1. General Provisions**

**48-1b-101. Title -- Definitions.**

(1) This chapter may be cited as the "Utah Uniform Partnership Act."

(2) As used in this chapter:

(a) "Business" includes every trade, occupation, and profession.

(b) "Debtor in bankruptcy" means a person who is the subject of:

(i) an order for relief under United States Code, Title 11, or a comparable order under a successor statute of general application; or

(ii) a comparable order under federal, state, or foreign law governing insolvency.

(c) "Distribution" means a transfer of money or other property from a partnership to a partner in the partner's capacity as a partner or to the partner's transferee.

(d) "Foreign limited liability partnership" means a partnership that:

(i) is formed under laws other than the laws of this state; and

(ii) has the status of a limited liability partnership under those laws.

(e) "Limited liability partnership" means a partnership that has filed with the division a statement of qualification under Section 48-1b-1001 and does not have a similar statement in effect in any other jurisdiction.

(f) "Partnership" means an association of two or more persons to carry on as co-owners a business for profit formed under Section 48-1b-202, predecessor law, or comparable law of another jurisdiction.

1514 (g) "Partnership agreement" means the agreement, whether written, oral, or implied,  
1515 among the partners concerning the partnership, including amendments to the partnership  
1516 agreement.

1517 (h) "Partnership at will" means a partnership in which the partners have not agreed to  
1518 remain partners until the expiration of a definite term or the completion of a particular  
1519 undertaking.

1520 (i) "Partnership interest" or "partner's interest in the partnership" means all of a  
1521 partner's interests in the partnership, including the partner's transferable interest and all  
1522 management and other rights.

1523 (j) "Person" means:

1524 (i) an individual;

1525 (ii) a corporation;

1526 (iii) a business trust;

1527 (iv) an estate;

1528 (v) a trust;

1529 (vi) a partnership;

1530 (vii) an association;

1531 (viii) a joint venture;

1532 (ix) government;

1533 (x) a governmental subdivision, agency, or instrumentality; or

1534 (xi) any other legal or commercial entity.

1535 (k) "Property" means all property, real, personal, or mixed, tangible or intangible, or  
1536 any interest therein.

1537 (l) "State" means a state of the United States, the District of Columbia, the  
1538 Commonwealth of Puerto Rico, or any territory or insular possession subject to the jurisdiction  
1539 of the United States.

1540 (m) "Statement" means:

1541 (i) a statement of partnership authority under Section 48-1b-303;

1542 (ii) a statement of denial under Section 48-1b-304;

1543 (iii) a statement of dissociation under Section 48-1b-704;

1544 (iv) a statement of dissolution under Section 48-1b-805;

- 1545 (v) articles of merger under Section 48-1b-904;  
1546 (vi) a statement of qualification under Section 48-1b-1001;  
1547 (vii) a statement of foreign qualification under Section 48-1b-1102; or  
1548 (viii) an amendment or cancellation of any of the foregoing.  
1549 (n) "Transfer" includes an assignment, conveyance, lease, mortgage, deed, and  
1550 encumbrance.  
1551 (o) "Tribe" means a tribe, band, nation, pueblo, or other organized group or community  
1552 of Indians, including an Alaska Native village, that is legally recognized as eligible for and is  
1553 consistent with a special program, service, or entitlement provided by the United States to  
1554 Indians because of their status as Indians.  
1555 (p) "Tribal limited liability partnership" means a limited liability partnership:  
1556 (i) formed under the law of a tribe; and  
1557 (ii) that is at least 51% owned or controlled by the tribe.  
1558 Section 16. Section **48-1b-102** is enacted to read:  
1559 **48-1b-102. Knowledge and notice.**  
1560 (1) A person knows a fact if the person has actual knowledge of it.  
1561 (2) A person has notice of a fact if the person:  
1562 (a) knows of it;  
1563 (b) has received a notification of it; or  
1564 (c) has reason to know it exists from all of the facts known to the person at the time in  
1565 question.  
1566 (3) A person notifies or gives a notification to another by taking steps reasonably  
1567 required to inform the other person in ordinary course, whether or not the other person learns of  
1568 it.  
1569 (4) A person receives a notification when the notification:  
1570 (a) comes to the person's attention; or  
1571 (b) is duly delivered at the person's place of business or at any other place held out by  
1572 the person as a place for receiving communications.  
1573 (5) Except as otherwise provided in Subsection (6), a person other than an individual  
1574 knows, has notice, or receives a notification of a fact for purposes of a particular transaction  
1575 when the individual conducting the transaction knows, has notice, or receives a notification of

1576 the fact, or in any event when the fact would have been brought to the individual's attention if  
1577 the person had exercised reasonable diligence. The person exercises reasonable diligence if it  
1578 maintains reasonable routines for communicating significant information to the individual  
1579 conducting the transaction and there is reasonable compliance with the routines. Reasonable  
1580 diligence does not require an individual acting for the person to communicate information  
1581 unless the communication is part of the individual's regular duties or the individual has reason  
1582 to know of the transaction and that the transaction would be materially affected by the  
1583 information.

1584 (6) A partner's knowledge, notice, or receipt of a notification of a fact relating to the  
1585 partnership is effective immediately as knowledge by, notice to, or receipt of a notification by  
1586 the partnership, except in the case of a fraud on the partnership committed by or with the  
1587 consent of that partner.

1588 Section 17. Section **48-1b-103** is enacted to read:

1589 **48-1b-103. Effect of partnership agreement -- Nonwaivable provisions.**

1590 (1) Except as otherwise provided in Subsection (2), relations among the partners and  
1591 between the partners and the partnership are governed by the partnership agreement. To the  
1592 extent the partnership agreement does not otherwise provide, this chapter governs relations  
1593 among the partners and between the partners and the partnership.

1594 (2) The partnership agreement may not:

1595 (a) vary the rights and duties under Section 48-1b-105 except to eliminate the duty to  
1596 provide copies of statements to all of the partners;

1597 (b) unreasonably restrict the right of access to books and records under Subsection  
1598 48-1b-403(2);

1599 (c) eliminate the duty of loyalty under Subsection 48-1b-404(2) or 48-1b-603(2)(c),  
1600 but:

1601 (i) the partnership agreement may identify specific types or categories of activities that  
1602 do not violate the duty of loyalty, if not unconscionable or against public policy; or

1603 (ii) all of the partners or a number or percentage specified in the partnership agreement  
1604 may authorize or ratify, after full disclosure of all material facts, a specific act or transaction  
1605 that otherwise would violate the duty of loyalty;

1606 (d) unreasonably reduce the duty of care under Subsection 48-1b-404(3) or

1607 48-1b-603(2)(c);

1608 (e) eliminate the obligation of good faith and fair dealing under Subsection  
1609 48-1b-404(4), but the partnership agreement may prescribe the standards by which the  
1610 performance of the obligation is to be measured, if the standards are not manifestly  
1611 unreasonable;

1612 (f) vary the power to dissociate as a partner under Subsection 48-1b-602(1), except to  
1613 require the notice under Subsection 48-1b-601(1) to be in writing;

1614 (g) vary the right of a court to expel a partner in the events specified in Subsection  
1615 48-1b-601(5);

1616 (h) vary the requirement to wind up the partnership business in cases specified in  
1617 Subsection 48-1b-801(4), (5), or (6);

1618 (i) vary the law applicable to a limited liability partnership under Subsection  
1619 48-1b-106(2); or

1620 (j) restrict rights of third parties under this chapter.

1621 Section 18. Section **48-1b-104** is enacted to read:

1622 **48-1b-104. Supplemental principles of law.**

1623 (1) Unless displaced by particular provisions of this chapter, the principles of law and  
1624 equity supplement this chapter.

1625 (2) If an obligation to pay interest arises under this chapter and the rate is not specified,  
1626 the rate is that specified in Section 15-1-1.

1627 Section 19. Section **48-1b-105** is enacted to read:

1628 **48-1b-105. Execution, filing, and recording of statements.**

1629 (1) A statement may be filed with the division. A certified copy of a statement that is  
1630 filed in an office in another state may be filed with the division. Either filing has the effect  
1631 provided in this chapter with respect to partnership property located in or transactions that  
1632 occur in this state.

1633 (2) A certified copy of a statement that is filed with the division and recorded in the  
1634 office for recording transfers of real property has the effect provided for recorded statements in  
1635 this chapter. A recorded statement that is not a certified copy of a statement filed with the  
1636 division does not have the effect provided for recorded statements in this chapter.

1637 (3) A statement filed with the division by a partnership must be executed by at least

1638 two partners. Other statements must be executed by a partner or other person authorized by  
1639 this chapter. An individual who executes a statement as, or on behalf of, a partner or other  
1640 person named as a partner in a statement shall personally declare under penalty of perjury that  
1641 the contents of the statement are accurate.

1642 (4) A person authorized by this chapter to file a statement with the division may amend  
1643 or cancel the statement by filing an amendment or cancellation that names the partnership,  
1644 identifies the statement, and states the substance of the amendment or cancellation.

1645 (5) A person who files a statement with the division pursuant to this section shall  
1646 promptly send a copy of the statement to every nonfiling partner and to any other person named  
1647 as a partner in the statement. Failure to send a copy of a statement to a partner or other person  
1648 does not limit the effectiveness of the statement as to a person not a partner.

1649 (6) The division may collect a fee, established in accordance with Section 63J-1-504,  
1650 for filing or providing a certified copy of a statement. The county recorder may in accordance  
1651 with Section 17-21-18.5 collect a fee for recording a statement.

1652 (7) A statement filed with the division pursuant to this section and in accordance with  
1653 Section 48-1b-303, is effective for a period of five years from the date of filing. At the  
1654 expiration of that period, if no new filing is made by or on behalf of the person who made the  
1655 original filing, the division shall send a notice by regular mail, postage prepaid, to the address  
1656 shown in the filing indicating that it has expired. If no new filing is made within 30 days after  
1657 the date of mailing the notice, the division shall remove the filing from the division's active  
1658 file.

1659 Section 20. Section **48-1b-106** is enacted to read:

1660 **48-1b-106. Governing law.**

1661 (1) Except as otherwise provided in Subsection (2), the law of the jurisdiction in which  
1662 a partnership has its chief executive office governs relations among the partners and between  
1663 the partners and the partnership.

1664 (2) The law of this state governs relations among the partners and between the partners  
1665 and the partnership and the liability of partners for an obligation of a limited liability  
1666 partnership.

1667 Section 21. Section **48-1b-107** is enacted to read:

1668 **48-1b-107. Partnership subject to amendment or repeal of chapter.**

1669 A partnership governed by this chapter is subject to any amendment to or repeal of this  
1670 chapter.

1671 Section 22. Section **48-1b-201** is enacted to read:

1672 **Part 2. Nature of Partnership**

1673 **48-1b-201. Partnership as entity.**

1674 (1) A partnership is an entity distinct from its partners.

1675 (2) A limited liability partnership continues to be the same entity that existed before the  
1676 filing of a statement of qualification with the division under Section 48-1b-1001.

1677 Section 23. Section **48-1b-202** is enacted to read:

1678 **48-1b-202. Formation of partnership.**

1679 (1) Except as otherwise provided in Subsection (2), the association of two or more  
1680 persons to carry on as co-owners a business for profit forms a partnership, whether or not the  
1681 persons intend to form a partnership.

1682 (2) An association formed under a statute other than this chapter, a predecessor statute,  
1683 or a comparable statute of another jurisdiction is not a partnership under this chapter.

1684 (3) In determining whether a partnership is formed, the following rules apply:

1685 (a) Joint tenancy, tenancy in common, tenancy by the entireties, joint property,  
1686 common property, or part ownership does not by itself establish a partnership, even if the  
1687 co-owners share profits made by the use of the property.

1688 (b) The sharing of gross returns does not by itself establish a partnership, even if the  
1689 persons sharing them have a joint or common right or interest in property from which the  
1690 returns are derived.

1691 (c) A person who receives a share of the profits of a business is presumed to be a  
1692 partner in the business, unless the profits were received in payment:

1693 (i) of a debt by installments or otherwise;

1694 (ii) for services as an independent contractor or of wages or other compensation to an  
1695 employee;

1696 (iii) of rent;

1697 (iv) of an annuity or other retirement or health benefit to a beneficiary, representative,  
1698 or designee of a deceased or retired partner;

1699 (v) of interest or other charge on a loan, even if the amount of payment varies with the

1700 profits of the business, including a direct or indirect present or future ownership of the  
1701 collateral, or rights to income, proceeds, or increase in value derived from the collateral; or  
1702 (vi) for the sale of the goodwill of a business or other property by installments or  
1703 otherwise.

1704 Section 24. Section **48-1b-203** is enacted to read:

1705 **48-1b-203. Partnership property.**

1706 Property acquired by a partnership is property of the partnership and not of the partners  
1707 individually.

1708 Section 25. Section **48-1b-204** is enacted to read:

1709 **48-1b-204. When property is partnership property.**

1710 (1) Property is partnership property if acquired in the name of:

1711 (a) the partnership; or

1712 (b) one or more partners with an indication in the instrument transferring title to the  
1713 property of the person's capacity as a partner or of the existence of a partnership but without an  
1714 indication of the name of the partnership.

1715 (2) Property is acquired in the name of the partnership by a transfer to:

1716 (a) the partnership in its name; or

1717 (b) one or more partners in their capacity as partners in the partnership, if the name of  
1718 the partnership is indicated in the instrument transferring title to the property.

1719 (3) Property is presumed to be partnership property if purchased with partnership  
1720 assets, even if not acquired in the name of the partnership or of one or more partners with an  
1721 indication in the instrument transferring title to the property of the person's capacity as a  
1722 partner or of the existence of a partnership.

1723 (4) Property acquired in the name of one or more of the partners, without an indication  
1724 in the instrument transferring title to the property of the person's capacity as a partner or of the  
1725 existence of a partnership and without use of partnership assets, is presumed to be separate  
1726 property, even if used for partnership purposes.

1727 Section 26. Section **48-1b-301** is enacted to read:

1728 **Part 3. Relations of Partners to Persons Dealing with Partnership**

1729 **48-1b-301. Partner agent of partnership.**

1730 Subject to the effect of a statement of partnership authority under Section 48-1b-303:



1731 (1) Each partner is an agent of the partnership for the purpose of its business. An act of  
1732 a partner, including the execution of an instrument in the partnership name, for apparently  
1733 carrying on in the ordinary course the partnership business or business of the kind carried on by  
1734 the partnership binds the partnership, unless the partner had no authority to act for the  
1735 partnership in the particular matter and the person with whom the partner was dealing knew or  
1736 had received a notification that the partner lacked authority.

1737 (2) An act of a partner which is not apparently for carrying on in the ordinary course  
1738 the partnership business or business of the kind carried on by the partnership binds the  
1739 partnership only if the act was authorized by the other partners.

1740 Section 27. Section **48-1b-302** is enacted to read:

1741 **48-1b-302. Transfer of partnership property.**

1742 (1) Partnership property may be transferred as follows:

1743 (a) Subject to the effect of a statement of partnership authority under Section  
1744 48-1b-303, partnership property held in the name of the partnership may be transferred by an  
1745 instrument of transfer executed by a partner in the partnership name.

1746 (b) Partnership property held in the name of one or more partners with an indication in  
1747 the instrument transferring the property to them of their capacity as partners or of the existence  
1748 of a partnership, but without an indication of the name of the partnership, may be transferred by  
1749 an instrument of transfer executed by the persons in whose name the property is held.

1750 (c) Partnership property held in the name of one or more persons other than the  
1751 partnership, without an indication in the instrument transferring the property to them of their  
1752 capacity as partners or of the existence of a partnership, may be transferred by an instrument of  
1753 transfer executed by the persons in whose name the property is held.

1754 (2) A partnership may recover partnership property from a transferee only if it proves  
1755 that execution of the instrument of initial transfer did not bind the partnership under Section  
1756 48-1b-301 and:

1757 (a) as to a subsequent transferee who gave value for property transferred under  
1758 Subsection (1)(a) and (b), proves that the subsequent transferee knew or had received a  
1759 notification that the person who executed the instrument of initial transfer lacked authority to  
1760 bind the partnership; or

1761 (b) as to a transferee who gave value for property transferred under Subsection (1)(c),

1762 proves that the transferee knew or had received a notification that the property was partnership  
1763 property and that the person who executed the instrument of initial transfer lacked authority to  
1764 bind the partnership.

1765 (3) A partnership may not recover partnership property from a subsequent transferee if  
1766 the partnership would not have been entitled to recover the property, under Subsection (2),  
1767 from any earlier transferee of the property.

1768 (4) If a person holds all of the partners' interests in the partnership, all of the  
1769 partnership property vests in that person. The person may execute a document in the name of  
1770 the partnership to evidence vesting of the property in that person and may file or record the  
1771 document.

1772 Section 28. Section **48-1b-303** is enacted to read:

1773 **48-1b-303. Statement of partnership authority.**

1774 (1) A partnership may file with the division a statement of partnership authority,  
1775 which:

1776 (a) must include:

1777 (i) the name of the partnership;

1778 (ii) the street address of its chief executive office and of one office in this state, if there  
1779 is one;

1780 (iii) the names and mailing addresses of all of the partners or of an agent appointed and  
1781 maintained by the partnership for the purpose of Subsection (2); and

1782 (iv) the names of the partners authorized to execute an instrument transferring real  
1783 property held in the name of the partnership; and

1784 (b) may state the authority, or limitations on the authority, of some or all of the partners  
1785 to enter into other transactions on behalf of the partnership and any other matter.

1786 (2) If a statement of partnership authority names an agent, the agent shall maintain a  
1787 list of the names and mailing addresses of all of the partners and make it available to any  
1788 person on request for good cause shown.

1789 (3) If a filed statement of partnership authority is executed pursuant to Subsection  
1790 48-1b-105(3) and states the name of the partnership but does not contain all of the other  
1791 information required by Subsection (1), the statement nevertheless operates with respect to a  
1792 person not a partner as provided in Subsections (4) and (5).

1793 (4) Except as otherwise provided in Subsection (7), a filed statement of partnership  
1794 authority supplements the authority of a partner to enter into transactions on behalf of the  
1795 partnership as follows:

1796 (a) Except for transfers of real property, a grant of authority contained in a filed  
1797 statement of partnership authority is conclusive in favor of a person who gives value without  
1798 knowledge to the contrary, so long as and to the extent that a limitation on that authority is not  
1799 then contained in another filed statement. A filed cancellation of a limitation on authority  
1800 revives the previous grant of authority.

1801 (b) A grant of authority to transfer real property held in the name of the partnership  
1802 contained in a certified copy of a filed statement of partnership authority recorded in the office  
1803 for recording transfers of that real property is conclusive in favor of a person who gives value  
1804 without knowledge to the contrary, so long as and to the extent that a certified copy of a filed  
1805 statement containing a limitation on that authority is not then of record in the office for  
1806 recording transfers of that real property. The recording in the office for recording transfers of  
1807 that real property of a certified copy of a filed cancellation of a limitation on authority revives  
1808 the previous grant of authority.

1809 (5) A person not a partner is deemed to know of a limitation on the authority of a  
1810 partner to transfer real property held in the name of the partnership if a certified copy of the  
1811 filed statement containing the limitation on authority is of record in the office for recording  
1812 transfers of that real property.

1813 (6) Except as otherwise provided in Subsections (4) and (5) and Sections 48-1b-704  
1814 and 48-1b-805, a person not a partner is not deemed to know of a limitation on the authority of  
1815 a partner merely because the limitation is contained in a filed statement.

1816 (7) Unless earlier canceled and if not renewed, a filed statement of partnership  
1817 authority is canceled by operation of law five years after the date on which the statement, or the  
1818 most recent amendment, was filed with the division.

1819 (8) (a) If a partnership files a statement of partnership authority with the division under  
1820 this section, the partnership is not required to file a certificate with the division under Title 42,  
1821 Chapter 2, Conducting Business Under Assumed Name.

1822 (b) A filing with the division under Title 42, Chapter 2, Conducting Business Under  
1823 Assumed Name:

1824 (i) is not subject to Subsection (7); and

1825 (ii) is subject to Section 42-2-8.

1826 Section 29. Section **48-1b-304** is enacted to read:

1827 **48-1b-304. Statement of denial.**

1828 A partner or other person named as a partner in a filed statement of partnership  
1829 authority or in a list maintained by an agent pursuant to Subsection 48-1b-303(2) may file a  
1830 statement of denial with the division stating the name of the partnership and the fact that is  
1831 being denied, which may include denial of a person's authority or status as a partner. A  
1832 statement of denial is a limitation on authority as provided in Subsections 48-1b-303(4) and  
1833 (5).

1834 Section 30. Section **48-1b-305** is enacted to read:

1835 **48-1b-305. Partnership liable for partner's actionable conduct.**

1836 (1) A partnership is liable for loss or injury caused to a person, or for a penalty  
1837 incurred, as a result of a wrongful act or omission, or other actionable conduct, of a partner  
1838 acting in the ordinary course of business of the partnership or with authority of the partnership.

1839 (2) If, in the course of the partnership's business or while acting with authority of the  
1840 partnership, a partner receives or causes the partnership to receive money or property of a  
1841 person not a partner, and the money or property is misapplied by a partner, the partnership is  
1842 liable for the loss.

1843 Section 31. Section **48-1b-306** is enacted to read:

1844 **48-1b-306. Partner's liability.**

1845 (1) Except as otherwise provided in Subsections (2) and (3), all partners are liable  
1846 jointly and severally for all obligations of the partnership unless otherwise agreed by the  
1847 claimant or provided by law.

1848 (2) A person admitted as a partner into an existing partnership is not personally liable  
1849 for any partnership obligation incurred before the person's admission as a partner.

1850 (3) (a) An obligation of a partnership incurred while the partnership is a limited  
1851 liability partnership, whether arising in contract, tort, or otherwise, is solely the obligation of  
1852 the partnership. A partner is not personally liable, directly or indirectly, by way of contribution  
1853 or otherwise, for such an obligation solely by reason of being or so acting as a partner.

1854 (b) This Subsection (3) applies notwithstanding anything inconsistent in the

1855 partnership agreement that existed immediately before the vote required to become a limited  
1856 liability partnership under Subsection 48-1b-1001(2).

1857 (c) This Subsection (3) and Part 10, Limited Liability Partnerships, do not alter any law  
1858 applicable to the relationship between a person providing a professional service and a person  
1859 receiving the professional service, including liability arising out of those professional services.  
1860 A person providing a professional service remains personally liable for a result of that person's  
1861 act or omission.

1862 Section 32. Section **48-1b-307** is enacted to read:

1863 **48-1b-307. Actions by and against partnership and partners.**

1864 (1) A partnership may sue and be sued in the name of the partnership.

1865 (2) An action may be brought against the partnership and, to the extent not inconsistent  
1866 with Section 48-1b-306, any or all of the partners in the same action or in separate actions.

1867 (3) A judgment against a partnership is not by itself a judgment against a partner. A  
1868 judgment against a partnership may not be satisfied from a partner's assets unless there is also a  
1869 judgment against the partner.

1870 (4) A judgment creditor of a partner may not levy execution against the assets of the  
1871 partner to satisfy a judgment based on a claim against the partnership unless the partner is  
1872 personally liable for the claim under Section 48-1b-306 and:

1873 (a) a judgment based on the same claim has been obtained against the partnership and a  
1874 writ of execution on the judgment has been returned unsatisfied in whole or in part;

1875 (b) the partnership is a debtor in bankruptcy;

1876 (c) the partner has agreed that the creditor need not exhaust partnership assets;

1877 (d) a court grants permission to the judgment creditor to levy execution against the  
1878 assets of a partner based on a finding that partnership assets subject to execution are clearly  
1879 insufficient to satisfy the judgment, that exhaustion of partnership assets is excessively  
1880 burdensome, or that the grant of permission is an appropriate exercise of the court's equitable  
1881 powers; or

1882 (e) liability is imposed on the partner by law or contract independent of the existence of  
1883 the partnership.

1884 (5) This section applies to any partnership liability or obligation resulting from a  
1885 representation by a partner or purported partner under Section 48-1b-308.

1886 Section 33. Section **48-1b-308** is enacted to read:

1887 **48-1b-308. Liability of purported partner.**

1888 (1) If a person, by words or conduct, purports to be a partner, or consents to being  
1889 represented by another as a partner, in a partnership or with one or more persons not partners,  
1890 the purported partner is liable to a person to whom the representation is made, if that person,  
1891 relying on the representation, enters into a transaction with the actual or purported partnership.  
1892 If the representation, either by the purported partner or by a person with the purported partner's  
1893 consent, is made in a public manner, the purported partner is liable to a person who relies upon  
1894 the purported partnership even if the purported partner is not aware of being held out as a  
1895 partner to the claimant. If partnership liability results, the purported partner is liable with  
1896 respect to that liability as if the purported partner were a partner. If no partnership liability  
1897 results, the purported partner is liable with respect to that liability jointly and severally with any  
1898 other person consenting to the representation.

1899 (2) If a person is thus represented to be a partner in an existing partnership, or with one  
1900 or more persons not partners, the purported partner is an agent of persons consenting to the  
1901 representation to bind them to the same extent and in the same manner as if the purported  
1902 partner were a partner, with respect to persons who enter into transactions in reliance upon the  
1903 representation. If all of the partners of the existing partnership consent to the representation, a  
1904 partnership act or obligation results. If fewer than all of the partners of the existing partnership  
1905 consent to the representation, the person acting and the partners consenting to the  
1906 representation are jointly and severally liable.

1907 (3) A person is not liable as a partner merely because the person is named by another in  
1908 a statement of partnership authority.

1909 (4) A person does not continue to be liable as a partner merely because of a failure to  
1910 file a statement of dissociation or to amend a statement of partnership authority with the  
1911 division to indicate the partner's dissociation from the partnership.

1912 (5) Except as otherwise provided in Subsections (1) and (2), persons who are not  
1913 partners as to each other are not liable as partners to other persons.

1914 Section 34. Section **48-1b-401** is enacted to read:

1915 **Part 4. Relations of Partners to Each Other and to Partnership**

1916 **48-1b-401. Partner's rights and duties.**

- 1917           (1) Each partner is deemed to have an account that is:  
1918           (a) credited with an amount equal to the money plus the value of any other property,  
1919 net of the amount of any liabilities, the partner contributes to the partnership and the partner's  
1920 share of the partnership profits; and  
1921           (b) charged with an amount equal to the money plus the value of any other property,  
1922 net of the amount of any liabilities, distributed by the partnership to the partner and the  
1923 partner's share of the partnership losses.
- 1924           (2) Each partner is entitled to an equal share of the partnership profits and is chargeable  
1925 with a share of the partnership losses in proportion to the partner's share of the profits.
- 1926           (3) A partnership shall reimburse a partner for payments made and indemnify a partner  
1927 for liabilities incurred by the partner in the ordinary course of the business of the partnership or  
1928 for the preservation of its business or property.
- 1929           (4) A partnership shall reimburse a partner for an advance to the partnership beyond  
1930 the amount of capital the partner agreed to contribute.
- 1931           (5) A payment or advance made by a partner which gives rise to a partnership  
1932 obligation under Subsection (3) or (4) constitutes a loan to the partnership which accrues  
1933 interest from the date of the payment or advance.
- 1934           (6) Each partner has equal rights in the management and conduct of the partnership  
1935 business.
- 1936           (7) A partner may use or possess partnership property only on behalf of the partnership.
- 1937           (8) A partner is not entitled to remuneration for services performed for the partnership,  
1938 except for reasonable compensation for services rendered in winding up the business of the  
1939 partnership.
- 1940           (9) A person may become a partner only with the consent of all of the partners.
- 1941           (10) A difference arising as to a matter in the ordinary course of business of a  
1942 partnership may be decided by a majority of the partners. An act outside the ordinary course of  
1943 business of a partnership and an amendment to the partnership agreement may be undertaken  
1944 only with the consent of all of the partners.
- 1945           (11) This section does not affect the obligations of a partnership to other persons under  
1946 Section 48-1b-301.
- 1947           Section 35. Section **48-1b-402** is enacted to read:

1948 **48-1b-402. Distributions in kind.**

1949 A partner has no right to receive, and may not be required to accept, a distribution in  
1950 kind.

1951 Section 36. Section **48-1b-403** is enacted to read:

1952 **48-1b-403. Partner's rights and duties with respect to information.**

1953 (1) A partnership shall keep its books and records, if any, at its chief executive office.

1954 (2) A partnership shall provide partners and their agents and attorneys access to its  
1955 books and records. It shall provide former partners and their agents and attorneys access to  
1956 books and records pertaining to the period during which they were partners. The right of  
1957 access provides the opportunity to inspect and copy books and records during ordinary business  
1958 hours. A partnership may impose a reasonable charge, covering the costs of labor and material,  
1959 for copies of documents furnished.

1960 (3) Each partner and the partnership shall furnish to a partner, and to the legal  
1961 representative of a deceased partner or partner under legal disability:

1962 (a) without demand, any information concerning the partnership's business and affairs  
1963 reasonably required for the proper exercise of the partner's rights and duties under the  
1964 partnership agreement or this chapter; and

1965 (b) on demand, any other information concerning the partnership's business and affairs,  
1966 except to the extent the demand or the information demanded is unreasonable or otherwise  
1967 improper under the circumstances.

1968 Section 37. Section **48-1b-404** is enacted to read:

1969 **48-1b-404. General standards of partner's conduct.**

1970 (1) The only fiduciary duties a partner owes to the partnership and the other partners  
1971 are the duty of loyalty and the duty of care set forth in Subsections (2) and (3).

1972 (2) A partner's duty of loyalty to the partnership and the other partners is limited to the  
1973 following:

1974 (a) to account to the partnership and hold as trustee for it any property, profit, or  
1975 benefit derived by the partner in the conduct and winding up of the partnership business or  
1976 derived from a use by the partner of partnership property, including the appropriation of a  
1977 partnership opportunity;

1978 (b) to refrain from dealing with the partnership in the conduct or winding up of the



1979 partnership business as or on behalf of a party having an interest adverse to the partnership; and

1980 (c) to refrain from competing with the partnership in the conduct of the partnership

1981 business before the dissolution of the partnership.

1982 (3) A partner's duty of care to the partnership and the other partners in the conduct and

1983 winding up of the partnership business is limited to refraining from engaging in grossly

1984 negligent or reckless conduct, intentional misconduct, or a knowing violation of law.

1985 (4) A partner shall discharge the duties to the partnership and the other partners under

1986 this chapter or under the partnership agreement and exercise any rights consistently with the

1987 obligation of good faith and fair dealing.

1988 (5) A partner does not violate a duty or obligation under this chapter or under the

1989 partnership agreement merely because the partner's conduct furthers the partner's own interest.

1990 (6) A partner may lend money to and transact other business with the partnership, and

1991 as to each loan or transaction the rights and obligations of the partner are the same as those of a

1992 person who is not a partner, subject to other applicable law.

1993 (7) This section applies to a person winding up the partnership business as the personal

1994 or legal representative of the last surviving partner as if the person were a partner.

1995 Section 38. Section **48-1b-405** is enacted to read:

1996 **48-1b-405. Actions by partnership and partners.**

1997 (1) A partnership may maintain an action against a partner for a breach of the

1998 partnership agreement, or for the violation of a duty to the partnership, causing harm to the

1999 partnership.

2000 (2) A partner may maintain an action against the partnership or another partner for

2001 legal or equitable relief, with or without an accounting as to partnership business, to:

2002 (a) enforce the partner's rights under the partnership agreement;

2003 (b) enforce the partner's rights under this chapter, including:

2004 (i) the partner's rights under Section 48-1b-401, 48-1b-403, or 48-1b-404;

2005 (ii) the partner's right on dissociation to have the partner's interest in the partnership

2006 purchased pursuant to Section 48-1b-701 or enforce any other right under Part 6, Partner's

2007 Dissociation, or Part 7, Partner's Dissociation When Business Not Wound Up; or

2008 (iii) the partner's right to compel a dissolution and winding up of the partnership

2009 business under Section 48-1b-801 or enforce any other right under Part 8, Winding Up

2010 Partnership Business; or

2011 (c) enforce the rights and otherwise protect the interests of the partner, including rights  
2012 and interests arising independently of the partnership relationship.

2013 (3) The accrual of, and any time limitation on, a right of action for a remedy under this  
2014 section is governed by other law. A right to an accounting upon a dissolution and winding up  
2015 does not revive a claim barred by law.

2016 Section 39. Section **48-1b-406** is enacted to read:

2017 **48-1b-406. Continuation of partnership beyond definite term or particular**  
2018 **undertaking.**

2019 (1) If a partnership for a definite term or particular undertaking is continued, without  
2020 an express agreement, after the expiration of the term or completion of the undertaking, the  
2021 rights and duties of the partners remain the same as they were at the expiration or completion,  
2022 so far as is consistent with a partnership at will.

2023 (2) If the partners, or those of them who habitually acted in the business during the  
2024 term or undertaking, continue the business without any settlement or liquidation of the  
2025 partnership, they are presumed to have agreed that the partnership will continue.

2026 Section 40. Section **48-1b-501** is enacted to read:

2027 **Part 5. Transferees and Creditors of Partner**

2028 **48-1b-501. Partner not co-owner of partnership property.**

2029 A partner is not a co-owner of partnership property and has no interest in partnership  
2030 property which can be transferred, either voluntarily or involuntarily.

2031 Section 41. Section **48-1b-502** is enacted to read:

2032 **48-1b-502. Partner's transferable interest in partnership.**

2033 The only transferable interest of a partner in the partnership is the partner's share of the  
2034 profits and losses of the partnership and the partner's right to receive distributions. The interest  
2035 is personal property.

2036 Section 42. Section **48-1b-503** is enacted to read:

2037 **48-1b-503. Transfer of partner's transferable interest.**

2038 (1) A transfer, in whole or in part, of a partner's transferable interest in the partnership:

2039 (a) is permissible;

2040 (b) does not by itself cause the partner's dissociation or a dissolution and winding up of

2041 the partnership business; and

2042 (c) does not, as against the other partners or the partnership, entitle the transferee,  
2043 during the continuance of the partnership, to participate in the management or conduct of the  
2044 partnership business, to require access to information concerning partnership transactions, or to  
2045 inspect or copy the partnership books or records.

2046 (2) A transferee of a partner's transferable interest in the partnership has a right:

2047 (a) to receive, in accordance with the transfer, distributions to which the transferor  
2048 would otherwise be entitled; and

2049 (b) to receive upon the dissolution and winding up of the partnership business, in  
2050 accordance with the transfer, the net amount otherwise distributable to the transferor.

2051 (3) In a dissolution and winding up, a transferee is entitled to an account of partnership  
2052 transactions only from the date of the latest account agreed to by all of the partners.

2053 (4) Upon transfer, the transferor retains the rights and duties of a partner other than the  
2054 interest in distributions transferred.

2055 (5) A partnership need not give effect to a transferee's rights under this section until it  
2056 has notice of the transfer.

2057 (6) A transfer of a partner's transferable interest in the partnership in violation of a  
2058 restriction on transfer contained in the partnership agreement is ineffective as to a person  
2059 having notice of the restriction at the time of transfer.

2060 Section 43. Section **48-1b-504** is enacted to read:

2061 **48-1b-504. Partner's transferable interest subject to charging order.**

2062 (1) On application by a judgment creditor of a partner or of a partner's transferee, a  
2063 court having jurisdiction may charge the transferable interest of the judgment debtor to satisfy  
2064 the judgment. The court may appoint a receiver of the share of the distributions due or to  
2065 become due to the judgment debtor in respect of the partnership and make all other orders,  
2066 directions, accounts, and inquiries the judgment debtor might have made or which the  
2067 circumstances of the case may require.

2068 (2) A charging order constitutes a lien on the judgment debtor's transferable interest in  
2069 the partnership. The court may order a foreclosure of the interest subject to the charging order  
2070 at any time. The purchaser at the foreclosure sale has the rights of a transferee.

2071 (3) At any time before foreclosure, an interest charged may be redeemed:

2072 (a) by the judgment debtor;  
2073 (b) with property other than partnership property, by one or more of the other partners;

2074 or

2075 (c) with partnership property, by one or more of the other partners with the consent of  
2076 all of the partners whose interests are not so charged.

2077 (4) This chapter does not deprive a partner of a right under exemption laws with  
2078 respect to the partner's interest in the partnership.

2079 (5) This section provides the exclusive remedy by which a judgment creditor of a  
2080 partner or partner's transferee may satisfy a judgment out of the judgment debtor's transferable  
2081 interest in the partnership.

2082 Section 44. Section **48-1b-601** is enacted to read:

2083 **Part 6. Partner's Dissociation**

2084 **48-1b-601. Events causing partner's dissociation.**

2085 A partner is dissociated from a partnership upon the occurrence of any of the following  
2086 events:

2087 (1) the partnership's having notice of the partner's express will to withdraw as a partner  
2088 or on a later date specified by the partner;

2089 (2) an event agreed to in the partnership agreement as causing the partner's  
2090 dissociation;

2091 (3) the partner's expulsion pursuant to the partnership agreement;

2092 (4) the partner's expulsion by the unanimous vote of the other partners if:

2093 (a) it is unlawful to carry on the partnership business with that partner;

2094 (b) there has been a transfer of all or substantially all of that partner's transferable  
2095 interest in the partnership, other than a transfer for security purposes, or a court order charging  
2096 the partner's interest, which has not been foreclosed;

2097 (c) within 90 days after the partnership notifies a corporate partner that it will be  
2098 expelled because it has filed a certificate of dissolution or the equivalent, its charter has been  
2099 revoked, or its right to conduct business has been suspended by the jurisdiction of its  
2100 incorporation, there is no revocation of the certificate of dissolution or no reinstatement of its  
2101 charter or its right to conduct business; or

2102 (d) a partnership that is a partner has been dissolved and its business is being wound

2103 up;

2104 (5) on application by the partnership or another partner, the partner's expulsion by  
2105 judicial determination because:

2106 (a) the partner engaged in wrongful conduct that adversely and materially affected the  
2107 partnership business;

2108 (b) the partner willfully or persistently committed a material breach of the partnership  
2109 agreement or of a duty owed to the partnership or the other partners under Section 48-1b-404;

2110 or

2111 (c) the partner engaged in conduct relating to the partnership business which makes it  
2112 not reasonably practicable to carry on the business in partnership with the partner;

2113 (6) the partner's:

2114 (a) becoming a debtor in bankruptcy;

2115 (b) executing an assignment for the benefit of creditors;

2116 (c) seeking, consenting to, or acquiescing in the appointment of a trustee, receiver, or  
2117 liquidator of that partner or of all or substantially all of that partner's property; or

2118 (d) failing, within 90 days after the appointment, to have vacated or stayed the  
2119 appointment of a trustee, receiver, or liquidator of the partner or of all or substantially all of the  
2120 partner's property obtained without the partner's consent or acquiescence, or failing within 90  
2121 days after the expiration of a stay to have the appointment vacated;

2122 (7) in the case of a partner who is an individual:

2123 (a) the partner's death;

2124 (b) the appointment of a guardian or general conservator for the partner; or

2125 (c) a judicial determination that the partner has otherwise become incapable of  
2126 performing the partner's duties under the partnership agreement;

2127 (8) in the case of a partner that is a trust or is acting as a partner by virtue of being a  
2128 trustee of a trust, distribution of the trust's entire transferable interest in the partnership, but not  
2129 merely by reason of the substitution of a successor trustee;

2130 (9) in the case of a partner that is an estate or is acting as a partner by virtue of being a  
2131 personal representative of an estate, distribution of the estate's entire transferable interest in the  
2132 partnership, but not merely by reason of the substitution of a successor personal representative;

2133 or

2134 (10) termination of a partner who is not an individual, partnership, corporation, trust,  
2135 or estate.

2136 Section 45. Section **48-1b-602** is enacted to read:

2137 **48-1b-602. Partner's power to dissociate -- Wrongful dissociation.**

2138 (1) A partner has the power to dissociate at any time, rightfully or wrongfully, by  
2139 express will pursuant to Subsection 48-1b-601(1).

2140 (2) A partner's dissociation is wrongful only if:

2141 (a) it is in breach of an express provision of the partnership agreement; or

2142 (b) in the case of a partnership for a definite term or particular undertaking, before the  
2143 expiration of the term or the completion of the undertaking:

2144 (i) the partner withdraws by express will, unless the withdrawal follows within 90 days  
2145 after another partner's dissociation by death or otherwise under Subsection 48-1b-601(6)  
2146 through (10) or wrongful dissociation under this Subsection (2);

2147 (ii) the partner is expelled by judicial determination under Subsection 48-1b-601(5);

2148 (iii) the partner is dissociated by becoming a debtor in bankruptcy; or

2149 (iv) in the case of a partner who is not an individual, trust other than a business trust, or  
2150 estate, the partner is expelled or otherwise dissociated because it willfully dissolved or  
2151 terminated.

2152 (3) A partner who wrongfully dissociates is liable to the partnership and to the other  
2153 partners for damages caused by the dissociation. The liability is in addition to any other  
2154 obligation of the partner to the partnership or to the other partners.

2155 Section 46. Section **48-1b-603** is enacted to read:

2156 **48-1b-603. Effect of partner's dissociation.**

2157 (1) (a) If a partner's dissociation results in a dissolution and winding up of the  
2158 partnership business, Part 8, Winding Up Partnership Business, applies.

2159 (b) Except as provided in Subsection (1)(a), Part 7, Partner's Dissociation When  
2160 Business Not Wound Up, applies.

2161 (2) Upon a partner's dissociation:

2162 (a) the partner's right to participate in the management and conduct of the partnership  
2163 business terminates, except as otherwise provided in Section 48-1b-803;

2164 (b) the partner's duty of loyalty under Subsection 48-1b-404(2)(c) terminates; and

2165 (c) the partner's duty of loyalty under Subsections 48-1b-404(2)(a) and (b) and duty of  
2166 care under Subsection 48-1b-404(3) continue only with regard to matters arising and events  
2167 occurring before the partner's dissociation, unless the partner participates in winding up the  
2168 partnership's business pursuant to Section 48-1b-803.

2169 Section 47. Section **48-1b-701** is enacted to read:

2170 **Part 7. Partner's Dissociation When Business Not Wound Up**

2171 **48-1b-701. Purchase of dissociated partner's interest.**

2172 (1) If a partner is dissociated from a partnership without resulting in a dissolution and  
2173 winding up of the partnership business under Section 48-1b-801, the partnership shall cause the  
2174 dissociated partner's interest in the partnership to be purchased for a buyout price determined  
2175 pursuant to Subsection (2).

2176 (2) The buyout price of a dissociated partner's interest is the amount that would have  
2177 been distributable to the dissociating partner under Subsection 48-1b-807(2) if, on the date of  
2178 dissociation, the assets of the partnership were sold at a price equal to the greater of the  
2179 liquidation value or the value based on a sale of the entire business as a going concern without  
2180 the dissociated partner and the partnership were wound up as of that date. Interest must be paid  
2181 from the date of dissociation to the date of payment.

2182 (3) Damages for wrongful dissociation under Subsection 48-1b-602(2), and all other  
2183 amounts owing, whether or not presently due, from the dissociated partner to the partnership,  
2184 must be offset against the buyout price. Interest must be paid from the date the amount owed  
2185 becomes due to the date of payment.

2186 (4) A partnership shall indemnify a dissociated partner whose interest is being  
2187 purchased against all partnership liabilities, whether incurred before or after the dissociation,  
2188 except liabilities incurred by an act of the dissociated partner under Section 48-1b-702.

2189 (5) If no agreement for the purchase of a dissociated partner's interest is reached within  
2190 120 days after a written demand for payment, the partnership shall pay, or cause to be paid, in  
2191 cash to the dissociated partner the amount the partnership estimates to be the buyout price and  
2192 accrued interest, reduced by any offsets and accrued interest under Subsection (3).

2193 (6) If a deferred payment is authorized under Subsection (8), the partnership may  
2194 tender a written offer to pay the amount it estimates to be the buyout price and accrued interest,  
2195 reduced by any offsets under Subsection (3), stating the time of payment, the amount and type

2196 of security for payment, and the other terms and conditions of the obligation.

2197 (7) The payment or tender required by Subsection (5) or (6) must be accompanied by  
2198 the following:

2199 (a) a statement of partnership assets and liabilities as of the date of dissociation;

2200 (b) the latest available partnership balance sheet and income statement, if any;

2201 (c) an explanation of how the estimated amount of the payment was calculated; and

2202 (d) written notice that the payment is in full satisfaction of the obligation to purchase

2203 unless, within 120 days after the written notice, the dissociated partner commences an action to

2204 determine the buyout price, any offsets under Subsection (3), or other terms of the obligation to

2205 purchase.

2206 (8) A partner who wrongfully dissociates before the expiration of a definite term or the

2207 completion of a particular undertaking is not entitled to payment of any portion of the buyout

2208 price until the expiration of the term or completion of the undertaking, unless the partner

2209 establishes to the satisfaction of the court that earlier payment will not cause undue hardship to

2210 the business of the partnership. A deferred payment must be adequately secured and bear

2211 interest.

2212 (9) A dissociated partner may maintain an action against the partnership, pursuant to

2213 Subsection 48-1b-405(2)(b)(ii), to determine the buyout price of that partner's interest, any

2214 offsets under Subsection (3), or other terms of the obligation to purchase. The action must be

2215 commenced within 120 days after the partnership has tendered payment or an offer to pay or

2216 within one year after written demand for payment if no payment or offer to pay is tendered.

2217 The court shall determine the buyout price of the dissociated partner's interest, any offset due

2218 under Subsection (3), and accrued interest, and enter judgment for any additional payment or

2219 refund. If deferred payment is authorized under Subsection (8), the court shall also determine

2220 the security for payment and other terms of the obligation to purchase. The court may assess

2221 reasonable attorney fees and the fees and expenses of appraisers or other experts for a party to

2222 the action, in amounts the court finds equitable, against a party that the court finds acted

2223 arbitrarily, vexatiously, or not in good faith. The finding may be based on the partnership's

2224 failure to tender payment or an offer to pay or to comply with Subsection (7).

2225 Section 48. Section **48-1b-702** is enacted to read:

2226 **48-1b-702. Dissociated partner's power to bind and liability to partnership.**



2227 (1) For two years after a partner dissociates without resulting in a dissolution and  
2228 winding up of the partnership business, the partnership, including a surviving partnership under  
2229 Part 9, Merger, Conversion, and Domestication, is bound by an act of the dissociated partner  
2230 which would have bound the partnership under Section 48-1b-301 before dissociation only if at  
2231 the time of entering into the transaction the other party:

2232 (a) reasonably believed that the dissociated partner was then a partner;

2233 (b) did not have notice of the partner's dissociation; and

2234 (c) is not deemed to have had knowledge under Subsection 48-1b-303(5) or notice  
2235 under Subsection 48-1b-704(3).

2236 (2) A dissociated partner is liable to the partnership for any damage caused to the  
2237 partnership arising from an obligation incurred by the dissociated partner after dissociation for  
2238 which the partnership is liable under Subsection (1).

2239 Section 49. Section **48-1b-703** is enacted to read:

2240 **48-1b-703. Dissociated partner's liability to other persons.**

2241 (1) A partner's dissociation does not of itself discharge the partner's liability for a  
2242 partnership obligation incurred before dissociation. A dissociated partner is not liable for a  
2243 partnership obligation incurred after dissociation, except as otherwise provided in Subsection  
2244 (2).

2245 (2) A partner who dissociates without resulting in a dissolution and winding up of the  
2246 partnership business is liable as a partner to the other party in a transaction entered into by the  
2247 partnership, or a surviving partnership under Part 9, Merger, Conversion, and Domestication,  
2248 within two years after the partner's dissociation, only if the partner is liable for the obligation  
2249 under Section 48-1b-306 and at the time of entering into the transaction the other party:

2250 (a) reasonably believed that the dissociated partner was then a partner;

2251 (b) did not have notice of the partner's dissociation; and

2252 (c) is not deemed to have had knowledge under Subsection 48-1b-303(5) or notice  
2253 under Subsection 48-1b-704(3).

2254 (3) By agreement with the partnership creditor and the partners continuing the  
2255 business, a dissociated partner may be released from liability for a partnership obligation.

2256 (4) A dissociated partner is released from liability for a partnership obligation if a  
2257 partnership creditor, with notice of the partner's dissociation but without the partner's consent,

2258 agrees to a material alteration in the nature or time of payment of a partnership obligation.

2259 Section 50. Section **48-1b-704** is enacted to read:

2260 **48-1b-704. Statement of dissociation.**

2261 (1) A dissociated partner or the partnership may file a statement of dissociation with  
2262 the division stating the name of the partnership and that the partner is dissociated from the  
2263 partnership.

2264 (2) A statement of dissociation is a limitation on the authority of a dissociated partner  
2265 for the purposes of Subsections 48-1b-303(4) and (5).

2266 (3) For the purposes of Subsections 48-1b-702(1)(c) and 48-1b-703(2)(c), a person not  
2267 a partner is deemed to have notice of the dissociation 90 days after the statement of  
2268 dissociation is filed.

2269 Section 51. Section **48-1b-705** is enacted to read:

2270 **48-1b-705. Continued use of partnership name.**

2271 Continued use of a partnership name, or a dissociated partner's name as part thereof, by  
2272 partners continuing the business does not of itself make the dissociated partner liable for an  
2273 obligation of the partners or the partnership continuing the business.

2274 Section 52. Section **48-1b-801** is enacted to read:

2275 **Part 8. Winding Up Partnership Business**

2276 **48-1b-801. Events causing dissolution and winding up of partnership business.**

2277 A partnership is dissolved, and its business must be wound up, only upon the  
2278 occurrence of any of the following events:

2279 (1) in a partnership at will, the partnership's having notice from a partner, other than a  
2280 partner who is dissociated under Subsections 48-1b-601(2) through (10), of that partner's  
2281 express will to withdraw as a partner, or on a later date specified by the partner;

2282 (2) in a partnership for a definite term or particular undertaking:

2283 (a) within 90 days after a partner's dissociation by death or otherwise under  
2284 Subsections 48-1b-601(6) through (10) or wrongful dissociation under Subsection  
2285 48-1b-602(2), the express will of at least half of the remaining partners to wind up the  
2286 partnership business, for which purpose a partner's rightful dissociation pursuant to Subsection  
2287 48-1b-602(2)(b)(i) constitutes the expression of that partner's will to wind up the partnership  
2288 business;

- 2289 (b) the express will of all of the partners to wind up the partnership business; or  
2290 (c) the expiration of the term or the completion of the undertaking;  
2291 (3) an event agreed to in the partnership agreement resulting in the winding up of the  
2292 partnership business;  
2293 (4) an event that makes it unlawful for all or substantially all of the business of the  
2294 partnership to be continued, but a cure of illegality within 90 days after notice to the  
2295 partnership of the event is effective retroactively to the date of the event for purposes of this  
2296 section;  
2297 (5) on application by a partner, a judicial determination that:  
2298 (a) the economic purpose of the partnership is likely to be unreasonably frustrated;  
2299 (b) another partner has engaged in conduct relating to the partnership business which  
2300 makes it not reasonably practicable to carry on the business in partnership with that partner; or  
2301 (c) it is not otherwise reasonably practicable to carry on the partnership business in  
2302 conformity with the partnership agreement; or  
2303 (6) on application by a transferee of a partner's transferable interest, a judicial  
2304 determination that it is equitable to wind up the partnership business:  
2305 (a) after the expiration of the term or completion of the undertaking, if the partnership  
2306 was for a definite term or particular undertaking at the time of the transfer or entry of the  
2307 charging order that gave rise to the transfer; or  
2308 (b) at any time, if the partnership was a partnership at will at the time of the transfer or  
2309 entry of the charging order that gave rise to the transfer.  
2310 Section 53. Section **48-1b-802** is enacted to read:  
2311 **48-1b-802. Partnership continues after dissolution.**  
2312 (1) Subject to Subsection (2), a partnership continues after dissolution only for the  
2313 purpose of winding up its business. The partnership is terminated when the winding up of its  
2314 business is completed.  
2315 (2) At any time after the dissolution of a partnership and before the winding up of its  
2316 business is completed, all of the partners, including any dissociating partner other than a  
2317 wrongfully dissociating partner, may waive the right to have the partnership's business wound  
2318 up and the partnership terminated. In that event:  
2319 (a) the partnership resumes carrying on its business as if dissolution had never

2320 occurred, and any liability incurred by the partnership or a partner after the dissolution and  
2321 before the waiver is determined as if dissolution had never occurred; and

2322 (b) the rights of a third party accruing under Subsection 48-1b-804(1) or arising out of  
2323 conduct in reliance on the dissolution before the third party knew or received a notification of  
2324 the waiver may not be adversely affected.

2325 Section 54. Section **48-1b-803** is enacted to read:

2326 **48-1b-803. Right to wind up partnership business.**

2327 (1) After dissolution, a partner who has not wrongfully dissociated may participate in  
2328 winding up the partnership's business, but on application of any partner, partner's legal  
2329 representative, or transferee, the district court, for good cause shown, may order judicial  
2330 supervision of the winding up.

