

1                   **UNINCORPORATED BUSINESS ENTITY UNIFORM ACTS**

2                                   2011 GENERAL SESSION

3                                   STATE OF UTAH

4                           **Chief Sponsor: Lyle W. Hillyard**

5                           House Sponsor: John Dougall

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7   **LONG TITLE**

8   **General Description:**

9           This bill repeals the existing partnership act, Utah Revised Uniform Limited  
10 Partnership Act, and Utah Revised Limited Liability Company Act, and enacts with  
11 modifications the Uniform Partnership Act, Uniform Limited Partnership Act, and  
12 Uniform Limited Liability Company Act.

13   **Highlighted Provisions:**

14           This bill:

15           ▸ enacts provisions related to partnerships, including:

- 16           • enacting general provisions related to partnerships such as defining terms,  
17 addressing what constitutes knowledge and notice, addressing the effect of a  
18 partnership agreement, designating supplemental principles of law, providing  
19 for execution, filing, and recording of statements, addressing what is the  
20 governing law, and the affects of amendments or repeals to the chapter;
- 21           • addressing the nature of a partnership;
  - 22           • addressing the relations of partners to persons dealing with a partnership;
  - 23           • addressing relations of partners to each other and to the partnership;
  - 24           • addressing transferees and creditors of partners;
  - 25           • 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 January 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  
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104          **48-1b-307**, Utah Code Annotated 1953  
105          **48-1b-308**, Utah Code Annotated 1953  
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- 123           **48-1b-705**, Utah Code Annotated 1953
- 124           **48-1b-801**, Utah Code Annotated 1953
- 125           **48-1b-802**, Utah Code Annotated 1953
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- 127           **48-1b-804**, Utah Code Annotated 1953
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- 132           **48-1b-902**, Utah Code Annotated 1953
- 133           **48-1b-903**, Utah Code Annotated 1953
- 134           **48-1b-904**, Utah Code Annotated 1953
- 135           **48-1b-905**, Utah Code Annotated 1953
- 136           **48-1b-906**, Utah Code Annotated 1953
- 137           **48-1b-907**, Utah Code Annotated 1953
- 138           **48-1b-908**, Utah Code Annotated 1953
- 139           **48-1b-909**, Utah Code Annotated 1953
- 140           **48-1b-910**, Utah Code Annotated 1953
- 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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158           **48-1b-1203**, Utah Code Annotated 1953  
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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166           **48-2d-106**, Utah Code Annotated 1953  
167           **48-2d-107**, Utah Code Annotated 1953  
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181           **48-2d-207**, Utah Code Annotated 1953  
182           **48-2d-208**, Utah Code Annotated 1953

- 183            **48-2d-209**, Utah Code Annotated 1953
- 184            **48-2d-210**, Utah Code Annotated 1953
- 185            **48-2d-301**, Utah Code Annotated 1953
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- 197            **48-2d-407**, Utah Code Annotated 1953
- 198            **48-2d-408**, Utah Code Annotated 1953
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- 204            **48-2d-506**, Utah Code Annotated 1953
- 205            **48-2d-507**, Utah Code Annotated 1953
- 206            **48-2d-508**, Utah Code Annotated 1953
- 207            **48-2d-509**, Utah Code Annotated 1953
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- 210            **48-2d-603**, Utah Code Annotated 1953
- 211            **48-2d-604**, Utah Code Annotated 1953
- 212            **48-2d-605**, Utah Code Annotated 1953
- 213            **48-2d-606**, Utah Code Annotated 1953

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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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- 337            **48-3-1007**, Utah Code Annotated 1953

338           **48-3-1008**, Utah Code Annotated 1953  
339           **48-3-1009**, Utah Code Annotated 1953  
340           **48-3-1010**, Utah Code Annotated 1953  
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356           **48-3-1111**, Utah Code Annotated 1953  
357           **48-3-1112**, Utah Code Annotated 1953  
358           **48-3-1113**, Utah Code Annotated 1953  
359           **48-3-1201**, Utah Code Annotated 1953  
360           **48-3-1202**, Utah Code Annotated 1953  
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- 369            **48-3-1211**, Utah Code Annotated 1953
- 370            **48-3-1212**, Utah Code Annotated 1953
- 371            **48-3-1213**, Utah Code Annotated 1953
- 372            **48-3-1301**, Utah Code Annotated 1953
- 373            **48-3-1302**, Utah Code Annotated 1953
- 374            **48-3-1303**, Utah Code Annotated 1953
- 375            **48-3-1304**, Utah Code Annotated 1953
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- 378            **48-3-1402**, Utah Code Annotated 1953
- 379            **48-3-1403**, Utah Code Annotated 1953
- 380            **48-3-1404**, Utah Code Annotated 1953
- 381            **48-3-1405**, Utah Code Annotated 1953
- 382    REPEALS:
- 383            **48-1-1**, as last amended by Laws of Utah 2008, Chapter 249
- 384            **48-1-2**, Utah Code Annotated 1953
- 385            **48-1-3**, as last amended by Laws of Utah 1994, Chapter 61
- 386            **48-1-3.1**, as enacted by Laws of Utah 1985, Chapter 14
- 387            **48-1-4**, Utah Code Annotated 1953
- 388            **48-1-5**, Utah Code Annotated 1953
- 389            **48-1-6**, Utah Code Annotated 1953
- 390            **48-1-7**, Utah Code Annotated 1953
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- 393            **48-1-10**, Utah Code Annotated 1953
- 394            **48-1-11**, Utah Code Annotated 1953
- 395            **48-1-12**, as last amended by Laws of Utah 1994, Chapter 61
- 396            **48-1-13**, Utah Code Annotated 1953
- 397            **48-1-14**, Utah Code Annotated 1953
- 398            **48-1-15**, as last amended by Laws of Utah 1994, Chapter 61
- 399            **48-1-16**, Utah Code Annotated 1953

400           **48-1-17**, Utah Code Annotated 1953  
401           **48-1-18**, Utah Code Annotated 1953  
402           **48-1-19**, Utah Code Annotated 1953  
403           **48-1-20**, Utah Code Annotated 1953  
404           **48-1-21**, Utah Code Annotated 1953  
405           **48-1-22**, Utah Code Annotated 1953  
406           **48-1-23**, Utah Code Annotated 1953  
407           **48-1-24**, Utah Code Annotated 1953  
408           **48-1-25**, Utah Code Annotated 1953  
409           **48-1-26**, Utah Code Annotated 1953  
410           **48-1-27**, Utah Code Annotated 1953  
411           **48-1-28**, Utah Code Annotated 1953  
412           **48-1-29**, Utah Code Annotated 1953  
413           **48-1-30**, Utah Code Annotated 1953  
414           **48-1-31**, as last amended by Laws of Utah 1994, Chapter 61  
415           **48-1-32**, Utah Code Annotated 1953  
416           **48-1-33**, as last amended by Laws of Utah 1994, Chapter 61  
417           **48-1-34**, Utah Code Annotated 1953  
418           **48-1-35**, Utah Code Annotated 1953  
419           **48-1-36**, Utah Code Annotated 1953  
420           **48-1-37**, as last amended by Laws of Utah 1994, Chapter 61  
421           **48-1-38**, Utah Code Annotated 1953  
422           **48-1-39**, Utah Code Annotated 1953  
423           **48-1-40**, Utah Code Annotated 1953  
424           **48-1-41**, as enacted by Laws of Utah 1994, Chapter 61  
425           **48-1-42**, as last amended by Laws of Utah 2009, Chapter 183  
426           **48-1-43**, as enacted by Laws of Utah 1994, Chapter 61  
427           **48-1-44**, as last amended by Laws of Utah 2008, Chapter 249  
428           **48-1-45**, as enacted by Laws of Utah 1994, Chapter 61  
429           **48-1-46**, as enacted by Laws of Utah 1994, Chapter 61  
430           **48-1-47**, as enacted by Laws of Utah 1994, Chapter 61

431           **48-1-48**, as last amended by Laws of Utah 2000, Chapter 261  
432           **48-2a-101**, as last amended by Laws of Utah 2008, Chapter 249  
433           **48-2a-102**, as last amended by Laws of Utah 2010, Chapter 218  
434           **48-2a-103**, as last amended by Laws of Utah 1991, Chapter 189  
435           **48-2a-103.5**, as enacted by Laws of Utah 1991, Chapter 189  
436           **48-2a-105**, as last amended by Laws of Utah 1991, Chapter 189  
437           **48-2a-106**, as enacted by Laws of Utah 1990, Chapter 233  
438           **48-2a-107**, as enacted by Laws of Utah 1990, Chapter 233  
439           **48-2a-108**, as enacted by Laws of Utah 2001, Chapter 260  
440           **48-2a-109**, as enacted by Laws of Utah 2001, Chapter 260  
441           **48-2a-110**, as enacted by Laws of Utah 2001, Chapter 260  
442           **48-2a-111**, as enacted by Laws of Utah 2001, Chapter 260  
443           **48-2a-112**, as enacted by Laws of Utah 2001, Chapter 260  
444           **48-2a-113**, as enacted by Laws of Utah 2001, Chapter 260  
445           **48-2a-201**, as last amended by Laws of Utah 2008, Chapter 364  
446           **48-2a-202**, as last amended by Laws of Utah 2002, Chapter 193  
447           **48-2a-202.5**, as last amended by Laws of Utah 2008, Chapter 364  
448           **48-2a-203**, as last amended by Laws of Utah 1991, Chapter 189  
449           **48-2a-203.5**, as last amended by Laws of Utah 2008, Chapter 382  
450           **48-2a-204**, as enacted by Laws of Utah 1990, Chapter 233  
451           **48-2a-205**, as enacted by Laws of Utah 1990, Chapter 233  
452           **48-2a-206**, as last amended by Laws of Utah 2009, Chapter 183  
453           **48-2a-207**, as last amended by Laws of Utah 1992, Chapter 30  
454           **48-2a-208**, as last amended by Laws of Utah 1991, Chapter 189  
455           **48-2a-209**, as enacted by Laws of Utah 1990, Chapter 233  
456           **48-2a-210**, as last amended by Laws of Utah 2008, Chapter 364  
457           **48-2a-301**, as last amended by Laws of Utah 1991, Chapter 189  
458           **48-2a-302**, as enacted by Laws of Utah 1990, Chapter 233  
459           **48-2a-303**, as last amended by Laws of Utah 1991, Chapter 189  
460           **48-2a-304**, as last amended by Laws of Utah 1991, Chapter 189  
461           **48-2a-305**, as enacted by Laws of Utah 1990, Chapter 233

- 462            **48-2a-401**, as enacted by Laws of Utah 1990, Chapter 233
- 463            **48-2a-402**, as last amended by Laws of Utah 2010, Chapter 324
- 464            **48-2a-403**, as enacted by Laws of Utah 1990, Chapter 233
- 465            **48-2a-404**, as last amended by Laws of Utah 1991, Chapter 189
- 466            **48-2a-405**, as enacted by Laws of Utah 1990, Chapter 233
- 467            **48-2a-501**, as enacted by Laws of Utah 1990, Chapter 233
- 468            **48-2a-502**, as enacted by Laws of Utah 1990, Chapter 233
- 469            **48-2a-503**, as enacted by Laws of Utah 1990, Chapter 233
- 470            **48-2a-504**, as last amended by Laws of Utah 1991, Chapter 189
- 471            **48-2a-601**, as last amended by Laws of Utah 1991, Chapter 189
- 472            **48-2a-602**, as enacted by Laws of Utah 1990, Chapter 233
- 473            **48-2a-603**, as enacted by Laws of Utah 1990, Chapter 233
- 474            **48-2a-604**, as last amended by Laws of Utah 1991, Chapter 189
- 475            **48-2a-605**, as enacted by Laws of Utah 1990, Chapter 233
- 476            **48-2a-606**, as enacted by Laws of Utah 1990, Chapter 233
- 477            **48-2a-607**, as enacted by Laws of Utah 1990, Chapter 233
- 478            **48-2a-608**, as last amended by Laws of Utah 1991, Chapter 189
- 479            **48-2a-701**, as enacted by Laws of Utah 1990, Chapter 233
- 480            **48-2a-702**, as last amended by Laws of Utah 1991, Chapter 189
- 481            **48-2a-703**, as last amended by Laws of Utah 1991, Chapter 189
- 482            **48-2a-704**, as last amended by Laws of Utah 1991, Chapter 189
- 483            **48-2a-705**, as last amended by Laws of Utah 1991, Chapter 189
- 484            **48-2a-801**, as last amended by Laws of Utah 1991, Chapter 189
- 485            **48-2a-802**, as enacted by Laws of Utah 1990, Chapter 233
- 486            **48-2a-803**, as enacted by Laws of Utah 1990, Chapter 233
- 487            **48-2a-804**, as last amended by Laws of Utah 1991, Chapter 189
- 488            **48-2a-901**, as enacted by Laws of Utah 1990, Chapter 233
- 489            **48-2a-902**, as last amended by Laws of Utah 2008, Chapters 249 and 364
- 490            **48-2a-903**, as enacted by Laws of Utah 1990, Chapter 233
- 491            **48-2a-904**, as enacted by Laws of Utah 1990, Chapter 233
- 492            **48-2a-905**, as last amended by Laws of Utah 1991, Chapter 189



493           **48-2a-906**, as last amended by Laws of Utah 1991, Chapter 189  
494           **48-2a-907**, as last amended by Laws of Utah 1991, Chapter 189  
495           **48-2a-908**, as enacted by Laws of Utah 1990, Chapter 233  
496           **48-2a-1001**, as enacted by Laws of Utah 1990, Chapter 233  
497           **48-2a-1002**, as last amended by Laws of Utah 1991, Chapter 189  
498           **48-2a-1003**, as enacted by Laws of Utah 1990, Chapter 233  
499           **48-2a-1004**, as enacted by Laws of Utah 1990, Chapter 233  
500           **48-2a-1005**, as last amended by Laws of Utah 1991, Chapter 189  
501           **48-2a-1006**, as enacted by Laws of Utah 1990, Chapter 233  
502           **48-2a-1101**, as enacted by Laws of Utah 1990, Chapter 233  
503           **48-2a-1102**, as enacted by Laws of Utah 1990, Chapter 233  
504           **48-2a-1103**, as enacted by Laws of Utah 1990, Chapter 233  
505           **48-2a-1104**, as last amended by Laws of Utah 1991, Chapters 5 and 189  
506           **48-2a-1105**, as enacted by Laws of Utah 1990, Chapter 233  
507           **48-2a-1106**, as enacted by Laws of Utah 1990, Chapter 233  
508           **48-2a-1107**, as last amended by Laws of Utah 2009, Chapter 183  
509           **48-2c-101**, as enacted by Laws of Utah 2001, Chapter 260  
510           **48-2c-102**, as last amended by Laws of Utah 2009, Chapter 141  
511           **48-2c-103**, as enacted by Laws of Utah 2001, Chapter 260  
512           **48-2c-104**, as enacted by Laws of Utah 2001, Chapter 260  
513           **48-2c-105**, as enacted by Laws of Utah 2001, Chapter 260  
514           **48-2c-106**, as last amended by Laws of Utah 2010, Chapter 218  
515           **48-2c-107**, as enacted by Laws of Utah 2001, Chapter 260  
516           **48-2c-108**, as last amended by Laws of Utah 2002, Chapter 193  
517           **48-2c-109**, as enacted by Laws of Utah 2001, Chapter 260  
518           **48-2c-110**, as last amended by Laws of Utah 2005, Chapter 141  
519           **48-2c-113**, as last amended by Laws of Utah 2010, Chapter 43  
520           **48-2c-114**, as enacted by Laws of Utah 2001, Chapter 260  
521           **48-2c-115**, as last amended by Laws of Utah 2008, Chapter 364  
522           **48-2c-116**, as enacted by Laws of Utah 2001, Chapter 260  
523           **48-2c-118**, as enacted by Laws of Utah 2001, Chapter 260

524           **48-2c-119**, as enacted by Laws of Utah 2001, Chapter 260  
525           **48-2c-120**, as last amended by Laws of Utah 2006, Chapter 92  
526           **48-2c-121**, as last amended by Laws of Utah 2005, Chapter 141  
527           **48-2c-122**, as enacted by Laws of Utah 2001, Chapter 260  
528           **48-2c-201**, as enacted by Laws of Utah 2001, Chapter 260  
529           **48-2c-202**, as enacted by Laws of Utah 2001, Chapter 260  
530           **48-2c-203**, as last amended by Laws of Utah 2009, Chapter 141  
531           **48-2c-204**, as last amended by Laws of Utah 2008, Chapter 364  
532           **48-2c-205**, as enacted by Laws of Utah 2001, Chapter 260  
533           **48-2c-206**, as enacted by Laws of Utah 2001, Chapter 260  
534           **48-2c-207**, as enacted by Laws of Utah 2001, Chapter 260  
535           **48-2c-208**, as enacted by Laws of Utah 2001, Chapter 260  
536           **48-2c-209**, as enacted by Laws of Utah 2001, Chapter 260  
537           **48-2c-210**, as enacted by Laws of Utah 2001, Chapter 260  
538           **48-2c-211**, as last amended by Laws of Utah 2008, Chapter 364  
539           **48-2c-212**, as enacted by Laws of Utah 2001, Chapter 260  
540           **48-2c-213**, as enacted by Laws of Utah 2001, Chapter 260  
541           **48-2c-214**, as last amended by Laws of Utah 2009, Chapter 141  
542           **48-2c-305**, as enacted by Laws of Utah 2001, Chapter 260  
543           **48-2c-309**, as last amended by Laws of Utah 2008, Chapter 364  
544           **48-2c-311**, as enacted by Laws of Utah 2001, Chapter 260  
545           **48-2c-401**, as last amended by Laws of Utah 2005, Chapter 141  
546           **48-2c-402**, as enacted by Laws of Utah 2001, Chapter 260  
547           **48-2c-403**, as last amended by Laws of Utah 2009, Chapter 141  
548           **48-2c-404**, as enacted by Laws of Utah 2001, Chapter 260  
549           **48-2c-405**, as last amended by Laws of Utah 2009, Chapter 141  
550           **48-2c-406**, as last amended by Laws of Utah 2008, Chapter 364  
551           **48-2c-407**, as enacted by Laws of Utah 2001, Chapter 260  
552           **48-2c-408**, as last amended by Laws of Utah 2005, Chapter 141  
553           **48-2c-409**, as enacted by Laws of Utah 2001, Chapter 260  
554           **48-2c-410**, as last amended by Laws of Utah 2010, Chapter 43

- 555           **48-2c-411**, as last amended by Laws of Utah 2008, Chapter 364
- 556           **48-2c-412**, as enacted by Laws of Utah 2009, Chapter 141
- 557           **48-2c-501**, as last amended by Laws of Utah 2005, Chapter 141
- 558           **48-2c-502**, as enacted by Laws of Utah 2001, Chapter 260
- 559           **48-2c-503**, as enacted by Laws of Utah 2001, Chapter 260
- 560           **48-2c-504**, as enacted by Laws of Utah 2001, Chapter 260
- 561           **48-2c-505**, as enacted by Laws of Utah 2001, Chapter 260
- 562           **48-2c-506**, as enacted by Laws of Utah 2001, Chapter 260
- 563           **48-2c-601**, as enacted by Laws of Utah 2001, Chapter 260
- 564           **48-2c-602**, as last amended by Laws of Utah 2002, Chapter 193
- 565           **48-2c-603**, as enacted by Laws of Utah 2001, Chapter 260
- 566           **48-2c-604**, as enacted by Laws of Utah 2001, Chapter 260
- 567           **48-2c-605**, as enacted by Laws of Utah 2001, Chapter 260
- 568           **48-2c-606**, as last amended by Laws of Utah 2010, Chapter 43
- 569           **48-2c-607**, as last amended by Laws of Utah 2010, Chapter 43
- 570           **48-2c-608**, as enacted by Laws of Utah 2006, Chapter 92
- 571           **48-2c-609**, as enacted by Laws of Utah 2006, Chapter 92
- 572           **48-2c-610**, as enacted by Laws of Utah 2006, Chapter 92
- 573           **48-2c-611**, as enacted by Laws of Utah 2006, Chapter 92
- 574           **48-2c-612**, as enacted by Laws of Utah 2006, Chapter 92
- 575           **48-2c-613**, as enacted by Laws of Utah 2006, Chapter 92
- 576           **48-2c-614**, as enacted by Laws of Utah 2006, Chapter 92
- 577           **48-2c-615**, as enacted by Laws of Utah 2006, Chapter 92
- 578           **48-2c-616**, as enacted by Laws of Utah 2006, Chapter 92
- 579           **48-2c-701**, as enacted by Laws of Utah 2001, Chapter 260
- 580           **48-2c-702**, as last amended by Laws of Utah 2005, Chapter 141
- 581           **48-2c-703**, as enacted by Laws of Utah 2001, Chapter 260
- 582           **48-2c-704**, as last amended by Laws of Utah 2008, Chapter 364
- 583           **48-2c-705**, as enacted by Laws of Utah 2001, Chapter 260
- 584           **48-2c-706**, as enacted by Laws of Utah 2001, Chapter 260
- 585           **48-2c-707**, as last amended by Laws of Utah 2002, Chapter 193

- 586            **48-2c-708**, as enacted by Laws of Utah 2001, Chapter 260
- 587            **48-2c-709**, as enacted by Laws of Utah 2001, Chapter 260
- 588            **48-2c-710**, as enacted by Laws of Utah 2001, Chapter 260
- 589            **48-2c-801**, as last amended by Laws of Utah 2002, Chapter 193
- 590            **48-2c-802**, as enacted by Laws of Utah 2001, Chapter 260
- 591            **48-2c-803**, as last amended by Laws of Utah 2005, Chapter 141
- 592            **48-2c-803.1**, as enacted by Laws of Utah 2005, Chapter 141
- 593            **48-2c-804**, as last amended by Laws of Utah 2005, Chapter 141
- 594            **48-2c-805**, as enacted by Laws of Utah 2001, Chapter 260
- 595            **48-2c-806**, as enacted by Laws of Utah 2001, Chapter 260
- 596            **48-2c-807**, as last amended by Laws of Utah 2005, Chapter 141
- 597            **48-2c-808**, as enacted by Laws of Utah 2001, Chapter 260
- 598            **48-2c-809**, as last amended by Laws of Utah 2008, Chapter 364
- 599            **48-2c-901**, as enacted by Laws of Utah 2001, Chapter 260
- 600            **48-2c-902**, as enacted by Laws of Utah 2001, Chapter 260
- 601            **48-2c-903**, as last amended by Laws of Utah 2005, Chapter 141
- 602            **48-2c-904**, as enacted by Laws of Utah 2001, Chapter 260
- 603            **48-2c-905**, as enacted by Laws of Utah 2001, Chapter 260
- 604            **48-2c-906**, as enacted by Laws of Utah 2001, Chapter 260
- 605            **48-2c-1001**, as enacted by Laws of Utah 2001, Chapter 260
- 606            **48-2c-1002**, as enacted by Laws of Utah 2001, Chapter 260
- 607            **48-2c-1003**, as enacted by Laws of Utah 2001, Chapter 260
- 608            **48-2c-1004**, as enacted by Laws of Utah 2001, Chapter 260
- 609            **48-2c-1005**, as enacted by Laws of Utah 2001, Chapter 260
- 610            **48-2c-1006**, as enacted by Laws of Utah 2001, Chapter 260
- 611            **48-2c-1007**, as enacted by Laws of Utah 2001, Chapter 260
- 612            **48-2c-1008**, as enacted by Laws of Utah 2001, Chapter 260
- 613            **48-2c-1101**, as enacted by Laws of Utah 2001, Chapter 260
- 614            **48-2c-1102**, as enacted by Laws of Utah 2001, Chapter 260
- 615            **48-2c-1103**, as last amended by Laws of Utah 2005, Chapter 141
- 616            **48-2c-1104**, as enacted by Laws of Utah 2001, Chapter 260

- 617            **48-2c-1105**, as enacted by Laws of Utah 2001, Chapter 260
- 618            **48-2c-1106**, as enacted by Laws of Utah 2001, Chapter 260
- 619            **48-2c-1201**, as last amended by Laws of Utah 2005, Chapter 141
- 620            **48-2c-1202**, as enacted by Laws of Utah 2001, Chapter 260
- 621            **48-2c-1203**, as enacted by Laws of Utah 2001, Chapter 260
- 622            **48-2c-1204**, as last amended by Laws of Utah 2008, Chapter 364
- 623            **48-2c-1205**, as enacted by Laws of Utah 2001, Chapter 260
- 624            **48-2c-1206**, as last amended by Laws of Utah 2008, Chapter 364
- 625            **48-2c-1207**, as last amended by Laws of Utah 2009, Chapter 141
- 626            **48-2c-1208**, as last amended by Laws of Utah 2009, Chapter 141
- 627            **48-2c-1209**, as last amended by Laws of Utah 2009, Chapter 141
- 628            **48-2c-1210**, as enacted by Laws of Utah 2001, Chapter 260
- 629            **48-2c-1211**, as last amended by Laws of Utah 2008, Chapter 364
- 630            **48-2c-1212**, as enacted by Laws of Utah 2001, Chapter 260
- 631            **48-2c-1213**, as enacted by Laws of Utah 2001, Chapter 260
- 632            **48-2c-1214**, as enacted by Laws of Utah 2001, Chapter 260
- 633            **48-2c-1301**, as enacted by Laws of Utah 2001, Chapter 260
- 634            **48-2c-1302**, as enacted by Laws of Utah 2001, Chapter 260
- 635            **48-2c-1303**, as enacted by Laws of Utah 2001, Chapter 260
- 636            **48-2c-1304**, as enacted by Laws of Utah 2001, Chapter 260
- 637            **48-2c-1305**, as enacted by Laws of Utah 2001, Chapter 260
- 638            **48-2c-1306**, as last amended by Laws of Utah 2009, Chapter 141
- 639            **48-2c-1307**, as enacted by Laws of Utah 2001, Chapter 260
- 640            **48-2c-1308**, as enacted by Laws of Utah 2001, Chapter 260
- 641            **48-2c-1309**, as enacted by Laws of Utah 2001, Chapter 260
- 642            **48-2c-1401**, as last amended by Laws of Utah 2009, Chapter 141
- 643            **48-2c-1402**, as enacted by Laws of Utah 2001, Chapter 260
- 644            **48-2c-1403**, as enacted by Laws of Utah 2001, Chapter 260
- 645            **48-2c-1404**, as last amended by Laws of Utah 2005, Chapter 141
- 646            **48-2c-1405**, as enacted by Laws of Utah 2001, Chapter 260
- 647            **48-2c-1406**, as last amended by Laws of Utah 2005, Chapter 141

- 648            **48-2c-1407**, as enacted by Laws of Utah 2001, Chapter 260
- 649            **48-2c-1408**, as enacted by Laws of Utah 2001, Chapter 260
- 650            **48-2c-1409**, as enacted by Laws of Utah 2001, Chapter 260
- 651            **48-2c-1410**, as enacted by Laws of Utah 2001, Chapter 260
- 652            **48-2c-1411**, as enacted by Laws of Utah 2009, Chapter 141
- 653            **48-2c-1501**, as enacted by Laws of Utah 2001, Chapter 260
- 654            **48-2c-1502**, as last amended by Laws of Utah 2010, Chapter 379
- 655            **48-2c-1503**, as enacted by Laws of Utah 2001, Chapter 260
- 656            **48-2c-1504**, as enacted by Laws of Utah 2001, Chapter 260
- 657            **48-2c-1505**, as enacted by Laws of Utah 2001, Chapter 260
- 658            **48-2c-1506**, as enacted by Laws of Utah 2001, Chapter 260
- 659            **48-2c-1507**, as enacted by Laws of Utah 2001, Chapter 260
- 660            **48-2c-1508**, as enacted by Laws of Utah 2001, Chapter 260
- 661            **48-2c-1509**, as enacted by Laws of Utah 2001, Chapter 260
- 662            **48-2c-1510**, as enacted by Laws of Utah 2001, Chapter 260
- 663            **48-2c-1511**, as last amended by Laws of Utah 2008, Chapter 364
- 664            **48-2c-1512**, as enacted by Laws of Utah 2001, Chapter 260
- 665            **48-2c-1513**, as enacted by Laws of Utah 2001, Chapter 260
- 666            **48-2c-1601**, as enacted by Laws of Utah 2001, Chapter 260
- 667            **48-2c-1602**, as enacted by Laws of Utah 2001, Chapter 260
- 668            **48-2c-1603**, as last amended by Laws of Utah 2008, Chapter 364
- 669            **48-2c-1604**, as last amended by Laws of Utah 2008, Chapters 249 and 364
- 670            **48-2c-1605**, as enacted by Laws of Utah 2001, Chapter 260
- 671            **48-2c-1606**, as enacted by Laws of Utah 2001, Chapter 260
- 672            **48-2c-1607**, as enacted by Laws of Utah 2001, Chapter 260
- 673            **48-2c-1608**, as enacted by Laws of Utah 2001, Chapter 260
- 674            **48-2c-1609**, as enacted by Laws of Utah 2001, Chapter 260
- 675            **48-2c-1610**, as enacted by Laws of Utah 2001, Chapter 260
- 676            **48-2c-1611**, as last amended by Laws of Utah 2008, Chapter 364
- 677            **48-2c-1612**, as last amended by Laws of Utah 2008, Chapter 364
- 678            **48-2c-1613**, as last amended by Laws of Utah 2009, Chapter 141

- 679            **48-2c-1614**, as last amended by Laws of Utah 2008, Chapter 364
- 680            **48-2c-1615**, as enacted by Laws of Utah 2001, Chapter 260
- 681            **48-2c-1701**, as enacted by Laws of Utah 2001, Chapter 260
- 682            **48-2c-1702**, as enacted by Laws of Utah 2001, Chapter 260
- 683            **48-2c-1703**, as enacted by Laws of Utah 2001, Chapter 260
- 684            **48-2c-1704**, as enacted by Laws of Utah 2001, Chapter 260
- 685            **48-2c-1705**, as enacted by Laws of Utah 2001, Chapter 260
- 686            **48-2c-1706**, as enacted by Laws of Utah 2001, Chapter 260
- 687            **48-2c-1801**, as enacted by Laws of Utah 2001, Chapter 260
- 688            **48-2c-1802**, as enacted by Laws of Utah 2001, Chapter 260
- 689            **48-2c-1803**, as enacted by Laws of Utah 2001, Chapter 260
- 690            **48-2c-1804**, as enacted by Laws of Utah 2001, Chapter 260
- 691            **48-2c-1805**, as enacted by Laws of Utah 2001, Chapter 260
- 692            **48-2c-1806**, as enacted by Laws of Utah 2001, Chapter 260
- 693            **48-2c-1807**, as enacted by Laws of Utah 2001, Chapter 260
- 694            **48-2c-1808**, as enacted by Laws of Utah 2001, Chapter 260
- 695            **48-2c-1809**, as enacted by Laws of Utah 2001, Chapter 260
- 696            **48-2c-1901**, as enacted by Laws of Utah 2001, Chapter 260
- 697            **48-2c-1902**, as enacted by Laws of Utah 2001, Chapter 260



699    *Be it enacted by the Legislature of the state of Utah:*

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

701            **7-1-810. Limited liability companies.**

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

- 706            (a) an industrial bank chartered under Chapter 8, Industrial Banks;
- 707            (b) an industrial loan company as defined in Section 7-8-21; or
- 708            (c) any of the following if the institution is an S Corporation, as defined in Section  
 709 1361, Internal Revenue Code, immediately before becoming a limited liability company:

710 (i) a bank chartered under Chapter 3, Banks;  
711 (ii) a savings and loan association chartered under Chapter 7, Savings and Loan  
712 Associations Act; or  
713 (iii) a depository institution holding company.  
714 (2) (a) Before an institution described in Subsection (1) may organize as or convert to a  
715 limited liability company, the institution shall obtain approval of the commissioner.  
716 (b) (i) To obtain the approval under this section from the commissioner, the institution  
717 shall file a request for approval with the commissioner at least 30 days before the day on which  
718 the institution becomes a limited liability company.  
719 (ii) If the commissioner does not disapprove the request for approval within 30 days  
720 from the day on which the commissioner receives the request, the request is considered  
721 approved.  
722 (iii) When taking action on a request for approval filed under this section, the  
723 commissioner may:  
724 (A) approve the request;  
725 (B) approve the request subject to terms and conditions the commissioner considers  
726 necessary; or  
727 (C) disapprove the request.  
728 (3) To approve a request for approval, the commissioner shall find:  
729 (a) for an institution described in Subsection (1) that is required to be insured by a  
730 federal deposit insurance agency, that the institution:  
731 (i) will operate in a safe and sound manner;  
732 (ii) has the following characteristics:  
733 (A) the institution is not subject to automatic termination, dissolution, or suspension  
734 upon the happening of some event other than the passage of time;  
735 (B) the exclusive authority to manage the institution is vested in a board of managers  
736 or directors that:  
737 (I) is elected or appointed by the owners;  
738 (II) is not required to have owners of the institution included on the board;  
739 (III) possesses adequate independence and authority to supervise the operation of the  
740 institution; and



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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

772 ~~[(H) Subsections 48-2c-1201(2) through (5); and]~~  
773 (A) Section 48-3-201;  
774 (B) Subsection 48-3-401(3);  
775 (C) Subsection 48-3-502(1)(c);  
776 (D) Title 48, Chapter 3, Part 6, Member's Dissociation; and  
777 (E) Subsections 48-3-701(1)(a), (b), and (c); and  
778 (ii) as otherwise provided in this title.  
779 (b) Notwithstanding Subsection (5)(a), for an institution that is described in Subsection  
780 (3)(a):  
781 (i) for purposes of transferring a member's interests in the institution, a member's  
782 interest in the institution shall be treated like a share of stock in a corporation; and  
783 (ii) if a member's interest in the institution is transferred voluntarily or involuntarily to  
784 another person, the person who receives the member's interest shall obtain the member's entire  
785 rights associated with the member's interest in the institution including:  
786 (A) all economic rights; and  
787 (B) all voting rights.  
788 (c) An institution described in Subsection (3)(a) may not by agreement or otherwise  
789 change the application of Subsection (5)(a) to the institution.  
790 (6) Unless the context requires otherwise, for the purpose of applying this title to an  
791 institution described in Subsection (1) that is organized as a limited liability company:  
792 (a) a citation to Title 16, Chapter 10a, Utah Revised Business Corporation Act,  
793 includes the equivalent citation to Title 48, Chapter ~~[2c, Utah Revised]~~ 3, Uniform Limited  
794 Liability Company Act;  
795 (b) "articles of incorporation" includes a limited liability company's ~~[articles]~~  
796 certificate of organization as that term is used in Section [48-2c-403] 48-3-201;  
797 (c) "board of directors" includes one or more persons who have, with respect to an  
798 institution described in Subsection (1), authority substantially similar to that of a board of  
799 directors of a corporation;  
800 (d) "bylaws" includes a limited liability company's operating agreement as that term is  
801 defined in Section ~~[48-2c-102]~~ 48-3-102;  
802 (e) "corporation" includes a limited liability company organized under Title 48,

803 Chapter [~~2c, Utah Revised~~] 3, Uniform Limited Liability Company Act;

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

805 (i) a manager;

806 (ii) a director; or

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

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

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

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

816 (i) an officer; or

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

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

820 (i) a membership interest in a limited liability company as provided in Title 48,  
821 Chapter [~~2c, Part 7, Members~~] 3, Part 4, Relations of Members to Each Other and to Limited  
822 Liability Company; and

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

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

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

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

834 Act.

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

836 **7-3-10. Organization -- Powers, rights, and privileges of banking corporation --**  
837 **Other business activities.**

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

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

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

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

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

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

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

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

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

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

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

861 **7-8-3. Organization -- Authorization to conduct business -- Deposit insurance.**

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

864 (2) (a) Each person organized to conduct the business of an industrial bank in this state

865 shall be organized under:

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

867 (ii) in accordance with Section 7-1-810, Title 48, Chapter [~~2c, Utah Revised~~] 3,

868 Uniform Limited Liability Company Act.

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

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

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

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

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

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

886 **13-34-114. Consent to use of educational terms in business names.**

887 (1) For purposes of this section:

888 (a) "Business name" means a name filed with the Division of Corporations and

889 Commercial Code under:

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

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

892 (iii) Section 16-11-16;

893 (iv) Section 42-2-6.6;

894 (v) Section [~~48-2a-102~~] 48-2d-108; or

895 (vi) Section [~~48-2c-106~~] 48-3-108.

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

897 (i) "university";

898 (ii) "college"; or

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

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

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

906 (a) is registered under this chapter;

907 (b) is exempt from the chapter under Section 13-34-105; or

908 (c) (i) is not engaged in educational activities; and

909 (ii) does not represent that it is engaged in educational activities.

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

912 (a) offers, sells, or awards a degree or any other type of educational credential; and

913 (b) fails to provide bona fide instruction through student-faculty interaction according  
914 to the standards and criteria established by the division under Subsection 13-34-104(5).

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

916 **16-6a-1008.7. Conversion to or from a domestic limited liability company.**

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

920 (i) this Subsection (1); and

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

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

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

925 (ii) if the corporation has any members, provide for:

926 (A) the cancellation of any membership; or

927 (B) the conversion of any membership in the domestic nonprofit corporation to a  
928 membership interest in the domestic limited liability company.

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

931 (i) in the manner provided for the articles of incorporation or bylaws of the domestic  
932 nonprofit corporation; or

933 (ii) if the articles of incorporation or bylaws of the domestic nonprofit corporation do  
934 not provide the method for approval:

935 (A) if the domestic nonprofit corporation has voting members, by all of the members of  
936 the domestic nonprofit corporation regardless of limitations or restrictions on the voting rights  
937 of the members; or

938 (B) if the nonprofit domestic corporation does not have voting members, by a majority  
939 of:

940 (I) the directors in office at the time the conversion is approved by the board of  
941 directors; or

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

943 (2) A domestic limited liability company may convert to a domestic nonprofit  
944 corporation subject to this chapter by:

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

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

947 (3) Any conversion under this section may not result in a violation, directly or  
948 indirectly, of:

949 (a) Section 16-6a-1301; or

950 (b) any other provision of this chapter.

951 Section 6. Section **16-10a-401** is amended to read:

952 **16-10a-401. Corporate name.**

953 (1) The name of a corporation:

954 (a) except for the name of a depository institution as defined in Section 7-1-103, shall  
955 contain:

956 (i) the word:

957 (A) "corporation";

958 (B) "incorporated"; or  
959 (C) "company";  
960 (ii) the abbreviation:  
961 (A) "corp.";   
962 (B) "inc."; or  
963 (C) "co."; or  
964 (iii) words or abbreviations of like import to the words or abbreviations listed in  
965 Subsections (1)(a)(i) and (ii) in another language;  
966 (b) may not contain language stating or implying that the corporation is organized for a  
967 purpose other than that permitted by:  
968 (i) Section 16-10a-301; and  
969 (ii) the corporation's articles of incorporation;  
970 (c) without the written consent of the United States Olympic Committee, may not  
971 contain the words:  
972 (i) "Olympic";  
973 (ii) "Olympiad"; or  
974 (iii) "Citius Altius Fortius"; and  
975 (d) without the written consent of the Division of Consumer Protection issued in  
976 accordance with Section 13-34-114, may not contain the words:  
977 (i) "university";  
978 (ii) "college"; or  
979 (iii) "institute" or "institution."  
980 (2) Except as authorized by Subsections (3) and (4), the name of a corporation shall be  
981 distinguishable, as defined in Subsection (5), upon the records of the division from:  
982 (a) the name of any domestic corporation incorporated in or foreign corporation  
983 authorized to transact business in this state;  
984 (b) the name of any domestic or foreign nonprofit corporation incorporated or  
985 authorized to transact business in this state;  
986 (c) the name of any domestic or foreign limited liability company formed or authorized  
987 to transact business in this state;  
988 (d) the name of any limited partnership formed or authorized to transact business in



989 this state;

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

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

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

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

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

1000 (A) consents to the filing, registration, or reservation in writing; and

1001 (B) submits an undertaking in a form satisfactory to the division to change its name to  
1002 a name that is distinguishable from the name of the applicant; or

1003 (ii) the applicant delivers to the division a certified copy of the final judgment of a  
1004 court of competent jurisdiction establishing the applicant's right to make the requested filing in  
1005 this state under the name applied for.

1006 (4) A corporation may make a filing under the name, including the fictitious name, of  
1007 another domestic or foreign corporation that is used or registered in this state if:

1008 (a) the other corporation is incorporated or authorized to transact business in this state;  
1009 and

1010 (b) the filing corporation:

1011 (i) has merged with the other corporation; or

1012 (ii) has been formed by reorganization of the other corporation.

1013 (5) (a) A name is distinguishable from other names, trademarks, and service marks on  
1014 the records of the division if it:

1015 (i) contains one or more different letters or numerals; or

1016 (ii) has a different sequence of letters or numerals from the other names on the  
1017 division's records.

1018 (b) Differences which are not distinguishing are:

1019 (i) the words or abbreviations of the words:

- 1020 (A) "corporation";
- 1021 (B) "company";
- 1022 (C) "incorporated";
- 1023 (D) "limited partnership";
- 1024 (E) "L.P.";
- 1025 (F) "limited";
- 1026 [~~(G)~~ "Ltd.,"]
- 1027 [~~(H)~~ (G) "limited liability company";
- 1028 [~~(I)~~ (H) "limited company";
- 1029 [~~(J)~~ (I) "L.C."; or
- 1030 [~~(K)~~ (J) "L.L.C.";
- 1031 (ii) the presence or absence of the words or symbols of the words "the," "and," or "a";
- 1032 (iii) differences in punctuation and special characters;
- 1033 (iv) differences in capitalization;
- 1034 (v) differences between singular and plural forms of words for a corporation:
- 1035 (A) incorporated in or authorized to do business in this state on or after May 4, 1998;
- 1036 or
- 1037 (B) that changes its name on or after May 4, 1998;
- 1038 (vi) differences in whether the letters or numbers immediately follow each other or are
- 1039 separated by one or more spaces if:
- 1040 (A) the sequence of letters or numbers is identical; and
- 1041 (B) the corporation:
- 1042 (I) is incorporated in or authorized to do business in this state on or after May 3, 1999;
- 1043 or
- 1044 (II) changes its name on or after May 3, 1999; or
- 1045 (vii) differences in abbreviations, for a corporation:
- 1046 (A) incorporated in or authorized to do business in this state on or after May 1, 2000;
- 1047 or
- 1048 (B) that changes its name on or after May 1, 2000.
- 1049 (c) The director of the division has the power and authority reasonably necessary to
- 1050 interpret and efficiently administer this section and to perform the duties imposed on the

1051 division by this section.

1052 (6) A name that implies that the corporation is an agency of this state or of any of its  
1053 political subdivisions, if it is not actually such a legally established agency or subdivision, may  
1054 not be approved for filing by the division.

1055 (7) (a) The requirements of Subsection (1)(d) do not apply to a corporation  
1056 incorporated in or authorized to do business in this state on or before May 4, 1998, until  
1057 December 31, 1998.

1058 (b) On or after January 1, 1999, any corporation incorporated in or authorized to do  
1059 business in this state shall comply with the requirements of Subsection (1)(d).

1060 Section 7. Section **16-10a-1008.7** is amended to read:

1061 **16-10a-1008.7. Conversion to or from a domestic limited liability company.**

1062 (1) (a) A corporation may convert to a domestic limited liability company subject to  
1063 Title 48, Chapter [~~2c, Utah Revised~~] 3, Uniform Limited Liability Company Act, by complying  
1064 with:

1065 (i) this Subsection (1); and

1066 (ii) Section [~~48-2c-1401~~] 48-3-1006.

1067 (b) If a corporation converts to a domestic limited liability company in accordance with  
1068 this Subsection (1), the articles of conversion shall:

1069 (i) comply with Section [~~48-2c-1402~~] 48-3-1008; and

1070 (ii) if the corporation has issued shares, provide for:

1071 (A) the cancellation of any issued share; or

1072 (B) the conversion of any issued share to a membership interest in the domestic limited  
1073 liability company.

1074 (c) [~~In accordance with Section 48-2c-1404, before~~] Before articles of conversion may  
1075 be filed with the division, the conversion shall be approved:

1076 (i) in the manner provided for the articles of incorporation or bylaws of the  
1077 corporation; or

1078 (ii) if the articles of incorporation or bylaws of the corporation do not provide the  
1079 method for approval:

1080 (A) if the corporation has issued shares, by all of the outstanding shares of all classes  
1081 of shares of the corporation regardless of limitations or restrictions on the voting rights of the

1082 shares; or

1083 (B) if the corporation has not issued shares, by a majority of:

1084 (I) the directors in office at the time that the conversion is approved by the board of  
1085 directors; or

1086 (II) if directors have not been appointed or elected, the incorporators.