2331 (2) The legal representative of the last surviving partner may wind up a partnership's  
2332 business.

2333 (3) A person winding up a partnership's business may preserve the partnership business  
2334 or property as a going concern for a reasonable time, prosecute and defend actions and  
2335 proceedings, whether civil, criminal, or administrative, settle and close the partnership's  
2336 business, dispose of and transfer the partnership's property, discharge the partnership's  
2337 liabilities, distribute the assets of the partnership pursuant to Section 48-1b-807, settle disputes  
2338 by mediation or arbitration, and perform other necessary acts.

2339 Section 55. Section **48-1b-804** is enacted to read:

2340 **48-1b-804. Partner's power to bind partnership after dissolution.**

2341 Subject to Section 48-1b-805, a partnership is bound by a partner's act after dissolution  
2342 that:

2343 (1) is appropriate for winding up the partnership business; or

2344 (2) would have bound the partnership under Section 48-1b-301 before dissolution, if  
2345 the other party to the transaction did not have notice of the dissolution.

2346 Section 56. Section **48-1b-805** is enacted to read:

2347 **48-1b-805. Statement of dissolution.**

2348 (1) After dissolution, a partner who has not wrongfully dissociated may file a statement  
2349 of dissolution with the division stating the name of the partnership and that the partnership has  
2350 dissolved and is winding up its business.

2351 (2) A statement of dissolution cancels a filed statement of partnership authority for the  
2352 purposes of Subsection 48-1b-303(4) and is a limitation on authority for the purposes of  
2353 Subsection 48-1b-303(5).

2354 (3) For the purposes of Sections 48-1b-301 and 48-1b-804, a person not a partner is  
2355 deemed to have notice of the dissolution and the limitation on the partner's authority as a result  
2356 of the statement of dissolution 90 days after it is filed.

2357 (4) After filing and, if appropriate, recording a statement of dissolution, a dissolved  
2358 partnership may file and, if appropriate, record a statement of partnership authority which will  
2359 operate with respect to a person not a partner as provided in Subsections 48-1b-303(4) and (5)  
2360 in any transaction, whether or not the transaction is appropriate for winding up the partnership  
2361 business.

2362 Section 57. Section **48-1b-806** is enacted to read:

2363 **48-1b-806. Partner's liability to other partners after dissolution.**

2364 (1) Except as otherwise provided in Subsection (2) and Section 48-1b-306, after  
2365 dissolution a partner is liable to the other partners for the partner's share of any partnership  
2366 liability incurred under Section 48-1b-804.

2367 (2) A partner who, with knowledge of the dissolution, incurs a partnership liability  
2368 under Subsection 48-1b-804(2) by an act that is not appropriate for winding up the partnership  
2369 business is liable to the partnership for any damage caused to the partnership arising from the  
2370 liability.

2371 Section 58. Section **48-1b-807** is enacted to read:

2372 **48-1b-807. Settlement of accounts and contributions among partners.**

2373 (1) In winding up a partnership's business, the assets of the partnership, including the  
2374 contributions of the partners required by this section, must be applied to discharge its  
2375 obligations to creditors, including, to the extent permitted by law, partners who are creditors.  
2376 Any surplus must be applied to pay in cash the net amount distributable to partners in  
2377 accordance with their right to distributions under Subsection (2).

2378 (2) Each partner is entitled to a settlement of all partnership accounts upon winding up  
2379 the partnership business. In settling accounts among the partners, profits and losses that result  
2380 from the liquidation of the partnership assets must be credited and charged to the partners'  
2381 accounts. The partnership shall make a distribution to a partner in an amount equal to any

2382 excess of the credits over the charges in the partner's account. A partner shall contribute to the  
2383 partnership an amount equal to any excess of the charges over the credits in the partner's  
2384 account but excluding from the calculation charges attributable to an obligation for which the  
2385 partner is not personally liable under Section 48-1b-306.

2386 (3) If a partner fails to contribute the full amount required under Subsection (2), all of  
2387 the other partners shall contribute, in the proportions in which those partners share partnership  
2388 losses, the additional amount necessary to satisfy the partnership obligations for which they are  
2389 personally liable under Section 48-1b-306. A partner or partner's legal representative may  
2390 recover from the other partners any contributions the partner makes to the extent the amount  
2391 contributed exceeds that partner's share of the partnership obligations for which the partner is  
2392 personally liable under Section 48-1b-306.

2393 (4) After the settlement of accounts, each partner shall contribute, in the proportion in  
2394 which the partner shares partnership losses, the amount necessary to satisfy partnership  
2395 obligations that were not known at the time of the settlement and for which the partner is  
2396 personally liable under Section 48-1b-306.

2397 (5) The estate of a deceased partner is liable for the partner's obligation to contribute to  
2398 the partnership.

2399 (6) An assignee for the benefit of creditors of a partnership or a partner, or a person  
2400 appointed by a court to represent creditors of a partnership or a partner, may enforce a partner's  
2401 obligation to contribute to the partnership.

2402 Section 59. Section **48-1b-901** is enacted to read:

### 2403 **Part 9. Merger, Conversion, and Domestication**

#### 2404 **48-1b-901. Definitions.**

2405 In this part:

2406 (1) "Constituent organization" means an organization that is party to a merger.

2407 (2) "Constituent partnership" means a constituent organization that is a partnership.

2408 (3) "Converted organization" means the organization into which a converting  
2409 organization converts pursuant to Sections 48-1b-906 through 48-1b-909.

2410 (4) "Converting organization" means an organization that converts into another  
2411 organization pursuant to Section 48-1b-906.

2412 (5) "Converting partnership" means a converting organization that is a partnership.

2413 (6) "Domesticated limited liability partnership" means a limited liability partnership  
2414 that exists after a domesticating foreign limited liability partnership or limited liability  
2415 partnership effects a domestication pursuant to Sections 48-1b-910 through 48-1b-913.

2416 (7) "Domesticating limited liability partnership" means a limited liability partnership  
2417 that effects a domestication pursuant to Sections 48-1b-910 through 48-1b-913.

2418 (8) "Foreign partnership" means a partnership that has:

2419 (a) its chief executive office in a jurisdiction other than this state; or

2420 (b) specified in its partnership agreement that relations among the partners and between  
2421 the partners and the partnership will be governed by the law of a jurisdiction other than this  
2422 state.

2423 (9) "Governing statute" means the statute that governs an organization's internal affairs.

2424 (10) (a) "Organization" means:

2425 (i) a general partnership, including a limited liability partnership;

2426 (ii) a limited partnership, including a limited liability limited partnership;

2427 (iii) a limited liability company;

2428 (iv) a business trust;

2429 (v) a corporation; or

2430 (vi) any other person having a governing statute.

2431 (b) "Organization" includes a domestic or foreign organization regardless of whether  
2432 organized for profit.

2433 (11) "Organizational documents" means:

2434 (a) for a domestic or foreign general partnership, its partnership agreement;

2435 (b) for a limited partnership or foreign limited partnership, its certificate of limited  
2436 partnership and partnership agreement;

2437 (c) for a domestic or foreign limited liability company, its certificate or articles of  
2438 organization and operating agreement, or comparable records as provided in its governing  
2439 statute;

2440 (d) for a business trust, its agreement of trust and declaration of trust;

2441 (e) for a domestic or foreign corporation for profit, its articles of incorporation, bylaws,  
2442 and other agreements among its shareholders which are authorized by its governing statute, or  
2443 comparable records as provided in its governing statute; and

2444 (f) for any other organization, the basic records that create the organization and  
2445 determine its internal governance and the relations among the persons that own it, have an  
2446 interest in it, or are members of it.

2447 (12) "Personal liability" means liability for a debt, obligation, or other liability of an  
2448 organization which is imposed on a person that co-owns, has an interest in, or is a member of  
2449 the organization:

2450 (a) by the governing statute solely by reason of the person co-owning, having an  
2451 interest in, or being a member of the organization; or

2452 (b) by the organization's organizational documents under a provision of the governing  
2453 statute authorizing those documents to make one or more specified persons liable for all or  
2454 specified debts, obligations, or other liabilities of the organization solely by reason of the  
2455 person or persons co-owning, having an interest in, or being a member of the organization.

2456 (13) "Surviving organization" means an organization into which one or more other  
2457 organizations are merged whether the organization preexisted the merger or was created by the  
2458 merger.

2459 Section 60. Section **48-1b-902** is enacted to read:

2460 **48-1b-902. Merger.**

2461 (1) A partnership may merge with one or more other constituent organizations pursuant  
2462 to this section, Sections 48-1b-903 through 48-1b-905, and a plan of merger, if:

2463 (a) the governing statute of each of the other organizations authorizes the merger;

2464 (b) the merger is not prohibited by the law of a jurisdiction that enacted any of the  
2465 governing statutes; and

2466 (c) each of the other organizations complies with its governing statute in effecting the  
2467 merger.

2468 (2) Unless each constituent organization and the surviving organization are  
2469 partnerships other than limited liability partnerships, a plan of merger must be in a record and  
2470 must include:

2471 (a) the name and form of each constituent organization;

2472 (b) the name and form of the surviving organization and, if the surviving organization  
2473 is to be created by the merger, a statement to that effect;

2474 (c) the terms and conditions of the merger, including the manner and basis for



2475 converting the interests in each constituent organization into any combination of money,  
2476 interests in the surviving organization, and other consideration;

2477 (d) if the surviving organization is to be created by the merger, the surviving  
2478 organization's organizational documents that are proposed to be in a record; and

2479 (e) if the surviving organization is not to be created by the merger, any amendments to  
2480 be made by the merger to the surviving organization's organizational documents that are, or are  
2481 proposed to be, in a record.

2482 Section 61. Section **48-1b-903** is enacted to read:

2483 **48-1b-903. Action on plan of merger by constituent partnership.**

2484 (1) Subject to Section 48-1b-914, a plan of merger must be consented to by all the  
2485 partners of a constituent partnership.

2486 (2) Subject to Section 48-1b-914 and any contractual rights, after a merger is approved,  
2487 and at any time before articles of merger are delivered to the division for filing under Section  
2488 48-1b-904, a constituent partnership may amend the plan or abandon the merger:

2489 (a) as provided in the plan; or

2490 (b) except as otherwise prohibited in the plan, with the same consent as was required to  
2491 approve the plan.

2492 Section 62. Section **48-1b-904** is enacted to read:

2493 **48-1b-904. Filings required and permitted for merger -- Effective date.**

2494 (1) After each constituent organization has approved a merger, articles of merger must  
2495 be signed on behalf of:

2496 (a) each constituent partnership, as provided in Section 48-1b-105, unless the merger is  
2497 only between or among general partnerships, none of which is a limited liability partnership,  
2498 and the surviving organization will be a general partnership other than a limited liability  
2499 partnership; and

2500 (b) each other constituent organization, as provided in its governing statute.

2501 (2) Articles of merger under this section must include:

2502 (a) the name and form of each constituent organization and the jurisdiction of its  
2503 governing statute;

2504 (b) the name and form of the surviving organization, the jurisdiction of its governing  
2505 statute, and, if the surviving organization is created by the merger, a statement to that effect;

- 2506 (c) the date the merger is effective under the governing statute of the surviving  
2507 organization;
- 2508 (d) if the surviving organization is to be created by the merger:
- 2509 (i) if it will be a limited liability partnership, the limited liability partnership's  
2510 statement of qualification; or
- 2511 (ii) if it will be an organization other than a limited liability partnership, the  
2512 organizational document that creates the organization that is in a public record;
- 2513 (e) if the surviving organization preexists the merger, any amendments provided for in  
2514 the plan of merger for the organizational document that created the organization that are in a  
2515 public record;
- 2516 (f) a statement as to each constituent organization that the merger was approved as  
2517 required by the organization's governing statute;
- 2518 (g) if the surviving organization is a foreign organization not authorized to transact  
2519 business in this state, the street and mailing addresses of an office that may be used for service  
2520 of process under Section 48-1b-905(2); and
- 2521 (h) any additional information required by the governing statute of any constituent  
2522 organization.
- 2523 (3) Each constituent partnership that is a limited liability partnership shall, and each  
2524 constituent partnership that is not a limited liability partnership may, deliver the articles of  
2525 merger for filing in the division.
- 2526 (4) A merger becomes effective under this part:
- 2527 (a) if the surviving organization is a partnership, upon the later of:
- 2528 (i) compliance with Subsection (3); or
- 2529 (ii) as specified in the articles of merger; or
- 2530 (b) if the surviving organization is not a partnership, as provided by the governing  
2531 statute of the surviving organization.
- 2532 Section 63. Section **48-1b-905** is enacted to read:
- 2533 **48-1b-905. Effect of merger.**
- 2534 (1) When a merger becomes effective:
- 2535 (a) the surviving organization continues or comes into existence;
- 2536 (b) each constituent organization that merges into the surviving organization ceases to

2537 exist as a separate entity;

2538 (c) all property owned by each constituent organization that ceases to exist vests in the  
2539 surviving organization;

2540 (d) all debts, obligations, or other liabilities of each constituent organization that ceases  
2541 to exist continue as debts, obligations, or other liabilities of the surviving organization;

2542 (e) an action or proceeding pending by or against any constituent organization that  
2543 ceases to exist may be continued as if the merger had not occurred;

2544 (f) except as prohibited by other law, all of the rights, privileges, immunities, powers,  
2545 and purposes of each constituent organization that ceases to exist vest in the surviving  
2546 organization;

2547 (g) except as otherwise provided in the plan of merger, the terms and conditions of the  
2548 plan of merger take effect; and

2549 (h) except as otherwise agreed, if a constituent partnership ceases to exist, the merger  
2550 does not dissolve the partnership for the purposes of Part 8, Winding Up Partnership Business;

2551 (i) if the surviving organization is created by the merger:

2552 (i) if it is a partnership, the partnership is formed upon approval of and on the date  
2553 specified in the plan of merger;

2554 (ii) if it is a limited liability partnership, the limited liability partnership is formed and  
2555 the statement of qualification takes effect on the later of:

2556 (A) the day after the day on which the division has received for filing both the articles  
2557 of merger and the statement of qualification pursuant to Section 48-1b-1001; or

2558 (B) the date provided in the statement of qualification; or

2559 (iii) if it is an organization other than a partnership, the organizational document that  
2560 creates the organization becomes effective; and

2561 (j) if the surviving organization preexisted the merger, any amendments provided for in  
2562 the articles of merger for the organizational document that created the organization become  
2563 effective.

2564 (2) A surviving organization that is a foreign organization consents to the jurisdiction  
2565 of the courts of this state to enforce any debt, obligation, or other liability owed by a constituent  
2566 organization, if before the merger the constituent organization was subject to suit in this state  
2567 on the debt, obligation, or other liability. A surviving organization that is a foreign

2568 organization and not authorized to transact business in this state may be served with process at  
2569 the address required in the articles of merger under 48-1b-904(2)(g).

2570 Section 64. Section **48-1b-906** is enacted to read:

2571 **48-1b-906. Conversion.**

2572 (1) An organization other than a partnership or a foreign partnership may convert to a  
2573 partnership, and a partnership may convert to an organization other than a foreign partnership  
2574 pursuant to this section, Sections 48-1b-907 through 48-1b-909, and a plan of conversion, if:

2575 (a) the other organization's governing statute authorizes the conversion;

2576 (b) the conversion is not prohibited by the law of the jurisdiction that enacted the other  
2577 organization's governing statute; and

2578 (c) the other organization complies with its governing statute in effecting the  
2579 conversion.

2580 (2) A plan of conversion must be in a record and must include:

2581 (a) the name and form of the organization before conversion;

2582 (b) the name and form of the organization after conversion;

2583 (c) the terms and conditions of the conversion, including the manner and basis for  
2584 converting interests in the converting organization into any combination of money, interests in  
2585 the converted organization, and other consideration; and

2586 (d) the organizational documents of the converted organization that are, or are  
2587 proposed to be, in a record.

2588 Section 65. Section **48-1b-907** is enacted to read:

2589 **48-1b-907. Action on plan of conversion by converting partnership.**

2590 (1) Subject to Section 48-1b-914, a plan of conversion must be consented to by all the  
2591 partners of a converting partnership.

2592 (2) Subject to Section 48-1b-914 and any contractual rights, after a conversion is  
2593 approved, and at any time before articles of conversion are delivered to the division for filing  
2594 under Section 48-1b-908, a converting partnership may amend the plan or abandon the  
2595 conversion:

2596 (a) as provided in the plan; or

2597 (b) except as otherwise prohibited in the plan, by the same consent as was required to  
2598 approve the plan.

2599 Section 66. Section **48-1b-908** is enacted to read:

2600 **48-1b-908. Filings required for conversion -- Effective date.**

2601 (1) After a plan of conversion is approved:

2602 (a) a converting limited liability partnership shall deliver to the division for filing  
2603 articles of conversion, which must be signed as provided in Section 48-1b-105 and must  
2604 include:

2605 (i) a statement that the limited liability partnership has been converted into another  
2606 organization;

2607 (ii) the name and form of the converted organization and the jurisdiction of its  
2608 governing statute;

2609 (iii) the date the conversion is effective under the governing statute of the converted  
2610 organization;

2611 (iv) a statement that the conversion was approved as required by this chapter;

2612 (v) a statement that the conversion is authorized by the governing statute of the  
2613 converted organization; and

2614 (vi) if the converted organization is a foreign organization not authorized to transact  
2615 business in this state, the street and mailing addresses of an office that may be used for  
2616 purposes of Subsection 48-1b-909(3); and

2617 (b) if the converting organization is not a converting partnership or limited liability  
2618 partnership, the converting organization shall deliver to the division for filing articles of  
2619 conversion, which must include:

2620 (i) a statement that the converted organization was converted from another  
2621 organization, and whether the converted organization is a partnership or a limited liability  
2622 partnership;

2623 (ii) the name and form of that converting organization and the jurisdiction of its  
2624 governing statute; and

2625 (iii) a statement that the conversion was approved in a manner that complied with the  
2626 converting organization's governing statute.

2627 (2) A conversion becomes effective:

2628 (a) if the converted organization is a partnership, as provided in the plan or articles of  
2629 conversion;

- 2630 (b) if the converted organization is a limited liability partnership, the later of:  
2631 (i) the day after the day on which the division has received for filing both the articles of  
2632 conversion and the statement of qualification pursuant to Section 48-1b-1001; or  
2633 (ii) the date provided in the statement of qualification; or  
2634 (c) if the converted organization is not a partnership or limited liability partnership, as  
2635 provided by the governing statute of the converted organization.

2636 Section 67. Section **48-1b-909** is enacted to read:

2637 **48-1b-909. Effect of conversion.**

2638 (1) An organization that has been converted pursuant to this part is for all purposes the  
2639 same entity that existed before the conversion.

2640 (2) When a conversion takes effect:

2641 (a) all property owned by the converting organization remains vested in the converted  
2642 organization;

2643 (b) all debts, obligations, or other liabilities of the converting organization continue as  
2644 debts, obligations, or other liabilities of the converted organization;

2645 (c) an action or proceeding pending by or against the converting organization may be  
2646 continued as if the conversion had not occurred;

2647 (d) except as prohibited by law other than this chapter, all of the rights, privileges,  
2648 immunities, powers, and purposes of the converting organization remain vested in the  
2649 converted organization;

2650 (e) except as otherwise provided in the plan of conversion, the terms and conditions of  
2651 the plan of conversion take effect; and

2652 (f) except as otherwise agreed, the conversion does not dissolve a converting  
2653 partnership for the purposes of Part 8, Winding Up Partnership Business.

2654 (3) A converted organization that is a foreign organization consents to the jurisdiction  
2655 of the courts of this state to enforce any debt, obligation, or other liability for which the  
2656 converting partnership or limited liability partnership is liable if, before the conversion, the  
2657 converting partnership or limited liability partnership was subject to suit in this state on the  
2658 debt, obligation, or other liability. A converted organization that is a foreign organization and  
2659 not authorized to transact business in this state may be served with process at the address  
2660 required in the articles of conversion under Subsection 48-1b-908(1)(a)(vi).

2661 Section 68. Section **48-1b-910** is enacted to read:

2662 **48-1b-910. Domestication.**

2663 (1) A foreign limited liability partnership may become a limited liability partnership  
2664 pursuant to this section, Sections 48-1b-911 through 48-1b-913, and a plan of domestication,

2665 if:

2666 (a) the foreign limited liability partnership's governing statute authorizes the  
2667 domestication;

2668 (b) the domestication is not prohibited by the law of the jurisdiction that enacted the  
2669 governing statute; and

2670 (c) the foreign limited liability partnership complies with its governing statute in  
2671 effecting the domestication.

2672 (2) A limited liability partnership may become a foreign limited liability partnership  
2673 pursuant to this section, Sections 48-1b-911 through 48-1b-913, and a plan of domestication,

2674 if:

2675 (a) the foreign limited liability partnership's governing statute authorizes the  
2676 domestication;

2677 (b) the domestication is not prohibited by the law of the jurisdiction that enacted the  
2678 governing statute; and

2679 (c) the foreign limited liability partnership complies with its governing statute in  
2680 effecting the domestication.

2681 (3) A plan of domestication must be in a record and must include:

2682 (a) the name of the domesticating limited liability partnership before domestication and  
2683 the jurisdiction of its governing statute;

2684 (b) the name of the domesticated limited liability partnership after domestication and  
2685 the jurisdiction of its governing statute;

2686 (c) the terms and conditions of the domestication, including the manner and basis for  
2687 converting interests in the domesticating limited liability partnership into any combination of  
2688 money, interests in the domesticated limited liability partnership, and other consideration; and

2689 (d) the organizational documents of the domesticated limited liability partnership that  
2690 are, or are proposed to be, in a record.

2691 Section 69. Section **48-1b-911** is enacted to read:

2692           **48-1b-911. Action on plan of domestication by domesticating partnership.**  
2693           (1) A plan of domestication must be consented to:  
2694           (a) by all the partners, subject to Section 48-1b-914, if the domesticating limited  
2695 liability partnership is a limited liability partnership; and  
2696           (b) as provided in the domesticating limited liability partnership's governing statute, if  
2697 the limited liability partnership is a foreign limited liability partnership.  
2698           (2) Subject to any contractual rights, after a domestication is approved, and at any time  
2699 before articles of domestication are delivered to the division for filing under Section  
2700 48-1b-912, a domesticating limited liability partnership may amend the plan or abandon the  
2701 domestication:  
2702           (a) as provided in the plan; or  
2703           (b) except as otherwise prohibited in the plan, by the same consent as was required to  
2704 approve the plan.  
2705           Section 70. Section **48-1b-912** is enacted to read:  
2706           **48-1b-912. Filings required for domestication -- Effective date.**  
2707           (1) After a plan of domestication is approved, a domesticating limited liability  
2708 partnership shall deliver to the division for filing articles of domestication, which must include:  
2709           (a) a statement, as the case may be, that the limited liability partnership has been  
2710 domesticated from or into another jurisdiction;  
2711           (b) the name of the domesticating limited liability partnership and the jurisdiction of its  
2712 governing statute;  
2713           (c) the name of the domesticated limited liability partnership and the jurisdiction of its  
2714 governing statute;  
2715           (d) the date the domestication is effective under the governing statute of the  
2716 domesticated limited liability partnership;  
2717           (e) if the domesticating limited liability partnership was a limited liability partnership,  
2718 a statement that the domestication was approved as required by this chapter;  
2719           (f) if the domesticating limited liability partnership was a foreign limited liability  
2720 partnership, a statement that the domestication was approved as required by the governing  
2721 statute of the other jurisdiction; and  
2722           (g) if the domesticated limited liability partnership is a foreign limited liability



2723 partnership not authorized to transact business in this state, the street and mailing addresses of  
2724 an office that the division may use for the purposes of Subsection 48-1b-913(2).

2725 (2) A domestication becomes effective:

2726 (a) if the domesticated limited liability partnership is a limited liability partnership, the  
2727 later of:

2728 (i) the day after the day on which the division has received for filing both the articles of  
2729 domestication and the statement of qualification pursuant to Section 48-1b-1001; and

2730 (ii) the date provided in the statement of qualification; or

2731 (b) if it is a foreign limited liability partnership, according to the governing statute of  
2732 the domesticated limited liability partnership.

2733 Section 71. Section **48-1b-913** is enacted to read:

2734 **48-1b-913. Effect of domestication.**

2735 (1) When a domestication takes effect:

2736 (a) the domesticated limited liability partnership is for all purposes the limited liability  
2737 partnership that existed before the domestication;

2738 (b) all property owned by the domesticating limited liability partnership remains vested  
2739 in the domesticated limited liability partnership;

2740 (c) all debts, obligations, or other liabilities of the domesticating limited liability  
2741 partnership continue as debts, obligations, or other liabilities of the domesticated limited  
2742 liability partnership;

2743 (d) an action or proceeding pending by or against a domesticating limited liability  
2744 partnership may be continued as if the domestication had not occurred;

2745 (e) except as prohibited by other law, all of the rights, privileges, immunities, powers,  
2746 and purposes of the domesticating limited liability partnership remain vested in the  
2747 domesticated limited liability partnership;

2748 (f) except as otherwise provided in the plan of domestication, the terms and conditions  
2749 of the plan of domestication take effect; and

2750 (g) except as otherwise agreed, the domestication does not dissolve a domesticating  
2751 limited liability partnership for the purposes of Part 8, Winding Up Partnership Business.

2752 (2) A domesticated limited liability partnership that is a foreign limited liability  
2753 partnership consents to the jurisdiction of the courts of this state to enforce any debt,

2754 obligation, or other liability owed by the domesticating limited liability partnership, if, before  
2755 the domestication, the domesticating limited liability partnership was subject to suit in this  
2756 state on the debt, obligation, or other liability. A domesticated limited liability partnership that  
2757 is a foreign limited liability partnership and not authorized to transact business in this state may  
2758 be served with process at the address required in the articles of domestication under Subsection  
2759 48-1b-912(1)(g).

2760 (3) If a limited liability partnership has adopted and approved a plan of domestication  
2761 under Section 48-1b-910 providing for the limited liability partnership to be domesticated in a  
2762 foreign jurisdiction, a statement pursuant to Subsection 48-1b-1001(4) cancelling the limited  
2763 liability partnership's statement of qualification must be delivered to the division for filing  
2764 setting forth:

2765 (a) the name of the limited liability partnership;

2766 (b) a statement that the limited liability partnership's statement of qualification is being  
2767 cancelled in connection with the domestication of the limited liability partnership in a foreign  
2768 jurisdiction;

2769 (c) a statement the domestication was approved as required by this chapter; and

2770 (d) the jurisdiction of formation of the domesticated foreign limited liability  
2771 partnership.

2772 Section 72. Section **48-1b-914** is enacted to read:

2773 **48-1b-914. Restrictions on approval of mergers, conversions, and domestications.**

2774 (1) If a partner of a constituent or converting partnership, or a partner of a  
2775 domesticating limited liability partnership will have personal liability with respect to a  
2776 surviving, converted, or domesticated organization, approval or amendment of a plan of  
2777 merger, conversion, or domestication are ineffective without the consent of the partner, unless:

2778 (a) the partnership's partnership agreement provides for approval of a merger,  
2779 conversion, or domestication with the consent of fewer than all the partners; and

2780 (b) the partner has consented to the provision of the partnership agreement.

2781 (2) A partner does not give the consent required by Subsection (1) merely by  
2782 consenting to a provision of the partnership agreement that permits the partnership agreement  
2783 to be amended with the consent of fewer than all the partners.

2784 Section 73. Section **48-1b-915** is enacted to read:

2785 **48-1b-915. Part not exclusive.**

2786 This part does not preclude an entity from being merged, converted, or domesticated  
2787 under law other than this chapter.

2788 Section 74. Section **48-1b-1001** is enacted to read:

2789 **Part 10. Limited Liability Partnership**

2790 **48-1b-1001. Statement of qualification.**

2791 (1) A partnership may become a limited liability partnership pursuant to this section.

2792 (2) The terms and conditions on which a partnership becomes a limited liability  
2793 partnership must be approved by the vote necessary to amend the partnership agreement  
2794 except, in the case of a partnership agreement that expressly considers obligations to contribute  
2795 to the partnership, the vote necessary to amend those provisions.

2796 (3) After the approval required by Subsection (2), a partnership may become a limited  
2797 liability partnership by filing a statement of qualification with the division. The statement must  
2798 contain:

2799 (a) the name of the partnership;

2800 (b) the street address of the partnership's chief executive office and, if different, the  
2801 street address of an office in this state, if any;

2802 (c) if the partnership does not have an office in this state, the information required by  
2803 Subsection 16-17-203(1);

2804 (d) a statement that the partnership elects to be a limited liability partnership; and

2805 (e) a deferred effective date, if any.

2806 (4) The status of a partnership as a limited liability partnership is effective on the later  
2807 of the filing of the statement or a date specified in the statement. The status remains effective,  
2808 regardless of changes in the partnership, until it is canceled pursuant to Subsection  
2809 48-1b-105(4) or revoked pursuant to Section 48-1b-1003.

2810 (5) The status of a partnership as a limited liability partnership and the liability of its  
2811 partners is not affected by errors or later changes in the information required to be contained in  
2812 the statement of qualification under Subsection (3).

2813 (6) The filing of a statement of qualification establishes that a partnership has satisfied  
2814 all conditions precedent to the qualification of the partnership as a limited liability partnership.

2815 (7) An amendment or cancellation of a statement of qualification is effective when it is

2816 filed or on a deferred effective date specified in the amendment or cancellation.

2817 Section 75. Section **48-1b-1002** is enacted to read:

2818 **48-1b-1002. Name.**

2819 (1) The name of a limited liability partnership must end with "Registered Limited  
2820 Liability Partnership," "Limited Liability Partnership," "R.L.L.P.," "L.L.P.," "RLLP," or "LLP".

2821 (2) The name of a limited liability partnership may not contain:

2822 (a) without the written consent of the United States Olympic Committee, the words:

2823 (i) "Olympic";

2824 (ii) "Olympiad"; or

2825 (iii) "Citius Altius Fortius"; and

2826 (b) without the written consent of the Division of Consumer Protection issued in  
2827 accordance with Section 13-34-114, the words:

2828 (i) "university";

2829 (ii) "college"; or

2830 (iii) "institute" or "institution".

2831 (3) Unless authorized by Subsection (4), the name of a limited liability partnership  
2832 must be distinguishable in the records of the division from:

2833 (a) the name of each person other than an individual incorporated, organized, or  
2834 authorized to transact business in this state; and

2835 (b) each name reserved under:

2836 (i) Section 16-6a-401 or 16-6a-402;

2837 (ii) Section 16-10a-401 or 16-10a-402;

2838 (iii) Section 16-11-16;

2839 (iv) Section 42-2-6.6;

2840 (v) Section 48-2d-108 or 48-2d-109; or

2841 (vi) Section 48-3-108 or 48-3-109.

2842 (4) A limited liability partnership may apply to the division for authorization to use a  
2843 name that does not comply with Subsection (3). The division shall authorize use of the name  
2844 applied for if, as to each conflicting name:

2845 (a) the present user, registrant, or owner of the conflicting name consents in a signed  
2846 record to the use and submits an undertaking in a form satisfactory to the division to change the

2847 conflicting name to a name that complies with Subsection (3) and is distinguishable in the  
2848 records of the division from the name applied for;

2849 (b) the applicant delivers to the division a certified copy of the final judgment of a  
2850 district court establishing the applicant's right to use in this state the name applied for; or

2851 (c) the applicant delivers to the division proof satisfactory to the division that the  
2852 present user, registrant, or owner of the conflicting name:

2853 (i) has merged into the applicant;

2854 (ii) has been converted into the applicant; or

2855 (iii) has transferred substantially all of its assets, including the conflicting name, to the  
2856 applicant.

2857 (5) Subject to Section 48-1b-1102.1, this section applies to any foreign limited  
2858 partnership transacting business in this state, having a certificate of authority to transact  
2859 business in this state, or applying for a certificate of authority.

2860 (6) The division may not approve for filing a name that implies that a limited liability  
2861 partnership is an agency of this state or any of its political subdivisions, if it is not actually such  
2862 a legally established agency or subdivision.

2863 (7) The authorization to file a certificate under or to reserve or register a limited  
2864 liability partnership name as granted by the division does not:

2865 (a) abrogate or limit the law governing unfair competition or unfair trade practices;

2866 (b) derogate from the common law, the principles of equity, or the statutes of this state  
2867 or of the United States with respect to the right to acquire and protect names and trademarks; or

2868 (c) create an exclusive right in geographic or generic terms contained within a name.

2869 Section 76. Section **48-1b-1003** is enacted to read:

2870 **48-1b-1003. Annual report.**

2871 (1) A limited liability partnership, and a foreign limited liability partnership authorized  
2872 to transact business in this state, shall file an annual report with the division which contains:

2873 (a) the name of the limited liability partnership and the state or other jurisdiction under  
2874 whose laws the foreign limited liability partnership is formed;

2875 (b) the street address of the partnership's chief executive office and, if different, the  
2876 street address of an office of the partnership in this state, if any; and

2877 (c) if the partnership does not have an office in this state, the information required by

2878 Subsection 16-17-203(1).

2879 (2) Following the calendar year in which a partnership files a statement of qualification  
2880 or a foreign partnership becomes authorized to transact business in this state, the partnership  
2881 shall file an annual report:

2882 (a) during the month of its anniversary date of formation, in the case of a domestic  
2883 partnership; or

2884 (b) during the month of the anniversary date of being granted authority to transact  
2885 business in this state, in the case of a foreign partnership authorized to transact business in this  
2886 state.

2887 (3) (a) The division may revoke the statement of qualification of a partnership that fails  
2888 to:

2889 (i) file an annual report when due; or

2890 (ii) pay the required filing fee, established in accordance with Section 63J-1-504.

2891 (b) To take an action under this Subsection (3), the division shall provide the  
2892 partnership at least 60 days' written notice of intent to revoke the statement. The notice must  
2893 be mailed to the partnership at its chief executive office set forth in the last filed statement of  
2894 qualification or annual report. The notice must specify the annual report that has not been  
2895 filed, the fee that has not been paid, and the effective date of the revocation. The revocation is  
2896 not effective if the annual report is filed and the fee is paid before the effective date of the  
2897 revocation.

2898 (4) A revocation under Subsection (3) only affects a partnership's status as a limited  
2899 liability partnership and is not an event of dissolution of the partnership.

2900 (5) A partnership whose statement of qualification has been revoked may apply to the  
2901 division for reinstatement within two years after the effective date of the revocation. The  
2902 application must state:

2903 (a) the name of the partnership and the effective date of the revocation; and

2904 (b) that the ground for revocation either did not exist or has been corrected.

2905 (6) A reinstatement under Subsection (5) relates back to and takes effect as of the  
2906 effective date of the revocation, and the partnership's status as a limited liability partnership  
2907 continues as if the revocation had never occurred.

2908 Section 77. Section **48-1b-1004** is enacted to read:

2909 **48-1b-1004. Limited liability partnership providing professional services.**

2910 (1) A limited liability partnership organized under this part to provide a professional  
2911 service:

2912 (a) may provide:

2913 (i) only one specific type of professional service; and

2914 (ii) services ancillary to the professional service described in Subsection (1)(a)(i); and

2915 (b) may not engage in a business other than providing the professional service that it is  
2916 organized to provide and services ancillary to the professional service.

2917 (2) A limited liability partnership organized to provide a professional service:

2918 (a) may include a partner or employee authorized under the laws of the jurisdiction  
2919 where the partner or employee reside to provide similar professional service;

2920 (b) may include a partner who is not licensed or registered by the state to provide the  
2921 professional service to the extent allowed by the applicable licensing act relating to the  
2922 professional service; and

2923 (c) may render a professional service in Utah only through a partner or employee who  
2924 is licensed or registered by the state to render the professional service.

2925 (3) A limited liability partnership organized to provide a professional service has the  
2926 powers provided a limited liability partnership under this chapter.

2927 (4) (a) This part does not restrict or limit the authority or duty of a regulatory entity to  
2928 license an individual who provides a professional service or practices the profession that is  
2929 within the jurisdiction of the regulatory entity, notwithstanding that the individual:

2930 (i) is a partner or employee of a limited liability partnership; or

2931 (ii) provides a professional service or engaging in the practice of the profession through  
2932 a limited liability partnership.

2933 (b) A limited liability partnership may not do anything an individual licensed to  
2934 practice the profession that the limited liability partnership is organized to provide may not do.

2935 Section 78. Section **48-1b-1101** is enacted to read:

2936 **Part 11. Foreign Limited Liability Partnership**

2937 **48-1b-1101. Law governing foreign limited liability partnership.**

2938 (1) The law under which a foreign limited liability partnership is formed governs  
2939 relations among the partners and between the partners and the partnership and the liability of

2940 partners for obligations of the partnership.

2941 (2) A foreign limited liability partnership may not be denied a statement of foreign  
2942 qualification by reason of any difference between the law under which the partnership was  
2943 formed and the law of this state.

2944 (3) A statement of foreign qualification does not authorize a foreign limited liability  
2945 partnership to engage in any business or exercise any power that a partnership may not engage  
2946 in or exercise in this state as a limited liability partnership.

2947 (4) (a) The division may permit a tribal limited liability partnership to register with the  
2948 division in the same manner as a foreign limited liability partnership formed in another state.

2949 (b) If a tribal limited liability partnership elects to register with the division, for  
2950 purposes of this chapter, the tribal limited liability partnership shall be treated in the same  
2951 manner as a foreign limited liability partnership formed under the laws of another state.

2952 Section 79. Section **48-1b-1102** is enacted to read:

2953 **48-1b-1102. Statement of foreign qualification.**

2954 (1) Before transacting business in this state, a foreign limited liability partnership must  
2955 file a statement of foreign qualification with the division. The statement must contain:

2956 (a) the name of the foreign limited liability partnership which satisfies the requirements  
2957 of the state or other jurisdiction under whose law it is formed;

2958 (b) the street address of the partnership's chief executive office;

2959 (c) the information required by Subsection 16-17-203(1); and

2960 (d) a deferred effective date, if any.

2961 (2) The status of a partnership as a foreign limited liability partnership is effective on  
2962 the later of the filing of the statement of foreign qualification or a date specified in the  
2963 statement. The status remains effective, regardless of changes in the partnership, until it is  
2964 canceled pursuant to Subsection 48-1b-105(4) or revoked pursuant to Section 48-1b-1003.

2965 (3) An amendment or cancellation of a statement of foreign qualification is effective  
2966 when it is filed or on a deferred effective date specified in the amendment or cancellation.

2967 Section 80. Section **48-1b-1102.1** is enacted to read:

2968 **48-1b-1102.1. Noncomplying name of foreign limited liability partnership.**

2969 (1) A foreign limited liability partnership whose name does not comply with Section  
2970 48-1b-1002 may not obtain a certificate of authority until it adopts, for the purpose of



2971 transacting business in this state, an alternate name that complies with Section 48-1b-1002. A  
2972 foreign limited liability partnership that adopts an alternate name under this Subsection (1) and  
2973 then obtains a certificate of authority with the name need not comply with Title 42, Chapter 2,  
2974 Conducting Business Under Assumed Name. After obtaining a certificate of authority with an  
2975 alternate name, a foreign limited liability partnership shall transact business in this state under  
2976 the name unless the foreign limited liability partnership is authorized under Title 42, Chapter 2,  
2977 Conducting Business Under Assumed Name, to transact business in this state under another  
2978 name.

2979 (2) If a foreign limited liability partnership authorized to transact business in this state  
2980 changes its name to one that does not comply with Section 48-1b-1002, it may not thereafter  
2981 transact business in this state until it complies with Subsection (1) and obtains an amended  
2982 certificate of authority.

2983 Section 81. Section **48-1b-1103** is enacted to read:

2984 **48-1b-1103. Effect of failure to qualify.**

2985 (1) A foreign limited liability partnership transacting business in this state may not  
2986 maintain an action or proceeding in this state unless it has in effect a statement of foreign  
2987 qualification.

2988 (2) The failure of a foreign limited liability partnership to have in effect a statement of  
2989 foreign qualification does not impair the validity of a contract or act of the foreign limited  
2990 liability partnership or preclude it from defending an action or proceeding in this state.

2991 (3) A limitation on personal liability of a partner is not waived solely by transacting  
2992 business in this state without a statement of foreign qualification.

2993 (4) If a foreign limited liability partnership transacts business in this state without a  
2994 statement of foreign qualification, service of process with respect to a right of action arising out  
2995 of the transaction of business in this state shall be served in accordance with Section  
2996 16-17-301.

2997 Section 82. Section **48-1b-1104** is enacted to read:

2998 **48-1b-1104. Activities not constituting transacting business.**

2999 (1) Activities of a foreign limited liability partnership which do not constitute  
3000 transacting business for the purpose of this part include:

3001 (a) maintaining, defending, or settling an action or proceeding;

3002 (b) holding meetings of its partners or carrying on any other activity concerning its  
3003 internal affairs;

3004 (c) maintaining bank accounts;

3005 (d) maintaining offices or agencies for the transfer, exchange, and registration of the  
3006 partnership's own securities or maintaining trustees or depositories with respect to those  
3007 securities;

3008 (e) selling through independent contractors;

3009 (f) soliciting or obtaining orders, whether by mail or through employees or agents or  
3010 otherwise, if the orders require acceptance outside this state before they become contracts;

3011 (g) creating or acquiring indebtedness, with or without a mortgage, or other security  
3012 interest in property;

3013 (h) collecting debts or foreclosing mortgages or other security interests in property  
3014 securing the debts, and holding, protecting, and maintaining property so acquired;

3015 (i) conducting an isolated transaction that is completed within 30 days and is not one in  
3016 the course of similar transactions; and

3017 (j) transacting business in interstate commerce.

3018 (2) For purposes of this part, the ownership in this state of income-producing real  
3019 property or tangible personal property, other than property excluded under Subsection (1),  
3020 constitutes transacting business in this state.

3021 (3) This section does not apply in determining the contacts or activities that may  
3022 subject a foreign limited liability partnership to service of process, taxation, or regulation under  
3023 any other law of this state.

3024 Section 83. Section **48-1b-1105** is enacted to read:

3025 **48-1b-1105. Action by attorney general.**

3026 The attorney general may maintain an action to restrain a foreign limited liability  
3027 partnership from transacting business in this state in violation of this part.

3028 Section 84. Section **48-1b-1201** is enacted to read:

3029 **Part 12. Miscellaneous Provisions**

3030 **48-1b-1201. Uniformity of application and construction.**

3031 This chapter shall be applied and construed to effectuate its general purpose to make  
3032 uniform the law with respect to the subject of this chapter among states enacting it.

3033 Section 85. Section **48-1b-1202** is enacted to read:

3034 **48-1b-1202. Relation to electronic signatures in global and national commerce act.**

3035 This chapter modifies, limits, and supersedes the federal Electronic Signatures in  
3036 Global and National Commerce Act, 15 U.S.C. Sec. 7001 et seq., but does not modify, limit, or  
3037 supersede Section 101(c) of that act, 15 U.S.C. Sec. 7001(c), or authorize electronic delivery of  
3038 any of the notices described in Section 103(b) of that act, 15 U.S.C. Sec. 7003(b).

3039 Section 86. Section **48-1b-1203** is enacted to read:

3040 **48-1b-1203. Severability clause.**

3041 If any provision of this chapter or its application to any person or circumstance is held  
3042 invalid, the invalidity does not affect other provisions or applications of this chapter which can  
3043 be given effect without the invalid provision or application, and to this end the provisions of  
3044 this chapter are severable.

3045 Section 87. Section **48-1b-1204** is enacted to read:

3046 **48-1b-1204. Savings clause.**

3047 This chapter does not affect an action or proceeding commenced or right accrued before  
3048 July 1, 2012.

3049 Section 88. Section **48-1b-1205** is enacted to read:

3050 **48-1b-1205. Applicability.**

3051 (1) Before January 1, 2014, this chapter governs only a partnership formed:

3052 (a) after July 1, 2012, except a partnership that is continuing the business of a dissolved  
3053 partnership; and

3054 (b) before July 1, 2012, that elects, as provided by Subsection (3), to be governed by  
3055 this chapter.

3056 (2) On and after January 1, 2014, this chapter governs all partnerships.

3057 (3) Before January 1, 2014, a partnership voluntarily may elect, in the manner provided  
3058 in its partnership agreement or by law for amending the partnership agreement, to be governed  
3059 by this chapter. The provisions of this chapter relating to the liability of the partnership's  
3060 partners to third parties apply to limit those partners' liability to a third party who had done  
3061 business with the partnership within one year before the partnership's election to be governed  
3062 by this chapter only if the third party knows or has received a notification of the partnership's  
3063 election to be governed by this chapter.

3064 Section 89. Section **48-2d-101** is enacted to read:

3065 **CHAPTER 2d. UTAH UNIFORM LIMITED PARTNERSHIP ACT**

3066 **Part 1. General Provisions**

3067 **48-2d-101. Title.**

3068 This chapter is known as the "Utah Uniform Limited Partnership Act."

3069 Section 90. Section **48-2d-102** is enacted to read:

3070 **48-2d-102. Definitions.**

3071 As used in this chapter:

3072 (1) (a) "Certificate of limited partnership" means the certificate required by Section  
3073 48-2d-201.

3074 (b) "Certificate of limited partnership" includes the certificate as amended or restated.

3075 (2) "Contribution," except in the phrase "right of contribution," means any benefit  
3076 provided by a person to a limited partnership in order to become a partner or in the person's  
3077 capacity as a partner.

3078 (3) "Debtor in bankruptcy" means a person that is the subject of:

3079 (a) an order for relief under United States Code, Title 11, or a comparable order under  
3080 a successor statute of general application; or

3081 (b) a comparable order under federal, state, or foreign law governing insolvency.

3082 (4) "Distribution" means a transfer of money or other property from a limited  
3083 partnership to a partner in the partner's capacity as a partner or to a transferee on account of a  
3084 transferable interest owned by the transferee.

3085 (5) "Foreign limited liability limited partnership" means a foreign limited partnership  
3086 whose general partners have limited liability for the obligations of the foreign limited  
3087 partnership under a provision similar to Subsection 48-2d-404(3).

3088 (6) (a) "Foreign limited partnership" means a partnership formed under the laws of a  
3089 jurisdiction other than this state and required by those laws to have one or more general  
3090 partners and one or more limited partners.

3091 (b) "Foreign limited partnership" includes a foreign limited liability limited  
3092 partnership.

3093 (7) "General partner" means:

3094 (a) with respect to a limited partnership, a person that:

- 3095 (i) becomes a general partner under Section 48-2d-401; or  
3096 (ii) was a general partner in a limited partnership when the limited partnership became  
3097 subject to this chapter under Subsection 48-2d-1205(1) or (2); and  
3098 (b) with respect to a foreign limited partnership, a person that has rights, powers, and  
3099 obligations similar to those of a general partner in a limited partnership.  
3100 (8) "Limited liability limited partnership," except in the phrase "foreign limited liability  
3101 limited partnership," means a limited partnership whose certificate of limited partnership states  
3102 that the limited partnership is a limited liability limited partnership.  
3103 (9) "Limited partner" means:  
3104 (a) with respect to a limited partnership, a person that:  
3105 (i) becomes a limited partner under Section 48-2d-301; or  
3106 (ii) was a limited partner in a limited partnership when the limited partnership became  
3107 subject to this chapter under Subsection 48-2d-1205(1) or (2); and  
3108 (b) with respect to a foreign limited partnership, a person that has rights, powers, and  
3109 obligations similar to those of a limited partner in a limited partnership.  
3110 (10) (a) "Limited partnership," except in the phrases "foreign limited partnership" and  
3111 "foreign limited liability limited partnership," means an entity, having one or more general  
3112 partners and one or more limited partners, which is formed under this chapter by two or more  
3113 persons or becomes subject to this chapter under Part 11, Merger, Conversion, and  
3114 Domestication, or Subsection 48-2d-1205(1) or (2).  
3115 (b) "Limited partnership" includes a limited liability limited partnership.  
3116 (11) "Partner" means a limited partner or general partner.  
3117 (12) (a) "Partnership agreement" means the partners' agreement, whether oral, implied,  
3118 in a record, or in any combination, concerning the limited partnership.  
3119 (b) "Partnership agreement" includes the agreement as amended.  
3120 (13) "Person" means:  
3121 (a) an individual;  
3122 (b) a corporation;  
3123 (c) a business trust;  
3124 (d) an estate;  
3125 (e) a trust;

- 3126 (f) a partnership;
- 3127 (g) a limited liability company;
- 3128 (h) an association;
- 3129 (i) a joint venture;
- 3130 (j) government;
- 3131 (k) a governmental subdivision, agency, or instrumentality;
- 3132 (l) a public corporation; or
- 3133 (m) any other legal or commercial entity.
- 3134 (14) "Person dissociated as a general partner" means a person dissociated as a general
- 3135 partner of a limited partnership.
- 3136 (15) "Principal office" means the office where the principal executive office of a
- 3137 limited partnership or foreign limited partnership is located, whether or not the office is located
- 3138 in this state.
- 3139 (16) "Record" means information that is inscribed on a tangible medium or that is
- 3140 stored in an electronic or other medium and is retrievable in perceivable form.
- 3141 (17) "Required information" means the information that a limited partnership is
- 3142 required to maintain under Section 48-2d-111.
- 3143 (18) "Sign" means:
- 3144 (a) to execute or adopt a tangible symbol with the present intent to authenticate a
- 3145 record; or
- 3146 (b) to attach or logically associate an electronic symbol, sound, or process to or with a
- 3147 record with the present intent to authenticate the record.
- 3148 (19) "State" means a state of the United States, the District of Columbia, Puerto Rico,
- 3149 the United States Virgin Islands, or any territory or insular possession subject to the jurisdiction
- 3150 of the United States.
- 3151 (20) "Transfer" includes an assignment, conveyance, deed, bill of sale, lease, mortgage,
- 3152 security interest, encumbrance, gift, and transfer by operation of law.
- 3153 (21) "Transferable interest" means a partner's right to receive distributions.
- 3154 (22) "Transferee" means a person to which all or part of a transferable interest has been
- 3155 transferred, whether or not the transferor is a partner.
- 3156 (23) "Tribal limited partnership" means a limited partnership:

3157 (a) formed under the law of a tribe; and  
3158 (b) that is at least 51% owned or controlled by the tribe.  
3159 (24) "Tribe" means a tribe, band, nation, pueblo, or other organized group or  
3160 community of Indians, including an Alaska Native village, that is legally recognized as eligible  
3161 for and is consistent with a special program, service, or entitlement provided by the United  
3162 States to Indians because of their status as Indians.

3163 Section 91. Section **48-2d-103** is enacted to read:

3164 **48-2d-103. Knowledge and notice.**

3165 (1) A person knows a fact if the person has actual knowledge of it.

3166 (2) A person has notice of a fact if the person:

3167 (a) knows of it;

3168 (b) has received a notification of it;

3169 (c) has reason to know it exists from all of the facts known to the person at the time in  
3170 question; or

3171 (d) has notice of it under Subsection (3) or (4).

3172 (3) A certificate of limited partnership on file in the division is notice that the  
3173 partnership is a limited partnership and the persons designated in the certificate as general  
3174 partners are general partners. Except as otherwise provided in Subsection (4), the certificate is  
3175 not notice of any other fact.

3176 (4) A person has notice of:

3177 (a) another person's dissociation as a general partner, 90 days after the effective date of  
3178 an amendment to the certificate of limited partnership which states that the other person has  
3179 dissociated or 90 days after the effective date of a statement of dissociation pertaining to the  
3180 other person, whichever occurs first;

3181 (b) a limited partnership's dissolution, 90 days after the effective date of an amendment  
3182 to the certificate of limited partnership stating that the limited partnership is dissolved;

3183 (c) a limited partnership's termination, 90 days after the effective date of a statement of  
3184 termination;

3185 (d) a limited partnership's conversion under Part 11, Merger, Conversion, and  
3186 Domestication, 90 days after the effective date of the articles of conversion; or

3187 (e) a merger under Part 11, Merger, Conversion, and Domestication, 90 days after the

3188 effective date of the articles of merger.

3189 (5) A person notifies or gives a notification to another person by taking steps  
3190 reasonably required to inform the other person in ordinary course, whether or not the other  
3191 person learns of it.

3192 (6) A person receives a notification when the notification:

3193 (a) comes to the person's attention; or

3194 (b) is delivered at the person's place of business or at any other place held out by the  
3195 person as a place for receiving communications.

3196 (7) (a) Except as otherwise provided in Subsection (8), a person other than an  
3197 individual knows, has notice, or receives a notification of a fact for purposes of a particular  
3198 transaction when the individual conducting the transaction for the person knows, has notice, or  
3199 receives a notification of the fact, or in any event when the fact would have been brought to the  
3200 individual's attention if the person had exercised reasonable diligence.

3201 (b) A person other than an individual exercises reasonable diligence if it maintains  
3202 reasonable routines for communicating significant information to the individual conducting the  
3203 transaction for the person and there is reasonable compliance with the routines. Reasonable  
3204 diligence does not require an individual acting for the person to communicate information  
3205 unless the communication is part of the individual's regular duties or the individual has reason  
3206 to know of the transaction and that the transaction would be materially affected by the  
3207 information.

3208 (8) A general partner's knowledge, notice, or receipt of a notification of a fact relating  
3209 to the limited partnership is effective immediately as knowledge of, notice to, or receipt of a  
3210 notification by the limited partnership, except in the case of a fraud on the limited partnership  
3211 committed by or with the consent of the general partner. A limited partner's knowledge, notice,  
3212 or receipt of a notification of a fact relating to the limited partnership is not effective as  
3213 knowledge of, notice to, or receipt of a notification by the limited partnership.

3214 Section 92. Section **48-2d-104** is enacted to read:

3215 **48-2d-104. Nature, purpose, and duration of entity.**

3216 (1) (a) A limited partnership is an entity distinct from its partners.

3217 (b) A limited partnership is the same entity regardless of whether its certificate states  
3218 that the limited partnership is a limited liability limited partnership.



3219 (2) A limited partnership may be organized under this chapter for any lawful purpose.

3220 (3) A limited partnership has a perpetual duration.

3221 Section 93. Section **48-2d-105** is enacted to read:

3222 **48-2d-105. Powers.**

3223 A limited partnership has the powers to do all things necessary or convenient to carry  
3224 on its activities, including the power to sue, be sued, and defend in its own name and to  
3225 maintain an action against a partner for harm caused to the limited partnership by a breach of  
3226 the partnership agreement or violation of a duty to the partnership.

3227 Section 94. Section **48-2d-106** is enacted to read:

3228 **48-2d-106. Governing law.**

3229 The law of this state governs relations among the partners of a limited partnership and  
3230 between the partners and the limited partnership and the liability of partners as partners for an  
3231 obligation of the limited partnership.

3232 Section 95. Section **48-2d-107** is enacted to read:

3233 **48-2d-107. Supplemental principles of law-- Rate of interest.**

3234 (1) Unless displaced by particular provisions of this chapter, the principles of law and  
3235 equity supplement this chapter.

3236 (2) If an obligation to pay interest arises under this chapter and the rate is not specified,  
3237 the rate is that specified in Section 15-1-1.

3238 Section 96. Section **48-2d-108** is enacted to read:

3239 **48-2d-108. Name.**

3240 (1) The name of a limited partnership may contain the name of any partner.

3241 (2) (a) The name of a limited partnership that is not a limited liability limited  
3242 partnership must contain the phrase "limited partnership" or the abbreviation "L.P." or "LP".

3243 (b) The name of a limited partnership that is not a limited liability partnership may not  
3244 contain the phrase "limited liability limited partnership" or the abbreviation "LLLP" or  
3245 "L.L.L.P.".

3246 (c) The name of a limited partnership may not contain:

3247 (i) without the written consent of the United States Olympic Committee, the words:

3248 (A) "Olympic";

3249 (B) "Olympiad"; or

3250 (C) "Citius Altius Fortius"; and  
3251 (ii) without the written consent of the Division of Consumer Protection issued in  
3252 accordance with Section 13-34-114, the words:  
3253 (A) "university";  
3254 (B) "college"; or  
3255 (C) "institute" or "institution".  
3256 (3) (a) The name of a limited liability limited partnership must contain the phrase  
3257 "limited liability limited partnership" or the abbreviation "LLLP" or "L.L.L.P."  
3258 (b) The name of a limited liability limited partnership may not contain the abbreviation  
3259 "L.P." or "LP".  
3260 (4) Unless authorized by Subsection (5), the name of a limited partnership must be  
3261 distinguishable in the records of the division from:  
3262 (a) the name of each person other than an individual incorporated, organized, or  
3263 authorized to transact business in this state; and  
3264 (b) each name reserved under:  
3265 (i) Section 16-6a-401 or 16-6a-402;  
3266 (ii) Section 16-10a-401 or 16-10a-402;  
3267 (iii) Section 16-11-16;  
3268 (iv) Section 42-2-6.6;  
3269 (v) Section 48-1b-1002; or  
3270 (vi) Section 48-3-108 or 48-3-109.  
3271 (5) A limited partnership may apply to the division for authorization to use a name that  
3272 does not comply with Subsection (4). The division shall authorize use of the name applied for  
3273 if, as to each conflicting name:  
3274 (a) the present user, registrant, or owner of the conflicting name consents in a signed  
3275 record to the use and submits an undertaking in a form satisfactory to the division to change the  
3276 conflicting name to a name that complies with Subsection (4) and is distinguishable in the  
3277 records of the division from the name applied for;  
3278 (b) the applicant delivers to the division a certified copy of the final judgment of a  
3279 district court establishing the applicant's right to use in this state the name applied for; or  
3280 (c) the applicant delivers to the division proof satisfactory to the division that the

3281 present user, registrant, or owner of the conflicting name:

3282 (i) has merged into the applicant;

3283 (ii) has been converted into the applicant; or

3284 (iii) has transferred substantially all of its assets, including the conflicting name, to the  
3285 applicant.

3286 (6) Subject to Section 48-2d-905, this section applies to any foreign limited partnership  
3287 transacting business in this state, having a certificate of authority to transact business in this  
3288 state, or applying for a certificate of authority.

3289 (7) The division may not approve for filing a name that implies that a limited  
3290 partnership is an agency of this state or any of its political subdivisions, if it is not actually such  
3291 a legally established agency or subdivision.

3292 (8) The authorization to file a certificate under or to reserve or register a limited  
3293 partnership name as granted by the division does not:

3294 (a) abrogate or limit the law governing unfair competition or unfair trade practices;

3295 (b) derogate from the common law, the principles of equity, or the statutes of this state  
3296 or of the United States with respect to the right to acquire and protect names and trademarks; or

3297 (c) create an exclusive right in geographic or generic terms contained within a name.

3298 Section 97. Section **48-2d-109** is enacted to read:

3299 **48-2d-109. Reservation of name.**

3300 (1) The exclusive right to the use of a name that complies with Section 48-2d-108 may  
3301 be reserved by:

3302 (a) a person intending to organize a limited partnership under this chapter and to adopt  
3303 the name;

3304 (b) a limited partnership or a foreign limited partnership authorized to transact business  
3305 in this state intending to adopt the name;

3306 (c) a foreign limited partnership intending to obtain a certificate of authority to transact  
3307 business in this state and adopt the name;

3308 (d) a person intending to organize a foreign limited partnership and intending to have it  
3309 obtain a certificate of authority to transact business in this state and adopt the name;

3310 (e) a foreign limited partnership formed under the name; or

3311 (f) a foreign limited partnership formed under a name that does not comply with

3312 Subsection 48-2d-108(2) or (3), but the name reserved under this Subsection (1)(f) may differ  
3313 from the foreign limited partnership's name only to the extent necessary to comply with  
3314 Subsections 48-2d-108(2) and (3).

3315 (2) (a) A person may apply to reserve a name under Subsection (1) by delivering to the  
3316 division for filing an application that states the name to be reserved and the provision of  
3317 Subsection (1) which applies.

3318 (b) If the division finds that the name is available for use by the applicant, the division  
3319 shall file a statement of name reservation and thereby reserve the name for the exclusive use of  
3320 the applicant for 120 days.

3321 (3) An applicant that has reserved a name pursuant to Subsection (2) may reserve the  
3322 same name for additional 120-day periods. A person having a current reservation for a name  
3323 may not apply for another 120-day period for the same name until 90 days have elapsed in the  
3324 current reservation.

3325 (4) A person that has reserved a name under this section may deliver to the division for  
3326 filing a notice of transfer that states the reserved name, the name, and street and mailing  
3327 address of some other person to which the reservation is to be transferred, and the provision of  
3328 Subsection (1) which applies to the other person. Subject to Subsection 48-2d-206(3), the  
3329 transfer is effective when the division files the notice of transfer.

3330 Section 98. Section **48-2d-110** is enacted to read:

3331 **48-2d-110. Effect of partnership agreement -- Nonwaivable provisions.**

3332 (1) Except as otherwise provided in Subsection (2), the partnership agreement governs  
3333 relations among the partners and between the partners and the partnership. To the extent the  
3334 partnership agreement does not otherwise provide, this chapter governs relations among the  
3335 partners and between the partners and the partnership.

3336 (2) A partnership agreement may not:

3337 (a) vary a limited partnership's power under Section 48-2d-105 to sue, be sued, and  
3338 defend in its own name;

3339 (b) vary the law applicable to a limited partnership under Section 48-2d-106;

3340 (c) vary the requirements of Section 48-2d-204;

3341 (d) vary the information required under Section 48-2d-111 or unreasonably restrict the  
3342 right to information under Section 48-2d-304 or 48-2d-407, but the partnership agreement may

3343 impose reasonable restrictions on the availability and use of information obtained under those  
3344 sections and may define appropriate remedies, including liquidated damages, for a breach of  
3345 any reasonable restriction on use;

3346 (e) eliminate the duty of loyalty under Section 48-2d-408, but the partnership  
3347 agreement may:

3348 (i) identify specific types or categories of activities that do not violate the duty of  
3349 loyalty, if not unconscionable or against public policy; and

3350 (ii) specify the number or percentage of partners which may authorize or ratify, after  
3351 full disclosure to all partners of all material facts, a specific act or transaction that otherwise  
3352 would violate the duty of loyalty;

3353 (f) unreasonably reduce the duty of care under Subsection 48-2d-408(3);

3354 (g) eliminate the obligation of good faith and fair dealing under Subsections  
3355 48-2d-305(2) and 48-2d-408(4), but the partnership agreement may prescribe the standards by  
3356 which the performance of the obligation is to be measured, if the standards are not manifestly  
3357 unreasonable;

3358 (h) vary the power of a person to dissociate as a general partner under Subsection  
3359 48-2d-604(1) except to require that the notice under Subsection 48-2d-603(1) be in a record;

3360 (i) vary the power of a court to decree dissolution in the circumstances specified in  
3361 Section 48-2d-802;

3362 (j) vary the requirement to wind up the partnership's business as specified in Section  
3363 48-2d-803;

3364 (k) unreasonably restrict the right to maintain an action under Part 10, Actions by  
3365 Partners;

3366 (l) restrict the right of a partner under Subsection 48-2d-1114(1) to approve a  
3367 conversion or merger or the right of a general partner under Subsection 48-2d-1114(2) to  
3368 consent to an amendment to the certificate of limited partnership which deletes a statement that  
3369 the limited partnership is a limited liability limited partnership; or

3370 (m) restrict rights under this chapter of a person other than a partner or a transferee.

3371 Section 99. Section **48-2d-111** is enacted to read:

3372 **48-2d-111. Required information.**

3373 A limited partnership shall maintain at its designated office the following information:

3374 (1) a current list showing the full name and last known street and mailing address of  
3375 each partner, separately identifying the general partners, in alphabetical order, and the limited  
3376 partners, in alphabetical order;

3377 (2) a copy of the initial certificate of limited partnership and all amendments to and  
3378 restatements of the certificate, together with signed copies of any powers of attorney under  
3379 which any certificate, amendment, or restatement has been signed;

3380 (3) a copy of any filed articles of conversion or merger;

3381 (4) a copy of the limited partnership's federal, state, and local income tax returns and  
3382 reports, if any, for the three most recent years;

3383 (5) a copy of any partnership agreement made in a record and any amendment made in  
3384 a record to any partnership agreement;

3385 (6) a copy of any financial statement of the limited partnership for the three most recent  
3386 years;

3387 (7) a copy of the three most recent annual reports delivered by the limited partnership  
3388 to the division pursuant to Section 48-2d-210;

3389 (8) a copy of any record made by the limited partnership during the past three years of  
3390 any consent given by or vote taken of any partner pursuant to this chapter or the partnership  
3391 agreement; and

3392 (9) unless contained in a partnership agreement made in a record, a record stating:

3393 (a) the amount of cash, and a description and statement of the agreed value of the other  
3394 benefits, contributed and agreed to be contributed by each partner;

3395 (b) the times at which, or events on the happening of which, any additional  
3396 contributions agreed to be made by each partner are to be made;

3397 (c) for any person that is both a general partner and a limited partner, a specification of  
3398 what transferable interest the person owns in each capacity; and

3399 (d) any events upon the happening of which the limited partnership is to be dissolved  
3400 and its activities wound up.

3401 Section 100. Section **48-2d-112** is enacted to read:

3402 **48-2d-112. Business transactions of partner with partnership.**

3403 A partner may lend money to and transact other business with the limited partnership  
3404 and has the same rights and obligations with respect to the loan or other transaction as a person

3405 that is not a partner.

3406 Section 101. Section **48-2d-113** is enacted to read:

3407 **48-2d-113. Dual capacity.**

3408 (1) A person may be both a general partner and a limited partner.

3409 (2) A person that is both a general and limited partner has the rights, powers, duties,  
3410 and obligations provided by this chapter and the partnership agreement in each of those  
3411 capacities. When the person acts as a general partner, the person is subject to the obligations,  
3412 duties, and restrictions under this chapter and the partnership agreement for general partners.  
3413 When the person acts as a limited partner, the person is subject to the obligations, duties, and  
3414 restrictions under this chapter and the partnership agreement for limited partners.

3415 Section 102. Section **48-2d-114** is enacted to read:

3416 **48-2d-114. Consent and proxies of partners.**

3417 Action requiring the consent of partners under this chapter may be taken without a  
3418 meeting, and a partner may appoint a proxy to consent or otherwise act for the partner by  
3419 signing an appointment record, either personally or by the partner's attorney-in-fact.

3420 Section 103. Section **48-2d-201** is enacted to read:

3421 **Part 2. Formation and Certificate of Limited Partnership and Other Filings**

3422 **48-2d-201. Formation of limited partnership -- Certificate of limited partnership.**

3423 (1) In order for a limited partnership to be formed, a certificate of limited partnership  
3424 must be delivered to the division for filing. The certificate must state:

3425 (a) the name of the limited partnership, which must comply with Section 48-2d-108;

3426 (b) the information required by Subsection 16-17-203(1);

3427 (c) the name and the street and mailing address of each general partner;

3428 (d) whether the limited partnership is a limited liability limited partnership; and

3429 (e) any additional information required by Part 11, Merger, Conversion, and

3430 Domestication.

3431 (2) A certificate of limited partnership may also contain any other matters but may not  
3432 vary or otherwise affect the provisions specified in Subsection 48-2d-110(2) in a manner  
3433 inconsistent with that section.

3434 (3) If there has been substantial compliance with Subsection (1), subject to Subsection  
3435 48-2d-206(3) a limited partnership is formed when the division files the certificate of limited

3436 partnership.

3437 (4) Subject to Subsection (2), if any provision of a partnership agreement is  
3438 inconsistent with the filed certificate of limited partnership or with a filed statement of  
3439 dissociation, termination, or change or filed articles of conversion or merger:

3440 (a) the partnership agreement prevails as to partners and transferees; and

3441 (b) the filed certificate of limited partnership, statement of dissociation, termination, or  
3442 change, or articles of conversion or merger prevail as to persons, other than partners and  
3443 transferees, that reasonably rely on the filed record to their detriment.

3444 Section 104. Section **48-2d-202** is enacted to read:

3445 **48-2d-202. Amendment or restatement of certificate.**

3446 (1) To amend its certificate of limited partnership, a limited partnership must deliver to  
3447 the division for filing an amendment or, pursuant to Part 11, Merger, Conversion, and  
3448 Domestication, articles of merger stating:

3449 (a) the name of the limited partnership;

3450 (b) the date of filing of its initial certificate; and

3451 (c) the changes the amendment makes to the certificate as most recently amended or  
3452 restated.

3453 (2) By no later than 60 days from the day on which one of the following occurs, a  
3454 limited partnership shall deliver to the division for filing an amendment to a certificate of  
3455 limited partnership to reflect:

3456 (a) the admission of a new general partner;

3457 (b) the dissociation of a person as a general partner; or

3458 (c) the appointment of a person to wind up the limited partnership's activities under  
3459 Subsection 48-2d-803(3) or (4).

3460 (3) A general partner that knows that any information in a filed certificate of limited  
3461 partnership was false when the certificate was filed or has become false due to changed  
3462 circumstances shall promptly:

3463 (a) cause the certificate to be amended; or

3464 (b) if appropriate, deliver to the division for filing a statement of change pursuant to  
3465 Section 16-17-206 or a statement of correction pursuant to Section 16-17-206 or 48-2d-207.

3466 (4) A certificate of limited partnership may be amended at any time for any other



3467 proper purpose as determined by the limited partnership.

3468 (5) A restated certificate of limited partnership may be delivered to the division for  
3469 filing in the same manner as an amendment.

3470 (6) Subject to Subsection 48-2d-206(3), an amendment or restated certificate is  
3471 effective when filed by the division.

3472 Section 105. Section **48-2d-203** is enacted to read:

3473 **48-2d-203. Statement of termination.**

3474 A dissolved limited partnership that has completed winding up may deliver to the  
3475 division for filing a statement of termination that states:

3476 (1) the name of the limited partnership;

3477 (2) the date of filing of its initial certificate of limited partnership; and

3478 (3) any other information as determined by the general partners filing the statement or  
3479 by a person appointed pursuant to Subsection 48-2d-803(3) or (4).

3480 Section 106. Section **48-2d-204** is enacted to read:

3481 **48-2d-204. Signing of records.**

3482 (1) Each record delivered to the division for filing pursuant to this chapter must be  
3483 signed in the following manner:

3484 (a) An initial certificate of limited partnership must be signed by all general partners  
3485 listed in the certificate.

3486 (b) An amendment adding or deleting a statement that the limited partnership is a  
3487 limited liability limited partnership must be signed by all general partners listed in the  
3488 certificate.

3489 (c) An amendment designating as general partner a person admitted under Subsection  
3490 48-2d-801(3)(b) following the dissociation of a limited partnership's last general partner must  
3491 be signed by that person.

3492 (d) An amendment required by Subsection 48-2d-803(3) following the appointment of  
3493 a person to wind up the dissolved limited partnership's activities must be signed by that person.

3494 (e) Any other amendment must be signed by:

3495 (i) at least one general partner listed in the certificate;

3496 (ii) each other person designated in the amendment as a new general partner; and

3497 (iii) each person that the amendment indicates has dissociated as a general partner.

3498 unless:

3499 (A) the person is deceased or a guardian or a general conservator has been appointed  
3500 for the person and the amendment so states; or

3501 (B) the person has previously delivered to the division for filing a statement of  
3502 dissociation.

3503 (f) A restated certificate of limited partnership must be signed by at least one general  
3504 partner listed in the certificate, and, to the extent the restated certificate effects a change under  
3505 any other subsection of this Subsection (1), the certificate must be signed in a manner that  
3506 satisfies that subsection.

3507 (g) A statement of termination must be signed by all general partners listed in the  
3508 certificate or, if the certificate of a dissolved limited partnership lists no general partners, by the  
3509 person appointed pursuant to Subsection 48-2d-803(3) or (4) to wind up the dissolved limited  
3510 partnership's activities.

3511 (h) Articles of conversion must be signed by each general partner listed in the  
3512 certificate of limited partnership.

3513 (i) Articles of merger must be signed as provided in Subsection 48-2d-1108(1).

3514 (j) Any other record delivered on behalf of a limited partnership to the division for  
3515 filing must be signed by at least one general partner listed in the certificate.

3516 (k) A statement by a person pursuant to Subsection 48-2d-605(1)(d) stating that the  
3517 person has dissociated as a general partner must be signed by that person.

3518 (l) A statement of withdrawal by a person pursuant to Section 48-2d-306 must be  
3519 signed by that person.

3520 (m) A record delivered on behalf of a foreign limited partnership to the division for  
3521 filing must be signed by at least one general partner of the foreign limited partnership.

3522 (n) Any other record delivered on behalf of any person to the division for filing must  
3523 be signed by that person.

3524 (2) Any person may sign by an attorney-in-fact any record to be filed pursuant to this  
3525 chapter.

3526 Section 107. Section **48-2d-205** is enacted to read:

3527 **48-2d-205. Signing and filing pursuant to judicial order.**

3528 (1) If a person required by this chapter to sign a record or deliver a record to the

3529 division for filing does not do so, any other person that is aggrieved may petition a district  
3530 court to order:

3531 (a) the person to sign the record;

3532 (b) the person to deliver the record to the division for filing; or

3533 (c) the division to file the record unsigned, which will have the same effect as if signed  
3534 by the person required by this chapter to sign the record.

3535 (2) If the person aggrieved under Subsection (1) is not the limited partnership or  
3536 foreign limited partnership to which the record pertains, the aggrieved person shall make the  
3537 limited partnership or foreign limited partnership a party to the action. A person aggrieved  
3538 under Subsection (1) may seek the remedies provided in Subsection (1) in the same action in  
3539 combination or in the alternative.

3540 (3) A record filed unsigned pursuant to this section is effective without being signed.

3541 Section 108. Section **48-2d-206** is enacted to read:

3542 **48-2d-206. Delivery to and filing of records by division -- Effective time and date.**

3543 (1) A record authorized or required to be delivered to the division for filing under this  
3544 chapter must be captioned to describe the record's purpose, be in a medium permitted by the  
3545 division, and be delivered to the division. Unless the division determines that a record does not  
3546 comply with the filing requirements of this chapter, and if all filing fees have been paid, the  
3547 division shall file the record and:

3548 (a) for a statement of dissociation, send:

3549 (i) a copy of the filed statement and a receipt for the fees to the person which the  
3550 statement indicates has dissociated as a general partner; and

3551 (ii) a copy of the filed statement and receipt to the limited partnership;

3552 (b) for a statement of withdrawal, send:

3553 (i) a copy of the filed statement and a receipt for the fees to the person on whose behalf  
3554 the record was filed; and

3555 (ii) if the statement refers to an existing limited partnership, a copy of the filed  
3556 statement and receipt to the limited partnership; and

3557 (c) for all other records, send a copy of the filed record and a receipt for the fees to the  
3558 person on whose behalf the record was filed.

3559 (2) Upon request and payment of a fee, established in accordance with Section

3560 63J-1-504, the division shall send to the requester a certified copy of the requested record.

3561 (3) Except as otherwise provided in Section 48-2d-207, a record delivered to the  
3562 division for filing under this chapter may specify an effective time and a delayed effective date.

3563 Except as otherwise provided in this chapter, a record filed by the division is effective:

3564 (a) if the record does not specify an effective time and does not specify a delayed  
3565 effective date, on the date and at the time the record is filed as evidenced by the division's  
3566 endorsement of the date and time on the record;

3567 (b) if the record specifies an effective time but not a delayed effective date, on the date  
3568 the record is filed at the time specified in the record;

3569 (c) if the record specifies a delayed effective date but not an effective time, at 12:01  
3570 a.m. on the earlier of:

3571 (i) the specified date; or

3572 (ii) the 90th day after the record is filed; or

3573 (d) if the record specifies an effective time and a delayed effective date, at the specified  
3574 time on the earlier of:

3575 (i) the specified date; or

3576 (ii) the 90th day after the record is filed.

3577 Section 109. Section **48-2d-207** is enacted to read:

3578 **48-2d-207. Correcting filed record.**

3579 (1) A limited partnership or foreign limited partnership may deliver to the division for  
3580 filing a statement of correction to correct a record previously delivered by the limited  
3581 partnership or foreign limited partnership to the division and filed by the division, if at the time  
3582 of filing the record contained false or erroneous information or was defectively signed.

3583 (2) A statement of correction may not state a delayed effective date and must:

3584 (a) describe the record to be corrected, including its filing date, or attach a copy of the  
3585 record as filed;

3586 (b) specify the incorrect information and the reason it is incorrect or the manner in  
3587 which the signing was defective; and

3588 (c) correct the incorrect information or defective signature.

3589 (3) When filed by the division, a statement of correction is effective retroactively as of  
3590 the effective date of the record the statement corrects, but the statement is effective when filed:

3591 (a) for the purposes of Subsections 48-2d-103(3) and (4); and  
3592 (b) as to persons relying on the uncorrected record and adversely affected by the  
3593 correction.

3594 Section 110. Section **48-2d-208** is enacted to read:

3595 **48-2d-208. Liability for false information in filed record.**

3596 (1) If a record delivered to the division for filing under this chapter and filed by the  
3597 division contains false information, a person that suffers loss by reliance on the information  
3598 may recover damages for the loss from:

3599 (a) a person that signed the record, or caused another to sign it on the person's behalf,  
3600 and knew the information to be false at the time the record was signed; and

3601 (b) a general partner that has notice that the information was false when the record was  
3602 filed or has become false because of changed circumstances, if the general partner has notice  
3603 for a reasonably sufficient time before the information is relied upon to enable the general  
3604 partner to effect an amendment under Section 48-2d-202, file a petition pursuant to Section  
3605 48-2d-205, or deliver to the division for filing a statement of change pursuant to Section  
3606 16-17-206 or a statement of correction pursuant to Section 48-2d-207.

3607 (2) Signing a record authorized or required to be filed under this chapter constitutes an  
3608 affirmation under the penalties of perjury that the facts stated in the record are true.

3609 Section 111. Section **48-2d-209** is enacted to read:

3610 **48-2d-209. Certificate of existence or authorization.**

3611 (1) The division, upon request and payment of the requisite fee, shall furnish a  
3612 certificate of existence for a limited partnership if the records filed in the division show that the  
3613 division has filed a certificate of limited partnership and has not filed a statement of  
3614 termination. A certificate of existence must state:

3615 (a) the limited partnership's name;

3616 (b) that it was duly formed under the laws of this state and the date of formation;

3617 (c) whether all fees, taxes, and penalties due to the division under this chapter or other  
3618 law have been paid;

3619 (d) whether the limited partnership's most recent annual report required by Section  
3620 48-2d-210 has been filed by the division;

3621 (e) whether the division has administratively dissolved the limited partnership;

3622 (f) whether the limited partnership's certificate of limited partnership has been  
3623 amended to state that the limited partnership is dissolved;  
3624 (g) that a statement of termination has not been filed by the division; and  
3625 (h) other facts of record in the division which may be requested by the applicant.  
3626 (2) The division, upon request and payment of the requisite fee, shall furnish a  
3627 certificate of authorization for a foreign limited partnership if the records filed in the division  
3628 show that the division has filed a certificate of authority, has not revoked the certificate of  
3629 authority, and has not filed a notice of cancellation. A certificate of authorization must state:  
3630 (a) the foreign limited partnership's name and any alternate name adopted under  
3631 Subsection 48-2d-905(1) for use in this state;  
3632 (b) that it is authorized to transact business in this state;  
3633 (c) whether all fees, taxes, and penalties due to the division under this chapter or other  
3634 law have been paid;  
3635 (d) whether the foreign limited partnership's most recent annual report required by  
3636 Section 48-2d-210 has been filed by the division;  
3637 (e) that the division has not revoked its certificate of authority and has not filed a notice  
3638 of cancellation; and  
3639 (f) other facts of record in the division which may be requested by the applicant.  
3640 (3) Subject to any qualification stated in the certificate, a certificate of existence or  
3641 authorization issued by the division may be relied upon as conclusive evidence that the limited  
3642 partnership or foreign limited partnership is in existence or is authorized to transact business in  
3643 this state.  
3644 Section 112. Section **48-2d-210** is enacted to read:  
3645 **48-2d-210. Annual report for division.**  
3646 (1) A limited partnership or a foreign limited partnership authorized to transact  
3647 business in this state shall deliver to the division for filing an annual report that states:  
3648 (a) the name of the limited partnership or foreign limited partnership;  
3649 (b) the information required by Section 16-17-203(1);  
3650 (c) in the case of a limited partnership, the street and mailing address of its principal  
3651 office; and  
3652 (d) in the case of a foreign limited partnership, the state or other jurisdiction under

3653 whose law the foreign limited partnership is formed and any alternate name adopted under  
3654 Subsection 48-2d-905(1).

3655 (2) Information in an annual report must be current as of the date the annual report is  
3656 delivered to the division for filing.

3657 (3) An annual report must be delivered to the division:

3658 (a) during the month of its anniversary date of formation, in the case of domestic  
3659 limited partnerships; or

3660 (b) during the month of the anniversary date of being granted authority to transact  
3661 business in this state, in the case of foreign limited partnerships authorized to transact business  
3662 in this state.

3663 (4) If an annual report does not contain the information required in Subsection (1), the  
3664 division shall promptly notify the reporting limited partnership or foreign limited partnership  
3665 and return the report to it for correction. If the report is corrected to contain the information  
3666 required in Subsection (1) and delivered to the division within 30 days after the effective date  
3667 of the notice, it is timely delivered.

3668 (5) If a filed annual report contains information provided under Subsection (1)(b)  
3669 which differs from the information shown in the records of the division immediately before the  
3670 filing, the differing information in the annual report is considered a statement of change under  
3671 Section 16-17-206.

3672 Section 113. Section **48-2d-301** is enacted to read:

3673 **Part 3. Limited Partners**

3674 **48-2d-301. Becoming limited partner.**

3675 A person becomes a limited partner:

3676 (1) as provided in the partnership agreement;

3677 (2) as the result of a conversion or merger under Part 11, Merger, Conversion, and  
3678 Domestication; or

3679 (3) with the consent of all the partners.

3680 Section 114. Section **48-2d-302** is enacted to read:

3681 **48-2d-302. No right or power as limited partner to bind limited partnership.**

3682 A limited partner does not have the right or the power as a limited partner to act for or  
3683 bind the limited partnership.

3684 Section 115. Section **48-2d-303** is enacted to read:

3685 **48-2d-303. No liability as limited partner for limited partnership obligations.**

3686 (1) An obligation of a limited partnership, whether arising in contract, tort, or  
3687 otherwise, is not the obligation of a limited partner.

3688 (2) A limited partner is not personally liable, directly or indirectly, by way of  
3689 contribution or otherwise, for an obligation of the limited partnership solely by reason of being  
3690 a limited partner, even if the limited partner participates in the management and control of the  
3691 limited partnership.

3692 Section 116. Section **48-2d-304** is enacted to read:

3693 **48-2d-304. Right of limited partner and former limited partner to information.**

3694 (1) On 10 days' demand, made in a record received by the limited partnership, a limited  
3695 partner may inspect and copy required information during regular business hours in the limited  
3696 partnership's principal office. The limited partner need not have any particular purpose for  
3697 seeking the information.

3698 (2) During regular business hours and at a reasonable location specified by the limited  
3699 partnership, a limited partner may obtain from the limited partnership and inspect and copy true  
3700 and full information regarding the state of the activities and financial condition of the limited  
3701 partnership and other information regarding the activities of the limited partnership as is just  
3702 and reasonable if:

3703 (a) the limited partner seeks the information for a purpose reasonably related to the  
3704 partner's interest as a limited partner;

3705 (b) the limited partner makes a demand in a record received by the limited partnership,  
3706 describing with reasonable particularity the information sought and the purpose for seeking the  
3707 information; and

3708 (c) the information sought is directly connected to the limited partner's purpose.

3709 (3) Within 10 days after receiving a demand pursuant to Subsection (2), the limited  
3710 partnership in a record shall inform the limited partner that made the demand:

3711 (a) what information the limited partnership will provide in response to the demand;

3712 (b) when and where the limited partnership will provide the information; and

3713 (c) if the limited partnership declines to provide any demanded information, the limited  
3714 partnership's reasons for declining.



3715 (4) Subject to Subsection (6), a person dissociated as a limited partner may inspect and  
3716 copy required information during regular business hours in the limited partnership's principle  
3717 office if:

3718 (a) the information pertains to the period during which the person was a limited  
3719 partner;

3720 (b) the person seeks the information in good faith; and

3721 (c) the person meets the requirements of Subsection (2).

3722 (5) The limited partnership shall respond to a demand made pursuant to Subsection (4)  
3723 in the same manner as provided in Subsection (3).

3724 (6) If a limited partner dies, Section 48-2d-704 applies.

3725 (7) The limited partnership may impose reasonable restrictions on the use of  
3726 information obtained under this section. In a dispute concerning the reasonableness of a  
3727 restriction under this Subsection (7), the limited partnership has the burden of proving  
3728 reasonableness.

3729 (8) A limited partnership may charge a person that makes a demand under this section  
3730 reasonable costs of copying, limited to the costs of labor and material.

3731 (9) Whenever this chapter or a partnership agreement provides for a limited partner to  
3732 give or withhold consent to a matter, before the consent is given or withheld, the limited  
3733 partnership shall, without demand, provide the limited partner with all information material to  
3734 the limited partner's decision that the limited partnership knows.

3735 (10) A limited partner or person dissociated as a limited partner may exercise the rights  
3736 under this section through an attorney or other agent. Any restriction imposed under  
3737 Subsection (7) or by the partnership agreement applies both to the attorney or other agent and  
3738 to the limited partner or person dissociated as a limited partner.

3739 (11) The rights stated in this section do not extend to a person as transferee, but may be  
3740 exercised by the legal representative of an individual under legal disability who is a limited  
3741 partner or person dissociated as a limited partner.

3742 Section 117. Section **48-2d-305** is enacted to read:

3743 **48-2d-305. Limited duties of limited partners.**

3744 (1) (a) A limited partner does not have any fiduciary duty to the limited partnership or  
3745 to any other partner solely by reason of being a limited partner.

3746 (b) Notwithstanding Subsection (1)(a), a limited partner has a duty of loyalty to the  
3747 limited partnership and the other partners to refrain from competing with the limited  
3748 partnership in the conduct or winding up of the limited partnership's activities.

3749 (2) A limited partner shall discharge the duties to the partnership and the other partners  
3750 under this chapter or under the partnership agreement and exercise any rights consistently with  
3751 the obligation of good faith and fair dealing.

3752 (3) A limited partner does not violate a duty or obligation under this chapter or under  
3753 the partnership agreement merely because the limited partner's conduct furthers the limited  
3754 partner's own interest.

3755 Section 118. Section **48-2d-306** is enacted to read:

3756 **48-2d-306. Person erroneously believing self to be limited partner.**

3757 (1) Except as otherwise provided in Subsection (2), a person that makes an investment  
3758 in a business enterprise and erroneously but in good faith believes that the person has become a  
3759 limited partner in the enterprise is not liable for the enterprise's obligations by reason of making  
3760 the investment, receiving distributions from the enterprise, or exercising any rights of or  
3761 appropriate to a limited partner, if, on ascertaining the mistake, the person:

3762 (a) causes an appropriate certificate of limited partnership, amendment, or statement of  
3763 correction to be signed and delivered to the division for filing; or

3764 (b) withdraws from future participation as an owner in the enterprise by signing and  
3765 delivering to the division for filing a statement of withdrawal under this section.

3766 (2) A person that makes an investment described in Subsection (1) is liable to the same  
3767 extent as a general partner to any third party that enters into a transaction with the enterprise,  
3768 believing in good faith that the person is a general partner, before the division files a statement  
3769 of withdrawal, certificate of limited partnership, amendment, or statement of correction to  
3770 show that the person is not a general partner.

3771 (3) If a person makes a diligent effort in good faith to comply with Subsection (1)(a)  
3772 and is unable to cause the appropriate certificate of limited partnership, amendment, or  
3773 statement of correction to be signed and delivered to the division for filing, the person has the  
3774 right to withdraw from the enterprise pursuant to Subsection (1)(b) even if the withdrawal  
3775 would otherwise breach an agreement with others that are or have agreed to become co-owners  
3776 of the enterprise.

3777 Section 119. Section **48-2d-401** is enacted to read:

3778 **Part 4. General Partners**

3779 **48-2d-401. Becoming general partner.**

3780 A person becomes a general partner:

3781 (1) as provided in the partnership agreement;

3782 (2) under Subsection 48-2d-801(3)(b) following the dissociation of a limited  
3783 partnership's last general partner;

3784 (3) as the result of a conversion or merger under Part 11, Merger, Conversion, and  
3785 Domestication; or

3786 (4) with the consent of all the partners.

3787 Section 120. Section **48-2d-402** is enacted to read:

3788 **48-2d-402. General partner agent of limited partnership.**

3789 (1) (a) Each general partner is an agent of the limited partnership for the purposes of its  
3790 activities.

3791 (b) An act of a general partner, including the signing of a record in the partnership's  
3792 name, for apparently carrying on in the ordinary course the limited partnership's activities or  
3793 activities of the kind carried on by the limited partnership binds the limited partnership, unless  
3794 the general partner did not have authority to act for the limited partnership in the particular  
3795 matter and the person with which the general partner was dealing knew, had received a  
3796 notification, or had notice under Subsection 48-2d-103(4) that the general partner lacked  
3797 authority.

3798 (2) An act of a general partner which is not apparently for carrying on in the ordinary  
3799 course the limited partnership's activities or activities of the kind carried on by the limited  
3800 partnership binds the limited partnership only if the act was actually authorized by all the other  
3801 partners.

3802 Section 121. Section **48-2d-403** is enacted to read:

3803 **48-2d-403. Limited partnership liable for general partner's actionable conduct.**

3804 (1) A limited partnership is liable for loss or injury caused to a person, or for a penalty  
3805 incurred, as a result of a wrongful act or omission, or other actionable conduct, of a general  
3806 partner acting in the ordinary course of activities of the limited partnership or with authority of  
3807 the limited partnership.

3808 (2) If, in the course of the limited partnership's activities or while acting with authority  
3809 of the limited partnership, a general partner receives or causes the limited partnership to receive  
3810 money or property of a person not a partner, and the money or property is misapplied by a  
3811 general partner, the limited partnership is liable for the loss.

3812 Section 122. Section **48-2d-404** is enacted to read:

3813 **48-2d-404. General partner's liability.**

3814 (1) Except as otherwise provided in Subsections (2) and (3), all general partners are  
3815 liable jointly and severally for all obligations of the limited partnership unless otherwise agreed  
3816 by the claimant or provided by law.

3817 (2) A person that becomes a general partner of an existing limited partnership is not  
3818 personally liable for an obligation of a limited partnership incurred before the person became a  
3819 general partner.

3820 (3) (a) An obligation of a limited partnership incurred while the limited partnership is a  
3821 limited liability limited partnership, whether arising in contract, tort, or otherwise, is solely the  
3822 obligation of the limited partnership.

3823 (b) A general partner is not personally liable, directly or indirectly, by way of  
3824 contribution or otherwise, for such an obligation solely by reason of being or acting as a  
3825 general partner.

3826 (c) This Subsection (3) applies despite anything inconsistent in the partnership  
3827 agreement that existed immediately before the consent required to become a limited liability  
3828 limited partnership under Subsection 48-2d-406(2)(b).

3829 Section 123. Section **48-2d-405** is enacted to read:

3830 **48-2d-405. Actions by and against partnership and partners.**

3831 (1) To the extent not inconsistent with Section 48-2d-404, a general partner may be  
3832 joined in an action against the limited partnership or named in a separate action.

3833 (2) A judgment against a limited partnership is not by itself a judgment against a  
3834 general partner. A judgment against a limited partnership may not be satisfied from a general  
3835 partner's assets unless there is also a judgment against the general partner.

3836 (3) A judgment creditor of a general partner may not levy execution against the assets  
3837 of the general partner to satisfy a judgment based on a claim against the limited partnership,  
3838 unless the partner is personally liable for the claim under Section 48-2d-404 and:

3839 (a) a judgment based on the same claim has been obtained against the limited  
3840 partnership and a writ of execution on the judgment has been returned unsatisfied in whole or  
3841 in part;

3842 (b) the limited partnership is a debtor in bankruptcy;

3843 (c) the general partner has agreed that the creditor need not exhaust limited partnership  
3844 assets;

3845 (d) a court grants permission to the judgment creditor to levy execution against the  
3846 assets of a general partner based on a finding that limited partnership assets subject to  
3847 execution are clearly insufficient to satisfy the judgment, that exhaustion of limited partnership  
3848 assets is excessively burdensome, or that the grant of permission is an appropriate exercise of  
3849 the court's equitable powers; or

3850 (e) liability is imposed on the general partner by law or contract independent of the  
3851 existence of the limited partnership.

3852 Section 124. Section **48-2d-406** is enacted to read:

3853 **48-2d-406. Management rights of general partner.**

3854 (1) Each general partner has equal rights in the management and conduct of the limited  
3855 partnership's activities. Except as expressly provided in this chapter, any matter relating to the  
3856 activities of the limited partnership may be exclusively decided by the general partner or, if  
3857 there is more than one general partner, by a majority of the general partners.

3858 (2) The consent of each partner is necessary to:

3859 (a) amend the partnership agreement;

3860 (b) amend the certificate of limited partnership to add or, subject to Section  
3861 48-2d-1114, delete a statement that the limited partnership is a limited liability limited  
3862 partnership; and

3863 (c) sell, lease, exchange, or otherwise dispose of all, or substantially all, of the limited  
3864 partnership's property, with or without the good will, other than in the usual and regular course  
3865 of the limited partnership's activities.

3866 (3) A limited partnership shall reimburse a general partner for payments made and  
3867 indemnify a general partner for liabilities incurred by the general partner in the ordinary course  
3868 of the activities of the partnership or for the preservation of its activities or property.

3869 (4) A limited partnership shall reimburse a general partner for an advance to the limited

3870 partnership beyond the amount of capital the general partner agreed to contribute.

3871 (5) A payment or advance made by a general partner which gives rise to an obligation  
3872 of the limited partnership under Subsection (3) or (4) constitutes a loan to the limited  
3873 partnership which accrues interest from the date of the payment or advance.

3874 (6) A general partner is not entitled to remuneration for services performed for the  
3875 partnership.

3876 Section 125. Section **48-2d-407** is enacted to read:

3877 **48-2d-407. Right of general partner and former general partner to information.**

3878 (1) A general partner, without having any particular purpose for seeking the  
3879 information, may inspect and copy during regular business hours:

3880 (a) in the limited partnership's principal office, required information; and

3881 (b) at a reasonable location specified by the limited partnership, any other records  
3882 maintained by the limited partnership regarding the limited partnership's activities and financial  
3883 condition.

3884 (2) Each general partner and the limited partnership shall furnish to a general partner:

3885 (a) without demand, any information concerning the limited partnership's activities and  
3886 activities reasonably required for the proper exercise of the general partner's rights and duties  
3887 under the partnership agreement or this chapter; and

3888 (b) on demand, any other information concerning the limited partnership's activities,  
3889 except to the extent the demand or the information demanded is unreasonable or otherwise  
3890 improper under the circumstances.

3891 (3) Subject to Subsection (5), on 10 days' demand made in a record received by the  
3892 limited partnership, a person dissociated as a general partner may have access to the  
3893 information and records described in Subsection (1) at the location specified in Subsection (1)  
3894 if:

3895 (a) the information or record pertains to the period during which the person was a  
3896 general partner;

3897 (b) the person seeks the information or record in good faith; and

3898 (c) the person satisfies the requirements imposed on a limited partner by Subsection  
3899 48-2d-304(2).

3900 (4) The limited partnership shall respond to a demand made pursuant to Subsection (3)

3901 in the same manner as provided in Subsection 48-2d-304(3).

3902 (5) If a general partner dies, Section 48-2d-704 applies.

3903 (6) The limited partnership may impose reasonable restrictions on the use of  
3904 information under this section. In any dispute concerning the reasonableness of a restriction  
3905 under this Subsection (6), the limited partnership has the burden of proving reasonableness.

3906 (7) A limited partnership may charge a person dissociated as a general partner that  
3907 makes a demand under this section reasonable costs of copying, limited to the costs of labor  
3908 and material.

3909 (8) A general partner or person dissociated as a general partner may exercise the rights  
3910 under this section through an attorney or other agent. Any restriction imposed under  
3911 Subsection (6) or by the partnership agreement applies both to the attorney or other agent and  
3912 to the general partner or person dissociated as a general partner.

3913 (9) The rights under this section do not extend to a person as transferee, but the rights  
3914 under Subsection (3) of a person dissociated as a general may be exercised by the legal  
3915 representative of an individual who dissociated as a general partner under Subsection  
3916 48-2d-603(7)(b) or (c).

3917 Section 126. Section **48-2d-408** is enacted to read:

3918 **48-2d-408. General standards of general partner's conduct.**

3919 (1) The only fiduciary duties that a general partner has to the limited partnership and  
3920 the other partners are the duties of loyalty and care under Subsections (2) and (3).

3921 (2) A general partner's duty of loyalty to the limited partnership and the other partners  
3922 is limited to the following:

3923 (a) to account to the limited partnership and hold as trustee for it any property, profit,  
3924 or benefit derived by the general partner in the conduct and winding up of the limited  
3925 partnership's activities or derived from a use by the general partner of limited partnership  
3926 property, including the appropriation of a limited partnership opportunity;

3927 (b) to refrain from dealing with the limited partnership in the conduct or winding up of  
3928 the limited partnership's activities as or on behalf of a party having an interest adverse to the  
3929 limited partnership; and

3930 (c) to refrain from competing with the limited partnership in the conduct or winding up  
3931 of the limited partnership's activities.

3932 (3) The duty of care of a general partner to the limited partnership and the other  
3933 partners in the conduct and winding up of the limited partnership's activities is to refrain from  
3934 conduct or inaction that constitutes:

- 3935 (a) gross negligence;
- 3936 (b) intentional misconduct; or
- 3937 (c) an intentional violation of law.

3938 (4) A general partner shall discharge the duties to the partnership and the other partners  
3939 under this chapter or under the partnership agreement and exercise any rights consistently with  
3940 the obligation of good faith and fair dealing.

3941 (5) A general partner does not violate a duty or obligation under this chapter or under  
3942 the partnership agreement merely because the general partner's conduct furthers the general  
3943 partner's own interest.

3944 Section 127. Section **48-2d-501** is enacted to read:

3945 **Part 5. Contributions and Distributions**

3946 **48-2d-501. Form of contribution.**

3947 A contribution of a partner may consist of tangible or intangible property or other  
3948 benefit to the limited partnership, including money, services performed, promissory notes,  
3949 other agreements to contribute cash or property, and contracts for services to be performed.

3950 Section 128. Section **48-2d-502** is enacted to read:

3951 **48-2d-502. Liability for contribution.**

3952 (1) (a) A partner's obligation to contribute money or other property or other benefit to,  
3953 or to perform services for, a limited partnership is not excused by the partner's death, disability,  
3954 or other inability to perform personally.

3955 (b) Notwithstanding Subsection (1)(a), a limited partnership's partnership agreement  
3956 may provide for a partner's obligation to contribute to be excused by the death of the partner.

3957 (2) If a partner does not make a promised non-monetary contribution, the partner is  
3958 obligated at the option of the limited partnership to contribute money equal to that portion of  
3959 the value, as stated in the required information, of the stated contribution which has not been  
3960 made.

3961 (3) The obligation of a partner to make a contribution or return money or other  
3962 property paid or distributed in violation of this chapter may be compromised only by consent of



3963 all partners. A creditor of a limited partnership which extends credit or otherwise acts in  
3964 reliance on an obligation described in Subsection (2), without notice of any compromise under  
3965 this Subsection (3), may enforce the original obligation.

3966 Section 129. Section **48-2d-503** is enacted to read:

3967 **48-2d-503. Sharing of distributions.**

3968 A distribution by a limited partnership must be shared among the partners on the basis  
3969 of the value, as stated in the required records when the limited partnership decides to make the  
3970 distribution, of the contributions the limited partnership has received from each partner.

3971 Section 130. Section **48-2d-504** is enacted to read:

3972 **48-2d-504. Interim distributions.**

3973 A partner does not have a right to any distribution before the dissolution and winding  
3974 up of the limited partnership unless the limited partnership decides to make an interim  
3975 distribution.

3976 Section 131. Section **48-2d-505** is enacted to read:

3977 **48-2d-505. No distribution on account of dissociation.**

3978 A person does not have a right to receive a distribution on account of dissociation.

3979 Section 132. Section **48-2d-506** is enacted to read:

3980 **48-2d-506. Distribution in kind.**

3981 A partner does not have a right to demand or receive any distribution from a limited  
3982 partnership in any form other than cash. Subject to Subsection 48-2d-812(2), a limited  
3983 partnership may distribute an asset in kind to the extent each partner receives a percentage of  
3984 the asset equal to the partner's share of distributions.

3985 Section 133. Section **48-2d-507** is enacted to read:

3986 **48-2d-507. Right to distribution.**

3987 When a partner or transferee becomes entitled to receive a distribution, the partner or  
3988 transferee has the status of, and is entitled to all remedies available to, a creditor of the limited  
3989 partnership with respect to the distribution. However, the limited partnership's obligation to  
3990 make a distribution is subject to offset for any amount owed to the limited partnership by the  
3991 partner or dissociated partner on whose account the distribution is made.

3992 Section 134. Section **48-2d-508** is enacted to read:

3993 **48-2d-508. Limitations on distribution.**

3994 (1) A limited partnership may not make a distribution in violation of the partnership  
3995 agreement.

3996 (2) A limited partnership may not make a distribution if after the distribution:

3997 (a) the limited partnership would not be able to pay its debts as they become due in the  
3998 ordinary course of the limited partnership's activities; or

3999 (b) the limited partnership's total assets would be less than the sum of its total liabilities  
4000 plus the amount that would be needed, if the limited partnership were to be dissolved, wound  
4001 up, and terminated at the time of the distribution, to satisfy the preferential rights upon  
4002 dissolution, winding up, and termination of partners whose preferential rights are superior to  
4003 those of persons receiving the distribution.

4004 (3) A limited partnership may base a determination that a distribution is not prohibited  
4005 under Subsection (2) on financial statements prepared on the basis of accounting practices and  
4006 principles that are reasonable in the circumstances or on a fair valuation or other method that is  
4007 reasonable in the circumstances.

4008 (4) Except as otherwise provided in Subsection (7), the effect of a distribution under  
4009 Subsection (2) is measured:

4010 (a) in the case of distribution by purchase, redemption, or other acquisition of a  
4011 transferable interest in the limited partnership, as of the date money or other property is  
4012 transferred or debt incurred by the limited partnership; and

4013 (b) in all other cases, as of the date:

4014 (i) the distribution is authorized, if the payment occurs within 120 days after that date;  
4015 or

4016 (ii) the payment is made, if payment occurs more than 120 days after the distribution is  
4017 authorized.

4018 (5) A limited partnership's indebtedness to a partner incurred by reason of a  
4019 distribution made in accordance with this section is at parity with the limited partnership's  
4020 indebtedness to its general, unsecured creditors.

4021 (6) A limited partnership's indebtedness, including indebtedness issued in connection  
4022 with or as part of a distribution, is not considered a liability for purposes of Subsection (2) if  
4023 the terms of the indebtedness provide that payment of principal and interest are made only to  
4024 the extent that a distribution could then be made to partners under this section.

4025 (7) If indebtedness is issued as a distribution, each payment of principal or interest on  
4026 the indebtedness is treated as a distribution, the effect of which is measured on the date the  
4027 payment is made.

4028 Section 135. Section **48-2d-509** is enacted to read:

4029 **48-2d-509. Liability for improper distributions.**

4030 (1) A general partner that consents to a distribution made in violation of Section  
4031 48-2d-508 is personally liable to the limited partnership for the amount of the distribution  
4032 which exceeds the amount that could have been distributed without the violation if it is  
4033 established that in consenting to the distribution the general partner failed to comply with  
4034 Section 48-2d-408.

4035 (2) A partner or transferee that received a distribution knowing that the distribution to  
4036 that partner or transferee was made in violation of Section 48-2d-508 is personally liable to the  
4037 limited partnership but only to the extent that the distribution received by the partner or  
4038 transferee exceeded the amount that could have been properly paid under Section 48-2d-508.

4039 (3) A general partner against which an action is commenced under Subsection (1) may:

4040 (a) implead in the action any other person that is liable under Subsection (1) and  
4041 compel contribution from the person; and

4042 (b) implead in the action any person that received a distribution in violation of  
4043 Subsection (2) and compel contribution from the person in the amount the person received in  
4044 violation of Subsection (2).

4045 (4) An action under this section is barred if it is not commenced within two years after  
4046 the distribution.

4047 Section 136. Section **48-2d-601** is enacted to read:

4048 **Part 6. Dissociation**

4049 **48-2d-601. Dissociation as limited partner.**

4050 (1) A person does not have a right to dissociate as a limited partner before the  
4051 termination of the limited partnership.