1087 (2) A domestic limited liability company may convert to a corporation subject to this  
1088 chapter by:

1089 (a) filing articles of incorporation in accordance with this chapter; and

1090 (b) complying with Section [~~48-2c-1406~~] 48-3-1006.

1091 Section 8. Section **16-11-16** is amended to read:

1092 **16-11-16. Corporate name.**

1093 (1) The name of each professional corporation as set forth in its articles of  
1094 incorporation:

1095 (a) shall contain the terms:

1096 (i) "professional corporation"; or

1097 (ii) "P.C.";

1098 (b) may not contain the words:

1099 (i) "incorporated"; or

1100 (ii) "inc.";

1101 (c) may not contain language stating or implying that the professional corporation is  
1102 organized for a purpose other than that permitted by:

1103 (i) Section 16-11-6; and

1104 (ii) the professional corporation's articles of incorporation;

1105 (d) without the written consent of the United States Olympic Committee, may not  
1106 contain the words:

1107 (i) "Olympic";

1108 (ii) "Olympiad"; or

1109 (iii) "Citius Altius Fortius"; and

1110 (e) without the written consent of the Division of Consumer Protection in accordance  
1111 with Section 13-34-114, may not contain the words:

1112 (i) "university";

- 1113 (ii) "college"; or
- 1114 (iii) "institute" or "institution."
- 1115 (2) The professional corporation may not imply by any word in the name that it is an
- 1116 agency of the state or of any of its political subdivisions.
- 1117 (3) A person, other than a professional corporation formed or registered under this
- 1118 chapter, may not use in its name in this state any of the terms:
- 1119 (a) "professional corporation"; or
- 1120 (b) "P.C."
- 1121 (4) Except as authorized by Subsection (5), the name of the professional corporation
- 1122 shall be distinguishable, as defined in Subsection (6), upon the records of the division from:
- 1123 (a) the name of any domestic corporation incorporated in or foreign corporation
- 1124 authorized to transact business in this state;
- 1125 (b) the name of any domestic or foreign nonprofit corporation incorporated or
- 1126 authorized to transact business in this state;
- 1127 (c) the name of any domestic or foreign limited liability company formed or authorized
- 1128 to transact business in this state;
- 1129 (d) the name of any limited partnership formed or authorized to transact business in
- 1130 this state;
- 1131 (e) any name reserved or registered with the division for a corporation, limited liability
- 1132 company, or general or limited partnership, under the laws of this state; and
- 1133 (f) any business name, fictitious name, assumed name, trademark, or service mark
- 1134 registered by the division.
- 1135 (5) (a) A professional corporation may apply to the division for authorization to file its
- 1136 articles of incorporation under, or to register or reserve, a name that is not distinguishable upon
- 1137 its records from one or more of the names described in Subsection (4).
- 1138 (b) The division shall approve the application filed under Subsection (5)(a) if:
- 1139 (i) the other person whose name is not distinguishable from the name under which the
- 1140 applicant desires to file, or which the applicant desires to register or reserve:
- 1141 (A) consents to the filing, registration, or reservation in writing; and
- 1142 (B) submits an undertaking in a form satisfactory to the division to change its name to
- 1143 a name that is distinguishable from the name of the applicant; or

1144 (ii) the applicant delivers to the division a certified copy of the final judgment of a  
1145 court of competent jurisdiction establishing the applicant's right to make the requested filing in  
1146 this state under the name applied for.

1147 (6) (a) A name is distinguishable from other names, trademarks, and service marks  
1148 registered with the division if it:

1149 (i) contains one or more different letters or numerals from other names upon the  
1150 division's records; or

1151 (ii) has a different sequence of letter or numerals from the other names on the division's  
1152 records.

1153 (b) The following differences are not distinguishable:

1154 (i) the words or abbreviations of the words:

1155 (A) "corporation";

1156 (B) "incorporated";

1157 (C) "company";

1158 (D) "limited partnership";

1159 (E) "limited";

1160 (F) "L.P.";

1161 [~~(G)~~ "Ltd.;" ]

1162 [~~(H)~~ (G) "limited liability company";

1163 [~~(I)~~ (H) "limited company";

1164 [~~(J)~~ (I) "L.C."; or

1165 [~~(K)~~ (J) "L.L.C.";

1166 (ii) the presence or absence of the words or symbols of the words "the," "and," "a," or  
1167 "plus";

1168 (iii) differences in punctuation and special characters;

1169 (iv) differences in capitalization; or

1170 (v) differences in abbreviations.

1171 (7) The director of the division shall have the power and authority reasonably necessary  
1172 to interpret and efficiently administer this section and to perform the duties imposed upon the  
1173 division by this section.

1174 Section 9. Section **16-16-111** is amended to read:

1175 **16-16-111. Name.**

1176 (1) Use of the term "cooperative" or its abbreviation under this chapter is not a  
1177 violation of the provisions restricting the use of the term under any other law of this state.

1178 (2) (a) Notwithstanding Section [~~48-2a-102~~] 48-2d-108, the name of a limited  
1179 cooperative association shall contain:

1180 (i) the words "limited cooperative association" or "limited cooperative"; or

1181 (ii) the abbreviation "L.C.A." or "LCA". [~~"Limited" may be abbreviated as "Ltd.";~~]

1182 (b) "Cooperative" may be abbreviated as "Co-op" or "Coop".

1183 (c) "Association" may be abbreviated as "Assoc." or "Assn.".

1184 (d)(i) Use of the term "cooperative" or its abbreviation as permitted by this chapter is  
1185 not a violation of the provisions restricting the use of the term under any other law of this state.

1186 (ii) A limited cooperative association or a member may enforce the restrictions on the  
1187 use of the term "cooperative" under this chapter and any other law of this state.

1188 (iii) A limited cooperative association or a member may enforce the restrictions on the  
1189 use of the term "cooperative" under any other law of this state.

1190 (3) Except as otherwise provided in Subsection (4), a limited cooperative association  
1191 may use only a name that is available. A name is available if it is distinguishable in the records  
1192 of the division from:

1193 (a) the name of any entity organized or authorized to transact business in this state;

1194 (b) a name reserved under Section 16-16-112; and

1195 (c) an alternative name approved for a foreign cooperative authorized to transact  
1196 business in this state.

1197 (4) A limited cooperative association may apply to the division for authorization to use  
1198 a name that is not available. The division shall authorize use of the name if:

1199 (a) the person with ownership rights to use the name consents in a record to the use and  
1200 applies in a form satisfactory to the division to change the name used or reserved to a name that  
1201 is distinguishable upon the records of the division from the name applied for; or

1202 (b) the applicant delivers to the division a certified copy of the final judgment of a  
1203 court establishing the applicant's right to use the name in this state.

1204 Section 10. Section **16-17-102** is amended to read:

1205 **16-17-102. Definitions.**

1206 In this chapter:

1207 (1) "Appointment of agent" means a statement appointing an agent for service of  
1208 process filed by:

1209 (a) a domestic or foreign unincorporated nonprofit association under Section  
1210 16-17-204; or

1211 (b) a domestic entity that is not a filing entity or a nonqualified foreign entity under  
1212 Section 16-17-210.

1213 (2) "Commercial registered agent" means an individual or a domestic or foreign entity  
1214 listed under Section 16-17-204.

1215 (3) "Division" means the Division of Corporations and Commercial Code.

1216 (4) "Domestic entity" means an entity whose internal affairs are governed by the law of  
1217 this state.

1218 (5) "Entity" means a person that has a separate legal existence or has the power to  
1219 acquire an interest in real property in its own name other than:

1220 (a) an individual;

1221 (b) a testamentary, inter vivos, or charitable trust, with the exception of a business  
1222 trust, statutory trust, or similar trust;

1223 (c) an association or relationship that is not a partnership by reason of [~~Section 202(c)~~  
1224 ~~of the Uniform Partnership Act (1997)] Subsection 48-1a-303(3) or a similar provision of the  
1225 law of any other jurisdiction;~~

1226 (d) a decedent's estate; or

1227 (e) a public corporation, government or governmental subdivision, agency, or  
1228 instrumentality, or quasi-governmental instrumentality.

1229 (6) "Filing entity" means an entity that is created by the filing of a public organic  
1230 document.

1231 (7) "Foreign entity" means an entity other than a domestic entity.

1232 (8) "Foreign qualification document" means an application for a certificate of authority  
1233 or other foreign qualification filing with the division by a foreign entity.

1234 (9) "Governance interest" means the right under the organic law or organic rules of an  
1235 entity, other than as a governor, agent, assignee, or proxy, to:

1236 (a) receive or demand access to information concerning, or the books and records of,



- 1237 the entity;
- 1238 (b) vote for the election of the governors of the entity; or
- 1239 (c) receive notice of or vote on any or all issues involving the internal affairs of the
- 1240 entity.
- 1241 (10) "Governor" means a person by or under whose authority the powers of an entity
- 1242 are exercised and under whose direction the business and affairs of the entity are managed
- 1243 pursuant to the organic law and organic rules of the entity.
- 1244 (11) "Interest" means:
- 1245 (a) a governance interest in an unincorporated entity;
- 1246 (b) a transferable interest in an unincorporated entity; or
- 1247 (c) a share or membership in a corporation.
- 1248 (12) "Interest holder" means a direct holder of an interest.
- 1249 (13) "Jurisdiction of organization," with respect to an entity, means the jurisdiction
- 1250 whose law includes the organic law of the entity.
- 1251 (14) "Noncommercial registered agent" means a person that is not listed as a
- 1252 commercial registered agent under Section 16-17-204 and that is:
- 1253 (a) an individual or a domestic or foreign entity that serves in this state as the agent for
- 1254 service of process of an entity; or
- 1255 (b) the individual who holds the office or other position in an entity that is designated
- 1256 as the agent for service of process pursuant to Subsection 16-17-203(1)(b)(ii).
- 1257 (15) "Nonqualified foreign entity" means a foreign entity that is not authorized to
- 1258 transact business in this state pursuant to a filing with the division.
- 1259 (16) "Nonresident LLP statement" means:
- 1260 (a) a statement of qualification of a domestic limited liability partnership that does not
- 1261 have an office in this state; or
- 1262 (b) a statement of foreign qualification of a foreign limited liability partnership that
- 1263 does not have an office in this state.
- 1264 (17) "Organic law" means the statutes, if any, other than this chapter, governing the
- 1265 internal affairs of an entity.
- 1266 (18) "Organic rules" means the public organic document and private organic rules of an
- 1267 entity.

1268 (19) "Person" means an individual, corporation, estate, trust, partnership, limited  
1269 liability company, business or similar trust, association, joint venture, public corporation,  
1270 government or governmental subdivision, agency, or instrumentality, or any other legal or  
1271 commercial entity.

1272 (20) "Private organic rules" mean the rules, whether or not in a record, that govern the  
1273 internal affairs of an entity, are binding on all of its interest holders, and are not part of its  
1274 public organic document, if any.

1275 (21) "Public organic document" means the public record the filing of which creates an  
1276 entity, and any amendment to or restatement of that record.

1277 (22) "Qualified foreign entity" means a foreign entity that is authorized to transact  
1278 business in this state pursuant to a filing with the division.

1279 (23) "Record" means information that is inscribed on a tangible medium or that is  
1280 stored in an electronic or other medium and is retrievable in perceivable form.

1281 (24) "Registered agent" means a commercial registered agent or a noncommercial  
1282 registered agent.

1283 (25) "Registered agent filing" means:

1284 (a) the public organic document of a domestic filing entity;

1285 (b) a nonresident LLP statement;

1286 (c) a foreign qualification document; or

1287 (d) an appointment of agent.

1288 (26) "Represented entity" means:

1289 (a) a domestic filing entity;

1290 (b) a domestic or qualified foreign limited liability partnership that does not have an  
1291 office in this state;

1292 (c) a qualified foreign entity;

1293 (d) a domestic or foreign unincorporated nonprofit association for which an  
1294 appointment of agent has been filed;

1295 (e) a domestic entity that is not a filing entity for which an appointment of agent has  
1296 been filed; or

1297 (f) a nonqualified foreign entity for which an appointment of agent has been filed.

1298 (27) "Sign" means, with present intent to authenticate or adopt a record:

1299 (a) to execute or adopt a tangible symbol; or  
1300 (b) to attach to or logically associate with the record an electronic sound, symbol, or  
1301 process.

1302 (28) "Transferable interest" means the right under an entity's organic law to receive  
1303 distributions from the entity.

1304 (29) "Type," with respect to an entity, means a generic form of entity:

1305 (a) recognized at common law; or

1306 (b) organized under an organic law, whether or not some entities organized under that  
1307 organic law are subject to provisions of that law that create different categories of the form of  
1308 entity.

1309 Section 11. Section **31A-37a-102** is amended to read:

1310 **31A-37a-102. Definitions.**

1311 (1) For purposes of this chapter:

1312 (a) "Ceding insurer" means an insurer that:

1313 (i) is approved by the commissioner;

1314 (ii) is licensed or otherwise authorized to transact the business of insurance or  
1315 reinsurance in the insurer's state or country of domicile; and

1316 (iii) cedes risk to a special purpose financial captive insurance company pursuant to a  
1317 reinsurance contract.

1318 (b) Notwithstanding Section 31A-27a-102, "insolvency" or "insolvent" for purposes of  
1319 applying Chapter 27a, Insurer Receivership Act, to a special purpose financial captive  
1320 insurance company, means that a special purpose financial captive insurance company:

1321 (i) is unable to pay an obligation when the obligation is due, unless the obligation is the  
1322 subject of a bona fide dispute; or

1323 (ii) fails to meet the criteria and conditions for solvency of the special purpose financial  
1324 captive insurance company established by the commissioner by rule or order.

1325 (c) (i) "Insurance securitization" means a transaction or a group of related transactions:

1326 (A) that may include a capital market offering;

1327 (B) that is effected through one or more related risk transfer instruments and  
1328 facilitating administrative agreements;

1329 (C) where all or part of the result of the transaction or group of related transactions is

1330 used to fund the special purpose financial captive insurance company's obligations under a  
1331 reinsurance contract with a ceding insurer;

1332 (D) by which:

1333 (I) proceeds are obtained by a special purpose financial captive insurance company,  
1334 directly or indirectly, through the issuance of one or more securities by the special purpose  
1335 financial captive insurance company or another person; or

1336 (II) a person provides one or more letters of credit or other assets for the benefit of the  
1337 special purpose financial captive insurance company if the commissioner authorizes the special  
1338 purpose financial captive insurance company to treat the letter of credit or asset as an admitted  
1339 asset for purposes of the special purpose financial captive insurance company's annual report;  
1340 and

1341 (E) if all or a part of the proceeds, a letter of credit, or asset described in this  
1342 Subsection (1)(c) is used to fund the special purpose financial captive insurance company's  
1343 obligations under a reinsurance contract with a ceding insurer.

1344 (ii) "Insurance securitization" does not include the issuance of a letter of credit for the  
1345 benefit of the commissioner to satisfy all or part of the special purpose financial captive  
1346 insurance company's capital and surplus requirements under Section 31A-37a-302.

1347 (d) "Management" means:

1348 (i) a board of directors of a special purpose financial captive insurance company;

1349 (ii) a managing board of a special purpose financial captive insurance company; or

1350 (iii) one or more individuals with the overall responsibility for the management of the  
1351 affairs of the special purpose financial captive insurance company, including:

1352 (A) an officer elected or appointed to act on behalf of the special purpose financial  
1353 captive insurance company; or

1354 (B) an agent elected or appointed to act on behalf of the special purpose financial  
1355 captive insurance company.

1356 (e) "Organizational document" means:

1357 (i) in the case of a special purpose financial captive insurance company formed as a  
1358 stock corporation, the special purpose financial captive insurance company's:

1359 (A) articles of incorporation; and

1360 (B) bylaws; and

- 1361 (ii) in the case of a special purpose financial captive insurance company formed as a  
1362 limited liability company, the special purpose financial captive insurance company's:
- 1363 (A) [~~articles~~] certificate of organization; and  
1364 (B) operating agreement.
- 1365 (f) "Reinsurance contract" means a contract between a special purpose financial captive  
1366 insurance company and a ceding insurer pursuant to which the special purpose financial captive  
1367 insurance company agrees to provide reinsurance to the ceding insurer for risks associated with  
1368 the ceding insurer's insurance or reinsurance business.
- 1369 (g) "Security" means:
- 1370 (i) a security as defined in Section 31A-1-301; or  
1371 (ii) one or more of the following that the commissioner designates, by rule or order, as  
1372 a "security" for purposes of this chapter:
- 1373 (A) a debt obligation;  
1374 (B) equity;  
1375 (C) a surplus certificate;  
1376 (D) a surplus note;  
1377 (E) a funding agreement;  
1378 (F) a derivative; or  
1379 (G) another financial instrument.
- 1380 (h) "Special purpose financial captive insurance company" means a captive insurance  
1381 company has a certificate of authority under this chapter from the commissioner to operate as a  
1382 special purpose financial captive insurance company pursuant to this chapter.
- 1383 (i) "Special purpose financial captive insurance company security" means:
- 1384 (i) a security issued by a special purpose financial captive insurance company; or  
1385 (ii) a security issued by a third party, the proceeds of which are obtained directly or  
1386 indirectly by a special purpose financial captive insurance company.
- 1387 (j) "Surplus note" means an unsecured subordinated debt obligation that has one or  
1388 more characteristics that are consistent with paragraph 3 of the National Association of  
1389 Insurance Commissioners Statement of Statutory Accounting Principals No. 41, as amended  
1390 from time to time and as modified or supplemented by rule or order of the commissioner.
- 1391 (2) The terms defined in Section 31A-37-102 shall have the same meaning for

1392 purposes of this chapter.

1393 Section 12. Section **46-4-503** is amended to read:

1394 **46-4-503. Government products and services provided electronically.**

1395 (1) Notwithstanding Section 46-4-501, a state governmental agency that administers  
1396 one or more of the following transactions shall allow those transactions to be conducted  
1397 electronically:

1398 (a) an application for or renewal of a professional or occupational license issued under  
1399 Title 58, Occupations and Professions;

1400 (b) the renewal of a drivers license;

1401 (c) an application for a hunting or fishing license;

1402 (d) the filing of:

1403 (i) a return under Title 59, Chapter 10, Individual Income Tax Act or 12, Sales and Use  
1404 Tax Act;

1405 (ii) a court document, as defined by the Judicial Council; or

1406 (iii) a document under Title 70A, Uniform Commercial Code;

1407 (e) a registration for:

1408 (i) a product; or

1409 (ii) a brand;

1410 (f) a renewal of a registration of a motor vehicle;

1411 (g) a registration under:

1412 (i) Title 16, Corporations;

1413 (ii) Title 42, Names; or

1414 (iii) Title 48, [~~Partnership~~] Unincorporated Business Entities Act; or

1415 (h) submission of an application for benefits:

1416 (i) under Title 35A, Chapter 3, Employment Support Act;

1417 (ii) under Title 35A, Chapter 4, Employment Security Act; or

1418 (iii) related to accident and health insurance.

1419 (2) The state system of public education, in coordination with the Utah Education  
1420 Network, shall make reasonable progress toward making the following services available  
1421 electronically:

1422 (a) secure access by parents and students to student grades and progress reports;

- 1423 (b) email communications with:
- 1424 (i) teachers;
- 1425 (ii) parent-teacher associations; and
- 1426 (iii) school administrators;
- 1427 (c) access to school calendars and schedules; and
- 1428 (d) teaching resources that may include:
- 1429 (i) teaching plans;
- 1430 (ii) curriculum guides; and
- 1431 (iii) media resources.
- 1432 (3) A state governmental agency shall:
- 1433 (a) in carrying out the requirements of this section, take reasonable steps to ensure the
- 1434 security and privacy of records that are private or controlled as defined by Title 63G, Chapter 2,
- 1435 Government Records Access and Management Act;
- 1436 (b) in addition to those transactions listed in Subsections (1) and (2), determine any
- 1437 additional services that may be made available to the public through electronic means; and
- 1438 (c) as part of the agency's information technology plan required by Section 63F-1-204,
- 1439 report on the progress of compliance with Subsections (1) through (3).
- 1440 (4) Notwithstanding the other provisions of this part, a state governmental agency is
- 1441 not required by this part to conduct a transaction electronically if:
- 1442 (a) conducting the transaction electronically is not required by federal law; and
- 1443 (b) conducting the transaction electronically is:
- 1444 (i) impractical;
- 1445 (ii) unreasonable; or
- 1446 (iii) not permitted by laws pertaining to privacy or security.
- 1447 (5) (a) For purposes of this Subsection (5), "one-stop shop" means the consolidation of
- 1448 access to diverse services and agencies at one location including virtual colocation.
- 1449 (b) State agencies that provide services or offer direct assistance to the business
- 1450 community shall participate in the establishment, maintenance, and enhancement of an
- 1451 integrated Utah business web portal known as Business.utah.gov. The purpose of the business
- 1452 web portal is to provide "one-stop shop" assistance to businesses.
- 1453 (c) State agencies shall partner with other governmental and nonprofit agencies whose

1454 primary mission is to provide services or offer direct assistance to the business community in  
1455 Utah in fulfilling the requirements of this section.

1456 (d) The following state entities shall comply with the provisions of this Subsection (5):

1457 (i) Governor's Office of Economic Development, which shall serve as the managing  
1458 partner for the website;

1459 (ii) Department of Workforce Services;

1460 (iii) Department of Commerce;

1461 (iv) Tax Commission;

1462 (v) Department of Administrative Services - Division of Purchasing and General  
1463 Services, including other state agencies operating under a grant of authority from the division  
1464 to procure goods and services in excess of \$5,000;

1465 (vi) Department of Agriculture;

1466 (vii) Department of Natural Resources; and

1467 (viii) other state agencies that provide services or offer direct assistance to the business  
1468 sector.

1469 (e) The business services available on the business web portal may include:

1470 (i) business life cycle information;

1471 (ii) business searches;

1472 (iii) employment needs and opportunities;

1473 (iv) motor vehicle registration;

1474 (v) permit applications and renewal;

1475 (vi) tax information;

1476 (vii) government procurement bid notifications;

1477 (viii) general business information;

1478 (ix) business directories; and

1479 (x) business news.

1480 Section 13. Section **48-1a-101** is enacted to read:

1481 **TITLE 48. UNINCORPORATED BUSINESS ENTITIES ACT**

1482 **CHAPTER 1a. GENERAL PROVISIONS**

1483 **Part 1. General Provisions**

1484 **48-1a-101. Title.**



1485 (1) This title is known as the "Unincorporated Business Entities Act."

1486 (2) This chapter is known as "General Provisions."

1487 Section 14. Section **48-1a-102** is enacted to read:

1488 **48-1a-102. Definitions.**

1489 As used in this title, "division" means the Division of Corporations and Commercial  
1490 Code.

1491 Section 15. Section **48-1b-101** is enacted to read:

## CHAPTER 1b. UNIFORM PARTNERSHIP ACT

### Part 1. General Provisions

1494 **48-1b-101. Title -- Definitions.**

1495 (1) This chapter may be cited as the "Uniform Partnership Act."

1496 (2) As used in this chapter:

1497 (a) "Business" includes every trade, occupation, and profession.

1498 (b) "Debtor in bankruptcy" means a person who is the subject of:

1499 (i) an order for relief under United States Code, Title 11, or a comparable order under a  
1500 successor statute of general application; or

1501 (ii) a comparable order under federal, state, or foreign law governing insolvency.

1502 (c) "Distribution" means a transfer of money or other property from a partnership to a  
1503 partner in the partner's capacity as a partner or to the partner's transferee.

1504 (d) "Foreign limited liability partnership" means a partnership that:

1505 (i) is formed under laws other than the laws of this state; and

1506 (ii) has the status of a limited liability partnership under those laws.

1507 (e) "Limited liability partnership" means a partnership that has filed with the division a  
1508 statement of qualification under Section 48-1b-1001 and does not have a similar statement in  
1509 effect in any other jurisdiction.

1510 (f) "Partnership" means an association of two or more persons to carry on as co-owners  
1511 a business for profit formed under Section 48-1b-202, predecessor law, or comparable law of  
1512 another jurisdiction.

1513 (g) "Partnership agreement" means the agreement, whether written, oral, or implied,  
1514 among the partners concerning the partnership, including amendments to the partnership  
1515 agreement.

1516 (h) "Partnership at will" means a partnership in which the partners have not agreed to  
1517 remain partners until the expiration of a definite term or the completion of a particular  
1518 undertaking.

1519 (i) "Partnership interest" or "partner's interest in the partnership" means all of a  
1520 partner's interests in the partnership, including the partner's transferable interest and all  
1521 management and other rights.

1522 (j) "Person" means:

1523 (i) an individual;

1524 (ii) a corporation;

1525 (iii) a business trust;

1526 (iv) an estate;

1527 (v) a trust;

1528 (vi) a partnership;

1529 (vii) an association;

1530 (viii) a joint venture;

1531 (ix) government;

1532 (x) a governmental subdivision, agency, or instrumentality; or

1533 (xi) any other legal or commercial entity.

1534 (k) "Property" means all property, real, personal, or mixed, tangible or intangible, or  
1535 any interest therein.

1536 (l) "State" means a state of the United States, the District of Columbia, the  
1537 Commonwealth of Puerto Rico, or any territory or insular possession subject to the jurisdiction  
1538 of the United States.

1539 (m) "Statement" means:

1540 (i) a statement of partnership authority under Section 48-1b-303;

1541 (ii) a statement of denial under Section 48-1b-304;

1542 (iii) a statement of dissociation under Section 48-1b-704;

1543 (iv) a statement of dissolution under Section 48-1b-805;

1544 (v) articles of merger under Section 48-1b-904;

1545 (vi) a statement of qualification under Section 48-1b-1001;

1546 (vii) a statement of foreign qualification under Section 48-1b-1102; or

1547 (viii) an amendment or cancellation of any of the foregoing.

1548 (n) "Transfer" includes an assignment, conveyance, lease, mortgage, deed, and  
1549 encumbrance.

1550 (o) "Tribe" means a tribe, band, nation, pueblo, or other organized group or community  
1551 of Indians, including an Alaska Native village, that is legally recognized as eligible for and is  
1552 consistent with a special program, service, or entitlement provided by the United States to  
1553 Indians because of their status as Indians.

1554 (p) "Tribal limited liability partnership" means a limited liability partnership:

1555 (i) formed under the law of a tribe; and

1556 (ii) that is at least 51% owned or controlled by the tribe.

1557 Section 16. Section **48-1b-102** is enacted to read:

1558 **48-1b-102. Knowledge and notice.**

1559 (1) A person knows a fact if the person has actual knowledge of it.

1560 (2) A person has notice of a fact if the person:

1561 (a) knows of it;

1562 (b) has received a notification of it; or

1563 (c) has reason to know it exists from all of the facts known to the person at the time in  
1564 question.

1565 (3) A person notifies or gives a notification to another by taking steps reasonably  
1566 required to inform the other person in ordinary course, whether or not the other person learns of  
1567 it.

1568 (4) A person receives a notification when the notification:

1569 (a) comes to the person's attention; or

1570 (b) is duly delivered at the person's place of business or at any other place held out by  
1571 the person as a place for receiving communications.

1572 (5) Except as otherwise provided in Subsection (6), a person other than an individual  
1573 knows, has notice, or receives a notification of a fact for purposes of a particular transaction  
1574 when the individual conducting the transaction knows, has notice, or receives a notification of  
1575 the fact, or in any event when the fact would have been brought to the individual's attention if  
1576 the person had exercised reasonable diligence. The person exercises reasonable diligence if it  
1577 maintains reasonable routines for communicating significant information to the individual

1578 conducting the transaction and there is reasonable compliance with the routines. Reasonable  
1579 diligence does not require an individual acting for the person to communicate information  
1580 unless the communication is part of the individual's regular duties or the individual has reason  
1581 to know of the transaction and that the transaction would be materially affected by the  
1582 information.

1583 (6) A partner's knowledge, notice, or receipt of a notification of a fact relating to the  
1584 partnership is effective immediately as knowledge by, notice to, or receipt of a notification by  
1585 the partnership, except in the case of a fraud on the partnership committed by or with the  
1586 consent of that partner.

1587 Section 17. Section **48-1b-103** is enacted to read:

1588 **48-1b-103. Effect of partnership agreement -- Nonwaivable provisions.**

1589 (1) (a) Except as otherwise provided in Subsection (2), relations among the partners  
1590 and between the partners and the partnership are governed by the partnership agreement. To  
1591 the extent the partnership agreement does not otherwise provide, this chapter governs relations  
1592 among the partners and between the partners and the partnership.

1593 (b) A partner asserting the existence or term of an oral partnership agreement shall  
1594 prove the existence or term of the partnership agreement by clear and convincing evidence.

1595 (2) The partnership agreement may not:

1596 (a) vary the rights and duties under Section 48-1b-105 except to eliminate the duty to  
1597 provide copies of statements to all of the partners;

1598 (b) unreasonably restrict the right of access to books and records under Subsection  
1599 48-1b-403(2);

1600 (c) eliminate the duty of loyalty under Subsection 48-1b-404(2) or 48-1b-603(2)(c),  
1601 but:

1602 (i) the partnership agreement may identify specific types or categories of activities that  
1603 do not violate the duty of loyalty, if not manifestly unreasonable; or

1604 (ii) all of the partners or a number or percentage specified in the partnership agreement  
1605 may authorize or ratify, after full disclosure of all material facts, a specific act or transaction  
1606 that otherwise would violate the duty of loyalty;

1607 (d) unreasonably reduce the duty of care under Subsection 48-1b-404(3) or  
1608 48-1b-603(2)(c);

1609 (e) eliminate the obligation of good faith and fair dealing under Subsection  
1610 48-1b-404(4), but the partnership agreement may prescribe the standards by which the  
1611 performance of the obligation is to be measured, if the standards are not manifestly  
1612 unreasonable;

1613 (f) vary the power to dissociate as a partner under Subsection 48-1b-602(1), except to  
1614 require the notice under Subsection 48-1b-601(1) to be in writing;

1615 (g) vary the right of a court to expel a partner in the events specified in Subsection  
1616 48-1b-601(5);

1617 (h) vary the requirement to wind up the partnership business in cases specified in  
1618 Subsection 48-1b-801(4), (5), or (6);

1619 (i) vary the law applicable to a limited liability partnership under Subsection  
1620 48-1b-106(2); or

1621 (j) restrict rights of third parties under this chapter.

1622 Section 18. Section **48-1b-104** is enacted to read:

1623 **48-1b-104. Supplemental principles of law.**

1624 (1) Unless displaced by particular provisions of this chapter, the principles of law and  
1625 equity supplement this chapter.

1626 (2) If an obligation to pay interest arises under this chapter and the rate is not specified,  
1627 the rate is that specified in Section 15-1-1.

1628 Section 19. Section **48-1b-105** is enacted to read:

1629 **48-1b-105. Execution, filing, and recording of statements.**

1630 (1) A statement may be filed with the division. A certified copy of a statement that is  
1631 filed in an office in another state may be filed with the division. Either filing has the effect  
1632 provided in this chapter with respect to partnership property located in or transactions that  
1633 occur in this state.

1634 (2) A certified copy of a statement that is filed with the division and recorded in the  
1635 office for recording transfers of real property has the effect provided for recorded statements in  
1636 this chapter. A recorded statement that is not a certified copy of a statement filed with the  
1637 division does not have the effect provided for recorded statements in this chapter.

1638 (3) A statement filed with the division by a partnership must be executed by at least  
1639 two partners. Other statements must be executed by a partner or other person authorized by

1640 this chapter. An individual who executes a statement as, or on behalf of, a partner or other  
1641 person named as a partner in a statement shall personally declare under penalty of perjury that  
1642 the contents of the statement are accurate.

1643 (4) A person authorized by this chapter to file a statement with the division may amend  
1644 or cancel the statement by filing an amendment or cancellation that names the partnership,  
1645 identifies the statement, and states the substance of the amendment or cancellation.

1646 (5) A person who files a statement with the division pursuant to this section shall  
1647 promptly send a copy of the statement to every nonfiling partner and to any other person named  
1648 as a partner in the statement. Failure to send a copy of a statement to a partner or other person  
1649 does not limit the effectiveness of the statement as to a person not a partner.

1650 (6) The division may collect a fee, established in accordance with Section 63J-1-504,  
1651 for filing or providing a certified copy of a statement. The county recorder may in accordance  
1652 with Section 17-21-18.5 collect a fee for recording a statement.

1653 Section 20. Section **48-1b-106** is enacted to read:

1654 **48-1b-106. Governing law.**

1655 (1) Except as otherwise provided in Subsection (2), the law of the jurisdiction in which  
1656 a partnership has its chief executive office governs relations among the partners and between  
1657 the partners and the partnership.

1658 (2) The law of this state governs relations among the partners and between the partners  
1659 and the partnership and the liability of partners for an obligation of a limited liability  
1660 partnership.

1661 Section 21. Section **48-1b-107** is enacted to read:

1662 **48-1b-107. Partnership subject to amendment or repeal of chapter.**

1663 A partnership governed by this chapter is subject to any amendment to or repeal of this  
1664 chapter.

1665 Section 22. Section **48-1b-201** is enacted to read:

1666 **Part 2. Nature of Partnership**

1667 **48-1b-201. Partnership as entity.**

1668 (1) A partnership is an entity distinct from its partners.

1669 (2) A limited liability partnership continues to be the same entity that existed before the  
1670 filing of a statement of qualification with the division under Section 48-1b-1001.

1671 Section 23. Section **48-1b-202** is enacted to read:

1672 **48-1b-202. Formation of partnership.**

1673 (1) Except as otherwise provided in Subsection (2), the association of two or more  
1674 persons to carry on as co-owners a business for profit forms a partnership, whether or not the  
1675 persons intend to form a partnership.

1676 (2) An association formed under a statute other than this chapter, a predecessor statute,  
1677 or a comparable statute of another jurisdiction is not a partnership under this chapter.

1678 (3) In determining whether a partnership is formed, the following rules apply:

1679 (a) Joint tenancy, tenancy in common, tenancy by the entireties, joint property,  
1680 common property, or part ownership does not by itself establish a partnership, even if the  
1681 co-owners share profits made by the use of the property.

1682 (b) The sharing of gross returns does not by itself establish a partnership, even if the  
1683 persons sharing them have a joint or common right or interest in property from which the  
1684 returns are derived.

1685 (c) A person who receives a share of the profits of a business is presumed to be a  
1686 partner in the business, unless the profits were received in payment:

1687 (i) of a debt by installments or otherwise;

1688 (ii) for services as an independent contractor or of wages or other compensation to an  
1689 employee;

1690 (iii) of rent;

1691 (iv) of an annuity or other retirement or health benefit to a beneficiary, representative,  
1692 or designee of a deceased or retired partner;

1693 (v) of interest or other charge on a loan, even if the amount of payment varies with the  
1694 profits of the business, including a direct or indirect present or future ownership of the  
1695 collateral, or rights to income, proceeds, or increase in value derived from the collateral; or

1696 (vi) for the sale of the goodwill of a business or other property by installments or  
1697 otherwise.

1698 Section 24. Section **48-1b-203** is enacted to read:

1699 **48-1b-203. Partnership property.**

1700 Property acquired by a partnership is property of the partnership and not of the partners  
1701 individually.

1702 Section 25. Section **48-1b-204** is enacted to read:

1703 **48-1b-204. When property is partnership property.**

1704 (1) Property is partnership property if acquired in the name of:

1705 (a) the partnership; or

1706 (b) one or more partners with an indication in the instrument transferring title to the  
1707 property of the person's capacity as a partner or of the existence of a partnership but without an  
1708 indication of the name of the partnership.

1709 (2) Property is acquired in the name of the partnership by a transfer to:

1710 (a) the partnership in its name; or

1711 (b) one or more partners in their capacity as partners in the partnership, if the name of  
1712 the partnership is indicated in the instrument transferring title to the property.

1713 (3) Property is presumed to be partnership property if purchased with partnership  
1714 assets, even if not acquired in the name of the partnership or of one or more partners with an  
1715 indication in the instrument transferring title to the property of the person's capacity as a  
1716 partner or of the existence of a partnership.

1717 (4) Property acquired in the name of one or more of the partners, without an indication  
1718 in the instrument transferring title to the property of the person's capacity as a partner or of the  
1719 existence of a partnership and without use of partnership assets, is presumed to be separate  
1720 property, even if used for partnership purposes.

1721 Section 26. Section **48-1b-301** is enacted to read:

1722 **Part 3. Relations of Partners to Persons Dealing with Partnership**

1723 **48-1b-301. Partner agent of partnership.**

1724 Subject to the effect of a statement of partnership authority under Section 48-1b-303:

1725 (1) Each partner is an agent of the partnership for the purpose of its business. An act of  
1726 a partner, including the execution of an instrument in the partnership name, for apparently  
1727 carrying on in the ordinary course the partnership business or business of the kind carried on by  
1728 the partnership binds the partnership, unless the partner had no authority to act for the  
1729 partnership in the particular matter and the person with whom the partner was dealing knew or  
1730 had received a notification that the partner lacked authority.

1731 (2) An act of a partner which is not apparently for carrying on in the ordinary course  
1732 the partnership business or business of the kind carried on by the partnership binds the



1733 partnership only if the act was authorized by the other partners.

1734 Section 27. Section **48-1b-302** is enacted to read:

1735 **48-1b-302. Transfer of partnership property.**

1736 (1) Partnership property may be transferred as follows:

1737 (a) Subject to the effect of a statement of partnership authority under Section  
1738 48-1b-303, partnership property held in the name of the partnership may be transferred by an  
1739 instrument of transfer executed by a partner in the partnership name.

1740 (b) Partnership property held in the name of one or more partners with an indication in  
1741 the instrument transferring the property to them of their capacity as partners or of the existence  
1742 of a partnership, but without an indication of the name of the partnership, may be transferred by  
1743 an instrument of transfer executed by the persons in whose name the property is held.

1744 (c) Partnership property held in the name of one or more persons other than the  
1745 partnership, without an indication in the instrument transferring the property to them of their  
1746 capacity as partners or of the existence of a partnership, may be transferred by an instrument of  
1747 transfer executed by the persons in whose name the property is held.

1748 (2) A partnership may recover partnership property from a transferee only if it proves  
1749 that execution of the instrument of initial transfer did not bind the partnership under Section  
1750 48-1b-301 and:

1751 (a) as to a subsequent transferee who gave value for property transferred under  
1752 Subsection (1)(a) and (b), proves that the subsequent transferee knew or had received a  
1753 notification that the person who executed the instrument of initial transfer lacked authority to  
1754 bind the partnership; or

1755 (b) as to a transferee who gave value for property transferred under Subsection (1)(c),  
1756 proves that the transferee knew or had received a notification that the property was partnership  
1757 property and that the person who executed the instrument of initial transfer lacked authority to  
1758 bind the partnership.

1759 (3) A partnership may not recover partnership property from a subsequent transferee if  
1760 the partnership would not have been entitled to recover the property, under Subsection (2),  
1761 from any earlier transferee of the property.

1762 (4) If a person holds all of the partners' interests in the partnership, all of the  
1763 partnership property vests in that person. The person may execute a document in the name of

1764 the partnership to evidence vesting of the property in that person and may file or record the  
1765 document.

1766 Section 28. Section **48-1b-303** is enacted to read:

1767 **48-1b-303. Statement of partnership authority.**

1768 (1) A partnership may file with the division a statement of partnership authority,  
1769 which:

1770 (a) must include:

1771 (i) the name of the partnership;

1772 (ii) the street address of its chief executive office and of one office in this state, if there  
1773 is one;

1774 (iii) the names and mailing addresses of all of the partners or of an agent appointed and  
1775 maintained by the partnership for the purpose of Subsection (2); and

1776 (iv) the names of the partners authorized to execute an instrument transferring real  
1777 property held in the name of the partnership; and

1778 (b) may state the authority, or limitations on the authority, of some or all of the partners  
1779 to enter into other transactions on behalf of the partnership and any other matter.

1780 (2) If a statement of partnership authority names an agent, the agent shall maintain a  
1781 list of the names and mailing addresses of all of the partners and make it available to any  
1782 person on request for good cause shown.

1783 (3) If a filed statement of partnership authority is executed pursuant to Subsection  
1784 48-1b-105(3) and states the name of the partnership but does not contain all of the other  
1785 information required by Subsection (1), the statement nevertheless operates with respect to a  
1786 person not a partner as provided in Subsections (4) and (5).

1787 (4) Except as otherwise provided in Subsection (7), a filed statement of partnership  
1788 authority supplements the authority of a partner to enter into transactions on behalf of the  
1789 partnership as follows:

1790 (a) Except for transfers of real property, a grant of authority contained in a filed  
1791 statement of partnership authority is conclusive in favor of a person who gives value without  
1792 knowledge to the contrary, so long as and to the extent that a limitation on that authority is not  
1793 then contained in another filed statement. A filed cancellation of a limitation on authority  
1794 revives the previous grant of authority.

1795 (b) A grant of authority to transfer real property held in the name of the partnership  
1796 contained in a certified copy of a filed statement of partnership authority recorded in the office  
1797 for recording transfers of that real property is conclusive in favor of a person who gives value  
1798 without knowledge to the contrary, so long as and to the extent that a certified copy of a filed  
1799 statement containing a limitation on that authority is not then of record in the office for  
1800 recording transfers of that real property. The recording in the office for recording transfers of  
1801 that real property of a certified copy of a filed cancellation of a limitation on authority revives  
1802 the previous grant of authority.

1803 (5) A person not a partner is deemed to know of a limitation on the authority of a  
1804 partner to transfer real property held in the name of the partnership if a certified copy of the  
1805 filed statement containing the limitation on authority is of record in the office for recording  
1806 transfers of that real property.

1807 (6) Except as otherwise provided in Subsections (4) and (5) and Sections 48-1b-704  
1808 and 48-1b-805, a person not a partner is not deemed to know of a limitation on the authority of  
1809 a partner merely because the limitation is contained in a filed statement.

1810 (7) Unless earlier canceled, a filed statement of partnership authority is canceled by  
1811 operation of law five years after the date on which the statement, or the most recent  
1812 amendment, was filed with the division.

1813 (8) (a) If a partnership files a statement of partnership authority with the division under  
1814 this section, the partnership is not required to file a certificate with the division under Title 42,  
1815 Chapter 2, Conducting Business Under Assumed Name.

1816 (b) A filing with the division under Title 42, Chapter 2, Conducting Business Under  
1817 Assumed Name:

1818 (i) is not subject to Subsection (7); and

1819 (ii) is subject to Section 42-2-8.

1820 Section 29. Section **48-1b-304** is enacted to read:

1821 **48-1b-304. Statement of denial.**

1822 A partner or other person named as a partner in a filed statement of partnership  
1823 authority or in a list maintained by an agent pursuant to Subsection 48-1b-303(2) may file a  
1824 statement of denial with the division stating the name of the partnership and the fact that is  
1825 being denied, which may include denial of a person's authority or status as a partner. A

1826 statement of denial is a limitation on authority as provided in Subsections 48-1b-303(4) and  
1827 (5).

1828 Section 30. Section **48-1b-305** is enacted to read:

1829 **48-1b-305. Partnership liable for partner's actionable conduct.**

1830 (1) A partnership is liable for loss or injury caused to a person, or for a penalty  
1831 incurred, as a result of a wrongful act or omission, or other actionable conduct, of a partner  
1832 acting in the ordinary course of business of the partnership or with authority of the partnership.

1833 (2) If, in the course of the partnership's business or while acting with authority of the  
1834 partnership, a partner receives or causes the partnership to receive money or property of a  
1835 person not a partner, and the money or property is misapplied by a partner, the partnership is  
1836 liable for the loss.

1837 Section 31. Section **48-1b-306** is enacted to read:

1838 **48-1b-306. Partner's liability.**

1839 (1) Except as otherwise provided in Subsections (2) and (3), all partners are liable  
1840 jointly and severally for all obligations of the partnership unless otherwise agreed by the  
1841 claimant or provided by law.

1842 (2) A person admitted as a partner into an existing partnership is not personally liable  
1843 for any partnership obligation incurred before the person's admission as a partner.

1844 (3) (a) An obligation of a partnership incurred while the partnership is a limited  
1845 liability partnership, whether arising in contract, tort, or otherwise, is solely the obligation of  
1846 the partnership. A partner is not personally liable, directly or indirectly, by way of contribution  
1847 or otherwise, for such an obligation solely by reason of being or so acting as a partner.