4052 (2) A person is dissociated from a limited partnership as a limited partner upon the  
4053 occurrence of any of the following events:

4054 (a) the limited partnership's having notice of the person's express will to withdraw as a  
4055 limited partner or on a later date specified by the person;

4056 (b) an event agreed to in the partnership agreement as causing the person's dissociation  
4057 as a limited partner;

4058 (c) the person's expulsion as a limited partner pursuant to the partnership agreement;

4059 (d) the person's expulsion as a limited partner by the unanimous consent of the other  
4060 partners if:

4061 (i) it is unlawful to carry on the limited partnership's activities with the person as a  
4062 limited partner;

4063 (ii) there has been a transfer of all of the person's transferable interest in the limited  
4064 partnership, other than a transfer for security purposes, or a court order charging the person's  
4065 interest, which has not been foreclosed;

4066 (iii) the person is a corporation and, within 90 days after the limited partnership  
4067 notifies the person that it will be expelled as a limited partner because it has filed a certificate  
4068 of dissolution or the equivalent, its charter has been revoked, or its right to conduct business  
4069 has been suspended by the jurisdiction of its incorporation, there is no revocation of the  
4070 certificate of dissolution or no reinstatement of its charter or its right to conduct business; or

4071 (iv) the person is a limited liability company or partnership that has been dissolved and  
4072 whose business is being wound up;

4073 (e) on application by the limited partnership, the person's expulsion as a limited partner  
4074 by judicial order because:

4075 (i) the person engaged in wrongful conduct that adversely and materially affected the  
4076 limited partnership's activities;

4077 (ii) the person willfully or persistently committed a material breach of the partnership  
4078 agreement or of the obligation of good faith and fair dealing under Subsection 48-2d-305(2); or

4079 (iii) the person engaged in conduct relating to the limited partnership's activities which  
4080 makes it not reasonably practicable to carry on the activities with the person as limited partner;

4081 (f) in the case of a person who is an individual, the person's death;

4082 (g) in the case of a person that is a trust or is acting as a limited partner by virtue of  
4083 being a trustee of a trust, distribution of the trust's entire transferable interest in the limited  
4084 partnership, but not merely by reason of the substitution of a successor trustee;

4085 (h) in the case of a person that is an estate or is acting as a limited partner by virtue of  
4086 being a personal representative of an estate, distribution of the estate's entire transferable

4087 interest in the limited partnership, but not merely by reason of the substitution of a successor  
4088 personal representative;

4089 (i) termination of a limited partner that is not an individual, partnership, limited  
4090 liability company, corporation, trust, or estate;

4091 (j) the limited partnership's participation in a conversion or merger under Part 11,  
4092 Merger, Conversion, and Domestication, if the limited partnership:

4093 (i) is not the converted or surviving entity; or

4094 (ii) is the converted or surviving entity but, as a result of the conversion or merger, the  
4095 person ceases to be a limited partner.

4096 Section 137. Section **48-2d-602** is enacted to read:

4097 **48-2d-602. Effect of dissociation as limited partner.**

4098 (1) Upon a person's dissociation as a limited partner:

4099 (a) subject to Section 48-2d-704, the person does not have further rights as a limited  
4100 partner;

4101 (b) the person's obligation of good faith and fair dealing as a limited partner under  
4102 Subsection 48-2d-305(2) continues only as to matters arising and events occurring before the  
4103 dissociation; and

4104 (c) subject to Section 48-2d-704 and Part 11, Merger, Conversion, and Domestication,  
4105 any transferable interest owned by the person in the person's capacity as a limited partner  
4106 immediately before dissociation is owned by the person as a mere transferee.

4107 (2) A person's dissociation as a limited partner does not of itself discharge the person  
4108 from any obligation to the limited partnership or the other partners which the person incurred  
4109 while a limited partner.

4110 Section 138. Section **48-2d-603** is enacted to read:

4111 **48-2d-603. Dissociation as general partner.**

4112 A person is dissociated from a limited partnership as a general partner upon the  
4113 occurrence of any of the following events:

4114 (1) the limited partnership's having notice of the person's express will to withdraw as a  
4115 general partner or on a later date specified by the person;

4116 (2) an event agreed to in the partnership agreement as causing the person's dissociation  
4117 as a general partner;

4118 (3) the person's expulsion as a general partner pursuant to the partnership agreement;

4119 (4) the person's expulsion as a general partner by the unanimous consent of the other  
4120 partners if:

4121 (a) it is unlawful to carry on the limited partnership's activities with the person as a  
4122 general partner;

4123 (b) there has been a transfer of all or substantially all of the person's transferable  
4124 interest in the limited partnership, other than a transfer for security purposes, or a court order  
4125 charging the person's interest, which has not been foreclosed;

4126 (c) the person is a corporation and, within 90 days after the limited partnership notifies  
4127 the person that it will be expelled as a general partner because it has filed a certificate of  
4128 dissolution or the equivalent, its charter has been revoked, or its right to conduct business has  
4129 been suspended by the jurisdiction of its incorporation, there is no revocation of the certificate  
4130 of dissolution or no reinstatement of its charter or its right to conduct business; or

4131 (d) the person is a limited liability company or partnership that has been dissolved and  
4132 whose business is being wound up;

4133 (5) on application by the limited partnership, the person's expulsion as a general partner  
4134 by judicial determination because:

4135 (a) the person engaged in wrongful conduct that adversely and materially affected the  
4136 limited partnership activities;

4137 (b) the person willfully or persistently committed a material breach of the partnership  
4138 agreement or of a duty owed to the partnership or the other partners under Section 48-2d-408;  
4139 or

4140 (c) the person engaged in conduct relating to the limited partnership's activities which  
4141 makes it not reasonably practicable to carry on the activities of the limited partnership with the  
4142 person as a general partner;

4143 (6) the person's:

4144 (a) becoming a debtor in bankruptcy;

4145 (b) execution of an assignment for the benefit of creditors;

4146 (c) seeking, consenting to, or acquiescing in the appointment of a trustee, receiver, or  
4147 liquidator of the person or of all or substantially all of the person's property; or

4148 (d) failure, within 90 days after the appointment, to have vacated or stayed the

4149 appointment of a trustee, receiver, or liquidator of the general partner or of all or substantially  
4150 all of the person's property obtained without the person's consent or acquiescence, or failing  
4151 within 90 days after the expiration of a stay to have the appointment vacated;

4152 (7) in the case of a person who is an individual:

4153 (a) the person's death;

4154 (b) the appointment of a guardian or general conservator for the person; or

4155 (c) a judicial determination that the person has otherwise become incapable of  
4156 performing the person's duties as a general partner under the partnership agreement;

4157 (8) in the case of a person that is a trust or is acting as a general partner by virtue of  
4158 being a trustee of a trust, distribution of the trust's entire transferable interest in the limited  
4159 partnership, but not merely by reason of the substitution of a successor trustee;

4160 (9) in the case of a person that is an estate or is acting as a general partner by virtue of  
4161 being a personal representative of an estate, distribution of the estate's entire transferable  
4162 interest in the limited partnership, but not merely by reason of the substitution of a successor  
4163 personal representative;

4164 (10) termination of a general partner that is not an individual, partnership, limited  
4165 liability company, corporation, trust, or estate; or

4166 (11) the limited partnership's participation in a conversion or merger under Part 11,  
4167 Merger, Conversion, and Domestication, if the limited partnership:

4168 (a) is not the converted or surviving entity; or

4169 (b) is the converted or surviving entity but, as a result of the conversion or merger, the  
4170 person ceases to be a general partner.

4171 Section 139. Section **48-2d-604** is enacted to read:

4172 **48-2d-604. Person's power to dissociate as general partner -- Wrongful**

4173 **dissociation.**

4174 (1) A person has the power to dissociate as a general partner at any time, rightfully or  
4175 wrongfully, by express will pursuant to Subsection 48-2d-603(1).

4176 (2) A person's dissociation as a general partner is wrongful only if:

4177 (a) it is in breach of an express provision of the partnership agreement; or

4178 (b) it occurs before the termination of the limited partnership, and:

4179 (i) the person withdraws as a general partner by express will;

4180 (ii) the person is expelled as a general partner by judicial determination under  
4181 Subsection 48-2d-603(5);

4182 (iii) the person is dissociated as a general partner by becoming a debtor in bankruptcy;  
4183 or

4184 (iv) in the case of a person that is not an individual, trust other than a business trust, or  
4185 estate, the person is expelled or otherwise dissociated as a general partner because it willfully  
4186 dissolved or terminated.

4187 (3) A person that wrongfully dissociates as a general partner is liable to the limited  
4188 partnership and, subject to Section 48-2d-1001, to the other partners for damages caused by the  
4189 dissociation. The liability is in addition to any other obligation of the general partner to the  
4190 limited partnership or to the other partners.

4191 Section 140. Section **48-2d-605** is enacted to read:

4192 **48-2d-605. Effect of dissociation as general partner.**

4193 (1) Upon a person's dissociation as a general partner:

4194 (a) the person's right to participate as a general partner in the management and conduct  
4195 of the partnership's activities terminates;

4196 (b) the person's duty of loyalty as a general partner under Subsection 48-2d-408(2)(c)  
4197 terminates;

4198 (c) the person's duty of loyalty as a general partner under Subsections 48-2d-408(2)(a)  
4199 and (b) and duty of care under Subsection 48-2d-408(3) continue only with regard to matters  
4200 arising and events occurring before the person's dissociation as a general partner;

4201 (d) the person may sign and deliver to the division for filing a statement of dissociation  
4202 pertaining to the person and, at the request of the limited partnership, shall sign an amendment  
4203 to the certificate of limited partnership which states that the person has dissociated; and

4204 (e) subject to Section 48-2d-704 and Part 11, Merger, Conversion, and Domestication,  
4205 any transferable interest owned by the person immediately before dissociation in the person's  
4206 capacity as a general partner is owned by the person as a mere transferee.

4207 (2) A person's dissociation as a general partner does not of itself discharge the person  
4208 from any obligation to the limited partnership or the other partners which the person incurred  
4209 while a general partner.

4210 Section 141. Section **48-2d-606** is enacted to read:



4211 **48-2d-606. Power to bind and liability to limited partnership before dissolution of**  
4212 **partnership of person dissociated as general partner.**

4213 (1) After a person is dissociated as a general partner and before the limited partnership  
4214 is dissolved, converted under Part 11, Merger, Conversion, and Domestication, or merged out  
4215 of existence under Part 11, the limited partnership is bound by an act of the person only if:

4216 (a) the act would have bound the limited partnership under Section 48-2d-402 before  
4217 the dissociation; and

4218 (b) at the time the other party enters into the transaction:

4219 (i) less than two years have passed since the dissociation; and

4220 (ii) the other party does not have notice of the dissociation and reasonably believes that  
4221 the person is a general partner.

4222 (2) If a limited partnership is bound under Subsection (1), the person dissociated as a  
4223 general partner which caused the limited partnership to be bound is liable:

4224 (a) to the limited partnership for any damage caused to the limited partnership arising  
4225 from the obligation incurred under Subsection (1); and

4226 (b) if a general partner or another person dissociated as a general partner is liable for  
4227 the obligation, to the general partner or other person for any damage caused to the general  
4228 partner or other person arising from the liability.

4229 Section 142. Section **48-2d-607** is enacted to read:

4230 **48-2d-607. Liability to other persons of person dissociated as general partner.**

4231 (1) A person's dissociation as a general partner does not of itself discharge the person's  
4232 liability as a general partner for an obligation of the limited partnership incurred before  
4233 dissociation. Except as otherwise provided in Subsections (2) and (3), the person is not liable  
4234 for a limited partnership's obligation incurred after dissociation.

4235 (2) A person whose dissociation as a general partner resulted in a dissolution and  
4236 winding up of the limited partnership's activities is liable to the same extent as a general partner  
4237 under Section 48-2d-404 on an obligation incurred by the limited partnership under Section  
4238 48-2d-804.

4239 (3) A person that has dissociated as a general partner but whose dissociation did not  
4240 result in a dissolution and winding up of the limited partnership's activities is liable on a  
4241 transaction entered into by the limited partnership after the dissociation only if:

4242 (a) a general partner would be liable on the transaction; and  
4243 (b) at the time the other party enters into the transaction:  
4244 (i) less than two years have passed since the dissociation; and  
4245 (ii) the other party does not have notice of the dissociation and reasonably believes that  
4246 the person is a general partner.

4247 (4) By agreement with a creditor of a limited partnership and the limited partnership, a  
4248 person dissociated as a general partner may be released from liability for an obligation of the  
4249 limited partnership.

4250 (5) A person dissociated as a general partner is released from liability for an obligation  
4251 of the limited partnership if the limited partnership's creditor, with notice of the person's  
4252 dissociation as a general partner but without the person's consent, agrees to a material alteration  
4253 in the nature or time of payment of the obligation.

4254 Section 143. Section **48-2d-701** is enacted to read:

4255 **Part 7. Transferable Interests and Rights of Transferees and Creditors**

4256 **48-2d-701. Partner's transferable interest.**

4257 The only interest of a partner which is transferable is the partner's transferable interest.

4258 A transferable interest is personal property.

4259 Section 144. Section **48-2d-702** is enacted to read:

4260 **48-2d-702. Transfer of partner's transferable interest.**

4261 (1) A transfer, in whole or in part, of a partner's transferable interest:

4262 (a) is permissible;

4263 (b) does not by itself cause the partner's dissociation or a dissolution and winding up of  
4264 the limited partnership's activities; and

4265 (c) does not, as against the other partners or the limited partnership, entitle the  
4266 transferee to participate in the management or conduct of the limited partnership's activities, to  
4267 require access to information concerning the limited partnership's transactions except as  
4268 otherwise provided in Subsection (3), or to inspect or copy the required information or the  
4269 limited partnership's other records.

4270 (2) A transferee has a right to receive, in accordance with the transfer:

4271 (a) distributions to which the transferor would otherwise be entitled; and

4272 (b) upon the dissolution and winding up of the limited partnership's activities the net

4273 amount otherwise distributable to the transferor.

4274 (3) In a dissolution and winding up, a transferee is entitled to an account of the limited  
4275 partnership's transactions only from the date of dissolution.

4276 (4) Upon transfer, the transferor retains the rights of a partner other than the interest in  
4277 distributions transferred and retains all duties and obligations of a partner.

4278 (5) A limited partnership need not give effect to a transferee's rights under this section  
4279 until the limited partnership has notice of the transfer.

4280 (6) A transfer of a partner's transferable interest in the limited partnership in violation  
4281 of a restriction on transfer contained in the partnership agreement is ineffective as to a person  
4282 having notice of the restriction at the time of transfer.

4283 (7) A transferee that becomes a partner with respect to a transferable interest is liable  
4284 for the transferor's obligations under Sections 48-2d-502 and 48-2d-509. However, the  
4285 transferee is not obligated for liabilities unknown to the transferee at the time the transferee  
4286 became a partner.

4287 Section 145. Section **48-2d-703** is enacted to read:

4288 **48-2d-703. Rights of creditor of partner or transferee.**

4289 (1) (a) On application to a district court by any judgment creditor of a partner or  
4290 transferee, the court may charge the transferable interest of the judgment debtor with payment  
4291 of the unsatisfied amount of the judgment with interest. To the extent so charged, the judgment  
4292 creditor has only the rights of a transferee.

4293 (b) The court may appoint a receiver of the share of the distributions due or to become  
4294 due to the judgment debtor in respect of the partnership and make all other orders, directions,  
4295 accounts, and inquiries the judgment debtor might have made or which the circumstances of  
4296 the case may require to give effect to the charging order.

4297 (2) A charging order constitutes a lien on the judgment debtor's transferable interest.  
4298 The court may order a foreclosure upon the interest subject to the charging order at any time.  
4299 The purchaser at the foreclosure sale has the rights of a transferee.

4300 (3) At any time before foreclosure, an interest charged may be redeemed:

4301 (a) by the judgment debtor;

4302 (b) with property other than limited partnership property, by one or more of the other  
4303 partners; or

4304 (c) with limited partnership property, by the limited partnership with the consent of all  
4305 partners whose interests are not so charged.

4306 (4) This chapter does not deprive any partner or transferee of the benefit of any  
4307 exemption laws applicable to the partner's or transferee's transferable interest.

4308 (5) This section provides the exclusive remedy by which a judgment creditor of a  
4309 partner or transferee may satisfy a judgment out of the judgment debtor's transferable interest.

4310 Section 146. Section **48-2d-704** is enacted to read:

4311 **48-2d-704. Power of estate of deceased partner.**

4312 If a partner dies, the deceased partner's personal representative or other legal  
4313 representative may exercise the rights of a transferee as provided in Section 48-2d-702 and, for  
4314 the purposes of settling the estate, may exercise the rights of a current limited partner under  
4315 Section 48-2d-304.

4316 Section 147. Section **48-2d-801** is enacted to read:

4317 **Part 8. Dissolution**

4318 **48-2d-801. Nonjudicial dissolution.**

4319 Except as otherwise provided in Section 48-2d-802, a limited partnership is dissolved,  
4320 and its activities must be wound up, only upon the occurrence of any of the following:

4321 (1) the happening of an event specified in the partnership agreement;

4322 (2) the consent of all general partners and of limited partners owning a majority of the  
4323 rights to receive distributions as limited partners at the time the consent is to be effective;

4324 (3) after the dissociation of a person as a general partner:

4325 (a) if the limited partnership has at least one remaining general partner, the consent to  
4326 dissolve the limited partnership given within 90 days after the dissociation by partners owning  
4327 a majority of the rights to receive distributions as partners at the time the consent is to be  
4328 effective; or

4329 (b) if the limited partnership does not have a remaining general partner, the passage of  
4330 90 days after the dissociation, unless before the end of the period:

4331 (i) consent to continue the activities of the limited partnership and admit at least one  
4332 general partner is given by limited partners owning a majority of the rights to receive  
4333 distributions as limited partners at the time the consent is to be effective; and

4334 (ii) at least one person is admitted as a general partner in accordance with the consent

4335 effective as of the last date the last person to have been a general partner ceases to be a general  
4336 partner;

4337 (4) the passage of 90 days after the dissociation of the limited partnership's last limited  
4338 partner, unless before the end of the period the limited partnership admits at least one limited  
4339 partner; or

4340 (5) the signing and filing of a declaration of dissolution by the division under  
4341 Subsection 48-2d-809(3).

4342 Section 148. Section **48-2d-802** is enacted to read:

4343 **48-2d-802. Judicial dissolution.**

4344 On application by a partner the court of appropriate jurisdiction may order dissolution  
4345 of a limited partnership if it is not reasonably practicable to carry on the activities of the limited  
4346 partnership in conformity with the partnership agreement.

4347 Section 149. Section **48-2d-803** is enacted to read:

4348 **48-2d-803. Winding up.**

4349 (1) A limited partnership continues after dissolution only for the purpose of winding up  
4350 its activities.

4351 (2) In winding up its activities, the limited partnership:

4352 (a) may amend its certificate of limited partnership to state that the limited partnership  
4353 is dissolved, preserve the limited partnership business or property as a going concern for a  
4354 reasonable time, prosecute and defend actions and proceedings, whether civil, criminal, or  
4355 administrative, transfer the limited partnership's property, settle disputes by mediation or  
4356 arbitration, file a statement of termination as provided in Section 48-2d-203, and perform other  
4357 necessary acts; and

4358 (b) shall discharge the limited partnership's liabilities, settle and close the limited  
4359 partnership's activities, and marshal and distribute the assets of the partnership.

4360 (3) If a dissolved limited partnership does not have a general partner, a person to wind  
4361 up the dissolved limited partnership's activities may be appointed by the consent of limited  
4362 partners owning a majority of the rights to receive distributions as limited partners at the time  
4363 the consent is to be effective. A person appointed under this Subsection (3):

4364 (a) has the powers of a general partner under Section 48-2d-804; and

4365 (b) shall promptly amend the certificate of limited partnership to state:

- 4366 (i) that the limited partnership does not have a general partner;
- 4367 (ii) the name of the person that has been appointed to wind up the limited partnership;
- 4368 and
- 4369 (iii) the street and mailing address of the person.

4370 (4) On the application of any partner, a district court may order judicial supervision of  
4371 the winding up, including the appointment of a person to wind up the dissolved limited  
4372 partnership's activities, if:

- 4373 (a) a limited partnership does not have a general partner and within a reasonable time  
4374 following the dissolution no person has been appointed pursuant to Subsection (3); or
- 4375 (b) the applicant establishes other good cause.

4376 Section 150. Section **48-2d-804** is enacted to read:

4377 **48-2d-804. Power of general partner and person dissociated as general partner to**  
4378 **bind partnership after dissolution.**

4379 (1) A limited partnership is bound by a general partner's act after dissolution which:

- 4380 (a) is appropriate for winding up the limited partnership's activities; or
- 4381 (b) would have bound the limited partnership under Section 48-2d-402 before  
4382 dissolution, if, at the time the other party enters into the transaction, the other party does not  
4383 have notice of the dissolution.

4384 (2) A person dissociated as a general partner binds a limited partnership through an act  
4385 occurring after dissolution if:

- 4386 (a) at the time the other party enters into the transaction:
  - 4387 (i) less than two years have passed since the dissociation; and
  - 4388 (ii) the other party does not have notice of the dissociation and reasonably believes that  
4389 the person is a general partner; and

4390 (b) the act:

- 4391 (i) is appropriate for winding up the limited partnership's activities; or
- 4392 (ii) would have bound the limited partnership under Section 48-2d-402 before  
4393 dissolution and at the time the other party enters into the transaction the other party does not  
4394 have notice of the dissolution.

4395 Section 151. Section **48-2d-805** is enacted to read:

4396 **48-2d-805. Liability after dissolution of general partner and person dissociated as**

4397 **general partner to limited partnership, other general partners, and persons dissociated as**  
4398 **general partner.**

4399 (1) If a general partner having knowledge of the dissolution causes a limited  
4400 partnership to incur an obligation under Subsection 48-2d-804(1) by an act that is not  
4401 appropriate for winding up the partnership's activities, the general partner is liable:

4402 (a) to the limited partnership for any damage caused to the limited partnership arising  
4403 from the obligation; and

4404 (b) if another general partner or a person dissociated as a general partner is liable for  
4405 the obligation, to that other general partner or person for any damage caused to that other  
4406 general partner or person arising from the liability.

4407 (2) If a person dissociated as a general partner causes a limited partnership to incur an  
4408 obligation under Subsection 48-2d-804(2), the person is liable:

4409 (a) to the limited partnership for any damage caused to the limited partnership arising  
4410 from the obligation; and

4411 (b) if a general partner or another person dissociated as a general partner is liable for  
4412 the obligation, to the general partner or other person for any damage caused to the general  
4413 partner or other person arising from the liability.

4414 Section 152. Section **48-2d-806** is enacted to read:

4415 **48-2d-806. Known claims against dissolved limited partnership.**

4416 (1) A dissolved limited partnership in winding up may dispose of the known claims  
4417 against it by following the procedures described in this section.

4418 (2) A limited partnership in winding up that elects to dispose of known claims pursuant  
4419 to this section may give written notice of the limited partnership 's dissolution to known  
4420 claimants at any time after the effective date of the dissolution. The written notice must:

4421 (a) describe the information that must be included in a claim;

4422 (b) provide an address to which written notice of any claim must be given to the  
4423 limited partnership;

4424 (c) state the deadline, which may not be fewer than 120 days after the effective date of  
4425 the notice, by which the dissolved limited partnership must receive the claim; and

4426 (d) state that, unless sooner barred by another state statute limiting actions, the claim  
4427 will be barred if not received by the deadline.

4428 (3) Unless sooner barred by another statute limiting actions, a claim against the  
4429 dissolved limited partnership is barred if:

4430 (a) a claimant was given notice under Subsection (2) and the claim is not received by  
4431 the dissolved limited partnership by the deadline; or

4432 (b) the dissolved limited partnership delivers to the claimant written notice of rejection  
4433 of the claim within 90 days after receipt of the claim and the claimant whose claim was  
4434 rejected by the dissolved limited partnership does not commence a proceeding to enforce the  
4435 claim within 90 days after the effective date of the rejection notice.

4436 (4) Claims that are not rejected by the dissolved limited partnership in writing within  
4437 90 days after receipt of the claim by the dissolved limited partnership are considered approved.

4438 (5) The failure of the dissolved limited partnership to give notice to any known  
4439 claimant pursuant to Subsection (2) does not affect the disposition under this section of any  
4440 claim held by any other known claimant.

4441 (6) This section does not apply to a claim based on an event occurring after the  
4442 effective date of dissolution or a liability that is contingent on that date.

4443 Section 153. Section **48-2d-807** is enacted to read:

4444 **48-2d-807. Other claims against dissolved limited partnership.**

4445 (1) A dissolved limited partnership may publish notice of its dissolution and request  
4446 persons having claims against the limited partnership to present them in accordance with the  
4447 notice.

4448 (2) The notice must:

4449 (a) be published:

4450 (i) at least once in a newspaper of general circulation in the county in which the  
4451 dissolved limited partnership's principal office is located or, if it has none in this state, in Salt  
4452 Lake County; and

4453 (ii) in accordance with Section 45-1-101;

4454 (b) describe the information required to be contained in a claim and provide a mailing  
4455 address to which the claim is to be sent;

4456 (c) state that a claim against the limited partnership is barred unless an action to  
4457 enforce the claim is commenced within five years after publication of the notice; and

4458 (d) unless the limited partnership has been throughout its existence a limited liability



4459 limited partnership, state that the barring of a claim against the limited partnership will also bar  
4460 any corresponding claim against any general partner or person dissociated as a general partner  
4461 which is based on Section 48-2d-404.

4462 (3) If a dissolved limited partnership publishes a notice in accordance with Subsection  
4463 (2), the claim of each of the following claimants is barred unless the claimant commences an  
4464 action to enforce the claim against the dissolved limited partnership within five years after the  
4465 publication date of the notice:

4466 (a) a claimant that did not receive notice in a record under Section 48-2d-806;

4467 (b) a claimant whose claim was timely sent to the dissolved limited partnership but not  
4468 acted on; and

4469 (c) a claimant whose claim is contingent or based on an event occurring after the  
4470 effective date of dissolution.

4471 (4) A claim not barred under this section may be enforced:

4472 (a) against the dissolved limited partnership, to the extent of its undistributed assets;

4473 (b) if the assets have been distributed in liquidation, against a partner or transferee to  
4474 the extent of that person's proportionate share of the claim or the limited partnership's assets  
4475 distributed to the partner or transferee in liquidation, whichever is less, but a person's total  
4476 liability for all claims under this Subsection (4)(b) does not exceed the total amount of assets  
4477 distributed to the person as part of the winding up of the dissolved limited partnership; or

4478 (c) against any person liable on the claim under Section 48-2d-404.

4479 Section 154. Section **48-2d-808** is enacted to read:

4480 **48-2d-808. Liability of general partner and person dissociated as general partner**  
4481 **when claim against limited partnership barred.**

4482 If a claim against a dissolved limited partnership is barred under Section 48-2d-806 or  
4483 48-2d-807, any corresponding claim under Section 48-2d-404 is also barred.

4484 Section 155. Section **48-2d-809** is enacted to read:

4485 **48-2d-809. Administrative dissolution.**

4486 (1) The division may dissolve a limited partnership administratively if the limited  
4487 partnership does not, within 60 days after the due date:

4488 (a) pay any fee, tax, or penalty due to the division under this chapter or other law; or

4489 (b) deliver its annual report to the division.

4490 (2) If the division determines that a ground exists for administratively dissolving a  
4491 limited partnership, the division shall file a record of the determination and serve the limited  
4492 partnership with a copy of the filed record.

4493 (3) If within 60 days after service of the copy the limited partnership does not correct  
4494 each ground for dissolution or demonstrate to the reasonable satisfaction of the division that  
4495 each ground determined by the division does not exist, the division shall administratively  
4496 dissolve the limited partnership by preparing, signing, and filing a declaration of dissolution  
4497 that states the grounds for dissolution. The division shall serve the limited partnership with a  
4498 copy of the filed declaration.

4499 (4) A limited partnership administratively dissolved continues its existence but may  
4500 carry on only activities necessary to wind up its activities and liquidate its assets under Sections  
4501 48-2d-803 and 48-2d-812 and to notify claimants under Sections 48-2d-806 and 48-2d-807.

4502 (5) The administrative dissolution of a limited partnership does not terminate the  
4503 authority of its agent for service of process.

4504 Section 156. Section **48-2d-810** is enacted to read:

4505 **48-2d-810. Reinstatement following administrative dissolution.**

4506 (1) A limited partnership that has been administratively dissolved may apply to the  
4507 division for reinstatement within two years after the effective date of dissolution. The  
4508 application must be delivered to the division for filing and state:

4509 (a) the name of the limited partnership and the effective date of its administrative  
4510 dissolution;

4511 (b) that the grounds for dissolution either did not exist or have been eliminated; and

4512 (c) that the limited partnership's name satisfies the requirements of Section 48-2d-108.

4513 (2) If the division determines that an application contains the information required by  
4514 Subsection (1) and that the information is correct, the division shall prepare a declaration of  
4515 reinstatement that states this determination, sign and file the original of the declaration of  
4516 reinstatement, and serve the limited partnership with a copy.

4517 (3) When reinstatement becomes effective, it relates back to and takes effect as of the  
4518 effective date of the administrative dissolution and the limited partnership may resume its  
4519 activities as if the administrative dissolution had never occurred.

4520 Section 157. Section **48-2d-811** is enacted to read:

4521 **48-2d-811. Appeal from denial of reinstatement.**

4522 (1) If the division denies a limited partnership's application for reinstatement following  
4523 administrative dissolution, the division shall prepare, sign and file a notice that explains the  
4524 reason or reasons for denial and serve the limited partnership with a copy of the notice.

4525 (2) Within 30 days after service of the notice of denial, the limited partnership may  
4526 appeal from the denial of reinstatement by petitioning a district court to set aside the  
4527 dissolution. The petition must be served on the division and contain a copy of the division's  
4528 declaration of dissolution, the limited partnership's application for reinstatement, and the  
4529 division's notice of denial.

4530 (3) The court may summarily order the division to reinstate the dissolved limited  
4531 partnership or may take other action the court considers appropriate.

4532 Section 158. Section **48-2d-812** is enacted to read:

4533 **48-2d-812. Disposition of assets -- When contributions required.**

4534 (1) In winding up a limited partnership's activities, the assets of the limited partnership,  
4535 including the contributions required by this section, must be applied to satisfy the limited  
4536 partnership's obligations to creditors, including, to the extent permitted by law, partners that are  
4537 creditors.

4538 (2) Any surplus remaining after the limited partnership complies with Subsection (1)  
4539 must be paid in cash as a distribution.

4540 (3) If a limited partnership's assets are insufficient to satisfy all of its obligations under  
4541 Subsection (1), with respect to each unsatisfied obligation incurred when the limited  
4542 partnership was not a limited liability limited partnership, the following rules apply:

4543 (a) Each person that was a general partner when the obligation was incurred and that  
4544 has not been released from the obligation under Section 48-2d-607 shall contribute to the  
4545 limited partnership for the purpose of enabling the limited partnership to satisfy the obligation.  
4546 The contribution due from each of those persons is in proportion to the right to receive  
4547 distributions in the capacity of general partner in effect for each of those persons when the  
4548 obligation was incurred.

4549 (b) If a person does not contribute the full amount required under Subsection (3)(a)  
4550 with respect to an unsatisfied obligation of the limited partnership, the other persons required  
4551 to contribute by Subsection (3)(a) on account of the obligation shall contribute the additional

4552 amount necessary to discharge the obligation. The additional contribution due from each of  
4553 those other persons is in proportion to the right to receive distributions in the capacity of  
4554 general partner in effect for each of those other persons when the obligation was incurred.

4555 (c) If a person does not make the additional contribution required by Subsection (3)(b),  
4556 further additional contributions are determined and due in the same manner as provided in  
4557 Subsection (3)(b).

4558 (4) A person that makes an additional contribution under Subsection (3)(b) or (c) may  
4559 recover from any person whose failure to contribute under Subsection (3)(a) or (b) necessitated  
4560 the additional contribution. A person may not recover under this Subsection (4) more than the  
4561 amount additionally contributed. A person's liability under this Subsection (4) may not exceed  
4562 the amount the person failed to contribute.

4563 (5) The estate of a deceased individual is liable for the person's obligations under this  
4564 section.

4565 (6) An assignee for the benefit of creditors of a limited partnership or a partner, or a  
4566 person appointed by a court to represent creditors of a limited partnership or a partner, may  
4567 enforce a person's obligation to contribute under Subsection (3).

4568 Section 159. Section **48-2d-901** is enacted to read:

### **Part 9. Foreign Limited Partnerships**

#### **48-2d-901. Governing law.**

4571 (1) The laws of the state or other jurisdiction under which a foreign limited partnership  
4572 is organized govern relations among the partners of the foreign limited partnership and between  
4573 the partners and the foreign limited partnership and the liability of partners as partners for an  
4574 obligation of the foreign limited partnership.

4575 (2) A foreign limited partnership may not be denied a certificate of authority by reason  
4576 of any difference between the laws of the jurisdiction under which the foreign limited  
4577 partnership is organized and the laws of this state.

4578 (3) A certificate of authority does not authorize a foreign limited partnership to engage  
4579 in any business or exercise any power that a limited partnership may not engage in or exercise  
4580 in this state.

4581 (4) (a) The division may permit a tribal limited partnership to register with the division  
4582 in the same manner as a foreign limited partnership formed in another state.

4583 (b) If a tribal limited partnership elects to register with the division, for purposes of this  
4584 chapter, the tribal limited partnership shall be treated in the same manner as a foreign limited  
4585 partnership formed under the laws of another state.

4586 Section 160. Section **48-2d-902** is enacted to read:

4587 **48-2d-902. Application for certificate of authority.**

4588 (1) A foreign limited partnership may apply for a certificate of authority to transact  
4589 business in this state by delivering an application to the division for filing. The application  
4590 must state:

4591 (a) the name of the foreign limited partnership and, if the name does not comply with  
4592 Section 48-2d-108, an alternate name adopted pursuant to Subsection 48-2d-905(1).

4593 (b) the name of the state or other jurisdiction under whose law the foreign limited  
4594 partnership is organized;

4595 (c) the street and mailing address of the foreign limited partnership's principal office  
4596 and, if the laws of the jurisdiction under which the foreign limited partnership is organized  
4597 require the foreign limited partnership to maintain an office in that jurisdiction, the street and  
4598 mailing address of the required office;

4599 (d) the information required by Subsection 16-17-203(1);

4600 (e) the name and street and mailing address of each of the foreign limited partnership's  
4601 general partners; and

4602 (f) whether the foreign limited partnership is a foreign limited liability limited  
4603 partnership.

4604 (2) A foreign limited partnership shall deliver with the completed application a  
4605 certificate of existence or a record of similar import signed by the division or other official  
4606 having custody of the foreign limited partnership's publicly filed records in the state or other  
4607 jurisdiction under whose law the foreign limited partnership is organized.

4608 Section 161. Section **48-2d-903** is enacted to read:

4609 **48-2d-903. Activities not constituting transacting business.**

4610 (1) Activities of a foreign limited partnership which do not constitute transacting  
4611 business in this state within the meaning of this part include:

4612 (a) maintaining, defending, and settling an action or proceeding;

4613 (b) holding meetings of its partners or carrying on any other activity concerning its

4614 internal affairs;

4615 (c) maintaining accounts in financial institutions;

4616 (d) maintaining offices or agencies for the transfer, exchange, and registration of the  
4617 foreign limited partnership's own securities or maintaining trustees or depositories with respect  
4618 to those securities;

4619 (e) selling through independent contractors;

4620 (f) soliciting or obtaining orders, whether by mail or electronic means or through  
4621 employees or agents or otherwise, if the orders require acceptance outside this state before they  
4622 become contracts;

4623 (g) creating or acquiring indebtedness, mortgages, or security interests in real or  
4624 personal property;

4625 (h) securing or collecting debts or enforcing mortgages or other security interests in  
4626 property securing the debts, and holding, protecting, and maintaining property so acquired;

4627 (i) conducting an isolated transaction that is completed within 30 days and is not one in  
4628 the course of similar transactions of a like manner; and

4629 (j) transacting business in interstate commerce.

4630 (2) For purposes of this part, the ownership in this state of income-producing real  
4631 property or tangible personal property, other than property excluded under Subsection (1),  
4632 constitutes transacting business in this state.

4633 (3) This section does not apply in determining the contacts or activities that may  
4634 subject a foreign limited partnership to service of process, taxation, or regulation under any  
4635 other law of this state.

4636 Section 162. Section **48-2d-904** is enacted to read:

4637 **48-2d-904. Filing of certificate of authority.**

4638 Unless the division determines that an application for a certificate of authority does not  
4639 comply with the filing requirements of this chapter, the division, upon payment of all filing  
4640 fees, shall file the application, prepare, sign and file a certificate of authority to transact  
4641 business in this state, and send a copy of the filed certificate, together with a receipt for the  
4642 fees, to the foreign limited partnership or its representative.

4643 Section 163. Section **48-2d-905** is enacted to read:

4644 **48-2d-905. Noncomplying name of foreign limited partnership.**

4645 (1) A foreign limited partnership whose name does not comply with Section 48-2d-108  
4646 may not obtain a certificate of authority until it adopts, for the purpose of transacting business  
4647 in this state, an alternate name that complies with Section 48-2d-108. A foreign limited  
4648 partnership that adopts an alternate name under this Subsection (1) and then obtains a  
4649 certificate of authority with the name need not comply with Title 42, Chapter 2, Conducting  
4650 Business Under Assumed Name. After obtaining a certificate of authority with an alternate  
4651 name, a foreign limited partnership shall transact business in this state under the name unless  
4652 the foreign limited partnership is authorized under Title 42, Chapter 2, Conducting Business  
4653 Under Assumed Name, to transact business in this state under another name.

4654 (2) If a foreign limited partnership authorized to transact business in this state changes  
4655 its name to one that does not comply with Section 48-2d-108, it may not thereafter transact  
4656 business in this state until it complies with Subsection (1) and obtains an amended certificate of  
4657 authority.

4658 Section 164. Section **48-2d-906** is enacted to read:

4659 **48-2d-906. Revocation of certificate of authority.**

4660 (1) A certificate of authority of a foreign limited partnership to transact business in this  
4661 state may be revoked by the division in the manner provided in Subsections (2) and (3) if the  
4662 foreign limited partnership does not:

4663 (a) pay, within 60 days after the due date, any fee, tax, or penalty due to the division  
4664 under this chapter or other law;

4665 (b) deliver to the division, within 60 days after the due date, its annual report required  
4666 under Section 48-2d-210;

4667 (c) appoint and maintain an agent for service of process as required by Subsection  
4668 16-17-203(1); or

4669 (d) deliver to the division for filing a statement of a change under Section 16-17-206  
4670 within 30 days after a change has occurred in the name or address of the agent.

4671 (2) To revoke a certificate of authority, the division must prepare, sign, and file a  
4672 notice of revocation and send a copy to the foreign limited partnership's agent for service of  
4673 process in this state, or if the foreign limited partnership does not appoint and maintain a  
4674 proper agent in this state, to the foreign limited partnership's principal office. The notice must  
4675 state:

4676 (a) the revocation's effective date, which must be at least 60 days after the date the  
4677 division sends the copy; and

4678 (b) the foreign limited partnership's failures to comply with Subsection (1) which are  
4679 the reason for the revocation.

4680 (3) The authority of the foreign limited partnership to transact business in this state  
4681 ceases on the effective date of the notice of revocation unless before that date the foreign  
4682 limited partnership cures each failure to comply with Subsection (1) stated in the notice. If the  
4683 foreign limited partnership cures the failures, the division shall so indicate on the filed notice.

4684 Section 165. Section **48-2d-907** is enacted to read:

4685 **48-2d-907. Cancellation of certificate of authority -- Effect of failure to have**  
4686 **certificate.**

4687 (1) In order to cancel its certificate of authority to transact business in this state, a  
4688 foreign limited partnership must deliver to the division for filing a notice of cancellation. The  
4689 certificate is canceled when the notice becomes effective under Section 48-2d-206.

4690 (2) A foreign limited partnership transacting business in this state may not maintain an  
4691 action or proceeding in this state unless it has a certificate of authority to transact business in  
4692 this state.

4693 (3) The failure of a foreign limited partnership to have a certificate of authority to  
4694 transact business in this state does not impair the validity of a contract or act of the foreign  
4695 limited partnership or prevent the foreign limited partnership from defending an action or  
4696 proceeding in this state.

4697 (4) A partner of a foreign limited partnership is not liable for the obligations of the  
4698 foreign limited partnership solely by reason of the foreign limited partnership's having  
4699 transacted business in this state without a certificate of authority.

4700 (5) If a foreign limited partnership transacts business in this state without a certificate  
4701 of authority or cancels its certificate of authority, service of process for rights of action arising  
4702 out of the transaction of business in this state shall be served in accordance with Section  
4703 16-17-301.

4704 Section 166. Section **48-2d-908** is enacted to read:

4705 **48-2d-908. Action by attorney general.**

4706 The attorney general may maintain an action to restrain a foreign limited partnership



4707 from transacting business in this state in violation of this part.

4708 Section 167. Section **48-2d-1001** is enacted to read:

4709 **Part 10. Actions by Partners**

4710 **48-2d-1001. Direct action by partner.**

4711 (1) Subject to Subsection (2), a partner may maintain a direct action against the limited  
4712 partnership or another partner for legal or equitable relief, with or without an accounting as to  
4713 the partnership's activities, to enforce the rights and otherwise protect the interests of the  
4714 partner, including rights and interests under the partnership agreement or this chapter or arising  
4715 independently of the partnership relationship.

4716 (2) A partner commencing a direct action under this section is required to plead and  
4717 prove an actual or threatened injury that is not solely the result of an injury suffered or  
4718 threatened to be suffered by the limited partnership.

4719 (3) The accrual of, and any time limitation on, a right of action for a remedy under this  
4720 section is governed by other law. A right to an accounting upon a dissolution and winding up  
4721 does not revive a claim barred by law.

4722 Section 168. Section **48-2d-1002** is enacted to read:

4723 **48-2d-1002. Derivative action.**

4724 A partner may maintain a derivative action to enforce a right of a limited partnership if:

4725 (1) the partner first makes a demand on the general partners, requesting that they cause  
4726 the limited partnership to bring an action to enforce the right, and the general partners do not  
4727 bring the action within a reasonable time; or

4728 (2) a demand would be futile.

4729 Section 169. Section **48-2d-1003** is enacted to read:

4730 **48-2d-1003. Proper plaintiff.**

4731 A derivative action may be maintained only by a person that is a partner at the time the  
4732 action is commenced and:

4733 (1) that was a partner when the conduct giving rise to the action occurred; or

4734 (2) whose status as a partner devolved upon the person by operation of law or pursuant  
4735 to the terms of the partnership agreement from a person that was a partner at the time of the  
4736 conduct.

4737 Section 170. Section **48-2d-1004** is enacted to read:

4738 **48-2d-1004. Pleading.**

4739 In a derivative action, the complaint must state with particularity:

4740 (1) the date and content of plaintiff's demand and the general partners' response to the  
4741 demand; or

4742 (2) why demand should be excused as futile.

4743 Section 171. Section **48-2d-1005** is enacted to read:

4744 **48-2d-1005. Proceeds and expenses.**

4745 (1) Except as otherwise provided in Subsection (2):

4746 (a) any proceeds or other benefits of a derivative action, whether by judgment,  
4747 compromise, or settlement, belong to the limited partnership and not to the derivative plaintiff;  
4748 and

4749 (b) if the derivative plaintiff receives any proceeds, the derivative plaintiff shall  
4750 immediately remit them to the limited partnership.

4751 (2) If a derivative action is successful in whole or in part, the court may award the  
4752 plaintiff reasonable expenses, including reasonable attorney fees, from the recovery of the  
4753 limited partnership.

4754 Section 172. Section **48-2d-1101** is enacted to read:

4755 **Part 11. Merger, Conversion, and Domestication**

4756 **48-2d-1101. Definitions.**

4757 In this part:

4758 (1) "Constituent limited partnership" means a constituent organization that is a limited  
4759 partnership.

4760 (2) "Constituent organization" means an organization that is party to a merger.

4761 (3) "Converted organization" means the organization into which a converting  
4762 organization converts pursuant to Sections 48-2d-1106 through 48-2d-1109.

4763 (4) "Converting limited partnership" means a converting organization that is a limited  
4764 partnership.

4765 (5) "Converting organization" means an organization that converts into another  
4766 organization pursuant to Section 48-2d-1106.

4767 (6) "Domesticated limited partnership" means a limited partnership that exists after a  
4768 domesticating foreign limited partnership or limited partnership effects a domestication

4769 pursuant to Sections 48-2d-1110 through 48-2d-1113.

4770 (7) "Domesticating limited partnership" means a limited partnership that effects a  
4771 domestication pursuant to Sections 48-2d-1110 through 48-2d-1113.

4772 (8) "Foreign limited partnership" means a limited partnership that:

4773 (a) has its chief executive office in a jurisdiction other than this state; or

4774 (b) specified in its partnership agreement that relations among the partners and between  
4775 the partners and the limited partnership will be governed by the law of a jurisdiction other than  
4776 this state.

4777 (9) "Governing statute" means the statute that governs an organization's internal affairs.

4778 (10) (a) "Organization" means:

4779 (i) a general partnership, including a limited liability partnership;

4780 (ii) a limited partnership, including a limited liability limited partnership;

4781 (iii) a limited liability company;

4782 (iv) a business trust;

4783 (v) a corporation; or

4784 (vi) any other person having a governing statute.

4785 (b) "Organization" includes a domestic or foreign organization regardless of whether  
4786 organized for profit.

4787 (11) "Organizational documents" means:

4788 (a) for a domestic or foreign general partnership, its partnership agreement;

4789 (b) for a limited partnership or foreign limited partnership, its certificate of limited  
4790 partnership and partnership agreement;

4791 (c) for a domestic or foreign limited liability company, its certificate or articles of  
4792 organization and operating agreement, or comparable records as provided in its governing  
4793 statute;

4794 (d) for a business trust, its agreement of trust and declaration of trust;

4795 (e) for a domestic or foreign corporation for profit, its articles of incorporation, bylaws,  
4796 and other agreements among its shareholders which are authorized by its governing statute, or  
4797 comparable records as provided in its governing statute; and

4798 (f) for any other organization, the basic records that create the organization and  
4799 determine its internal governance and the relations among the persons that own it, have an

4800 interest in it, or are members of it.

4801 (12) "Personal liability" means liability for a debt, obligation, or other liability of an  
4802 organization which is imposed on a person that co-owns, has an interest in, or is a member of  
4803 the organization:

4804 (a) by the governing statute solely by reason of the person co-owning, having an  
4805 interest in, or being a member of the organization; or

4806 (b) by the organization's organizational documents under a provision of the governing  
4807 statute authorizing those documents to make one or more specified persons liable for all or  
4808 specified debts, obligations, or other liabilities of the organization solely by reason of the  
4809 person or persons co-owning, having an interest in, or being a member of the organization.

4810 (13) "Surviving organization" means an organization into which one or more other  
4811 organizations are merged whether the organization preexisted the merger or was created by the  
4812 merger.

4813 Section 173. Section **48-2d-1102** is enacted to read:

4814 **48-2d-1102. Merger.**

4815 (1) A limited partnership may merge with one or more other constituent organizations  
4816 pursuant to this section, Sections 48-2d-1103 through 48-2d-1105, and a plan of merger, if:

4817 (a) the governing statute of each of the other organizations authorizes the merger;

4818 (b) the merger is not prohibited by the law of a jurisdiction that enacted any of the  
4819 governing statutes; and

4820 (c) each of the other organizations complies with its governing statute in effecting the  
4821 merger.

4822 (2) A plan of merger must be in a record and must include:

4823 (a) the name and form of each constituent organization;

4824 (b) the name and form of the surviving organization and, if the surviving organization  
4825 is to be created by the merger, a statement to that effect;

4826 (c) the terms and conditions of the merger, including the manner and basis for  
4827 converting the interests in each constituent organization into any combination of money,  
4828 interests in the surviving organization, and other consideration;

4829 (d) if the surviving organization is to be created by the merger, the surviving  
4830 organization's organizational documents that are proposed to be in a record; and

4831 (e) if the surviving organization is not to be created by the merger, any amendments to  
4832 be made by the merger to the surviving organization's organizational documents that are, or are  
4833 proposed to be, in a record.

4834 Section 174. Section **48-2d-1103** is enacted to read:

4835 **48-2d-1103. Action on plan of merger by constituent partnership.**

4836 (1) Subject to Section 48-2d-1114, a plan of merger must be consented to by all the  
4837 partners of a constituent limited partnership.

4838 (2) Subject to Section 48-2d-1114 and any contractual rights, after a merger is  
4839 approved, and at any time before articles of merger are delivered to the division for filing under  
4840 Section 48-2d-1104, a constituent limited partnership may amend the plan or abandon the  
4841 merger:

4842 (a) as provided in the plan; or

4843 (b) except as otherwise prohibited in the plan, with the same consent as was required to  
4844 approve the plan.

4845 Section 175. Section **48-2d-1104** is enacted to read:

4846 **48-2d-1104. Filings required and permitted for merger -- Effective date.**

4847 (1) After each constituent organization has approved a merger, articles of merger must  
4848 be signed on behalf of:

4849 (a) each constituent limited partnership, by each general partner listed in the certificate  
4850 of limited partnership; and

4851 (b) each other constituent organization, as provided in its governing statute.

4852 (2) Articles of merger under this section must include:

4853 (a) the name and form of each constituent organization and the jurisdiction of its  
4854 governing statute;

4855 (b) the name and form of the surviving organization, the jurisdiction of its governing  
4856 statute, and, if the surviving organization is created by the merger, a statement to that effect;

4857 (c) the date the merger is effective under the governing statute of the surviving  
4858 organization;

4859 (d) if the surviving organization is to be created by the merger:

4860 (i) if it will be a limited partnership, the limited partnership's certificate of limited  
4861 partnership; or

4862 (ii) if it will be an organization other than a limited partnership, the organizational  
4863 document that creates the organization that is in a public record;

4864 (e) if the surviving organization preexists the merger, any amendments provided for in  
4865 the plan of merger for the organizational document that created the organization that are in a  
4866 public record;

4867 (f) a statement as to each constituent organization that the merger was approved as  
4868 required by the organization's governing statute;

4869 (g) if the surviving organization is a foreign organization not authorized to transact  
4870 business in this state, the street and mailing addresses of an office that may be used for service  
4871 of process under Section 48-2d-1105(2); and

4872 (h) any additional information required by the governing statute of any constituent  
4873 organization.

4874 (3) Each constituent limited partnership shall deliver the articles of merger for filing in  
4875 the division.

4876 (4) A merger becomes effective under this part:

4877 (a) if the surviving organization is a limited partnership, upon the later of:

4878 (i) compliance with Subsection (3); or

4879 (ii) subject to Subsection 48-2d-206(3), as specified in the articles of merger; or

4880 (b) if the surviving organization is not a limited partnership, as provided by the  
4881 governing statute of the surviving organization.

4882 Section 176. Section **48-2d-1105** is enacted to read:

4883 **48-2d-1105. Effect of merger.**

4884 (1) When a merger becomes effective:

4885 (a) the surviving organization continues or comes into existence;

4886 (b) each constituent organization that merges into the surviving organization ceases to  
4887 exist as a separate entity;

4888 (c) all property owned by each constituent organization that ceases to exist vests in the  
4889 surviving organization;

4890 (d) all debts, obligations, or other liabilities of each constituent organization that ceases  
4891 to exist continue as debts, obligations, or other liabilities of the surviving organization;

4892 (e) an action or proceeding pending by or against any constituent organization that

4893 ceases to exist may be continued as if the merger had not occurred;

4894 (f) except as prohibited by other law, all of the rights, privileges, immunities, powers,  
4895 and purposes of each constituent organization that ceases to exist vest in the surviving  
4896 organization;

4897 (g) except as otherwise provided in the plan of merger, the terms and conditions of the  
4898 plan of merger take effect; and

4899 (h) except as otherwise agreed, if a constituent limited partnership ceases to exist, the  
4900 merger does not dissolve the limited partnership for the purposes of Part 8, Dissolution;

4901 (i) if the surviving organization is created by the merger:

4902 (i) if it is a limited partnership, the certificate of limited partnership becomes effective;

4903 or

4904 (ii) if it is an organization other than a limited partnership, the organizational document  
4905 that creates the organization becomes effective; and

4906 (j) if the surviving organization preexisted the merger, any amendments provided for in  
4907 the articles of merger for the organizational document that created the organization become  
4908 effective.

4909 (2) A surviving organization that is a foreign organization consents to the jurisdiction  
4910 of the courts of this state to enforce any debt, obligation, or other liability owed by a constituent  
4911 organization, if before the merger the constituent organization was subject to suit in this state  
4912 on the debt, obligation, or other liability. A surviving organization that is a foreign  
4913 organization and not authorized to transact business in this state may be served with process at  
4914 the address required in the articles of merger under 48-2d-1104(2)(g).

4915 Section 177. Section **48-2d-1106** is enacted to read:

4916 **48-2d-1106. Conversion.**

4917 (1) An organization other than a partnership or a foreign partnership may convert to a  
4918 limited partnership, and a limited partnership may convert to an organization other than a  
4919 foreign partnership pursuant to this section, Sections 48-2d-1107 through 48-2d-1109, and a  
4920 plan of conversion, if:

4921 (a) the other organization's governing statute authorizes the conversion;

4922 (b) the conversion is not prohibited by the law of the jurisdiction that enacted the other  
4923 organization's governing statute; and

4924 (c) the other organization complies with its governing statute in effecting the  
4925 conversion.