1848 (b) This Subsection (3) applies notwithstanding anything inconsistent in the  
1849 partnership agreement that existed immediately before the vote required to become a limited  
1850 liability partnership under Subsection 48-1b-1001(2).

1851 (c) This Subsection (3) and Part 10, Limited Liability Partnerships, do not alter any law  
1852 applicable to the relationship between a person providing a professional service and a person  
1853 receiving the professional service, including liability arising out of those professional services.  
1854 A person providing a professional service remains personally liable for a result of that person's  
1855 act or omission.

1856 Section 32. Section **48-1b-307** is enacted to read:

1857 **48-1b-307. Actions by and against partnership and partners.**

1858 (1) A partnership may sue and be sued in the name of the partnership.

1859 (2) An action may be brought against the partnership and, to the extent not inconsistent  
1860 with Section 48-1b-306, any or all of the partners in the same action or in separate actions.

1861 (3) A judgment against a partnership is not by itself a judgment against a partner. A  
1862 judgment against a partnership may not be satisfied from a partner's assets unless there is also a  
1863 judgment against the partner.

1864 (4) A judgment creditor of a partner may not levy execution against the assets of the  
1865 partner to satisfy a judgment based on a claim against the partnership unless the partner is  
1866 personally liable for the claim under Section 48-1b-306 and:

1867 (a) a judgment based on the same claim has been obtained against the partnership and a  
1868 writ of execution on the judgment has been returned unsatisfied in whole or in part;

1869 (b) the partnership is a debtor in bankruptcy;

1870 (c) the partner has agreed that the creditor need not exhaust partnership assets;

1871 (d) a court grants permission to the judgment creditor to levy execution against the  
1872 assets of a partner based on a finding that partnership assets subject to execution are clearly  
1873 insufficient to satisfy the judgment, that exhaustion of partnership assets is excessively  
1874 burdensome, or that the grant of permission is an appropriate exercise of the court's equitable  
1875 powers; or

1876 (e) liability is imposed on the partner by law or contract independent of the existence of  
1877 the partnership.

1878 (5) This section applies to any partnership liability or obligation resulting from a  
1879 representation by a partner or purported partner under Section 48-1b-308.

1880 Section 33. Section **48-1b-308** is enacted to read:

1881 **48-1b-308. Liability of purported partner.**

1882 (1) If a person, by words or conduct, purports to be a partner, or consents to being  
1883 represented by another as a partner, in a partnership or with one or more persons not partners,  
1884 the purported partner is liable to a person to whom the representation is made, if that person,  
1885 relying on the representation, enters into a transaction with the actual or purported partnership.  
1886 If the representation, either by the purported partner or by a person with the purported partner's  
1887 consent, is made in a public manner, the purported partner is liable to a person who relies upon

1888 the purported partnership even if the purported partner is not aware of being held out as a  
1889 partner to the claimant. If partnership liability results, the purported partner is liable with  
1890 respect to that liability as if the purported partner were a partner. If no partnership liability  
1891 results, the purported partner is liable with respect to that liability jointly and severally with any  
1892 other person consenting to the representation.

1893 (2) If a person is thus represented to be a partner in an existing partnership, or with one  
1894 or more persons not partners, the purported partner is an agent of persons consenting to the  
1895 representation to bind them to the same extent and in the same manner as if the purported  
1896 partner were a partner, with respect to persons who enter into transactions in reliance upon the  
1897 representation. If all of the partners of the existing partnership consent to the representation, a  
1898 partnership act or obligation results. If fewer than all of the partners of the existing partnership  
1899 consent to the representation, the person acting and the partners consenting to the  
1900 representation are jointly and severally liable.

1901 (3) A person is not liable as a partner merely because the person is named by another in  
1902 a statement of partnership authority.

1903 (4) A person does not continue to be liable as a partner merely because of a failure to  
1904 file a statement of dissociation or to amend a statement of partnership authority with the  
1905 division to indicate the partner's dissociation from the partnership.

1906 (5) Except as otherwise provided in Subsections (1) and (2), persons who are not  
1907 partners as to each other are not liable as partners to other persons.

1908 Section 34. Section **48-1b-401** is enacted to read:

1909 **Part 4. Relations of Partners to Each Other and to Partnership**

1910 **48-1b-401. Partner's rights and duties.**

1911 (1) Each partner is deemed to have an account that is:

1912 (a) credited with an amount equal to the money plus the value of any other property,  
1913 net of the amount of any liabilities, the partner contributes to the partnership and the partner's  
1914 share of the partnership profits; and

1915 (b) charged with an amount equal to the money plus the value of any other property,  
1916 net of the amount of any liabilities, distributed by the partnership to the partner and the  
1917 partner's share of the partnership losses.

1918 (2) Each partner is entitled to an equal share of the partnership profits and is chargeable

1919 with a share of the partnership losses in proportion to the partner's share of the profits.

1920 (3) A partnership shall reimburse a partner for payments made and indemnify a partner  
1921 for liabilities incurred by the partner in the ordinary course of the business of the partnership or  
1922 for the preservation of its business or property.

1923 (4) A partnership shall reimburse a partner for an advance to the partnership beyond  
1924 the amount of capital the partner agreed to contribute.

1925 (5) A payment or advance made by a partner which gives rise to a partnership  
1926 obligation under Subsection (3) or (4) constitutes a loan to the partnership which accrues  
1927 interest from the date of the payment or advance.

1928 (6) Each partner has equal rights in the management and conduct of the partnership  
1929 business.

1930 (7) A partner may use or possess partnership property only on behalf of the partnership.

1931 (8) A partner is not entitled to remuneration for services performed for the partnership,  
1932 except for reasonable compensation for services rendered in winding up the business of the  
1933 partnership.

1934 (9) A person may become a partner only with the consent of all of the partners.

1935 (10) A difference arising as to a matter in the ordinary course of business of a  
1936 partnership may be decided by a majority of the partners. An act outside the ordinary course of  
1937 business of a partnership and an amendment to the partnership agreement may be undertaken  
1938 only with the consent of all of the partners.

1939 (11) This section does not affect the obligations of a partnership to other persons under  
1940 Section 48-1b-301.

1941 Section 35. Section **48-1b-402** is enacted to read:

1942 **48-1b-402. Distributions in kind.**

1943 A partner has no right to receive, and may not be required to accept, a distribution in  
1944 kind.

1945 Section 36. Section **48-1b-403** is enacted to read:

1946 **48-1b-403. Partner's rights and duties with respect to information.**

1947 (1) A partnership shall keep its books and records, if any, at its chief executive office.

1948 (2) A partnership shall provide partners and their agents and attorneys access to its  
1949 books and records. It shall provide former partners and their agents and attorneys access to

1950 books and records pertaining to the period during which they were partners. The right of  
1951 access provides the opportunity to inspect and copy books and records during ordinary business  
1952 hours. A partnership may impose a reasonable charge, covering the costs of labor and material,  
1953 for copies of documents furnished.

1954 (3) Each partner and the partnership shall furnish to a partner, and to the legal  
1955 representative of a deceased partner or partner under legal disability:

1956 (a) without demand, any information concerning the partnership's business and affairs  
1957 reasonably required for the proper exercise of the partner's rights and duties under the  
1958 partnership agreement or this chapter; and

1959 (b) on demand, any other information concerning the partnership's business and affairs,  
1960 except to the extent the demand or the information demanded is unreasonable or otherwise  
1961 improper under the circumstances.

1962 Section 37. Section **48-1b-404** is enacted to read:

1963 **48-1b-404. General standards of partner's conduct.**

1964 (1) The only fiduciary duties a partner owes to the partnership and the other partners  
1965 are the duty of loyalty and the duty of care set forth in Subsections (2) and (3).

1966 (2) A partner's duty of loyalty to the partnership and the other partners is limited to the  
1967 following:

1968 (a) to account to the partnership and hold as trustee for it any property, profit, or  
1969 benefit derived by the partner in the conduct and winding up of the partnership business or  
1970 derived from a use by the partner of partnership property, including the appropriation of a  
1971 partnership opportunity;

1972 (b) to refrain from dealing with the partnership in the conduct or winding up of the  
1973 partnership business as or on behalf of a party having an interest adverse to the partnership; and

1974 (c) to refrain from competing with the partnership in the conduct of the partnership  
1975 business before the dissolution of the partnership.

1976 (3) A partner's duty of care to the partnership and the other partners in the conduct and  
1977 winding up of the partnership business is limited to refraining from engaging in grossly  
1978 negligent or reckless conduct, intentional misconduct, or a knowing violation of law.

1979 (4) A partner shall discharge the duties to the partnership and the other partners under  
1980 this chapter or under the partnership agreement and exercise any rights consistently with the



1981 obligation of good faith and fair dealing.

1982 (5) A partner does not violate a duty or obligation under this chapter or under the  
1983 partnership agreement merely because the partner's conduct furthers the partner's own interest.

1984 (6) A partner may lend money to and transact other business with the partnership, and  
1985 as to each loan or transaction the rights and obligations of the partner are the same as those of a  
1986 person who is not a partner, subject to other applicable law.

1987 (7) This section applies to a person winding up the partnership business as the personal  
1988 or legal representative of the last surviving partner as if the person were a partner.

1989 Section 38. Section **48-1b-405** is enacted to read:

1990 **48-1b-405. Actions by partnership and partners.**

1991 (1) A partnership may maintain an action against a partner for a breach of the  
1992 partnership agreement, or for the violation of a duty to the partnership, causing harm to the  
1993 partnership.

1994 (2) A partner may maintain an action against the partnership or another partner for  
1995 legal or equitable relief, with or without an accounting as to partnership business, to:

1996 (a) enforce the partner's rights under the partnership agreement;

1997 (b) enforce the partner's rights under this chapter, including:

1998 (i) the partner's rights under Section 48-1b-401, 48-1b-403, or 48-1b-404;

1999 (ii) the partner's right on dissociation to have the partner's interest in the partnership  
2000 purchased pursuant to Section 48-1b-701 or enforce any other right under Part 6, Partner's

2001 Dissociation, or Part 7, Partner's Dissociation When Business Not Wound Up; or

2002 (iii) the partner's right to compel a dissolution and winding up of the partnership  
2003 business under Section 48-1b-801 or enforce any other right under Part 8, Winding Up

2004 Partnership Business; or

2005 (c) enforce the rights and otherwise protect the interests of the partner, including rights  
2006 and interests arising independently of the partnership relationship.

2007 (3) The accrual of, and any time limitation on, a right of action for a remedy under this  
2008 section is governed by other law. A right to an accounting upon a dissolution and winding up  
2009 does not revive a claim barred by law.

2010 Section 39. Section **48-1b-406** is enacted to read:

2011 **48-1b-406. Continuation of partnership beyond definite term or particular**

2012 **undertaking.**

2013 (1) If a partnership for a definite term or particular undertaking is continued, without  
2014 an express agreement, after the expiration of the term or completion of the undertaking, the  
2015 rights and duties of the partners remain the same as they were at the expiration or completion,  
2016 so far as is consistent with a partnership at will.

2017 (2) If the partners, or those of them who habitually acted in the business during the  
2018 term or undertaking, continue the business without any settlement or liquidation of the  
2019 partnership, they are presumed to have agreed that the partnership will continue.

2020 Section 40. Section **48-1b-501** is enacted to read:

2021 **Part 5. Transferees and Creditors of Partner**

2022 **48-1b-501. Partner not co-owner of partnership property.**

2023 A partner is not a co-owner of partnership property and has no interest in partnership  
2024 property which can be transferred, either voluntarily or involuntarily.

2025 Section 41. Section **48-1b-502** is enacted to read:

2026 **48-1b-502. Partner's transferable interest in partnership.**

2027 The only transferable interest of a partner in the partnership is the partner's share of the  
2028 profits and losses of the partnership and the partner's right to receive distributions. The interest  
2029 is personal property.

2030 Section 42. Section **48-1b-503** is enacted to read:

2031 **48-1b-503. Transfer of partner's transferable interest.**

2032 (1) A transfer, in whole or in part, of a partner's transferable interest in the partnership:

2033 (a) is permissible;

2034 (b) does not by itself cause the partner's dissociation or a dissolution and winding up of  
2035 the partnership business; and

2036 (c) does not, as against the other partners or the partnership, entitle the transferee,  
2037 during the continuance of the partnership, to participate in the management or conduct of the  
2038 partnership business, to require access to information concerning partnership transactions, or to  
2039 inspect or copy the partnership books or records.

2040 (2) A transferee of a partner's transferable interest in the partnership has a right:

2041 (a) to receive, in accordance with the transfer, distributions to which the transferor  
2042 would otherwise be entitled;

2043 (b) to receive upon the dissolution and winding up of the partnership business, in  
2044 accordance with the transfer, the net amount otherwise distributable to the transferor; and

2045 (c) to seek under Subsection 48-1b-801(6) a judicial determination that it is equitable  
2046 to wind up the partnership business.

2047 (3) In a dissolution and winding up, a transferee is entitled to an account of partnership  
2048 transactions only from the date of the latest account agreed to by all of the partners.

2049 (4) Upon transfer, the transferor retains the rights and duties of a partner other than the  
2050 interest in distributions transferred.

2051 (5) A partnership need not give effect to a transferee's rights under this section until it  
2052 has notice of the transfer.

2053 (6) A transfer of a partner's transferable interest in the partnership in violation of a  
2054 restriction on transfer contained in the partnership agreement is ineffective as to a person  
2055 having notice of the restriction at the time of transfer.

2056 Section 43. Section **48-1b-504** is enacted to read:

2057 **48-1b-504. Partner's transferable interest subject to charging order.**

2058 (1) On application by a judgment creditor of a partner or of a partner's transferee, a  
2059 court having jurisdiction may charge the transferable interest of the judgment debtor to satisfy  
2060 the judgment. The court may appoint a receiver of the share of the distributions due or to  
2061 become due to the judgment debtor in respect of the partnership and make all other orders,  
2062 directions, accounts, and inquiries the judgment debtor might have made or which the  
2063 circumstances of the case may require.

2064 (2) A charging order constitutes a lien on the judgment debtor's transferable interest in  
2065 the partnership. The court may order a foreclosure of the interest subject to the charging order  
2066 at any time. The purchaser at the foreclosure sale has the rights of a transferee.

2067 (3) At any time before foreclosure, an interest charged may be redeemed:

2068 (a) by the judgment debtor;

2069 (b) with property other than partnership property, by one or more of the other partners;

2070 or

2071 (c) with partnership property, by one or more of the other partners with the consent of  
2072 all of the partners whose interests are not so charged.

2073 (4) This chapter does not deprive a partner of a right under exemption laws with

2074 respect to the partner's interest in the partnership.

2075 (5) This section provides the exclusive remedy by which a judgment creditor of a  
2076 partner or partner's transferee may satisfy a judgment out of the judgment debtor's transferable  
2077 interest in the partnership.

2078 Section 44. Section **48-1b-601** is enacted to read:

2079 **Part 6. Partner's Dissociation**

2080 **48-1b-601. Events causing partner's dissociation.**

2081 A partner is dissociated from a partnership upon the occurrence of any of the following  
2082 events:

2083 (1) the partnership's having notice of the partner's express will to withdraw as a partner  
2084 or on a later date specified by the partner;

2085 (2) an event agreed to in the partnership agreement as causing the partner's  
2086 dissociation;

2087 (3) the partner's expulsion pursuant to the partnership agreement;

2088 (4) the partner's expulsion by the unanimous vote of the other partners if:

2089 (a) it is unlawful to carry on the partnership business with that partner;

2090 (b) there has been a transfer of all or substantially all of that partner's transferable  
2091 interest in the partnership, other than a transfer for security purposes, or a court order charging  
2092 the partner's interest, which has not been foreclosed;

2093 (c) within 90 days after the partnership notifies a corporate partner that it will be  
2094 expelled because it has filed a certificate of dissolution or the equivalent, its charter has been  
2095 revoked, or its right to conduct business has been suspended by the jurisdiction of its  
2096 incorporation, there is no revocation of the certificate of dissolution or no reinstatement of its  
2097 charter or its right to conduct business; or

2098 (d) a partnership that is a partner has been dissolved and its business is being wound  
2099 up;

2100 (5) on application by the partnership or another partner, the partner's expulsion by  
2101 judicial determination because:

2102 (a) the partner engaged in wrongful conduct that adversely and materially affected the  
2103 partnership business;

2104 (b) the partner willfully or persistently committed a material breach of the partnership

2105 agreement or of a duty owed to the partnership or the other partners under Section 48-1b-404;

2106 or

2107 (c) the partner engaged in conduct relating to the partnership business which makes it  
2108 not reasonably practicable to carry on the business in partnership with the partner;

2109 (6) the partner's:

2110 (a) becoming a debtor in bankruptcy;

2111 (b) executing an assignment for the benefit of creditors;

2112 (c) seeking, consenting to, or acquiescing in the appointment of a trustee, receiver, or  
2113 liquidator of that partner or of all or substantially all of that partner's property; or

2114 (d) failing, within 90 days after the appointment, to have vacated or stayed the  
2115 appointment of a trustee, receiver, or liquidator of the partner or of all or substantially all of the  
2116 partner's property obtained without the partner's consent or acquiescence, or failing within 90  
2117 days after the expiration of a stay to have the appointment vacated;

2118 (7) in the case of a partner who is an individual:

2119 (a) the partner's death;

2120 (b) the appointment of a guardian or general conservator for the partner; or

2121 (c) a judicial determination that the partner has otherwise become incapable of  
2122 performing the partner's duties under the partnership agreement;

2123 (8) in the case of a partner that is a trust or is acting as a partner by virtue of being a  
2124 trustee of a trust, distribution of the trust's entire transferable interest in the partnership, but not  
2125 merely by reason of the substitution of a successor trustee;

2126 (9) in the case of a partner that is an estate or is acting as a partner by virtue of being a  
2127 personal representative of an estate, distribution of the estate's entire transferable interest in the  
2128 partnership, but not merely by reason of the substitution of a successor personal representative;

2129 or

2130 (10) termination of a partner who is not an individual, partnership, corporation, trust,  
2131 or estate.

2132 Section 45. Section **48-1b-602** is enacted to read:

2133 **48-1b-602. Partner's power to dissociate -- Wrongful dissociation.**

2134 (1) A partner has the power to dissociate at any time, rightfully or wrongfully, by  
2135 express will pursuant to Subsection 48-1b-601(1).

2136 (2) A partner's dissociation is wrongful only if:

2137 (a) it is in breach of an express provision of the partnership agreement; or

2138 (b) in the case of a partnership for a definite term or particular undertaking, before the  
2139 expiration of the term or the completion of the undertaking:

2140 (i) the partner withdraws by express will, unless the withdrawal follows within 90 days  
2141 after another partner's dissociation by death or otherwise under Subsection 48-1b-601(6)  
2142 through (10) or wrongful dissociation under this Subsection (2);

2143 (ii) the partner is expelled by judicial determination under Subsection 48-1b-601(5);

2144 (iii) the partner is dissociated by becoming a debtor in bankruptcy; or

2145 (iv) in the case of a partner who is not an individual, trust other than a business trust, or  
2146 estate, the partner is expelled or otherwise dissociated because it willfully dissolved or  
2147 terminated.

2148 (3) A partner who wrongfully dissociates is liable to the partnership and to the other  
2149 partners for damages caused by the dissociation. The liability is in addition to any other  
2150 obligation of the partner to the partnership or to the other partners.

2151 Section 46. Section **48-1b-603** is enacted to read:

2152 **48-1b-603. Effect of partner's dissociation.**

2153 (1) (a) If a partner's dissociation results in a dissolution and winding up of the  
2154 partnership business, Part 8, Winding Up Partnership Business, applies.

2155 (b) Except as provided in Subsection (1)(a), Part 7, Partner's Dissociation When  
2156 Business Not Wound Up, applies.

2157 (2) Upon a partner's dissociation:

2158 (a) the partner's right to participate in the management and conduct of the partnership  
2159 business terminates, except as otherwise provided in Section 48-1b-803;

2160 (b) the partner's duty of loyalty under Subsection 48-1b-404(2)(c) terminates; and

2161 (c) the partner's duty of loyalty under Subsections 48-1b-404(2)(a) and (b) and duty of  
2162 care under Subsection 48-1b-404(3) continue only with regard to matters arising and events  
2163 occurring before the partner's dissociation, unless the partner participates in winding up the  
2164 partnership's business pursuant to Section 48-1b-803.

2165 Section 47. Section **48-1b-701** is enacted to read:

2166 **Part 7. Partner's Dissociation When Business Not Wound Up**

2167 **48-1b-701. Purchase of dissociated partner's interest.**

2168 (1) If a partner is dissociated from a partnership without resulting in a dissolution and  
2169 winding up of the partnership business under Section 48-1b-801, the partnership shall cause the  
2170 dissociated partner's interest in the partnership to be purchased for a buyout price determined  
2171 pursuant to Subsection (2).

2172 (2) The buyout price of a dissociated partner's interest is the amount that would have  
2173 been distributable to the dissociating partner under Subsection 48-1b-807(2) if, on the date of  
2174 dissociation, the assets of the partnership were sold at a price equal to the greater of the  
2175 liquidation value or the value based on a sale of the entire business as a going concern without  
2176 the dissociated partner and the partnership were wound up as of that date. Interest must be paid  
2177 from the date of dissociation to the date of payment.

2178 (3) Damages for wrongful dissociation under Subsection 48-1b-602(2), and all other  
2179 amounts owing, whether or not presently due, from the dissociated partner to the partnership,  
2180 must be offset against the buyout price. Interest must be paid from the date the amount owed  
2181 becomes due to the date of payment.

2182 (4) A partnership shall indemnify a dissociated partner whose interest is being  
2183 purchased against all partnership liabilities, whether incurred before or after the dissociation,  
2184 except liabilities incurred by an act of the dissociated partner under Section 48-1b-702.

2185 (5) If no agreement for the purchase of a dissociated partner's interest is reached within  
2186 120 days after a written demand for payment, the partnership shall pay, or cause to be paid, in  
2187 cash to the dissociated partner the amount the partnership estimates to be the buyout price and  
2188 accrued interest, reduced by any offsets and accrued interest under Subsection (3).

2189 (6) If a deferred payment is authorized under Subsection (8), the partnership may  
2190 tender a written offer to pay the amount it estimates to be the buyout price and accrued interest,  
2191 reduced by any offsets under Subsection (3), stating the time of payment, the amount and type  
2192 of security for payment, and the other terms and conditions of the obligation.

2193 (7) The payment or tender required by Subsection (5) or (6) must be accompanied by  
2194 the following:

2195 (a) a statement of partnership assets and liabilities as of the date of dissociation;

2196 (b) the latest available partnership balance sheet and income statement, if any;

2197 (c) an explanation of how the estimated amount of the payment was calculated; and

2198 (d) written notice that the payment is in full satisfaction of the obligation to purchase  
2199 unless, within 120 days after the written notice, the dissociated partner commences an action to  
2200 determine the buyout price, any offsets under Subsection (3), or other terms of the obligation to  
2201 purchase.

2202 (8) A partner who wrongfully dissociates before the expiration of a definite term or the  
2203 completion of a particular undertaking is not entitled to payment of any portion of the buyout  
2204 price until the expiration of the term or completion of the undertaking, unless the partner  
2205 establishes to the satisfaction of the court that earlier payment will not cause undue hardship to  
2206 the business of the partnership. A deferred payment must be adequately secured and bear  
2207 interest.

2208 (9) A dissociated partner may maintain an action against the partnership, pursuant to  
2209 Subsection 48-1b-405(2)(b)(ii), to determine the buyout price of that partner's interest, any  
2210 offsets under Subsection (3), or other terms of the obligation to purchase. The action must be  
2211 commenced within 120 days after the partnership has tendered payment or an offer to pay or  
2212 within one year after written demand for payment if no payment or offer to pay is tendered.  
2213 The court shall determine the buyout price of the dissociated partner's interest, any offset due  
2214 under Subsection (3), and accrued interest, and enter judgment for any additional payment or  
2215 refund. If deferred payment is authorized under Subsection (8), the court shall also determine  
2216 the security for payment and other terms of the obligation to purchase. The court may assess  
2217 reasonable attorney fees and the fees and expenses of appraisers or other experts for a party to  
2218 the action, in amounts the court finds equitable, against a party that the court finds acted  
2219 arbitrarily, vexatiously, or not in good faith. The finding may be based on the partnership's  
2220 failure to tender payment or an offer to pay or to comply with Subsection (7).

2221 Section 48. Section **48-1b-702** is enacted to read:

2222 **48-1b-702. Dissociated partner's power to bind and liability to partnership.**

2223 (1) For two years after a partner dissociates without resulting in a dissolution and  
2224 winding up of the partnership business, the partnership, including a surviving partnership under  
2225 Part 9, Merger, Conversion, and Domestication, is bound by an act of the dissociated partner  
2226 which would have bound the partnership under Section 48-1b-301 before dissociation only if at  
2227 the time of entering into the transaction the other party:

2228 (a) reasonably believed that the dissociated partner was then a partner;



2229 (b) did not have notice of the partner's dissociation; and  
2230 (c) is not deemed to have had knowledge under Subsection 48-1b-303(5) or notice  
2231 under Subsection 48-1b-704(3).

2232 (2) A dissociated partner is liable to the partnership for any damage caused to the  
2233 partnership arising from an obligation incurred by the dissociated partner after dissociation for  
2234 which the partnership is liable under Subsection (1).

2235 Section 49. Section **48-1b-703** is enacted to read:

2236 **48-1b-703. Dissociated partner's liability to other persons.**

2237 (1) A partner's dissociation does not of itself discharge the partner's liability for a  
2238 partnership obligation incurred before dissociation. A dissociated partner is not liable for a  
2239 partnership obligation incurred after dissociation, except as otherwise provided in Subsection  
2240 (2).

2241 (2) A partner who dissociates without resulting in a dissolution and winding up of the  
2242 partnership business is liable as a partner to the other party in a transaction entered into by the  
2243 partnership, or a surviving partnership under Part 9, Merger, Conversion, and Domestication,  
2244 within two years after the partner's dissociation, only if the partner is liable for the obligation  
2245 under Section 48-1b-306 and at the time of entering into the transaction the other party:

2246 (a) reasonably believed that the dissociated partner was then a partner;

2247 (b) did not have notice of the partner's dissociation; and

2248 (c) is not deemed to have had knowledge under Subsection 48-1b-303(5) or notice  
2249 under Subsection 48-1b-704(3).

2250 (3) By agreement with the partnership creditor and the partners continuing the  
2251 business, a dissociated partner may be released from liability for a partnership obligation.

2252 (4) A dissociated partner is released from liability for a partnership obligation if a  
2253 partnership creditor, with notice of the partner's dissociation but without the partner's consent,  
2254 agrees to a material alteration in the nature or time of payment of a partnership obligation.

2255 Section 50. Section **48-1b-704** is enacted to read:

2256 **48-1b-704. Statement of dissociation.**

2257 (1) A dissociated partner or the partnership may file a statement of dissociation with  
2258 the division stating the name of the partnership and that the partner is dissociated from the  
2259 partnership.

2260 (2) A statement of dissociation is a limitation on the authority of a dissociated partner  
2261 for the purposes of Subsections 48-1b-303(4) and (5).

2262 (3) For the purposes of Subsections 48-1b-702(1)(c) and 48-1b-703(2)(c), a person not  
2263 a partner is deemed to have notice of the dissociation 90 days after the statement of  
2264 dissociation is filed.

2265 Section 51. Section **48-1b-705** is enacted to read:

2266 **48-1b-705. Continued use of partnership name.**

2267 Continued use of a partnership name, or a dissociated partner's name as part thereof, by  
2268 partners continuing the business does not of itself make the dissociated partner liable for an  
2269 obligation of the partners or the partnership continuing the business.

2270 Section 52. Section **48-1b-801** is enacted to read:

2271 **Part 8. Winding Up Partnership Business**

2272 **48-1b-801. Events causing dissolution and winding up of partnership business.**

2273 A partnership is dissolved, and its business must be wound up, only upon the  
2274 occurrence of any of the following events:

2275 (1) in a partnership at will, the partnership's having notice from a partner, other than a  
2276 partner who is dissociated under Subsections 48-1b-601(2) through (10), of that partner's  
2277 express will to withdraw as a partner, or on a later date specified by the partner;

2278 (2) in a partnership for a definite term or particular undertaking:

2279 (a) within 90 days after a partner's dissociation by death or otherwise under  
2280 Subsections 48-1b-601(6) through (10) or wrongful dissociation under Subsection  
2281 48-1b-602(2), the express will of at least half of the remaining partners to wind up the  
2282 partnership business, for which purpose a partner's rightful dissociation pursuant to Subsection  
2283 48-1b-602(2)(b)(i) constitutes the expression of that partner's will to wind up the partnership  
2284 business;

2285 (b) the express will of all of the partners to wind up the partnership business; or

2286 (c) the expiration of the term or the completion of the undertaking;

2287 (3) an event agreed to in the partnership agreement resulting in the winding up of the  
2288 partnership business;

2289 (4) an event that makes it unlawful for all or substantially all of the business of the  
2290 partnership to be continued, but a cure of illegality within 90 days after notice to the

2291 partnership of the event is effective retroactively to the date of the event for purposes of this  
2292 section;

2293 (5) on application by a partner, a judicial determination that:

2294 (a) the economic purpose of the partnership is likely to be unreasonably frustrated;

2295 (b) another partner has engaged in conduct relating to the partnership business which  
2296 makes it not reasonably practicable to carry on the business in partnership with that partner; or

2297 (c) it is not otherwise reasonably practicable to carry on the partnership business in  
2298 conformity with the partnership agreement; or

2299 (6) on application by a transferee of a partner's transferable interest, a judicial  
2300 determination that it is equitable to wind up the partnership business:

2301 (a) after the expiration of the term or completion of the undertaking, if the partnership  
2302 was for a definite term or particular undertaking at the time of the transfer or entry of the  
2303 charging order that gave rise to the transfer; or

2304 (b) at any time, if the partnership was a partnership at will at the time of the transfer or  
2305 entry of the charging order that gave rise to the transfer.

2306 Section 53. Section **48-1b-802** is enacted to read:

2307 **48-1b-802. Partnership continues after dissolution.**

2308 (1) Subject to Subsection (2), a partnership continues after dissolution only for the  
2309 purpose of winding up its business. The partnership is terminated when the winding up of its  
2310 business is completed.

2311 (2) At any time after the dissolution of a partnership and before the winding up of its  
2312 business is completed, all of the partners, including any dissociating partner other than a  
2313 wrongfully dissociating partner, may waive the right to have the partnership's business wound  
2314 up and the partnership terminated. In that event:

2315 (a) the partnership resumes carrying on its business as if dissolution had never  
2316 occurred, and any liability incurred by the partnership or a partner after the dissolution and  
2317 before the waiver is determined as if dissolution had never occurred; and

2318 (b) the rights of a third party accruing under Subsection 48-1b-804(1) or arising out of  
2319 conduct in reliance on the dissolution before the third party knew or received a notification of  
2320 the waiver may not be adversely affected.

2321 Section 54. Section **48-1b-803** is enacted to read:

2322 **48-1b-803. Right to wind up partnership business.**

2323 (1) After dissolution, a partner who has not wrongfully dissociated may participate in  
2324 winding up the partnership's business, but on application of any partner, partner's legal  
2325 representative, or transferee, the district court, for good cause shown, may order judicial  
2326 supervision of the winding up.

2327 (2) The legal representative of the last surviving partner may wind up a partnership's  
2328 business.

2329 (3) A person winding up a partnership's business may preserve the partnership business  
2330 or property as a going concern for a reasonable time, prosecute and defend actions and  
2331 proceedings, whether civil, criminal, or administrative, settle and close the partnership's  
2332 business, dispose of and transfer the partnership's property, discharge the partnership's  
2333 liabilities, distribute the assets of the partnership pursuant to Section 48-1b-807, settle disputes  
2334 by mediation or arbitration, and perform other necessary acts.

2335 Section 55. Section **48-1b-804** is enacted to read:

2336 **48-1b-804. Partner's power to bind partnership after dissolution.**

2337 Subject to Section 48-1b-805, a partnership is bound by a partner's act after dissolution  
2338 that:

2339 (1) is appropriate for winding up the partnership business; or

2340 (2) would have bound the partnership under Section 48-1b-301 before dissolution, if  
2341 the other party to the transaction did not have notice of the dissolution.

2342 Section 56. Section **48-1b-805** is enacted to read:

2343 **48-1b-805. Statement of dissolution.**

2344 (1) After dissolution, a partner who has not wrongfully dissociated may file a statement  
2345 of dissolution with the division stating the name of the partnership and that the partnership has  
2346 dissolved and is winding up its business.

2347 (2) A statement of dissolution cancels a filed statement of partnership authority for the  
2348 purposes of Subsection 48-1b-303(4) and is a limitation on authority for the purposes of  
2349 Subsection 48-1b-303(5).

2350 (3) For the purposes of Sections 48-1b-301 and 48-1b-804, a person not a partner is  
2351 deemed to have notice of the dissolution and the limitation on the partner's authority as a result  
2352 of the statement of dissolution 90 days after it is filed.

2353 (4) After filing and, if appropriate, recording a statement of dissolution, a dissolved  
2354 partnership may file and, if appropriate, record a statement of partnership authority which will  
2355 operate with respect to a person not a partner as provided in Subsections 48-1b-303(4) and (5)  
2356 in any transaction, whether or not the transaction is appropriate for winding up the partnership  
2357 business.

2358 Section 57. Section **48-1b-806** is enacted to read:

2359 **48-1b-806. Partner's liability to other partners after dissolution.**

2360 (1) Except as otherwise provided in Subsection (2) and Section 48-1b-306, after  
2361 dissolution a partner is liable to the other partners for the partner's share of any partnership  
2362 liability incurred under Section 48-1b-804.

2363 (2) A partner who, with knowledge of the dissolution, incurs a partnership liability  
2364 under Subsection 48-1b-804(2) by an act that is not appropriate for winding up the partnership  
2365 business is liable to the partnership for any damage caused to the partnership arising from the  
2366 liability.

2367 Section 58. Section **48-1b-807** is enacted to read:

2368 **48-1b-807. Settlement of accounts and contributions among partners.**

2369 (1) In winding up a partnership's business, the assets of the partnership, including the  
2370 contributions of the partners required by this section, must be applied to discharge its  
2371 obligations to creditors, including, to the extent permitted by law, partners who are creditors.  
2372 Any surplus must be applied to pay in cash the net amount distributable to partners in  
2373 accordance with their right to distributions under Subsection (2).

2374 (2) Each partner is entitled to a settlement of all partnership accounts upon winding up  
2375 the partnership business. In settling accounts among the partners, profits and losses that result  
2376 from the liquidation of the partnership assets must be credited and charged to the partners'  
2377 accounts. The partnership shall make a distribution to a partner in an amount equal to any  
2378 excess of the credits over the charges in the partner's account. A partner shall contribute to the  
2379 partnership an amount equal to any excess of the charges over the credits in the partner's  
2380 account but excluding from the calculation charges attributable to an obligation for which the  
2381 partner is not personally liable under Section 48-1b-306.

2382 (3) If a partner fails to contribute the full amount required under Subsection (2), all of  
2383 the other partners shall contribute, in the proportions in which those partners share partnership

2384 losses, the additional amount necessary to satisfy the partnership obligations for which they are  
2385 personally liable under Section 48-1b-306. A partner or partner's legal representative may  
2386 recover from the other partners any contributions the partner makes to the extent the amount  
2387 contributed exceeds that partner's share of the partnership obligations for which the partner is  
2388 personally liable under Section 48-1b-306.

2389 (4) After the settlement of accounts, each partner shall contribute, in the proportion in  
2390 which the partner shares partnership losses, the amount necessary to satisfy partnership  
2391 obligations that were not known at the time of the settlement and for which the partner is  
2392 personally liable under Section 48-1b-306.

2393 (5) The estate of a deceased partner is liable for the partner's obligation to contribute to  
2394 the partnership.

2395 (6) An assignee for the benefit of creditors of a partnership or a partner, or a person  
2396 appointed by a court to represent creditors of a partnership or a partner, may enforce a partner's  
2397 obligation to contribute to the partnership.

2398 Section 59. Section **48-1b-901** is enacted to read:

2399 **Part 9. Merger, Conversion, and Domestication**

2400 **48-1b-901. Definitions.**

2401 In this part:

2402 (1) "Constituent organization" means an organization that is party to a merger.

2403 (2) "Constituent partnership" means a constituent organization that is a partnership.

2404 (3) "Converted organization" means the organization into which a converting  
2405 organization converts pursuant to Sections 48-1b-906 through 48-1b-909.

2406 (4) "Converting organization" means an organization that converts into another  
2407 organization pursuant to Section 48-1b-906.

2408 (5) "Converting partnership" means a converting organization that is a partnership.

2409 (6) "Domesticated limited liability partnership" means a limited liability partnership  
2410 that exists after a domesticating foreign limited liability partnership or limited liability  
2411 partnership effects a domestication pursuant to Sections 48-1b-910 through 48-1b-913.

2412 (7) "Domesticating limited liability partnership" means a limited liability partnership  
2413 that effects a domestication pursuant to Sections 48-1b-910 through 48-1b-913.

2414 (8) "Foreign partnership" means a partnership that has:

- 2415 (a) its chief executive office in a jurisdiction other than this state; or  
2416 (b) specified in its partnership agreement that relations among the partners and between  
2417 the partners and the partnership will be governed by the law of a jurisdiction other than this  
2418 state.
- 2419 (9) "Governing statute" means the statute that governs an organization's internal affairs.
- 2420 (10) (a) "Organization" means:
- 2421 (i) a general partnership, including a limited liability partnership;  
2422 (ii) a limited partnership, including a limited liability limited partnership;  
2423 (iii) a limited liability company;  
2424 (iv) a business trust;  
2425 (v) a corporation; or  
2426 (vi) any other person having a governing statute.
- 2427 (b) "Organization" includes a domestic or foreign organization regardless of whether  
2428 organized for profit.
- 2429 (11) "Organizational documents" means:
- 2430 (a) for a domestic or foreign general partnership, its partnership agreement;  
2431 (b) for a limited partnership or foreign limited partnership, its certificate of limited  
2432 partnership and partnership agreement;
- 2433 (c) for a domestic or foreign limited liability company, its certificate or articles of  
2434 organization and operating agreement, or comparable records as provided in its governing  
2435 statute;
- 2436 (d) for a business trust, its agreement of trust and declaration of trust;
- 2437 (e) for a domestic or foreign corporation for profit, its articles of incorporation, bylaws,  
2438 and other agreements among its shareholders which are authorized by its governing statute, or  
2439 comparable records as provided in its governing statute; and
- 2440 (f) for any other organization, the basic records that create the organization and  
2441 determine its internal governance and the relations among the persons that own it, have an  
2442 interest in it, or are members of it.
- 2443 (12) "Personal liability" means liability for a debt, obligation, or other liability of an  
2444 organization which is imposed on a person that co-owns, has an interest in, or is a member of  
2445 the organization;

2446 (a) by the governing statute solely by reason of the person co-owning, having an  
2447 interest in, or being a member of the organization; or

2448 (b) by the organization's organizational documents under a provision of the governing  
2449 statute authorizing those documents to make one or more specified persons liable for all or  
2450 specified debts, obligations, or other liabilities of the organization solely by reason of the  
2451 person or persons co-owning, having an interest in, or being a member of the organization.

2452 (13) "Surviving organization" means an organization into which one or more other  
2453 organizations are merged whether the organization preexisted the merger or was created by the  
2454 merger.

2455 Section 60. Section **48-1b-902** is enacted to read:

2456 **48-1b-902. Merger.**

2457 (1) A partnership may merge with one or more other constituent organizations pursuant  
2458 to this section, Sections 48-1b-903 through 48-1b-905, and a plan of merger, if:

2459 (a) the governing statute of each of the other organizations authorizes the merger;

2460 (b) the merger is not prohibited by the law of a jurisdiction that enacted any of the  
2461 governing statutes; and

2462 (c) each of the other organizations complies with its governing statute in effecting the  
2463 merger.

2464 (2) Unless each constituent organization and the surviving organization are  
2465 partnerships other than limited liability partnerships, a plan of merger must be in a record and  
2466 must include:

2467 (a) the name and form of each constituent organization;

2468 (b) the name and form of the surviving organization and, if the surviving organization  
2469 is to be created by the merger, a statement to that effect;

2470 (c) the terms and conditions of the merger, including the manner and basis for  
2471 converting the interests in each constituent organization into any combination of money,  
2472 interests in the surviving organization, and other consideration;

2473 (d) if the surviving organization is to be created by the merger, the surviving  
2474 organization's organizational documents that are proposed to be in a record; and

2475 (e) if the surviving organization is not to be created by the merger, any amendments to  
2476 be made by the merger to the surviving organization's organizational documents that are, or are



2477 proposed to be, in a record.

2478 Section 61. Section **48-1b-903** is enacted to read:

2479 **48-1b-903. Action on plan of merger by constituent partnership.**

2480 (1) Subject to Section 48-1b-914, a plan of merger must be consented to by all the  
2481 partners of a constituent partnership.

2482 (2) Subject to Section 48-1b-914 and any contractual rights, after a merger is approved,  
2483 and at any time before articles of merger are delivered to the division for filing under Section  
2484 48-1b-904, a constituent partnership may amend the plan or abandon the merger:

2485 (a) as provided in the plan; or

2486 (b) except as otherwise prohibited in the plan, with the same consent as was required to  
2487 approve the plan.

2488 Section 62. Section **48-1b-904** is enacted to read:

2489 **48-1b-904. Filings required and permitted for merger -- Effective date.**

2490 (1) After each constituent organization has approved a merger, articles of merger must  
2491 be signed on behalf of:

2492 (a) each constituent partnership, as provided in Section 48-1b-105, unless the merger is  
2493 only between or among general partnerships, none of which is a limited liability partnership,  
2494 and the surviving organization will be a general partnership other than a limited liability  
2495 partnership; and

2496 (b) each other constituent organization, as provided in its governing statute.

2497 (2) Articles of merger under this section must include:

2498 (a) the name and form of each constituent organization and the jurisdiction of its  
2499 governing statute;

2500 (b) the name and form of the surviving organization, the jurisdiction of its governing  
2501 statute, and, if the surviving organization is created by the merger, a statement to that effect;

2502 (c) the date the merger is effective under the governing statute of the surviving  
2503 organization;

2504 (d) if the surviving organization is to be created by the merger:

2505 (i) if it will be a limited liability partnership, the limited liability partnership's  
2506 statement of qualification; or

2507 (ii) if it will be an organization other than a limited liability partnership, the

2508 organizational document that creates the organization that is in a public record;

2509 (e) if the surviving organization preexists the merger, any amendments provided for in  
2510 the plan of merger for the organizational document that created the organization that are in a  
2511 public record;

2512 (f) a statement as to each constituent organization that the merger was approved as  
2513 required by the organization's governing statute;

2514 (g) if the surviving organization is a foreign organization not authorized to transact  
2515 business in this state, the street and mailing addresses of an office that may be used for service  
2516 of process under Section 48-1b-905(2); and

2517 (h) any additional information required by the governing statute of any constituent  
2518 organization.

2519 (3) Each constituent partnership that is a limited liability partnership shall, and each  
2520 constituent partnership that is not a limited liability partnership may, deliver the articles of  
2521 merger for filing in the division.

2522 (4) A merger becomes effective under this part:

2523 (a) if the surviving organization is a partnership, upon the later of:

2524 (i) compliance with Subsection (3); or

2525 (ii) as specified in the articles of merger; or

2526 (b) if the surviving organization is not a partnership, as provided by the governing  
2527 statute of the surviving organization.