4926 (2) A plan of conversion must be in a record and must include:

4927 (a) the name and form of the organization before conversion;

4928 (b) the name and form of the organization after conversion;

4929 (c) the terms and conditions of the conversion, including the manner and basis for  
4930 converting interests in the converting organization into any combination of money, interests in  
4931 the converted organization, and other consideration; and

4932 (d) the organizational documents of the converted organization that are, or are  
4933 proposed to be, in a record.

4934 Section 178. Section **48-2d-1107** is enacted to read:

4935 **48-2d-1107. Action on plan of conversion by converting partnership.**

4936 (1) Subject to Section 48-2d-1114, a plan of conversion must be consented to by all the  
4937 partners of a converting limited partnership.

4938 (2) Subject to Section 48-2d-1114 and any contractual rights, after a conversion is  
4939 approved, and at any time before articles of conversion are delivered to the division for filing  
4940 under Section 48-2d-1108, a converting limited partnership may amend the plan or abandon the  
4941 conversion:

4942 (a) as provided in the plan; or

4943 (b) except as otherwise prohibited in the plan, by the same consent as was required to  
4944 approve the plan.

4945 Section 179. Section **48-2d-1108** is enacted to read:

4946 **48-2d-1108. Filings required for conversion -- Effective date.**

4947 (1) After a plan of conversion is approved:

4948 (a) a converting limited partnership shall deliver to the division for filing articles of  
4949 conversion and must include:

4950 (i) a statement that the limited partnership has been converted into another  
4951 organization;

4952 (ii) the name and form of the converted organization and the jurisdiction of its  
4953 governing statute;

4954 (iii) the date the conversion is effective under the governing statute of the converted



4955 organization;

4956 (iv) a statement that the conversion was approved as required by this chapter;

4957 (v) a statement that the conversion is authorized by the governing statute of the

4958 converted organization; and

4959 (vi) if the converted organization is a foreign organization not authorized to transact

4960 business in this state, the street and mailing addresses of an office that may be used for

4961 purposes of Subsection 48-2d-1109(3); and

4962 (b) if the converting organization is not a converting limited partnership, the converting

4963 organization shall deliver to the division for filing articles of conversion, which must include:

4964 (i) a statement that the converted organization was converted from another

4965 organization, and whether the converted organization is a partnership or a limited liability

4966 partnership;

4967 (ii) the name and form of that converting organization and the jurisdiction of its

4968 governing statute; and

4969 (iii) a statement that the conversion was approved in a manner that complied with the

4970 converting organization's governing statute.

4971 (2) A conversion becomes effective:

4972 (a) if the converted organization is a limited partnership, when the certificate of limited

4973 partnership takes effect; or

4974 (b) if the converted organization is not a limited partnership, as provided by the

4975 governing statute of the converted organization.

4976 Section 180. Section **48-2d-1109** is enacted to read:

4977 **48-2d-1109. Effect of conversion.**

4978 (1) An organization that has been converted pursuant to this part is for all purposes the

4979 same entity that existed before the conversion.

4980 (2) When a conversion takes effect:

4981 (a) all property owned by the converting organization remains vested in the converted

4982 organization;

4983 (b) all debts, obligations, or other liabilities of the converting organization continue as

4984 debts, obligations, or other liabilities of the converted organization;

4985 (c) an action or proceeding pending by or against the converting organization may be

4986 continued as if the conversion had not occurred;

4987 (d) except as prohibited by law other than this chapter, all of the rights, privileges,  
4988 immunities, powers, and purposes of the converting organization remain vested in the  
4989 converted organization;

4990 (e) except as otherwise provided in the plan of conversion, the terms and conditions of  
4991 the plan of conversion take effect; and

4992 (f) except as otherwise agreed, the conversion does not dissolve a converting limited  
4993 partnership for the purposes of Part 8, Dissolution.

4994 (3) A converted organization that is a foreign organization consents to the jurisdiction  
4995 of the courts of this state to enforce any debt, obligation, or other liability for which the  
4996 converting limited partnership is liable if, before the conversion, the converting limited  
4997 partnership was subject to suit in this state on the debt, obligation, or other liability. A  
4998 converted organization that is a foreign organization and not authorized to transact business in  
4999 this state may be served with process at the address required in the articles of conversion under  
5000 Subsection 48-2d-1108(1)(a)(vi).

5001 Section 181. Section **48-2d-1110** is enacted to read:

5002 **48-2d-1110. Domestication.**

5003 (1) A foreign limited partnership may become a limited partnership pursuant to this  
5004 section, Sections 48-2d-1111 through 48-2d-1113, and a plan of domestication, if:

5005 (a) the foreign limited partnership's governing statute authorizes the domestication;

5006 (b) the domestication is not prohibited by the law of the jurisdiction that enacted the  
5007 governing statute; and

5008 (c) the foreign limited partnership complies with its governing statute in effecting the  
5009 domestication.

5010 (2) A limited partnership may become a foreign limited partnership pursuant to this  
5011 section, Sections 48-2d-1111 through 48-2d-1113, and a plan of domestication, if:

5012 (a) the foreign limited partnership's governing statute authorizes the domestication;

5013 (b) the domestication is not prohibited by the law of the jurisdiction that enacted the  
5014 governing statute; and

5015 (c) the foreign limited partnership complies with its governing statute in effecting the  
5016 domestication.

- 5017 (3) A plan of domestication must be in a record and must include:  
5018 (a) the name of the domesticating limited partnership before domestication and the  
5019 jurisdiction of its governing statute;  
5020 (b) the name of the domesticated limited partnership after domestication and the  
5021 jurisdiction of its governing statute;  
5022 (c) the terms and conditions of the domestication, including the manner and basis for  
5023 converting interests in the domesticating limited partnership into any combination of money,  
5024 interests in the domesticated limited partnership, and other consideration; and  
5025 (d) the organizational documents of the domesticated limited partnership that are, or  
5026 are proposed to be, in a record.

5027 Section 182. Section **48-2d-1111** is enacted to read:

5028 **48-2d-1111. Action on plan of domestication by domesticating partnership.**

5029 (1) A plan of domestication must be consented to:

5030 (a) by all the partners, subject to Section 48-2d-1114, if the domesticating limited  
5031 partnership is a limited partnership; and

5032 (b) as provided in the domesticating limited partnership's governing statute, if the  
5033 limited partnership is a foreign limited partnership.

5034 (2) Subject to any contractual rights, after a domestication is approved, and at any time  
5035 before articles of domestication are delivered to the division for filing under Section  
5036 48-2d-1112, a domesticating limited partnership may amend the plan or abandon the  
5037 domestication:

5038 (a) as provided in the plan; or

5039 (b) except as otherwise prohibited in the plan, by the same consent as was required to  
5040 approve the plan.

5041 Section 183. Section **48-2d-1112** is enacted to read:

5042 **48-2d-1112. Filings required for domestication -- Effective date.**

5043 (1) After a plan of domestication is approved, a domesticating limited partnership shall  
5044 deliver to the division for filing articles of domestication, which must include:

5045 (a) a statement, as the case may be, that the limited partnership has been domesticated  
5046 from or into another jurisdiction;

5047 (b) the name of the domesticating limited partnership and the jurisdiction of its

5048 governing statute;

5049 (c) the name of the domesticated limited partnership and the jurisdiction of its

5050 governing statute;

5051 (d) the date the domestication is effective under the governing statute of the

5052 domesticated limited partnership;

5053 (e) if the domesticating limited partnership was a limited partnership, a statement that

5054 the domestication was approved as required by this chapter;

5055 (f) if the domesticating limited partnership was a foreign limited partnership, a

5056 statement that the domestication was approved as required by the governing statute of the other

5057 jurisdiction; and

5058 (g) if the domesticated limited partnership is a foreign limited partnership not

5059 authorized to transact business in this state, the street and mailing addresses of an office that

5060 the division may use for the purposes of Subsection 48-2d-1113(2).

5061 (2) A domestication becomes effective:

5062 (a) upon the filing of the statement of qualification pursuant to Section 48-2d-1001 or

5063 on the date provided therein, whichever is later, if the domesticated limited partnership is a

5064 limited partnership; and

5065 (b) according to the governing statute of the domesticated limited partnership, if it is a

5066 foreign limited partnership.

5067 Section 184. Section **48-2d-1113** is enacted to read:

5068 **48-2d-1113. Effect of domestication.**

5069 (1) When a domestication takes effect:

5070 (a) the domesticated limited partnership is for all purposes the limited partnership that

5071 existed before the domestication;

5072 (b) all property owned by the domesticating limited partnership remains vested in the

5073 domesticated limited partnership;

5074 (c) all debts, obligations, or other liabilities of the domesticating limited partnership

5075 continue as debts, obligations, or other liabilities of the domesticated limited partnership;

5076 (d) an action or proceeding pending by or against a domesticating limited partnership

5077 may be continued as if the domestication had not occurred;

5078 (e) except as prohibited by other law, all of the rights, privileges, immunities, powers,

5079 and purposes of the domesticating limited partnership remain vested in the domesticated  
5080 limited partnership;

5081 (f) except as otherwise provided in the plan of domestication, the terms and conditions  
5082 of the plan of domestication take effect; and

5083 (g) except as otherwise agreed, the domestication does not dissolve a domesticating  
5084 limited partnership for the purposes of Part 8, Dissolution.

5085 (2) A domesticated limited partnership that is a foreign limited partnership consents to  
5086 the jurisdiction of the courts of this state to enforce any debt, obligation, or other liability owed  
5087 by the domesticating limited partnership, if, before the domestication, the domesticating  
5088 limited partnership was subject to suit in this state on the debt, obligation, or other liability. A  
5089 domesticated limited partnership that is a foreign limited partnership and not authorized to  
5090 transact business in this state may be served with process at the address required in the articles  
5091 of domestication under Subsection 48-2d-1112(1)(g).

5092 (3) If a limited partnership has adopted and approved a plan of domestication under  
5093 Section 48-2d-1110 providing for the limited partnership to be domesticated in a foreign  
5094 jurisdiction, a statement pursuant to Subsection 48-2d-907 cancelling the limited partnership's  
5095 certificate of authority must be delivered to the division for filing setting forth:

5096 (a) the name of the limited partnership;

5097 (b) a statement that the limited partnership's certificate of authority is being cancelled  
5098 in connection with the domestication of the limited partnership in a foreign jurisdiction;

5099 (c) a statement the domestication was approved as required by this chapter; and

5100 (d) the jurisdiction of formation of the domesticated foreign limited partnership.

5101 Section 185. Section **48-2d-1114** is enacted to read:

5102 **48-2d-1114. Restrictions on approval of mergers, conversions, and domestications**  
5103 **-- Relinquishing limited liability partnership status.**

5104 (1) If a partner of a constituent, converting, or domesticating limited partnership will  
5105 have personal liability with respect to a surviving, converted, or domesticated organization,  
5106 approval or amendment of a plan of merger, conversion, or domestication is ineffective without  
5107 the consent of the partner, unless:

5108 (a) the limited partnership's partnership agreement provides for approval of a merger,  
5109 conversion, or domestication with the consent of fewer than all the partners; and

5110 (b) the partner has consented to the provision of the partnership agreement.

5111 (2) An amendment to a certificate of limited partnership which deletes a statement that  
5112 the limited partnership is a limited liability limited partnership is ineffective without the  
5113 consent of each general partner unless:

5114 (a) the limited partnership's partnership agreement provides for the amendment with  
5115 the consent of less than all the general partners; and

5116 (b) each general partner that does not consent to the amendment has consented to the  
5117 provision of the partnership agreement.

5118 (3) A partner does not give the consent required by Subsection (1) or (2) merely by  
5119 consenting to a provision of the partnership agreement that permits the partnership agreement  
5120 to be amended with the consent of fewer than all the partners.

5121 Section 186. Section **48-2d-1115** is enacted to read:

5122 **48-2d-1115. Liability of general partner after conversion or merger.**

5123 (1) A conversion or merger under this part does not discharge any liability under  
5124 Sections 48-2d-404 and 48-2d-607 of a person that was a general partner in or dissociated as a  
5125 general partner from a converting or constituent limited partnership, but:

5126 (a) the provisions of this chapter pertaining to the collection or discharge of the liability  
5127 continue to apply to the liability;

5128 (b) for the purposes of applying those provisions, the converted or surviving  
5129 organization is deemed to be the converting or constituent limited partnership; and

5130 (c) if a person is required to pay any amount under this Subsection (1):

5131 (i) the person has a right of contribution from each other person that was liable as a  
5132 general partner under Section 48-2d-404 when the obligation was incurred and has not been  
5133 released from the obligation under Section 48-2d-607; and

5134 (ii) the contribution due from each of those persons is in proportion to the right to  
5135 receive distributions in the capacity of general partner in effect for each of those persons when  
5136 the obligation was incurred.

5137 (2) In addition to any other liability provided by law:

5138 (a) a person that immediately before a conversion or merger became effective was a  
5139 general partner in a converting or constituent limited partnership that was not a limited liability  
5140 limited partnership is personally liable for each obligation of the converted or surviving

5141 organization arising from a transaction with a third party after the conversion or merger  
5142 becomes effective, if, at the time the third party enters into the transaction, the third party:  
5143 (i) does not have notice of the conversion or merger; and  
5144 (ii) reasonably believes that:  
5145 (A) the converted or surviving business is the converting or constituent limited  
5146 partnership;  
5147 (B) the converting or constituent limited partnership is not a limited liability limited  
5148 partnership; and  
5149 (C) the person is a general partner in the converting or constituent limited partnership;  
5150 and  
5151 (b) a person that was dissociated as a general partner from a converting or constituent  
5152 limited partnership before the conversion or merger became effective is personally liable for  
5153 each obligation of the converted or surviving organization arising from a transaction with a  
5154 third party after the conversion or merger becomes effective, if:  
5155 (i) immediately before the conversion or merger became effective the converting or  
5156 surviving limited partnership was a not a limited liability limited partnership; and  
5157 (ii) at the time the third party enters into the transaction less than two years have passed  
5158 since the person dissociated as a general partner and the third party:  
5159 (A) does not have notice of the dissociation;  
5160 (B) does not have notice of the conversion or merger; and  
5161 (C) reasonably believes that the converted or surviving organization is the converting  
5162 or constituent limited partnership, the converting or constituent limited partnership is not a  
5163 limited liability limited partnership, and the person is a general partner in the converting or  
5164 constituent limited partnership.  
5165 Section 187. Section **48-2d-1116** is enacted to read:  
5166 **48-2d-1116. Power of general partners and persons dissociated as general**  
5167 **partners to bind organization after conversion or merger.**  
5168 (1) An act of a person that immediately before a conversion or merger became effective  
5169 was a general partner in a converting or constituent limited partnership binds the converted or  
5170 surviving organization after the conversion or merger becomes effective, if:  
5171 (a) before the conversion or merger became effective, the act would have bound the

5172 converting or constituent limited partnership under Section 48-2d-402; and

5173 (b) at the time the third party enters into the transaction, the third party:

5174 (i) does not have notice of the conversion or merger; and

5175 (ii) reasonably believes that the converted or surviving business is the converting or

5176 constituent limited partnership and that the person is a general partner in the converting or

5177 constituent limited partnership.

5178 (2) An act of a person that before a conversion or merger became effective was

5179 dissociated as a general partner from a converting or constituent limited partnership binds the

5180 converted or surviving organization after the conversion or merger becomes effective, if:

5181 (a) before the conversion or merger became effective, the act would have bound the

5182 converting or constituent limited partnership under Section 48-2d-402 if the person had been a

5183 general partner; and

5184 (b) at the time the third party enters into the transaction, less than two years have

5185 passed since the person dissociated as a general partner and the third party:

5186 (i) does not have notice of the dissociation;

5187 (ii) does not have notice of the conversion or merger; and

5188 (iii) reasonably believes that the converted or surviving organization is the converting

5189 or constituent limited partnership and that the person is a general partner in the converting or

5190 constituent limited partnership.

5191 (3) If a person having knowledge of the conversion or merger causes a converted or

5192 surviving organization to incur an obligation under Subsection (1) or (2), the person is liable:

5193 (a) to the converted or surviving organization for any damage caused to the

5194 organization arising from the obligation; and

5195 (b) if another person is liable for the obligation, to that other person for any damage

5196 caused to that other person arising from the liability.

5197 Section 188. Section **48-2d-1117** is enacted to read:

5198 **48-2d-1117. Part not exclusive.**

5199 This part does not preclude an entity from being merged, converted, or domesticated

5200 under law other than this chapter.

5201 Section 189. Section **48-2d-1201** is enacted to read:

5202 **Part 12. Miscellaneous Provisions**



5203 **48-2d-1201. Uniformity of application and construction.**

5204 In applying and construing this chapter, consideration must be given to the need to  
5205 promote uniformity of the law with respect to its subject matter among states that enact this  
5206 uniform act.

5207 Section 190. Section **48-2d-1202** is enacted to read:

5208 **48-2d-1202. Relation to electronic signatures in global and national commerce act.**

5209 This chapter modifies, limits, and supersedes the federal Electronic Signatures in  
5210 Global and National Commerce Act, 15 U.S.C. Sec. 7001 et seq., but does not modify, limit, or  
5211 supersede Section 101(c) of that act, 15 U.S.C. Sec. 7001(c), or authorize electronic delivery of  
5212 any of the notices described in Section 103(b) of that act, 15 U.S.C. Sec. 7003(b).

5213 Section 191. Section **48-2d-1203** is enacted to read:

5214 **48-2d-1203. Severability clause.**

5215 If any provision of this chapter or its application to any person or circumstance is held  
5216 invalid, the invalidity does not affect other provisions or applications of this chapter which can  
5217 be given effect without the invalid provision or application, and to this end the provisions of  
5218 this chapter are severable.

5219 Section 192. Section **48-2d-1204** is enacted to read:

5220 **48-2d-1204. Savings clause.**

5221 This chapter does not affect an action commenced, proceeding brought, or right accrued  
5222 before July 1, 2012.

5223 Section 193. Section **48-2d-1205** is enacted to read:

5224 **48-2d-1205. Application to existing relationships.**

5225 (1) Before January 1, 2014, this chapter governs only:

5226 (a) a limited partnership formed on or after July 1, 2012; and

5227 (b) subject to Subsections (3) and (4), a limited partnership formed before July 1, 2012,  
5228 which elects, in the manner provided in its partnership agreement or by law for amending the  
5229 partnership agreement, to be subject to this chapter.

5230 (2) Subject to Subsection (3), on and after January 1, 2014, this chapter governs all  
5231 limited partnerships.

5232 (3) With respect to a limited partnership formed before July 1, 2012, the following  
5233 rules apply except as the partners otherwise elect in the manner provided in the partnership

5234 agreement or by law for amending the partnership agreement:

5235 (a) Subsection 48-2d-104(3) does not apply and the limited partnership has whatever  
5236 duration it had under the law applicable immediately before July 1, 2012.

5237 (b) The limited partnership is not required to amend its certificate of limited  
5238 partnership to comply with Subsection 48-2d-201(1)(d).

5239 (c) Sections 48-2d-601 and 48-2d-602 do not apply and a limited partner has the same  
5240 right and power to dissociate from the limited partnership, with the same consequences, as  
5241 existed immediately before July 1, 2012.

5242 (d) Subsection 48-2d-603(4) does not apply.

5243 (e) Subsection 48-2d-603(5) does not apply and a court has the same power to expel a  
5244 general partner as the court had immediately before July 1, 2012.

5245 (f) Subsection 48-2d-801(3) does not apply and the connection between a person's  
5246 dissociation as a general partner and the dissolution of the limited partnership is the same as  
5247 existed immediately before July 1, 2012.

5248 (4) With respect to a limited partnership that elects pursuant to Subsection (1)(b) to be  
5249 subject to this chapter, after the election takes effect the provisions of this chapter relating to  
5250 the liability of the limited partnership's general partners to third parties apply:

5251 (a) before July 1, 2012, to:

5252 (i) a third party that had not done business with the limited partnership in the year  
5253 before the election took effect; and

5254 (ii) a third party that had done business with the limited partnership in the year before  
5255 the election took effect only if the third party knows or has received a notification of the  
5256 election; and

5257 (b) on and after July 1, 2012, to all third parties, but those provisions remain  
5258 inapplicable to any obligation incurred while those provisions were inapplicable under  
5259 Subsection (4)(a)(ii).

5260 Section 194. Section **48-3-101** is enacted to read:

5261 **CHAPTER 3. UTAH REVISED UNIFORM LIMITED LIABILITY**

5262 **COMPANY ACT**

5263 **Part 1. General Provisions**

5264 **48-3-101. Title.**

5265 This chapter may be cited as the "Utah Revised Uniform Limited Liability Company  
5266 Act."

5267 Section 195. Section **48-3-102** is enacted to read:

5268 **48-3-102. Definitions.**

5269 As used in this chapter:

5270 (1) (a) "Certificate of organization" means the certificate required by Section 48-3-201.

5271 (b) "Certificate of organization" includes the certificate as amended or restated.

5272 (2) "Contribution" means any benefit provided by a person to a limited liability

5273 company:

5274 (a) in order to become a member upon formation of the limited liability company and  
5275 in accordance with an agreement between or among the persons that have agreed to become the  
5276 initial members of the limited liability company;

5277 (b) in order to become a member after formation of the limited liability company and in  
5278 accordance with an agreement between the person and the limited liability company; or

5279 (c) in the person's capacity as a member and in accordance with the operating  
5280 agreement or an agreement between the member and the limited liability company.

5281 (3) "Debtor in bankruptcy" means a person that is the subject of:

5282 (a) an order for relief under United States Code, Title 11, or a successor statute of  
5283 general application; or

5284 (b) a comparable order under federal, state, or foreign law governing insolvency.

5285 (4) "Distribution," except as otherwise provided in Subsection 48-3-405(7), means a  
5286 transfer of money or other property from a limited liability company to another person on  
5287 account of a transferable interest.

5288 (5) "Effective," with respect to a record required or permitted to be delivered to the  
5289 division for filing under this chapter, means effective under Subsection 48-3-205(3).

5290 (6) "Foreign limited liability company" means an unincorporated entity formed under  
5291 the law of a jurisdiction other than this state and denominated by that law as a limited liability  
5292 company, including a low-profit limited liability company.

5293 (7) "Limited liability company," except in the phrase "foreign limited liability  
5294 company," means an entity formed under this chapter, including a low-profit limited liability  
5295 company formed under this chapter.

5296           (8) "Low-profit limited liability company" means a limited liability company meeting  
5297 the requirements of Part 13, Low-profit Limited Liability Companies.

5298           (9) "Manager" means a person that under the operating agreement of a  
5299 manager-managed limited liability company is responsible, alone or in concert with others, for  
5300 performing the management functions stated in Subsection 48-3-407(3).

5301           (10) "Manager-managed limited liability company" means a limited liability company  
5302 that qualifies under Subsection 48-3-407(1).

5303           (11) "Member" means a person that has become a member of a limited liability  
5304 company under Section 48-3-401 and has not dissociated under Section 48-3-602.

5305           (12) "Member-managed limited liability company" means a limited liability company  
5306 that is not a manager-managed limited liability company.

5307           (13) (a) "Operating agreement" means the agreement, whether or not referred to as an  
5308 operating agreement and whether oral, in a record, implied, or in any combination thereof, of  
5309 all the members of a limited liability company, including a sole member, concerning the  
5310 matters described in Subsection 48-3-110(1).

5311           (b) "Operating agreement" includes the agreement as amended or restated.

5312           (14) "Organizer" means a person that acts under Section 48-3-201 to form a limited  
5313 liability company.

5314           (15) "Person" means:

5315           (a) an individual;

5316           (b) a corporation;

5317           (c) a business trust;

5318           (d) an estate;

5319           (e) a trust;

5320           (f) a partnership;

5321           (g) a limited liability company;

5322           (h) an association;

5323           (i) a joint venture;

5324           (j) a public corporation;

5325           (k) government;

5326           (l) a governmental subdivision, agency, or instrumentality; or

5327 (m) any other legal or commercial entity.

5328 (16) "Principal office" means the principal executive office of a limited liability  
5329 company or foreign limited liability company, whether or not the office is located in this state.

5330 (17) "Professional services company" means a limited liability company meeting the  
5331 requirements of Part 11, Professional Services Companies.

5332 (18) "Record" means information that is inscribed on a tangible medium or that is  
5333 stored in an electronic or other medium and is retrievable in perceivable form.

5334 (19) "Series" means a series created in accordance with Part 12, Series Limited  
5335 Liability Companies.

5336 (20) "Sign" means, with the present intent to authenticate or adopt a record:

5337 (a) to execute or adopt a tangible symbol; or

5338 (b) to attach to or logically associate with the record an electronic symbol, sound, or  
5339 process.

5340 (21) "State" means a state of the United States, the District of Columbia, Puerto Rico,  
5341 the United States Virgin Islands, or any territory or insular possession subject to the jurisdiction  
5342 of the United States.

5343 (22) "Transfer" includes an assignment, conveyance, deed, bill of sale, lease, mortgage,  
5344 security interest, encumbrance, gift, and transfer by operation of law.

5345 (23) "Transferable interest" means the right, as originally associated with a person's  
5346 capacity as a member, to receive distributions from a limited liability company in accordance  
5347 with the operating agreement, whether or not the person remains a member or continues to own  
5348 any part of the right.

5349 (24) "Transferee" means a person to which all or part of a transferable interest has been  
5350 transferred, whether or not the transferor is a member.

5351 (25) "Tribal limited liability company" means a limited liability company:

5352 (a) formed under the law of a tribe; and

5353 (b) that is at least 51% owned or controlled by the tribe.

5354 (26) "Tribe" means a tribe, band, nation, pueblo, or other organized group or  
5355 community of Indians, including an Alaska Native village, that is legally recognized as eligible  
5356 for and is consistent with a special program, service, or entitlement provided by the United  
5357 States to Indians because of their status as Indians.

5358 Section 196. Section **48-3-103** is enacted to read:

5359 **48-3-103. Knowledge -- Notice.**

5360 (1) A person knows a fact when the person:

5361 (a) has actual knowledge of it; or

5362 (b) is deemed to know it under Subsection (4)(a) or law other than this chapter.

5363 (2) A person has notice of a fact when the person:

5364 (a) has reason to know the fact from all of the facts known to the person at the time in  
5365 question; or

5366 (b) is deemed to have notice of the fact under Subsection (4)(b).

5367 (3) A person notifies another of a fact by taking steps reasonably required to inform the  
5368 other person in ordinary course, whether or not the other person knows the fact.

5369 (4) A person that is not a member is deemed:

5370 (a) to know of a limitation on authority to transfer real property as provided in  
5371 Subsection 48-3-302(7);

5372 (b) to have notice of a limited liability company's:

5373 (i) dissolution, 90 days after a statement of dissolution under Subsection

5374 48-3-703(2)(b)(i) becomes effective;

5375 (ii) termination, 90 days after a statement of termination Subsection 48-3-703(2)(b)(vi)  
5376 becomes effective; and

5377 (iii) merger, conversion, or domestication, 90 days after articles of merger, conversion,  
5378 or domestication under Part 10, Merger, Conversion, and Domestication, become effective; and

5379 (c) for a filing not described in Subsection (4)(b), to have constructive notice of an  
5380 action taken by a filing that is filed with the division.

5381 Section 197. Section **48-3-104** is enacted to read:

5382 **48-3-104. Nature, purpose, and duration of limited liability company.**

5383 (1) A limited liability company is an entity distinct from its members.

5384 (2) A limited liability company may have any lawful purpose, regardless of whether for  
5385 profit.

5386 (3) A limited liability company has perpetual duration.

5387 Section 198. Section **48-3-105** is enacted to read:

5388 **48-3-105. Powers.**

5389 A limited liability company has the capacity to sue and be sued in its own name and the  
5390 power to do all things necessary or convenient to carry on its activities.

5391 Section 199. Section **48-3-106** is enacted to read:

5392 **48-3-106. Governing law.**

5393 The law of this state governs:

5394 (1) the internal affairs of a limited liability company; and

5395 (2) the liability of a member as member and a manager as manager for the debts,  
5396 obligations, or other liabilities of a limited liability company.

5397 Section 200. Section **48-3-107** is enacted to read:

5398 **48-3-107. Supplemental principles of law.**

5399 Unless displaced by particular provisions of this chapter, the principles of law and  
5400 equity supplement this chapter.

5401 Section 201. Section **48-3-108** is enacted to read:

5402 **48-3-108. Name.**

5403 (1) (a) Except as provided in Section 48-3-1104 or 48-3-1302, the name of a limited  
5404 liability company must contain the words "limited liability company" or "limited company" or  
5405 the abbreviation "L.L.C.," "LLC," "L.C.," or "LC".

5406 (b) "Company" may be abbreviated as "Co.".

5407 (c) The name of a limited liability company may not contain:

5408 (i) without the written consent of the United States Olympic Committee, the words:

5409 (A) "Olympic";

5410 (B) "Olympiad"; or

5411 (C) "Citius Altius Fortius"; and

5412 (ii) without the written consent of the Division of Consumer Protection issued in  
5413 accordance with Section 13-34-114, the words:

5414 (A) "university";

5415 (B) "college"; or

5416 (C) "institute" or "institution".

5417 (2) Unless authorized by Subsection (3), the name of a limited liability company must  
5418 be distinguishable in the records of the division from:

5419 (a) the name of each person that is not an individual and that is incorporated,

5420 organized, or authorized to transact business in this state; and  
5421 (b) each name reserved under Section 48-3-109 and:  
5422 (i) Section 16-6a-401 or 16-6a-402;  
5423 (ii) Section 16-10a-401 or 16-10a-402;  
5424 (iii) Section 16-11-16;  
5425 (iv) Section 42-2-6.6;  
5426 (v) Section 48-1b-1002; or  
5427 (vi) Section 48-2d-108 or 48-2d-109.  
5428 (3) A limited liability company may apply to the division for authorization to use a  
5429 name that does not comply with Subsection (2). The division shall authorize use of the name  
5430 applied for if, as to each noncomplying name:  
5431 (a) the present user, registrant, or owner of the noncomplying name consents in a  
5432 signed record to the use and submits an undertaking in a form satisfactory to the division to  
5433 change the noncomplying name to a name that complies with Subsection (2) and is  
5434 distinguishable in the records of the division from the name applied for; or  
5435 (b) the applicant delivers to the division a certified copy of the final judgment of a  
5436 court establishing the applicant's right to use in this state the name applied for.  
5437 (4) Subject to Section 48-3-805, this section applies to a foreign limited liability  
5438 company transacting business in this state which has a certificate of authority to transact  
5439 business in this state or which has applied for a certificate of authority.  
5440 (5) The division may not approve for filing a name that implies that a limited liability  
5441 company is an agency of this state or any of its political subdivisions, if it is not actually such a  
5442 legally established agency or subdivision.  
5443 (6) The authorization to file a certificate under or to reserve or register a limited  
5444 liability company name as granted by the division does not:  
5445 (a) abrogate or limit the law governing unfair competition or unfair trade practices;  
5446 (b) derogate from the common law, the principles of equity, or the statutes of this state  
5447 or of the United States with respect to the right to acquire and protect names and trademarks; or  
5448 (c) create an exclusive right in geographic or generic terms contained within a name.  
5449 Section 202. Section **48-3-109** is enacted to read:  
5450 **48-3-109. Reservation of name.**



5451 (1) A person may reserve the exclusive use of the name of a limited liability company,  
5452 including a fictitious or assumed name for a foreign limited liability company whose name is  
5453 not available, by delivering an application to the division for filing. The application must state  
5454 the name and address of the applicant and the name proposed to be reserved. If the division  
5455 finds that the name applied for is available, it must be reserved for the applicant's exclusive use  
5456 for a 120-day period.

5457 (2) The owner of a name reserved for a limited liability company may transfer the  
5458 reservation to another person by delivering to the division for filing a signed notice of the  
5459 transfer which states the name and address of the transferee.

5460 Section 203. Section **48-3-110** is enacted to read:

5461 **48-3-110. Operating agreement -- Scope, function, and limitations.**

5462 (1) Except as otherwise provided in Subsections (2) and (3), the operating agreement  
5463 governs:

5464 (a) relations among the members as members and between the members and the  
5465 limited liability company;

5466 (b) the rights and duties under this chapter of a person in the capacity of manager;

5467 (c) the activities of the limited liability company and the conduct of those activities;

5468 and

5469 (d) the means and conditions for amending the operating agreement.

5470 (2) To the extent the operating agreement does not otherwise provide for a matter  
5471 described in Subsection (1), this chapter governs the matter.

5472 (3) An operating agreement may not:

5473 (a) vary a limited liability company's capacity under Section 48-3-105 to sue and be  
5474 sued in its own name;

5475 (b) vary the law applicable under Section 48-3-106;

5476 (c) vary the power of the court under Section 48-3-204;

5477 (d) subject to Subsections (4) through (7), eliminate the duty of loyalty, the duty of  
5478 care, or any other fiduciary duty;

5479 (e) subject to Subsections (4) through (7), eliminate the contractual obligation of good  
5480 faith and fair dealing under Subsection 48-3-409(4);

5481 (f) unreasonably restrict the duties and rights stated in Section 48-3-410;

- 5482           (g) vary the power of a court to decree dissolution in the circumstances specified in  
5483 Subsections 48-3-701(4) and (5);
- 5484           (h) vary the requirement to wind up a limited liability company's business as specified  
5485 in Subsections 48-3-703(1) and (2)(a);
- 5486           (i) unreasonably restrict the right of a member to maintain an action under Part 9,  
5487 Actions By Members;
- 5488           (j) restrict the right to approve a merger, conversion, or domestication under Section  
5489 48-3-1014 to a member that will have personal liability with respect to a surviving, converted,  
5490 or domesticated organization; or
- 5491           (k) except as otherwise provided in Subsection 48-3-112(2), restrict the rights under  
5492 this chapter of a person other than a member or manager.
- 5493           (4) If not unconscionable or against public policy, the operating agreement may:
- 5494           (a) restrict or eliminate the duty:
- 5495           (i) as required in Subsections 48-3-409(2)(a) and (7), to account to the limited liability  
5496 company and to hold as trustee for it any property, profit, or benefit derived by the member in  
5497 the conduct or winding up of the limited liability company's business, from a use by the  
5498 member of the limited liability company's property, or from the appropriation of a limited  
5499 liability company opportunity;
- 5500           (ii) as required in Subsections 48-3-409(2)(b) and (7), to refrain from dealing with the  
5501 limited liability company in the conduct or winding up of the limited liability company's  
5502 business as or on behalf of a party having an interest adverse to the limited liability company;  
5503 and
- 5504           (iii) as required by Subsections 48-3-409(2)(c) and (7), to refrain from competing with  
5505 the limited liability company in the conduct of the limited liability company's business before  
5506 the dissolution of the limited liability company;
- 5507           (b) identify specific types or categories of activities that do not violate the duty of  
5508 loyalty;
- 5509           (c) alter the duty of care, except to authorize intentional misconduct or knowing  
5510 violation of law;
- 5511           (d) alter or eliminate any other fiduciary duty; and
- 5512           (e) prescribe the standards by which to measure the performance of the contractual

5513 obligation of good faith and fair dealing under Subsection 48-3-409(4), if the standards are not  
5514 manifestly unreasonable.

5515 (5) The operating agreement may specify the method by which a specific act or  
5516 transaction that would otherwise violate the duty of loyalty may be authorized or ratified by one  
5517 or more disinterested and independent persons after full disclosure of all material facts.

5518 (6) To the extent the operating agreement of a member-managed limited liability  
5519 company expressly relieves a member of a responsibility that the member would otherwise  
5520 have under this chapter and imposes the responsibility on one or more other members, the  
5521 operating agreement may, to the benefit of the member that the operating agreement relieves of  
5522 the responsibility, also eliminate or limit any fiduciary duty that would have pertained to the  
5523 responsibility.

5524 (7) The operating agreement may alter or eliminate the indemnification for a member  
5525 or manager provided by Subsection 48-3-408(1) and may eliminate or limit a member or  
5526 manager's liability to the limited liability company and members for money damages, except  
5527 for:

5528 (a) breach of the duty of loyalty;

5529 (b) a financial benefit received by the member or manager to which the member or  
5530 manager is not entitled;

5531 (c) a breach of a duty under Section 48-3-406; or

5532 (d) an intentional violation of criminal law.

5533 (8) The court shall decide any claim under Subsection (4) that a term of an operating  
5534 agreement is unconscionable or against public policy. The court:

5535 (a) shall make its determination as of the time the challenged term became part of the  
5536 operating agreement and by considering only circumstances existing at that time; and

5537 (b) may invalidate the term only if, in light of the purposes and activities of the limited  
5538 liability company, it is readily apparent that:

5539 (i) the objective of the term is unconscionable or against public policy; or

5540 (ii) the means to achieve the term's objective is unconscionable or against public  
5541 policy.

5542 Section 204. Section **48-3-111** is enacted to read:

5543 **48-3-111. Operating agreement -- Effect on limited liability company and persons**

5544 **becoming members -- Preformation agreement.**

5545 (1) A limited liability company is bound by and may enforce the operating agreement,  
5546 whether or not the limited liability company has itself manifested assent to the operating  
5547 agreement.

5548 (2) A person that becomes a member of a limited liability company is deemed to assent  
5549 to the operating agreement.

5550 (3) Two or more persons intending to become the initial members of a limited liability  
5551 company may make an agreement providing that upon the formation of the limited liability  
5552 company the agreement will become the operating agreement. One person intending to  
5553 become the initial member of a limited liability company may assent to terms providing that  
5554 upon the formation of the limited liability company the terms will become the operating  
5555 agreement.

5556 Section 205. Section **48-3-112** is enacted to read:

5557 **48-3-112. Operating agreement -- Effect on third parties and relationship to**  
5558 **records effective on behalf of limited liability company.**

5559 (1) An operating agreement may specify that its amendment requires the approval of a  
5560 person that is not a party to the operating agreement or the satisfaction of a condition. An  
5561 amendment is ineffective if its adoption does not include the required approval or satisfy the  
5562 specified condition.

5563 (2) The obligations of a limited liability company and its members to a person in the  
5564 person's capacity as a transferee or dissociated member are governed by the operating  
5565 agreement. Subject only to any court order issued under Subsection 48-3-503(2)(b) to  
5566 effectuate a charging order, an amendment to the operating agreement made after a person  
5567 becomes a transferee or dissociated member is effective with regard to any debt, obligation, or  
5568 other liability of the limited liability company or its members to the person in the person's  
5569 capacity as a transferee or dissociated member.

5570 (3) If a record that has been delivered by a limited liability company to the division for  
5571 filing and has become effective under this chapter contains a provision that would be  
5572 ineffective under Subsection 48-3-110(3) if contained in the operating agreement, the provision  
5573 is likewise ineffective in the record.

5574 (4) Subject to Subsection (3), if a record that has been delivered by a limited liability

5575 company to the division for filing and has become effective under this chapter conflicts with a  
5576 provision of the operating agreement:

5577 (a) the operating agreement prevails as to members, dissociated members, transferees,  
5578 and managers; and

5579 (b) the record prevails as to other persons to the extent they reasonably rely on the  
5580 record.

5581 Section 206. Section **48-3-201** is enacted to read:

5582 **Part 2. Formation - Certificate of Organization and Other Filings**

5583 **48-3-201. Formation of limited liability company -- Certificate of organization.**

5584 (1) One or more persons may act as organizers to form a limited liability company by  
5585 signing and delivering to the division for filing a certificate of organization.

5586 (2) A certificate of organization must state:

5587 (a) the name of the limited liability company, which must comply with Section  
5588 48-3-108;

5589 (b) the information required by Subsection 16-17-203(1); and

5590 (c) (i) if the limited liability company is a low-profit limited liability company, that the  
5591 limited liability company is a low-profit limited liability company; and

5592 (ii) if the limited liability company is a professional services company, the information  
5593 required by Section 48-3-1103.

5594 (3) (a) Subject to Subsection 48-3-112(3), a certificate of organization may also  
5595 contain statements as to matters other than those required by Subsection (2). However, a  
5596 statement in a certificate of organization is not effective as a statement of authority.

5597 (b) A certificate of organization may also contain a notice of a series in accordance  
5598 with Section 48-3-1203.

5599 (4) (a) A limited liability company is formed when the division has filed the certificate  
5600 of organization, unless the certificate states a delayed effective date pursuant to Subsection  
5601 48-3-205(3).

5602 (b) If the certificate states a delayed effective date, a limited liability company is not  
5603 formed if, before the certificate takes effect, a statement of cancellation is signed and delivered  
5604 to the division for filing and the division files the certificate.

5605 (c) Subject to any delayed effective date and except in a proceeding by this state to

5606 dissolve a limited liability company, the filing of the certificate of organization by the division  
5607 is conclusive proof that the organizer satisfied all conditions to the formation of a limited  
5608 liability company.

5609 Section 207. Section **48-3-202** is enacted to read:

5610 **48-3-202. Amendment or restatement of certificate of organization.**

5611 (1) A certificate of organization may be amended or restated at any time, except that in  
5612 accordance with Section 48-3-1303, a low-profit limited liability company shall amend its  
5613 certificate of organization if the limited liability company ceases to be a low-profit limited  
5614 liability company.

5615 (2) To amend its certificate of organization, a limited liability company must deliver to  
5616 the division for filing an amendment stating:

5617 (a) the name of the limited liability company;

5618 (b) the date of filing of its certificate of organization; and

5619 (c) the changes the amendment makes to the certificate as most recently amended or  
5620 restated.

5621 (3) To restate its certificate of organization, a limited liability company must deliver to  
5622 the division for filing a restatement, designated as such in its heading, stating:

5623 (a) in the heading or an introductory paragraph, the limited liability company's present  
5624 name and the date of the filing of the limited liability company's initial certificate of  
5625 organization;

5626 (b) if the limited liability company's name has been changed at any time since the  
5627 limited liability company's formation, each of the limited liability company's former names;  
5628 and

5629 (c) the changes the restatement makes to the certificate as most recently amended or  
5630 restated.

5631 (4) Subject to Subsections 48-3-112(3) and 48-3-205(3), an amendment to or  
5632 restatement of a certificate of organization is effective when filed by the division.

5633 (5) If a member of a member-managed limited liability company, or a manager of a  
5634 manager-managed limited liability company, knows that any information in a filed certificate  
5635 of organization was inaccurate when the certificate was filed or has become inaccurate owing  
5636 to changed circumstances, the member or manager shall promptly:

5637 (a) cause the certificate to be amended; or  
5638 (b) if appropriate, deliver to the division for filing a statement of change under Section  
5639 16-17-206 or a statement of correction under Section 48-3-206.

5640 Section 208. Section **48-3-203** is enacted to read:

5641 **48-3-203. Signing of records to be delivered for filing to division.**

5642 (1) A record delivered to the division for filing pursuant to this chapter must be signed  
5643 as follows:

5644 (a) Except as otherwise provided in Subsections (1)(b) through (d), a record signed on  
5645 behalf of a limited liability company must be signed by a person authorized by the limited  
5646 liability company.

5647 (b) A limited liability company's initial certificate of organization must be signed by at  
5648 least one person acting as an organizer.

5649 (c) A record filed on behalf of a dissolved limited liability company that has no  
5650 members must be signed by the person winding up the limited liability company's activities  
5651 under Subsection 48-3-703(3) or a person appointed under Subsection 48-3-703(4) to wind up  
5652 those activities.

5653 (d) A statement of cancellation under Subsection 48-3-201(4)(b) must be signed by  
5654 each organizer that signed the initial certificate of organization, but a personal representative of  
5655 a deceased or incompetent organizer may sign in the place of the decedent or incompetent.

5656 (e) A statement of denial by a person under Section 48-3-303 must be signed by that  
5657 person.

5658 (f) Any other record must be signed by the person on whose behalf the record is  
5659 delivered to the division.

5660 (2) Any record filed under this chapter may be signed by an agent.

5661 Section 209. Section **48-3-204** is enacted to read:

5662 **48-3-204. Signing and filing pursuant to judicial order.**

5663 (1) If a person required by this chapter to sign a record or deliver a record to the  
5664 division for filing under this chapter does not do so, any other person that is aggrieved may  
5665 petition a district court to order:

5666 (a) the person to sign the record;

5667 (b) the person to deliver the record to the division for filing; or

5668 (c) the division to file the record unsigned, which will have the same effect as if signed  
5669 by the person required by this chapter to sign the record.

5670 (2) If a petitioner under Subsection (1) is not the limited liability company or foreign  
5671 limited liability company to which the record pertains, the petitioner shall make the limited  
5672 liability company a party to the action.

5673 Section 210. Section **48-3-205** is enacted to read:

5674 **48-3-205. Delivery to and filing of records by division -- Effective time and date.**

5675 (1) A record authorized or required to be delivered to the division for filing under this  
5676 chapter must be captioned to describe the record's purpose, be in a medium permitted by the  
5677 division, and be delivered to the division. If the filing fees have been paid, unless the division  
5678 determines that a record does not comply with the filing requirements of this chapter, the  
5679 division shall file the record and:

5680 (a) for a statement of denial under Section 48-3-303, send a copy of the filed statement  
5681 and a receipt for the fees to the person on whose behalf the statement was delivered for filing  
5682 and to the limited liability company; and

5683 (b) for all other records, send a copy of the filed record and a receipt for the fees to the  
5684 person on whose behalf the record was filed.

5685 (2) Upon request and payment of the requisite fee, the division shall send to the  
5686 requester a certified copy of a requested record.

5687 (3) Except as otherwise provided in Section 48-3-206, a record delivered to the  
5688 division for filing under this chapter may specify an effective time and a delayed effective date.  
5689 Subject to Subsection 48-3-201(4)(a) and Section 48-3-206, a record filed by the division is  
5690 effective:

5691 (a) if the record does not specify either an effective time or a delayed effective date, on  
5692 the date and at the time the record is filed as evidenced by the division's endorsement of the  
5693 date and time on the record;

5694 (b) if the record specifies an effective time but not a delayed effective date, on the date  
5695 the record is filed at the time specified in the record;

5696 (c) if the record specifies a delayed effective date but not an effective time, at 12:01  
5697 a.m. on the earlier of:

5698 (i) the specified date; or



5699 (ii) the 90th day after the record is filed; or  
5700 (d) if the record specifies an effective time and a delayed effective date, at the specified  
5701 time on the earlier of:

5702 (i) the specified date; or  
5703 (ii) the 90th day after the record is filed.

5704 Section 211. Section **48-3-206** is enacted to read:

5705 **48-3-206. Correcting filed record.**

5706 (1) A limited liability company or foreign limited liability company may deliver to the  
5707 division for filing a statement of correction to correct a record previously delivered by the  
5708 limited liability company to the division and filed by the division, if at the time of filing the  
5709 record contained inaccurate information or was defectively signed.

5710 (2) A statement of correction under Subsection (1) may not state a delayed effective  
5711 date and must:

5712 (a) describe the record to be corrected, including its filing date, or attach a copy of the  
5713 record as filed;

5714 (b) specify the inaccurate information and the reason it is inaccurate or the manner in  
5715 which the signing was defective; and

5716 (c) correct the defective signature or inaccurate information.

5717 (3) When filed by the division, a statement of correction under Subsection (1) is  
5718 effective retroactively as of the effective date of the record the statement corrects, but the  
5719 statement is effective when filed:

5720 (a) for the purposes of Subsection 48-3-103(4); and

5721 (b) as to persons that previously relied on the uncorrected record and would be  
5722 adversely affected by the retroactive effect.

5723 Section 212. Section **48-3-207** is enacted to read:

5724 **48-3-207. Liability for inaccurate information in filed record.**

5725 (1) If a record delivered to the division for filing under this chapter and filed by the  
5726 division contains inaccurate information, a person that suffers a loss by reliance on the  
5727 information may recover damages for the loss from:

5728 (a) a person that signed the record, or caused another to sign it on the person's behalf,  
5729 and knew the information to be inaccurate at the time the record was signed; and

5730 (b) subject to Subsection (2), a member of a member-managed limited liability  
5731 company or the manager of a manager-managed limited liability company, if:  
5732 (i) the record was delivered for filing on behalf of the limited liability company; and  
5733 (ii) the member or manager had notice of the inaccuracy for a reasonably sufficient  
5734 time before the information was relied upon so that, before the reliance, the member or  
5735 manager reasonably could have:  
5736 (A) effected an amendment under Section 48-3-202;  
5737 (B) filed a petition under Section 48-3-204; or  
5738 (C) delivered to the division for filing a statement of change pursuant to Section  
5739 16-17-206 or a statement of correction under Section 48-3-206.  
5740 (2) To the extent that the operating agreement of a member-managed limited liability  
5741 company expressly relieves a member of responsibility for maintaining the accuracy of  
5742 information contained in records delivered on behalf of the limited liability company to the  
5743 division for filing under this chapter and imposes that responsibility on one or more other  
5744 members, the liability stated in Subsection (1)(b) applies to those other members and not to the  
5745 member that the operating agreement relieves of the responsibility.  
5746 (3) An individual who signs a record authorized or required to be filed under this  
5747 chapter affirms under penalty of perjury that the information stated in the record is accurate.  
5748 Section 213. Section **48-3-208** is enacted to read:  
5749 **48-3-208. Certificate of existence or authorization.**  
5750 (1) The division, upon request and payment of the requisite fee, shall furnish to any  
5751 person a certificate of existence for a limited liability company if the records filed in the  
5752 division show that the limited liability company has been formed under Section 48-3-201 and  
5753 the division has not filed a statement of termination pertaining to the limited liability company.  
5754 A certificate of existence must state:  
5755 (a) the limited liability company's name;  
5756 (b) that the limited liability company was duly formed under the laws of this state and  
5757 the date of formation;  
5758 (c) whether all fees, taxes, and penalties due under this chapter or other law to the  
5759 division have been paid;  
5760 (d) whether the limited liability company's most recent annual report required by

5761 Section 48-3-209 has been filed by the division:

5762 (e) whether the division has administratively dissolved the limited liability company;

5763 (f) whether the limited liability company has delivered to the division for filing a  
5764 statement of dissolution;

5765 (g) that a statement of termination has not been filed by the division; and

5766 (h) other facts of record in the division which are specified by the person requesting the  
5767 certificate.

5768 (2) The division, upon request and payment of the requisite fee, shall furnish to any  
5769 person a certificate of authorization for a foreign limited liability company if the records filed  
5770 in the division show that the division has filed a certificate of authority, has not revoked the  
5771 certificate of authority, and has not filed a notice of cancellation. A certificate of authorization  
5772 must state:

5773 (a) the limited liability company's name and any alternate name adopted under  
5774 Subsection 48-3-805(1) for use in this state;

5775 (b) that the limited liability company is authorized to transact business in this state;

5776 (c) whether all fees, taxes, and penalties due under this chapter or other law to the  
5777 division have been paid;

5778 (d) whether the limited liability company's most recent annual report required by  
5779 Section 48-3-209 has been filed by the division;

5780 (e) that the division has not revoked the limited liability company's certificate of  
5781 authority and has not filed a notice of cancellation; and

5782 (f) other facts of record in the division which are specified by the person requesting the  
5783 certificate.

5784 (3) Subject to any qualification stated in the certificate, a certificate of existence or  
5785 certificate of authorization issued by the division is conclusive evidence that the limited  
5786 liability company is in existence or the foreign limited liability company is authorized to  
5787 transact business in this state.

5788 Section 214. Section **48-3-209** is enacted to read:

5789 **48-3-209. Annual report for division.**

5790 (1) Each year, a limited liability company or a foreign limited liability company  
5791 authorized to transact business in this state shall deliver to the division for filing a report that

5792 states:

5793 (a) the name of the limited liability company;

5794 (b) the information required by Subsection 16-17-203(1);

5795 (c) the street and mailing addresses of its principal office; and

5796 (d) in the case of a foreign limited liability company, the state or other jurisdiction

5797 under whose law the limited liability company is formed and any alternate name adopted under

5798 Subsection 48-3-805(1).

5799 (2) Information in an annual report under this section must be current as of the date the

5800 report is delivered to the division for filing.

5801 (3) A report must be delivered to the division:

5802 (a) during the month of its anniversary date of formation, in the case of a domestic

5803 limited liability company; or

5804 (b) during the month of the anniversary date of being granted authority to transact

5805 business in this state, in the case of a foreign limited liability company authorized to transact

5806 business in this state.

5807 (4) If an annual report under this section does not contain the information required in

5808 Subsection (1), the division shall promptly notify the reporting limited liability company or

5809 foreign limited liability company and return the report to it for correction. If the report is

5810 corrected to contain the information required in Subsection (1) and delivered to the division

5811 within 30 days after the effective date of the notice, it is timely delivered.

5812 (5) If an annual report under this section contains information provided under

5813 Subsection (1)(b) that differs from the information shown in the records of the division

5814 immediately before the annual report becomes effective, the differing information in the annual

5815 report is considered a statement of change under Section 16-17-206.

5816 Section 215. Section **48-3-301** is enacted to read:

5817 **Part 3. Relations of Members and Managers to Persons Dealing with Limited Liability**

5818 **Company**

5819 **48-3-301. No agency power of member as member.**

5820 (1) A member is not an agent of a limited liability company solely by reason of being a

5821 member.

5822 (2) A person's status as a member does not prevent or restrict law other than this

5823 chapter from imposing liability on a limited liability company because of the person's conduct.

5824 Section 216. Section **48-3-302** is enacted to read:

5825 **48-3-302. Statement of authority.**

5826 (1) A limited liability company may deliver to the division for filing a statement of  
5827 authority. The statement:

5828 (a) must include the name of the limited liability company and the street and mailing  
5829 addresses of its principal office;

5830 (b) with respect to any position that exists in or with respect to the limited liability  
5831 company, may state the authority, or limitations on the authority, of all persons holding the  
5832 position to:

5833 (i) execute an instrument transferring real property held in the name of the limited  
5834 liability company; or

5835 (ii) enter into other transactions on behalf of, or otherwise act for or bind, the limited  
5836 liability company; and

5837 (c) may state the authority, or limitations on the authority, of a specific person to:

5838 (i) execute an instrument transferring real property held in the name of the limited  
5839 liability company; or

5840 (ii) enter into other transactions on behalf of, or otherwise act for or bind, the limited  
5841 liability company.

5842 (2) To amend or cancel a statement of authority filed by the division under Subsection  
5843 48-3-205(1), a limited liability company must deliver to the division for filing an amendment  
5844 or cancellation stating:

5845 (a) the name of the limited liability company;

5846 (b) the street and mailing addresses of the limited liability company's principal office;

5847 (c) the caption of the statement being amended or canceled and the date the statement  
5848 being affected became effective; and

5849 (d) the contents of the amendment or a declaration that the statement being affected is  
5850 canceled.

5851 (3) A statement of authority affects only the power of a person to bind a limited  
5852 liability company to persons that are not members.

5853 (4) Subject to Subsection (3) and Subsection 48-3-103(4) and except as otherwise

5854 provided in Subsections (6), (7), and (8), a limitation on the authority of a person or a position  
5855 contained in an effective statement of authority is not by itself evidence of knowledge or notice  
5856 of the limitation by any person.

5857 (5) Subject to Subsection (3), a grant of authority not pertaining to transfers of real  
5858 property and contained in an effective statement of authority is conclusive in favor of a person  
5859 that gives value in reliance on the grant, except to the extent that when the person gives value:

5860 (a) the person has knowledge to the contrary;

5861 (b) the statement has been canceled or restrictively amended under Subsection (2); or

5862 (c) a limitation on the grant is contained in another statement of authority that became  
5863 effective after the statement containing the grant became effective.

5864 (6) Subject to Subsection (3), an effective statement of authority that grants authority to  
5865 transfer real property held in the name of the limited liability company and that is recorded by  
5866 certified copy in the office for recording transfers of the real property is conclusive in favor of a  
5867 person that gives value in reliance on the grant without knowledge to the contrary, except to the  
5868 extent that when the person gives value:

5869 (a) the statement has been canceled or restrictively amended under Subsection (2) and a  
5870 certified copy of the cancellation or restrictive amendment has been recorded in the office for  
5871 recording transfers of the real property; or

5872 (b) a limitation on the grant is contained in another statement of authority that became  
5873 effective after the statement containing the grant became effective and a certified copy of the  
5874 later-effective statement is recorded in the office for recording transfers of the real property.

5875 (7) Subject to Subsection (3), if a certified copy of an effective statement containing a  
5876 limitation on the authority to transfer real property held in the name of a limited liability  
5877 company is recorded in the office for recording transfers of that real property, all persons are  
5878 deemed to know of the limitation.

5879 (8) Subject to Subsection (9), an effective statement of dissolution or termination is a  
5880 cancellation of any filed statement of authority for the purposes of Subsection (6) and is a  
5881 limitation on authority for the purposes of Subsection (7).

5882 (9) After a statement of dissolution becomes effective, a limited liability company may  
5883 deliver to the division for filing and, if appropriate, may record a statement of authority that is  
5884 designated as a post-dissolution statement of authority. The statement operates as provided in

5885 Subsections (6) and (7).

5886 (10) Unless earlier canceled, an effective statement of authority is canceled by  
5887 operation of law five years after the date on which the statement, or its most recent amendment,  
5888 becomes effective. This cancellation operates without need for any recording under Subsection  
5889 (6) or (7).

5890 (11) An effective statement of denial operates as a restrictive amendment under this  
5891 section and may be recorded by certified copy for the purposes of Subsection (6)(a).

5892 Section 217. Section **48-3-303** is enacted to read:

5893 **48-3-303. Statement of denial.**

5894 A person named in a filed statement of authority granting that person authority may  
5895 deliver to the division for filing a statement of denial that:

5896 (1) provides the name of the limited liability company and the caption of the statement  
5897 of authority to which the statement of denial pertains; and

5898 (2) denies the grant of authority.

5899 Section 218. Section **48-3-304** is enacted to read:

5900 **48-3-304. Liability of members and managers.**

5901 (1) The debts, obligations, or other liabilities of a limited liability company, whether  
5902 arising in contract, tort, or otherwise:

5903 (a) are solely the debts, obligations, or other liabilities of the limited liability company;  
5904 and

5905 (b) do not become the debts, obligations, or other liabilities of a member or manager  
5906 solely by reason of the member acting as a member or manager acting as a manager.

5907 (2) The failure of a limited liability company to observe any particular formalities  
5908 relating to the exercise of its powers or management of its activities is not a ground for  
5909 imposing liability on the members or managers for the debts, obligations, or other liabilities of  
5910 the limited liability company.

5911 Section 219. Section **48-3-401** is enacted to read:

5912 **Part 4. Relations of Members to Each Other and to Limited Liability Company**

5913 **48-3-401. Becoming member.**

5914 (1) If a limited liability company is to have only one member upon formation, the  
5915 person becomes a member as agreed by that person and the organizer of the limited liability

5916 company. That person and the organizer may be, but need not be, different persons. If  
5917 different, the organizer acts on behalf of the initial member.

5918 (2) If a limited liability company is to have more than one member upon formation,  
5919 those persons become members as agreed by the persons before the formation of the limited  
5920 liability company. The organizer acts on behalf of the persons in forming the limited liability  
5921 company and may be, but need not be, one of the persons.

5922 (3) After formation of a limited liability company, a person becomes a member:

5923 (a) as provided in the operating agreement;

5924 (b) as the result of a transaction effective under Part 10, Merger, Conversion, and  
5925 Domestication;

5926 (c) with the consent of all the members; or

5927 (d) if, within 90 consecutive days after the limited liability company ceases to have any  
5928 members:

5929 (i) the last person to have been a member, or the legal representative of that person,  
5930 designates a person to become a member; and

5931 (ii) the designated person consents to become a member effective as of the date the last  
5932 person to have been a member ceased to be a member.

5933 (4) A person may become a member without acquiring a transferable interest and  
5934 without making or being obligated to make a contribution to the limited liability company.

5935 Section 220. Section **48-3-402** is enacted to read:

5936 **48-3-402. Form of contribution.**

5937 A contribution may consist of tangible or intangible property or other benefit to a  
5938 limited liability company, including money, services performed, promissory notes, other  
5939 agreements to contribute money or property, and contracts for services to be performed.

5940 Section 221. Section **48-3-403** is enacted to read:

5941 **48-3-403. Liability for contributions.**

5942 (1) (a) A person's obligation to make a contribution to a limited liability company is  
5943 not excused by the person's death, disability, or other inability to perform personally.

5944 (b) If a person does not make a required contribution, the person or the person's estate  
5945 is obligated to contribute money equal to the value of the part of the contribution which has not  
5946 been made, at the option of the limited liability company.



5947 (c) Notwithstanding the other provisions of this Subsection (1), the operating  
5948 agreement of a limited liability company may allow a person's obligation to make a  
5949 contribution to be excused by the person's death.

5950 (2) A creditor of a limited liability company which extends credit or otherwise acts in  
5951 reliance on an obligation described in Subsection (1) may enforce the obligation.

5952 Section 222. Section **48-3-404** is enacted to read:

5953 **48-3-404. Sharing of and right to distributions before dissolution.**

5954 (1) Except as otherwise provided in the operating agreement, any distributions made by  
5955 a limited liability company before its dissolution and winding up must be in equal shares  
5956 among members and dissociated members, except to the extent necessary to comply with any  
5957 transfer effective under Section 48-3-502 and any charging order in effect under Section  
5958 48-3-503.

5959 (2) A person has a right to a distribution before the dissolution and winding up of a  
5960 limited liability company only if the limited liability company decides to make an interim  
5961 distribution. A person's dissociation does not entitle the person to a distribution.

5962 (3) A person does not have a right to demand or receive a distribution from a limited  
5963 liability company in any form other than money. Except as otherwise provided in Subsection  
5964 48-3-709(3), a limited liability company may distribute an asset in kind if each part of the asset  
5965 is fungible with each other part and each person receives a percentage of the asset equal in  
5966 value to the person's share of distributions.

5967 (4) If a member or transferee becomes entitled to receive a distribution, the member or  
5968 transferee has the status of, and is entitled to all remedies available to, a creditor of the limited  
5969 liability company with respect to the distribution.

5970 Section 223. Section **48-3-405** is enacted to read:

5971 **48-3-405. Limitations on distribution.**

5972 (1) A limited liability company may not make a distribution if after the distribution:

5973 (a) the limited liability company would not be able to pay its debts as they become due  
5974 in the ordinary course of the limited liability company's activities; or

5975 (b) the limited liability company's total assets would be less than the sum of its total  
5976 liabilities plus the amount that would be needed, if the limited liability company were to be  
5977 dissolved, wound up, and terminated at the time of the distribution, to satisfy the preferential

5978 rights upon dissolution, winding up, and termination of members whose preferential rights are  
5979 superior to those of persons receiving the distribution.

5980 (2) A limited liability company may base a determination that a distribution is not  
5981 prohibited under Subsection (1) on financial statements prepared on the basis of accounting  
5982 practices and principles that are reasonable in the circumstances or on a fair valuation or other  
5983 method that is reasonable under the circumstances.

5984 (3) Except as otherwise provided in Subsection (6), the effect of a distribution under  
5985 Subsection (1) is measured:

5986 (a) in the case of a distribution by purchase, redemption, or other acquisition of a  
5987 transferable interest in the limited liability company, as of the date money or other property is  
5988 transferred or debt incurred by the limited liability company; and

5989 (b) in all other cases, as of the date:

5990 (i) the distribution is authorized, if the payment occurs within 120 days after that date;  
5991 or

5992 (ii) the payment is made, if the payment occurs more than 120 days after the  
5993 distribution is authorized.

5994 (4) A limited liability company's indebtedness to a member incurred by reason of a  
5995 distribution made in accordance with this section is at parity with the limited liability  
5996 company's indebtedness to its general, unsecured creditors.

5997 (5) A limited liability company's indebtedness, including indebtedness issued in  
5998 connection with or as part of a distribution, is not a liability for purposes of Subsection (1) if  
5999 the terms of the indebtedness provide that payment of principal and interest are made only to  
6000 the extent that a distribution could be made to members under this section.

6001 (6) If indebtedness is issued as a distribution, each payment of principal or interest on  
6002 the indebtedness is treated as a distribution, the effect of which is measured on the date the  
6003 payment is made.

6004 (7) In Subsection (1), "distribution" does not include amounts constituting reasonable  
6005 compensation for present or past services or reasonable payments made in the ordinary course  
6006 of business under a bona fide retirement plan or other benefits program.

6007 Section 224. Section **48-3-406** is enacted to read:

6008 **48-3-406. Liability for improper distributions.**

6009           (1) Except as otherwise provided in Subsection (2), if a member of a member-managed  
6010 limited liability company or manager of a manager-managed limited liability company consents  
6011 to a distribution made in violation of Section 48-3-405 and in consenting to the distribution  
6012 fails to comply with Section 48-3-409, the member or manager is personally liable to the  
6013 limited liability company for the amount of the distribution that exceeds the amount that could  
6014 have been distributed without the violation of Section 48-3-405.

6015           (2) To the extent the operating agreement of a member-managed limited liability  
6016 company expressly relieves a member of the authority and responsibility to consent to  
6017 distributions and imposes that authority and responsibility on one or more other members, the  
6018 liability stated in Subsection (1) applies to the other members and not the member that the  
6019 operating agreement relieves of authority and responsibility.

6020           (3) A person that receives a distribution knowing that the distribution to that person  
6021 was made in violation of Section 48-3-405 is personally liable to the limited liability company  
6022 but only to the extent that the distribution received by the person exceeded the amount that  
6023 could have been properly paid under Section 48-3-405.

6024           (4) A person against which an action is commenced because the person is liable under  
6025 Subsection (1) may:

6026           (a) implead any other person that is subject to liability under Subsection (1) and seek to  
6027 compel contribution from the person; and

6028           (b) implead any person that received a distribution in violation of Subsection (3) and  
6029 seek to compel contribution from the person in the amount the person received in violation of  
6030 Subsection (3).

6031           (5) An action under this section is barred if not commenced within two years after the  
6032 distribution.

6033           Section 225. Section **48-3-407** is enacted to read:

6034           **48-3-407. Management of limited liability company.**

6035           (1) A limited liability company is a member-managed limited liability company unless  
6036 the operating agreement:

6037           (a) expressly provides that:

6038           (i) the limited liability company is or will be "manager-managed";

6039           (ii) the limited liability company is or will be "managed by managers"; or

6040 (iii) management of the limited liability company is or will be "vested in managers"; or  
6041 (b) includes words of similar import.  
6042 (2) In a member-managed limited liability company, the following rules apply:  
6043 (a) The management and conduct of the limited liability company are vested in the  
6044 members.  
6045 (b) Each member has equal rights in the management and conduct of the limited  
6046 liability company's activities.  
6047 (c) A difference arising among members as to a matter in the ordinary course of the  
6048 activities of the limited liability company shall be decided by a majority of the members.  
6049 (d) An act outside the ordinary course of the activities of the limited liability company  
6050 may be undertaken only with the consent of all members.  
6051 (e) The operating agreement may be amended only with the consent of all members.  
6052 (3) In a manager-managed limited liability company, the following rules apply:  
6053 (a) Except as otherwise expressly provided in this chapter, any matter relating to the  
6054 activities of the limited liability company is decided exclusively by the managers.  
6055 (b) Each manager has equal rights in the management and conduct of the activities of  
6056 the limited liability company.  
6057 (c) A difference arising among managers as to a matter in the ordinary course of the  
6058 activities of the limited liability company shall be decided by a majority of the managers.  
6059 (d) The consent of all members is required to:  
6060 (i) sell, lease, exchange, or otherwise dispose of all, or substantially all, of the limited  
6061 liability company's property, with or without the good will, outside the ordinary course of the  
6062 limited liability company's activities;  
6063 (ii) approve a merger, conversion, or domestication under Part 10, Merger, Conversion,  
6064 and Domestication;  
6065 (iii) undertake any other act outside the ordinary course of the limited liability  
6066 company's activities; and  
6067 (iv) amend the operating agreement.  
6068 (e) A manager may be chosen at any time by the consent of a majority of the members  
6069 and remains a manager until a successor has been chosen, unless the manager at an earlier time  
6070 resigns, is removed, or dies, or, in the case of a manager that is not an individual, terminates.

6071 A manager may be removed at any time by the consent of a majority of the members without  
6072 notice or cause.

6073 (f) A person need not be a member to be a manager, but the dissociation of a member  
6074 that is also a manager removes the person as a manager. If a person that is both a manager and  
6075 a member ceases to be a manager, that cessation does not by itself dissociate the person as a  
6076 member.

6077 (g) A person's ceasing to be a manager does not discharge any debt, obligation, or other  
6078 liability to the limited liability company or members which the person incurred while a  
6079 manager.

6080 (4) An action requiring the consent of members under this chapter may be taken  
6081 without a meeting, and a member may appoint a proxy or other agent to consent or otherwise  
6082 act for the member by signing an appointing record, personally or by the member's agent.

6083 (5) The dissolution of a limited liability company does not affect the applicability of  
6084 this section. However, a person that wrongfully causes dissolution of the limited liability  
6085 company loses the right to participate in management as a member and a manager.

6086 (6) This chapter does not entitle a member to remuneration for services performed for a  
6087 member-managed limited liability company, except for reasonable compensation for services  
6088 rendered in winding up the activities of the limited liability company.

6089 Section 226. Section **48-3-408** is enacted to read:

6090 **48-3-408. Indemnification and insurance.**

6091 (1) A limited liability company shall reimburse for any payment made and indemnify  
6092 for any debt, obligation, or other liability incurred by a member of a member-managed  
6093 company or the manager of a manager-managed company in the course of the member's or  
6094 manager's activities on behalf of the limited liability company, if, in making the payment or  
6095 incurring the debt, obligation, or other liability, the member or manager complied with the  
6096 duties stated in Sections 48-3-405 and 48-3-409.

6097 (2) A limited liability company may purchase and maintain insurance on behalf of a  
6098 member or manager of the limited liability company against liability asserted against or  
6099 incurred by the member or manager in that capacity or arising from that status even if, under  
6100 Subsection 48-3-110(7), the operating agreement could not eliminate or limit the person's  
6101 liability to the limited liability company for the conduct giving rise to the liability.

6102 Section 227. Section **48-3-409** is enacted to read:

6103 **48-3-409. Standards of conduct for members and managers.**

6104 (1) A member of a member-managed limited liability company owes to the limited  
6105 liability company and, subject to Subsection 48-3-901(2), the other members the fiduciary  
6106 duties of loyalty and care stated in Subsections (2) and (3).

6107 (2) The duty of loyalty of a member in a member-managed limited liability company  
6108 includes the duties:

6109 (a) to account to the limited liability company and to hold as trustee for it any property,  
6110 profit, or benefit derived by the member:

6111 (i) in the conduct or winding up of the limited liability company's activities;

6112 (ii) from a use by the member of the limited liability company's property; or

6113 (iii) from the appropriation of a limited liability company opportunity;

6114 (b) to refrain from dealing with the limited liability company in the conduct or winding  
6115 up of the limited liability company's activities as or on behalf of a person having an interest  
6116 adverse to the limited liability company; and

6117 (c) to refrain from competing with the limited liability company in the conduct of the  
6118 limited liability company's activities before the dissolution of the limited liability company.

6119 (3) The duty of care of a member in a member-managed limited liability company in  
6120 the conduct and winding up of the limited liability company's activities is to refrain from  
6121 conduct or inaction that constitutes:

6122 (a) gross negligence;

6123 (b) intentional misconduct; or

6124 (c) an intentional violation of law.

6125 (4) A member in a member-managed limited liability company or a manager-managed  
6126 limited liability company shall discharge the duties under this chapter or under the operating  
6127 agreement and exercise any rights consistently with the contractual obligation of good faith and  
6128 fair dealing.

6129 (5) It is a defense to a claim under Subsection (2)(b) and any comparable claim in  
6130 equity or at common law that the transaction was fair to the limited liability company.

6131 (6) All of the members of a member-managed limited liability company or a  
6132 manager-managed limited liability company may authorize or ratify, after full disclosure of all

6133 material facts, a specific act or transaction that otherwise would violate the duty of loyalty.

6134 (7) In a manager-managed limited liability company, the following rules apply:

6135 (a) Subsections (1), (2), (3), and (5) apply to the manager or managers and not the  
6136 members, except that the operating agreement of a limited liability company may apply the  
6137 duty stated in Subsection (2)(c) to a member.

6138 (b) The duty stated under Subsection (2)(c) continues until winding up is completed.

6139 (c) Subsection (4) applies to the members and managers.

6140 (d) Subsection (6) applies only to the members.

6141 (e) A member does not have any fiduciary duty to the limited liability company or to  
6142 any other member solely by reason of being a member.

6143 Section 228. Section **48-3-410** is enacted to read:

6144 **48-3-410. Right of members, managers, and dissociated members to information.**

6145 (1) In a member-managed limited liability company, the following rules apply:

6146 (a) On reasonable notice, a member may inspect and copy during regular business  
6147 hours, at a reasonable location specified by the limited liability company, any record  
6148 maintained by the limited liability company regarding the limited liability company's activities,  
6149 financial condition, and other circumstances, to the extent the information is material to the  
6150 member's rights and duties under the operating agreement or this chapter.

6151 (b) The limited liability company shall furnish to each member:

6152 (i) without demand, any information concerning the limited liability company's  
6153 activities, financial condition, and other circumstances which the limited liability company  
6154 knows and is material to the proper exercise of the member's rights and duties under the  
6155 operating agreement or this chapter, except to the extent the limited liability company can  
6156 establish that it reasonably believes the member already knows the information; and

6157 (ii) on demand, any other information concerning the limited liability company's  
6158 activities, financial condition, and other circumstances, except to the extent the demand or  
6159 information demanded is unreasonable or otherwise improper under the circumstances.

6160 (c) The duty to furnish information under Subsection (1)(b) also applies to each  
6161 member to the extent the member knows any of the information described in Subsection (1)(b).

6162 (2) In a manager-managed limited liability company, the following rules apply:

6163 (a) The informational rights stated in Subsection (1) and the duty stated in Subsection

6164 (1)(c) apply to the managers and not the members.

6165 (b) During regular business hours and at a reasonable location specified by the limited  
6166 liability company, a member may obtain from the limited liability company and inspect and  
6167 copy full information regarding the activities, financial condition, and other circumstances of  
6168 the limited liability company as is just and reasonable if:

6169 (i) the member seeks the information for a purpose material to the member's interest as  
6170 a member;

6171 (ii) the member makes a demand in a record received by the limited liability company,  
6172 describing with reasonable particularity the information sought and the purpose for seeking the  
6173 information; and

6174 (iii) the information sought is directly connected to the member's purpose.

6175 (c) Within 10 days after receiving a demand pursuant to Subsection (2)(b)(ii), the  
6176 limited liability company shall in a record inform the member that made the demand:

6177 (i) of the information that the limited liability company will provide in response to the  
6178 demand and when and where the limited liability company will provide the information; and

6179 (ii) if the limited liability company declines to provide any demanded information, the  
6180 limited liability company's reasons for declining.

6181 (d) Whenever this chapter or an operating agreement provides for a member to give or  
6182 withhold consent to a matter, before the consent is given or withheld, the limited liability  
6183 company shall, without demand, provide the member with all information that is known to the  
6184 limited liability company and is material to the member's decision.

6185 (3) On 10 days' demand made in a record received by a limited liability company, a  
6186 dissociated member may have access to information to which the person was entitled while a  
6187 member if the information pertains to the period during which the person was a member, the  
6188 person seeks the information in good faith, and the person satisfies the requirements imposed  
6189 on a member by Subsection (2)(b). The limited liability company shall respond to a demand  
6190 made pursuant to this Subsection (3) in the manner provided in Subsection (2)(c).

6191 (4) A limited liability company may charge a person that makes a demand under this  
6192 section the reasonable costs of copying, limited to the costs of labor and material.

6193 (5) A member or dissociated member may exercise rights under this section through an  
6194 agent or, in the case of an individual under legal disability, a legal representative. Any



6195 restriction or condition imposed by the operating agreement or under Subsection (7) applies  
6196 both to the agent or legal representative and the member or dissociated member.

6197 (6) The rights under this section do not extend to a person as transferee.

6198 (7) In addition to any restriction or condition stated in its operating agreement, a  
6199 limited liability company, as a matter within the ordinary course of its activities, may impose  
6200 reasonable restrictions and conditions on access to and use of information to be furnished under  
6201 this section, including designating information confidential and imposing nondisclosure and  
6202 safeguarding obligations on the recipient. In a dispute concerning the reasonableness of a  
6203 restriction under this Subsection (7), the limited liability company has the burden of proving  
6204 reasonableness.

6205 Section 229. Section **48-3-501** is enacted to read:

6206 **Part 5. Transferable Interests and Rights of Transferees and Creditors**

6207 **48-3-501. Nature of transferable interest.**

6208 A transferable interest is personal property.

6209 Section 230. Section **48-3-502** is enacted to read:

6210 **48-3-502. Transfer of transferable interest.**

6211 (1) A transfer, in whole or in part, of a transferable interest:

6212 (a) is permissible;

6213 (b) does not by itself cause a member's dissociation or a dissolution and winding up of  
6214 the limited liability company's activities; and

6215 (c) subject to Section 48-3-504, does not entitle the transferee to:

6216 (i) participate in the management or conduct of the limited liability company's  
6217 activities; or

6218 (ii) except as otherwise provided in Subsection (3), have access to records or other  
6219 information concerning the limited liability company's activities.

6220 (2) A transferee has the right to receive, in accordance with the transfer, distributions to  
6221 which the transferor would otherwise be entitled.

6222 (3) In a dissolution and winding up of a limited liability company, a transferee is  
6223 entitled to an account of the limited liability company's transactions only from the date of  
6224 dissolution.

6225 (4) A transferable interest may be evidenced by a certificate of the interest issued by

6226 the limited liability company in a record, and, subject to this section, the interest represented by  
6227 the certificate may be transferred by a transfer of the certificate.

6228 (5) A limited liability company need not give effect to a transferee's rights under this  
6229 section until the limited liability company has notice of the transfer.

6230 (6) A transfer of a transferable interest in violation of a restriction on transfer contained  
6231 in the operating agreement is ineffective as to a person having notice of the restriction at the  
6232 time of transfer.

6233 (7) Except as otherwise provided in Subsection 48-3-602(4)(b), when a member  
6234 transfers a transferable interest, the transferor retains the rights of a member other than the  
6235 interest in distributions transferred and retains all duties and obligations of a member.

6236 (8) When a member transfers a transferable interest to a person that becomes a member  
6237 with respect to the transferred interest, the transferee is liable for the member's obligations  
6238 under Section 48-3-403 and Subsection 48-3-406(3) known to the transferee when the  
6239 transferee becomes a member.

6240 Section 231. Section **48-3-503** is enacted to read:

6241 **48-3-503. Charging order.**

6242 (1) On application by a judgment creditor of a member or transferee, a court may enter  
6243 a charging order against the transferable interest of the judgment debtor for the unsatisfied  
6244 amount of the judgment. A charging order constitutes a lien on a judgment debtor's  
6245 transferable interest and, after the limited liability company has been served with the charging  
6246 order, requires the limited liability company to pay over to the person to which the charging  
6247 order was issued any distribution that would otherwise be paid to the judgment debtor.

6248 (2) To the extent necessary to effectuate the collection of distributions pursuant to a  
6249 charging order in effect under Subsection (1), the court may:

6250 (a) appoint a receiver of the distributions subject to the charging order, with the power  
6251 to make all inquiries the judgment debtor might have made; and

6252 (b) make all other orders necessary to give effect to the charging order.

6253 (3) Upon a showing that distributions under a charging order will not pay the judgment  
6254 debt within a reasonable time, the court may foreclose the lien and order the sale of the  
6255 transferable interest. The purchaser at the foreclosure sale only obtains the transferable  
6256 interest, does not thereby become a member, and is subject to Section 48-3-502.

6257 (4) Notwithstanding Subsection (3), if the member whose interest is charged under this  
6258 section is the sole member of the company when the charging order is entered:

6259 (a) the purchaser at a foreclosure sale acquires all rights of the member, including  
6260 voting rights; and

6261 (b) the member is considered to have consented to the admission of the purchaser as a  
6262 member of the company.

6263 (5) At any time before foreclosure under Subsection (3), the member or transferee  
6264 whose transferable interest is subject to a charging order under Subsection (1) may extinguish  
6265 the charging order by satisfying the judgment and filing a certified copy of the satisfaction with  
6266 the court that issued the charging order.

6267 (6) At any time before foreclosure under Subsection (3), a limited liability company or  
6268 one or more members whose transferable interests are not subject to the charging order may  
6269 pay to the judgment creditor the full amount due under the judgment and thereby succeed to the  
6270 rights of the judgment creditor, including the charging order.

6271 (7) This chapter does not deprive any member or transferee of the benefit of any  
6272 exemption laws applicable to the member's or transferee's transferable interest.

6273 (8) This section provides the exclusive remedy by which a person seeking to enforce a  
6274 judgment against a member or transferee may, in the capacity of judgment creditor, satisfy the  
6275 judgment from the judgment debtor's transferable interest.

6276 Section 232. Section **48-3-504** is enacted to read:

6277 **48-3-504. Power of personal representative of deceased member.**

6278 If a member dies, the deceased member's personal representative or other legal  
6279 representative may exercise the rights of a transferee provided in Subsection 48-3-502(3) and,  
6280 for the purposes of settling the estate, the rights of a current member under Section 48-3-410.

6281 Section 233. Section **48-3-601** is enacted to read:

6282 **Part 6. Member's Dissociation**

6283 **48-3-601. Member's power to dissociate -- Wrongful dissociation.**

6284 (1) A person has the power to dissociate as a member at any time, rightfully or  
6285 wrongfully, by withdrawing as a member by express will under Subsection 48-3-602(1).

6286 (2) A person's dissociation from a limited liability company is wrongful only if the  
6287 dissociation:

6288 (a) is in breach of an express provision of the operating agreement; or  
6289 (b) occurs before the termination of the limited liability company and:  
6290 (i) the person withdraws as a member by express will;  
6291 (ii) the person is expelled as a member by judicial order under Subsection 48-3-602(5);  
6292 (iii) the person is dissociated under Subsection 48-3-602(7)(a) by becoming a debtor in  
6293 bankruptcy; or

6294 (iv) in the case of a person that is not a trust other than a business trust, an estate, or an  
6295 individual, the person is expelled or otherwise dissociated as a member because it willfully  
6296 dissolved or terminated.

6297 (3) A person that wrongfully dissociates as a member is liable to the limited liability  
6298 company and, subject to Section 48-3-901, to the other members for damages caused by the  
6299 dissociation. The liability is in addition to any other debt, obligation, or other liability of the  
6300 member to the limited liability company or the other members.

6301 Section 234. Section **48-3-602** is enacted to read:

6302 **48-3-602. Events causing dissociation.**

6303 A person is dissociated as a member from a limited liability company when:

6304 (1) the limited liability company has notice of the person's express will to withdraw as  
6305 a member, but, if the person specified a withdrawal date later than the date the limited liability  
6306 company had notice, on that later date;

6307 (2) an event stated in the operating agreement as causing the person's dissociation  
6308 occurs;

6309 (3) the person is expelled as a member pursuant to the operating agreement;

6310 (4) the person is expelled as a member by the unanimous consent of the other members  
6311 if:

6312 (a) it is unlawful to carry on the limited liability company's activities with the person as  
6313 a member;

6314 (b) there has been a transfer of all of the person's transferable interest in the limited  
6315 liability company, other than:

6316 (i) a transfer for security purposes; or

6317 (ii) a charging order in effect under Section 48-3-503 which has not been foreclosed;

6318 (c) the person is a corporation and, within 90 days after the limited liability company

6319 notifies the person that it will be expelled as a member because the person has filed a  
6320 certificate of dissolution or the equivalent, its charter has been revoked, or its right to conduct  
6321 business has been suspended by the jurisdiction of its incorporation, the certificate of  
6322 dissolution has not been revoked or its charter or right to conduct business has not been  
6323 reinstated; or

6324 (d) the person is a limited liability company or partnership that has been dissolved and  
6325 whose business is being wound up;

6326 (5) on application by the limited liability company, the person is expelled as a member  
6327 by judicial order because the person:

6328 (a) has engaged, or is engaging, in wrongful conduct that has adversely and materially  
6329 affected, or will adversely and materially affect, the limited liability company's activities;

6330 (b) has willfully or persistently committed, or is willfully and persistently committing,  
6331 a material breach of the operating agreement or the person's duties or obligations under Section  
6332 48-3-409; or

6333 (c) has engaged in, or is engaging, in conduct relating to the limited liability company's  
6334 activities which makes it not reasonably practicable to carry on the activities with the person as  
6335 a member;

6336 (6) in the case of a person who is an individual:

6337 (a) the person dies; or

6338 (b) in a member-managed limited liability company:

6339 (i) a guardian or general conservator for the person is appointed; or

6340 (ii) there is a judicial order that the person has otherwise become incapable of  
6341 performing the person's duties as a member under this chapter or the operating agreement;

6342 (7) in a member-managed limited liability company, the person:

6343 (a) becomes a debtor in bankruptcy;

6344 (b) executes an assignment for the benefit of creditors; or

6345 (c) seeks, consents to, or acquiesces in the appointment of a trustee, receiver, or  
6346 liquidator of the person or of all or substantially all of the person's property;

6347 (8) in the case of a person that is a trust or is acting as a member by virtue of being a  
6348 trustee of a trust, the trust's entire transferable interest in the limited liability company is  
6349 distributed;

6350 (9) in the case of a person that is an estate or is acting as a member by virtue of being a  
6351 personal representative of an estate, the estate's entire transferable interest in the limited  
6352 liability company is distributed;

6353 (10) in the case of a member that is not an individual, partnership, limited liability  
6354 company, corporation, trust, or estate, the termination of the member;

6355 (11) the limited liability company participates in a merger under Part 10, Merger,  
6356 Conversion, and Domestication, if:

6357 (a) the limited liability company is not the surviving entity; or

6358 (b) otherwise as a result of the merger, the person ceases to be a member;

6359 (12) the limited liability company participates in a conversion under Part 10, Merger,  
6360 Conversion, and Domestication;

6361 (13) the limited liability company participates in a domestication under Part 10,  
6362 Merger, Conversion, and Domestication, if, as a result of the domestication, the person ceases  
6363 to be a member; or

6364 (14) the limited liability company terminates.

6365 Section 235. Section **48-3-603** is enacted to read:

6366 **48-3-603. Effect of person's dissociation as member.**

6367 (1) When a person is dissociated as a member of a limited liability company:

6368 (a) the person's right to participate as a member in the management and conduct of the  
6369 limited liability company's activities terminates;

6370 (b) if the limited liability company is member-managed, the person's fiduciary duties as  
6371 a member end with regard to matters arising and events occurring after the person's  
6372 dissociation; and

6373 (c) subject to Section 48-3-504 and Part 10, Merger, Conversion, and Domestication,  
6374 any transferable interest owned by the person immediately before dissociation in the person's  
6375 capacity as a member is owned by the person solely as a transferee.

6376 (2) A person's dissociation as a member of a limited liability company does not of itself  
6377 discharge the person from any debt, obligation, or other liability to the limited liability  
6378 company or the other members which the person incurred while a member.

6379 Section 236. Section **48-3-701** is enacted to read:

6380 **Part 7. Dissolution and Winding Up**

6381 **48-3-701. Events causing dissolution.**

6382 A limited liability company is dissolved, and its activities must be wound up, upon the  
6383 occurrence of any of the following:

6384 (1) an event or circumstance that the operating agreement states causes dissolution;

6385 (2) the consent of all the members;

6386 (3) the passage of 90 consecutive days during which the limited liability company has  
6387 no members;

6388 (4) on application by a member, the entry by a district court of an order dissolving the  
6389 limited liability company on the grounds that:

6390 (a) the conduct of all or substantially all of the limited liability company's activities is  
6391 unlawful; or

6392 (b) it is not reasonably practicable to carry on the limited liability company's activities  
6393 in conformity with the certificate of organization and the operating agreement; or

6394 (5) on application by a member, the entry by a district court of an order dissolving the  
6395 limited liability company on the grounds that the managers or those in control of the limited  
6396 liability company have acted, are acting, or will act in a manner that is illegal, oppressive, or  
6397 fraudulent.

6398 Section 237. Section **48-3-702** is enacted to read:

6399 **48-3-702. Election to purchase in lieu of dissolution.**

6400 (1) In a proceeding under Subsection 48-3-701(5) to dissolve a limited liability  
6401 company, the limited liability company may elect, or if it fails to elect, one or more members  
6402 may elect to purchase the interest in the limited liability company owned by the petitioning  
6403 member at the fair market value of the interest, determined as provided in this section. An  
6404 election pursuant to this section is irrevocable unless the court determines that it is equitable to  
6405 set aside or modify the election.

6406 (2) (a) An election to purchase pursuant to this section may be filed with the court at  
6407 any time within 90 days after the filing of the petition in a proceeding under Subsection  
6408 48-3-701(5) or at any later time as the court in its discretion may allow. If the limited liability  
6409 company files an election with the court within the 90-day period, or at any later time allowed  
6410 by the court, to purchase the interest in the limited liability company owned by the petitioning  
6411 member, the limited liability company shall purchase the interest in the manner provided in this

6412 section.

6413 (b) If the limited liability company does not file an election with the court within the  
6414 time period, but an election to purchase the interest in the limited liability company owned by  
6415 the petitioning member is filed by one or more members within the time period, the limited  
6416 liability company shall, within 10 days after the later of the end of the time period allowed for  
6417 the filing of elections to purchase under this section or notification from the court of an election  
6418 by members to purchase the interest in the limited liability company owned by the petitioning  
6419 member as provided in this section, give written notice of the election to purchase to all  
6420 members of the limited liability company, other than the petitioning member. The notice shall  
6421 state the name and the percentage interest in the limited liability company owned by the  
6422 petitioning member and the name and the percentage interest in the limited liability company  
6423 owned by each electing member. The notice shall advise any recipients who have not  
6424 participated in the election of their right to join in the election to purchase the interest in the  
6425 limited liability company in accordance with this section, and of the date by which any notice  
6426 of intent to participate must be filed with the court.

6427 (c) Members who wish to participate in the purchase of the interest in the limited  
6428 liability company of the petitioning member must file notice of their intention to join in the  
6429 purchase by electing members, no later than 30 days after the effective date of the limited  
6430 liability company's notice of their right to join in the election to purchase.

6431 (d) All members who have filed with the court an election or notice of their intention to  
6432 participate in the election to purchase the interest in the limited liability company of the  
6433 petitioning member thereby become irrevocably obligated to participate in the purchase of the  
6434 interest from the petitioning member upon the terms and conditions of this section, unless the  
6435 court otherwise directs.

6436 (e) After an election has been filed by the limited liability company or one or more  
6437 members, the proceedings under Subsection 48-3-701(5) may not be discontinued or settled,  
6438 nor may the petitioning member sell or otherwise dispose of the petitioning member's interest  
6439 in the limited liability company, unless the court determines that it would be equitable to the  
6440 limited liability company and the members, other than the petitioning member, to permit any  
6441 discontinuance, settlement, sale, or other disposition.

6442 (3) If, within 60 days after the earlier of the limited liability company filing of an



6443 election to purchase the interest in the limited liability company of the petitioning member or  
6444 the limited liability company's mailing of a notice to its members of the filing of an election by  
6445 the members to purchase the interest in the limited liability company of the petitioning  
6446 member, the petitioning member and electing limited liability company or members reach  
6447 agreement as to the fair market value and terms of the purchase of the petitioning member's  
6448 interest, the court shall enter an order directing the purchase of the petitioning member's  
6449 interest, upon the terms and conditions agreed to by the parties.

6450 (4) If the parties are unable to reach an agreement as provided for in Subsection (3),  
6451 upon application of any party, the court shall stay the proceedings under Subsection  
6452 48-3-701(5) and determine the fair market value of the petitioning member's interest in the  
6453 limited liability company as of the day before the date on which the petition under Subsection  
6454 48-3-701(5) was filed or as of any other date the court determines to be appropriate under the  
6455 circumstances and based on the factors the court determines to be appropriate.

6456 (5) (a) Upon determining the fair market value of the interest in the limited liability  
6457 company of the petitioning member, the court shall enter an order directing the purchase of the  
6458 interest in the limited liability company upon terms and conditions the court determines to be  
6459 appropriate. The terms and conditions may include payment of the purchase price in  
6460 installments, where necessary in the interest of equity, provision for security to assure payment  
6461 of the purchase price and any additional costs, fees, and expenses awarded by the court, and an  
6462 allocation of the interest in the limited liability company among members if the interest in the  
6463 limited liability company is to be purchased by members.

6464 (b) In allocating the petitioning member's interest in the limited liability company  
6465 among holders of different classes of members, the court shall attempt to preserve the existing  
6466 distribution of voting rights among member classes to the extent practicable. The court may  
6467 direct that holders of a specific class or classes may not participate in the purchase. The court  
6468 may not require any electing member to purchase more of the interest in the limited liability  
6469 company owned by the petitioning member than the percentage interest that the purchasing  
6470 member may have set forth in the purchasing member's election or notice of intent to  
6471 participate filed with the court.

6472 (c) Interest may be allowed at the rate and from the date determined by the court to be  
6473 equitable. However, if the court finds that the refusal of the petitioning member to accept an

6474 offer of payment was arbitrary or otherwise not in good faith, interest may not be allowed.

6475 (d) If the court finds that the petitioning member had probable ground for relief under  
6476 Subsection 48-3-701(5), the court may award to the petitioning member reasonable fees and  
6477 expenses of counsel and experts employed by the petitioning member.

6478 (6) Upon entry of an order under Subsection (3) or (5), the court shall dismiss the  
6479 petition to dissolve the limited liability company under Subsection 48-3-701(5) and the  
6480 petitioning member shall no longer have any rights or status as a member of the limited liability  
6481 company, except the right to receive the amounts awarded to him by the court. The award is  
6482 enforceable in the same manner as any other judgment.

6483 (7) (a) The purchase ordered pursuant to Subsection (5) shall be made within 10 days  
6484 after the date the order becomes final, unless before that time the limited liability company files  
6485 with the court a notice of its intention to file a certificate of dissolution. The certificate of  
6486 dissolution must then be adopted and filed within 60 days after notice.

6487 (b) Upon filing of articles of dissolution, the limited liability company is dissolved and  
6488 shall be wound up pursuant to Section 48-3-703, and the order entered pursuant to Subsection  
6489 (5) is no longer of any force or effect. However, the court may award the petitioning member  
6490 reasonable fees and expenses in accordance with Subsection (5)(d). The petitioning member  
6491 may continue to pursue any claims previously asserted on behalf of the limited liability  
6492 company.

6493 (8) Any payment by the limited liability company pursuant to an order under  
6494 Subsection (3) or (5), other than an award of fees and expenses pursuant to Subsection (5)(d),  
6495 is subject to the provisions of Sections 48-3-405 and 48-3-406.

6496 Section 238. Section **48-3-703** is enacted to read:

6497 **48-3-703. Winding up.**

6498 (1) A dissolved limited liability company shall wind up its activities, and the limited  
6499 liability company continues after dissolution only for the purpose of winding up.

6500 (2) In winding up its activities, a limited liability company:

6501 (a) shall discharge the limited liability company's debts, obligations, or other liabilities,  
6502 settle and close the limited liability company's activities, and marshal and distribute the assets  
6503 of the limited liability company; and

6504 (b) may:

- 6505 (i) deliver to the division for filing a statement of dissolution stating the name of the  
6506 limited liability company and that the limited liability company is dissolved;
- 6507 (ii) preserve the limited liability company activities and property as a going concern for  
6508 a reasonable time;
- 6509 (iii) prosecute and defend actions and proceedings, whether civil, criminal, or  
6510 administrative;
- 6511 (iv) transfer the limited liability company's property;
- 6512 (v) settle disputes by mediation or arbitration;
- 6513 (vi) deliver to the division for filing a statement of termination stating the name of the  
6514 limited liability company and that the limited liability company is terminated; and
- 6515 (vii) perform other acts necessary or appropriate to the winding up.
- 6516 (3) If a dissolved limited liability company has no members, the legal representative of  
6517 the last person to have been a member may wind up the activities of the limited liability  
6518 company. If the person does so, the person has the powers of a sole manager under Subsection  
6519 48-3-407(3) and is deemed to be a manager for the purposes of Subsection 48-3-304(1)(b).
- 6520 (4) If the legal representative under Subsection (3) declines or fails to wind up the  
6521 limited liability company's activities, a person may be appointed to do so by the consent of  
6522 transferees owning a majority of the rights to receive distributions as transferees at the time the  
6523 consent is to be effective. A person appointed under this Subsection (4):
- 6524 (a) has the powers of a sole manager under Subsection 48-3-407(3) and is deemed to  
6525 be a manager for the purposes of Subsection 48-3-304(1)(b); and
- 6526 (b) shall promptly deliver to the division for filing an amendment to the limited  
6527 liability company's certificate of organization to:
- 6528 (i) state that the limited liability company has no members;
- 6529 (ii) state that the person has been appointed pursuant to this Subsection (4) to wind up  
6530 the limited liability company; and
- 6531 (c) provide the street and mailing addresses of the person.
- 6532 (5) A district court may order judicial supervision of the winding up of a dissolved  
6533 limited liability company, including the appointment of a person to wind up the limited liability  
6534 company's activities:
- 6535 (a) on application of a member, if the applicant establishes good cause;

6536 (b) on the application of a transferee, if:  
6537 (i) the limited liability company does not have any members;  
6538 (ii) the legal representative of the last person to have been a member declines or fails to  
6539 wind up the limited liability company's activities; and  
6540 (iii) within a reasonable time following the dissolution a person has not been appointed  
6541 pursuant to Subsection (4); or  
6542 (c) in connection with a proceeding under Subsection 48-3-701(4) or (5).  
6543 Section 239. Section **48-3-704** is enacted to read:  
6544 **48-3-704. Known claims against dissolved limited liability company.**  
6545 (1) A dissolved limited liability company in winding up may dispose of the known  
6546 claims against it by following the procedures described in this section.  
6547 (2) A limited liability company in winding up electing to dispose of known claims  
6548 pursuant to this section may give written notice of the limited liability company's dissolution  
6549 to known claimants at any time after the effective date of the dissolution. The written notice  
6550 must:  
6551 (a) describe the information that must be included in a claim;  
6552 (b) provide an address to which written notice of any claim must be given to the  
6553 limited liability company;  
6554 (c) state the deadline, which may not be fewer than 120 days after the effective date of  
6555 the notice, by which the dissolved limited liability company must receive the claim; and  
6556 (d) state that, unless sooner barred by another state statute limiting actions, the claim  
6557 will be barred if not received by the deadline.  
6558 (3) Unless sooner barred by another statute limiting actions, a claim against the  
6559 dissolved limited liability company is barred if:  
6560 (a) a claimant was given notice under Subsection (2) and the claim is not received by  
6561 the dissolved limited liability company by the deadline; or  
6562 (b) the dissolved limited liability company delivers to the claimant written notice of  
6563 rejection of the claim within 90 days after receipt of the claim and the claimant whose claim  
6564 was rejected by the dissolved limited liability company does not commence a proceeding to  
6565 enforce the claim within 90 days after the effective date of the rejection notice.  
6566 (4) Claims which are not rejected by the dissolved limited liability company in writing

6567 within 90 days after receipt of the claim by the dissolved limited liability company shall be  
6568 considered approved.

6569 (5) The failure of the dissolved limited liability company to give notice to any known  
6570 claimant pursuant to Subsection (2) does not affect the disposition under this section of any  
6571 claim held by any other known claimant.

6572 (6) This section does not apply to a claim based on an event occurring after the  
6573 effective date of dissolution or a liability that on that date is contingent.

6574 Section 240. Section **48-3-705** is enacted to read:

6575 **48-3-705. Other claims against dissolved limited liability company.**

6576 (1) A dissolved limited liability company may publish notice of its dissolution and  
6577 request persons having claims against the limited liability company to present them in  
6578 accordance with the notice.

6579 (2) The notice authorized by Subsection (1) must:

6580 (a) be published:

6581 (i) at least once in a newspaper of general circulation in the county in this state in  
6582 which the dissolved limited liability company's principal office is located or, if it has none in  
6583 this state, in Salt Lake County; and

6584 (ii) in accordance with Section 45-1-101;

6585 (b) describe the information required to be contained in a claim and provide a mailing  
6586 address to which the claim is to be sent; and

6587 (c) state that a claim against the limited liability company is barred unless an action to  
6588 enforce the claim is commenced within five years after publication of the notice.

6589 (3) If a dissolved limited liability company publishes a notice in accordance with  
6590 Subsection (2), unless the claimant commences an action to enforce the claim against the  
6591 limited liability company within five years after the publication date of the notice, the claim of  
6592 each of the following claimants is barred:

6593 (a) a claimant that did not receive notice in a record under Section 48-3-704;

6594 (b) a claimant whose claim was timely sent to the limited liability company but not  
6595 acted on; and

6596 (c) a claimant whose claim is contingent at, or based on an event occurring after, the  
6597 effective date of dissolution.

6598 (4) A claim not barred under this section may be enforced:

6599 (a) against a dissolved limited liability company, to the extent of its undistributed  
6600 assets; and

6601 (b) if assets of the limited liability company have been distributed after dissolution,  
6602 against a member or transferee to the extent of that person's proportionate share of the claim or  
6603 of the assets distributed to the member or transferee after dissolution, whichever is less, but a  
6604 person's total liability for all claims under this Subsection (4)(b) does not exceed the total  
6605 amount of assets distributed to the person after dissolution.

6606 Section 241. Section **48-3-706** is enacted to read:

6607 **48-3-706. Administrative dissolution.**

6608 (1) The division may dissolve a limited liability company administratively if the  
6609 limited liability company does not:

6610 (a) pay, within 60 days after the due date, any fee, tax, or penalty due to the division  
6611 under this chapter or law other than this chapter; or

6612 (b) deliver, within 60 days after the due date, its annual report to the division.

6613 (2) If the division determines that a ground exists for administratively dissolving a  
6614 limited liability company, the division shall file a record of the determination and serve the  
6615 limited liability company with a copy of the filed record.

6616 (3) If within 60 days after service of the copy pursuant to Subsection (2) a limited  
6617 liability company does not correct each ground for dissolution or demonstrate to the reasonable  
6618 satisfaction of the division that each ground determined by the division does not exist, the  
6619 division shall dissolve the limited liability company administratively by preparing, signing, and  
6620 filing a declaration of dissolution that states the grounds for dissolution. The division shall  
6621 serve the limited liability company with a copy of the filed declaration.

6622 (4) A limited liability company that has been administratively dissolved continues in  
6623 existence but, subject to Section 48-3-707, may carry on only activities necessary to wind up its  
6624 activities and liquidate its assets under Sections 48-3-703 and 48-3-709 and to notify claimants  
6625 under Sections 48-3-704 and 48-3-705.

6626 (5) The administrative dissolution of a limited liability company does not terminate the  
6627 authority of its agent for service of process.

6628 Section 242. Section **48-3-707** is enacted to read:

6629 **48-3-707. Reinstatement following administrative dissolution.**

6630 (1) A limited liability company that has been administratively dissolved may apply to  
6631 the division for reinstatement within two years after the effective date of dissolution. The  
6632 application must be delivered to the division for filing and state:

6633 (a) the name of the limited liability company and the effective date of its dissolution;

6634 (b) that the grounds for dissolution did not exist or have been eliminated; and

6635 (c) that the limited liability company's name satisfies the requirements of Section  
6636 48-3-108.

6637 (2) If the division determines that an application under Subsection (1) contains the  
6638 required information and that the information is correct, the division shall prepare a declaration  
6639 of reinstatement that states this determination, sign and file the original of the declaration of  
6640 reinstatement, and serve the limited liability company with a copy.

6641 (3) When a reinstatement becomes effective, it relates back to and takes effect as of the  
6642 effective date of the administrative dissolution and the limited liability company may resume  
6643 its activities as if the dissolution had not occurred.

6644 Section 243. Section **48-3-708** is enacted to read:

6645 **48-3-708. Appeal from rejection of reinstatement.**

6646 (1) If the division rejects a limited liability company's application for reinstatement  
6647 following administrative dissolution, the division shall prepare, sign, and file a notice that  
6648 explains the reason for rejection and serve the limited liability company with a copy of the  
6649 notice.

6650 (2) Within 30 days after service of a notice of rejection of reinstatement under  
6651 Subsection (1), a limited liability company may appeal from the rejection by petitioning a court  
6652 of appropriate jurisdiction to set aside the dissolution. The petition must be served on the  
6653 division and contain a copy of the division's declaration of dissolution, the limited liability  
6654 company's application for reinstatement, and the division's notice of rejection.

6655 (3) The court may order the division to reinstate a dissolved limited liability company  
6656 or take other action the court considers appropriate.

6657 Section 244. Section **48-3-709** is enacted to read:

6658 **48-3-709. Distribution of assets in winding up limited liability company's**  
6659 **activities.**

6660 (1) In winding up its activities, a limited liability company must apply its assets to  
6661 discharge its obligations to creditors, including members that are creditors.

6662 (2) After a limited liability company complies with Subsection (1), any surplus must be  
6663 distributed in the following order, subject to any charging order in effect under Section  
6664 48-3-503:

6665 (a) to each person owning a transferable interest that reflects contributions made by a  
6666 member and not previously returned, an amount equal to the value of the unreturned  
6667 contributions; and

6668 (b) in equal shares among members and dissociated members, except to the extent  
6669 necessary to comply with any transfer effective under Section 48-3-502.

6670 (3) If a limited liability company does not have sufficient surplus to comply with  
6671 Subsection (2)(a), any surplus must be distributed among the owners of transferable interests in  
6672 proportion to the value of their respective unreturned contributions.

6673 (4) All distributions made under Subsections (2) and (3) must be paid in money.