2528 Section 63. Section **48-1b-905** is enacted to read:

2529 **48-1b-905. Effect of merger.**

2530 (1) When a merger becomes effective:

2531 (a) the surviving organization continues or comes into existence;

2532 (b) each constituent organization that merges into the surviving organization ceases to  
2533 exist as a separate entity;

2534 (c) all property owned by each constituent organization that ceases to exist vests in the  
2535 surviving organization;

2536 (d) all debts, obligations, or other liabilities of each constituent organization that ceases  
2537 to exist continue as debts, obligations, or other liabilities of the surviving organization;

2538 (e) an action or proceeding pending by or against any constituent organization that

2539 ceases to exist may be continued as if the merger had not occurred;

2540 (f) except as prohibited by other law, all of the rights, privileges, immunities, powers,  
2541 and purposes of each constituent organization that ceases to exist vest in the surviving  
2542 organization;

2543 (g) except as otherwise provided in the plan of merger, the terms and conditions of the  
2544 plan of merger take effect; and

2545 (h) except as otherwise agreed, if a constituent partnership ceases to exist, the merger  
2546 does not dissolve the partnership for the purposes of Part 8, Winding Up Partnership Business;

2547 (i) if the surviving organization is created by the merger:

2548 (i) if it is a partnership, the partnership is formed upon approval of and on the date  
2549 specified in the plan of merger;

2550 (ii) if it is a limited liability partnership, the limited liability partnership is formed and  
2551 the statement of qualification takes effect on the later of:

2552 (A) the day after the day on which the division has received for filing both the articles  
2553 of merger and the statement of qualification pursuant to Section 48-1b-1001; or

2554 (B) the date provided in the statement of qualification; or

2555 (iii) if it is an organization other than a partnership, the organizational document that  
2556 creates the organization becomes effective; and

2557 (j) if the surviving organization preexisted the merger, any amendments provided for in  
2558 the articles of merger for the organizational document that created the organization become  
2559 effective.

2560 (2) A surviving organization that is a foreign organization consents to the jurisdiction  
2561 of the courts of this state to enforce any debt, obligation, or other liability owed by a constituent  
2562 organization, if before the merger the constituent organization was subject to suit in this state  
2563 on the debt, obligation, or other liability. A surviving organization that is a foreign  
2564 organization and not authorized to transact business in this state may be served with process at  
2565 the address required in the articles of merger under 48-1b-904(2)(g).

2566 Section 64. Section **48-1b-906** is enacted to read:

2567 **48-1b-906. Conversion.**

2568 (1) An organization other than a partnership or a foreign partnership may convert to a  
2569 partnership, and a partnership may convert to an organization other than a foreign partnership

2570 pursuant to this section, Sections 48-1b-907 through 48-1b-909, and a plan of conversion, if:

2571 (a) the other organization's governing statute authorizes the conversion;

2572 (b) the conversion is not prohibited by the law of the jurisdiction that enacted the other  
2573 organization's governing statute; and

2574 (c) the other organization complies with its governing statute in effecting the  
2575 conversion.

2576 (2) A plan of conversion must be in a record and must include:

2577 (a) the name and form of the organization before conversion;

2578 (b) the name and form of the organization after conversion;

2579 (c) the terms and conditions of the conversion, including the manner and basis for  
2580 converting interests in the converting organization into any combination of money, interests in  
2581 the converted organization, and other consideration; and

2582 (d) the organizational documents of the converted organization that are, or are  
2583 proposed to be, in a record.

2584 Section 65. Section **48-1b-907** is enacted to read:

2585 **48-1b-907. Action on plan of conversion by converting partnership.**

2586 (1) Subject to Section 48-1b-914, a plan of conversion must be consented to by all the  
2587 partners of a converting partnership.

2588 (2) Subject to Section 48-1b-914 and any contractual rights, after a conversion is  
2589 approved, and at any time before articles of conversion are delivered to the division for filing  
2590 under Section 48-1b-908, a converting partnership may amend the plan or abandon the  
2591 conversion:

2592 (a) as provided in the plan; or

2593 (b) except as otherwise prohibited in the plan, by the same consent as was required to  
2594 approve the plan.

2595 Section 66. Section **48-1b-908** is enacted to read:

2596 **48-1b-908. Filings required for conversion -- Effective date.**

2597 (1) After a plan of conversion is approved:

2598 (a) a converting limited liability partnership shall deliver to the division for filing  
2599 articles of conversion, which must be signed as provided in Section 48-1b-105 and must  
2600 include:

2601           (i) a statement that the limited liability partnership has been converted into another  
2602 organization;

2603           (ii) the name and form of the converted organization and the jurisdiction of its  
2604 governing statute;

2605           (iii) the date the conversion is effective under the governing statute of the converted  
2606 organization;

2607           (iv) a statement that the conversion was approved as required by this chapter;

2608           (v) a statement that the conversion is authorized by the governing statute of the  
2609 converted organization; and

2610           (vi) if the converted organization is a foreign organization not authorized to transact  
2611 business in this state, the street and mailing addresses of an office that may be used for  
2612 purposes of Subsection 48-1b-909(3); and

2613           (b) if the converting organization is not a converting partnership or limited liability  
2614 partnership, the converting organization shall deliver to the division for filing articles of  
2615 conversion, which must include:

2616           (i) a statement that the converted organization was converted from another  
2617 organization, and whether the converted organization is a partnership or a limited liability  
2618 partnership;

2619           (ii) the name and form of that converting organization and the jurisdiction of its  
2620 governing statute; and

2621           (iii) a statement that the conversion was approved in a manner that complied with the  
2622 converting organization's governing statute.

2623           (2) A conversion becomes effective:

2624           (a) if the converted organization is a partnership, as provided in the plan or articles of  
2625 conversion;

2626           (b) if the converted organization is a limited liability partnership, the later of:

2627           (i) the day after the day on which the division has received for filing both the articles of  
2628 conversion and the statement of qualification pursuant to Section 48-1b-1001; or

2629           (ii) the date provided in the statement of qualification; or

2630           (c) if the converted organization is not a partnership or limited liability partnership, as  
2631 provided by the governing statute of the converted organization.

2632 Section 67. Section **48-1b-909** is enacted to read:

2633 **48-1b-909. Effect of conversion.**

2634 (1) An organization that has been converted pursuant to this part is for all purposes the  
2635 same entity that existed before the conversion.

2636 (2) When a conversion takes effect:

2637 (a) all property owned by the converting organization remains vested in the converted  
2638 organization;

2639 (b) all debts, obligations, or other liabilities of the converting organization continue as  
2640 debts, obligations, or other liabilities of the converted organization;

2641 (c) an action or proceeding pending by or against the converting organization may be  
2642 continued as if the conversion had not occurred;

2643 (d) except as prohibited by law other than this chapter, all of the rights, privileges,  
2644 immunities, powers, and purposes of the converting organization remain vested in the  
2645 converted organization;

2646 (e) except as otherwise provided in the plan of conversion, the terms and conditions of  
2647 the plan of conversion take effect; and

2648 (f) except as otherwise agreed, the conversion does not dissolve a converting  
2649 partnership for the purposes of Part 8, Winding Up Partnership Business.

2650 (3) A converted organization that is a foreign organization consents to the jurisdiction  
2651 of the courts of this state to enforce any debt, obligation, or other liability for which the  
2652 converting partnership or limited liability partnership is liable if, before the conversion, the  
2653 converting partnership or limited liability partnership was subject to suit in this state on the  
2654 debt, obligation, or other liability. A converted organization that is a foreign organization and  
2655 not authorized to transact business in this state may be served with process at the address  
2656 required in the articles of conversion under Subsection 48-1b-908(1)(a)(vi).

2657 Section 68. Section **48-1b-910** is enacted to read:

2658 **48-1b-910. Domestication.**

2659 (1) A foreign limited liability partnership may become a limited liability partnership  
2660 pursuant to this section, Sections 48-1b-911 through 48-1b-913, and a plan of domestication,  
2661 if:

2662 (a) the foreign limited liability partnership's governing statute authorizes the

2663 domestication;

2664 (b) the domestication is not prohibited by the law of the jurisdiction that enacted the  
2665 governing statute; and

2666 (c) the foreign limited liability partnership complies with its governing statute in  
2667 effecting the domestication.

2668 (2) A limited liability partnership may become a foreign limited liability partnership  
2669 pursuant to this section, Sections 48-1b-911 through 48-1b-913, and a plan of domestication,  
2670 if:

2671 (a) the foreign limited liability partnership's governing statute authorizes the  
2672 domestication;

2673 (b) the domestication is not prohibited by the law of the jurisdiction that enacted the  
2674 governing statute; and

2675 (c) the foreign limited liability partnership complies with its governing statute in  
2676 effecting the domestication.

2677 (3) A plan of domestication must be in a record and must include:

2678 (a) the name of the domesticating limited liability partnership before domestication and  
2679 the jurisdiction of its governing statute;

2680 (b) the name of the domesticated limited liability partnership after domestication and  
2681 the jurisdiction of its governing statute;

2682 (c) the terms and conditions of the domestication, including the manner and basis for  
2683 converting interests in the domesticating limited liability partnership into any combination of  
2684 money, interests in the domesticated limited liability partnership, and other consideration; and

2685 (d) the organizational documents of the domesticated limited liability partnership that  
2686 are, or are proposed to be, in a record.

2687 Section 69. Section **48-1b-911** is enacted to read:

2688 **48-1b-911. Action on plan of domestication by domesticating partnership.**

2689 (1) A plan of domestication must be consented to:

2690 (a) by all the partners, subject to Section 48-1b-914, if the domesticating limited  
2691 liability partnership is a limited liability partnership; and

2692 (b) as provided in the domesticating limited liability partnership's governing statute, if  
2693 the limited liability partnership is a foreign limited liability partnership.

2694 (2) Subject to any contractual rights, after a domestication is approved, and at any time  
2695 before articles of domestication are delivered to the division for filing under Section  
2696 48-1b-912, a domesticating limited liability partnership may amend the plan or abandon the  
2697 domestication:

2698 (a) as provided in the plan; or

2699 (b) except as otherwise prohibited in the plan, by the same consent as was required to  
2700 approve the plan.

2701 Section 70. Section **48-1b-912** is enacted to read:

2702 **48-1b-912. Filings required for domestication -- Effective date.**

2703 (1) After a plan of domestication is approved, a domesticating limited liability  
2704 partnership shall deliver to the division for filing articles of domestication, which must include:

2705 (a) a statement, as the case may be, that the limited liability partnership has been  
2706 domesticated from or into another jurisdiction;

2707 (b) the name of the domesticating limited liability partnership and the jurisdiction of its  
2708 governing statute;

2709 (c) the name of the domesticated limited liability partnership and the jurisdiction of its  
2710 governing statute;

2711 (d) the date the domestication is effective under the governing statute of the  
2712 domesticated limited liability partnership;

2713 (e) if the domesticating limited liability partnership was a limited liability partnership,  
2714 a statement that the domestication was approved as required by this chapter;

2715 (f) if the domesticating limited liability partnership was a foreign limited liability  
2716 partnership, a statement that the domestication was approved as required by the governing  
2717 statute of the other jurisdiction; and

2718 (g) if the domesticated limited liability partnership is a foreign limited liability  
2719 partnership not authorized to transact business in this state, the street and mailing addresses of  
2720 an office that the division may use for the purposes of Subsection 48-1b-913(2).

2721 (2) A domestication becomes effective:

2722 (a) if the domesticated limited liability partnership is a limited liability partnership, the  
2723 later of:

2724 (i) the day after the day on which the division has received for filing both the articles of



2725 domestication and the statement of qualification pursuant to Section 48-1b-1001; and  
2726 (ii) the date provided in the statement of qualification; or  
2727 (b) if it is a foreign limited liability partnership, according to the governing statute of  
2728 the domesticated limited liability partnership.  
2729 Section 71. Section **48-1b-913** is enacted to read:  
2730 **48-1b-913. Effect of domestication.**  
2731 (1) When a domestication takes effect:  
2732 (a) the domesticated limited liability partnership is for all purposes the limited liability  
2733 partnership that existed before the domestication;  
2734 (b) all property owned by the domesticating limited liability partnership remains vested  
2735 in the domesticated limited liability partnership;  
2736 (c) all debts, obligations, or other liabilities of the domesticating limited liability  
2737 partnership continue as debts, obligations, or other liabilities of the domesticated limited  
2738 liability partnership;  
2739 (d) an action or proceeding pending by or against a domesticating limited liability  
2740 partnership may be continued as if the domestication had not occurred;  
2741 (e) except as prohibited by other law, all of the rights, privileges, immunities, powers,  
2742 and purposes of the domesticating limited liability partnership remain vested in the  
2743 domesticated limited liability partnership;  
2744 (f) except as otherwise provided in the plan of domestication, the terms and conditions  
2745 of the plan of domestication take effect; and  
2746 (g) except as otherwise agreed, the domestication does not dissolve a domesticating  
2747 limited liability partnership for the purposes of Part 8, Winding Up Partnership Business.  
2748 (2) A domesticated limited liability partnership that is a foreign limited liability  
2749 partnership consents to the jurisdiction of the courts of this state to enforce any debt,  
2750 obligation, or other liability owed by the domesticating limited liability partnership, if, before  
2751 the domestication, the domesticating limited liability partnership was subject to suit in this  
2752 state on the debt, obligation, or other liability. A domesticated limited liability partnership that  
2753 is a foreign limited liability partnership and not authorized to transact business in this state may  
2754 be served with process at the address required in the articles of domestication under Subsection  
2755 48-1b-912(1)(g).

2756 (3) If a limited liability partnership has adopted and approved a plan of domestication  
2757 under Section 48-1b-910 providing for the limited liability partnership to be domesticated in a  
2758 foreign jurisdiction, a statement pursuant to Subsection 48-1b-1001(4) cancelling the limited  
2759 liability partnership's statement of qualification must be delivered to the division for filing  
2760 setting forth:

2761 (a) the name of the limited liability partnership;

2762 (b) a statement that the limited liability partnership's statement of qualification is being  
2763 cancelled in connection with the domestication of the limited liability partnership in a foreign  
2764 jurisdiction;

2765 (c) a statement the domestication was approved as required by this chapter; and

2766 (d) the jurisdiction of formation of the domesticated foreign limited liability  
2767 partnership.

2768 Section 72. Section **48-1b-914** is enacted to read:

2769 **48-1b-914. Restrictions on approval of mergers, conversions, and domestications.**

2770 (1) If a partner of a constituent or converting partnership, or a partner of a  
2771 domesticating limited liability partnership will have personal liability with respect to a  
2772 surviving, converted, or domesticated organization, approval or amendment of a plan of  
2773 merger, conversion, or domestication are ineffective without the consent of the partner, unless:

2774 (a) the partnership's partnership agreement provides for approval of a merger,  
2775 conversion, or domestication with the consent of fewer than all the partners; and

2776 (b) the partner has consented to the provision of the partnership agreement.

2777 (2) A partner does not give the consent required by Subsection (1) merely by  
2778 consenting to a provision of the partnership agreement that permits the partnership agreement  
2779 to be amended with the consent of fewer than all the partners.

2780 Section 73. Section **48-1b-915** is enacted to read:

2781 **48-1b-915. Part not exclusive.**

2782 This part does not preclude an entity from being merged, converted, or domesticated  
2783 under law other than this chapter.

2784 Section 74. Section **48-1b-1001** is enacted to read:

2785 **Part 10. Limited Liability Partnership**

2786 **48-1b-1001. Statement of qualification.**

2787 (1) A partnership may become a limited liability partnership pursuant to this section.

2788 (2) The terms and conditions on which a partnership becomes a limited liability  
2789 partnership must be approved by the vote necessary to amend the partnership agreement  
2790 except, in the case of a partnership agreement that expressly considers obligations to contribute  
2791 to the partnership, the vote necessary to amend those provisions.

2792 (3) After the approval required by Subsection (2), a partnership may become a limited  
2793 liability partnership by filing a statement of qualification with the division. The statement must  
2794 contain:

2795 (a) the name of the partnership;

2796 (b) the street address of the partnership's chief executive office and, if different, the  
2797 street address of an office in this state, if any;

2798 (c) if the partnership does not have an office in this state, the information required by  
2799 Subsection 16-17-203(1);

2800 (d) a statement that the partnership elects to be a limited liability partnership; and

2801 (e) a deferred effective date, if any.

2802 (4) The status of a partnership as a limited liability partnership is effective on the later  
2803 of the filing of the statement or a date specified in the statement. The status remains effective,  
2804 regardless of changes in the partnership, until it is canceled pursuant to Subsection  
2805 48-1b-105(4) or revoked pursuant to Section 48-1b-1003.

2806 (5) The status of a partnership as a limited liability partnership and the liability of its  
2807 partners is not affected by errors or later changes in the information required to be contained in  
2808 the statement of qualification under Subsection (3).

2809 (6) The filing of a statement of qualification establishes that a partnership has satisfied  
2810 all conditions precedent to the qualification of the partnership as a limited liability partnership.

2811 (7) An amendment or cancellation of a statement of qualification is effective when it is  
2812 filed or on a deferred effective date specified in the amendment or cancellation.

2813 Section 75. Section **48-1b-1002** is enacted to read:

2814 **48-1b-1002. Name.**

2815 (1) The name of a limited liability partnership must end with "Registered Limited  
2816 Liability Partnership," "Limited Liability Partnership," "R.L.L.P.," "L.L.P.," "RLLP," or "LLP".

2817 (2) The name of a limited liability partnership may not contain:

2818 (a) without the written consent of the United States Olympic Committee, the words:

2819 (i) "Olympic";

2820 (ii) "Olympiad"; or

2821 (iii) "Citius Altius Fortius"; and

2822 (b) without the written consent of the Division of Consumer Protection issued in  
2823 accordance with Section 13-34-114, the words:

2824 (i) "university";

2825 (ii) "college"; or

2826 (iii) "institute" or "institution".

2827 (3) Unless authorized by Subsection (4), the name of a limited liability partnership  
2828 must be distinguishable in the records of the division from:

2829 (a) the name of each person other than an individual incorporated, organized, or  
2830 authorized to transact business in this state; and

2831 (b) each name reserved under:

2832 (i) Section 16-6a-401 or 16-6a-402;

2833 (ii) Section 16-10a-401 or 16-10a-402;

2834 (iii) Section 16-11-16;

2835 (iv) Section 42-2-6.6;

2836 (v) Section 48-2d-108 or 48-2d-109; or

2837 (vi) Section 48-3-108 or 48-3-109.

2838 (4) A limited liability partnership may apply to the division for authorization to use a  
2839 name that does not comply with Subsection (3). The division shall authorize use of the name  
2840 applied for if, as to each conflicting name:

2841 (a) the present user, registrant, or owner of the conflicting name consents in a signed  
2842 record to the use and submits an undertaking in a form satisfactory to the division to change the  
2843 conflicting name to a name that complies with Subsection (3) and is distinguishable in the  
2844 records of the division from the name applied for;

2845 (b) the applicant delivers to the division a certified copy of the final judgment of a  
2846 district court establishing the applicant's right to use in this state the name applied for; or

2847 (c) the applicant delivers to the division proof satisfactory to the division that the  
2848 present user, registrant, or owner of the conflicting name:

- 2849 (i) has merged into the applicant;  
2850 (ii) has been converted into the applicant; or  
2851 (iii) has transferred substantially all of its assets, including the conflicting name, to the  
2852 applicant.
- 2853 (5) Subject to Section 48-1b-1102.1, this section applies to any foreign limited  
2854 partnership transacting business in this state, having a certificate of authority to transact  
2855 business in this state, or applying for a certificate of authority.
- 2856 (6) The division may not approve for filing a name that implies that a limited liability  
2857 partnership is an agency of this state or any of its political subdivisions, if it is not actually such  
2858 a legally established agency or subdivision.
- 2859 (7) The authorization to file a certificate under or to reserve or register a limited  
2860 liability partnership name as granted by the division does not:
- 2861 (a) abrogate or limit the law governing unfair competition or unfair trade practices;  
2862 (b) derogate from the common law, the principles of equity, or the statutes of this state  
2863 or of the United States with respect to the right to acquire and protect names and trademarks; or  
2864 (c) create an exclusive right in geographic or generic terms contained within a name.
- 2865 Section 76. Section **48-1b-1003** is enacted to read:
- 2866 **48-1b-1003. Annual report.**
- 2867 (1) A limited liability partnership, and a foreign limited liability partnership authorized  
2868 to transact business in this state, shall file an annual report with the division which contains:
- 2869 (a) the name of the limited liability partnership and the state or other jurisdiction under  
2870 whose laws the foreign limited liability partnership is formed;
- 2871 (b) the street address of the partnership's chief executive office and, if different, the  
2872 street address of an office of the partnership in this state, if any; and
- 2873 (c) if the partnership does not have an office in this state, the information required by  
2874 Subsection 16-17-203(1).
- 2875 (2) Following the calendar year in which a partnership files a statement of qualification  
2876 or a foreign partnership becomes authorized to transact business in this state, the partnership  
2877 shall file an annual report:
- 2878 (a) during the month of its anniversary date of formation, in the case of a domestic  
2879 partnership; or

2880 (b) during the month of the anniversary date of being granted authority to transact  
2881 business in this state, in the case of a foreign partnership authorized to transact business in this  
2882 state.

2883 (3) (a) The division may revoke the statement of qualification of a partnership that fails  
2884 to:

2885 (i) file an annual report when due; or

2886 (ii) pay the required filing fee, established in accordance with Section 63J-1-504.

2887 (b) To take an action under this Subsection (3), the division shall provide the  
2888 partnership at least 60 days' written notice of intent to revoke the statement. The notice must  
2889 be mailed to the partnership at its chief executive office set forth in the last filed statement of  
2890 qualification or annual report. The notice must specify the annual report that has not been  
2891 filed, the fee that has not been paid, and the effective date of the revocation. The revocation is  
2892 not effective if the annual report is filed and the fee is paid before the effective date of the  
2893 revocation.

2894 (4) A revocation under Subsection (3) only affects a partnership's status as a limited  
2895 liability partnership and is not an event of dissolution of the partnership.

2896 (5) A partnership whose statement of qualification has been revoked may apply to the  
2897 division for reinstatement within two years after the effective date of the revocation. The  
2898 application must state:

2899 (a) the name of the partnership and the effective date of the revocation; and

2900 (b) that the ground for revocation either did not exist or has been corrected.

2901 (6) A reinstatement under Subsection (5) relates back to and takes effect as of the  
2902 effective date of the revocation, and the partnership's status as a limited liability partnership  
2903 continues as if the revocation had never occurred.

2904 Section 77. Section **48-1b-1004** is enacted to read:

2905 **48-1b-1004. Limited liability partnership providing professional services.**

2906 (1) A limited liability partnership organized under this part to provide a professional  
2907 service:

2908 (a) may provide:

2909 (i) only one specific type of professional service; and

2910 (ii) services ancillary to the professional service described in Subsection (1)(a)(i); and

2911 (b) may not engage in a business other than providing the professional service that it is  
2912 organized to provide and services ancillary to the professional service.

2913 (2) A limited liability partnership organized to provide a professional service:

2914 (a) may include a partner or employee authorized under the laws of the jurisdiction  
2915 where the partner or employee reside to provide similar professional service;

2916 (b) may include a partner who is not licensed or registered by the state to provide the  
2917 professional service to the extent allowed by the applicable licensing act relating to the  
2918 professional service; and

2919 (c) may render a professional service in Utah only through a partner or employee who  
2920 is licensed or registered by the state to render the professional service.

2921 (3) A limited liability partnership organized to provide a professional service has the  
2922 powers provided a limited liability partnership under this chapter.

2923 (4) (a) This part does not restrict or limit the authority or duty of a regulatory entity to  
2924 license an individual who provides a professional service or practices the profession that is  
2925 within the jurisdiction of the regulatory entity, notwithstanding that the individual:

2926 (i) is a partner or employee of a limited liability partnership; or

2927 (ii) provides a professional service or engaging in the practice of the profession through  
2928 a limited liability partnership.

2929 (b) A limited liability partnership may not do anything an individual licensed to  
2930 practice the profession that the limited liability partnership is organized to provide may not do.

2931 Section 78. Section **48-1b-1101** is enacted to read:

2932 **Part 11. Foreign Limited Liability Partnership**

2933 **48-1b-1101. Law governing foreign limited liability partnership.**

2934 (1) The law under which a foreign limited liability partnership is formed governs  
2935 relations among the partners and between the partners and the partnership and the liability of  
2936 partners for obligations of the partnership.

2937 (2) A foreign limited liability partnership may not be denied a statement of foreign  
2938 qualification by reason of any difference between the law under which the partnership was  
2939 formed and the law of this state.

2940 (3) A statement of foreign qualification does not authorize a foreign limited liability  
2941 partnership to engage in any business or exercise any power that a partnership may not engage

2942 in or exercise in this state as a limited liability partnership.

2943 (4) (a) The division may permit a tribal limited liability partnership to register with the  
2944 division in the same manner as a foreign limited liability partnership formed in another state.

2945 (b) If a tribal limited liability partnership elects to register with the division, for  
2946 purposes of this chapter, the tribal limited liability partnership shall be treated in the same  
2947 manner as a foreign limited liability partnership formed under the laws of another state.

2948 Section 79. Section **48-1b-1102** is enacted to read:

2949 **48-1b-1102. Statement of foreign qualification.**

2950 (1) Before transacting business in this state, a foreign limited liability partnership must  
2951 file a statement of foreign qualification with the division. The statement must contain:

2952 (a) the name of the foreign limited liability partnership which satisfies the requirements  
2953 of the state or other jurisdiction under whose law it is formed;

2954 (b) the street address of the partnership's chief executive office;

2955 (c) the information required by Subsection 16-17-203(1); and

2956 (d) a deferred effective date, if any.

2957 (2) The status of a partnership as a foreign limited liability partnership is effective on  
2958 the later of the filing of the statement of foreign qualification or a date specified in the  
2959 statement. The status remains effective, regardless of changes in the partnership, until it is  
2960 canceled pursuant to Subsection 48-1b-105(4) or revoked pursuant to Section 48-1b-1003.

2961 (3) An amendment or cancellation of a statement of foreign qualification is effective  
2962 when it is filed or on a deferred effective date specified in the amendment or cancellation.

2963 Section 80. Section **48-1b-1102.1** is enacted to read:

2964 **48-1b-1102.1. Noncomplying name of foreign limited liability partnership.**

2965 (1) A foreign limited liability partnership whose name does not comply with Section  
2966 48-1b-1002 may not obtain a certificate of authority until it adopts, for the purpose of  
2967 transacting business in this state, an alternate name that complies with Section 48-1b-1002. A  
2968 foreign limited liability partnership that adopts an alternate name under this Subsection (1) and  
2969 then obtains a certificate of authority with the name need not comply with Title 42, Chapter 2,  
2970 Conducting Business Under Assumed Name. After obtaining a certificate of authority with an  
2971 alternate name, a foreign limited liability partnership shall transact business in this state under  
2972 the name unless the foreign limited liability partnership is authorized under Title 42, Chapter 2,



2973 Conducting Business Under Assumed Name, to transact business in this state under another  
2974 name.

2975 (2) If a foreign limited liability partnership authorized to transact business in this state  
2976 changes its name to one that does not comply with Section 48-1b-1002, it may not thereafter  
2977 transact business in this state until it complies with Subsection (1) and obtains an amended  
2978 certificate of authority.

2979 Section 81. Section **48-1b-1103** is enacted to read:

2980 **48-1b-1103. Effect of failure to qualify.**

2981 (1) A foreign limited liability partnership transacting business in this state may not  
2982 maintain an action or proceeding in this state unless it has in effect a statement of foreign  
2983 qualification.

2984 (2) The failure of a foreign limited liability partnership to have in effect a statement of  
2985 foreign qualification does not impair the validity of a contract or act of the foreign limited  
2986 liability partnership or preclude it from defending an action or proceeding in this state.

2987 (3) A limitation on personal liability of a partner is not waived solely by transacting  
2988 business in this state without a statement of foreign qualification.

2989 (4) If a foreign limited liability partnership transacts business in this state without a  
2990 statement of foreign qualification, service of process with respect to a right of action arising out  
2991 of the transaction of business in this state shall be served in accordance with Section  
2992 16-17-301.

2993 Section 82. Section **48-1b-1104** is enacted to read:

2994 **48-1b-1104. Activities not constituting transacting business.**

2995 (1) Activities of a foreign limited liability partnership which do not constitute  
2996 transacting business for the purpose of this part include:

2997 (a) maintaining, defending, or settling an action or proceeding;

2998 (b) holding meetings of its partners or carrying on any other activity concerning its  
2999 internal affairs;

3000 (c) maintaining bank accounts;

3001 (d) maintaining offices or agencies for the transfer, exchange, and registration of the  
3002 partnership's own securities or maintaining trustees or depositories with respect to those  
3003 securities;

- 3004 (e) selling through independent contractors;
- 3005 (f) soliciting or obtaining orders, whether by mail or through employees or agents or
- 3006 otherwise, if the orders require acceptance outside this state before they become contracts;
- 3007 (g) creating or acquiring indebtedness, with or without a mortgage, or other security
- 3008 interest in property;
- 3009 (h) collecting debts or foreclosing mortgages or other security interests in property
- 3010 securing the debts, and holding, protecting, and maintaining property so acquired;
- 3011 (i) conducting an isolated transaction that is completed within 30 days and is not one in
- 3012 the course of similar transactions; and
- 3013 (j) transacting business in interstate commerce.
- 3014 (2) For purposes of this part, the ownership in this state of income-producing real
- 3015 property or tangible personal property, other than property excluded under Subsection (1),
- 3016 constitutes transacting business in this state.
- 3017 (3) This section does not apply in determining the contacts or activities that may
- 3018 subject a foreign limited liability partnership to service of process, taxation, or regulation under
- 3019 any other law of this state.

3020 Section 83. Section **48-1b-1105** is enacted to read:

3021 **48-1b-1105. Action by attorney general.**

3022 The attorney general may maintain an action to restrain a foreign limited liability

3023 partnership from transacting business in this state in violation of this part.

3024 Section 84. Section **48-1b-1201** is enacted to read:

3025 **Part 12. Miscellaneous Provisions**

3026 **48-1b-1201. Uniformity of application and construction.**

3027 This chapter shall be applied and construed to effectuate its general purpose to make

3028 uniform the law with respect to the subject of this chapter among states enacting it.

3029 Section 85. Section **48-1b-1202** is enacted to read:

3030 **48-1b-1202. Relation to electronic signatures in global and national commerce act.**

3031 This chapter modifies, limits, and supersedes the federal Electronic Signatures in

3032 Global and National Commerce Act, 15 U.S.C. Sec. 7001 et seq., but does not modify, limit,

3033 or supersede Section 101(c) of that act, 15 U.S.C. Sec. 7001(c), or authorize electronic

3034 delivery of any of the notices described in Section 103(b) of that act, 15 U.S.C. Sec. 7003(b).

3035 Section 86. Section **48-1b-1203** is enacted to read:

3036 **48-1b-1203. Severability clause.**

3037 If any provision of this chapter or its application to any person or circumstance is held  
3038 invalid, the invalidity does not affect other provisions or applications of this chapter which can  
3039 be given effect without the invalid provision or application, and to this end the provisions of  
3040 this chapter are severable.

3041 Section 87. Section **48-1b-1204** is enacted to read:

3042 **48-1b-1204. Savings clause.**

3043 This chapter does not affect an action or proceeding commenced or right accrued before  
3044 January 1, 2011.

3045 Section 88. Section **48-1b-1205** is enacted to read:

3046 **48-1b-1205. Applicability.**

3047 (1) Before January 1, 2012, this chapter governs only a partnership formed:

3048 (a) after January 1, 2011, except a partnership that is continuing the business of a  
3049 dissolved partnership; and

3050 (b) before January 1, 2011, that elects, as provided by Subsection (3), to be governed  
3051 by this chapter.

3052 (2) On and after January 1, 2012, this chapter governs all partnerships.

3053 (3) Before January 1, 2012, a partnership voluntarily may elect, in the manner provided  
3054 in its partnership agreement or by law for amending the partnership agreement, to be governed  
3055 by this chapter. The provisions of this chapter relating to the liability of the partnership's  
3056 partners to third parties apply to limit those partners' liability to a third party who had done  
3057 business with the partnership within one year before the partnership's election to be governed  
3058 by this chapter only if the third party knows or has received a notification of the partnership's  
3059 election to be governed by this chapter.

3060 Section 89. Section **48-2d-101** is enacted to read:

3061 **CHAPTER 2d. UNIFORM LIMITED PARTNERSHIP ACT**

3062 **Part 1. General Provisions**

3063 **48-2d-101. Title.**

3064 This chapter is known as the "Uniform Limited Partnership Act."

3065 Section 90. Section **48-2d-102** is enacted to read:

3066 **48-2d-102. Definitions.**3067 As used in this chapter:3068 (1) (a) "Certificate of limited partnership" means the certificate required by Section  
3069 48-2d-201.3070 (b) "Certificate of limited partnership" includes the certificate as amended or restated.3071 (2) "Contribution," except in the phrase "right of contribution," means any benefit  
3072 provided by a person to a limited partnership in order to become a partner or in the person's  
3073 capacity as a partner.3074 (3) "Debtor in bankruptcy" means a person that is the subject of:3075 (a) an order for relief under United States Code, Title 11, or a comparable order under  
3076 a successor statute of general application; or3077 (b) a comparable order under federal, state, or foreign law governing insolvency.3078 (4) "Distribution" means a transfer of money or other property from a limited  
3079 partnership to a partner in the partner's capacity as a partner or to a transferee on account of a  
3080 transferable interest owned by the transferee.3081 (5) "Foreign limited liability limited partnership" means a foreign limited partnership  
3082 whose general partners have limited liability for the obligations of the foreign limited  
3083 partnership under a provision similar to Subsection 48-2d-404(3).3084 (6) (a) "Foreign limited partnership" means a partnership formed under the laws of a  
3085 jurisdiction other than this state and required by those laws to have one or more general  
3086 partners and one or more limited partners.3087 (b) "Foreign limited partnership" includes a foreign limited liability limited  
3088 partnership.3089 (7) "General partner" means:3090 (a) with respect to a limited partnership, a person that:3091 (i) becomes a general partner under Section 48-2d-401; or3092 (ii) was a general partner in a limited partnership when the limited partnership became  
3093 subject to this chapter under Subsection 48-2d-1205(1) or (2); and3094 (b) with respect to a foreign limited partnership, a person that has rights, powers, and  
3095 obligations similar to those of a general partner in a limited partnership.3096 (8) "Limited liability limited partnership," except in the phrase "foreign limited liability

3097 limited partnership," means a limited partnership whose certificate of limited partnership states  
3098 that the limited partnership is a limited liability limited partnership.

3099 (9) "Limited partner" means:

3100 (a) with respect to a limited partnership, a person that:

3101 (i) becomes a limited partner under Section 48-2d-301; or

3102 (ii) was a limited partner in a limited partnership when the limited partnership became  
3103 subject to this chapter under Subsection 48-2d-1205(1) or (2); and

3104 (b) with respect to a foreign limited partnership, a person that has rights, powers, and  
3105 obligations similar to those of a limited partner in a limited partnership.

3106 (10) (a) "Limited partnership," except in the phrases "foreign limited partnership" and  
3107 "foreign limited liability limited partnership," means an entity, having one or more general  
3108 partners and one or more limited partners, which is formed under this chapter by two or more  
3109 persons or becomes subject to this chapter under Part 11, Merger, Conversion, and  
3110 Domestication, or Subsection 48-2d-1205(1) or (2).

3111 (b) "Limited partnership" includes a limited liability limited partnership.

3112 (11) "Partner" means a limited partner or general partner.

3113 (12) (a) "Partnership agreement" means the partners' agreement, whether oral, implied,  
3114 in a record, or in any combination, concerning the limited partnership.

3115 (b) "Partnership agreement" includes the agreement as amended.

3116 (13) "Person" means:

3117 (a) an individual;

3118 (b) a corporation;

3119 (c) a business trust;

3120 (d) an estate;

3121 (e) a trust;

3122 (f) a partnership;

3123 (g) a limited liability company;

3124 (h) an association;

3125 (i) a joint venture;

3126 (j) government;

3127 (k) a governmental subdivision, agency, or instrumentality;

3128 (l) a public corporation; or

3129 (m) any other legal or commercial entity.

3130 (14) "Person dissociated as a general partner" means a person dissociated as a general  
3131 partner of a limited partnership.

3132 (15) "Principal office" means the office where the principal executive office of a  
3133 limited partnership or foreign limited partnership is located, whether or not the office is located  
3134 in this state.

3135 (16) "Record" means information that is inscribed on a tangible medium or that is  
3136 stored in an electronic or other medium and is retrievable in perceivable form.

3137 (17) "Required information" means the information that a limited partnership is  
3138 required to maintain under Section 48-2d-111.

3139 (18) "Sign" means:

3140 (a) to execute or adopt a tangible symbol with the present intent to authenticate a  
3141 record; or

3142 (b) to attach or logically associate an electronic symbol, sound, or process to or with a  
3143 record with the present intent to authenticate the record.

3144 (19) "State" means a state of the United States, the District of Columbia, Puerto Rico,  
3145 the United States Virgin Islands, or any territory or insular possession subject to the jurisdiction  
3146 of the United States.

3147 (20) "Transfer" includes an assignment, conveyance, deed, bill of sale, lease, mortgage,  
3148 security interest, encumbrance, gift, and transfer by operation of law.

3149 (21) "Transferable interest" means a partner's right to receive distributions.

3150 (22) "Transferee" means a person to which all or part of a transferable interest has been  
3151 transferred, whether or not the transferor is a partner.

3152 (23) "Tribal limited partnership" means a limited partnership:

3153 (a) formed under the law of a tribe; and

3154 (b) that is at least 51% owned or controlled by the tribe.

3155 (24) "Tribe" means a tribe, band, nation, pueblo, or other organized group or  
3156 community of Indians, including an Alaska Native village, that is legally recognized as eligible  
3157 for and is consistent with a special program, service, or entitlement provided by the United  
3158 States to Indians because of their status as Indians.

3159 Section 91. Section **48-2d-103** is enacted to read:

3160 **48-2d-103. Knowledge and notice.**

3161 (1) A person knows a fact if the person has actual knowledge of it.

3162 (2) A person has notice of a fact if the person:

3163 (a) knows of it;

3164 (b) has received a notification of it;

3165 (c) has reason to know it exists from all of the facts known to the person at the time in  
3166 question; or

3167 (d) has notice of it under Subsection (3) or (4).

3168 (3) A certificate of limited partnership on file in the division is notice that the  
3169 partnership is a limited partnership and the persons designated in the certificate as general  
3170 partners are general partners. Except as otherwise provided in Subsection (4), the certificate is  
3171 not notice of any other fact.

3172 (4) A person has notice of:

3173 (a) another person's dissociation as a general partner, 90 days after the effective date of  
3174 an amendment to the certificate of limited partnership which states that the other person has  
3175 dissociated or 90 days after the effective date of a statement of dissociation pertaining to the  
3176 other person, whichever occurs first;

3177 (b) a limited partnership's dissolution, 90 days after the effective date of an amendment  
3178 to the certificate of limited partnership stating that the limited partnership is dissolved;

3179 (c) a limited partnership's termination, 90 days after the effective date of a statement of  
3180 termination;

3181 (d) a limited partnership's conversion under Part 11, Merger, Conversion, and  
3182 Domestication, 90 days after the effective date of the articles of conversion; or

3183 (e) a merger under Part 11, Merger, Conversion, and Domestication, 90 days after the  
3184 effective date of the articles of merger.

3185 (5) A person notifies or gives a notification to another person by taking steps  
3186 reasonably required to inform the other person in ordinary course, whether or not the other  
3187 person learns of it.

3188 (6) A person receives a notification when the notification:

3189 (a) comes to the person's attention; or

3190 (b) is delivered at the person's place of business or at any other place held out by the  
3191 person as a place for receiving communications.

3192 (7) (a) Except as otherwise provided in Subsection (8), a person other than an  
3193 individual knows, has notice, or receives a notification of a fact for purposes of a particular  
3194 transaction when the individual conducting the transaction for the person knows, has notice, or  
3195 receives a notification of the fact, or in any event when the fact would have been brought to the  
3196 individual's attention if the person had exercised reasonable diligence.

3197 (b) A person other than an individual exercises reasonable diligence if it maintains  
3198 reasonable routines for communicating significant information to the individual conducting the  
3199 transaction for the person and there is reasonable compliance with the routines. Reasonable  
3200 diligence does not require an individual acting for the person to communicate information  
3201 unless the communication is part of the individual's regular duties or the individual has reason  
3202 to know of the transaction and that the transaction would be materially affected by the  
3203 information.

3204 (8) A general partner's knowledge, notice, or receipt of a notification of a fact relating  
3205 to the limited partnership is effective immediately as knowledge of, notice to, or receipt of a  
3206 notification by the limited partnership, except in the case of a fraud on the limited partnership  
3207 committed by or with the consent of the general partner. A limited partner's knowledge, notice,  
3208 or receipt of a notification of a fact relating to the limited partnership is not effective as  
3209 knowledge of, notice to, or receipt of a notification by the limited partnership.

3210 Section 92. Section **48-2d-104** is enacted to read:

3211 **48-2d-104. Nature, purpose, and duration of entity.**

3212 (1) (a) A limited partnership is an entity distinct from its partners.

3213 (b) A limited partnership is the same entity regardless of whether its certificate states  
3214 that the limited partnership is a limited liability limited partnership.

3215 (2) A limited partnership may be organized under this chapter for any lawful purpose.

3216 (3) A limited partnership has a perpetual duration.

3217 Section 93. Section **48-2d-105** is enacted to read:

3218 **48-2d-105. Powers.**

3219 A limited partnership has the powers to do all things necessary or convenient to carry  
3220 on its activities, including the power to sue, be sued, and defend in its own name and to



3221 maintain an action against a partner for harm caused to the limited partnership by a breach of  
3222 the partnership agreement or violation of a duty to the partnership.

3223 Section 94. Section **48-2d-106** is enacted to read:

3224 **48-2d-106. Governing law.**

3225 The law of this state governs relations among the partners of a limited partnership and  
3226 between the partners and the limited partnership and the liability of partners as partners for an  
3227 obligation of the limited partnership.

3228 Section 95. Section **48-2d-107** is enacted to read:

3229 **48-2d-107. Supplemental principles of law-- Rate of interest.**

3230 (1) Unless displaced by particular provisions of this chapter, the principles of law and  
3231 equity supplement this chapter.

3232 (2) If an obligation to pay interest arises under this chapter and the rate is not specified,  
3233 the rate is that specified in Section 15-1-1.

3234 Section 96. Section **48-2d-108** is enacted to read:

3235 **48-2d-108. Name.**

3236 (1) The name of a limited partnership may contain the name of any partner.

3237 (2) (a) The name of a limited partnership that is not a limited liability limited  
3238 partnership must contain the phrase "limited partnership" or the abbreviation "L.P." or "LP".

3239 (b) The name of a limited partnership that is not a limited liability partnership may not  
3240 contain the phrase "limited liability limited partnership" or the abbreviation "LLLP" or  
3241 "L.L.L.P.".

3242 (c) The name of a limited partnership may not contain:

3243 (i) without the written consent of the United States Olympic Committee, the words:

3244 (A) "Olympic";

3245 (B) "Olympiad"; or

3246 (C) "Citius Altius Fortius"; and

3247 (ii) without the written consent of the Division of Consumer Protection issued in  
3248 accordance with Section 13-34-114, the words:

3249 (A) "university";

3250 (B) "college"; or

3251 (C) "institute" or "institution".

3252 (3) (a) The name of a limited liability limited partnership must contain the phrase  
3253 "limited liability limited partnership" or the abbreviation "LLLP" or "L.L.L.P."

3254 (b) The name of a limited liability limited partnership may not contain the abbreviation  
3255 "L.P." or "LP".

3256 (4) Unless authorized by Subsection (5), the name of a limited partnership must be  
3257 distinguishable in the records of the division from:

3258 (a) the name of each person other than an individual incorporated, organized, or  
3259 authorized to transact business in this state; and

3260 (b) each name reserved under:

3261 (i) Section 16-6a-401 or 16-6a-402;

3262 (ii) Section 16-10a-401 or 16-10a-402;

3263 (iii) Section 16-11-16;

3264 (iv) Section 42-2-6.6;

3265 (v) Section 48-1b-1002; or

3266 (vi) Section 48-3-108 or 48-3-109.

3267 (5) A limited partnership may apply to the division for authorization to use a name that  
3268 does not comply with Subsection (4). The division shall authorize use of the name applied for  
3269 if, as to each conflicting name:

3270 (a) the present user, registrant, or owner of the conflicting name consents in a signed  
3271 record to the use and submits an undertaking in a form satisfactory to the division to change the  
3272 conflicting name to a name that complies with Subsection (4) and is distinguishable in the  
3273 records of the division from the name applied for;

3274 (b) the applicant delivers to the division a certified copy of the final judgment of a  
3275 district court establishing the applicant's right to use in this state the name applied for; or

3276 (c) the applicant delivers to the division proof satisfactory to the division that the  
3277 present user, registrant, or owner of the conflicting name:

3278 (i) has merged into the applicant;

3279 (ii) has been converted into the applicant; or

3280 (iii) has transferred substantially all of its assets, including the conflicting name, to the  
3281 applicant.