6674 Section 245. Section **48-3-801** is enacted to read:

6675 **Part 8. Foreign Limited Liability Companies**

6676 **48-3-801. Governing law.**

6677 (1) The law of the state or other jurisdiction under which a foreign limited liability  
6678 company is formed governs:

6679 (a) the internal affairs of the limited liability company; and

6680 (b) the liability of a member as member and a manager as manager for the debts,  
6681 obligations, or other liabilities of the limited liability company.

6682 (2) A foreign limited liability company may not be denied a certificate of authority by  
6683 reason of any difference between the law of the jurisdiction under which the limited liability  
6684 company is formed and the law of this state.

6685 (3) A certificate of authority does not authorize a foreign limited liability company to  
6686 engage in any business or exercise any power that a limited liability company may not engage  
6687 in or exercise in this state.

6688 (4) (a) The division may permit a tribal limited liability company to apply for authority  
6689 to transact business in the state in the same manner as a foreign company formed in another  
6690 state.



6691 (b) If a tribal limited liability company elects to apply for authority to transact business  
6692 in the state, for purposes of this chapter, the tribal limited liability company shall be treated in  
6693 the same manner as a foreign company formed under the laws of another state.

6694 Section 246. Section **48-3-802** is enacted to read:

6695 **48-3-802. Application for certificate of authority.**

6696 (1) A foreign limited liability company may apply for a certificate of authority to  
6697 transact business in this state by delivering an application to the division for filing. The  
6698 application must state:

6699 (a) the name of the limited liability company and, if the name does not comply with  
6700 Section 48-3-108, an alternate name adopted pursuant to Subsection 48-3-805(1);

6701 (b) the name of the state or other jurisdiction under whose law the limited liability  
6702 company is formed;

6703 (c) the street and mailing addresses of the limited liability company's principal office  
6704 and, if the law of the jurisdiction under which the limited liability company is formed requires  
6705 the limited liability company to maintain an office in that jurisdiction, the street and mailing  
6706 addresses of the required office; and

6707 (d) the information required by Subsection 16-17-203(1).

6708 (2) A foreign limited liability company shall deliver with a completed application  
6709 under Subsection (1) a certificate of existence or a record of similar import signed by the  
6710 division or other official having custody of the limited liability company's publicly filed records  
6711 in the state or other jurisdiction under whose law the limited liability company is formed.

6712 Section 247. Section **48-3-803** is enacted to read:

6713 **48-3-803. Activities not constituting transacting business.**

6714 (1) Activities of a foreign limited liability company which do not constitute transacting  
6715 business in this state within the meaning of this part include:

6716 (a) maintaining, defending, or settling an action or proceeding;

6717 (b) carrying on any activity concerning its internal affairs, including holding meetings  
6718 of its members or managers;

6719 (c) maintaining accounts in financial institutions;

6720 (d) maintaining offices or agencies for the transfer, exchange, and registration of the  
6721 limited liability company's own securities or maintaining trustees or depositories with respect

6722 to those securities;

6723 (e) selling through independent contractors;

6724 (f) soliciting or obtaining orders, whether by mail or electronic means or through  
6725 employees or agents or otherwise, if the orders require acceptance outside this state before they  
6726 become contracts;

6727 (g) creating or acquiring indebtedness, mortgages, or security interests in real or  
6728 personal property;

6729 (h) securing or collecting debts or enforcing mortgages or other security interests in  
6730 property securing the debts and holding, protecting, or maintaining property so acquired;

6731 (i) conducting an isolated transaction that is completed within 30 days and is not in the  
6732 course of similar transactions; and

6733 (j) transacting business in interstate commerce.

6734 (2) For purposes of this part, the ownership in this state of income-producing real  
6735 property or tangible personal property, other than property excluded under Subsection (1),  
6736 constitutes transacting business in this state.

6737 (3) This section does not apply in determining the contacts or activities that may  
6738 subject a foreign limited liability company to service of process, taxation, or regulation under  
6739 law of this state other than this chapter.

6740 Section 248. Section **48-3-804** is enacted to read:

6741 **48-3-804. Filing of certificate of authority.**

6742 Unless the division determines that an application for a certificate of authority does not  
6743 comply with the filing requirements of this chapter, the division, upon payment of all filing  
6744 fees, shall file the application of a foreign limited liability company, prepare, sign, and file a  
6745 certificate of authority to transact business in this state, and send a copy of the filed certificate,  
6746 together with a receipt for the fees, to the limited liability company or its representative.

6747 Section 249. Section **48-3-805** is enacted to read:

6748 **48-3-805. Noncomplying name of foreign limited liability company.**

6749 (1) A foreign limited liability company whose name does not comply with Section  
6750 48-3-108 may not obtain a certificate of authority until it adopts, for the purpose of transacting  
6751 business in this state, an alternate name that complies with Section 48-3-108. A foreign limited  
6752 liability company that adopts an alternate name under this Subsection (1) and obtains a

6753 certificate of authority with the alternate name need not comply with Title 42, Chapter 2,  
6754 Conducting Business Under Assumed Name. After obtaining a certificate of authority with an  
6755 alternate name, a foreign limited liability company shall transact business in this state under the  
6756 alternate name unless the limited liability company is authorized under Title 42, Chapter 2,  
6757 Conducting Business Under Assumed Name, to transact business in this state under another  
6758 name.

6759 (2) If a foreign limited liability company authorized to transact business in this state  
6760 changes its name to one that does not comply with Section 48-3-108, it may not thereafter  
6761 transact business in this state until it complies with Subsection (1) and obtains an amended  
6762 certificate of authority.

6763 Section 250. Section **48-3-806** is enacted to read:

6764 **48-3-806. Revocation of certificate of authority.**

6765 (1) A certificate of authority of a foreign limited liability company to transact business  
6766 in this state may be revoked by the division in the manner provided in Subsections (2) and (3)  
6767 if the limited liability company does not:

6768 (a) pay, within 60 days after the due date, any fee, tax, or penalty due to the division  
6769 under this chapter or law other than this chapter;

6770 (b) deliver, within 60 days after the due date, its annual report required under Section  
6771 48-3-209;

6772 (c) appoint and maintain an agent for service of process as required by Subsection  
6773 16-17-203(1); or

6774 (d) deliver for filing a statement of a change under Section 16-17-206 within 30 days  
6775 after a change has occurred in the name or address of the agent.

6776 (2) To revoke a certificate of authority of a foreign limited liability company, the  
6777 division must prepare, sign, and file a notice of revocation and send a copy to the limited  
6778 liability company's agent for service of process in this state, or if the limited liability company  
6779 does not appoint and maintain a proper agent in this state, to the limited liability company's  
6780 principal office. The notice must state:

6781 (a) the revocation's effective date, which must be at least 60 days after the date the  
6782 division sends the copy; and

6783 (b) the grounds for revocation under Subsection (1).

6784           (3) The authority of a foreign limited liability company to transact business in this state  
6785 ceases on the effective date of the notice of revocation unless before that date the limited  
6786 liability company cures each ground for revocation stated in the notice filed under Subsection  
6787 (2). If the limited liability company cures each ground, the division shall file a record so  
6788 stating.

6789           Section 251. Section **48-3-807** is enacted to read:

6790           **48-3-807. Cancellation of certificate of authority.**

6791           To cancel its certificate of authority to transact business in this state, a foreign limited  
6792 liability company must deliver to the division for filing a notice of cancellation stating the  
6793 name of the limited liability company and that the limited liability company desires to cancel  
6794 its certificate of authority. The certificate is canceled when the notice becomes effective.

6795           Section 252. Section **48-3-808** is enacted to read:

6796           **48-3-808. Effect of failure to have certificate of authority.**

6797           (1) A foreign limited liability company transacting business in this state may not  
6798 maintain an action or proceeding in this state unless it has a certificate of authority to transact  
6799 business in this state.

6800           (2) The failure of a foreign limited liability company to have a certificate of authority  
6801 to transact business in this state does not impair the validity of a contract or act of the limited  
6802 liability company or prevent the limited liability company from defending an action or  
6803 proceeding in this state.

6804           (3) A member or manager of a foreign limited liability company is not liable for the  
6805 debts, obligations, or other liabilities of the limited liability company solely because the limited  
6806 liability company transacted business in this state without a certificate of authority.

6807           (4) If a foreign limited liability company transacts business in this state without a  
6808 certificate of authority or cancels its certificate of authority, service of process for rights of  
6809 action arising out of the transaction of business in this state shall be served in accordance with  
6810 Section 16-17-301.

6811           Section 253. Section **48-3-809** is enacted to read:

6812           **48-3-809. Action by attorney general.**

6813           The attorney general may maintain an action to enjoin a foreign limited liability  
6814 company from transacting business in this state in violation of this part.

6815 Section 254. Section **48-3-901** is enacted to read:

6816 **Part 9. Actions by Members**

6817 **48-3-901. Direct action by member.**

6818 (1) Subject to Subsection (2), a member may maintain a direct action against another  
6819 member, a manager, or the limited liability company to enforce the member's rights and  
6820 otherwise protect the member's interests, including rights and interests under the operating  
6821 agreement or this chapter or arising independently of the membership relationship.

6822 (2) A member maintaining a direct action under this section must plead and prove an  
6823 actual or threatened injury that is not solely the result of an injury suffered or threatened to be  
6824 suffered by the limited liability company.

6825 Section 255. Section **48-3-902** is enacted to read:

6826 **48-3-902. Derivative action.**

6827 A member may maintain a derivative action to enforce a right of a limited liability  
6828 company if:

6829 (1) the member first makes a demand on the other members in a member-managed  
6830 limited liability company, or the managers of a manager-managed limited liability company,  
6831 requesting that they cause the limited liability company to bring an action to enforce the right,  
6832 and the managers or other members do not bring the action within a reasonable time; or

6833 (2) a demand under Subsection (1) would be futile.

6834 Section 256. Section **48-3-903** is enacted to read:

6835 **48-3-903. Proper plaintiff.**

6836 (1) Except as otherwise provided in Subsection (2), a derivative action under Section  
6837 48-3-902 may be maintained only by a person that is a member at the time the action is  
6838 commenced and remains a member while the action continues.

6839 (2) If the sole plaintiff in a derivative action dies while the action is pending, the court  
6840 may permit another member of the limited liability company to be substituted as plaintiff.

6841 Section 257. Section **48-3-904** is enacted to read:

6842 **48-3-904. Pleading.**

6843 In a derivative action under Section 48-3-902, the complaint must state with  
6844 particularity:

6845 (1) the date and content of plaintiff's demand and the response to the demand by the

6846 managers or other members; or

6847 (2) if a demand has not been made, the reasons a demand under Subsection

6848 48-3-902(1) would be futile.

6849 Section 258. Section **48-3-905** is enacted to read:

6850 **48-3-905. Special litigation committee.**

6851 (1) If a limited liability company is named as or made a party in a derivative  
6852 proceeding, the limited liability company may appoint a special litigation committee to  
6853 investigate the claims asserted in the proceeding and determine whether pursuing the action is  
6854 in the best interests of the limited liability company. If the limited liability company appoints a  
6855 special litigation committee, on motion by the committee made in the name of the limited  
6856 liability company, except for good cause shown, the court shall stay discovery for the time  
6857 reasonably necessary to permit the committee to make its investigation. This Subsection (1)  
6858 does not prevent the court from enforcing a person's right to information under Section  
6859 48-3-410 or, for good cause shown, granting extraordinary relief in the form of a temporary  
6860 restraining order or preliminary injunction.

6861 (2) A special litigation committee may be composed of one or more disinterested and  
6862 independent individuals, who may be members.

6863 (3) A special litigation committee may be appointed:

6864 (a) in a member-managed limited liability company:

6865 (i) by the consent of a majority of the members not named as defendants or plaintiffs in  
6866 the proceeding; and

6867 (ii) if all members are named as defendants or plaintiffs in the proceeding, by a  
6868 majority of the members named as defendants; or

6869 (b) in a manager-managed limited liability company:

6870 (i) by a majority of the managers not named as defendants or plaintiffs in the  
6871 proceeding; and

6872 (ii) if all managers are named as defendants or plaintiffs in the proceeding, by a  
6873 majority of the managers named as defendants.

6874 (4) After appropriate investigation, a special litigation committee may determine that it  
6875 is in the best interests of the limited liability company that the proceeding:

6876 (a) continue under the control of the plaintiff;

6877 (b) continue under the control of the committee;  
6878 (c) be settled on terms approved by the committee; or  
6879 (d) be dismissed.  
6880 (5) After making a determination under Subsection (4), a special litigation committee  
6881 shall file with the court a statement of its determination and its report supporting its  
6882 determination, giving notice to the plaintiff. The court shall determine whether the members of  
6883 the committee were disinterested and independent and whether the committee conducted its  
6884 investigation and made its recommendation in good faith, independently, and with reasonable  
6885 care, with the committee having the burden of proof. If the court finds that the members of the  
6886 committee were disinterested and independent and that the committee acted in good faith,  
6887 independently, and with reasonable care, the court shall enforce the determination of the  
6888 committee. Otherwise, the court shall dissolve the stay of discovery entered under Subsection  
6889 (1) and allow the action to proceed under the direction of the plaintiff.

6890 Section 259. Section **48-3-906** is enacted to read:

6891 **48-3-906. Proceeds and expenses.**

6892 (1) Except as otherwise provided in Subsection (2):

6893 (a) any proceeds or other benefits of a derivative action under Section 48-3-902,  
6894 whether by judgment, compromise, or settlement, belong to the limited liability company and  
6895 not to the plaintiff; and

6896 (b) if the plaintiff receives any proceeds, the plaintiff shall remit them immediately to  
6897 the limited liability company.

6898 (2) If a derivative action under Section 48-3-902 is successful in whole or in part, the  
6899 court may award the plaintiff reasonable expenses, including reasonable attorney fees and  
6900 costs, from the recovery of the limited liability company.

6901 Section 260. Section **48-3-1001** is enacted to read:

6902 **Part 10. Merger, Conversion, and Domestication**

6903 **48-3-1001. Definitions.**

6904 As used in this part:

6905 (1) "Constituent limited liability company" means a constituent organization that is a  
6906 limited liability company.

6907 (2) "Constituent organization" means an organization that is party to a merger.

- 6908           (3) "Converted organization" means the organization into which a converting  
6909 organization converts pursuant to Sections 48-3-1006 through 48-3-1009.
- 6910           (4) "Converting limited liability company" means a converting organization that is a  
6911 limited liability company.
- 6912           (5) "Converting organization" means an organization that converts into another  
6913 organization pursuant to Section 48-3-1006.
- 6914           (6) "Domesticated company" means the limited liability company that exists after a  
6915 domesticating foreign limited liability company or limited liability company effects a  
6916 domestication pursuant to Sections 48-3-1010 through 48-3-1013.
- 6917           (7) "Domesticating company" means the limited liability company that effects a  
6918 domestication pursuant to Sections 48-3-1010 through 48-3-1013.
- 6919           (8) "Governing statute" means the statute that governs an organization's internal affairs.
- 6920           (9) (a) "Organization" means:
- 6921           (i) a general partnership, including a limited liability partnership;  
6922           (ii) a limited partnership, including a limited liability limited partnership;  
6923           (iii) a limited liability company;  
6924           (iv) a business trust;  
6925           (v) a corporation; or  
6926           (vi) any other person having a governing statute.
- 6927           (b) "Organization" includes a domestic or foreign organization regardless of whether  
6928 organized for profit.
- 6929           (10) "Organizational documents" means:
- 6930           (a) for a domestic or foreign general partnership, its partnership agreement;  
6931           (b) for a limited partnership or foreign limited partnership, its certificate of limited  
6932 partnership and partnership agreement;
- 6933           (c) for a domestic or foreign limited liability company, its certificate or articles of  
6934 organization and operating agreement, or comparable records as provided in its governing  
6935 statute;
- 6936           (d) for a business trust, its agreement of trust and declaration of trust;  
6937           (e) for a domestic or foreign corporation for profit, its articles of incorporation, bylaws,  
6938 and other agreements among its shareholders which are authorized by its governing statute, or



6939 comparable records as provided in its governing statute; and

6940 (f) for any other organization, the basic records that create the organization and  
6941 determine its internal governance and the relations among the persons that own it, have an  
6942 interest in it, or are members of it.

6943 (11) "Personal liability" means liability for a debt, obligation, or other liability of an  
6944 organization which is imposed on a person that co-owns, has an interest in, or is a member of  
6945 the organization:

6946 (a) by the governing statute solely by reason of the person co-owning, having an  
6947 interest in, or being a member of the organization; or

6948 (b) by the organization's organizational documents under a provision of the governing  
6949 statute authorizing those documents to make one or more specified persons liable for all or  
6950 specified debts, obligations, or other liabilities of the organization solely by reason of the  
6951 person or persons co-owning, having an interest in, or being a member of the organization.

6952 (12) "Surviving organization" means an organization into which one or more other  
6953 organizations are merged whether the organization preexisted the merger or was created by the  
6954 merger.

6955 Section 261. Section **48-3-1002** is enacted to read:

6956 **48-3-1002. Merger.**

6957 (1) A limited liability company may merge with one or more other constituent  
6958 organizations pursuant to this section, Sections 48-3-1003 through 48-3-1005, and a plan of  
6959 merger, if:

6960 (a) the governing statute of each of the other organizations authorizes the merger;

6961 (b) the merger is not prohibited by the law of a jurisdiction that enacted any of the  
6962 governing statutes; and

6963 (c) each of the other organizations complies with its governing statute in effecting the  
6964 merger.

6965 (2) A plan of merger must be in a record and must include:

6966 (a) the name and form of each constituent organization;

6967 (b) the name and form of the surviving organization and, if the surviving organization  
6968 is to be created by the merger, a statement to that effect;

6969 (c) the terms and conditions of the merger, including the manner and basis for

6970 converting the interests in each constituent organization into any combination of money,  
6971 interests in the surviving organization, and other consideration;

6972 (d) if the surviving organization is to be created by the merger, the surviving  
6973 organization's organizational documents that are proposed to be in a record; and

6974 (e) if the surviving organization is not to be created by the merger, any amendments to  
6975 be made by the merger to the surviving organization's organizational documents that are, or are  
6976 proposed to be, in a record.

6977 Section 262. Section **48-3-1003** is enacted to read:

6978 **48-3-1003. Action on plan of merger by constituent limited liability company.**

6979 (1) Subject to Section 48-3-1014, a plan of merger must be consented to by all the  
6980 members of a constituent limited liability company.

6981 (2) Subject to Section 48-3-1014 and any contractual rights, after a merger is approved,  
6982 and at any time before articles of merger are delivered to the division for filing under Section  
6983 48-3-1004, a constituent limited liability company may amend the plan or abandon the merger:

6984 (a) as provided in the plan; or

6985 (b) except as otherwise prohibited in the plan, with the same consent as was required to  
6986 approve the plan.

6987 Section 263. Section **48-3-1004** is enacted to read:

6988 **48-3-1004. Filings required for merger -- Effective date.**

6989 (1) After each constituent organization has approved a merger, articles of merger must  
6990 be signed on behalf of:

6991 (a) each constituent limited liability company, as provided in Subsection 48-3-203(1);  
6992 and

6993 (b) each other constituent organization, as provided in its governing statute.

6994 (2) Articles of merger under this section must include:

6995 (a) the name and form of each constituent organization and the jurisdiction of its  
6996 governing statute;

6997 (b) the name and form of the surviving organization, the jurisdiction of its governing  
6998 statute, and, if the surviving organization is created by the merger, a statement to that effect;

6999 (c) the date the merger is effective under the governing statute of the surviving  
7000 organization;

- 7001 (d) if the surviving organization is to be created by the merger:  
7002 (i) if it will be a limited liability company, the limited liability company's certificate of  
7003 organization; or  
7004 (ii) if it will be an organization other than a limited liability company, the  
7005 organizational document that creates the organization that is in a public record;  
7006 (e) if the surviving organization preexists the merger, any amendments provided for in  
7007 the plan of merger for the organizational document that created the organization that are in a  
7008 public record;  
7009 (f) a statement as to each constituent organization that the merger was approved as  
7010 required by the organization's governing statute;  
7011 (g) if the surviving organization is a foreign organization not authorized to transact  
7012 business in this state, the street and mailing addresses of an office that may be used for service  
7013 of process under Subsection 48-3-1005(2); and  
7014 (h) any additional information required by the governing statute of any constituent  
7015 organization.  
7016 (3) Each constituent limited liability company shall deliver the articles of merger for  
7017 filing in the division.  
7018 (4) A merger becomes effective under this part:  
7019 (a) if the surviving organization is a limited liability company, upon the later of:  
7020 (i) compliance with Subsection (3); or  
7021 (ii) subject to Subsection 48-3-205(3), as specified in the articles of merger; or  
7022 (b) if the surviving organization is not a limited liability company, as provided by the  
7023 governing statute of the surviving organization.  
7024 Section 264. Section **48-3-1005** is enacted to read:  
7025 **48-3-1005. Effect of merger.**  
7026 (1) When a merger becomes effective:  
7027 (a) the surviving organization continues or comes into existence;  
7028 (b) each constituent organization that merges into the surviving organization ceases to  
7029 exist as a separate entity;  
7030 (c) all property owned by each constituent organization that ceases to exist vests in the  
7031 surviving organization;

7032 (d) all debts, obligations, or other liabilities of each constituent organization that ceases  
7033 to exist continue as debts, obligations, or other liabilities of the surviving organization;

7034 (e) an action or proceeding pending by or against any constituent organization that  
7035 ceases to exist may be continued as if the merger had not occurred;

7036 (f) except as prohibited by other law, all of the rights, privileges, immunities, powers,  
7037 and purposes of each constituent organization that ceases to exist vest in the surviving  
7038 organization;

7039 (g) except as otherwise provided in the plan of merger, the terms and conditions of the  
7040 plan of merger take effect; and

7041 (h) except as otherwise agreed, if a constituent limited liability company ceases to  
7042 exist, the merger does not dissolve the limited liability company for the purposes of Part 7,  
7043 Dissolution and Winding Up;

7044 (i) if the surviving organization is created by the merger:

7045 (A) if it is a limited liability company, the certificate of organization becomes  
7046 effective; or

7047 (B) if it is an organization other than a limited liability company, the organizational  
7048 document that creates the organization becomes effective; and

7049 (j) if the surviving organization preexisted the merger, any amendments provided for in  
7050 the articles of merger for the organizational document that created the organization become  
7051 effective.

7052 (2) A surviving organization that is a foreign organization consents to the jurisdiction  
7053 of the courts of this state to enforce any debt, obligation, or other liability owed by a constituent  
7054 organization, if before the merger the constituent organization was subject to suit in this state  
7055 on the debt, obligation, or other liability. A surviving organization that is a foreign  
7056 organization and not authorized to transact business in this state may be served with process at  
7057 the address required in the articles of merger under Subsection 48-3-1004(2)(g).

7058 Section 265. Section **48-3-1006** is enacted to read:

7059 **48-3-1006. Conversion.**

7060 (1) An organization other than a limited liability company or a foreign limited liability  
7061 company may convert to a limited liability company, and a limited liability company may  
7062 convert to an organization other than a foreign limited liability company pursuant to this

- 7063 section, Sections 48-3-1007 through 48-3-1009, and a plan of conversion, if:
- 7064 (a) the other organization's governing statute authorizes the conversion;
- 7065 (b) the conversion is not prohibited by the law of the jurisdiction that enacted the other
- 7066 organization's governing statute; and
- 7067 (c) the other organization complies with its governing statute in effecting the
- 7068 conversion.
- 7069 (2) A plan of conversion must be in a record and must include:
- 7070 (a) the name and form of the organization before conversion;
- 7071 (b) the name and form of the organization after conversion;
- 7072 (c) the terms and conditions of the conversion, including the manner and basis for
- 7073 converting interests in the converting organization into any combination of money, interests in
- 7074 the converted organization, and other consideration; and
- 7075 (d) the organizational documents of the converted organization that are, or are
- 7076 proposed to be, in a record.
- 7077 Section 266. Section **48-3-1007** is enacted to read:
- 7078 **48-3-1007. Action on plan of conversion by converting limited liability company.**
- 7079 (1) Subject to Section 48-3-1014, a plan of conversion must be consented to by all the
- 7080 members of a converting limited liability company.
- 7081 (2) Subject to Section 48-3-1014 and any contractual rights, after a conversion is
- 7082 approved, and at any time before articles of conversion are delivered to the division for filing
- 7083 under Section 48-3-1008, a converting limited liability company may amend the plan or
- 7084 abandon the conversion:
- 7085 (a) as provided in the plan; or
- 7086 (b) except as otherwise prohibited in the plan, by the same consent as was required to
- 7087 approve the plan.
- 7088 Section 267. Section **48-3-1008** is enacted to read:
- 7089 **48-3-1008. Filings required for conversion -- Effective date.**
- 7090 (1) After a plan of conversion is approved:
- 7091 (a) a converting limited liability company shall deliver to the division for filing articles
- 7092 of conversion, which must be signed as provided in Subsection 48-3-203(1) and must include:
- 7093 (i) a statement that the limited liability company has been converted into another

7094 organization;  
7095 (ii) the name and form of the organization and the jurisdiction of its governing statute;  
7096 (iii) the date the conversion is effective under the governing statute of the converted  
7097 organization;  
7098 (iv) a statement that the conversion was approved as required by this chapter;  
7099 (v) a statement that the conversion was approved as required by the governing statute  
7100 of the converted organization; and  
7101 (vi) if the converted organization is a foreign organization not authorized to transact  
7102 business in this state, the street and mailing addresses of an office that may be used for service  
7103 of process under Subsection 48-3-1009(3); and  
7104 (b) if the converting organization is not a converting limited liability company, the  
7105 converting organization shall deliver to the division for filing a certificate of organization,  
7106 which must include, in addition to the information required by Subsection 48-3-201(2):  
7107 (i) a statement that the converted organization was converted from another  
7108 organization;  
7109 (ii) the name and form of that converting organization and the jurisdiction of its  
7110 governing statute; and  
7111 (iii) a statement that the conversion was approved in a manner that complied with the  
7112 converting organization's governing statute.  
7113 (2) A conversion becomes effective:  
7114 (a) if the converted organization is a limited liability company, when the certificate of  
7115 organization takes effect; and  
7116 (b) if the converted organization is not a limited liability company, as provided by the  
7117 governing statute of the converted organization.  
7118 Section 268. Section **48-3-1009** is enacted to read:  
7119 **48-3-1009. Effect of conversion.**  
7120 (1) An organization that has been converted pursuant to this part is for all purposes the  
7121 same entity that existed before the conversion.  
7122 (2) When a conversion takes effect:  
7123 (a) all property owned by the converting organization remains vested in the converted  
7124 organization;

7125 (b) all debts, obligations, or other liabilities of the converting organization continue as  
7126 debts, obligations, or other liabilities of the converted organization;

7127 (c) an action or proceeding pending by or against the converting organization may be  
7128 continued as if the conversion had not occurred;

7129 (d) except as prohibited by law other than this chapter, all of the rights, privileges,  
7130 immunities, powers, and purposes of the converting organization remain vested in the  
7131 converted organization;

7132 (e) except as otherwise provided in the plan of conversion, the terms and conditions of  
7133 the plan of conversion take effect; and

7134 (f) except as otherwise agreed, the conversion does not dissolve a converting limited  
7135 liability company for the purposes of Part 7, Dissolution and Winding Up.

7136 (3) A converted organization that is a foreign organization consents to the jurisdiction  
7137 of the courts of this state to enforce any debt, obligation, or other liability for which the  
7138 converting limited liability company is liable if, before the conversion, the converting limited  
7139 liability company was subject to suit in this state on the debt, obligation, or other liability. A  
7140 converted organization that is a foreign organization and not authorized to transact business in  
7141 this state may be served with process at the address required in the articles of conversion under  
7142 Subsection 48-3-1008(1)(a)(vi).

7143 Section 269. Section **48-3-1010** is enacted to read:

7144 **48-3-1010. Domestication.**

7145 (1) A foreign limited liability company may become a limited liability company  
7146 pursuant to this section, Sections 48-3-1011 through 48-3-1013, and a plan of domestication,  
7147 if:

7148 (a) the foreign limited liability company's governing statute authorizes the  
7149 domestication;

7150 (b) the domestication is not prohibited by the law of the jurisdiction that enacted the  
7151 governing statute; and

7152 (c) the foreign limited liability company complies with its governing statute in  
7153 effecting the domestication.

7154 (2) A limited liability company may become a foreign limited liability company  
7155 pursuant to this section, Sections 48-3-1011 through 48-3-1013, and a plan of domestication,

7156 if:

7157 (a) the foreign limited liability company's governing statute authorizes the  
7158 domestication;

7159 (b) the domestication is not prohibited by the law of the jurisdiction that enacted the  
7160 governing statute; and

7161 (c) the foreign limited liability company complies with its governing statute in  
7162 effecting the domestication.

7163 (3) A plan of domestication must be in a record and must include:

7164 (a) the name of the domesticating company before domestication and the jurisdiction of  
7165 its governing statute;

7166 (b) the name of the domesticated company after domestication and the jurisdiction of  
7167 its governing statute;

7168 (c) the terms and conditions of the domestication, including the manner and basis for  
7169 converting interests in the domesticating company into any combination of money, interests in  
7170 the domesticated company, and other consideration; and

7171 (d) the organizational documents of the domesticated company that are, or are  
7172 proposed to be, in a record.

7173 Section 270. Section **48-3-1011** is enacted to read:

7174 **48-3-1011. Action on plan of domestication by domesticating limited liability**  
7175 **company.**

7176 (1) A plan of domestication must be consented to:

7177 (a) by all the members, subject to Section 48-3-1014, if the domesticating company is a  
7178 limited liability company; and

7179 (b) as provided in the domesticating company's governing statute, if the limited  
7180 liability company is a foreign limited liability company.

7181 (2) Subject to any contractual rights, after a domestication is approved, and at any time  
7182 before articles of domestication are delivered to the division for filing under Section  
7183 48-3-1012, a domesticating company may amend the plan or abandon the domestication:

7184 (a) as provided in the plan; or

7185 (b) except as otherwise prohibited in the plan, by the same consent as was required to  
7186 approve the plan.



7187 Section 271. Section **48-3-1012** is enacted to read:

7188 **48-3-1012. Filings required for domestication -- Effective date.**

7189 (1) After a plan of domestication is approved, a domesticating company shall deliver to  
7190 the division for filing articles of domestication, which must include:

7191 (a) a statement, as the case may be, that the limited liability company has been  
7192 domesticated from or into another jurisdiction;

7193 (b) the name of the domesticating company and the jurisdiction of its governing  
7194 statute;

7195 (c) the name of the domesticated company and the jurisdiction of its governing statute;

7196 (d) the date the domestication is effective under the governing statute of the  
7197 domesticated company;

7198 (e) if the domesticating company was a limited liability company, a statement that the  
7199 domestication was approved as required by this chapter;

7200 (f) if the domesticating company was a foreign limited liability company, a statement  
7201 that the domestication was approved as required by the governing statute of the other  
7202 jurisdiction; and

7203 (g) if the domesticated company was a foreign limited liability company not authorized  
7204 to transact business in this state, the street and mailing addresses of an office that may be used  
7205 for service of process under Subsection 48-3-1013(2).

7206 (2) A domestication becomes effective:

7207 (a) when the certificate of organization takes effect, if the domesticated company is a  
7208 limited liability company; and

7209 (b) according to the governing statute of the domesticated company, if the  
7210 domesticated organization is a foreign limited liability company.

7211 Section 272. Section **48-3-1013** is enacted to read:

7212 **48-3-1013. Effect of domestication.**

7213 (1) When a domestication takes effect:

7214 (a) the domesticated company is for all purposes the limited liability company that  
7215 existed before the domestication;

7216 (b) all property owned by the domesticating company remains vested in the  
7217 domesticated company;

7218 (c) all debts, obligations, or other liabilities of the domesticating company continue as  
7219 debts, obligations, or other liabilities of the domesticated company;

7220 (d) an action or proceeding pending by or against a domesticating company may be  
7221 continued as if the domestication had not occurred;

7222 (e) except as prohibited by other law, all of the rights, privileges, immunities, powers,  
7223 and purposes of the domesticating company remain vested in the domesticated company;

7224 (f) except as otherwise provided in the plan of domestication, the terms and conditions  
7225 of the plan of domestication take effect; and

7226 (g) except as otherwise agreed, the domestication does not dissolve a domesticating  
7227 company for the purposes of Part 7, Dissolution and Winding Up.

7228 (2) A domesticated company that is a foreign limited liability company consents to the  
7229 jurisdiction of the courts of this state to enforce any debt, obligation, or other liability owed by  
7230 the domesticating company, if, before the domestication, the domesticating company was  
7231 subject to suit in this state on the debt, obligation, or other liability. A domesticated company  
7232 that is a foreign limited liability company and not authorized to transact business in this state  
7233 may be served with process at the address required in the articles of domestication under  
7234 Subsection 48-3-1012(1)(g).

7235 (3) If a limited liability company has adopted and approved a plan of domestication  
7236 under Section 48-3-1010 providing for the limited liability company to be domesticated in a  
7237 foreign jurisdiction, a statement surrendering the limited liability company's certificate of  
7238 organization must be delivered to the division for filing setting forth:

7239 (a) the name of the limited liability company;

7240 (b) a statement that the certificate of organization is being surrendered in connection  
7241 with the domestication of the limited liability company in a foreign jurisdiction;

7242 (c) a statement that the domestication was approved as required by this chapter; and

7243 (d) the jurisdiction of formation of the domesticated foreign limited liability company.

7244 Section 273. Section **48-3-1014** is enacted to read:

7245 **48-3-1014. Restrictions on approval of mergers, conversions, and domestications.**

7246 (1) If a member of a constituent, converting, or domesticating limited liability company  
7247 will have personal liability with respect to a surviving, converted, or domesticated

7248 organization, approval or amendment of a plan of merger, conversion, or domestication are

7249 ineffective without the consent of the member, unless:

7250 (a) the limited liability company's operating agreement provides for approval of a  
7251 merger, conversion, or domestication with the consent of fewer than all the members; and

7252 (b) the member has consented to the provision of the operating agreement.

7253 (2) A member does not give the consent required by Subsection (1) merely by  
7254 consenting to a provision of the operating agreement that permits the operating agreement to be  
7255 amended with the consent of fewer than all the members.

7256 Section 274. Section **48-3-1015** is enacted to read:

7257 **48-3-1015. Part not exclusive.**

7258 This part does not preclude an entity from being merged, converted, or domesticated  
7259 under law other than this chapter.

7260 Section 275. Section **48-3-1101** is enacted to read:

7261 **Part 11. Professional Services Companies**

7262 **48-3-1101. Definitions.**

7263 As used in this part:

7264 (1) "Professional services" means a personal service provided by:

7265 (a) a public accountant holding a license under Title 58, Chapter 26a, Certified Public  
7266 Accountant Licensing Act, or a subsequent law regulating the practice of public accounting;

7267 (b) an architect holding a license under Title 58, Chapter 3a, Architects Licensing Act,  
7268 or a subsequent law regulating the practice of architecture;

7269 (c) an attorney granted the authority to practice law by the:

7270 (i) Utah Supreme Court; or

7271 (ii) one or more of the following that licenses or regulates the authority to practice law  
7272 in a state or territory of the United States other than Utah:

7273 (A) a supreme court;

7274 (B) a court other than a supreme court;

7275 (C) an agency;

7276 (D) an instrumentality; or

7277 (E) a regulating board;

7278 (d) a chiropractor holding a license under Title 58, Chapter 73, Chiropractic Physician  
7279 Practice Act, or any subsequent law regulating the practice of chiropractics;

- 7280           (e) a doctor of dentistry holding a license under Title 58, Chapter 69, Dentist and  
7281 Dental Hygienist Practice Act, or a subsequent law, regulating the practice of dentistry;
- 7282           (f) a professional engineer registered under Title 58, Chapter 22, Professional  
7283 Engineers and Professional Land Surveyors Licensing Act;
- 7284           (g) a naturopath holding a license under Title 58, Chapter 71, Naturopathic Physician  
7285 Practice Act, or a subsequent law regulating the practice of naturopathy;
- 7286           (h) a nurse licensed under Title 58, Chapter 31b, Nurse Practice Act, or Title 58,  
7287 Chapter 44a, Nurse Midwife Practice Act;
- 7288           (i) an optometrist holding a license under Title 58, Chapter 16a, Utah Optometry  
7289 Practice Act, or a subsequent law regulating the practice of optometry;
- 7290           (j) an osteopathic physician or surgeon holding a license under Title 58, Chapter 68,  
7291 Utah Osteopathic Medical Practice Act, or a subsequent law regulating the practice of  
7292 osteopathy;
- 7293           (k) a pharmacist holding a license under Title 58, Chapter 17b, Pharmacy Practice Act,  
7294 or a subsequent law regulating the practice of pharmacy;
- 7295           (l) a physician, surgeon, or doctor of medicine holding a license under Title 58,  
7296 Chapter 67, Utah Medical Practice Act, or a subsequent law regulating the practice of  
7297 medicine;
- 7298           (m) a physical therapist holding a license under Title 58, Chapter 24b, Physical  
7299 Therapy Practice Act, or a subsequent law regulating the practice of physical therapy;
- 7300           (n) a podiatric physician holding a license under Title 58, Chapter 5a, Podiatric  
7301 Physician Licensing Act, or a subsequent law regulating the practice of podiatry;
- 7302           (o) a psychologist holding a license under Title 58, Chapter 61, Psychologist Licensing  
7303 Act, or any subsequent law regulating the practice of psychology;
- 7304           (p) a principal broker, associate broker, or sales agent holding a license under Title 61,  
7305 Chapter 2f, Real Estate Licensing and Practices Act, or a subsequent law regulating the sale,  
7306 exchange, purchase, rental, or leasing of real estate;
- 7307           (q) a clinical or certified social worker holding a license under Title 58, Chapter 60,  
7308 Part 2, Social Worker Licensing Act, or a subsequent law regulating the practice of social  
7309 work;
- 7310           (r) a mental health therapist holding a license under Title 58, Chapter 60, Mental

7311 Health Professional Practice Act, or a subsequent law regulating the practice of mental health  
7312 therapy;

7313 (s) a veterinarian holding a license under Title 58, Chapter 28, Veterinary Practice Act,  
7314 or a subsequent law regulating the practice of veterinary medicine; or

7315 (t) an individual licensed, certified, or registered under Title 61, Chapter 2b, Real  
7316 Estate Appraiser Licensing and Certification Act, or a subsequent law regulating the practice of  
7317 appraising real estate.

7318 (2) "Professional services company" means a limited liability company organized  
7319 under this part to provide professional services.

7320 (3) "Regulating board" means the entity organized pursuant to state law that licenses  
7321 and regulates the practice of the profession that a limited liability company is organized to  
7322 provide.

7323 Section 276. Section **48-3-1102** is enacted to read:

7324 **48-3-1102. Application of this part.**

7325 (1) If a conflict arises between this part and another provision of this chapter, this part  
7326 controls.

7327 (2) Notwithstanding the other provisions of this part, on and after January 1, 2014:

7328 (a) a professional services company may not designate series of transferable interests;  
7329 and

7330 (b) a limited liability company may not form a professional services company as a  
7331 series of the limited liability company.

7332 Section 277. Section **48-3-1103** is enacted to read:

7333 **48-3-1103. Additional requirements for certificate of organization.**

7334 The certificate of organization of a professional services company shall:

7335 (1) comply with Section 48-3-201; and

7336 (2) contain the following:

7337 (a) a name consistent with Section 48-3-1104;

7338 (b) a description of the profession to be practiced through the professional services  
7339 company; and

7340 (c) notwithstanding Section 48-3-201, the name and street address of each member or  
7341 manager of the professional services company.

7342 Section 278. Section **48-3-1104** is enacted to read:

7343 **48-3-1104. Name limitations.**

7344 (1) The name of a domestic professional services company and of a foreign  
7345 professional services company authorized to transact business in this state, in addition to  
7346 complying with Sections 48-3-108, 48-3-802, and 48-3-805:

7347 (a) may not contain language stating or implying that it is formed for a purpose other  
7348 than that authorized by:

7349 (i) its certificate of organization; or

7350 (ii) Section 48-3-1105;

7351 (b) must conform with any rule made by the regulating board having jurisdiction over a  
7352 professional service described in the professional services company's certificate of  
7353 organization; and

7354 (c) in lieu of the requirement of Subsection 48-3-108(1), must contain the words  
7355 "professional limited liability company" or the abbreviations "P.L.L.C." or "PLLC" in:

7356 (i) its certificate of organization; and

7357 (ii) a report or document filed with the division.

7358 (2) Notwithstanding Subsection (1)(c), a professional services company may hold itself  
7359 out to the public under a name that does not contain the words "professional limited liability  
7360 company" or the abbreviations "P.L.L.C." or "PLLC" if that name complies with Subsection  
7361 48-3-108(1).

7362 (3) Sections 48-3-108, 48-3-802, and 48-3-805 do not prevent the use of a name  
7363 otherwise prohibited by those sections if the name is:

7364 (a) the personal name of an individual member or individual former member of the  
7365 professional services company; or

7366 (b) the name of an individual who was associated with a predecessor of the  
7367 professional services company.

7368 Section 279. Section **48-3-1105** is enacted to read:

7369 **48-3-1105. Providing a professional service.**

7370 (1) A professional services company may provide a professional service in this state  
7371 only through an individual licensed or otherwise authorized in this state to provide the  
7372 professional service.

- 7373           (2) Subsection (1) does not:  
7374           (a) require an individual employed by a professional services company to be licensed  
7375 to perform a service for the professional services company if a license is not otherwise  
7376 required;  
7377           (b) prohibit a licensed individual from providing a professional service in the  
7378 individual's professional capacity although the individual is a member, manager, employee, or  
7379 agent of a professional services company; or  
7380           (c) prohibit an individual licensed in another state from providing a professional  
7381 service for a professional services company in this state if not prohibited by the regulating  
7382 board.  
7383           (3) A professional services company may not provide a professional service other than  
7384 the professional service authorized by its certificate of organization.

7385           Section 280. Section **48-3-1106** is enacted to read:

7386           **48-3-1106. Limit of one profession.**

- 7387           (1) A professional services company organized to provide a professional service under  
7388 this chapter may provide only:  
7389           (a) one specific type of professional service; and  
7390           (b) a service ancillary to the professional service described in Subsection (1)(a).  
7391           (2) A professional services company organized to provide a professional service under  
7392 this chapter may not engage in a business other than to provide:  
7393           (a) the professional service that it was organized to provide; and  
7394           (b) services ancillary to the professional service described in Subsection (2)(a).  
7395           (3) Notwithstanding Subsection (1) or (2), a professional services company may:  
7396           (a) own real and personal property necessary or appropriate for providing the type of  
7397 professional service it was organized to provide; and  
7398           (b) invest the professional services company's money in one or more of the following:  
7399           (i) real estate;  
7400           (ii) mortgages;  
7401           (iii) stocks;  
7402           (iv) bonds; or  
7403           (vi) another type of investment.

7404 Section 281. Section **48-3-1107** is enacted to read:

7405 **48-3-1107. Activity limitations.**

7406 A professional services company may not do anything that an individual licensed to  
7407 practice the profession that the professional services company is organized to provide is  
7408 prohibited from doing.

7409 Section 282. Section **48-3-1108** is enacted to read:

7410 **48-3-1108. Part does not limit regulating board.**

7411 This chapter does not restrict the authority or duty of a regulating board to license an  
7412 individual providing a professional service or the practice of the profession that is within the  
7413 jurisdiction of the regulating board, notwithstanding that the individual:

7414 (1) is a member, manager, or employee of a professional services company; and

7415 (2) provides the professional service or engages in the practice of the profession  
7416 through a professional services company.

7417 Section 283. Section **48-3-1109** is enacted to read:

7418 **48-3-1109. Member or manager of a professional services company.**

7419 A professional services company organized to provide a professional service:

7420 (1) may include a member, manager, or employee who is authorized under the laws of  
7421 the jurisdiction where the member, manager, or employee resides to provide a similar  
7422 professional service;

7423 (2) may include a member who is not licensed or registered by the state to provide the  
7424 professional service to the extent allowed by the applicable licensing or registration act relating  
7425 to the professional service;

7426 (3) may render a professional service in this state only through a member, manager, or  
7427 employee who is licensed or registered by this state to render the professional service; and

7428 (4) as a power provided under Section 48-3-105.

7429 Section 284. Section **48-3-1110** is enacted to read:

7430 **48-3-1110. Restriction on transfer by member.**

7431 (1) Except as provided in Subsection (2), a member of a professional services company  
7432 may sell or transfer the member's interest in the professional services company only to:

7433 (a) the professional services company; or

7434 (b) an individual who is licensed or registered by this state to provide the same type of



7435 professional service as the professional service for which the professional services company is  
7436 organized.

7437 (2) (a) Upon the death or incapacity of a member of a professional services company,  
7438 the member's interest in the professional services company may be transferred to the personal  
7439 representative or estate of the deceased or incapacitated member.

7440 (b) The person to whom an interest is transferred under Subsection (2)(a) may continue  
7441 to hold the interest for a reasonable period, but may not participate in a decision concerning the  
7442 providing of a professional service.

7443 Section 285. Section **48-3-1111** is enacted to read:

7444 **48-3-1111. Purchase of interest upon death, incapacity, or disqualification of**  
7445 **member.**

7446 (1) Subject to this part, one or more of the following may provide for the purchase of a  
7447 member's interest in a professional services company upon the death, incapacity, or  
7448 disqualification of the member:

7449 (a) the certificate of organization;

7450 (b) the operating agreement; or

7451 (c) a private agreement.

7452 (2) (a) In the absence of a provision described in Subsection (1), a professional services  
7453 company shall purchase the interest of a member who is deceased, incapacitated, or no longer  
7454 qualified to own an interest in the professional services company within 90 days after the day  
7455 on which the professional services company is notified of the death, incapacity, or  
7456 disqualification.

7457 (b) If a professional services company purchases a member's interest under this  
7458 Subsection (2), the professional services company shall purchase the interest at a price that is  
7459 the reasonable fair market value as of the date of death, incapacity, or disqualification.

7460 (3) (a) If a professional services company fails to purchase a member's interest as  
7461 required by Subsection (2)(a) at the end of the 90-day period described in Subsection (2)(a),  
7462 one of the following may bring an action in the district court of the county in which the  
7463 principal office or place of practice of the professional services company is located to enforce  
7464 Subsection (2):

7465 (i) the personal representative of a deceased member;

7466 (ii) the guardian or conservator of an incapacitated member; or

7467 (iii) the disqualified member.

7468 (b) A court in which an action is brought under this Subsection (3) may:

7469 (i) award the person bringing the action the reasonable fair market value of the interest;

7470 or

7471 (ii) within its jurisdiction, order the liquidation of the professional services company.

7472 (c) If a person described in Subsection (3)(a)(i) through (iii) is successful in an action

7473 under this Subsection (3), the court shall award the person reasonable attorney fees and costs.

7474 Section 286. Section **48-3-1112** is enacted to read:

7475 **48-3-1112. Conversion to nonprofessional company.**

7476 (1) A professional services company subject to this part converts into a limited liability  
7477 company subject to this chapter, but not subject to this part on the day on which:

7478 (a) no member of the professional services company is licensed or registered for the  
7479 professional service for which the professional services company is organized; or

7480 (b) members holding at least two-thirds interest in the profits of the professional  
7481 services company vote to not be subject to this part.

7482 (2) A professional services company converted as provided in Subsection (1) shall  
7483 upon the event described in Subsection (1) operate as and be treated as a limited liability  
7484 company subject to this chapter, but not subject to this part.

7485 (3) A limited liability company converted under this section may reconvert to a  
7486 professional services company:

7487 (a) upon a member of the professional services company being licensed or registered  
7488 for the professional service for which the professional services company is organized; or

7489 (b) by the vote of members holding at least two-thirds interests in the profits of the  
7490 professional services company, if at least one member of the professional services company is  
7491 licensed or registered for the professional service for which the professional services company  
7492 is organized.

7493 (4) If a professional services company is converted or reconverted under this section,  
7494 the professional services company shall file a certificate of amendment to the certificate of  
7495 organization with the division within a reasonable time after the conversion or reconversion to  
7496 reflect the changes.

7497 Section 287. Section **48-3-1201** is enacted to read:

7498 **Part 12. Series Limited Liability Companies**

7499 **48-3-1201. Application of this part.**

7500 If a conflict arises between this part and another provision of this chapter, this part  
7501 controls.

7502 Section 288. Section **48-3-1202** is enacted to read:

7503 **48-3-1202. Series of transferable interests.**

7504 (1) (a) An operating agreement may establish or provide for the establishment of a  
7505 designated series of transferable interests having separate rights, powers, or duties with respect  
7506 to specified property or obligations of the limited liability company or profits and losses  
7507 associated with specified property or obligations, and, to the extent provided in the operating  
7508 agreement, any such series may have a separate business purpose or investment objective. The  
7509 name of each series must contain the name of the limited liability company and be  
7510 distinguishable from the name of any other series set forth in the certificate of organization..

7511 (b) An operating agreement shall identify a separate right, power, or duty of a series  
7512 described in Subsection (1)(a).

7513 (c) Notwithstanding the other provisions of this part, on and after January 1, 2014:

7514 (i) a professional services company may not designate series of transferable interests;  
7515 and

7516 (ii) a limited liability company may not form a professional services company as a  
7517 series of the limited liability company.

7518 (2) A series may have a business purpose or investment objective different from the  
7519 limited liability company.

7520 (3) Notwithstanding contrary provisions of this chapter, a series' debts, liabilities,  
7521 obligations, and expenses are enforceable against the assets of that series only and may not be  
7522 enforced against the assets of the limited liability company generally or another series.

7523 (a) the operating agreement provides for separate treatment of the series;

7524 (b) separate and distinct records are maintained concerning the series;

7525 (c) the assets associated with the series are held and accounted for separately from the  
7526 other assets of the limited liability company and any other series; and

7527 (d) notice of the limitation on liability of a series is included in the limited liability

7528 company's certificate of organization in accordance with Section 48-3-1203.

7529 (4) A debt, liability, obligation, or expense incurred, contracted for, or otherwise  
7530 existing with respect to the limited liability company generally or another series may not be  
7531 enforced against the assets of a series if:

7532 (a) the operating agreement provides for separate treatment of the series;

7533 (b) separate and distinct records are maintained concerning the series;

7534 (c) the assets associated with the series are held and accounted for separately from the  
7535 other assets of the limited liability company and any other series; and

7536 (d) notice of the limitation on liability of a series is included in the limited liability  
7537 company's certificate of organization in accordance with Section 48-3-1203.

7538 (5) A series may contract on its own behalf and in its own name, including through a  
7539 manager.

7540 (6) Notwithstanding other provisions of this section:

7541 (a) property and assets of a series may not be transferred to the limited liability  
7542 company generally or another series if the transfer impairs the ability of the series releasing the  
7543 property or assets to pay its debts existing at the time of the transfer unless fair value is given to  
7544 the transferring series for the property or assets transferred; and

7545 (b) a tax or other liability of the limited liability company generally or of a series may  
7546 not be assigned by the series against which the tax or other liability is imposed to the limited  
7547 liability company generally or to another series within the limited liability company if the  
7548 assignment impairs a creditor's right and ability to fully collect an amount due when owed.

7549 Section 289. Section **48-3-1203** is enacted to read:

7550 **48-3-1203. Notice of series -- Certificate of organization.**

7551 (1) Notice in a limited liability company's certificate of organization of the limitation  
7552 on liabilities of a series, as required by Section 48-3-1202, is sufficient whether or not the  
7553 limited liability company has established a series at the time the notice is included in the  
7554 certificate of organization.

7555 (2) The notice required by Section 48-3-1202:

7556 (a) is not required to reference a specific series; and

7557 (b) for a certificate of organization or an amendment to a certificate of organization  
7558 made to include notice of series that is filed on or after May 11, 2010, notice in a company's

7559 certificate of organization is sufficient for purposes of Subsection (1) only if the notice of series  
7560 appears immediately following the provision stating the name of the company.

7561 (3) The filing of the notice required by Section 48-3-1202 with the division constitutes  
7562 notice of the limitation on liability of a series.

7563 Section 290. Section **48-3-1204** is enacted to read:

7564 **48-3-1204. Agreement to be liable.**

7565 Notwithstanding Section 48-3-304, a member or manager may agree to be obligated  
7566 personally for any or all of the debts, obligations, and liabilities of one or more series.

7567 Section 291. Section **48-3-1205** is enacted to read:

7568 **48-3-1205. Series related provisions in operating agreement.**

7569 (1) An operating agreement may provide for classes or groups of members or managers  
7570 associated with a series with separate rights, powers, or duties as provided in Subsection  
7571 48-3-1202(1).

7572 (2) An operating agreement may provide for the future creation of one or more  
7573 additional classes or groups of members or managers associated with a series that have the  
7574 rights, powers, and duties that as may from time to time be established, including a right,  
7575 power, or duty that is senior to an existing class or group of members or managers associated  
7576 with the series.

7577 (3) An operating agreement may provide for the taking of an action without the vote or  
7578 approval of any member or manager, or class or group of members or managers, including:

7579 (a) an action to create a class or group of a series of interests in the limited liability  
7580 company that was not previously outstanding; and

7581 (b) amending the operating agreement.

7582 (4) An operating agreement may provide that a member or class or group of members  
7583 associated with a series has no voting rights.

7584 (5) (a) An operating agreement may on any matter grant to all members or managers, a  
7585 specific member or manager, or a specific class or group of members or managers associated  
7586 with a series, the right to vote separately or with all or any class or group of the members or  
7587 managers associated with the series.

7588 (b) Voting by members or managers associated with a series may be on any basis  
7589 including:

- 7590 (i) a per capita basis;
- 7591 (ii) a number basis;
- 7592 (iii) on the basis of a financial interest; or
- 7593 (iv) by class or group.
- 7594 (6) Except to the extent modified by this part, the provisions of this chapter that are
- 7595 generally applicable to a limited liability company, and its managers, members, and transferees,
- 7596 are applicable to each series with respect to the operations of the series

7597 Section 292. Section **48-3-1206** is enacted to read:

7598 **48-3-1206. Management of a series.**

7599 (1) A series is member-managed unless the operating agreement:

- 7600 (a) expressly provides that:
- 7601 (i) the series is or will be "manager-managed";
- 7602 (ii) the series is or will be "managed by managers"; or
- 7603 (iii) management of the series is or will be "vested in managers"; or
- 7604 (b) includes words of similar import.

7605 (2) In a member-managed series, unless modified pursuant to Section 48-3-1205, the

7606 following rules apply:

- 7607 (a) The management and conduct of the series are vested in the members of the series.
- 7608 (b) Each series member has equal rights in the management and conduct of the series'
- 7609 activities.

7610 (c) A difference arising among series members as to a matter in the ordinary course of

7611 the activities of the series shall be decided by a majority of the series members.

7612 (d) An act outside the ordinary course of the activities of the series may be undertaken

7613 only with the consent of all members of the series.

7614 (e) The operating agreement may be amended only with the consent of all members of

7615 the series.

7616 (3) In a manager-managed series, the following rules apply:

7617 (a) Except as otherwise expressly provided in this chapter, any matter relating to the

7618 activities of the series is decided exclusively by the managers of the series.

7619 (b) Each series manager has equal rights in the management and conduct of the

7620 activities of the series.

7621 (c) A difference arising among managers of a series as to a matter in the ordinary  
7622 course of the activities of the series shall be decided by a majority of the managers of the series.

7623 (d) Unless modified pursuant to Section 48-3-1205, the consent of all members of the  
7624 series is required to:

7625 (i) sell, lease, exchange, or otherwise dispose of all, or substantially all, of the series'  
7626 property, with or without the goodwill, outside the ordinary course of the series' activities;

7627 (ii) approve a merger, conversion, or domestication under Part 10, Merger, Conversion,  
7628 and Domestication;

7629 (iii) undertake any other act outside the ordinary course of the series' activities; and

7630 (iv) amend the operating agreement.

7631 (e) A manager of the series may be chosen at any time by the consent of a majority of  
7632 the members of the series and remains a manager of the series until a successor has been  
7633 chosen, unless the series manager at an earlier time resigns, is removed, or dies, or, in the case  
7634 of a series manager that is not an individual, terminates. A series manager may be removed at  
7635 any time by the consent of a majority of the members without notice or cause.

7636 (f) A person need not be a series member to be a manager of a series, but the  
7637 dissociation of a series member that is also a series manager removes the person as a manager  
7638 of the series. If a person that is both a series manager and a series member ceases to be a  
7639 manager of the series, that cessation does not by itself dissociate the person as a member of the  
7640 series.

7641 (g) A person's ceasing to be a series manager does not discharge any debt, obligation,  
7642 or other liability to the series or members of the series which the person incurred while a  
7643 manager of the series.

7644 (4) An action requiring the consent of members of a series under this chapter may be  
7645 taken without a meeting, and a member of a series may appoint a proxy or other agent to  
7646 consent or otherwise act for the series member by signing an appointing record, personally or  
7647 by the series member's agent.

7648 (5) The dissolution of a series does not affect the applicability of this section.  
7649 However, a person that wrongfully causes dissolution of the series loses the right to participate  
7650 in management as a series member and a series manager.

7651 (6) This chapter does not entitle a series member of a series to remuneration for

7652 services performed for a member-managed series, except for reasonable compensation for  
7653 services rendered in winding up the activities of the series.

7654 Section 293. Section **48-3-1207** is enacted to read:

7655 **48-3-1207. Distribution concerning a series.**

7656 (1) Except as otherwise provided in the operating agreement, any distribution made by  
7657 a series before its dissolution and winding up must be in equal shares among the series  
7658 members and dissociated series members, except to the extent necessary to comply with any  
7659 transfer effective under Section 48-3-502 and any charging order in effect under Section  
7660 48-3-503.

7661 (2) A person has a right to a distribution before the dissolution and winding up of a  
7662 series only if the series decides to make an interim distribution. A person's dissociation does  
7663 not entitle the person to a distribution.

7664 (3) A person does not have a right to demand or receive a distribution from a series in  
7665 any form other than money. Except as otherwise provided in Subsection 48-3-709(3), a series  
7666 may distribute an asset in kind if each part of the asset is fungible with each other part and each  
7667 person receives a percentage of the asset equal in value to the person's share of distributions.

7668 (4) If a series member or transferee becomes entitled to receive a distribution, the series  
7669 member or transferee has the status of, and is entitled to all remedies available to, a creditor of  
7670 the series with respect to the distribution.

7671 (5) A series may not make a distribution if after the distribution:

7672 (a) the series would not be able to pay its debts as they become due in the ordinary  
7673 course of the series' activities; or

7674 (b) the series' total assets would be less than the sum of its total liabilities plus the  
7675 amount that would be needed, if the series were to be dissolved, wound up, and terminated at  
7676 the time of the distribution, to satisfy the preferential rights upon dissolution, winding up, and  
7677 termination of members whose preferential rights are superior to those of persons receiving the  
7678 distribution.

7679 (6) A series may base a determination that a distribution is not prohibited under  
7680 Subsection (5) on financial statements prepared on the basis of accounting practices and  
7681 principles that are reasonable in the circumstances or on a fair valuation or other method that is  
7682 reasonable under the circumstances.



7683 (7) Except as otherwise provided in Subsection (9), the effect of a distribution under  
7684 Subsection (5) is measured:

7685 (a) in the case of a distribution by purchase, redemption, or other acquisition of a  
7686 transferable interest in the series, as of the date money or other property is transferred or debt  
7687 incurred by the series; or

7688 (b) in all other cases, as of the date:

7689 (i) the distribution is authorized, if the payment occurs within 120 days after that date;

7690 or

7691 (ii) the payment is made, if the payment occurs more than 120 days after the  
7692 distribution is authorized.

7693 (8) A series' indebtedness to a series member incurred by reason of a distribution made  
7694 in accordance with this section is at parity with the series' indebtedness to its general,  
7695 unsecured creditors.

7696 (9) A series' indebtedness, including indebtedness issued in connection with or as part  
7697 of a distribution, is not a liability for purposes of Subsection (5) if the terms of the indebtedness  
7698 provide that payment of principal and interest are made only to the extent that a distribution  
7699 could be made to members of the series under this section. If such indebtedness is issued as a  
7700 distribution, each payment of principal or interest on the indebtedness is treated as a  
7701 distribution, the effect of which is measured on the date the payment is made.

7702 (10) As used in Subsection (5) "distribution" does not include amounts constituting  
7703 reasonable compensation for present or past services or reasonable payments made in the  
7704 ordinary course of business under a bona fide retirement plan or other benefits program.

7705 (11) (a) Except as otherwise provided in Subsection (11)(b), if a member of a  
7706 member-managed series or manager of a manager-managed series consents to a distribution  
7707 made in violation of this section and in consenting to the distribution fails to comply with  
7708 Section 48-3-409, the member or manager is personally liable to the series for the amount of  
7709 the distribution that exceeds the amount that could have been distributed without the violation  
7710 of Section 48-3-405.

7711 (b) To the extent the operating agreement of a member-managed series expressly  
7712 relieves a series member of the authority and responsibility to consent to distributions and  
7713 imposes that authority and responsibility on one or more other members of the series, the

7714 liability stated in Subsection (11)(a) applies to the other members of the series and not the  
7715 member of the series that the operating agreement relieves of authority and responsibility.

7716 (12) A person that receives a distribution knowing that the distribution to that person  
7717 was made in violation of Section 48-3-405 is personally liable to the limited liability company  
7718 but only to the extent that the distribution received by the person exceeded the amount that  
7719 could have been properly paid under Section 48-3-405.

7720 (13) A person against which an action is commenced because the person is liable under  
7721 Subsection (11) may:

7722 (a) implead any other person that is subject to liability under Subsection (11) and seek  
7723 to compel contribution from the person; and

7724 (b) implead any person that received a distribution in violation of Subsection (12) and  
7725 seek to compel contribution from the person in the amount the person received in violation of  
7726 Subsection (12).

7727 (14) An action under this section is barred if not commenced within two years after the  
7728 distribution.

7729 Section 294. Section **48-3-1208** is enacted to read:

7730 **48-3-1208. Events causing dissociation from a series.**

7731 (1) Unless otherwise provided in the operating agreement, a member ceases to be  
7732 associated with a series and to have the power to exercise a right or power of a member with  
7733 respect to the series upon the assignment of all of the member's interest in the limited liability  
7734 company with respect to the series.

7735 (2) Unless otherwise provided in an operating agreement, an event under this chapter  
7736 or the operating agreement that causes a member to cease to be associated with a series does  
7737 not, by itself:

7738 (a) cause the member to cease to be associated with another series;

7739 (b) terminate the continued membership of a member in the limited liability company;

7740 or

7741 (c) cause the termination of the series, regardless of whether the member is the last  
7742 remaining member associated with the series.

7743 Section 295. Section **48-3-1209** is enacted to read:

7744 **48-3-1209. Termination of a series.**

7745 (1) Except to the extent otherwise provided in the operating agreement, a series may be  
7746 terminated and its affairs wound up without causing the dissolution of the limited liability  
7747 company.

7748 (2) The termination of a series does not affect the limitation on liabilities of the series  
7749 under Section 48-3-1202.

7750 (3) A series is terminated and its affairs shall be wound up upon the dissolution of the  
7751 limited liability company under Section 48-3-701 or upon the occurrence of any of the events  
7752 described in Section 48-3-701, as applied to the series.

7753 (4) Notwithstanding Section 48-3-703, unless otherwise provided in the operating  
7754 agreement, any of the following persons may wind up the affairs of a series:

7755 (a) a manager associated with a series who has not wrongfully terminated the series;

7756 (b) if there is no manager of a series, the members associated with the series or a  
7757 person approved by the members associated with the series; or

7758 (c) if there is more than one class or group of members associated with the series, then  
7759 by each class or group of members associated with the series, in either case, by members who  
7760 own more than 50% of the transferable interests of the series owned by all of the members  
7761 associated with the series or by the members of each class or group associated with the series.

7762 (5) The persons winding up the affairs of a series, in the name of the series and for and  
7763 on behalf of the series, may take all actions with respect to the series as are permitted under  
7764 Section 48-3-703 for a limited liability company. The persons winding up the affairs of a  
7765 series shall provide for the claims and obligations of the series as provided in Section 48-3-709  
7766 for a limited liability company and distribute the assets of the series as provided in Section  
7767 48-3-709 for a limited liability company. An action taken pursuant to this Subsection (5) may  
7768 not affect the liability of a member and may not impose liability on a liquidating trustee.

7769 Section 296. Section **48-3-1210** is enacted to read:

7770 **48-3-1210. Foreign limited liability company -- Series.**

7771 (1) A foreign limited liability company that is authorized to do business in this state  
7772 that is governed by an operating agreement that establishes or provides for the establishment of  
7773 a series, the foreign limited liability company shall indicate that fact on the application for a  
7774 certificate of authority as a foreign limited liability company.

7775 (2) (a) A foreign limited liability company shall state on the application for a certificate

7776 authority as a foreign limited liability company which of the protections for the series and  
7777 foreign limited liability company found in Section 48-3-1202 apply to a series.

7778 (b) If different protections found in Section 48-3-1202 apply to different series of a  
7779 foreign limited liability company, the application for authority to transact business in the state  
7780 shall state:

7781 (i) the protections that apply to each existing series; and

7782 (ii) the protections that will apply to any series after registering to do business.

7783 Section 297. Section **48-3-1301** is enacted to read:

7784 **Part 13. Low-profit Limited Liability Companies**

7785 **48-3-1301. Application of this part.**

7786 If a conflict arises between this part and another provision of this chapter, this part  
7787 controls.

7788 Section 298. Section **48-3-1302** is enacted to read:

7789 **48-3-1302. Requirements.**

7790 (1) To be a low-profit limited liability company, a limited liability company shall:

7791 (a) contain in its name the abbreviation "L3C" or "l3c";

7792 (b) state in its certificate of organization that it is a low-profit limited liability  
7793 company;

7794 (c) organize under this chapter; and

7795 (d) be organized for a business purpose that satisfies, and at all times operates to satisfy  
7796 each of the requirements under Subsection (2).

7797 (2) A low-profit limited liability company:

7798 (a) shall significantly further the accomplishment of one or more charitable or  
7799 educational purposes within the meaning of Section 170(c)(2)(B), Internal Revenue Code;

7800 (b) shall demonstrate that it would not be formed but for the limited liability company's  
7801 relationship to the accomplishment of a charitable or educational purpose;

7802 (c) subject to Subsection (3), may not have as a significant purpose the production of  
7803 income or the appreciation of property; and

7804 (d) may not have as a purpose to accomplish one or more political or legislative  
7805 purposes within the meaning of Section 170(c)(2)(D), Internal Revenue Code.

7806 (3) Notwithstanding Subsection (2), if a low-profit limited liability company produces

7807 significant income or capital appreciation, in the absence of other factors, the fact that the  
7808 low-profit limited liability company produces significant income or capital appreciation is not  
7809 conclusive evidence of a significant purpose involving the production of income or the  
7810 appreciation of property.

7811 Section 299. Section **48-3-1303** is enacted to read:

7812 **48-3-1303. Ceasing to be a low-profit limited liability company.**

7813 (1) If a company that is a low-profit limited liability company at its formation at any  
7814 time ceases to meet a requirement to be a low-profit limited liability company under Section  
7815 48-3-1302, the limited liability company:

7816 (a) ceases to be a low-profit limited liability company on the day on which the limited  
7817 liability company no longer meets the requirement; and

7818 (b) if it continues to meet the requirements of this chapter to be a limited liability  
7819 company, continues to exist as a limited liability company that is not a low-profit limited  
7820 liability company.

7821 (2) A low-profit limited liability company's failure to meet a requirement of Section  
7822 48-3-1302 may be:

7823 (a) voluntary, in order to convert to a limited liability company that is not a low-profit  
7824 limited liability company; or

7825 (b) involuntary.

7826 (3) If a low-profit limited liability company ceases to be a low-profit limited liability  
7827 company in accordance with this section, the limited liability company shall:

7828 (a) change its name to conform with Section 48-3-108; and

7829 (b) amend its articles of organization in accordance with Section 48-3-202.

7830 Section 300. Section **48-3-1304** is enacted to read:

7831 **48-3-1304. Conversion or merger of a low-profit limited liability company.**

7832 A low-profit limited liability company may engage in the following to the same extent  
7833 as a limited liability company that is not a low-profit limited liability company may do so under  
7834 Part 10, Merger, Conversion, and Domestication:

7835 (1) convert to another subject entity;

7836 (2) convert from another subject entity; or

7837 (3) participate in a merger.

7838 Section 301. Section **48-3-1401** is enacted to read:

7839 **Part 14. Miscellaneous Provisions**

7840 **48-3-1401. Uniformity of application and construction.**

7841 In applying and construing this chapter, consideration must be given to the need to  
7842 promote uniformity of the law with respect to its subject matter among states that enact the  
7843 uniform act.

7844 Section 302. Section **48-3-1402** is enacted to read:

7845 **48-3-1402. Relation to Electronic Signatures in Global and National Commerce**

7846 **Act.**

7847 This chapter modifies, limits, and supersedes the federal Electronic Signatures in  
7848 Global and National Commerce Act, 15 U.S.C. Sec. 7001 et seq., but does not modify, limit, or  
7849 supersede Section 101(c) of that act, 15 U.S.C. Sec. 7001(c), or authorize electronic delivery of  
7850 any of the notices described in Section 103(b) of that act, 15 U.S.C. Sec. 7003(b).

7851 Section 303. Section **48-3-1403** is enacted to read:

7852 **48-3-1403. Severability clause.**

7853 If any provision of this chapter or its application to any person or circumstance is held  
7854 invalid, the invalidity does not affect other provisions or applications of this chapter which can  
7855 be given effect without the invalid provision or application, and to this end the provisions of  
7856 this chapter are severable.

7857 Section 304. Section **48-3-1404** is enacted to read:

7858 **48-3-1404. Savings clause.**

7859 This chapter does not affect an action commenced, proceeding brought, or right accrued  
7860 before this chapter takes effect.

7861 Section 305. Section **48-3-1405** is enacted to read:

7862 **48-3-1405. Application to existing relationships.**

7863 (1) Before January 1, 2014, this chapter governs only:

7864 (a) a limited liability company formed on or after July 1, 2012; and

7865 (b) subject to Subsection (3), a limited liability company formed before July 1, 2012,  
7866 which elects, in the manner provided in its operating agreement or by law for amending the  
7867 operating agreement, to be subject to this chapter.

7868 (2) Subject to Subsection (3), on and after January 1, 2014, this chapter governs all

7869 limited liability companies.

7870 (3) For the purposes of applying this chapter to a limited liability company formed  
7871 before July 1, 2012:

7872 (a) the limited liability company's articles of organization are deemed to be the  
7873 company's certificate of organization;

7874 (b) for the purposes of applying Subsection 48-3-102(10) and subject to Subsection  
7875 48-3-112(4), language in the company's certificates of organization designating the limited  
7876 liability company's management structure operates as if that language were in the operating  
7877 agreement; and

7878 (c) the limited liability company has a perpetual duration unless otherwise stated in the  
7879 limited liability company's articles of organization.

7880 Section 306. Section **53C-1-201** is amended to read:

7881 **53C-1-201. Creation of administration -- Purpose -- Director.**

7882 (1) (a) There is established within state government the School and Institutional Trust  
7883 Lands Administration.

7884 (b) The administration shall manage all school and institutional trust lands and assets  
7885 within the state, except as otherwise provided in Title 53C, Chapter 3, Deposit and Allocation  
7886 of Revenue from Trust Lands, and Sections 51-7a-201 and 51-7a-202.

7887 (2) The administration is an independent state agency and not a division of any other  
7888 department.

7889 (3) (a) It is subject to the usual legislative and executive department controls except as  
7890 provided in this Subsection (3).

7891 (b) (i) The director may make rules as approved by the board that allow the  
7892 administration to classify a business proposal submitted to the administration as protected  
7893 under Section 63G-2-305, for as long as is necessary to evaluate the proposal.

7894 (ii) The administration shall return the proposal to the party who submitted the  
7895 proposal, and incur no further duties under Title 63G, Chapter 2, Government Records Access  
7896 and Management Act, if the administration determines not to proceed with the proposal.

7897 (iii) The administration shall classify the proposal pursuant to law if it decides to  
7898 proceed with the proposal.

7899 (iv) Section 63G-2-403 does not apply during the review period.

7900 (c) The director shall make rules in compliance with Title 63G, Chapter 3, Utah  
7901 Administrative Rulemaking Act, except that the administration is not subject to Subsections  
7902 63G-3-301(6) and (7), and the director, with the board's approval, may establish a procedure  
7903 for the expedited approval of rules, based on written findings by the director showing:

- 7904 (i) the changes in business opportunities affecting the assets of the trust;
- 7905 (ii) the specific business opportunity arising out of those changes which may be lost  
7906 without the rule or changes to the rule;
- 7907 (iii) the reasons the normal procedures under Section 63G-3-301 cannot be met without  
7908 causing the loss of the specific opportunity;
- 7909 (iv) approval by at least five board members; and
- 7910 (v) that the director has filed a copy of the rule and a rule analysis, stating the specific  
7911 reasons and justifications for its findings, with the Division of Administrative Rules and  
7912 notified interested parties as provided in Subsection 63G-3-301(10).

7913 (d) (i) The administration shall comply with Title 67, Chapter 19, Utah State Personnel  
7914 Management Act, except as provided in this Subsection (3)(d).

7915 (ii) The board may approve, upon recommendation of the director, that exemption for  
7916 specific positions under Subsections 67-19-12(2) and 67-19-15(1) is required in order to enable  
7917 the administration to efficiently fulfill its responsibilities under the law. The director shall  
7918 consult with the executive director of the Department of Human Resource Management prior  
7919 to making such a recommendation.

7920 (iii) The positions of director, deputy director, associate director, assistant director,  
7921 legal counsel appointed under Section 53C-1-305, administrative assistant, and public affairs  
7922 officer are exempt under Subsections 67-19-12(2) and 67-19-15(1).

7923 (iv) Salaries for exempted positions, except for the director, shall be set by the director,  
7924 after consultation with the executive director of the Department of Human Resource  
7925 Management, within ranges approved by the board. The board and director shall consider  
7926 salaries for similar positions in private enterprise and other public employment when setting  
7927 salary ranges.

7928 (v) The board may create an annual incentive and bonus plan for the director and other  
7929 administration employees designated by the board, based upon the attainment of financial  
7930 performance goals and other measurable criteria defined and budgeted in advance by the board.



7931 (e) The administration shall comply with Title 63G, Chapter 6, Utah Procurement  
7932 Code, except where the board approves, upon recommendation of the director, exemption from  
7933 the Utah Procurement Code, and simultaneous adoption of rules under Title 63G, Chapter 3,  
7934 Utah Administrative Rulemaking Act, for procurement, which enable the administration to  
7935 efficiently fulfill its responsibilities under the law.

7936 (f) (i) The board and director shall review the exceptions under this Subsection (3) and  
7937 make recommendations for any modification, if required, which the Legislature would be asked  
7938 to consider during its annual general session.

7939 (ii) The board and director may include in their recommendations any other proposed  
7940 exceptions from the usual executive and legislative controls the board and director consider  
7941 necessary to accomplish the purpose of this title.

7942 (4) The administration is managed by a director of school and institutional trust lands  
7943 appointed by a majority vote of the board of trustees with the consent of the governor.

7944 (5) (a) The board of trustees shall provide policies for the management of the  
7945 administration and for the management of trust lands and assets.

7946 (b) The board shall provide policies for the ownership and control of Native American  
7947 remains that are discovered or excavated on school and institutional trust lands in consultation  
7948 with the Division of Indian Affairs and giving due consideration to Title 9, Chapter 9, Part 4,  
7949 Native American Grave Protection and Repatriation Act. The director may make rules in  
7950 accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, to implement  
7951 policies provided by the board regarding Native American remains.

7952 (6) In connection with joint ventures for the development of trust lands and minerals  
7953 approved by the board under Sections 53C-1-303 and 53C-2-401, the administration may  
7954 become a member of a limited liability company under Title 48, Chapter ~~[2c]~~ 3, Utah Revised  
7955 Uniform Limited Liability Company Act, and is considered a person under Section ~~[48-2c-102]~~  
7956 48-3-102.

7957 Section 307. Section **61-2b-25** is amended to read:

7958 **61-2b-25. Other law unaffected.**

7959 This chapter may not be considered to prohibit a person approved, licensed, certified, or  
7960 registered under this chapter from engaging in the practice of real estate appraising as a  
7961 professional corporation or a limited liability company in accordance with:

- 7962 (1) Title 16, Chapter 11, Professional Corporation Act; or  
7963 (2) Title 48, Chapter [2e] 3, Utah Revised Uniform Limited Liability Company Act.  
7964 Section 308. Section **61-2f-401** is amended to read:  
7965 **61-2f-401. Grounds for disciplinary action.**  
7966 The following acts are unlawful for a person required to be licensed under this chapter:  
7967 (1) (a) making a substantial misrepresentation;  
7968 (b) making an intentional misrepresentation;  
7969 (c) pursuing a continued and flagrant course of misrepresentation;  
7970 (d) making a false representation or promise through an agent, sales agent, advertising,  
7971 or otherwise; or  
7972 (e) making a false representation or promise of a character likely to influence,  
7973 persuade, or induce;  
7974 (2) acting for more than one party in a transaction without the informed consent of all  
7975 parties;  
7976 (3) (a) acting as an associate broker or sales agent while not affiliated with a principal  
7977 broker;  
7978 (b) representing or attempting to represent a principal broker other than the principal  
7979 broker with whom the person is affiliated; or  
7980 (c) representing as sales agent or having a contractual relationship similar to that of  
7981 sales agent with a person other than a principal broker;  
7982 (4) (a) failing, within a reasonable time, to account for or to remit money that belongs  
7983 to another and comes into the person's possession;  
7984 (b) commingling money described in Subsection (4)(a) with the person's own money;  
7985 or  
7986 (c) diverting money described in Subsection (4)(a) from the purpose for which the  
7987 money is received;  
7988 (5) paying or offering to pay valuable consideration, as defined by the commission, to a  
7989 person not licensed under this chapter, except that valuable consideration may be shared:  
7990 (a) with a principal broker of another jurisdiction; or  
7991 (b) as provided under:  
7992 (i) Title 16, Chapter 10a, Utah Revised Business Corporation Act;

- 7993 (ii) Title 16, Chapter 11, Professional Corporation Act; or  
7994 (iii) Title 48, Chapter [2e] 3, Utah Revised Uniform Limited Liability Company Act;  
7995 (6) being incompetent to act as a principal broker, associate broker, or sales agent in  
7996 such manner as to safeguard the interests of the public;  
7997 (7) failing to voluntarily furnish a copy of a document to all parties before and after the  
7998 execution of a document;  
7999 (8) failing to keep and make available for inspection by the division a record of each  
8000 transaction, including:  
8001 (a) the names of buyers and sellers or lessees and lessors;  
8002 (b) the identification of real estate;  
8003 (c) the sale or rental price;  
8004 (d) money received in trust;  
8005 (e) agreements or instructions from buyers and sellers or lessees and lessors; and  
8006 (f) any other information required by rule;  
8007 (9) failing to disclose, in writing, in the purchase, sale, or rental of real estate, whether  
8008 the purchase, sale, or rental is made for that person or for an undisclosed principal;  
8009 (10) being convicted of a criminal offense involving moral turpitude within five years  
8010 of the most recent application:  
8011 (a) regardless of whether the criminal offense is related to real estate; and  
8012 (b) including:  
8013 (i) a conviction based upon a plea of nolo contendere; or  
8014 (ii) a plea held in abeyance to a criminal offense involving moral turpitude;  
8015 (11) advertising the availability of real estate or the services of a licensee in a false,  
8016 misleading, or deceptive manner;  
8017 (12) in the case of a principal broker or a licensee who is a branch manager, failing to  
8018 exercise reasonable supervision over the activities of the principal broker's or branch manager's  
8019 licensed or unlicensed staff;  
8020 (13) violating or disregarding:  
8021 (a) this chapter;  
8022 (b) an order of the commission; or  
8023 (c) the rules adopted by the commission and the division;

- 8024 (14) breaching a fiduciary duty owed by a licensee to the licensee's principal in a real  
8025 estate transaction;
- 8026 (15) any other conduct which constitutes dishonest dealing;
- 8027 (16) unprofessional conduct as defined by statute or rule;
- 8028 (17) having one of the following suspended, revoked, surrendered, or cancelled on the  
8029 basis of misconduct in a professional capacity that relates to character, honesty, integrity, or  
8030 truthfulness:
- 8031 (a) a real estate license, registration, or certificate issued by another jurisdiction; or  
8032 (b) another license, registration, or certificate to engage in an occupation or profession  
8033 issued by this state or another jurisdiction;
- 8034 (18) failing to respond to a request by the division in an investigation authorized under  
8035 this chapter, including:
- 8036 (a) failing to respond to a subpoena;
- 8037 (b) withholding evidence; or
- 8038 (c) failing to produce documents or records;
- 8039 (19) in the case of a dual licensed title licensee as defined in Section 31A-2-402:
- 8040 (a) providing a title insurance product or service without the approval required by  
8041 Section 31A-2-405; or
- 8042 (b) knowingly providing false or misleading information in the statement required by  
8043 Subsection 31A-2-405(2);
- 8044 (20) violating an independent contractor agreement between a principal broker and a  
8045 sales agent or associate broker as evidenced by a final judgment of a court;
- 8046 (21) (a) engaging in a foreclosure rescue if not licensed under this chapter;
- 8047 (b) engaging in an act of loan modification assistance that requires licensure as a  
8048 mortgage officer under Chapter 2c, Utah Residential Mortgage Practices and Licensing Act,  
8049 without being licensed under that chapter;
- 8050 (c) requesting or requiring a person to pay a fee if:
- 8051 (i) the person is required to pay the fee before entering into a written agreement  
8052 specifying what one or more acts of foreclosure rescue will be completed if the fee is paid; or  
8053 (ii) in a case when the financing that is the subject of the foreclosure rescue is  
8054 foreclosed within one year from the day on which the person enters into a written agreement,

8055 the person is required to forfeit the fee for any reason;

8056 (d) inducing a person who is at risk of foreclosure to hire the licensee to engage in an  
8057 act of foreclosure rescue by:

8058 (i) suggesting to the person that the licensee has a special relationship with the person's  
8059 lender or loan servicer; or

8060 (ii) falsely representing or advertising that the licensee is acting on behalf of:

8061 (A) a government agency;

8062 (B) the person's lender or loan servicer; or

8063 (C) a nonprofit or charitable institution; or

8064 (e) recommending or participating in a foreclosure rescue that requires a person to:

8065 (i) transfer title to real property to the licensee or to a third party with whom the  
8066 licensee has a business relationship or financial interest;

8067 (ii) make a mortgage payment to a person other than the person's loan servicer; or

8068 (iii) refrain from contacting the person's:

8069 (A) lender;

8070 (B) loan servicer;

8071 (C) attorney;

8072 (D) credit counselor; or

8073 (E) housing counselor; or

8074 (22) for an agreement for foreclosure rescue entered into on or after May 11, 2010,

8075 engaging in an act of foreclosure rescue without offering in writing to the person entering into

8076 the agreement for foreclosure rescue a right to cancel the agreement within three business days

8077 after the day on which the person enters the agreement.

8078 Section 309. Section **75-7-1011** is amended to read:

8079 **75-7-1011. Interest as general partner.**

8080 (1) Except as otherwise provided in Subsection (3) or unless personal liability is

8081 imposed in the contract, a trustee who holds an interest as a general partner in a general or

8082 limited partnership is not personally liable on a contract entered into by the partnership after

8083 the trust's acquisition of the interest if the fiduciary capacity was disclosed in the contract or in

8084 a statement previously filed pursuant to Title 48, Chapter ~~2a, Utah Revised~~ 2d, Utah Uniform

8085 Limited Partnership Act.

8086 (2) Except as otherwise provided in Subsection (3), a trustee who holds an interest as a  
8087 general partner is not personally liable for torts committed by the partnership or for obligations  
8088 arising from ownership or control of the interest unless the trustee is personally at fault.

8089 (3) The immunity provided by this section does not apply if an interest in the  
8090 partnership is held by the trustee in a capacity other than that of trustee or is held by the  
8091 trustee's spouse or one or more of the trustee's descendants, siblings, or parents, or the spouse  
8092 of any of them.

8093 (4) If the trustee of a revocable trust holds an interest as a general partner, the settlor is  
8094 personally liable for contracts and other obligations of the partnership as if the settlor were a  
8095 general partner.

8096 Section 310. **Repealer.**

8097 This bill repeals:

8098 Section **48-1-1, Definition of terms.**

8099 Section **48-1-2, Interpretation of knowledge and notice.**

8100 Section **48-1-3, "Partnership" defined.**

8101 Section **48-1-3.1, Joint venture defined -- Application of chapter.**

8102 Section **48-1-4, Rules for determining the existence of a partnership.**

8103 Section **48-1-5, Partnership property.**

8104 Section **48-1-6, Partner agent of partnership as to partnership business.**

8105 Section **48-1-7, Conveyance of real property of partnership.**

8106 Section **48-1-8, Partnership bound by admission of partner.**

8107 Section **48-1-9, Partnership charged with knowledge of or notice to partner.**

8108 Section **48-1-10, Partnership bound by partner's wrongful act.**

8109 Section **48-1-11, Partnership bound by partner's breach of trust.**

8110 Section **48-1-12, Nature of partner's liability.**

8111 Section **48-1-13, Partner by estoppel.**

8112 Section **48-1-14, Liability of incoming partner.**

8113 Section **48-1-15, Rules determining rights and duties of partners.**

8114 Section **48-1-16, Partnership books.**

8115 Section **48-1-17, Duty of partners to render information.**

8116 Section **48-1-18, Partner accountable as a fiduciary.**

- 8117 Section 48-1-19, Right to an account.
- 8118 Section 48-1-20, Continuation of partnership beyond fixed term.
- 8119 Section 48-1-21, Extent of property rights of a partner.
- 8120 Section 48-1-22, Nature of a partner's right in specific partnership property.
- 8121 Section 48-1-23, Nature of partner's interest in the partnership.
- 8122 Section 48-1-24, Assignment of partner's interest.
- 8123 Section 48-1-25, Partner's interest subject to charging order.
- 8124 Section 48-1-26, "Dissolution" defined.
- 8125 Section 48-1-27, Partnership not terminated by dissolution.
- 8126 Section 48-1-28, Causes of dissolution.
- 8127 Section 48-1-29, Dissolution by decree of court.
- 8128 Section 48-1-30, General effect of dissolution on authority of partner.
- 8129 Section 48-1-31, Right of partner to contribution from copartners after dissolution.
- 8130 Section 48-1-32, Power of partner to bind partnership to third persons after
- 8131 **dissolution.**
- 8132 Section 48-1-33, Effect of dissolution on partner's existing liability.
- 8133 Section 48-1-34, Right to wind up.
- 8134 Section 48-1-35, Rights of partners to application of partnership property.
- 8135 Section 48-1-36, Rights where partnership is dissolved for fraud or
- 8136 **misrepresentation.**
- 8137 Section 48-1-37, Rules for distribution.
- 8138 Section 48-1-38, Liability of persons continuing the business in certain cases.
- 8139 Section 48-1-39, Rights of retiring or estate of deceased partner when the business
- 8140 **is continued.**
- 8141 Section 48-1-40, Accrual of actions.
- 8142 Section 48-1-41, Title.
- 8143 Section 48-1-42, Registration of limited liability partnerships.
- 8144 Section 48-1-43, Scope of chapter -- Choice of law.
- 8145 Section 48-1-44, Foreign limited liability partnerships.
- 8146 Section 48-1-45, Name of registered limited liability partnership.
- 8147 Section 48-1-46, Professional relationship -- Personal liability.

- 8148           Section **48-1-47, Regulatory agency or board authority -- Prohibitions on**
- 8149 **individuals apply.**
- 8150           Section **48-1-48, Limited liability partnerships providing professional services.**
- 8151           Section **48-2a-101, Definitions.**
- 8152           Section **48-2a-102, Name.**
- 8153           Section **48-2a-103, Reservation of name.**
- 8154           Section **48-2a-103.5, Limited partnership name -- Limited rights.**
- 8155           Section **48-2a-105, Records to be kept.**
- 8156           Section **48-2a-106, Nature of business.**
- 8157           Section **48-2a-107, Business transactions of partner with partnership.**
- 8158           Section **48-2a-108, Conversion of certain entities to a limited partnership.**
- 8159           Section **48-2a-109, Articles of conversion.**
- 8160           Section **48-2a-110, Effect of conversion.**
- 8161           Section **48-2a-111, Approval of conversion.**
- 8162           Section **48-2a-112, No limitation on other changes.**
- 8163           Section **48-2a-113, Approval of limited partnership conversion to subject entity.**
- 8164           Section **48-2a-201, Certificate of limited partnerships.**
- 8165           Section **48-2a-202, Amendment to certificate.**
- 8166           Section **48-2a-202.5, Actions not requiring amendment.**
- 8167           Section **48-2a-203, Voluntary cancellation of certificate.**
- 8168           Section **48-2a-203.5, Involuntary dissolution of certificate.**
- 8169           Section **48-2a-204, Execution of certificates.**
- 8170           Section **48-2a-205, Execution by judicial act.**
- 8171           Section **48-2a-206, Filing with the division.**
- 8172           Section **48-2a-207, Liability for false statement in certificate.**
- 8173           Section **48-2a-208, Scope of notice.**
- 8174           Section **48-2a-209, Delivery of certificates to limited partners.**
- 8175           Section **48-2a-210, Annual report.**
- 8176           Section **48-2a-301, Admission of additional limited partners.**
- 8177           Section **48-2a-302, Voting.**
- 8178           Section **48-2a-303, Liability to third parties.**



- 8179 Section **48-2a-304, Person erroneously believing himself to be a limited partner.**
- 8180 Section **48-2a-305, Inspection of records -- Right to information.**
- 8181 Section **48-2a-401, Admission of additional general partners.**
- 8182 Section **48-2a-402, Events of withdrawal.**
- 8183 Section **48-2a-403, General powers and liabilities.**
- 8184 Section **48-2a-404, Contributions by general partners.**
- 8185 Section **48-2a-405, Voting.**
- 8186 Section **48-2a-501, Form of contribution.**
- 8187 Section **48-2a-502, Liability for contribution.**
- 8188 Section **48-2a-503, Sharing of profits and losses.**
- 8189 Section **48-2a-504, Sharing of distributions.**
- 8190 Section **48-2a-601, Interim distributions.**
- 8191 Section **48-2a-602, Withdrawal of general partner.**
- 8192 Section **48-2a-603, Withdrawal of limited partners.**
- 8193 Section **48-2a-604, Distribution upon withdrawal.**
- 8194 Section **48-2a-605, Distribution in kind.**
- 8195 Section **48-2a-606, Right to distribution.**
- 8196 Section **48-2a-607, Limitations on distributions.**
- 8197 Section **48-2a-608, Liability upon return of contribution.**
- 8198 Section **48-2a-701, Nature of partnership interest.**
- 8199 Section **48-2a-702, Assignment of partnership interest.**
- 8200 Section **48-2a-703, Rights of creditor.**
- 8201 Section **48-2a-704, Right of assignee to become limited partner.**
- 8202 Section **48-2a-705, Power of estate of deceased or incompetent partner.**
- 8203 Section **48-2a-801, Nonjudicial dissolution.**
- 8204 Section **48-2a-802, Judicial dissolution.**
- 8205 Section **48-2a-803, Winding up.**
- 8206 Section **48-2a-804, Distribution of assets.**
- 8207 Section **48-2a-901, Law governing.**
- 8208 Section **48-2a-902, Registration.**
- 8209 Section **48-2a-903, Issuance of registration.**

- 8210 Section **48-2a-904, Name.**
- 8211 Section **48-2a-905, Changes and amendments.**
- 8212 Section **48-2a-906, Cancellation of registration.**
- 8213 Section **48-2a-907, Transaction of business without registration.**
- 8214 Section **48-2a-908, Action by director of division.**
- 8215 Section **48-2a-1001, Right of action.**
- 8216 Section **48-2a-1002, Proper plaintiff.**
- 8217 Section **48-2a-1003, Pleading.**
- 8218 Section **48-2a-1004, Expenses.**
- 8219 Section **48-2a-1005, Security and costs.**
- 8220 Section **48-2a-1006, Indemnification of a general partner.**
- 8221 Section **48-2a-1101, Construction and application.**
- 8222 Section **48-2a-1102, Short title.**
- 8223 Section **48-2a-1103, Severability.**
- 8224 Section **48-2a-1104, Effective date -- Extended effective date -- Applicability of**
- 8225 **former law.**
- 8226 Section **48-2a-1105, Rules for cases not provided for in this chapter.**
- 8227 Section **48-2a-1106, Savings clause.**
- 8228 Section **48-2a-1107, Fees.**
- 8229 Section **48-2c-101, Title.**
- 8230 Section **48-2c-102, Definitions.**
- 8231 Section **48-2c-103, Application of partnership provisions.**
- 8232 Section **48-2c-104, Separate legal entity.**
- 8233 Section **48-2c-105, Purpose.**
- 8234 Section **48-2c-106, Name -- Exclusive right.**
- 8235 Section **48-2c-107, Limited liability company name -- Limited rights.**
- 8236 Section **48-2c-108, Reservation of name.**
- 8237 Section **48-2c-109, Transaction of business outside state.**
- 8238 Section **48-2c-110, Powers.**
- 8239 Section **48-2c-113, Inspection of records by members and managers.**
- 8240 Section **48-2c-114, Scope of inspection right.**

- 8241 Section **48-2c-115, Court-ordered inspection.**
- 8242 Section **48-2c-116, Member or manager as a party to proceedings.**
- 8243 Section **48-2c-118, Waiver of notice.**
- 8244 Section **48-2c-119, Transaction of members or managers with company.**
- 8245 Section **48-2c-120, Articles of organization and operating agreement.**
- 8246 Section **48-2c-121, Scope of notice.**
- 8247 Section **48-2c-122, Statement of person named as manager or member.**
- 8248 Section **48-2c-201, Place for filings.**
- 8249 Section **48-2c-202, Record of filings.**
- 8250 Section **48-2c-203, Annual report.**
- 8251 Section **48-2c-204, Signing of documents filed with division.**
- 8252 Section **48-2c-205, Penalty for signing false documents.**
- 8253 Section **48-2c-206, Powers of the division.**
- 8254 Section **48-2c-207, Filing requirements.**
- 8255 Section **48-2c-208, Effective time and date of filed documents.**
- 8256 Section **48-2c-209, Correcting filed documents.**
- 8257 Section **48-2c-210, Filing duty of division.**
- 8258 Section **48-2c-211, Appeal from division's refusal to file document.**
- 8259 Section **48-2c-212, Evidentiary effect of copy of filed document.**
- 8260 Section **48-2c-213, Certificates issued by the division.**
- 8261 Section **48-2c-214, Fees.**
- 8262 Section **48-2c-305, Director of division as agent for service of process -- Records of**
- 8263 **process served.**
- 8264 Section **48-2c-309, Service on withdrawn foreign company.**
- 8265 Section **48-2c-311, Venue for action against foreign company.**
- 8266 Section **48-2c-401, Organizer.**
- 8267 Section **48-2c-402, Formation of company.**
- 8268 Section **48-2c-403, Articles of organization.**
- 8269 Section **48-2c-404, Prefiling activities.**
- 8270 Section **48-2c-405, When amendment to articles of organization required.**
- 8271 Section **48-2c-406, Actions not requiring amendment.**

- 8272 Section **48-2c-407, Authority to amend articles of organization.**
- 8273 Section **48-2c-408, Certificate of amendment to articles of organization.**
- 8274 Section **48-2c-409, Restated articles of organization.**
- 8275 Section **48-2c-410, Transfer to other jurisdiction.**
- 8276 Section **48-2c-411, Domestication of foreign company.**
- 8277 Section **48-2c-412, Low-profit limited liability company.**
- 8278 Section **48-2c-501, Initial agreement.**
- 8279 Section **48-2c-502, General rules for operating agreements.**
- 8280 Section **48-2c-503, Timing.**
- 8281 Section **48-2c-504, Operating agreement for a one-member company.**
- 8282 Section **48-2c-505, Interpretation and enforcement.**
- 8283 Section **48-2c-506, Amendment.**
- 8284 Section **48-2c-601, General rule.**
- 8285 Section **48-2c-602, Exceptions to limited liability.**
- 8286 Section **48-2c-603, Waiver of exceptions to limited liability.**
- 8287 Section **48-2c-604, Waiver of protection of limited liability.**
- 8288 Section **48-2c-605, No formalities required to maintain limited liability.**
- 8289 Section **48-2c-606, Series of members, managers, or limited liability company**
- 8290 **interests.**
- 8291 Section **48-2c-607, Notice of series -- Articles of organization.**
- 8292 Section **48-2c-608, Agreement to be liable.**
- 8293 Section **48-2c-609, Series related provisions in operating agreement.**
- 8294 Section **48-2c-610, Management of a series.**
- 8295 Section **48-2c-611, Distributions concerning a series.**
- 8296 Section **48-2c-612, Member removal from a series -- Effect.**
- 8297 Section **48-2c-613, Termination of series.**
- 8298 Section **48-2c-614, Court-decreed termination of series.**
- 8299 Section **48-2c-615, Participation in winding up.**
- 8300 Section **48-2c-616, Foreign limited liability company -- Series.**
- 8301 Section **48-2c-701, Nature of member interest.**
- 8302 Section **48-2c-702, Initial members.**

- 8303 Section **48-2c-703, Additional members.**
- 8304 Section **48-2c-704, Meetings of members.**
- 8305 Section **48-2c-705, Voting.**
- 8306 Section **48-2c-706, Action by members without a meeting.**
- 8307 Section **48-2c-707, Classes of members.**
- 8308 Section **48-2c-708, Cessation of membership.**
- 8309 Section **48-2c-709, Withdrawal of a member.**
- 8310 Section **48-2c-710, Expulsion of a member.**
- 8311 Section **48-2c-801, Management structure.**
- 8312 Section **48-2c-802, Agency authority of members and managers.**
- 8313 Section **48-2c-803, Management by members.**
- 8314 Section **48-2c-803.1, Individual profits interest.**
- 8315 Section **48-2c-804, Management by managers.**
- 8316 Section **48-2c-805, Delegation of authority and power to manage.**
- 8317 Section **48-2c-806, Reliance by member or manager on reports and information.**
- 8318 Section **48-2c-807, Duties of managers and members.**
- 8319 Section **48-2c-808, Actions by multiple managers.**
- 8320 Section **48-2c-809, Removal by judicial proceeding.**
- 8321 Section **48-2c-901, Form of contribution.**
- 8322 Section **48-2c-902, Assessments for additional contributions.**
- 8323 Section **48-2c-903, Capital accounts.**
- 8324 Section **48-2c-904, Valuation of member's interest in the company.**
- 8325 Section **48-2c-905, Redemption of interest.**
- 8326 Section **48-2c-906, Allocation of profits and losses.**
- 8327 Section **48-2c-1001, Allocation of current distributions.**
- 8328 Section **48-2c-1002, Timing of distributions.**
- 8329 Section **48-2c-1003, Liquidating distributions.**
- 8330 Section **48-2c-1004, Right to distributions.**
- 8331 Section **48-2c-1005, Limitations on distributions.**
- 8332 Section **48-2c-1006, Duty to return wrongful distributions.**
- 8333 Section **48-2c-1007, Distribution in kind.**

- 8334 Section **48-2c-1008, Unclaimed distributions.**
- 8335 Section **48-2c-1101, Assignment of interests.**
- 8336 Section **48-2c-1102, Rights of assignee.**
- 8337 Section **48-2c-1103, Rights of creditor of member.**
- 8338 Section **48-2c-1104, Right of assignee to become member.**
- 8339 Section **48-2c-1105, Liability of assignor continues.**
- 8340 Section **48-2c-1106, Invalid transfers.**
- 8341 Section **48-2c-1201, Events of dissolution.**
- 8342 Section **48-2c-1202, Voluntary cancellation of certificate.**
- 8343 Section **48-2c-1203, Effect of dissolution.**
- 8344 Section **48-2c-1204, Articles of dissolution.**
- 8345 Section **48-2c-1205, Revocation of voluntary dissolution.**
- 8346 Section **48-2c-1206, Grounds for administrative dissolution.**
- 8347 Section **48-2c-1207, Procedure for and effect of administrative dissolution.**
- 8348 Section **48-2c-1208, Reinstatement following administrative dissolution.**
- 8349 Section **48-2c-1209, Appeal from denial of reinstatement.**
- 8350 Section **48-2c-1210, Grounds for judicial dissolution.**
- 8351 Section **48-2c-1211, Procedure for judicial dissolution.**
- 8352 Section **48-2c-1212, Receivership or custodianship.**
- 8353 Section **48-2c-1213, Decree of dissolution.**
- 8354 Section **48-2c-1214, Election to purchase in lieu of dissolution.**
- 8355 Section **48-2c-1301, Winding up defined.**
- 8356 Section **48-2c-1302, Powers of company in winding up.**
- 8357 Section **48-2c-1303, Persons authorized to wind up.**
- 8358 Section **48-2c-1304, Payment of claims and obligations.**
- 8359 Section **48-2c-1305, Disposition of known claims by notification.**
- 8360 Section **48-2c-1306, Disposition of claims by publication.**
- 8361 Section **48-2c-1307, Enforcement of claims against dissolved company in winding**
- 8362 **up.**
- 8363 Section **48-2c-1308, Distribution of assets on winding up.**
- 8364 Section **48-2c-1309, Deposit with state treasurer.**

- 8365 Section 48-2c-1401, Conversion of certain entities to a domestic company.
- 8366 Section 48-2c-1402, Articles of conversion.
- 8367 Section 48-2c-1403, Effect of conversion.
- 8368 Section 48-2c-1404, Approval of conversion.
- 8369 Section 48-2c-1405, No limitation on other changes.
- 8370 Section 48-2c-1406, Approval of company conversion to other entity.
- 8371 Section 48-2c-1407, Merger.
- 8372 Section 48-2c-1408, Approval of merger.
- 8373 Section 48-2c-1409, Articles of merger.
- 8374 Section 48-2c-1410, Effect of merger.
- 8375 Section 48-2c-1411, Conversion or merger of a low-profit limited liability
- 8376 **company.**
- 8377 Section 48-2c-1501, Purpose of Part 15.
- 8378 Section 48-2c-1502, Definitions.
- 8379 Section 48-2c-1503, Rendering professional services.
- 8380 Section 48-2c-1504, No limits on regulating board.
- 8381 Section 48-2c-1505, Name limitations.
- 8382 Section 48-2c-1506, Activity limitations.
- 8383 Section 48-2c-1507, Limit of one profession.
- 8384 Section 48-2c-1508, Members and managers restricted to professionals.
- 8385 Section 48-2c-1509, Additional requirements for articles of organization.
- 8386 Section 48-2c-1510, Restrictions on transfers by members.
- 8387 Section 48-2c-1511, Purchase of interest upon death, incapacity, or disqualification
- 8388 **of members.**
- 8389 Section 48-2c-1512, Conversion to nonprofessional company.
- 8390 Section 48-2c-1513, Application of Part 15.
- 8391 Section 48-2c-1601, Law governing foreign companies.
- 8392 Section 48-2c-1602, Authority to transact business required.
- 8393 Section 48-2c-1603, Consequences of transacting business without authority.
- 8394 Section 48-2c-1604, Application for authority to transact business.
- 8395 Section 48-2c-1605, Amended application for authority to transact business.

- 8396           Section **48-2c-1606, Effect of filing an application for authority to transact**
- 8397 **business.**
- 8398           Section **48-2c-1607, Company name and assumed company name of foreign**
- 8399 **company.**
- 8400           Section **48-2c-1608, Registered name of foreign company.**
- 8401           Section **48-2c-1609, Amendment of articles of organization of foreign company.**
- 8402           Section **48-2c-1610, Merger of foreign company authorized to transact business in**
- 8403 **this state.**
- 8404           Section **48-2c-1611, Withdrawal of foreign company.**
- 8405           Section **48-2c-1612, Grounds for revocation.**
- 8406           Section **48-2c-1613, Procedure for and effect of revocation.**
- 8407           Section **48-2c-1614, Appeal from revocation.**
- 8408           Section **48-2c-1615, Actions to restrain transaction of business in state.**
- 8409           Section **48-2c-1701, Right of action.**
- 8410           Section **48-2c-1702, Proper plaintiff.**
- 8411           Section **48-2c-1703, Pleading.**
- 8412           Section **48-2c-1704, Stay of proceedings.**
- 8413           Section **48-2c-1705, Expenses.**
- 8414           Section **48-2c-1706, Security and costs.**
- 8415           Section **48-2c-1801, Definitions.**
- 8416           Section **48-2c-1802, Authority to indemnify.**
- 8417           Section **48-2c-1803, Mandatory indemnification of managers.**
- 8418           Section **48-2c-1804, Advancement of expenses.**
- 8419           Section **48-2c-1805, Court-ordered indemnification.**
- 8420           Section **48-2c-1806, Determination and authorization of indemnification.**
- 8421           Section **48-2c-1807, Indemnification of members, employees, fiduciaries, and**
- 8422 **agents.**
- 8423           Section **48-2c-1808, Insurance.**
- 8424           Section **48-2c-1809, Limitations on indemnification.**
- 8425           Section **48-2c-1901, Legislative intent -- Freedom of contract.**
- 8426           Section **48-2c-1902, Transitional provisions.**



8427 Section 311. **Effective date.**  
8428 This bill takes effect on July 1, 2012.