3282 (6) Subject to Section 48-2d-905, this section applies to any foreign limited partnership

3283 transacting business in this state, having a certificate of authority to transact business in this  
3284 state, or applying for a certificate of authority.

3285 (7) The division may not approve for filing a name that implies that a limited  
3286 partnership is an agency of this state or any of its political subdivisions, if it is not actually such  
3287 a legally established agency or subdivision.

3288 (8) The authorization to file a certificate under or to reserve or register a limited  
3289 partnership name as granted by the division does not:

3290 (a) abrogate or limit the law governing unfair competition or unfair trade practices;

3291 (b) derogate from the common law, the principles of equity, or the statutes of this state  
3292 or of the United States with respect to the right to acquire and protect names and trademarks; or

3293 (c) create an exclusive right in geographic or generic terms contained within a name.

3294 Section 97. Section **48-2d-109** is enacted to read:

3295 **48-2d-109. Reservation of name.**

3296 (1) The exclusive right to the use of a name that complies with Section 48-2d-108 may  
3297 be reserved by:

3298 (a) a person intending to organize a limited partnership under this chapter and to adopt  
3299 the name;

3300 (b) a limited partnership or a foreign limited partnership authorized to transact business  
3301 in this state intending to adopt the name;

3302 (c) a foreign limited partnership intending to obtain a certificate of authority to transact  
3303 business in this state and adopt the name;

3304 (d) a person intending to organize a foreign limited partnership and intending to have it  
3305 obtain a certificate of authority to transact business in this state and adopt the name;

3306 (e) a foreign limited partnership formed under the name; or

3307 (f) a foreign limited partnership formed under a name that does not comply with  
3308 Subsection 48-2d-108(2) or (3), but the name reserved under this Subsection (1)(f) may differ  
3309 from the foreign limited partnership's name only to the extent necessary to comply with  
3310 Subsections 48-2d-108(2) and (3).

3311 (2) (a) A person may apply to reserve a name under Subsection (1) by delivering to the  
3312 division for filing an application that states the name to be reserved and the provision of  
3313 Subsection (1) which applies.

3314 (b) If the division finds that the name is available for use by the applicant, the division  
3315 shall file a statement of name reservation and thereby reserve the name for the exclusive use of  
3316 the applicant for 120 days.

3317 (3) An applicant that has reserved a name pursuant to Subsection (2) may reserve the  
3318 same name for additional 120-day periods. A person having a current reservation for a name  
3319 may not apply for another 120-day period for the same name until 90 days have elapsed in the  
3320 current reservation.

3321 (4) A person that has reserved a name under this section may deliver to the division for  
3322 filing a notice of transfer that states the reserved name, the name, and street and mailing  
3323 address of some other person to which the reservation is to be transferred, and the provision of  
3324 Subsection (1) which applies to the other person. Subject to Subsection 48-2d-206(3), the  
3325 transfer is effective when the division files the notice of transfer.

3326 Section 98. Section **48-2d-110** is enacted to read:

3327 **48-2d-110. Effect of partnership agreement -- Nonwaivable provisions.**

3328 (1) (a) Except as otherwise provided in Subsection (2), the partnership agreement  
3329 governs relations among the partners and between the partners and the partnership. To the  
3330 extent the partnership agreement does not otherwise provide, this chapter governs relations  
3331 among the partners and between the partners and the partnership.

3332 (b) A partner asserting the existence or term of an oral partnership agreement shall  
3333 prove the existence or term of the partnership agreement by clear and convincing evidence.

3334 (2) A partnership agreement may not:

3335 (a) vary a limited partnership's power under Section 48-2d-105 to sue, be sued, and  
3336 defend in its own name;

3337 (b) vary the law applicable to a limited partnership under Section 48-2d-106;

3338 (c) vary the requirements of Section 48-2d-204;

3339 (d) vary the information required under Section 48-2d-111 or unreasonably restrict the  
3340 right to information under Section 48-2d-304 or 48-2d-407, but the partnership agreement may  
3341 impose reasonable restrictions on the availability and use of information obtained under those  
3342 sections and may define appropriate remedies, including liquidated damages, for a breach of  
3343 any reasonable restriction on use;

3344 (e) eliminate the duty of loyalty under Section 48-2d-408, but the partnership

3345 agreement may:

3346 (i) identify specific types or categories of activities that do not violate the duty of  
3347 loyalty, if not manifestly unreasonable; and

3348 (ii) specify the number or percentage of partners which may authorize or ratify, after  
3349 full disclosure to all partners of all material facts, a specific act or transaction that otherwise  
3350 would violate the duty of loyalty;

3351 (f) unreasonably reduce the duty of care under Subsection 48-2d-408(3);

3352 (g) eliminate the obligation of good faith and fair dealing under Subsections  
3353 48-2d-305(2) and 48-2d-408(4), but the partnership agreement may prescribe the standards by  
3354 which the performance of the obligation is to be measured, if the standards are not manifestly  
3355 unreasonable;

3356 (h) vary the power of a person to dissociate as a general partner under Subsection  
3357 48-2d-604(1) except to require that the notice under Subsection 48-2d-603(1) be in a record;

3358 (i) vary the power of a court to decree dissolution in the circumstances specified in  
3359 Section 48-2d-802;

3360 (j) vary the requirement to wind up the partnership's business as specified in Section  
3361 48-2d-803;

3362 (k) unreasonably restrict the right to maintain an action under Part 10, Actions by  
3363 Partners;

3364 (l) restrict the right of a partner under Subsection 48-2d-1114(1) to approve a  
3365 conversion or merger or the right of a general partner under Subsection 48-2d-1114(2) to  
3366 consent to an amendment to the certificate of limited partnership which deletes a statement that  
3367 the limited partnership is a limited liability limited partnership; or

3368 (m) restrict rights under this chapter of a person other than a partner or a transferee.

3369 Section 99. Section **48-2d-111** is enacted to read:

3370 **48-2d-111. Required information.**

3371 A limited partnership shall maintain at its designated office the following information:

3372 (1) a current list showing the full name and last known street and mailing address of  
3373 each partner, separately identifying the general partners, in alphabetical order, and the limited  
3374 partners, in alphabetical order;

3375 (2) a copy of the initial certificate of limited partnership and all amendments to and

- 3376 restatements of the certificate, together with signed copies of any powers of attorney under  
3377 which any certificate, amendment, or restatement has been signed;
- 3378 (3) a copy of any filed articles of conversion or merger;  
3379 (4) a copy of the limited partnership's federal, state, and local income tax returns and  
3380 reports, if any, for the three most recent years;
- 3381 (5) a copy of any partnership agreement made in a record and any amendment made in  
3382 a record to any partnership agreement;
- 3383 (6) a copy of any financial statement of the limited partnership for the three most recent  
3384 years;
- 3385 (7) a copy of the three most recent annual reports delivered by the limited partnership  
3386 to the division pursuant to Section 48-2d-210;
- 3387 (8) a copy of any record made by the limited partnership during the past three years of  
3388 any consent given by or vote taken of any partner pursuant to this chapter or the partnership  
3389 agreement; and
- 3390 (9) unless contained in a partnership agreement made in a record, a record stating:
- 3391 (a) the amount of cash, and a description and statement of the agreed value of the other  
3392 benefits, contributed and agreed to be contributed by each partner;
- 3393 (b) the times at which, or events on the happening of which, any additional  
3394 contributions agreed to be made by each partner are to be made;
- 3395 (c) for any person that is both a general partner and a limited partner, a specification of  
3396 what transferable interest the person owns in each capacity; and
- 3397 (d) any events upon the happening of which the limited partnership is to be dissolved  
3398 and its activities wound up.
- 3399 Section 100. Section **48-2d-112** is enacted to read:
- 3400 **48-2d-112. Business transactions of partner with partnership.**
- 3401 A partner may lend money to and transact other business with the limited partnership  
3402 and has the same rights and obligations with respect to the loan or other transaction as a person  
3403 that is not a partner.
- 3404 Section 101. Section **48-2d-113** is enacted to read:
- 3405 **48-2d-113. Dual capacity.**
- 3406 (1) A person may be both a general partner and a limited partner.

3407 (2) A person that is both a general and limited partner has the rights, powers, duties,  
3408 and obligations provided by this chapter and the partnership agreement in each of those  
3409 capacities. When the person acts as a general partner, the person is subject to the obligations,  
3410 duties, and restrictions under this chapter and the partnership agreement for general partners.  
3411 When the person acts as a limited partner, the person is subject to the obligations, duties, and  
3412 restrictions under this chapter and the partnership agreement for limited partners.

3413 Section 102. Section **48-2d-114** is enacted to read:

3414 **48-2d-114. Consent and proxies of partners.**

3415 Action requiring the consent of partners under this chapter may be taken without a  
3416 meeting, and a partner may appoint a proxy to consent or otherwise act for the partner by  
3417 signing an appointment record, either personally or by the partner's attorney-in-fact.

3418 Section 103. Section **48-2d-201** is enacted to read:

3419 **Part 2. Formation and Certificate of Limited Partnership and Other Filings**

3420 **48-2d-201. Formation of limited partnership -- Certificate of limited partnership.**

3421 (1) In order for a limited partnership to be formed, a certificate of limited partnership  
3422 must be delivered to the division for filing. The certificate must state:

3423 (a) the name of the limited partnership, which must comply with Section 48-2d-108;

3424 (b) the information required by Subsection 16-17-203(1);

3425 (c) the name and the street and mailing address of each general partner;

3426 (d) whether the limited partnership is a limited liability limited partnership; and

3427 (e) any additional information required by Part 11, Merger, Conversion, and

3428 Domestication.

3429 (2) A certificate of limited partnership may also contain any other matters but may not  
3430 vary or otherwise affect the provisions specified in Subsection 48-2d-110(2) in a manner  
3431 inconsistent with that section.

3432 (3) If there has been substantial compliance with Subsection (1), subject to Subsection  
3433 48-2d-206(3) a limited partnership is formed when the division files the certificate of limited  
3434 partnership.

3435 (4) Subject to Subsection (2), if any provision of a partnership agreement is  
3436 inconsistent with the filed certificate of limited partnership or with a filed statement of  
3437 dissociation, termination, or change or filed articles of conversion or merger:

3438 (a) the partnership agreement prevails as to partners and transferees; and  
3439 (b) the filed certificate of limited partnership, statement of dissociation, termination, or  
3440 change, or articles of conversion or merger prevail as to persons, other than partners and  
3441 transferees, that reasonably rely on the filed record to their detriment.

3442 Section 104. Section **48-2d-202** is enacted to read:

3443 **48-2d-202. Amendment or restatement of certificate.**

3444 (1) To amend its certificate of limited partnership, a limited partnership must deliver to  
3445 the division for filing an amendment or, pursuant to Part 11, Merger, Conversion, and  
3446 Domestication, articles of merger stating:

3447 (a) the name of the limited partnership;

3448 (b) the date of filing of its initial certificate; and

3449 (c) the changes the amendment makes to the certificate as most recently amended or  
3450 restated.

3451 (2) By no later than 60 days from the day on which one of the following occurs, a  
3452 limited partnership shall deliver to the division for filing an amendment to a certificate of  
3453 limited partnership to reflect:

3454 (a) the admission of a new general partner;

3455 (b) the dissociation of a person as a general partner; or

3456 (c) the appointment of a person to wind up the limited partnership's activities under  
3457 Subsection 48-2d-803(3) or (4).

3458 (3) A general partner that knows that any information in a filed certificate of limited  
3459 partnership was false when the certificate was filed or has become false due to changed  
3460 circumstances shall promptly:

3461 (a) cause the certificate to be amended; or

3462 (b) if appropriate, deliver to the division for filing a statement of change pursuant to  
3463 Section 16-17-206 or a statement of correction pursuant to Section 16-17-206 or 48-2d-207.

3464 (4) A certificate of limited partnership may be amended at any time for any other  
3465 proper purpose as determined by the limited partnership.

3466 (5) A restated certificate of limited partnership may be delivered to the division for  
3467 filing in the same manner as an amendment.

3468 (6) Subject to Subsection 48-2d-206(3), an amendment or restated certificate is



3469 effective when filed by the division.

3470 Section 105. Section **48-2d-203** is enacted to read:

3471 **48-2d-203. Statement of termination.**

3472 A dissolved limited partnership that has completed winding up may deliver to the

3473 division for filing a statement of termination that states:

3474 (1) the name of the limited partnership;

3475 (2) the date of filing of its initial certificate of limited partnership; and

3476 (3) any other information as determined by the general partners filing the statement or

3477 by a person appointed pursuant to Subsection 48-2d-803(3) or (4).

3478 Section 106. Section **48-2d-204** is enacted to read:

3479 **48-2d-204. Signing of records.**

3480 (1) Each record delivered to the division for filing pursuant to this chapter must be

3481 signed in the following manner:

3482 (a) An initial certificate of limited partnership must be signed by all general partners

3483 listed in the certificate.

3484 (b) An amendment adding or deleting a statement that the limited partnership is a

3485 limited liability limited partnership must be signed by all general partners listed in the

3486 certificate.

3487 (c) An amendment designating as general partner a person admitted under Subsection

3488 48-2d-801(3)(b) following the dissociation of a limited partnership's last general partner must

3489 be signed by that person.

3490 (d) An amendment required by Subsection 48-2d-803(3) following the appointment of

3491 a person to wind up the dissolved limited partnership's activities must be signed by that person.

3492 (e) Any other amendment must be signed by:

3493 (i) at least one general partner listed in the certificate;

3494 (ii) each other person designated in the amendment as a new general partner; and

3495 (iii) each person that the amendment indicates has dissociated as a general partner,

3496 unless:

3497 (A) the person is deceased or a guardian or a general conservator has been appointed

3498 for the person and the amendment so states; or

3499 (B) the person has previously delivered to the division for filing a statement of

3500 dissociation.

3501 (f) A restated certificate of limited partnership must be signed by at least one general  
3502 partner listed in the certificate, and, to the extent the restated certificate effects a change under  
3503 any other subsection of this Subsection (1), the certificate must be signed in a manner that  
3504 satisfies that subsection.

3505 (g) A statement of termination must be signed by all general partners listed in the  
3506 certificate or, if the certificate of a dissolved limited partnership lists no general partners, by the  
3507 person appointed pursuant to Subsection 48-2d-803(3) or (4) to wind up the dissolved limited  
3508 partnership's activities.

3509 (h) Articles of conversion must be signed by each general partner listed in the  
3510 certificate of limited partnership.

3511 (i) Articles of merger must be signed as provided in Subsection 48-2d-1108(1).

3512 (j) Any other record delivered on behalf of a limited partnership to the division for  
3513 filing must be signed by at least one general partner listed in the certificate.

3514 (k) A statement by a person pursuant to Subsection 48-2d-605(1)(d) stating that the  
3515 person has dissociated as a general partner must be signed by that person.

3516 (l) A statement of withdrawal by a person pursuant to Section 48-2d-306 must be  
3517 signed by that person.

3518 (m) A record delivered on behalf of a foreign limited partnership to the division for  
3519 filing must be signed by at least one general partner of the foreign limited partnership.

3520 (n) Any other record delivered on behalf of any person to the division for filing must  
3521 be signed by that person.

3522 (2) Any person may sign by an attorney-in-fact any record to be filed pursuant to this  
3523 chapter.

3524 Section 107. Section **48-2d-205** is enacted to read:

3525 **48-2d-205. Signing and filing pursuant to judicial order.**

3526 (1) If a person required by this chapter to sign a record or deliver a record to the  
3527 division for filing does not do so, any other person that is aggrieved may petition a district  
3528 court to order:

3529 (a) the person to sign the record;

3530 (b) the person to deliver the record to the division for filing; or

3531 (c) the division to file the record unsigned.

3532 (2) If the person aggrieved under Subsection (1) is not the limited partnership or  
3533 foreign limited partnership to which the record pertains, the aggrieved person shall make the  
3534 limited partnership or foreign limited partnership a party to the action. A person aggrieved  
3535 under Subsection (1) may seek the remedies provided in Subsection (1) in the same action in  
3536 combination or in the alternative.

3537 (3) A record filed unsigned pursuant to this section is effective without being signed.  
3538 Section 108. Section **48-2d-206** is enacted to read:

3539 **48-2d-206. Delivery to and filing of records by division -- Effective time and date.**

3540 (1) A record authorized or required to be delivered to the division for filing under this  
3541 chapter must be captioned to describe the record's purpose, be in a medium permitted by the  
3542 division, and be delivered to the division. Unless the division determines that a record does not  
3543 comply with the filing requirements of this chapter, and if all filing fees have been paid, the  
3544 division shall file the record and:

3545 (a) for a statement of dissociation, send:

3546 (i) a copy of the filed statement and a receipt for the fees to the person which the  
3547 statement indicates has dissociated as a general partner; and

3548 (ii) a copy of the filed statement and receipt to the limited partnership;

3549 (b) for a statement of withdrawal, send:

3550 (i) a copy of the filed statement and a receipt for the fees to the person on whose behalf  
3551 the record was filed; and

3552 (ii) if the statement refers to an existing limited partnership, a copy of the filed  
3553 statement and receipt to the limited partnership; and

3554 (c) for all other records, send a copy of the filed record and a receipt for the fees to the  
3555 person on whose behalf the record was filed.

3556 (2) Upon request and payment of a fee, established in accordance with Section  
3557 63J-1-504, the division shall send to the requester a certified copy of the requested record.

3558 (3) Except as otherwise provided in Section 48-2d-207, a record delivered to the  
3559 division for filing under this chapter may specify an effective time and a delayed effective date.  
3560 Except as otherwise provided in this chapter, a record filed by the division is effective:

3561 (a) if the record does not specify an effective time and does not specify a delayed

3562 effective date, on the date and at the time the record is filed as evidenced by the division's  
3563 endorsement of the date and time on the record;

3564 (b) if the record specifies an effective time but not a delayed effective date, on the date  
3565 the record is filed at the time specified in the record;

3566 (c) if the record specifies a delayed effective date but not an effective time, at 12:01  
3567 a.m. on the earlier of:

3568 (i) the specified date; or

3569 (ii) the 90th day after the record is filed; or

3570 (d) if the record specifies an effective time and a delayed effective date, at the specified  
3571 time on the earlier of:

3572 (i) the specified date; or

3573 (ii) the 90th day after the record is filed.

3574 Section 109. Section **48-2d-207** is enacted to read:

3575 **48-2d-207. Correcting filed record.**

3576 (1) A limited partnership or foreign limited partnership may deliver to the division for  
3577 filing a statement of correction to correct a record previously delivered by the limited  
3578 partnership or foreign limited partnership to the division and filed by the division, if at the time  
3579 of filing the record contained false or erroneous information or was defectively signed.

3580 (2) A statement of correction may not state a delayed effective date and must:

3581 (a) describe the record to be corrected, including its filing date, or attach a copy of the  
3582 record as filed;

3583 (b) specify the incorrect information and the reason it is incorrect or the manner in  
3584 which the signing was defective; and

3585 (c) correct the incorrect information or defective signature.

3586 (3) When filed by the division, a statement of correction is effective retroactively as of  
3587 the effective date of the record the statement corrects, but the statement is effective when filed:

3588 (a) for the purposes of Subsections 48-2d-103(3) and (4); and

3589 (b) as to persons relying on the uncorrected record and adversely affected by the  
3590 correction.

3591 Section 110. Section **48-2d-208** is enacted to read:

3592 **48-2d-208. Liability for false information in filed record.**

3593 (1) If a record delivered to the division for filing under this chapter and filed by the  
3594 division contains false information, a person that suffers loss by reliance on the information  
3595 may recover damages for the loss from:

3596 (a) a person that signed the record, or caused another to sign it on the person's behalf,  
3597 and knew the information to be false at the time the record was signed; and

3598 (b) a general partner that has notice that the information was false when the record was  
3599 filed or has become false because of changed circumstances, if the general partner has notice  
3600 for a reasonably sufficient time before the information is relied upon to enable the general  
3601 partner to effect an amendment under Section 48-2d-202, file a petition pursuant to Section  
3602 48-2d-205, or deliver to the division for filing a statement of change pursuant to Section  
3603 16-17-206 or a statement of correction pursuant to Section 48-2d-207.

3604 (2) Signing a record authorized or required to be filed under this chapter constitutes an  
3605 affirmation under the penalties of perjury that the facts stated in the record are true.

3606 Section 111. Section **48-2d-209** is enacted to read:

3607 **48-2d-209. Certificate of existence or authorization.**

3608 (1) The division, upon request and payment of the requisite fee, shall furnish a  
3609 certificate of existence for a limited partnership if the records filed in the division show that the  
3610 division has filed a certificate of limited partnership and has not filed a statement of  
3611 termination. A certificate of existence must state:

3612 (a) the limited partnership's name;

3613 (b) that it was duly formed under the laws of this state and the date of formation;

3614 (c) whether all fees, taxes, and penalties due to the division under this chapter or other  
3615 law have been paid;

3616 (d) whether the limited partnership's most recent annual report required by Section  
3617 48-2d-210 has been filed by the division;

3618 (e) whether the division has administratively dissolved the limited partnership;

3619 (f) whether the limited partnership's certificate of limited partnership has been  
3620 amended to state that the limited partnership is dissolved;

3621 (g) that a statement of termination has not been filed by the division; and

3622 (h) other facts of record in the division which may be requested by the applicant.

3623 (2) The division, upon request and payment of the requisite fee, shall furnish a

3624 certificate of authorization for a foreign limited partnership if the records filed in the division  
3625 show that the division has filed a certificate of authority, has not revoked the certificate of  
3626 authority, and has not filed a notice of cancellation. A certificate of authorization must state:

3627 (a) the foreign limited partnership's name and any alternate name adopted under  
3628 Subsection 48-2d-905(1) for use in this state;

3629 (b) that it is authorized to transact business in this state;

3630 (c) whether all fees, taxes, and penalties due to the division under this chapter or other  
3631 law have been paid;

3632 (d) whether the foreign limited partnership's most recent annual report required by  
3633 Section 48-2d-210 has been filed by the division;

3634 (e) that the division has not revoked its certificate of authority and has not filed a notice  
3635 of cancellation; and

3636 (f) other facts of record in the division which may be requested by the applicant.

3637 (3) Subject to any qualification stated in the certificate, a certificate of existence or  
3638 authorization issued by the division may be relied upon as conclusive evidence that the limited  
3639 partnership or foreign limited partnership is in existence or is authorized to transact business in  
3640 this state.

3641 Section 112. Section **48-2d-210** is enacted to read:

3642 **48-2d-210. Annual report for division.**

3643 (1) A limited partnership or a foreign limited partnership authorized to transact  
3644 business in this state shall deliver to the division for filing an annual report that states:

3645 (a) the name of the limited partnership or foreign limited partnership;

3646 (b) the information required by Section 16-17-203(1);

3647 (c) in the case of a limited partnership, the street and mailing address of its principal  
3648 office; and

3649 (d) in the case of a foreign limited partnership, the state or other jurisdiction under  
3650 whose law the foreign limited partnership is formed and any alternate name adopted under  
3651 Subsection 48-2d-905(1).

3652 (2) Information in an annual report must be current as of the date the annual report is  
3653 delivered to the division for filing.

3654 (3) An annual report must be delivered to the division:

3655 (a) during the month of its anniversary date of formation, in the case of domestic  
3656 limited partnerships; or

3657 (b) during the month of the anniversary date of being granted authority to transact  
3658 business in this state, in the case of foreign limited partnerships authorized to transact business  
3659 in this state.

3660 (4) If an annual report does not contain the information required in Subsection (1), the  
3661 division shall promptly notify the reporting limited partnership or foreign limited partnership  
3662 and return the report to it for correction. If the report is corrected to contain the information  
3663 required in Subsection (1) and delivered to the division within 30 days after the effective date  
3664 of the notice, it is timely delivered.

3665 (5) If a filed annual report contains information provided under Subsection (1)(b)  
3666 which differs from the information shown in the records of the division immediately before the  
3667 filing, the differing information in the annual report is considered a statement of change under  
3668 Section 16-17-206.

3669 Section 113. Section **48-2d-301** is enacted to read:

3670 **Part 3. Limited Partners**

3671 **48-2d-301. Becoming limited partner.**

3672 A person becomes a limited partner:

3673 (1) as provided in the partnership agreement;

3674 (2) as the result of a conversion or merger under Part 11, Merger, Conversion, and

3675 Domestication; or

3676 (3) with the consent of all the partners.

3677 Section 114. Section **48-2d-302** is enacted to read:

3678 **48-2d-302. No right or power as limited partner to bind limited partnership.**

3679 A limited partner does not have the right or the power as a limited partner to act for or  
3680 bind the limited partnership.

3681 Section 115. Section **48-2d-303** is enacted to read:

3682 **48-2d-303. No liability as limited partner for limited partnership obligations.**

3683 (1) An obligation of a limited partnership, whether arising in contract, tort, or  
3684 otherwise, is not the obligation of a limited partner.

3685 (2) A limited partner is not personally liable, directly or indirectly, by way of

3686 contribution or otherwise, for an obligation of the limited partnership solely by reason of being  
3687 a limited partner, even if the limited partner participates in the management and control of the  
3688 limited partnership.

3689 Section 116. Section **48-2d-304** is enacted to read:

3690 **48-2d-304. Right of limited partner and former limited partner to information.**

3691 (1) On 10 days' demand, made in a record received by the limited partnership, a limited  
3692 partner may inspect and copy required information during regular business hours in the limited  
3693 partnership's principal office. The limited partner need not have any particular purpose for  
3694 seeking the information.

3695 (2) During regular business hours and at a reasonable location specified by the limited  
3696 partnership, a limited partner may obtain from the limited partnership and inspect and copy true  
3697 and full information regarding the state of the activities and financial condition of the limited  
3698 partnership and other information regarding the activities of the limited partnership as is just  
3699 and reasonable if:

3700 (a) the limited partner seeks the information for a purpose reasonably related to the  
3701 partner's interest as a limited partner;

3702 (b) the limited partner makes a demand in a record received by the limited partnership,  
3703 describing with reasonable particularity the information sought and the purpose for seeking the  
3704 information; and

3705 (c) the information sought is directly connected to the limited partner's purpose.

3706 (3) Within 10 days after receiving a demand pursuant to Subsection (2), the limited  
3707 partnership in a record shall inform the limited partner that made the demand:

3708 (a) what information the limited partnership will provide in response to the demand;

3709 (b) when and where the limited partnership will provide the information; and

3710 (c) if the limited partnership declines to provide any demanded information, the limited  
3711 partnership's reasons for declining.

3712 (4) Subject to Subsection (6), a person dissociated as a limited partner may inspect and  
3713 copy required information during regular business hours in the limited partnership's principle  
3714 office if:

3715 (a) the information pertains to the period during which the person was a limited  
3716 partner;



- 3717 (b) the person seeks the information in good faith; and  
3718 (c) the person meets the requirements of Subsection (2).  
3719 (5) The limited partnership shall respond to a demand made pursuant to Subsection (4)  
3720 in the same manner as provided in Subsection (3).  
3721 (6) If a limited partner dies, Section 48-2d-704 applies.  
3722 (7) The limited partnership may impose reasonable restrictions on the use of  
3723 information obtained under this section. In a dispute concerning the reasonableness of a  
3724 restriction under this Subsection (7), the limited partnership has the burden of proving  
3725 reasonableness.  
3726 (8) A limited partnership may charge a person that makes a demand under this section  
3727 reasonable costs of copying, limited to the costs of labor and material.  
3728 (9) Whenever this chapter or a partnership agreement provides for a limited partner to  
3729 give or withhold consent to a matter, before the consent is given or withheld, the limited  
3730 partnership shall, without demand, provide the limited partner with all information material to  
3731 the limited partner's decision that the limited partnership knows.  
3732 (10) A limited partner or person dissociated as a limited partner may exercise the rights  
3733 under this section through an attorney or other agent. Any restriction imposed under  
3734 Subsection (7) or by the partnership agreement applies both to the attorney or other agent and  
3735 to the limited partner or person dissociated as a limited partner.  
3736 (11) The rights stated in this section do not extend to a person as transferee, but may be  
3737 exercised by the legal representative of an individual under legal disability who is a limited  
3738 partner or person dissociated as a limited partner.  
3739 Section 117. Section **48-2d-305** is enacted to read:  
3740 **48-2d-305. Limited duties of limited partners.**  
3741 (1) (a) A limited partner does not have any fiduciary duty to the limited partnership or  
3742 to any other partner solely by reason of being a limited partner.  
3743 (b) Notwithstanding Subsection (1)(a), a limited partner has a duty of loyalty to the  
3744 limited partnership and the other partners to refrain from competing with the limited  
3745 partnership in the conduct or winding up of the limited partnership's activities.  
3746 (2) A limited partner shall discharge the duties to the partnership and the other partners  
3747 under this chapter or under the partnership agreement and exercise any rights consistently with

3748 the obligation of good faith and fair dealing.

3749 (3) A limited partner does not violate a duty or obligation under this chapter or under  
3750 the partnership agreement merely because the limited partner's conduct furthers the limited  
3751 partner's own interest.

3752 Section 118. Section **48-2d-306** is enacted to read:

3753 **48-2d-306. Person erroneously believing self to be limited partner.**

3754 (1) Except as otherwise provided in Subsection (2), a person that makes an investment  
3755 in a business enterprise and erroneously but in good faith believes that the person has become a  
3756 limited partner in the enterprise is not liable for the enterprise's obligations by reason of making  
3757 the investment, receiving distributions from the enterprise, or exercising any rights of or  
3758 appropriate to a limited partner, if, on ascertaining the mistake, the person:

3759 (a) causes an appropriate certificate of limited partnership, amendment, or statement of  
3760 correction to be signed and delivered to the division for filing; or

3761 (b) withdraws from future participation as an owner in the enterprise by signing and  
3762 delivering to the division for filing a statement of withdrawal under this section.

3763 (2) A person that makes an investment described in Subsection (1) is liable to the same  
3764 extent as a general partner to any third party that enters into a transaction with the enterprise,  
3765 believing in good faith that the person is a general partner, before the division files a statement  
3766 of withdrawal, certificate of limited partnership, amendment, or statement of correction to  
3767 show that the person is not a general partner.

3768 (3) If a person makes a diligent effort in good faith to comply with Subsection (1)(a)  
3769 and is unable to cause the appropriate certificate of limited partnership, amendment, or  
3770 statement of correction to be signed and delivered to the division for filing, the person has the  
3771 right to withdraw from the enterprise pursuant to Subsection (1)(b) even if the withdrawal  
3772 would otherwise breach an agreement with others that are or have agreed to become co-owners  
3773 of the enterprise.

3774 Section 119. Section **48-2d-401** is enacted to read:

3775 **Part 4. General Partners**

3776 **48-2d-401. Becoming general partner.**

3777 A person becomes a general partner:

3778 (1) as provided in the partnership agreement;

3779 (2) under Subsection 48-2d-801(3)(b) following the dissociation of a limited  
3780 partnership's last general partner;

3781 (3) as the result of a conversion or merger under Part 11, Merger, Conversion, and  
3782 Domestication; or

3783 (4) with the consent of all the partners.

3784 Section 120. Section **48-2d-402** is enacted to read:

3785 **48-2d-402. General partner agent of limited partnership.**

3786 (1) (a) Each general partner is an agent of the limited partnership for the purposes of its  
3787 activities.

3788 (b) An act of a general partner, including the signing of a record in the partnership's  
3789 name, for apparently carrying on in the ordinary course the limited partnership's activities or  
3790 activities of the kind carried on by the limited partnership binds the limited partnership, unless  
3791 the general partner did not have authority to act for the limited partnership in the particular  
3792 matter and the person with which the general partner was dealing knew, had received a  
3793 notification, or had notice under Subsection 48-2d-103(4) that the general partner lacked  
3794 authority.

3795 (2) An act of a general partner which is not apparently for carrying on in the ordinary  
3796 course the limited partnership's activities or activities of the kind carried on by the limited  
3797 partnership binds the limited partnership only if the act was actually authorized by all the other  
3798 partners.

3799 Section 121. Section **48-2d-403** is enacted to read:

3800 **48-2d-403. Limited partnership liable for general partner's actionable conduct.**

3801 (1) A limited partnership is liable for loss or injury caused to a person, or for a penalty  
3802 incurred, as a result of a wrongful act or omission, or other actionable conduct, of a general  
3803 partner acting in the ordinary course of activities of the limited partnership or with authority of  
3804 the limited partnership.

3805 (2) If, in the course of the limited partnership's activities or while acting with authority  
3806 of the limited partnership, a general partner receives or causes the limited partnership to receive  
3807 money or property of a person not a partner, and the money or property is misapplied by a  
3808 general partner, the limited partnership is liable for the loss.

3809 Section 122. Section **48-2d-404** is enacted to read:

3810 **48-2d-404. General partner's liability.**

3811 (1) Except as otherwise provided in Subsections (2) and (3), all general partners are  
3812 liable jointly and severally for all obligations of the limited partnership unless otherwise agreed  
3813 by the claimant or provided by law.

3814 (2) A person that becomes a general partner of an existing limited partnership is not  
3815 personally liable for an obligation of a limited partnership incurred before the person became a  
3816 general partner.

3817 (3) (a) An obligation of a limited partnership incurred while the limited partnership is a  
3818 limited liability limited partnership, whether arising in contract, tort, or otherwise, is solely the  
3819 obligation of the limited partnership.

3820 (b) A general partner is not personally liable, directly or indirectly, by way of  
3821 contribution or otherwise, for such an obligation solely by reason of being or acting as a  
3822 general partner.

3823 (c) This Subsection (3) applies despite anything inconsistent in the partnership  
3824 agreement that existed immediately before the consent required to become a limited liability  
3825 limited partnership under Subsection 48-2d-406(2)(b).

3826 Section 123. Section **48-2d-405** is enacted to read:

3827 **48-2d-405. Actions by and against partnership and partners.**

3828 (1) To the extent not inconsistent with Section 48-2d-404, a general partner may be  
3829 joined in an action against the limited partnership or named in a separate action.

3830 (2) A judgment against a limited partnership is not by itself a judgment against a  
3831 general partner. A judgment against a limited partnership may not be satisfied from a general  
3832 partner's assets unless there is also a judgment against the general partner.

3833 (3) A judgment creditor of a general partner may not levy execution against the assets  
3834 of the general partner to satisfy a judgment based on a claim against the limited partnership,  
3835 unless the partner is personally liable for the claim under Section 48-2d-404 and:

3836 (a) a judgment based on the same claim has been obtained against the limited  
3837 partnership and a writ of execution on the judgment has been returned unsatisfied in whole or  
3838 in part;

3839 (b) the limited partnership is a debtor in bankruptcy;

3840 (c) the general partner has agreed that the creditor need not exhaust limited partnership

3841 assets;

3842 (d) a court grants permission to the judgment creditor to levy execution against the  
3843 assets of a general partner based on a finding that limited partnership assets subject to  
3844 execution are clearly insufficient to satisfy the judgment, that exhaustion of limited partnership  
3845 assets is excessively burdensome, or that the grant of permission is an appropriate exercise of  
3846 the court's equitable powers; or

3847 (e) liability is imposed on the general partner by law or contract independent of the  
3848 existence of the limited partnership.

3849 Section 124. Section **48-2d-406** is enacted to read:

3850 **48-2d-406. Management rights of general partner.**

3851 (1) Each general partner has equal rights in the management and conduct of the limited  
3852 partnership's activities. Except as expressly provided in this chapter, any matter relating to the  
3853 activities of the limited partnership may be exclusively decided by the general partner or, if  
3854 there is more than one general partner, by a majority of the general partners.

3855 (2) The consent of each partner is necessary to:

3856 (a) amend the partnership agreement;

3857 (b) amend the certificate of limited partnership to add or, subject to Section  
3858 48-2d-1114, delete a statement that the limited partnership is a limited liability limited  
3859 partnership; and

3860 (c) sell, lease, exchange, or otherwise dispose of all, or substantially all, of the limited  
3861 partnership's property, with or without the good will, other than in the usual and regular course  
3862 of the limited partnership's activities.

3863 (3) A limited partnership shall reimburse a general partner for payments made and  
3864 indemnify a general partner for liabilities incurred by the general partner in the ordinary course  
3865 of the activities of the partnership or for the preservation of its activities or property.

3866 (4) A limited partnership shall reimburse a general partner for an advance to the limited  
3867 partnership beyond the amount of capital the general partner agreed to contribute.

3868 (5) A payment or advance made by a general partner which gives rise to an obligation  
3869 of the limited partnership under Subsection (3) or (4) constitutes a loan to the limited  
3870 partnership which accrues interest from the date of the payment or advance.

3871 (6) A general partner is not entitled to remuneration for services performed for the

3872 partnership.

3873 Section 125. Section **48-2d-407** is enacted to read:

3874 **48-2d-407. Right of general partner and former general partner to information.**

3875 (1) A general partner, without having any particular purpose for seeking the

3876 information, may inspect and copy during regular business hours:

3877 (a) in the limited partnership's principal office, required information; and

3878 (b) at a reasonable location specified by the limited partnership, any other records

3879 maintained by the limited partnership regarding the limited partnership's activities and financial

3880 condition.

3881 (2) Each general partner and the limited partnership shall furnish to a general partner:

3882 (a) without demand, any information concerning the limited partnership's activities and

3883 activities reasonably required for the proper exercise of the general partner's rights and duties

3884 under the partnership agreement or this chapter; and

3885 (b) on demand, any other information concerning the limited partnership's activities,

3886 except to the extent the demand or the information demanded is unreasonable or otherwise

3887 improper under the circumstances.

3888 (3) Subject to Subsection (5), on 10 days' demand made in a record received by the

3889 limited partnership, a person dissociated as a general partner may have access to the

3890 information and records described in Subsection (1) at the location specified in Subsection (1)

3891 if:

3892 (a) the information or record pertains to the period during which the person was a

3893 general partner;

3894 (b) the person seeks the information or record in good faith; and

3895 (c) the person satisfies the requirements imposed on a limited partner by Subsection

3896 48-2d-304(2).

3897 (4) The limited partnership shall respond to a demand made pursuant to Subsection (3)

3898 in the same manner as provided in Subsection 48-2d-304(3).

3899 (5) If a general partner dies, Section 48-2d-704 applies.

3900 (6) The limited partnership may impose reasonable restrictions on the use of

3901 information under this section. In any dispute concerning the reasonableness of a restriction

3902 under this Subsection (6), the limited partnership has the burden of proving reasonableness.

3903 (7) A limited partnership may charge a person dissociated as a general partner that  
3904 makes a demand under this section reasonable costs of copying, limited to the costs of labor  
3905 and material.

3906 (8) A general partner or person dissociated as a general partner may exercise the rights  
3907 under this section through an attorney or other agent. Any restriction imposed under  
3908 Subsection (6) or by the partnership agreement applies both to the attorney or other agent and  
3909 to the general partner or person dissociated as a general partner.

3910 (9) The rights under this section do not extend to a person as transferee, but the rights  
3911 under Subsection (3) of a person dissociated as a general may be exercised by the legal  
3912 representative of an individual who dissociated as a general partner under Subsection  
3913 48-2d-603(7)(b) or (c).

3914 Section 126. Section **48-2d-408** is enacted to read:

3915 **48-2d-408. General standards of general partner's conduct.**

3916 (1) The only fiduciary duties that a general partner has to the limited partnership and  
3917 the other partners are the duties of loyalty and care under Subsections (2) and (3).

3918 (2) A general partner's duty of loyalty to the limited partnership and the other partners  
3919 is limited to the following:

3920 (a) to account to the limited partnership and hold as trustee for it any property, profit,  
3921 or benefit derived by the general partner in the conduct and winding up of the limited  
3922 partnership's activities or derived from a use by the general partner of limited partnership  
3923 property, including the appropriation of a limited partnership opportunity;

3924 (b) to refrain from dealing with the limited partnership in the conduct or winding up of  
3925 the limited partnership's activities as or on behalf of a party having an interest adverse to the  
3926 limited partnership; and

3927 (c) to refrain from competing with the limited partnership in the conduct or winding up  
3928 of the limited partnership's activities.

3929 (3) A general partner's duty of care to the limited partnership and the other partners in  
3930 the conduct and winding up of the limited partnership's activities is limited to refraining from  
3931 engaging in grossly negligent or reckless conduct, intentional misconduct, or a knowing  
3932 violation of law.

3933 (4) A general partner shall discharge the duties to the partnership and the other partners

3934 under this chapter or under the partnership agreement and exercise any rights consistently with  
3935 the obligation of good faith and fair dealing.

3936 (5) A general partner does not violate a duty or obligation under this chapter or under  
3937 the partnership agreement merely because the general partner's conduct furthers the general  
3938 partner's own interest.

3939 Section 127. Section **48-2d-501** is enacted to read:

3940 **Part 5. Contributions and Distributions**

3941 **48-2d-501. Form of contribution.**

3942 A contribution of a partner may consist of tangible or intangible property or other  
3943 benefit to the limited partnership, including money, services performed, promissory notes,  
3944 other agreements to contribute cash or property, and contracts for services to be performed.

3945 Section 128. Section **48-2d-502** is enacted to read:

3946 **48-2d-502. Liability for contribution.**

3947 (1) (a) A partner's obligation to contribute money or other property or other benefit to,  
3948 or to perform services for, a limited partnership is not excused by the partner's death, disability,  
3949 or other inability to perform personally.

3950 (b) Notwithstanding Subsection (1)(a), a limited partnership's partnership agreement  
3951 may provide for a partner's obligation to contribute to be excused by the death of the partner.

3952 (2) If a partner does not make a promised non-monetary contribution, the partner is  
3953 obligated at the option of the limited partnership to contribute money equal to that portion of  
3954 the value, as stated in the required information, of the stated contribution which has not been  
3955 made.

3956 (3) The obligation of a partner to make a contribution or return money or other  
3957 property paid or distributed in violation of this chapter may be compromised only by consent of  
3958 all partners. A creditor of a limited partnership which extends credit or otherwise acts in  
3959 reliance on an obligation described in Subsection (2), without notice of any compromise under  
3960 this Subsection (3), may enforce the original obligation.

3961 Section 129. Section **48-2d-503** is enacted to read:

3962 **48-2d-503. Sharing of distributions.**

3963 A distribution by a limited partnership must be shared among the partners on the basis  
3964 of the value, as stated in the required records when the limited partnership decides to make the



3965 distribution, of the contributions the limited partnership has received from each partner.

3966 Section 130. Section **48-2d-504** is enacted to read:

3967 **48-2d-504. Interim distributions.**

3968 A partner does not have a right to any distribution before the dissolution and winding  
3969 up of the limited partnership unless the limited partnership decides to make an interim  
3970 distribution.

3971 Section 131. Section **48-2d-505** is enacted to read:

3972 **48-2d-505. No distribution on account of dissociation.**

3973 A person does not have a right to receive a distribution on account of dissociation.

3974 Section 132. Section **48-2d-506** is enacted to read:

3975 **48-2d-506. Distribution in kind.**

3976 A partner does not have a right to demand or receive any distribution from a limited  
3977 partnership in any form other than cash. Subject to Subsection 48-2d-812(2), a limited  
3978 partnership may distribute an asset in kind to the extent each partner receives a percentage of  
3979 the asset equal to the partner's share of distributions.

3980 Section 133. Section **48-2d-507** is enacted to read:

3981 **48-2d-507. Right to distribution.**

3982 When a partner or transferee becomes entitled to receive a distribution, the partner or  
3983 transferee has the status of, and is entitled to all remedies available to, a creditor of the limited  
3984 partnership with respect to the distribution. However, the limited partnership's obligation to  
3985 make a distribution is subject to offset for any amount owed to the limited partnership by the  
3986 partner or dissociated partner on whose account the distribution is made.

3987 Section 134. Section **48-2d-508** is enacted to read:

3988 **48-2d-508. Limitations on distribution.**

3989 (1) A limited partnership may not make a distribution in violation of the partnership  
3990 agreement.

3991 (2) A limited partnership may not make a distribution if after the distribution:

3992 (a) the limited partnership would not be able to pay its debts as they become due in the  
3993 ordinary course of the limited partnership's activities; or

3994 (b) the limited partnership's total assets would be less than the sum of its total liabilities  
3995 plus the amount that would be needed, if the limited partnership were to be dissolved, would

3996 up, and terminated at the time of the distribution, to satisfy the preferential rights upon  
3997 dissolution, winding up, and termination of partners whose preferential rights are superior to  
3998 those of persons receiving the distribution.

3999 (3) A limited partnership may base a determination that a distribution is not prohibited  
4000 under Subsection (2) on financial statements prepared on the basis of accounting practices and  
4001 principles that are reasonable in the circumstances or on a fair valuation or other method that is  
4002 reasonable in the circumstances.

4003 (4) Except as otherwise provided in Subsection (7), the effect of a distribution under  
4004 Subsection (2) is measured:

4005 (a) in the case of distribution by purchase, redemption, or other acquisition of a  
4006 transferable interest in the limited partnership, as of the date money or other property is  
4007 transferred or debt incurred by the limited partnership; and

4008 (b) in all other cases, as of the date:

4009 (i) the distribution is authorized, if the payment occurs within 120 days after that date;

4010 or

4011 (ii) the payment is made, if payment occurs more than 120 days after the distribution is  
4012 authorized.

4013 (5) A limited partnership's indebtedness to a partner incurred by reason of a  
4014 distribution made in accordance with this section is at parity with the limited partnership's  
4015 indebtedness to its general, unsecured creditors.

4016 (6) A limited partnership's indebtedness, including indebtedness issued in connection  
4017 with or as part of a distribution, is not considered a liability for purposes of Subsection (2) if  
4018 the terms of the indebtedness provide that payment of principal and interest are made only to  
4019 the extent that a distribution could then be made to partners under this section.

4020 (7) If indebtedness is issued as a distribution, each payment of principal or interest on  
4021 the indebtedness is treated as a distribution, the effect of which is measured on the date the  
4022 payment is made.

4023 Section 135. Section **48-2d-509** is enacted to read:

4024 **48-2d-509. Liability for improper distributions.**

4025 (1) A general partner that consents to a distribution made in violation of Section  
4026 48-2d-508 is personally liable to the limited partnership for the amount of the distribution

4027 which exceeds the amount that could have been distributed without the violation if it is  
4028 established that in consenting to the distribution the general partner failed to comply with  
4029 Section 48-2d-408.

4030 (2) A partner or transferee that received a distribution knowing that the distribution to  
4031 that partner or transferee was made in violation of Section 48-2d-508 is personally liable to the  
4032 limited partnership but only to the extent that the distribution received by the partner or  
4033 transferee exceeded the amount that could have been properly paid under Section 48-2d-508.

4034 (3) A general partner against which an action is commenced under Subsection (1) may:

4035 (a) implead in the action any other person that is liable under Subsection (1) and  
4036 compel contribution from the person; and

4037 (b) implead in the action any person that received a distribution in violation of  
4038 Subsection (2) and compel contribution from the person in the amount the person received in  
4039 violation of Subsection (2).

4040 (4) An action under this section is barred if it is not commenced within two years after  
4041 the distribution.

4042 Section 136. Section **48-2d-601** is enacted to read:

#### 4043 **Part 6. Dissociation**

4044 **48-2d-601. Dissociation as limited partner.**

4045 (1) A person does not have a right to dissociate as a limited partner before the  
4046 termination of the limited partnership.

4047 (2) A person is dissociated from a limited partnership as a limited partner upon the  
4048 occurrence of any of the following events:

4049 (a) the limited partnership's having notice of the person's express will to withdraw as a  
4050 limited partner or on a later date specified by the person;

4051 (b) an event agreed to in the partnership agreement as causing the person's dissociation  
4052 as a limited partner;

4053 (c) the person's expulsion as a limited partner pursuant to the partnership agreement;

4054 (d) the person's expulsion as a limited partner by the unanimous consent of the other  
4055 partners if:

4056 (i) it is unlawful to carry on the limited partnership's activities with the person as a  
4057 limited partner;

4058 (ii) there has been a transfer of all of the person's transferable interest in the limited  
4059 partnership, other than a transfer for security purposes, or a court order charging the person's  
4060 interest, which has not been foreclosed;

4061 (iii) the person is a corporation and, within 90 days after the limited partnership  
4062 notifies the person that it will be expelled as a limited partner because it has filed a certificate  
4063 of dissolution or the equivalent, its charter has been revoked, or its right to conduct business  
4064 has been suspended by the jurisdiction of its incorporation, there is no revocation of the  
4065 certificate of dissolution or no reinstatement of its charter or its right to conduct business; or

4066 (iv) the person is a limited liability company or partnership that has been dissolved and  
4067 whose business is being wound up;

4068 (e) on application by the limited partnership, the person's expulsion as a limited partner  
4069 by judicial order because:

4070 (i) the person engaged in wrongful conduct that adversely and materially affected the  
4071 limited partnership's activities;

4072 (ii) the person willfully or persistently committed a material breach of the partnership  
4073 agreement or of the obligation of good faith and fair dealing under Subsection 48-2d-305(2); or

4074 (iii) the person engaged in conduct relating to the limited partnership's activities which  
4075 makes it not reasonably practicable to carry on the activities with the person as limited partner;

4076 (f) in the case of a person who is an individual, the person's death;

4077 (g) in the case of a person that is a trust or is acting as a limited partner by virtue of  
4078 being a trustee of a trust, distribution of the trust's entire transferable interest in the limited  
4079 partnership, but not merely by reason of the substitution of a successor trustee;

4080 (h) in the case of a person that is an estate or is acting as a limited partner by virtue of  
4081 being a personal representative of an estate, distribution of the estate's entire transferable  
4082 interest in the limited partnership, but not merely by reason of the substitution of a successor  
4083 personal representative;

4084 (i) termination of a limited partner that is not an individual, partnership, limited  
4085 liability company, corporation, trust, or estate;

4086 (j) the limited partnership's participation in a conversion or merger under Part 11,  
4087 Merger, Conversion, and Domestication, if the limited partnership:

4088 (i) is not the converted or surviving entity; or

4089 (ii) is the converted or surviving entity but, as a result of the conversion or merger, the  
4090 person ceases to be a limited partner.

4091 Section 137. Section **48-2d-602** is enacted to read:

4092 **48-2d-602. Effect of dissociation as limited partner.**

4093 (1) Upon a person's dissociation as a limited partner:

4094 (a) subject to Section 48-2d-704, the person does not have further rights as a limited  
4095 partner:

4096 (b) the person's obligation of good faith and fair dealing as a limited partner under  
4097 Subsection 48-2d-305(2) continues only as to matters arising and events occurring before the  
4098 dissociation; and

4099 (c) subject to Section 48-2d-704 and Part 11, Merger, Conversion, and Domestication,  
4100 any transferable interest owned by the person in the person's capacity as a limited partner  
4101 immediately before dissociation is owned by the person as a mere transferee.

4102 (2) A person's dissociation as a limited partner does not of itself discharge the person  
4103 from any obligation to the limited partnership or the other partners which the person incurred  
4104 while a limited partner.

4105 Section 138. Section **48-2d-603** is enacted to read:

4106 **48-2d-603. Dissociation as general partner.**

4107 A person is dissociated from a limited partnership as a general partner upon the  
4108 occurrence of any of the following events:

4109 (1) the limited partnership's having notice of the person's express will to withdraw as a  
4110 general partner or on a later date specified by the person;

4111 (2) an event agreed to in the partnership agreement as causing the person's dissociation  
4112 as a general partner;

4113 (3) the person's expulsion as a general partner pursuant to the partnership agreement;

4114 (4) the person's expulsion as a general partner by the unanimous consent of the other  
4115 partners if:

4116 (a) it is unlawful to carry on the limited partnership's activities with the person as a  
4117 general partner;

4118 (b) there has been a transfer of all or substantially all of the person's transferable  
4119 interest in the limited partnership, other than a transfer for security purposes, or a court order

4120 charging the person's interest, which has not been foreclosed;

4121 (c) the person is a corporation and, within 90 days after the limited partnership notifies  
4122 the person that it will be expelled as a general partner because it has filed a certificate of  
4123 dissolution or the equivalent, its charter has been revoked, or its right to conduct business has  
4124 been suspended by the jurisdiction of its incorporation, there is no revocation of the certificate  
4125 of dissolution or no reinstatement of its charter or its right to conduct business; or

4126 (d) the person is a limited liability company or partnership that has been dissolved and  
4127 whose business is being wound up;

4128 (5) on application by the limited partnership, the person's expulsion as a general partner  
4129 by judicial determination because:

4130 (a) the person engaged in wrongful conduct that adversely and materially affected the  
4131 limited partnership activities;

4132 (b) the person willfully or persistently committed a material breach of the partnership  
4133 agreement or of a duty owed to the partnership or the other partners under Section 48-2d-408;  
4134 or

4135 (c) the person engaged in conduct relating to the limited partnership's activities which  
4136 makes it not reasonably practicable to carry on the activities of the limited partnership with the  
4137 person as a general partner;

4138 (6) the person's:

4139 (a) becoming a debtor in bankruptcy;

4140 (b) execution of an assignment for the benefit of creditors;

4141 (c) seeking, consenting to, or acquiescing in the appointment of a trustee, receiver, or  
4142 liquidator of the person or of all or substantially all of the person's property; or

4143 (d) failure, within 90 days after the appointment, to have vacated or stayed the  
4144 appointment of a trustee, receiver, or liquidator of the general partner or of all or substantially  
4145 all of the person's property obtained without the person's consent or acquiescence, or failing  
4146 within 90 days after the expiration of a stay to have the appointment vacated;

4147 (7) in the case of a person who is an individual:

4148 (a) the person's death;

4149 (b) the appointment of a guardian or general conservator for the person; or

4150 (c) a judicial determination that the person has otherwise become incapable of

4151 performing the person's duties as a general partner under the partnership agreement;

4152 (8) in the case of a person that is a trust or is acting as a general partner by virtue of  
4153 being a trustee of a trust, distribution of the trust's entire transferable interest in the limited  
4154 partnership, but not merely by reason of the substitution of a successor trustee;

4155 (9) in the case of a person that is an estate or is acting as a general partner by virtue of  
4156 being a personal representative of an estate, distribution of the estate's entire transferable  
4157 interest in the limited partnership, but not merely by reason of the substitution of a successor  
4158 personal representative;

4159 (10) termination of a general partner that is not an individual, partnership, limited  
4160 liability company, corporation, trust, or estate; or

4161 (11) the limited partnership's participation in a conversion or merger under Part 11,  
4162 Merger, Conversion, and Domestication, if the limited partnership:

4163 (a) is not the converted or surviving entity; or

4164 (b) is the converted or surviving entity but, as a result of the conversion or merger, the  
4165 person ceases to be a general partner.

4166 Section 139. Section **48-2d-604** is enacted to read:

4167 **48-2d-604. Person's power to dissociate as general partner -- Wrongful**  
4168 **dissociation.**

4169 (1) A person has the power to dissociate as a general partner at any time, rightfully or  
4170 wrongfully, by express will pursuant to Subsection 48-2d-603(1).

4171 (2) A person's dissociation as a general partner is wrongful only if:

4172 (a) it is in breach of an express provision of the partnership agreement; or

4173 (b) it occurs before the termination of the limited partnership, and:

4174 (i) the person withdraws as a general partner by express will;

4175 (ii) the person is expelled as a general partner by judicial determination under  
4176 Subsection 48-2d-603(5);

4177 (iii) the person is dissociated as a general partner by becoming a debtor in bankruptcy;

4178 or

4179 (iv) in the case of a person that is not an individual, trust other than a business trust, or  
4180 estate, the person is expelled or otherwise dissociated as a general partner because it willfully  
4181 dissolved or terminated.

4182 (3) A person that wrongfully dissociates as a general partner is liable to the limited  
4183 partnership and, subject to Section 48-2d-1001, to the other partners for damages caused by the  
4184 dissociation. The liability is in addition to any other obligation of the general partner to the  
4185 limited partnership or to the other partners.

4186 Section 140. Section **48-2d-605** is enacted to read:

4187 **48-2d-605. Effect of dissociation as general partner.**

4188 (1) Upon a person's dissociation as a general partner:

4189 (a) the person's right to participate as a general partner in the management and conduct  
4190 of the partnership's activities terminates;

4191 (b) the person's duty of loyalty as a general partner under Subsection 48-2d-408(2)(c)  
4192 terminates;

4193 (c) the person's duty of loyalty as a general partner under Subsections 48-2d-408(2)(a)  
4194 and (b) and duty of care under Subsection 48-2d-408(3) continue only with regard to matters  
4195 arising and events occurring before the person's dissociation as a general partner;

4196 (d) the person may sign and deliver to the division for filing a statement of dissociation  
4197 pertaining to the person and, at the request of the limited partnership, shall sign an amendment  
4198 to the certificate of limited partnership which states that the person has dissociated; and

4199 (e) subject to Section 48-2d-704 and Part 11, Merger, Conversion, and Domestication,  
4200 any transferable interest owned by the person immediately before dissociation in the person's  
4201 capacity as a general partner is owned by the person as a mere transferee.

4202 (2) A person's dissociation as a general partner does not of itself discharge the person  
4203 from any obligation to the limited partnership or the other partners which the person incurred  
4204 while a general partner.

4205 Section 141. Section **48-2d-606** is enacted to read:

4206 **48-2d-606. Power to bind and liability to limited partnership before dissolution of**  
4207 **partnership of person dissociated as general partner.**

4208 (1) After a person is dissociated as a general partner and before the limited partnership  
4209 is dissolved, converted under Part 11, Merger, Conversion, and Domestication, or merged out  
4210 of existence under Part 11, the limited partnership is bound by an act of the person only if:

4211 (a) the act would have bound the limited partnership under Section 48-2d-402 before  
4212 the dissociation; and



4213 (b) at the time the other party enters into the transaction:  
4214 (i) less than two years have passed since the dissociation; and  
4215 (ii) the other party does not have notice of the dissociation and reasonably believes that  
4216 the person is a general partner.

4217 (2) If a limited partnership is bound under Subsection (1), the person dissociated as a  
4218 general partner which caused the limited partnership to be bound is liable:

4219 (a) to the limited partnership for any damage caused to the limited partnership arising  
4220 from the obligation incurred under Subsection (1); and

4221 (b) if a general partner or another person dissociated as a general partner is liable for  
4222 the obligation, to the general partner or other person for any damage caused to the general  
4223 partner or other person arising from the liability.

4224 Section 142. Section **48-2d-607** is enacted to read:

4225 **48-2d-607. Liability to other persons of person dissociated as general partner.**

4226 (1) A person's dissociation as a general partner does not of itself discharge the person's  
4227 liability as a general partner for an obligation of the limited partnership incurred before  
4228 dissociation. Except as otherwise provided in Subsections (2) and (3), the person is not liable  
4229 for a limited partnership's obligation incurred after dissociation.

4230 (2) A person whose dissociation as a general partner resulted in a dissolution and  
4231 winding up of the limited partnership's activities is liable to the same extent as a general partner  
4232 under Section 48-2d-404 on an obligation incurred by the limited partnership under Section  
4233 48-2d-804.

4234 (3) A person that has dissociated as a general partner but whose dissociation did not  
4235 result in a dissolution and winding up of the limited partnership's activities is liable on a  
4236 transaction entered into by the limited partnership after the dissociation only if:

4237 (a) a general partner would be liable on the transaction; and

4238 (b) at the time the other party enters into the transaction:

4239 (i) less than two years have passed since the dissociation; and

4240 (ii) the other party does not have notice of the dissociation and reasonably believes that  
4241 the person is a general partner.

4242 (4) By agreement with a creditor of a limited partnership and the limited partnership, a  
4243 person dissociated as a general partner may be released from liability for an obligation of the

4244 limited partnership.

4245 (5) A person dissociated as a general partner is released from liability for an obligation  
4246 of the limited partnership if the limited partnership's creditor, with notice of the person's  
4247 dissociation as a general partner but without the person's consent, agrees to a material alteration  
4248 in the nature or time of payment of the obligation.

4249 Section 143. Section **48-2d-701** is enacted to read:

4250 **Part 7. Transferable Interests and Rights of Transferees and Creditors**

4251 **48-2d-701. Partner's transferable interest.**

4252 The only interest of a partner which is transferable is the partner's transferable interest.

4253 A transferable interest is personal property.

4254 Section 144. Section **48-2d-702** is enacted to read:

4255 **48-2d-702. Transfer of partner's transferable interest.**

4256 (1) A transfer, in whole or in part, of a partner's transferable interest:

4257 (a) is permissible;

4258 (b) does not by itself cause the partner's dissociation or a dissolution and winding up of  
4259 the limited partnership's activities; and

4260 (c) does not, as against the other partners or the limited partnership, entitle the  
4261 transferee to participate in the management or conduct of the limited partnership's activities, to  
4262 require access to information concerning the limited partnership's transactions except as  
4263 otherwise provided in Subsection (3), or to inspect or copy the required information or the  
4264 limited partnership's other records.

4265 (2) A transferee has a right to receive, in accordance with the transfer:

4266 (a) distributions to which the transferor would otherwise be entitled; and

4267 (b) upon the dissolution and winding up of the limited partnership's activities the net  
4268 amount otherwise distributable to the transferor.

4269 (3) In a dissolution and winding up, a transferee is entitled to an account of the limited  
4270 partnership's transactions only from the date of dissolution.

4271 (4) Upon transfer, the transferor retains the rights of a partner other than the interest in  
4272 distributions transferred and retains all duties and obligations of a partner.

4273 (5) A limited partnership need not give effect to a transferee's rights under this section  
4274 until the limited partnership has notice of the transfer.

4275 (6) A transfer of a partner's transferable interest in the limited partnership in violation  
4276 of a restriction on transfer contained in the partnership agreement is ineffective as to a person  
4277 having notice of the restriction at the time of transfer.

4278 (7) A transferee that becomes a partner with respect to a transferable interest is liable  
4279 for the transferor's obligations under Sections 48-2d-502 and 48-2d-509. However, the  
4280 transferee is not obligated for liabilities unknown to the transferee at the time the transferee  
4281 became a partner.

4282 Section 145. Section **48-2d-703** is enacted to read:

4283 **48-2d-703. Rights of creditor of partner or transferee.**

4284 (1) (a) On application to a district court by any judgment creditor of a partner or  
4285 transferee, the court may charge the transferable interest of the judgment debtor with payment  
4286 of the unsatisfied amount of the judgment with interest. To the extent so charged, the judgment  
4287 creditor has only the rights of a transferee.

4288 (b) The court may appoint a receiver of the share of the distributions due or to become  
4289 due to the judgment debtor in respect of the partnership and make all other orders, directions,  
4290 accounts, and inquiries the judgment debtor might have made or which the circumstances of  
4291 the case may require to give effect to the charging order.

4292 (2) A charging order constitutes a lien on the judgment debtor's transferable interest.  
4293 The court may order a foreclosure upon the interest subject to the charging order at any time.  
4294 The purchaser at the foreclosure sale has the rights of a transferee.

4295 (3) At any time before foreclosure, an interest charged may be redeemed:

4296 (a) by the judgment debtor;

4297 (b) with property other than limited partnership property, by one or more of the other  
4298 partners; or

4299 (c) with limited partnership property, by the limited partnership with the consent of all  
4300 partners whose interests are not so charged.

4301 (4) This chapter does not deprive any partner or transferee of the benefit of any  
4302 exemption laws applicable to the partner's or transferee's transferable interest.

4303 (5) This section provides the exclusive remedy by which a judgment creditor of a  
4304 partner or transferee may satisfy a judgment out of the judgment debtor's transferable interest.

4305 Section 146. Section **48-2d-704** is enacted to read:

4306 **48-2d-704. Power of estate of deceased partner.**

4307 If a partner dies, the deceased partner's personal representative or other legal  
4308 representative may exercise the rights of a transferee as provided in Section 48-2d-702 and, for  
4309 the purposes of settling the estate, may exercise the rights of a current limited partner under  
4310 Section 48-2d-304.

4311 Section 147. Section **48-2d-801** is enacted to read:

4312 **Part 8. Dissolution**

4313 **48-2d-801. Nonjudicial dissolution.**

4314 Except as otherwise provided in Section 48-2d-802, a limited partnership is dissolved,  
4315 and its activities must be wound up, only upon the occurrence of any of the following:

4316 (1) the happening of an event specified in the partnership agreement;

4317 (2) the consent of all general partners and of limited partners owning a majority of the  
4318 rights to receive distributions as limited partners at the time the consent is to be effective;

4319 (3) after the dissociation of a person as a general partner:

4320 (a) if the limited partnership has at least one remaining general partner, the consent to  
4321 dissolve the limited partnership given within 90 days after the dissociation by partners owning  
4322 a majority of the rights to receive distributions as partners at the time the consent is to be  
4323 effective; or

4324 (b) if the limited partnership does not have a remaining general partner, the passage of  
4325 90 days after the dissociation, unless before the end of the period:

4326 (i) consent to continue the activities of the limited partnership and admit at least one  
4327 general partner is given by limited partners owning a majority of the rights to receive  
4328 distributions as limited partners at the time the consent is to be effective; and

4329 (ii) at least one person is admitted as a general partner in accordance with the consent;

4330 (4) the passage of 90 days after the dissociation of the limited partnership's last limited  
4331 partner, unless before the end of the period the limited partnership admits at least one limited  
4332 partner; or

4333 (5) the signing and filing of a declaration of dissolution by the division under  
4334 Subsection 48-2d-809(3).

4335 Section 148. Section **48-2d-802** is enacted to read:

4336 **48-2d-802. Judicial dissolution.**

4337 On application by a partner the court of appropriate jurisdiction may order dissolution  
4338 of a limited partnership if it is not reasonably practicable to carry on the activities of the limited  
4339 partnership in conformity with the partnership agreement.

4340 Section 149. Section **48-2d-803** is enacted to read:

4341 **48-2d-803. Winding up.**

4342 (1) A limited partnership continues after dissolution only for the purpose of winding up  
4343 its activities.

4344 (2) In winding up its activities, the limited partnership:

4345 (a) may amend its certificate of limited partnership to state that the limited partnership  
4346 is dissolved, preserve the limited partnership business or property as a going concern for a  
4347 reasonable time, prosecute and defend actions and proceedings, whether civil, criminal, or  
4348 administrative, transfer the limited partnership's property, settle disputes by mediation or  
4349 arbitration, file a statement of termination as provided in Section 48-2d-203, and perform other  
4350 necessary acts; and

4351 (b) shall discharge the limited partnership's liabilities, settle and close the limited  
4352 partnership's activities, and marshal and distribute the assets of the partnership.

4353 (3) If a dissolved limited partnership does not have a general partner, a person to wind  
4354 up the dissolved limited partnership's activities may be appointed by the consent of limited  
4355 partners owning a majority of the rights to receive distributions as limited partners at the time  
4356 the consent is to be effective. A person appointed under this Subsection (3):

4357 (a) has the powers of a general partner under Section 48-2d-804; and

4358 (b) shall promptly amend the certificate of limited partnership to state:

4359 (i) that the limited partnership does not have a general partner;

4360 (ii) the name of the person that has been appointed to wind up the limited partnership;

4361 and

4362 (iii) the street and mailing address of the person.

4363 (4) On the application of any partner, a district court may order judicial supervision of  
4364 the winding up, including the appointment of a person to wind up the dissolved limited  
4365 partnership's activities, if:

4366 (a) a limited partnership does not have a general partner and within a reasonable time  
4367 following the dissolution no person has been appointed pursuant to Subsection (3); or

4368 (b) the applicant establishes other good cause.

4369 Section 150. Section **48-2d-804** is enacted to read:

4370 **48-2d-804. Power of general partner and person dissociated as general partner to**  
4371 **bind partnership after dissolution.**

4372 (1) A limited partnership is bound by a general partner's act after dissolution which:

4373 (a) is appropriate for winding up the limited partnership's activities; or

4374 (b) would have bound the limited partnership under Section 48-2d-402 before

4375 dissolution, if, at the time the other party enters into the transaction, the other party does not

4376 have notice of the dissolution.

4377 (2) A person dissociated as a general partner binds a limited partnership through an act

4378 occurring after dissolution if:

4379 (a) at the time the other party enters into the transaction:

4380 (i) less than two years have passed since the dissociation; and

4381 (ii) the other party does not have notice of the dissociation and reasonably believes that

4382 the person is a general partner; and

4383 (b) the act:

4384 (i) is appropriate for winding up the limited partnership's activities; or

4385 (ii) would have bound the limited partnership under Section 48-2d-402 before

4386 dissolution and at the time the other party enters into the transaction the other party does not

4387 have notice of the dissolution.

4388 Section 151. Section **48-2d-805** is enacted to read:

4389 **48-2d-805. Liability after dissolution of general partner and person dissociated as**  
4390 **general partner to limited partnership, other general partners, and persons dissociated as**  
4391 **general partner.**

4392 (1) If a general partner having knowledge of the dissolution causes a limited  
4393 partnership to incur an obligation under Subsection 48-2d-804(1) by an act that is not

4394 appropriate for winding up the partnership's activities, the general partner is liable:

4395 (a) to the limited partnership for any damage caused to the limited partnership arising  
4396 from the obligation; and

4397 (b) if another general partner or a person dissociated as a general partner is liable for

4398 the obligation, to that other general partner or person for any damage caused to that other

4399 general partner or person arising from the liability.

4400 (2) If a person dissociated as a general partner causes a limited partnership to incur an  
4401 obligation under Subsection 48-2d-804(2), the person 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 a general partner or another person dissociated as a general partner is liable for  
4405 the obligation, to the general partner or other person for any damage caused to the general  
4406 partner or other person arising from the liability.

4407 Section 152. Section **48-2d-806** is enacted to read:

4408 **48-2d-806. Known claims against dissolved limited partnership.**

4409 (1) A dissolved limited partnership may dispose of the known claims against it by  
4410 following the procedure described in Subsection (2).

4411 (2) A dissolved limited partnership may notify its known claimants of the dissolution  
4412 in a record. The notice must:

4413 (a) specify the information required to be included in a claim;

4414 (b) provide a mailing address to which the claim is to be sent;

4415 (c) state the deadline for receipt of the claim, which may not be less than 120 days after  
4416 the date the notice is received by the claimant;

4417 (d) state that the claim will be barred if not received by the deadline; and

4418 (e) unless the limited partnership has been throughout its existence a limited liability  
4419 limited partnership, state that the barring of a claim against the limited partnership will also bar  
4420 any corresponding claim against any general partner or person dissociated as a general partner  
4421 which is based on Section 48-2d-404.

4422 (3) A claim against a dissolved limited partnership is barred if the requirements of  
4423 Subsection (2) are met and:

4424 (a) the claim is not received by the specified deadline; or

4425 (b) in the case of a claim that is timely received but rejected by the dissolved limited  
4426 partnership, the claimant does not commence an action to enforce the claim against the limited  
4427 partnership within 90 days after the receipt of the notice of the rejection.

4428 (4) This section does not apply to a claim based on an event occurring after the  
4429 effective date of dissolution or a liability that is contingent on that date.

4430 Section 153. Section **48-2d-807** is enacted to read:

4431 **48-2d-807. Other claims against dissolved limited partnership.**

4432 (1) A dissolved limited partnership may publish notice of its dissolution and request  
4433 persons having claims against the limited partnership to present them in accordance with the  
4434 notice.

4435 (2) The notice must:

4436 (a) be published:

4437 (i) at least once in a newspaper of general circulation in the county in which the  
4438 dissolved limited partnership's principal office is located or, if it has none in this state, in Salt  
4439 Lake County; and

4440 (ii) in accordance with Section 45-1-101;

4441 (b) describe the information required to be contained in a claim and provide a mailing  
4442 address to which the claim is to be sent;

4443 (c) state that a claim against the limited partnership is barred unless an action to  
4444 enforce the claim is commenced within five years after publication of the notice; and

4445 (d) unless the limited partnership has been throughout its existence a limited liability  
4446 limited partnership, state that the barring of a claim against the limited partnership will also bar  
4447 any corresponding claim against any general partner or person dissociated as a general partner  
4448 which is based on Section 48-2d-404.

4449 (3) If a dissolved limited partnership publishes a notice in accordance with Subsection  
4450 (2), the claim of each of the following claimants is barred unless the claimant commences an  
4451 action to enforce the claim against the dissolved limited partnership within five years after the  
4452 publication date of the notice:

4453 (a) a claimant that did not receive notice in a record under Section 48-2d-806;

4454 (b) a claimant whose claim was timely sent to the dissolved limited partnership but not  
4455 acted on; and

4456 (c) a claimant whose claim is contingent or based on an event occurring after the  
4457 effective date of dissolution.

4458 (4) A claim not barred under this section may be enforced:

4459 (a) against the dissolved limited partnership, to the extent of its undistributed assets;

4460 (b) if the assets have been distributed in liquidation, against a partner or transferee to



4461 the extent of that person's proportionate share of the claim or the limited partnership's assets  
4462 distributed to the partner or transferee in liquidation, whichever is less, but a person's total  
4463 liability for all claims under this Subsection (4)(b) does not exceed the total amount of assets  
4464 distributed to the person as part of the winding up of the dissolved limited partnership; or

4465 (c) against any person liable on the claim under Section 48-2d-404.

4466 Section 154. Section **48-2d-808** is enacted to read:

4467 **48-2d-808. Liability of general partner and person dissociated as general partner**  
4468 **when claim against limited partnership barred.**

4469 If a claim against a dissolved limited partnership is barred under Section 48-2d-806 or  
4470 48-2d-807, any corresponding claim under Section 48-2d-404 is also barred.

4471 Section 155. Section **48-2d-809** is enacted to read:

4472 **48-2d-809. Administrative dissolution.**

4473 (1) The division may dissolve a limited partnership administratively if the limited  
4474 partnership does not, within 60 days after the due date:

4475 (a) pay any fee, tax, or penalty due to the division under this chapter or other law; or

4476 (b) deliver its annual report to the division.

4477 (2) If the division determines that a ground exists for administratively dissolving a  
4478 limited partnership, the division shall file a record of the determination and serve the limited  
4479 partnership with a copy of the filed record.

4480 (3) If within 60 days after service of the copy the limited partnership does not correct  
4481 each ground for dissolution or demonstrate to the reasonable satisfaction of the division that  
4482 each ground determined by the division does not exist, the division shall administratively  
4483 dissolve the limited partnership by preparing, signing, and filing a declaration of dissolution  
4484 that states the grounds for dissolution. The division shall serve the limited partnership with a  
4485 copy of the filed declaration.

4486 (4) A limited partnership administratively dissolved continues its existence but may  
4487 carry on only activities necessary to wind up its activities and liquidate its assets under Sections  
4488 48-2d-803 and 48-2d-812 and to notify claimants under Sections 48-2d-806 and 48-2d-807.

4489 (5) The administrative dissolution of a limited partnership does not terminate the  
4490 authority of its agent for service of process.

4491 Section 156. Section **48-2d-810** is enacted to read:

4492 **48-2d-810. Reinstatement following administrative dissolution.**

4493 (1) A limited partnership that has been administratively dissolved may apply to the  
4494 division for reinstatement within two years after the effective date of dissolution. The  
4495 application must be delivered to the division for filing and state:

4496 (a) the name of the limited partnership and the effective date of its administrative  
4497 dissolution;

4498 (b) that the grounds for dissolution either did not exist or have been eliminated; and

4499 (c) that the limited partnership's name satisfies the requirements of Section 48-2d-108.

4500 (2) If the division determines that an application contains the information required by  
4501 Subsection (1) and that the information is correct, the division shall prepare a declaration of  
4502 reinstatement that states this determination, sign and file the original of the declaration of  
4503 reinstatement, and serve the limited partnership with a copy.

4504 (3) When reinstatement becomes effective, it relates back to and takes effect as of the  
4505 effective date of the administrative dissolution and the limited partnership may resume its  
4506 activities as if the administrative dissolution had never occurred.

4507 Section 157. Section **48-2d-811** is enacted to read:

4508 **48-2d-811. Appeal from denial of reinstatement.**

4509 (1) If the division denies a limited partnership's application for reinstatement following  
4510 administrative dissolution, the division shall prepare, sign and file a notice that explains the  
4511 reason or reasons for denial and serve the limited partnership with a copy of the notice.

4512 (2) Within 30 days after service of the notice of denial, the limited partnership may  
4513 appeal from the denial of reinstatement by petitioning a district court to set aside the  
4514 dissolution. The petition must be served on the division and contain a copy of the division's  
4515 declaration of dissolution, the limited partnership's application for reinstatement, and the  
4516 division's notice of denial.

4517 (3) The court may summarily order the division to reinstate the dissolved limited  
4518 partnership or may take other action the court considers appropriate.

4519 Section 158. Section **48-2d-812** is enacted to read:

4520 **48-2d-812. Disposition of assets -- When contributions required.**

4521 (1) In winding up a limited partnership's activities, the assets of the limited partnership,  
4522 including the contributions required by this section, must be applied to satisfy the limited

4523 partnership's obligations to creditors, including, to the extent permitted by law, partners that are  
4524 creditors.

4525 (2) Any surplus remaining after the limited partnership complies with Subsection (1)  
4526 must be paid in cash as a distribution.

4527 (3) If a limited partnership's assets are insufficient to satisfy all of its obligations under  
4528 Subsection (1), with respect to each unsatisfied obligation incurred when the limited  
4529 partnership was not a limited liability limited partnership, the following rules apply:

4530 (a) Each person that was a general partner when the obligation was incurred and that  
4531 has not been released from the obligation under Section 48-2d-607 shall contribute to the  
4532 limited partnership for the purpose of enabling the limited partnership to satisfy the obligation.  
4533 The contribution due from each of those persons is in proportion to the right to receive  
4534 distributions in the capacity of general partner in effect for each of those persons when the  
4535 obligation was incurred.

4536 (b) If a person does not contribute the full amount required under Subsection (3)(a)  
4537 with respect to an unsatisfied obligation of the limited partnership, the other persons required  
4538 to contribute by Subsection (3)(a) on account of the obligation shall contribute the additional  
4539 amount necessary to discharge the obligation. The additional contribution due from each of  
4540 those other persons is in proportion to the right to receive distributions in the capacity of  
4541 general partner in effect for each of those other persons when the obligation was incurred.

4542 (c) If a person does not make the additional contribution required by Subsection (3)(b),  
4543 further additional contributions are determined and due in the same manner as provided in  
4544 Subsection (3)(b).

4545 (4) A person that makes an additional contribution under Subsection (3)(b) or (c) may  
4546 recover from any person whose failure to contribute under Subsection (3)(a) or (b) necessitated  
4547 the additional contribution. A person may not recover under this Subsection (4) more than the  
4548 amount additionally contributed. A person's liability under this Subsection (4) may not exceed  
4549 the amount the person failed to contribute.

4550 (5) The estate of a deceased individual is liable for the person's obligations under this  
4551 section.

4552 (6) An assignee for the benefit of creditors of a limited partnership or a partner, or a  
4553 person appointed by a court to represent creditors of a limited partnership or a partner, may

4554 enforce a person's obligation to contribute under Subsection (3).

4555 Section 159. Section **48-2d-901** is enacted to read:

4556 **Part 9. Foreign Limited Partnerships**

4557 **48-2d-901. Governing law.**

4558 (1) The laws of the state or other jurisdiction under which a foreign limited partnership  
4559 is organized govern relations among the partners of the foreign limited partnership and between  
4560 the partners and the foreign limited partnership and the liability of partners as partners for an  
4561 obligation of the foreign limited partnership.

4562 (2) A foreign limited partnership may not be denied a certificate of authority by reason  
4563 of any difference between the laws of the jurisdiction under which the foreign limited  
4564 partnership is organized and the laws of this state.

4565 (3) A certificate of authority does not authorize a foreign limited partnership to engage  
4566 in any business or exercise any power that a limited partnership may not engage in or exercise  
4567 in this state.

4568 (4) (a) The division may permit a tribal limited partnership to register with the division  
4569 in the same manner as a foreign limited partnership formed in another state.

4570 (b) If a tribal limited partnership elects to register with the division, for purposes of this  
4571 chapter, the tribal limited partnership shall be treated in the same manner as a foreign limited  
4572 partnership formed under the laws of another state.

4573 Section 160. Section **48-2d-902** is enacted to read:

4574 **48-2d-902. Application for certificate of authority.**

4575 (1) A foreign limited partnership may apply for a certificate of authority to transact  
4576 business in this state by delivering an application to the division for filing. The application  
4577 must state:

4578 (a) the name of the foreign limited partnership and, if the name does not comply with  
4579 Section 48-2d-108, an alternate name adopted pursuant to Subsection 48-2d-905(1).

4580 (b) the name of the state or other jurisdiction under whose law the foreign limited  
4581 partnership is organized;

4582 (c) the street and mailing address of the foreign limited partnership's principal office  
4583 and, if the laws of the jurisdiction under which the foreign limited partnership is organized  
4584 require the foreign limited partnership to maintain an office in that jurisdiction, the street and

4585 mailing address of the required office;

4586 (d) the information required by Subsection 16-17-203(1);

4587 (e) the name and street and mailing address of each of the foreign limited partnership's  
4588 general partners; and

4589 (f) whether the foreign limited partnership is a foreign limited liability limited  
4590 partnership.

4591 (2) A foreign limited partnership shall deliver with the completed application a  
4592 certificate of existence or a record of similar import signed by the division or other official  
4593 having custody of the foreign limited partnership's publicly filed records in the state or other  
4594 jurisdiction under whose law the foreign limited partnership is organized.

4595 Section 161. Section **48-2d-903** is enacted to read:

4596 **48-2d-903. Activities not constituting transacting business.**

4597 (1) Activities of a foreign limited partnership which do not constitute transacting  
4598 business in this state within the meaning of this part include:

4599 (a) maintaining, defending, and settling an action or proceeding;

4600 (b) holding meetings of its partners or carrying on any other activity concerning its  
4601 internal affairs;

4602 (c) maintaining accounts in financial institutions;

4603 (d) maintaining offices or agencies for the transfer, exchange, and registration of the  
4604 foreign limited partnership's own securities or maintaining trustees or depositories with respect  
4605 to those securities;

4606 (e) selling through independent contractors;

4607 (f) soliciting or obtaining orders, whether by mail or electronic means or through  
4608 employees or agents or otherwise, if the orders require acceptance outside this state before they  
4609 become contracts;

4610 (g) creating or acquiring indebtedness, mortgages, or security interests in real or  
4611 personal property;

4612 (h) securing or collecting debts or enforcing mortgages or other security interests in  
4613 property securing the debts, and holding, protecting, and maintaining property so acquired;

4614 (i) conducting an isolated transaction that is completed within 30 days and is not one in  
4615 the course of similar transactions of a like manner; and

4616 (j) transacting business in interstate commerce.

4617 (2) For purposes of this part, the ownership in this state of income-producing real  
4618 property or tangible personal property, other than property excluded under Subsection (1),  
4619 constitutes transacting business in this state.

4620 (3) This section does not apply in determining the contacts or activities that may  
4621 subject a foreign limited partnership to service of process, taxation, or regulation under any  
4622 other law of this state.

4623 Section 162. Section **48-2d-904** is enacted to read:

4624 **48-2d-904. Filing of certificate of authority.**

4625 Unless the division determines that an application for a certificate of authority does not  
4626 comply with the filing requirements of this chapter, the division, upon payment of all filing  
4627 fees, shall file the application, prepare, sign and file a certificate of authority to transact  
4628 business in this state, and send a copy of the filed certificate, together with a receipt for the  
4629 fees, to the foreign limited partnership or its representative.

4630 Section 163. Section **48-2d-905** is enacted to read:

4631 **48-2d-905. Noncomplying name of foreign limited partnership.**

4632 (1) A foreign limited partnership whose name does not comply with Section 48-2d-108  
4633 may not obtain a certificate of authority until it adopts, for the purpose of transacting business  
4634 in this state, an alternate name that complies with Section 48-2d-108. A foreign limited  
4635 partnership that adopts an alternate name under this Subsection (1) and then obtains a  
4636 certificate of authority with the name need not comply with Title 42, Chapter 2, Conducting  
4637 Business Under Assumed Name. After obtaining a certificate of authority with an alternate  
4638 name, a foreign limited partnership shall transact business in this state under the name unless  
4639 the foreign limited partnership is authorized under Title 42, Chapter 2, Conducting Business  
4640 Under Assumed Name, to transact business in this state under another name.

4641 (2) If a foreign limited partnership authorized to transact business in this state changes  
4642 its name to one that does not comply with Section 48-2d-108, it may not thereafter transact  
4643 business in this state until it complies with Subsection (1) and obtains an amended certificate of  
4644 authority.

4645 Section 164. Section **48-2d-906** is enacted to read:

4646 **48-2d-906. Revocation of certificate of authority.**

4647 (1) A certificate of authority of a foreign limited partnership to transact business in this  
4648 state may be revoked by the division in the manner provided in Subsections (2) and (3) if the  
4649 foreign limited partnership does not:

4650 (a) pay, within 60 days after the due date, any fee, tax, or penalty due to the division  
4651 under this chapter or other law;

4652 (b) deliver to the division, within 60 days after the due date, its annual report required  
4653 under Section 48-2d-210;

4654 (c) appoint and maintain an agent for service of process as required by Subsection  
4655 16-17-203(1); or

4656 (d) deliver to the division for filing a statement of a change under Section 16-17-206  
4657 within 30 days after a change has occurred in the name or address of the agent.

4658 (2) To revoke a certificate of authority, the division must prepare, sign, and file a  
4659 notice of revocation and send a copy to the foreign limited partnership's agent for service of  
4660 process in this state, or if the foreign limited partnership does not appoint and maintain a  
4661 proper agent in this state, to the foreign limited partnership's principal office. The notice must  
4662 state:

4663 (a) the revocation's effective date, which must be at least 60 days after the date the  
4664 division sends the copy; and

4665 (b) the foreign limited partnership's failures to comply with Subsection (1) which are  
4666 the reason for the revocation.

4667 (3) The authority of the foreign limited partnership to transact business in this state  
4668 ceases on the effective date of the notice of revocation unless before that date the foreign  
4669 limited partnership cures each failure to comply with Subsection (1) stated in the notice. If the  
4670 foreign limited partnership cures the failures, the division shall so indicate on the filed notice.

4671 Section 165. Section **48-2d-907** is enacted to read:

4672 **48-2d-907. Cancellation of certificate of authority -- Effect of failure to have**  
4673 **certificate.**

4674 (1) In order to cancel its certificate of authority to transact business in this state, a  
4675 foreign limited partnership must deliver to the division for filing a notice of cancellation. The  
4676 certificate is canceled when the notice becomes effective under Section 48-2d-206.

4677 (2) A foreign limited partnership transacting business in this state may not maintain an

4678 action or proceeding in this state unless it has a certificate of authority to transact business in  
4679 this state.

4680 (3) The failure of a foreign limited partnership to have a certificate of authority to  
4681 transact business in this state does not impair the validity of a contract or act of the foreign  
4682 limited partnership or prevent the foreign limited partnership from defending an action or  
4683 proceeding in this state.

4684 (4) A partner of a foreign limited partnership is not liable for the obligations of the  
4685 foreign limited partnership solely by reason of the foreign limited partnership's having  
4686 transacted business in this state without a certificate of authority.

4687 (5) If a foreign limited partnership transacts business in this state without a certificate  
4688 of authority or cancels its certificate of authority, service of process for rights of action arising  
4689 out of the transaction of business in this state shall be served in accordance with Section  
4690 16-17-301.

4691 Section 166. Section **48-2d-908** is enacted to read:

4692 **48-2d-908. Action by attorney general.**

4693 The attorney general may maintain an action to restrain a foreign limited partnership  
4694 from transacting business in this state in violation of this part.

4695 Section 167. Section **48-2d-1001** is enacted to read:

4696 **Part 10. Actions by Partners**

4697 **48-2d-1001. Direct action by partner.**

4698 (1) Subject to Subsection (2), a partner may maintain a direct action against the limited  
4699 partnership or another partner for legal or equitable relief, with or without an accounting as to  
4700 the partnership's activities, to enforce the rights and otherwise protect the interests of the  
4701 partner, including rights and interests under the partnership agreement or this chapter or arising  
4702 independently of the partnership relationship.

4703 (2) A partner commencing a direct action under this section is required to plead and  
4704 prove an actual or threatened injury that is not solely the result of an injury suffered or  
4705 threatened to be suffered by the limited partnership.

4706 (3) The accrual of, and any time limitation on, a right of action for a remedy under this  
4707 section is governed by other law. A right to an accounting upon a dissolution and winding up  
4708 does not revive a claim barred by law.



4709 Section 168. Section **48-2d-1002** is enacted to read:

4710 **48-2d-1002. Derivative action.**

4711 A partner may maintain a derivative action to enforce a right of a limited partnership if:

4712 (1) the partner first makes a demand on the general partners, requesting that they cause

4713 the limited partnership to bring an action to enforce the right, and the general partners do not

4714 bring the action within a reasonable time; or

4715 (2) a demand would be futile.

4716 Section 169. Section **48-2d-1003** is enacted to read:

4717 **48-2d-1003. Proper plaintiff.**

4718 A derivative action may be maintained only by a person that is a partner at the time the

4719 action is commenced and:

4720 (1) that was a partner when the conduct giving rise to the action occurred; or

4721 (2) whose status as a partner devolved upon the person by operation of law or pursuant

4722 to the terms of the partnership agreement from a person that was a partner at the time of the

4723 conduct.

4724 Section 170. Section **48-2d-1004** is enacted to read:

4725 **48-2d-1004. Pleading.**

4726 In a derivative action, the complaint must state with particularity:

4727 (1) the date and content of plaintiff's demand and the general partners' response to the

4728 demand; or

4729 (2) why demand should be excused as futile.

4730 Section 171. Section **48-2d-1005** is enacted to read:

4731 **48-2d-1005. Proceeds and expenses.**

4732 (1) Except as otherwise provided in Subsection (2):

4733 (a) any proceeds or other benefits of a derivative action, whether by judgment,

4734 compromise, or settlement, belong to the limited partnership and not to the derivative plaintiff;

4735 and

4736 (b) if the derivative plaintiff receives any proceeds, the derivative plaintiff shall

4737 immediately remit them to the limited partnership.

4738 (2) If a derivative action is successful in whole or in part, the court may award the

4739 plaintiff reasonable expenses, including reasonable attorney fees, from the recovery of the

4740 limited partnership.

4741 Section 172. Section **48-2d-1101** is enacted to read:

4742 **Part 11. Merger, Conversion, and Domestication**

4743 **48-2d-1101. Definitions.**

4744 In this part:

4745 (1) "Constituent limited partnership" means a constituent organization that is a limited  
4746 partnership.

4747 (2) "Constituent organization" means an organization that is party to a merger.

4748 (3) "Converted organization" means the organization into which a converting  
4749 organization converts pursuant to Sections 48-2d-1106 through 48-2d-1109.

4750 (4) "Converting limited partnership" means a converting organization that is a limited  
4751 partnership.

4752 (5) "Converting organization" means an organization that converts into another  
4753 organization pursuant to Section 48-2d-1106.

4754 (6) "Domesticated limited partnership" means a limited partnership that exists after a  
4755 domesticating foreign limited partnership or limited partnership effects a domestication  
4756 pursuant to Sections 48-2d-1110 through 48-2d-1113.

4757 (7) "Domesticating limited partnership" means a limited partnership that effects a  
4758 domestication pursuant to Sections 48-2d-1110 through 48-2d-1113.

4759 (8) "Foreign limited partnership" means a limited partnership that:

4760 (a) has its chief executive office in a jurisdiction other than this state; or

4761 (b) specified in its partnership agreement that relations among the partners and between  
4762 the partners and the limited partnership will be governed by the law of a jurisdiction other than  
4763 this state.

4764 (9) "Governing statute" means the statute that governs an organization's internal affairs.

4765 (10) (a) "Organization" means:

4766 (i) a general partnership, including a limited liability partnership;

4767 (ii) a limited partnership, including a limited liability limited partnership;

4768 (iii) a limited liability company;

4769 (iv) a business trust;

4770 (v) a corporation; or

- 4771 (vi) any other person having a governing statute.
- 4772 (b) "Organization" includes a domestic or foreign organization regardless of whether  
4773 organized for profit.
- 4774 (11) "Organizational documents" means:
- 4775 (a) for a domestic or foreign general partnership, its partnership agreement;
- 4776 (b) for a limited partnership or foreign limited partnership, its certificate of limited  
4777 partnership and partnership agreement;
- 4778 (c) for a domestic or foreign limited liability company, its certificate or articles of  
4779 organization and operating agreement, or comparable records as provided in its governing  
4780 statute;
- 4781 (d) for a business trust, its agreement of trust and declaration of trust;
- 4782 (e) for a domestic or foreign corporation for profit, its articles of incorporation, bylaws,  
4783 and other agreements among its shareholders which are authorized by its governing statute, or  
4784 comparable records as provided in its governing statute; and
- 4785 (f) for any other organization, the basic records that create the organization and  
4786 determine its internal governance and the relations among the persons that own it, have an  
4787 interest in it, or are members of it.
- 4788 (12) "Personal liability" means liability for a debt, obligation, or other liability of an  
4789 organization which is imposed on a person that co-owns, has an interest in, or is a member of  
4790 the organization:
- 4791 (a) by the governing statute solely by reason of the person co-owning, having an  
4792 interest in, or being a member of the organization; or
- 4793 (b) by the organization's organizational documents under a provision of the governing  
4794 statute authorizing those documents to make one or more specified persons liable for all or  
4795 specified debts, obligations, or other liabilities of the organization solely by reason of the  
4796 person or persons co-owning, having an interest in, or being a member of the organization.
- 4797 (13) "Surviving organization" means an organization into which one or more other  
4798 organizations are merged whether the organization preexisted the merger or was created by the  
4799 merger.
- 4800 Section 173. Section **48-2d-1102** is enacted to read:
- 4801 **48-2d-1102. Merger.**

4802           (1) A limited partnership may merge with one or more other constituent organizations  
4803 pursuant to this section, Sections 48-2d-1103 through 48-2d-1105, and a plan of merger, if:

4804           (a) the governing statute of each of the other organizations authorizes the merger;

4805           (b) the merger is not prohibited by the law of a jurisdiction that enacted any of the  
4806 governing statutes; and

4807           (c) each of the other organizations complies with its governing statute in effecting the  
4808 merger.

4809           (2) A plan of merger must be in a record and must include:

4810           (a) the name and form of each constituent organization;

4811           (b) the name and form of the surviving organization and, if the surviving organization  
4812 is to be created by the merger, a statement to that effect;

4813           (c) the terms and conditions of the merger, including the manner and basis for  
4814 converting the interests in each constituent organization into any combination of money,  
4815 interests in the surviving organization, and other consideration;

4816           (d) if the surviving organization is to be created by the merger, the surviving  
4817 organization's organizational documents that are proposed to be in a record; and

4818           (e) if the surviving organization is not to be created by the merger, any amendments to  
4819 be made by the merger to the surviving organization's organizational documents that are, or are  
4820 proposed to be, in a record.

4821           Section 174. Section **48-2d-1103** is enacted to read:

4822           **48-2d-1103. Action on plan of merger by constituent partnership.**

4823           (1) Subject to Section 48-2d-1114, a plan of merger must be consented to by all the  
4824 partners of a constituent limited partnership.

4825           (2) Subject to Section 48-2d-1114 and any contractual rights, after a merger is  
4826 approved, and at any time before articles of merger are delivered to the division for filing under  
4827 Section 48-2d-1104, a constituent limited partnership may amend the plan or abandon the  
4828 merger:

4829           (a) as provided in the plan; or

4830           (b) except as otherwise prohibited in the plan, with the same consent as was required to  
4831 approve the plan.

4832           Section 175. Section **48-2d-1104** is enacted to read:

- 4833           **48-2d-1104. Filings required and permitted for merger -- Effective date.**
- 4834           (1) After each constituent organization has approved a merger, articles of merger must
- 4835 be signed on behalf of:
- 4836           (a) each constituent limited partnership, by each general partner listed in the certificate
- 4837 of limited partnership; and
- 4838           (b) each other constituent organization, as provided in its governing statute.
- 4839           (2) Articles of merger under this section must include:
- 4840           (a) the name and form of each constituent organization and the jurisdiction of its
- 4841 governing statute;
- 4842           (b) the name and form of the surviving organization, the jurisdiction of its governing
- 4843 statute, and, if the surviving organization is created by the merger, a statement to that effect;
- 4844           (c) the date the merger is effective under the governing statute of the surviving
- 4845 organization;
- 4846           (d) if the surviving organization is to be created by the merger:
- 4847           (i) if it will be a limited partnership, the limited partnership's certificate of limited
- 4848 partnership; or
- 4849           (ii) if it will be an organization other than a limited partnership, the organizational
- 4850 document that creates the organization that is in a public record;
- 4851           (e) if the surviving organization preexists the merger, any amendments provided for in
- 4852 the plan of merger for the organizational document that created the organization that are in a
- 4853 public record;
- 4854           (f) a statement as to each constituent organization that the merger was approved as
- 4855 required by the organization's governing statute;
- 4856           (g) if the surviving organization is a foreign organization not authorized to transact
- 4857 business in this state, the street and mailing addresses of an office that may be used for service
- 4858 of process under Section 48-2d-1105(2); and
- 4859           (h) any additional information required by the governing statute of any constituent
- 4860 organization.
- 4861           (3) Each constituent limited partnership shall deliver the articles of merger for filing in
- 4862 the division.
- 4863           (4) A merger becomes effective under this part:

4864 (a) if the surviving organization is a limited partnership, upon the later of:  
4865 (i) compliance with Subsection (3); or  
4866 (ii) subject to Subsection 48-2d-206(3), as specified in the articles of merger; or  
4867 (b) if the surviving organization is not a limited partnership, as provided by the  
4868 governing statute of the surviving organization.

4869 Section 176. Section **48-2d-1105** is enacted to read:

4870 **48-2d-1105. Effect of merger.**

4871 (1) When a merger becomes effective:

4872 (a) the surviving organization continues or comes into existence;  
4873 (b) each constituent organization that merges into the surviving organization ceases to  
4874 exist as a separate entity;

4875 (c) all property owned by each constituent organization that ceases to exist vests in the  
4876 surviving organization;

4877 (d) all debts, obligations, or other liabilities of each constituent organization that ceases  
4878 to exist continue as debts, obligations, or other liabilities of the surviving organization;

4879 (e) an action or proceeding pending by or against any constituent organization that  
4880 ceases to exist may be continued as if the merger had not occurred;

4881 (f) except as prohibited by other law, all of the rights, privileges, immunities, powers,  
4882 and purposes of each constituent organization that ceases to exist vest in the surviving  
4883 organization;

4884 (g) except as otherwise provided in the plan of merger, the terms and conditions of the  
4885 plan of merger take effect; and

4886 (h) except as otherwise agreed, if a constituent limited partnership ceases to exist, the  
4887 merger does not dissolve the limited partnership for the purposes of Part 8, Dissolution;

4888 (i) if the surviving organization is created by the merger:  
4889 (i) if it is a limited partnership, the certificate of limited partnership becomes effective;  
4890 or

4891 (ii) if it is an organization other than a limited partnership, the organizational document  
4892 that creates the organization becomes effective; and

4893 (j) if the surviving organization preexisted the merger, any amendments provided for in  
4894 the articles of merger for the organizational document that created the organization become

4895 effective.

4896 (2) A surviving organization that is a foreign organization consents to the jurisdiction  
4897 of the courts of this state to enforce any debt, obligation, or other liability owed by a constituent  
4898 organization, if before the merger the constituent organization was subject to suit in this state  
4899 on the debt, obligation, or other liability. A surviving organization that is a foreign  
4900 organization and not authorized to transact business in this state may be served with process at  
4901 the address required in the articles of merger under 48-2d-1104(2)(g).

4902 Section 177. Section **48-2d-1106** is enacted to read:

4903 **48-2d-1106. Conversion.**

4904 (1) An organization other than a partnership or a foreign partnership may convert to a  
4905 limited partnership, and a limited partnership may convert to an organization other than a  
4906 foreign partnership pursuant to this section, Sections 48-2d-1107 through 48-2d-1109, and a  
4907 plan of conversion, if:

4908 (a) the other organization's governing statute authorizes the conversion;

4909 (b) the conversion is not prohibited by the law of the jurisdiction that enacted the other  
4910 organization's governing statute; and

4911 (c) the other organization complies with its governing statute in effecting the  
4912 conversion.

4913 (2) A plan of conversion must be in a record and must include:

4914 (a) the name and form of the organization before conversion;

4915 (b) the name and form of the organization after conversion;

4916 (c) the terms and conditions of the conversion, including the manner and basis for  
4917 converting interests in the converting organization into any combination of money, interests in  
4918 the converted organization, and other consideration; and

4919 (d) the organizational documents of the converted organization that are, or are  
4920 proposed to be, in a record.

4921 Section 178. Section **48-2d-1107** is enacted to read:

4922 **48-2d-1107. Action on plan of conversion by converting partnership.**

4923 (1) Subject to Section 48-2d-1114, a plan of conversion must be consented to by all the  
4924 partners of a converting limited partnership.

4925 (2) Subject to Section 48-2d-1114 and any contractual rights, after a conversion is

4926 approved, and at any time before articles of conversion are delivered to the division for filing  
4927 under Section 48-2d-1108, a converting limited partnership may amend the plan or abandon the  
4928 conversion:

4929 (a) as provided in the plan; or

4930 (b) except as otherwise prohibited in the plan, by the same consent as was required to  
4931 approve the plan.

4932 Section 179. Section **48-2d-1108** is enacted to read:

4933 **48-2d-1108. Filings required for conversion -- Effective date.**

4934 (1) After a plan of conversion is approved:

4935 (a) a converting limited partnership shall deliver to the division for filing articles of  
4936 conversion and must include:

4937 (i) a statement that the limited partnership has been converted into another  
4938 organization;

4939 (ii) the name and form of the converted organization and the jurisdiction of its  
4940 governing statute;

4941 (iii) the date the conversion is effective under the governing statute of the converted  
4942 organization;

4943 (iv) a statement that the conversion was approved as required by this chapter;

4944 (v) a statement that the conversion is authorized by the governing statute of the  
4945 converted organization; and

4946 (vi) if the converted organization is a foreign organization not authorized to transact  
4947 business in this state, the street and mailing addresses of an office that may be used for  
4948 purposes of Subsection 48-2d-1109(3); and

4949 (b) if the converting organization is not a converting limited partnership, the converting  
4950 organization shall deliver to the division for filing articles of conversion, which must include:

4951 (i) a statement that the converted organization was converted from another  
4952 organization, and whether the converted organization is a partnership or a limited liability  
4953 partnership;

4954 (ii) the name and form of that converting organization and the jurisdiction of its  
4955 governing statute; and

4956 (iii) a statement that the conversion was approved in a manner that complied with the



4957 converting organization's governing statute.

4958 (2) A conversion becomes effective:

4959 (a) if the converted organization is a limited partnership, when the certificate of limited  
4960 partnership takes effect; or

4961 (b) if the converted organization is not a limited partnership, as provided by the  
4962 governing statute of the converted organization.

4963 Section 180. Section **48-2d-1109** is enacted to read:

4964 **48-2d-1109. Effect of conversion.**

4965 (1) An organization that has been converted pursuant to this part is for all purposes the  
4966 same entity that existed before the conversion.

4967 (2) When a conversion takes effect:

4968 (a) all property owned by the converting organization remains vested in the converted  
4969 organization;

4970 (b) all debts, obligations, or other liabilities of the converting organization continue as  
4971 debts, obligations, or other liabilities of the converted organization;

4972 (c) an action or proceeding pending by or against the converting organization may be  
4973 continued as if the conversion had not occurred;

4974 (d) except as prohibited by law other than this chapter, all of the rights, privileges,  
4975 immunities, powers, and purposes of the converting organization remain vested in the  
4976 converted organization;

4977 (e) except as otherwise provided in the plan of conversion, the terms and conditions of  
4978 the plan of conversion take effect; and

4979 (f) except as otherwise agreed, the conversion does not dissolve a converting limited  
4980 partnership for the purposes of Part 8, Dissolution.

4981 (3) A converted organization that is a foreign organization consents to the jurisdiction  
4982 of the courts of this state to enforce any debt, obligation, or other liability for which the  
4983 converting limited partnership is liable if, before the conversion, the converting limited  
4984 partnership was subject to suit in this state on the debt, obligation, or other liability. A  
4985 converted organization that is a foreign organization and not authorized to transact business in  
4986 this state may be served with process at the address required in the articles of conversion under  
4987 Subsection 48-2d-1108(1)(a)(vi).

4988 Section 181. Section **48-2d-1110** is enacted to read:

4989 **48-2d-1110. Domestication.**

4990 (1) A foreign limited partnership may become a limited partnership pursuant to this  
4991 section, Sections 48-2d-1111 through 48-2d-1113, and a plan of domestication, if:

4992 (a) the foreign limited partnership's governing statute authorizes the domestication;

4993 (b) the domestication is not prohibited by the law of the jurisdiction that enacted the  
4994 governing statute; and

4995 (c) the foreign limited partnership complies with its governing statute in effecting the  
4996 domestication.

4997 (2) A limited partnership may become a foreign limited partnership pursuant to this  
4998 section, Sections 48-2d-1111 through 48-2d-1113, and a plan of domestication, if:

4999 (a) the foreign limited partnership's governing statute authorizes the domestication;

5000 (b) the domestication is not prohibited by the law of the jurisdiction that enacted the  
5001 governing statute; and

5002 (c) the foreign limited partnership complies with its governing statute in effecting the  
5003 domestication.

5004 (3) A plan of domestication must be in a record and must include:

5005 (a) the name of the domesticating limited partnership before domestication and the  
5006 jurisdiction of its governing statute;

5007 (b) the name of the domesticated limited partnership after domestication and the  
5008 jurisdiction of its governing statute;

5009 (c) the terms and conditions of the domestication, including the manner and basis for  
5010 converting interests in the domesticating limited partnership into any combination of money,  
5011 interests in the domesticated limited partnership, and other consideration; and

5012 (d) the organizational documents of the domesticated limited partnership that are, or  
5013 are proposed to be, in a record.

5014 Section 182. Section **48-2d-1111** is enacted to read:

5015 **48-2d-1111. Action on plan of domestication by domesticating partnership.**

5016 (1) A plan of domestication must be consented to:

5017 (a) by all the partners, subject to Section 48-2d-1114, if the domesticating limited  
5018 partnership is a limited partnership; and

5019 (b) as provided in the domesticating limited partnership's governing statute, if the  
5020 limited partnership is a foreign limited partnership.

5021 (2) Subject to any contractual rights, after a domestication is approved, and at any time  
5022 before articles of domestication are delivered to the division for filing under Section  
5023 48-2d-1112, a domesticating limited partnership may amend the plan or abandon the  
5024 domestication:

5025 (a) as provided in the plan; or

5026 (b) except as otherwise prohibited in the plan, by the same consent as was required to  
5027 approve the plan.

5028 Section 183. Section **48-2d-1112** is enacted to read:

5029 **48-2d-1112. Filings required for domestication -- Effective date.**

5030 (1) After a plan of domestication is approved, a domesticating limited partnership shall  
5031 deliver to the division for filing articles of domestication, which must include:

5032 (a) a statement, as the case may be, that the limited partnership has been domesticated  
5033 from or into another jurisdiction;

5034 (b) the name of the domesticating limited partnership and the jurisdiction of its  
5035 governing statute;

5036 (c) the name of the domesticated limited partnership and the jurisdiction of its  
5037 governing statute;

5038 (d) the date the domestication is effective under the governing statute of the  
5039 domesticated limited partnership;

5040 (e) if the domesticating limited partnership was a limited partnership, a statement that  
5041 the domestication was approved as required by this chapter;

5042 (f) if the domesticating limited partnership was a foreign limited partnership, a  
5043 statement that the domestication was approved as required by the governing statute of the other  
5044 jurisdiction; and

5045 (g) if the domesticated limited partnership is a foreign limited partnership not  
5046 authorized to transact business in this state, the street and mailing addresses of an office that  
5047 the division may use for the purposes of Subsection 48-2d-1113(2).

5048 (2) A domestication becomes effective:

5049 (a) upon the filing of the statement of qualification pursuant to Section 48-2d-1001 or

5050 on the date provided therein, whichever is later, if the domesticated limited partnership is a  
5051 limited partnership; and

5052 (b) according to the governing statute of the domesticated limited partnership, if it is a  
5053 foreign limited partnership.

5054 Section 184. Section **48-2d-1113** is enacted to read:

5055 **48-2d-1113. Effect of domestication.**

5056 (1) When a domestication takes effect:

5057 (a) the domesticated limited partnership is for all purposes the limited partnership that  
5058 existed before the domestication;

5059 (b) all property owned by the domesticating limited partnership remains vested in the  
5060 domesticated limited partnership;

5061 (c) all debts, obligations, or other liabilities of the domesticating limited partnership  
5062 continue as debts, obligations, or other liabilities of the domesticated limited partnership;

5063 (d) an action or proceeding pending by or against a domesticating limited partnership  
5064 may be continued as if the domestication had not occurred;

5065 (e) except as prohibited by other law, all of the rights, privileges, immunities, powers,  
5066 and purposes of the domesticating limited partnership remain vested in the domesticated  
5067 limited partnership;

5068 (f) except as otherwise provided in the plan of domestication, the terms and conditions  
5069 of the plan of domestication take effect; and

5070 (g) except as otherwise agreed, the domestication does not dissolve a domesticating  
5071 limited partnership for the purposes of Part 8, Dissolution.

5072 (2) A domesticated limited partnership that is a foreign limited partnership consents to  
5073 the jurisdiction of the courts of this state to enforce any debt, obligation, or other liability owed  
5074 by the domesticating limited partnership, if, before the domestication, the domesticating  
5075 limited partnership was subject to suit in this state on the debt, obligation, or other liability. A  
5076 domesticated limited partnership that is a foreign limited partnership and not authorized to  
5077 transact business in this state may be served with process at the address required in the articles  
5078 of domestication under Subsection 48-2d-1112(1)(g).

5079 (3) If a limited partnership has adopted and approved a plan of domestication under  
5080 Section 48-2d-1110 providing for the limited partnership to be domesticated in a foreign

5081 jurisdiction, a statement pursuant to Subsection 48-2d-907 cancelling the limited partnership's  
5082 certificate of authority must be delivered to the division for filing setting forth:

5083 (a) the name of the limited partnership;

5084 (b) a statement that the limited partnership's certificate of authority is being cancelled  
5085 in connection with the domestication of the limited partnership in a foreign jurisdiction;

5086 (c) a statement the domestication was approved as required by this chapter; and

5087 (d) the jurisdiction of formation of the domesticated foreign limited partnership.

5088 Section 185. Section **48-2d-1114** is enacted to read:

5089 **48-2d-1114. Restrictions on approval of mergers, conversions, and domestications**  
5090 **-- Relinquishing limited liability partnership status.**

5091 (1) If a partner of a constituent, converting, or domesticating limited partnership will  
5092 have personal liability with respect to a surviving, converted, or domesticated organization,  
5093 approval or amendment of a plan of merger, conversion, or domestication is ineffective without  
5094 the consent of the partner, unless:

5095 (a) the limited partnership's partnership agreement provides for approval of a merger,  
5096 conversion, or domestication with the consent of fewer than all the partners; and

5097 (b) the partner has consented to the provision of the partnership agreement.

5098 (2) An amendment to a certificate of limited partnership which deletes a statement that  
5099 the limited partnership is a limited liability limited partnership is ineffective without the  
5100 consent of each general partner unless:

5101 (a) the limited partnership's partnership agreement provides for the amendment with  
5102 the consent of less than all the general partners; and

5103 (b) each general partner that does not consent to the amendment has consented to the  
5104 provision of the partnership agreement.

5105 (3) A partner does not give the consent required by Subsection (1) or (2) merely by  
5106 consenting to a provision of the partnership agreement that permits the partnership agreement  
5107 to be amended with the consent of fewer than all the partners.

5108 Section 186. Section **48-2d-1115** is enacted to read:

5109 **48-2d-1115. Liability of general partner after conversion or merger.**

5110 (1) A conversion or merger under this part does not discharge any liability under  
5111 Sections 48-2d-404 and 48-2d-607 of a person that was a general partner in or dissociated as a

5112 general partner from a converting or constituent limited partnership, but:

5113 (a) the provisions of this chapter pertaining to the collection or discharge of the liability  
5114 continue to apply to the liability;

5115 (b) for the purposes of applying those provisions, the converted or surviving  
5116 organization is deemed to be the converting or constituent limited partnership; and

5117 (c) if a person is required to pay any amount under this Subsection (1):

5118 (i) the person has a right of contribution from each other person that was liable as a  
5119 general partner under Section 48-2d-404 when the obligation was incurred and has not been  
5120 released from the obligation under Section 48-2d-607; and

5121 (ii) the contribution due from each of those persons is in proportion to the right to  
5122 receive distributions in the capacity of general partner in effect for each of those persons when  
5123 the obligation was incurred.

5124 (2) In addition to any other liability provided by law:

5125 (a) a person that immediately before a conversion or merger became effective was a  
5126 general partner in a converting or constituent limited partnership that was not a limited liability  
5127 limited partnership is personally liable for each obligation of the converted or surviving  
5128 organization arising from a transaction with a third party after the conversion or merger  
5129 becomes effective, if, at the time the third party enters into the transaction, the third party:

5130 (i) does not have notice of the conversion or merger; and

5131 (ii) reasonably believes that:

5132 (A) the converted or surviving business is the converting or constituent limited  
5133 partnership;

5134 (B) the converting or constituent limited partnership is not a limited liability limited  
5135 partnership; and

5136 (C) the person is a general partner in the converting or constituent limited partnership;  
5137 and

5138 (b) a person that was dissociated as a general partner from a converting or constituent  
5139 limited partnership before the conversion or merger became effective is personally liable for  
5140 each obligation of the converted or surviving organization arising from a transaction with a  
5141 third party after the conversion or merger becomes effective, if:

5142 (i) immediately before the conversion or merger became effective the converting or

5143 surviving limited partnership was a not a limited liability limited partnership; and  
5144 (ii) at the time the third party enters into the transaction less than two years have passed  
5145 since the person dissociated as a general partner and the third party:  
5146 (A) does not have notice of the dissociation;  
5147 (B) does not have notice of the conversion or merger; and  
5148 (C) reasonably believes that the converted or surviving organization is the converting  
5149 or constituent limited partnership, the converting or constituent limited partnership is not a  
5150 limited liability limited partnership, and the person is a general partner in the converting or  
5151 constituent limited partnership.

5152 Section 187. Section **48-2d-1116** is enacted to read:

5153 **48-2d-1116. Power of general partners and persons dissociated as general**  
5154 **partners to bind organization after conversion or merger.**

5155 (1) An act of a person that immediately before a conversion or merger became effective  
5156 was a general partner in a converting or constituent limited partnership binds the converted or  
5157 surviving organization after the conversion or merger becomes effective, if:

5158 (a) before the conversion or merger became effective, the act would have bound the  
5159 converting or constituent limited partnership under Section 48-2d-402; and

5160 (b) at the time the third party enters into the transaction, the third party:

5161 (i) does not have notice of the conversion or merger; and

5162 (ii) reasonably believes that the converted or surviving business is the converting or  
5163 constituent limited partnership and that the person is a general partner in the converting or  
5164 constituent limited partnership.

5165 (2) An act of a person that before a conversion or merger became effective was  
5166 dissociated as a general partner from a converting or constituent limited partnership binds the  
5167 converted or surviving organization after the conversion or merger becomes effective, if:

5168 (a) before the conversion or merger became effective, the act would have bound the  
5169 converting or constituent limited partnership under Section 48-2d-402 if the person had been a  
5170 general partner; and

5171 (b) at the time the third party enters into the transaction, less than two years have  
5172 passed since the person dissociated as a general partner and the third party:

5173 (i) does not have notice of the dissociation;

5174 (ii) does not have notice of the conversion or merger; and  
5175 (iii) reasonably believes that the converted or surviving organization is the converting  
5176 or constituent limited partnership and that the person is a general partner in the converting or  
5177 constituent limited partnership.

5178 (3) If a person having knowledge of the conversion or merger causes a converted or  
5179 surviving organization to incur an obligation under Subsection (1) or (2), the person is liable:

5180 (a) to the converted or surviving organization for any damage caused to the  
5181 organization arising from the obligation; and

5182 (b) if another person is liable for the obligation, to that other person for any damage  
5183 caused to that other person arising from the liability.

5184 Section 188. Section **48-2d-1117** is enacted to read:

5185 **48-2d-1117. Part not exclusive.**

5186 This part does not preclude an entity from being merged, converted, or domesticated  
5187 under law other than this chapter.

5188 Section 189. Section **48-2d-1201** is enacted to read:

5189 **Part 12. Miscellaneous Provisions**

5190 **48-2d-1201. Uniformity of application and construction.**

5191 In applying and construing this chapter, consideration must be given to the need to  
5192 promote uniformity of the law with respect to its subject matter among states that enact this  
5193 uniform act.

5194 Section 190. Section **48-2d-1202** is enacted to read:

5195 **48-2d-1202. Relation to electronic signatures in global and national commerce act.**

5196 This chapter modifies, limits, and supersedes the federal Electronic Signatures in  
5197 Global and National Commerce Act, 15 U.S.C. Sec. 7001 et seq., but does not modify, limit,  
5198 or supersede Section 101(c) of that act, 15 U.S.C. Sec. 7001(c), or authorize electronic  
5199 delivery of any of the notices described in Section 103(b) of that act, 15 U.S.C. Sec. 7003(b).

5200 Section 191. Section **48-2d-1203** is enacted to read:

5201 **48-2d-1203. Severability clause.**

5202 If any provision of this chapter or its application to any person or circumstance is held  
5203 invalid, the invalidity does not affect other provisions or applications of this chapter which can  
5204 be given effect without the invalid provision or application, and to this end the provisions of



5205 this chapter are severable.

5206 Section 192. Section **48-2d-1204** is enacted to read:

5207 **48-2d-1204. Savings clause.**

5208 This chapter does not affect an action commenced, proceeding brought, or right accrued

5209 before this chapter takes effect.

5210 Section 193. Section **48-2d-1205** is enacted to read:

5211 **48-2d-1205. Application to existing relationships.**

5212 (1) Before January 1, 2012, this chapter governs only:

5213 (a) a limited partnership formed on or after January 1, 2011; and

5214 (b) except as otherwise provided in Subsections (3) and (4), a limited partnership

5215 formed before January 1, 2011, which elects, in the manner provided in its partnership

5216 agreement or by law for amending the partnership agreement, to be subject to this chapter.

5217 (2) Except as otherwise provided in Subsection (3), on and after January 1, 2012, this

5218 chapter governs all limited partnerships.

5219 (3) With respect to a limited partnership formed before January 1, 2011, the following

5220 rules apply except as the partners otherwise elect in the manner provided in the partnership

5221 agreement or by law for amending the partnership agreement:

5222 (a) Subsection 48-2d-104(3) does not apply and the limited partnership has whatever

5223 duration it had under the law applicable immediately before January 1, 2011.

5224 (b) The limited partnership is not required to amend its certificate of limited

5225 partnership to comply with Subsection 48-2d-201(1)(d).

5226 (c) Sections 48-2d-601 and 48-2d-602 do not apply and a limited partner has the same

5227 right and power to dissociate from the limited partnership, with the same consequences, as

5228 existed immediately before January 1, 2011.

5229 (d) Subsection 48-2d-603(4) does not apply.

5230 (e) Subsection 48-2d-603(5) does not apply and a court has the same power to expel a

5231 general partner as the court had immediately before January 1, 2011.

5232 (f) Subsection 48-2d-801(3) does not apply and the connection between a person's

5233 dissociation as a general partner and the dissolution of the limited partnership is the same as

5234 existed immediately before January 1, 2011.

5235 (4) With respect to a limited partnership that elects pursuant to Subsection (1)(b) to be

5236 subject to this chapter, after the election takes effect the provisions of this chapter relating to  
5237 the liability of the limited partnership's general partners to third parties apply:

5238 (a) before January 1, 2012, to:

5239 (i) a third party that had not done business with the limited partnership in the year  
5240 before the election took effect; and

5241 (ii) a third party that had done business with the limited partnership in the year before  
5242 the election took effect only if the third party knows or has received a notification of the  
5243 election; and

5244 (b) on and after January 1, 2012, to all third parties, but those provisions remain  
5245 inapplicable to any obligation incurred while those provisions were inapplicable under  
5246 Subsection (4)(a)(ii).

5247 Section 194. Section **48-3-101** is enacted to read:

5248 **CHAPTER 3. UNIFORM LIMITED LIABILITY COMPANY ACT**

5249 **Part 1. General Provisions**

5250 **48-3-101. Title.**

5251 This chapter may be cited as the "Uniform Limited Liability Company Act."

5252 Section 195. Section **48-3-102** is enacted to read:

5253 **48-3-102. Definitions.**

5254 As used in this chapter:

5255 (1) (a) "Certificate of organization" means the certificate required by Section 48-3-201.

5256 (b) "Certificate of organization" includes the certificate as amended or restated.

5257 (2) "Contribution" means any benefit provided by a person to a limited liability  
5258 company:

5259 (a) in order to become a member upon formation of the limited liability company and  
5260 in accordance with an agreement between or among the persons that have agreed to become the  
5261 initial members of the limited liability company;

5262 (b) in order to become a member after formation of the limited liability company and in  
5263 accordance with an agreement between the person and the limited liability company; or

5264 (c) in the person's capacity as a member and in accordance with the operating  
5265 agreement or an agreement between the member and the limited liability company.

5266 (3) "Debtor in bankruptcy" means a person that is the subject of:

- 5267           (a) an order for relief under United States Code, Title 11, or a successor statute of  
5268 general application; or
- 5269           (b) a comparable order under federal, state, or foreign law governing insolvency.
- 5270           (4) "Distribution," except as otherwise provided in Subsection 48-3-405(7), means a  
5271 transfer of money or other property from a limited liability company to another person on  
5272 account of a transferable interest.
- 5273           (5) "Effective," with respect to a record required or permitted to be delivered to the  
5274 division for filing under this chapter, means effective under Subsection 48-3-205(3).
- 5275           (6) "Foreign limited liability company" means an unincorporated entity formed under  
5276 the law of a jurisdiction other than this state and denominated by that law as a limited liability  
5277 company, including a low-profit limited liability company.
- 5278           (7) "Limited liability company," except in the phrase "foreign limited liability  
5279 company," means an entity formed under this chapter, including a low-profit limited liability  
5280 company formed under this chapter.
- 5281           (8) "Low-profit limited liability company" means a limited liability company meeting  
5282 the requirements of Part 13, Low-profit Limited Liability Company Act.
- 5283           (9) "Manager" means a person that under the operating agreement of a  
5284 manager-managed limited liability company is responsible, alone or in concert with others, for  
5285 performing the management functions stated in Subsection 48-3-407(3).
- 5286           (10) "Manager-managed limited liability company" means a limited liability company  
5287 that qualifies under Subsection 48-3-407(1).
- 5288           (11) "Member" means a person that has become a member of a limited liability  
5289 company under Section 48-3-401 and has not dissociated under Section 48-3-602.
- 5290           (12) "Member-managed limited liability company" means a limited liability company  
5291 that is not a manager-managed limited liability company.
- 5292           (13) (a) "Operating agreement" means the agreement, whether or not referred to as an  
5293 operating agreement and whether oral, in a record, implied, or in any combination thereof, of  
5294 all the members of a limited liability company, including a sole member, concerning the  
5295 matters described in Subsection 48-3-110(1).
- 5296           (b) "Operating agreement" includes the agreement as amended or restated.
- 5297           (14) "Organizer" means a person that acts under Section 48-3-201 to form a limited

5298 liability company.

5299 (15) "Person" means:

5300 (a) an individual;

5301 (b) a corporation;

5302 (c) a business trust;

5303 (d) an estate;

5304 (e) a trust;

5305 (f) a partnership;

5306 (g) a limited liability company;

5307 (h) an association;

5308 (i) a joint venture;

5309 (j) a public corporation;

5310 (k) government;

5311 (l) a governmental subdivision, agency, or instrumentality; or

5312 (m) any other legal or commercial entity.

5313 (16) "Principal office" means the principal executive office of a limited liability  
5314 company or foreign limited liability company, whether or not the office is located in this state.

5315 (17) "Professional services company" means a limited liability company meeting the  
5316 requirements of Part 11, Professional Services Company Act.

5317 (18) "Record" means information that is inscribed on a tangible medium or that is  
5318 stored in an electronic or other medium and is retrievable in perceivable form.

5319 (19) "Series" means a series created in accordance with Part 12, Limited Liability  
5320 Company Series Act.

5321 (20) "Sign" means, with the present intent to authenticate or adopt a record:

5322 (a) to execute or adopt a tangible symbol; or

5323 (b) to attach to or logically associate with the record an electronic symbol, sound, or  
5324 process.

5325 (21) "State" means a state of the United States, the District of Columbia, Puerto Rico,  
5326 the United States Virgin Islands, or any territory or insular possession subject to the jurisdiction  
5327 of the United States.

5328 (22) "Transfer" includes an assignment, conveyance, deed, bill of sale, lease, mortgage,

5329 security interest, encumbrance, gift, and transfer by operation of law.

5330 (23) "Transferable interest" means the right, as originally associated with a person's  
5331 capacity as a member, to receive distributions from a limited liability company in accordance  
5332 with the operating agreement, whether or not the person remains a member or continues to own  
5333 any part of the right.

5334 (24) "Transferee" means a person to which all or part of a transferable interest has been  
5335 transferred, whether or not the transferor is a member.

5336 (25) "Tribal limited liability company" means a limited liability company:

5337 (a) formed under the law of a tribe; and

5338 (b) that is at least 51% owned or controlled by the tribe.

5339 (26) "Tribe" means a tribe, band, nation, pueblo, or other organized group or  
5340 community of Indians, including an Alaska Native village, that is legally recognized as eligible  
5341 for and is consistent with a special program, service, or entitlement provided by the United  
5342 States to Indians because of their status as Indians.

5343 Section 196. Section **48-3-103** is enacted to read:

5344 **48-3-103. Knowledge -- Notice.**

5345 (1) A person knows a fact when the person:

5346 (a) has actual knowledge of it; or

5347 (b) is deemed to know it under Subsection (4)(a) or law other than this chapter.

5348 (2) A person has notice of a fact when the person:

5349 (a) has reason to know the fact from all of the facts known to the person at the time in  
5350 question; or

5351 (b) is deemed to have notice of the fact under Subsection (4)(b).

5352 (3) A person notifies another of a fact by taking steps reasonably required to inform the  
5353 other person in ordinary course, whether or not the other person knows the fact.

5354 (4) A person that is not a member is deemed:

5355 (a) to know of a limitation on authority to transfer real property as provided in  
5356 Subsection 48-3-302(7);

5357 (b) to have notice of a limited liability company's:

5358 (i) dissolution, 90 days after a statement of dissolution under Subsection  
5359 48-3-702(2)(b)(i) becomes effective;

5360 (ii) termination, 90 days after a statement of termination Subsection 48-3-702(2)(b)(vi)  
5361 becomes effective; and

5362 (iii) merger, conversion, or domestication, 90 days after articles of merger, conversion,  
5363 or domestication under Part 10, Merger, Conversion, and Domestication, become effective; and

5364 (c) for a filing not described in Subsection (4)(b), to have constructive notice of an  
5365 action taken by a filing that is filed with the division.

5366 Section 197. Section **48-3-104** is enacted to read:

5367 **48-3-104. Nature, purpose, and duration of limited liability company.**

5368 (1) A limited liability company is an entity distinct from its members.

5369 (2) A limited liability company may have any lawful purpose, regardless of whether for  
5370 profit.

5371 (3) A limited liability company has perpetual duration.

5372 Section 198. Section **48-3-105** is enacted to read:

5373 **48-3-105. Powers.**

5374 A limited liability company has the capacity to sue and be sued in its own name and the  
5375 power to do all things necessary or convenient to carry on its activities.

5376 Section 199. Section **48-3-106** is enacted to read:

5377 **48-3-106. Governing law.**

5378 The law of this state governs:

5379 (1) the internal affairs of a limited liability company; and

5380 (2) the liability of a member as member and a manager as manager for the debts,  
5381 obligations, or other liabilities of a limited liability company.

5382 Section 200. Section **48-3-107** is enacted to read:

5383 **48-3-107. Supplemental principles of law.**

5384 Unless displaced by particular provisions of this chapter, the principles of law and  
5385 equity supplement this chapter.

5386 Section 201. Section **48-3-108** is enacted to read:

5387 **48-3-108. Name.**

5388 (1) (a) Except as provided in Section 48-3-1105 or 48-3-1303, the name of a limited  
5389 liability company must contain the words "limited liability company" or "limited company" or  
5390 the abbreviation "L.L.C.," "LLC," "L.C.," or "LC".

- 5391 (b) "Company" may be abbreviated as "Co."
- 5392 (c) The name of a limited liability company may not contain:
- 5393 (i) without the written consent of the United States Olympic Committee, the words:
- 5394 (A) "Olympic";
- 5395 (B) "Olympiad"; or
- 5396 (C) "Citius Altius Fortius"; and
- 5397 (ii) without the written consent of the Division of Consumer Protection issued in
- 5398 accordance with Section 13-34-114, the words:
- 5399 (A) "university";
- 5400 (B) "college"; or
- 5401 (C) "institute" or "institution".
- 5402 (2) Unless authorized by Subsection (3), the name of a limited liability company must
- 5403 be distinguishable in the records of the division from:
- 5404 (a) the name of each person that is not an individual and that is incorporated,
- 5405 organized, or authorized to transact business in this state; and
- 5406 (b) each name reserved under Section 48-3-109 and:
- 5407 (i) Section 16-6a-401 or 16-6a-402;
- 5408 (ii) Section 16-10a-401 or 16-10a-402;
- 5409 (iii) Section 16-11-16;
- 5410 (iv) Section 42-2-6.6;
- 5411 (v) Section 48-1b-1002; or
- 5412 (vi) Section 48-2d-108 or 48-2d-109.
- 5413 (3) A limited liability company may apply to the division for authorization to use a
- 5414 name that does not comply with Subsection (2). The division shall authorize use of the name
- 5415 applied for if, as to each noncomplying name:
- 5416 (a) the present user, registrant, or owner of the noncomplying name consents in a
- 5417 signed record to the use and submits an undertaking in a form satisfactory to the division to
- 5418 change the noncomplying name to a name that complies with Subsection (2) and is
- 5419 distinguishable in the records of the division from the name applied for; or
- 5420 (b) the applicant delivers to the division a certified copy of the final judgment of a
- 5421 court establishing the applicant's right to use in this state the name applied for.

5422 (4) Subject to Section 48-3-805, this section applies to a foreign limited liability  
5423 company transacting business in this state which has a certificate of authority to transact  
5424 business in this state or which has applied for a certificate of authority.

5425 (5) The division may not approve for filing a name that implies that a limited liability  
5426 company is an agency of this state or any of its political subdivisions, if it is not actually such a  
5427 legally established agency or subdivision.

5428 (6) The authorization to file a certificate under or to reserve or register a limited  
5429 liability company name as granted by the division does not:

5430 (a) abrogate or limit the law governing unfair competition or unfair trade practices;

5431 (b) derogate from the common law, the principles of equity, or the statutes of this state  
5432 or of the United States with respect to the right to acquire and protect names and trademarks; or

5433 (c) create an exclusive right in geographic or generic terms contained within a name.

5434 Section 202. Section **48-3-109** is enacted to read:

5435 **48-3-109. Reservation of name.**

5436 (1) A person may reserve the exclusive use of the name of a limited liability company,  
5437 including a fictitious or assumed name for a foreign limited liability company whose name is  
5438 not available, by delivering an application to the division for filing. The application must state  
5439 the name and address of the applicant and the name proposed to be reserved. If the division  
5440 finds that the name applied for is available, it must be reserved for the applicant's exclusive use  
5441 for a 120-day period.

5442 (2) The owner of a name reserved for a limited liability company may transfer the  
5443 reservation to another person by delivering to the division for filing a signed notice of the  
5444 transfer which states the name and address of the transferee.

5445 Section 203. Section **48-3-110** is enacted to read:

5446 **48-3-110. Operating agreement -- Scope, function, and limitations.**

5447 (1) (a) Except as otherwise provided in Subsections (2) and (3), the operating  
5448 agreement governs:

5449 (i) relations among the members as members and between the members and the limited  
5450 liability company;

5451 (ii) the rights and duties under this chapter of a person in the capacity of manager;

5452 (iii) the activities of the limited liability company and the conduct of those activities;



5453 and

5454 (iv) the means and conditions for amending the operating agreement.

5455 (b) A member asserting the existence or term of an oral operating agreement shall

5456 prove the existence or term of the operating agreement by clear and convincing evidence.

5457 (2) To the extent the operating agreement does not otherwise provide for a matter

5458 described in Subsection (1), this chapter governs the matter.

5459 (3) An operating agreement may not:

5460 (a) vary a limited liability company's capacity under Section 48-3-105 to sue and be

5461 sued in its own name;

5462 (b) vary the law applicable under Section 48-3-106;

5463 (c) vary the power of the court under Section 48-3-204;

5464 (d) subject to Subsections (4) through (7), eliminate the duty of loyalty, the duty of

5465 care, or any other fiduciary duty;

5466 (e) subject to Subsections (4) through (7), eliminate the contractual obligation of good

5467 faith and fair dealing under Subsection 48-3-409(4);

5468 (f) unreasonably restrict the duties and rights stated in Section 48-3-410;

5469 (g) vary the power of a court to decree dissolution in the circumstances specified in

5470 Subsections 48-3-701(1)(d) and (e);

5471 (h) vary the requirement to wind up a limited liability company's business as specified

5472 in Subsections 48-3-702(1) and (2)(a);

5473 (i) unreasonably restrict the right of a member to maintain an action under Part 9,

5474 Actions By Members;

5475 (j) restrict the right to approve a merger, conversion, or domestication under Section

5476 48-3-1014 to a member that will have personal liability with respect to a surviving, converted,

5477 or domesticated organization; or

5478 (k) except as otherwise provided in Subsection 48-3-112(2), restrict the rights under

5479 this chapter of a person other than a member or manager.

5480 (4) If not manifestly unreasonable, the operating agreement may:

5481 (a) restrict or eliminate the duty:

5482 (i) as required in Subsections 48-3-409(2)(a) and (7), to account to the limited liability

5483 company and to hold as trustee for it any property, profit, or benefit derived by the member in

5484 the conduct or winding up of the limited liability company's business, from a use by the  
5485 member of the limited liability company's property, or from the appropriation of a limited  
5486 liability company opportunity;

5487 (ii) as required in Subsections 48-3-409(2)(b) and (7), to refrain from dealing with the  
5488 limited liability company in the conduct or winding up of the limited liability company's  
5489 business as or on behalf of a party having an interest adverse to the limited liability company;  
5490 and

5491 (iii) as required by Subsections 48-3-409(2)(c) and (7), to refrain from competing with  
5492 the limited liability company in the conduct of the limited liability company's business before  
5493 the dissolution of the limited liability company;

5494 (b) identify specific types or categories of activities that do not violate the duty of  
5495 loyalty;

5496 (c) alter the duty of care, except to authorize intentional misconduct or knowing  
5497 violation of law;

5498 (d) alter any other fiduciary duty, including eliminating particular aspects of that duty;  
5499 and

5500 (e) prescribe the standards by which to measure the performance of the contractual  
5501 obligation of good faith and fair dealing under Subsection 48-3-409(4).

5502 (5) The operating agreement may specify the method by which a specific act or  
5503 transaction that would otherwise violate the duty of loyalty may be authorized or ratified by one  
5504 or more disinterested and independent persons after full disclosure of all material facts.

5505 (6) To the extent the operating agreement of a member-managed limited liability  
5506 company expressly relieves a member of a responsibility that the member would otherwise  
5507 have under this chapter and imposes the responsibility on one or more other members, the  
5508 operating agreement may, to the benefit of the member that the operating agreement relieves of  
5509 the responsibility, also eliminate or limit any fiduciary duty that would have pertained to the  
5510 responsibility.

5511 (7) The operating agreement may alter or eliminate the indemnification for a member  
5512 or manager provided by Subsection 48-3-408(1) and may eliminate or limit a member or  
5513 manager's liability to the limited liability company and members for money damages, except  
5514 for:

5515 (a) breach of the duty of loyalty;

5516 (b) a financial benefit received by the member or manager to which the member or  
5517 manager is not entitled;

5518 (c) a breach of a duty under Section 48-3-406;

5519 (d) intentional infliction of harm on the limited liability company or a member; or

5520 (e) an intentional violation of criminal law.

5521 (8) The court shall decide any claim under Subsection (4) that a term of an operating  
5522 agreement is manifestly unreasonable. The court:

5523 (a) shall make its determination as of the time the challenged term became part of the  
5524 operating agreement and by considering only circumstances existing at that time; and

5525 (b) may invalidate the term only if, in light of the purposes and activities of the limited  
5526 liability company, it is readily apparent that:

5527 (i) the objective of the term is unreasonable; or

5528 (ii) the term is an unreasonable means to achieve the provision's objective.

5529 Section 204. Section **48-3-111** is enacted to read:

5530 **48-3-111. Operating agreement -- Effect on limited liability company and persons**  
5531 **becoming members -- Preformation agreement.**

5532 (1) A limited liability company is bound by and may enforce the operating agreement,  
5533 whether or not the limited liability company has itself manifested assent to the operating  
5534 agreement.

5535 (2) A person that becomes a member of a limited liability company is deemed to assent  
5536 to the operating agreement.

5537 (3) Two or more persons intending to become the initial members of a limited liability  
5538 company may make an agreement providing that upon the formation of the limited liability  
5539 company the agreement will become the operating agreement. One person intending to  
5540 become the initial member of a limited liability company may assent to terms providing that  
5541 upon the formation of the limited liability company the terms will become the operating  
5542 agreement.

5543 Section 205. Section **48-3-112** is enacted to read:

5544 **48-3-112. Operating agreement -- Effect on third parties and relationship to**  
5545 **records effective on behalf of limited liability company.**

5546 (1) An operating agreement may specify that its amendment requires the approval of a  
5547 person that is not a party to the operating agreement or the satisfaction of a condition. An  
5548 amendment is ineffective if its adoption does not include the required approval or satisfy the  
5549 specified condition.

5550 (2) The obligations of a limited liability company and its members to a person in the  
5551 person's capacity as a transferee or dissociated member are governed by the operating  
5552 agreement. Subject only to any court order issued under Subsection 48-3-503(2)(b) to  
5553 effectuate a charging order, an amendment to the operating agreement made after a person  
5554 becomes a transferee or dissociated member is effective with regard to any debt, obligation, or  
5555 other liability of the limited liability company or its members to the person in the person's  
5556 capacity as a transferee or dissociated member.

5557 (3) If a record that has been delivered by a limited liability company to the division for  
5558 filing and has become effective under this chapter contains a provision that would be  
5559 ineffective under Subsection 48-3-110(3) if contained in the operating agreement, the provision  
5560 is likewise ineffective in the record.

5561 (4) Subject to Subsection (3), if a record that has been delivered by a limited liability  
5562 company to the division for filing and has become effective under this chapter conflicts with a  
5563 provision of the operating agreement:

5564 (a) the operating agreement prevails as to members, dissociated members, transferees,  
5565 and managers; and

5566 (b) the record prevails as to other persons to the extent they reasonably rely on the  
5567 record.

5568 Section 206. Section **48-3-201** is enacted to read:

5569 **Part 2. Formation - Certificate of Organization and Other Filings**

5570 **48-3-201. Formation of limited liability company -- Certificate of organization.**

5571 (1) One or more persons may act as organizers to form a limited liability company by  
5572 signing and delivering to the division for filing a certificate of organization.

5573 (2) A certificate of organization must state:

5574 (a) the name of the limited liability company, which must comply with Section  
5575 48-3-108;

5576 (b) the information required by Subsection 16-17-203(1); and

5577 (c) (i) if the limited liability company is a low-profit limited liability company, that the  
5578 limited liability company is a low-profit limited liability company; and

5579 (ii) if the limited liability company is a professional services company, the information  
5580 required by Section 48-3-1104.

5581 (3) (a) Subject to Subsection 48-3-112(3), a certificate of organization may also  
5582 contain statements as to matters other than those required by Subsection (2). However, a  
5583 statement in a certificate of organization is not effective as a statement of authority.

5584 (b) A certificate of organization may also contain a notice of a series in accordance  
5585 with Section 48-3-1204.

5586 (4) (a) A limited liability company is formed when the division has filed the certificate  
5587 of organization, unless the certificate states a delayed effective date pursuant to Subsection  
5588 48-3-205(3).

5589 (b) If the certificate states a delayed effective date, a limited liability company is not  
5590 formed if, before the certificate takes effect, a statement of cancellation is signed and delivered  
5591 to the division for filing and the division files the certificate.

5592 (c) Subject to any delayed effective date and except in a proceeding by this state to  
5593 dissolve a limited liability company, the filing of the certificate of organization by the division  
5594 is conclusive proof that the organizer satisfied all conditions to the formation of a limited  
5595 liability company.

5596 Section 207. Section **48-3-202** is enacted to read:

5597 **48-3-202. Amendment or restatement of certificate of organization.**

5598 (1) A certificate of organization may be amended or restated at any time, except that in  
5599 accordance with Section 48-3-1304, a low-profit limited liability company shall amend its  
5600 certificate of organization if the limited liability company ceases to be a low-profit limited  
5601 liability company.

5602 (2) To amend its certificate of organization, a limited liability company must deliver to  
5603 the division for filing an amendment stating:

5604 (a) the name of the limited liability company;

5605 (b) the date of filing of its certificate of organization; and

5606 (c) the changes the amendment makes to the certificate as most recently amended or  
5607 restated.

5608           (3) To restate its certificate of organization, a limited liability company must deliver to  
5609 the division for filing a restatement, designated as such in its heading, stating:

5610           (a) in the heading or an introductory paragraph, the limited liability company's present  
5611 name and the date of the filing of the limited liability company's initial certificate of  
5612 organization;

5613           (b) if the limited liability company's name has been changed at any time since the  
5614 limited liability company's formation, each of the limited liability company's former names;  
5615 and

5616           (c) the changes the restatement makes to the certificate as most recently amended or  
5617 restated.

5618           (4) Subject to Subsections 48-3-112(3) and 48-3-205(3), an amendment to or  
5619 restatement of a certificate of organization is effective when filed by the division.

5620           (5) If a member of a member-managed limited liability company, or a manager of a  
5621 manager-managed limited liability company, knows that any information in a filed certificate  
5622 of organization was inaccurate when the certificate was filed or has become inaccurate owing  
5623 to changed circumstances, the member or manager shall promptly:

5624           (a) cause the certificate to be amended; or

5625           (b) if appropriate, deliver to the division for filing a statement of change under Section  
5626 16-17-206 or a statement of correction under Section 48-3-206.

5627           Section 208. Section **48-3-203** is enacted to read:

5628           **48-3-203. Signing of records to be delivered for filing to division.**

5629           (1) A record delivered to the division for filing pursuant to this chapter must be signed  
5630 as follows:

5631           (a) Except as otherwise provided in Subsections (1)(b) through (d), a record signed on  
5632 behalf of a limited liability company must be signed by a person authorized by the limited  
5633 liability company.

5634           (b) A limited liability company's initial certificate of organization must be signed by at  
5635 least one person acting as an organizer.

5636           (c) A record filed on behalf of a dissolved limited liability company that has no  
5637 members must be signed by the person winding up the limited liability company's activities  
5638 under Subsection 48-3-702(3) or a person appointed under Subsection 48-3-702(4) to wind up

5639 those activities.

5640 (d) A statement of cancellation under Subsection 48-3-201(4)(b) must be signed by  
5641 each organizer that signed the initial certificate of organization, but a personal representative of  
5642 a deceased or incompetent organizer may sign in the place of the decedent or incompetent.

5643 (e) A statement of denial by a person under Section 48-3-303 must be signed by that  
5644 person.

5645 (f) Any other record must be signed by the person on whose behalf the record is  
5646 delivered to the division.

5647 (2) Any record filed under this chapter may be signed by an agent.

5648 Section 209. Section **48-3-204** is enacted to read:

5649 **48-3-204. Signing and filing pursuant to judicial order.**

5650 (1) If a person required by this chapter to sign a record or deliver a record to the  
5651 division for filing under this chapter does not do so, any other person that is aggrieved may  
5652 petition a district court to order:

5653 (a) the person to sign the record;

5654 (b) the person to deliver the record to the division for filing; or

5655 (c) the division to file the record unsigned.

5656 (2) If a petitioner under Subsection (1) is not the limited liability company or foreign  
5657 limited liability company to which the record pertains, the petitioner shall make the limited  
5658 liability company a party to the action.

5659 Section 210. Section **48-3-205** is enacted to read:

5660 **48-3-205. Delivery to and filing of records by division -- Effective time and date.**

5661 (1) A record authorized or required to be delivered to the division for filing under this  
5662 chapter must be captioned to describe the record's purpose, be in a medium permitted by the  
5663 division, and be delivered to the division. If the filing fees have been paid, unless the division  
5664 determines that a record does not comply with the filing requirements of this chapter, the  
5665 division shall file the record and:

5666 (a) for a statement of denial under Section 48-3-303, send a copy of the filed statement  
5667 and a receipt for the fees to the person on whose behalf the statement was delivered for filing  
5668 and to the limited liability company; and

5669 (b) for all other records, send a copy of the filed record and a receipt for the fees to the

5670 person on whose behalf the record was filed.

5671 (2) Upon request and payment of the requisite fee, the division shall send to the  
5672 requester a certified copy of a requested record.

5673 (3) Except as otherwise provided in Section 48-3-206, a record delivered to the  
5674 division for filing under this chapter may specify an effective time and a delayed effective date.  
5675 Subject to Subsection 48-3-201(4)(a) and Section 48-3-206, a record filed by the division is  
5676 effective:

5677 (a) if the record does not specify either an effective time or a delayed effective date, on  
5678 the date and at the time the record is filed as evidenced by the division's endorsement of the  
5679 date and time on the record;

5680 (b) if the record specifies an effective time but not a delayed effective date, on the date  
5681 the record is filed at the time specified in the record;

5682 (c) if the record specifies a delayed effective date but not an effective time, at 12:01  
5683 a.m. on the earlier of:

5684 (i) the specified date; or

5685 (ii) the 90th day after the record is filed; or

5686 (d) if the record specifies an effective time and a delayed effective date, at the specified  
5687 time on the earlier of:

5688 (i) the specified date; or

5689 (ii) the 90th day after the record is filed.

5690 Section 211. Section **48-3-206** is enacted to read:

5691 **48-3-206. Correcting filed record.**

5692 (1) A limited liability company or foreign limited liability company may deliver to the  
5693 division for filing a statement of correction to correct a record previously delivered by the  
5694 limited liability company to the division and filed by the division, if at the time of filing the  
5695 record contained inaccurate information or was defectively signed.

5696 (2) A statement of correction under Subsection (1) may not state a delayed effective  
5697 date and must:

5698 (a) describe the record to be corrected, including its filing date, or attach a copy of the  
5699 record as filed;

5700 (b) specify the inaccurate information and the reason it is inaccurate or the manner in



5701 which the signing was defective; and

5702 (c) correct the defective signature or inaccurate information.

5703 (3) When filed by the division, a statement of correction under Subsection (1) is  
5704 effective retroactively as of the effective date of the record the statement corrects, but the  
5705 statement is effective when filed:

5706 (a) for the purposes of Subsection 48-3-103(4); and

5707 (b) as to persons that previously relied on the uncorrected record and would be  
5708 adversely affected by the retroactive effect.

5709 Section 212. Section **48-3-207** is enacted to read:

5710 **48-3-207. Liability for inaccurate information in filed record.**

5711 (1) If a record delivered to the division for filing under this chapter and filed by the  
5712 division contains inaccurate information, a person that suffers a loss by reliance on the  
5713 information may recover damages for the loss from:

5714 (a) a person that signed the record, or caused another to sign it on the person's behalf,  
5715 and knew the information to be inaccurate at the time the record was signed; and

5716 (b) subject to Subsection (2), a member of a member-managed limited liability  
5717 company or the manager of a manager-managed limited liability company, if:

5718 (i) the record was delivered for filing on behalf of the limited liability company; and

5719 (ii) the member or manager had notice of the inaccuracy for a reasonably sufficient  
5720 time before the information was relied upon so that, before the reliance, the member or  
5721 manager reasonably could have:

5722 (A) effected an amendment under Section 48-3-202;

5723 (B) filed a petition under Section 48-3-204; or

5724 (C) delivered to the division for filing a statement of change pursuant to Section  
5725 16-17-206 or a statement of correction under Section 48-3-206.

5726 (2) To the extent that the operating agreement of a member-managed limited liability  
5727 company expressly relieves a member of responsibility for maintaining the accuracy of  
5728 information contained in records delivered on behalf of the limited liability company to the  
5729 division for filing under this chapter and imposes that responsibility on one or more other  
5730 members, the liability stated in Subsection (1)(b) applies to those other members and not to the  
5731 member that the operating agreement relieves of the responsibility.

5732 (3) An individual who signs a record authorized or required to be filed under this  
5733 chapter affirms under penalty of perjury that the information stated in the record is accurate.

5734 Section 213. Section **48-3-208** is enacted to read:

5735 **48-3-208. Certificate of existence or authorization.**

5736 (1) The division, upon request and payment of the requisite fee, shall furnish to any  
5737 person a certificate of existence for a limited liability company if the records filed in the  
5738 division show that the limited liability company has been formed under Section 48-3-201 and  
5739 the division has not filed a statement of termination pertaining to the limited liability company.

5740 A certificate of existence must state:

5741 (a) the limited liability company's name;

5742 (b) that the limited liability company was duly formed under the laws of this state and  
5743 the date of formation;

5744 (c) whether all fees, taxes, and penalties due under this chapter or other law to the  
5745 division have been paid;

5746 (d) whether the limited liability company's most recent annual report required by  
5747 Section 48-3-209 has been filed by the division;

5748 (e) whether the division has administratively dissolved the limited liability company;

5749 (f) whether the limited liability company has delivered to the division for filing a  
5750 statement of dissolution;

5751 (g) that a statement of termination has not been filed by the division; and

5752 (h) other facts of record in the division which are specified by the person requesting the  
5753 certificate.

5754 (2) The division, upon request and payment of the requisite fee, shall furnish to any  
5755 person a certificate of authorization for a foreign limited liability company if the records filed  
5756 in the division show that the division has filed a certificate of authority, has not revoked the  
5757 certificate of authority, and has not filed a notice of cancellation. A certificate of authorization  
5758 must state:

5759 (a) the limited liability company's name and any alternate name adopted under  
5760 Subsection 48-3-805(1) for use in this state;

5761 (b) that the limited liability company is authorized to transact business in this state;

5762 (c) whether all fees, taxes, and penalties due under this chapter or other law to the

5763 division have been paid;

5764 (d) whether the limited liability company's most recent annual report required by  
5765 Section 48-3-209 has been filed by the division;

5766 (e) that the division has not revoked the limited liability company's certificate of  
5767 authority and has not filed a notice of cancellation; and

5768 (f) other facts of record in the division which are specified by the person requesting the  
5769 certificate.

5770 (3) Subject to any qualification stated in the certificate, a certificate of existence or  
5771 certificate of authorization issued by the division is conclusive evidence that the limited  
5772 liability company is in existence or the foreign limited liability company is authorized to  
5773 transact business in this state.

5774 Section 214. Section **48-3-209** is enacted to read:

5775 **48-3-209. Annual report for division.**

5776 (1) Each year, a limited liability company or a foreign limited liability company  
5777 authorized to transact business in this state shall deliver to the division for filing a report that  
5778 states:

5779 (a) the name of the limited liability company;

5780 (b) the information required by Subsection 16-17-203(1);

5781 (c) the street and mailing addresses of its principal office; and

5782 (d) in the case of a foreign limited liability company, the state or other jurisdiction  
5783 under whose law the limited liability company is formed and any alternate name adopted under  
5784 Subsection 48-3-805(1).

5785 (2) Information in an annual report under this section must be current as of the date the  
5786 report is delivered to the division for filing.

5787 (3) A report must be delivered to the division:

5788 (a) during the month of its anniversary date of formation, in the case of a domestic  
5789 limited liability company; or

5790 (b) during the month of the anniversary date of being granted authority to transact  
5791 business in this state, in the case of a foreign limited liability company authorized to transact  
5792 business in this state.

5793 (4) If an annual report under this section does not contain the information required in

5794 Subsection (1), the division shall promptly notify the reporting limited liability company or  
5795 foreign limited liability company and return the report to it for correction. If the report is  
5796 corrected to contain the information required in Subsection (1) and delivered to the division  
5797 within 30 days after the effective date of the notice, it is timely delivered.

5798 (5) If an annual report under this section contains information provided under  
5799 Subsection (1)(b) that differs from the information shown in the records of the division  
5800 immediately before the annual report becomes effective, the differing information in the annual  
5801 report is considered a statement of change under Section 16-17-206.

5802 Section 215. Section **48-3-301** is enacted to read:

5803 **Part 3. Relations of Members and Managers to Persons Dealing with Limited Liability**  
5804 **Company**

5805 **48-3-301. No agency power of member as member.**

5806 (1) A member is not an agent of a limited liability company solely by reason of being a  
5807 member.

5808 (2) A person's status as a member does not prevent or restrict law other than this  
5809 chapter from imposing liability on a limited liability company because of the person's conduct.

5810 Section 216. Section **48-3-302** is enacted to read:

5811 **48-3-302. Statement of authority.**

5812 (1) A limited liability company may deliver to the division for filing a statement of  
5813 authority. The statement:

5814 (a) must include the name of the limited liability company and the street and mailing  
5815 addresses of its principal office;

5816 (b) with respect to any position that exists in or with respect to the limited liability  
5817 company, may state the authority, or limitations on the authority, of all persons holding the  
5818 position to:

5819 (i) execute an instrument transferring real property held in the name of the limited  
5820 liability company; or

5821 (ii) enter into other transactions on behalf of, or otherwise act for or bind, the limited  
5822 liability company; and

5823 (c) may state the authority, or limitations on the authority, of a specific person to:

5824 (i) execute an instrument transferring real property held in the name of the limited

5825 liability company; or

5826 (ii) enter into other transactions on behalf of, or otherwise act for or bind, the limited

5827 liability company.

5828 (2) To amend or cancel a statement of authority filed by the division under Subsection

5829 48-3-205(1), a limited liability company must deliver to the division for filing an amendment

5830 or cancellation stating:

5831 (a) the name of the limited liability company;

5832 (b) the street and mailing addresses of the limited liability company's principal office;

5833 (c) the caption of the statement being amended or canceled and the date the statement

5834 being affected became effective; and

5835 (d) the contents of the amendment or a declaration that the statement being affected is

5836 canceled.

5837 (3) A statement of authority affects only the power of a person to bind a limited

5838 liability company to persons that are not members.

5839 (4) Subject to Subsection (3) and Subsection 48-3-103(4) and except as otherwise

5840 provided in Subsections (6), (7), and (8), a limitation on the authority of a person or a position

5841 contained in an effective statement of authority is not by itself evidence of knowledge or notice

5842 of the limitation by any person.

5843 (5) Subject to Subsection (3), a grant of authority not pertaining to transfers of real

5844 property and contained in an effective statement of authority is conclusive in favor of a person

5845 that gives value in reliance on the grant, except to the extent that when the person gives value:

5846 (a) the person has knowledge to the contrary;

5847 (b) the statement has been canceled or restrictively amended under Subsection (2); or

5848 (c) a limitation on the grant is contained in another statement of authority that became

5849 effective after the statement containing the grant became effective.

5850 (6) Subject to Subsection (3), an effective statement of authority that grants authority to

5851 transfer real property held in the name of the limited liability company and that is recorded by

5852 certified copy in the office for recording transfers of the real property is conclusive in favor of a

5853 person that gives value in reliance on the grant without knowledge to the contrary, except to the

5854 extent that when the person gives value:

5855 (a) the statement has been canceled or restrictively amended under Subsection (2) and a

5856 certified copy of the cancellation or restrictive amendment has been recorded in the office for  
5857 recording transfers of the real property; or

5858 (b) a limitation on the grant is contained in another statement of authority that became  
5859 effective after the statement containing the grant became effective and a certified copy of the  
5860 later-effective statement is recorded in the office for recording transfers of the real property.

5861 (7) Subject to Subsection (3), if a certified copy of an effective statement containing a  
5862 limitation on the authority to transfer real property held in the name of a limited liability  
5863 company is recorded in the office for recording transfers of that real property, all persons are  
5864 deemed to know of the limitation.

5865 (8) Subject to Subsection (9), an effective statement of dissolution or termination is a  
5866 cancellation of any filed statement of authority for the purposes of Subsection (6) and is a  
5867 limitation on authority for the purposes of Subsection (7).

5868 (9) After a statement of dissolution becomes effective, a limited liability company may  
5869 deliver to the division for filing and, if appropriate, may record a statement of authority that is  
5870 designated as a post-dissolution statement of authority. The statement operates as provided in  
5871 Subsections (6) and (7).

5872 (10) Unless earlier canceled, an effective statement of authority is canceled by  
5873 operation of law five years after the date on which the statement, or its most recent amendment,  
5874 becomes effective. This cancellation operates without need for any recording under Subsection  
5875 (6) or (7).

5876 (11) An effective statement of denial operates as a restrictive amendment under this  
5877 section and may be recorded by certified copy for the purposes of Subsection (6)(a).

5878 Section 217. Section **48-3-303** is enacted to read:

5879 **48-3-303. Statement of denial.**

5880 A person named in a filed statement of authority granting that person authority may  
5881 deliver to the division for filing a statement of denial that:

5882 (1) provides the name of the limited liability company and the caption of the statement  
5883 of authority to which the statement of denial pertains; and

5884 (2) denies the grant of authority.

5885 Section 218. Section **48-3-304** is enacted to read:

5886 **48-3-304. Liability of members and managers.**

5887 (1) The debts, obligations, or other liabilities of a limited liability company, whether  
5888 arising in contract, tort, or otherwise:

5889 (a) are solely the debts, obligations, or other liabilities of the limited liability company;  
5890 and

5891 (b) do not become the debts, obligations, or other liabilities of a member or manager  
5892 solely by reason of the member acting as a member or manager acting as a manager.

5893 (2) The failure of a limited liability company to observe any particular formalities  
5894 relating to the exercise of its powers or management of its activities is not a ground for  
5895 imposing liability on the members or managers for the debts, obligations, or other liabilities of  
5896 the limited liability company.

5897 Section 219. Section **48-3-401** is enacted to read:

5898 **Part 4. Relations of Members to Each Other and to Limited Liability Company**  
5899 **48-3-401. Becoming member.**

5900 (1) If a limited liability company is to have only one member upon formation, the  
5901 person becomes a member as agreed by that person and the organizer of the limited liability  
5902 company. That person and the organizer may be, but need not be, different persons. If  
5903 different, the organizer acts on behalf of the initial member.

5904 (2) If a limited liability company is to have more than one member upon formation,  
5905 those persons become members as agreed by the persons before the formation of the limited  
5906 liability company. The organizer acts on behalf of the persons in forming the limited liability  
5907 company and may be, but need not be, one of the persons.

5908 (3) After formation of a limited liability company, a person becomes a member:

5909 (a) as provided in the operating agreement;

5910 (b) as the result of a transaction effective under Part 10, Merger, Conversion, and  
5911 Domestication;

5912 (c) with the consent of all the members; or

5913 (d) if, within 90 consecutive days after the limited liability company ceases to have any  
5914 members:

5915 (i) the last person to have been a member, or the legal representative of that person,  
5916 designates a person to become a member; and

5917 (ii) the designated person consents to become a member.

5918 (4) A person may become a member without acquiring a transferable interest and  
5919 without making or being obligated to make a contribution to the limited liability company.

5920 Section 220. Section **48-3-402** is enacted to read:

5921 **48-3-402. Form of contribution.**

5922 A contribution may consist of tangible or intangible property or other benefit to a  
5923 limited liability company, including money, services performed, promissory notes, other  
5924 agreements to contribute money or property, and contracts for services to be performed.

5925 Section 221. Section **48-3-403** is enacted to read:

5926 **48-3-403. Liability for contributions.**

5927 (1) (a) A person's obligation to make a contribution to a limited liability company is  
5928 not excused by the person's death, disability, or other inability to perform personally.

5929 (b) If a person does not make a required contribution, the person or the person's estate  
5930 is obligated to contribute money equal to the value of the part of the contribution which has not  
5931 been made, at the option of the limited liability company.

5932 (c) Notwithstanding the other provisions of this Subsection (1), the operating  
5933 agreement of a limited liability company may allow a person's obligation to make a  
5934 contribution to be excused by the person's death.

5935 (2) A creditor of a limited liability company which extends credit or otherwise acts in  
5936 reliance on an obligation described in Subsection (1) may enforce the obligation.

5937 Section 222. Section **48-3-404** is enacted to read:

5938 **48-3-404. Sharing of and right to distributions before dissolution.**

5939 (1) Except as otherwise provided in the operating agreement, any distributions made by  
5940 a limited liability company before its dissolution and winding up must be in equal shares  
5941 among members and dissociated members, except to the extent necessary to comply with any  
5942 transfer effective under Section 48-3-502 and any charging order in effect under Section  
5943 48-3-503.

5944 (2) A person has a right to a distribution before the dissolution and winding up of a  
5945 limited liability company only if the limited liability company decides to make an interim  
5946 distribution. A person's dissociation does not entitle the person to a distribution.

5947 (3) A person does not have a right to demand or receive a distribution from a limited  
5948 liability company in any form other than money. Except as otherwise provided in Subsection



5949 48-3-708(3), a limited liability company may distribute an asset in kind if each part of the asset  
5950 is fungible with each other part and each person receives a percentage of the asset equal in  
5951 value to the person's share of distributions.

5952 (4) If a member or transferee becomes entitled to receive a distribution, the member or  
5953 transferee has the status of, and is entitled to all remedies available to, a creditor of the limited  
5954 liability company with respect to the distribution.

5955 Section 223. Section **48-3-405** is enacted to read:

5956 **48-3-405. Limitations on distribution.**

5957 (1) A limited liability company may not make a distribution if after the distribution:

5958 (a) the limited liability company would not be able to pay its debts as they become due  
5959 in the ordinary course of the limited liability company's activities; or

5960 (b) the limited liability company's total assets would be less than the sum of its total  
5961 liabilities plus the amount that would be needed, if the limited liability company were to be  
5962 dissolved, wound up, and terminated at the time of the distribution, to satisfy the preferential  
5963 rights upon dissolution, winding up, and termination of members whose preferential rights are  
5964 superior to those of persons receiving the distribution.

5965 (2) A limited liability company may base a determination that a distribution is not  
5966 prohibited under Subsection (1) on financial statements prepared on the basis of accounting  
5967 practices and principles that are reasonable in the circumstances or on a fair valuation or other  
5968 method that is reasonable under the circumstances.

5969 (3) Except as otherwise provided in Subsection (6), the effect of a distribution under  
5970 Subsection (1) is measured:

5971 (a) in the case of a distribution by purchase, redemption, or other acquisition of a  
5972 transferable interest in the limited liability company, as of the date money or other property is  
5973 transferred or debt incurred by the limited liability company; and

5974 (b) in all other cases, as of the date:

5975 (i) the distribution is authorized, if the payment occurs within 120 days after that date;  
5976 or

5977 (ii) the payment is made, if the payment occurs more than 120 days after the  
5978 distribution is authorized.

5979 (4) A limited liability company's indebtedness to a member incurred by reason of a

5980 distribution made in accordance with this section is at parity with the limited liability  
5981 company's indebtedness to its general, unsecured creditors.

5982 (5) A limited liability company's indebtedness, including indebtedness issued in  
5983 connection with or as part of a distribution, is not a liability for purposes of Subsection (1) if  
5984 the terms of the indebtedness provide that payment of principal and interest are made only to  
5985 the extent that a distribution could be made to members under this section.

5986 (6) If indebtedness is issued as a distribution, each payment of principal or interest on  
5987 the indebtedness is treated as a distribution, the effect of which is measured on the date the  
5988 payment is made.

5989 (7) In Subsection (1), "distribution" does not include amounts constituting reasonable  
5990 compensation for present or past services or reasonable payments made in the ordinary course  
5991 of business under a bona fide retirement plan or other benefits program.

5992 Section 224. Section **48-3-406** is enacted to read:

5993 **48-3-406. Liability for improper distributions.**

5994 (1) Except as otherwise provided in Subsection (2), if a member of a member-managed  
5995 limited liability company or manager of a manager-managed limited liability company consents  
5996 to a distribution made in violation of Section 48-3-405 and in consenting to the distribution  
5997 fails to comply with Section 48-3-409, the member or manager is personally liable to the  
5998 limited liability company for the amount of the distribution that exceeds the amount that could  
5999 have been distributed without the violation of Section 48-3-405.

6000 (2) To the extent the operating agreement of a member-managed limited liability  
6001 company expressly relieves a member of the authority and responsibility to consent to  
6002 distributions and imposes that authority and responsibility on one or more other members, the  
6003 liability stated in Subsection (1) applies to the other members and not the member that the  
6004 operating agreement relieves of authority and responsibility.

6005 (3) A person that receives a distribution knowing that the distribution to that person  
6006 was made in violation of Section 48-3-405 is personally liable to the limited liability company  
6007 but only to the extent that the distribution received by the person exceeded the amount that  
6008 could have been properly paid under Section 48-3-405.

6009 (4) A person against which an action is commenced because the person is liable under  
6010 Subsection (1) may:

6011 (a) implead any other person that is subject to liability under Subsection (1) and seek to  
6012 compel contribution from the person; and

6013 (b) implead any person that received a distribution in violation of Subsection (3) and  
6014 seek to compel contribution from the person in the amount the person received in violation of  
6015 Subsection (3).

6016 (5) An action under this section is barred if not commenced within two years after the  
6017 distribution.

6018 Section 225. Section **48-3-407** is enacted to read:

6019 **48-3-407. Management of limited liability company.**

6020 (1) A limited liability company is a member-managed limited liability company unless  
6021 the operating agreement:

6022 (a) expressly provides that:

6023 (i) the limited liability company is or will be "manager-managed";

6024 (ii) the limited liability company is or will be "managed by managers"; or

6025 (iii) management of the limited liability company is or will be "vested in managers"; or

6026 (b) includes words of similar import.

6027 (2) In a member-managed limited liability company, the following rules apply:

6028 (a) The management and conduct of the limited liability company are vested in the  
6029 members.

6030 (b) Each member has equal rights in the management and conduct of the limited  
6031 liability company's activities.

6032 (c) A difference arising among members as to a matter in the ordinary course of the  
6033 activities of the limited liability company may be decided by a majority of the members.

6034 (d) An act outside the ordinary course of the activities of the limited liability company  
6035 may be undertaken only with the consent of all members.

6036 (e) The operating agreement may be amended only with the consent of all members.

6037 (3) In a manager-managed limited liability company, the following rules apply:

6038 (a) Except as otherwise expressly provided in this chapter, any matter relating to the  
6039 activities of the limited liability company is decided exclusively by the managers.

6040 (b) Each manager has equal rights in the management and conduct of the activities of  
6041 the limited liability company.

6042 (c) A difference arising among managers as to a matter in the ordinary course of the  
6043 activities of the limited liability company may be decided by a majority of the managers.

6044 (d) The consent of all members is required to:

6045 (i) sell, lease, exchange, or otherwise dispose of all, or substantially all, of the limited  
6046 liability company's property, with or without the good will, outside the ordinary course of the  
6047 limited liability company's activities;

6048 (ii) approve a merger, conversion, or domestication under Part 10, Merger, Conversion,  
6049 and Domestication;

6050 (iii) undertake any other act outside the ordinary course of the limited liability  
6051 company's activities; and

6052 (iv) amend the operating agreement.

6053 (e) A manager may be chosen at any time by the consent of a majority of the members  
6054 and remains a manager until a successor has been chosen, unless the manager at an earlier time  
6055 resigns, is removed, or dies, or, in the case of a manager that is not an individual, terminates.  
6056 A manager may be removed at any time by the consent of a majority of the members without  
6057 notice or cause.

6058 (f) A person need not be a member to be a manager, but the dissociation of a member  
6059 that is also a manager removes the person as a manager. If a person that is both a manager and  
6060 a member ceases to be a manager, that cessation does not by itself dissociate the person as a  
6061 member.

6062 (g) A person's ceasing to be a manager does not discharge any debt, obligation, or other  
6063 liability to the limited liability company or members which the person incurred while a  
6064 manager.

6065 (4) An action requiring the consent of members under this chapter may be taken  
6066 without a meeting, and a member may appoint a proxy or other agent to consent or otherwise  
6067 act for the member by signing an appointing record, personally or by the member's agent.

6068 (5) The dissolution of a limited liability company does not affect the applicability of  
6069 this section. However, a person that wrongfully causes dissolution of the limited liability  
6070 company loses the right to participate in management as a member and a manager.

6071 (6) This chapter does not entitle a member to remuneration for services performed for a  
6072 member-managed limited liability company, except for reasonable compensation for services

6073 rendered in winding up the activities of the limited liability company.

6074 Section 226. Section **48-3-408** is enacted to read:

6075 **48-3-408. Indemnification and insurance.**

6076 (1) A limited liability company shall reimburse for any payment made and indemnify  
6077 for any debt, obligation, or other liability incurred by a member of a member-managed  
6078 company or the manager of a manager-managed company in the course of the member's or  
6079 manager's activities on behalf of the limited liability company, if, in making the payment or  
6080 incurring the debt, obligation, or other liability, the member or manager complied with the  
6081 duties stated in Sections 48-3-405 and 48-3-409.

6082 (2) A limited liability company may purchase and maintain insurance on behalf of a  
6083 member or manager of the limited liability company against liability asserted against or  
6084 incurred by the member or manager in that capacity or arising from that status even if, under  
6085 Subsection 48-3-110(7), the operating agreement could not eliminate or limit the person's  
6086 liability to the limited liability company for the conduct giving rise to the liability.

6087 Section 227. Section **48-3-409** is enacted to read:

6088 **48-3-409. Standards of conduct for members and managers.**

6089 (1) A member of a member-managed limited liability company owes to the limited  
6090 liability company and, subject to Subsection 48-3-901(2), the other members the fiduciary  
6091 duties of loyalty and care stated in Subsections (2) and (3).

6092 (2) The duty of loyalty of a member in a member-managed limited liability company  
6093 includes the duties:

6094 (a) to account to the limited liability company and to hold as trustee for it any property,  
6095 profit, or benefit derived by the member:

6096 (i) in the conduct or winding up of the limited liability company's activities;

6097 (ii) from a use by the member of the limited liability company's property; or

6098 (iii) from the appropriation of a limited liability company opportunity;

6099 (b) to refrain from dealing with the limited liability company in the conduct or winding  
6100 up of the limited liability company's activities as or on behalf of a person having an interest  
6101 adverse to the limited liability company; and

6102 (c) to refrain from competing with the limited liability company in the conduct of the  
6103 limited liability company's activities before the dissolution of the limited liability company.

6104 (3) A member or manager is not liable or accountable in damages or otherwise to the  
6105 company or the members for an action taken or failure to act on behalf of the company unless  
6106 the act or omission constitutes:

6107 (a) gross negligence;

6108 (b) willful misconduct; or

6109 (c) a breach of a higher standard of conduct that would result in greater exposure to  
6110 liability for the member or manager that is established in the company's articles of organization  
6111 or operating agreement.

6112 (4) A member in a member-managed limited liability company or a manager-managed  
6113 limited liability company shall discharge the duties under this chapter or under the operating  
6114 agreement and exercise any rights consistently with the contractual obligation of good faith and  
6115 fair dealing.

6116 (5) It is a defense to a claim under Subsection (2)(b) and any comparable claim in  
6117 equity or at common law that the transaction was fair to the limited liability company.

6118 (6) All of the members of a member-managed limited liability company or a  
6119 manager-managed limited liability company may authorize or ratify, after full disclosure of all  
6120 material facts, a specific act or transaction that otherwise would violate the duty of loyalty.

6121 (7) In a manager-managed limited liability company, the following rules apply:

6122 (a) Subsections (1), (2), (3), and (5) apply to the manager or managers and not the  
6123 members, except that the organization agreement of a company may apply the duty stated in  
6124 Subsection (2)(c) to a member.

6125 (b) The duty stated under Subsection (2)(c) continues until winding up is completed.

6126 (c) Subsection (4) applies to the members and managers.

6127 (d) Subsection (6) applies only to the members.

6128 (e) A member does not have any fiduciary duty to the limited liability company or to  
6129 any other member solely by reason of being a member.

6130 Section 228. Section **48-3-410** is enacted to read:

6131 **48-3-410. Right of members, managers, and dissociated members to information.**

6132 (1) In a member-managed limited liability company, the following rules apply:

6133 (a) On reasonable notice, a member may inspect and copy during regular business  
6134 hours, at a reasonable location specified by the limited liability company, any record

6135 maintained by the limited liability company regarding the limited liability company's activities,  
6136 financial condition, and other circumstances, to the extent the information is material to the  
6137 member's rights and duties under the operating agreement or this chapter.

6138 (b) The limited liability company shall furnish to each member:

6139 (i) without demand, any information concerning the limited liability company's  
6140 activities, financial condition, and other circumstances which the limited liability company  
6141 knows and is material to the proper exercise of the member's rights and duties under the  
6142 operating agreement or this chapter, except to the extent the limited liability company can  
6143 establish that it reasonably believes the member already knows the information; and

6144 (ii) on demand, any other information concerning the limited liability company's  
6145 activities, financial condition, and other circumstances, except to the extent the demand or  
6146 information demanded is unreasonable or otherwise improper under the circumstances.

6147 (c) The duty to furnish information under Subsection (1)(b) also applies to each  
6148 member to the extent the member knows any of the information described in Subsection (1)(b).

6149 (2) In a manager-managed limited liability company, the following rules apply:

6150 (a) The informational rights stated in Subsection (1) and the duty stated in Subsection  
6151 (1)(c) apply to the managers and not the members.

6152 (b) During regular business hours and at a reasonable location specified by the limited  
6153 liability company, a member may obtain from the limited liability company and inspect and  
6154 copy full information regarding the activities, financial condition, and other circumstances of  
6155 the limited liability company as is just and reasonable if:

6156 (i) the member seeks the information for a purpose material to the member's interest as  
6157 a member;

6158 (ii) the member makes a demand in a record received by the limited liability company,  
6159 describing with reasonable particularity the information sought and the purpose for seeking the  
6160 information; and

6161 (iii) the information sought is directly connected to the member's purpose.

6162 (c) Within 10 days after receiving a demand pursuant to Subsection (2)(b)(ii), the  
6163 limited liability company shall in a record inform the member that made the demand:

6164 (i) of the information that the limited liability company will provide in response to the  
6165 demand and when and where the limited liability company will provide the information; and

6166 (ii) if the limited liability company declines to provide any demanded information, the  
6167 limited liability company's reasons for declining.

6168 (d) Whenever this chapter or an operating agreement provides for a member to give or  
6169 withhold consent to a matter, before the consent is given or withheld, the limited liability  
6170 company shall, without demand, provide the member with all information that is known to the  
6171 limited liability company and is material to the member's decision.

6172 (3) On 10 days' demand made in a record received by a limited liability company, a  
6173 dissociated member may have access to information to which the person was entitled while a  
6174 member if the information pertains to the period during which the person was a member, the  
6175 person seeks the information in good faith, and the person satisfies the requirements imposed  
6176 on a member by Subsection (2)(b). The limited liability company shall respond to a demand  
6177 made pursuant to this Subsection (3) in the manner provided in Subsection (2)(c).

6178 (4) A limited liability company may charge a person that makes a demand under this  
6179 section the reasonable costs of copying, limited to the costs of labor and material.

6180 (5) A member or dissociated member may exercise rights under this section through an  
6181 agent or, in the case of an individual under legal disability, a legal representative. Any  
6182 restriction or condition imposed by the operating agreement or under Subsection (7) applies  
6183 both to the agent or legal representative and the member or dissociated member.

6184 (6) The rights under this section do not extend to a person as transferee.

6185 (7) In addition to any restriction or condition stated in its operating agreement, a  
6186 limited liability company, as a matter within the ordinary course of its activities, may impose  
6187 reasonable restrictions and conditions on access to and use of information to be furnished under  
6188 this section, including designating information confidential and imposing nondisclosure and  
6189 safeguarding obligations on the recipient. In a dispute concerning the reasonableness of a  
6190 restriction under this Subsection (7), the limited liability company has the burden of proving  
6191 reasonableness.

6192 Section 229. Section **48-3-501** is enacted to read:

**Part 5. Transferable Interests and Rights of Transferees and Creditors**

6194 **48-3-501. Nature of transferable interest.**

6195 A transferable interest is personal property.

6196 Section 230. Section **48-3-502** is enacted to read:



6197 **48-3-502. Transfer of transferable interest.**

6198 (1) A transfer, in whole or in part, of a transferable interest:

6199 (a) is permissible;

6200 (b) does not by itself cause a member's dissociation or a dissolution and winding up of

6201 the limited liability company's activities; and

6202 (c) subject to Section 48-3-504, does not entitle the transferee to:

6203 (i) participate in the management or conduct of the limited liability company's

6204 activities; or

6205 (ii) except as otherwise provided in Subsection (3), have access to records or other

6206 information concerning the limited liability company's activities.

6207 (2) A transferee has the right to receive, in accordance with the transfer, distributions to

6208 which the transferor would otherwise be entitled.

6209 (3) In a dissolution and winding up of a limited liability company, a transferee is

6210 entitled to an account of the limited liability company's transactions only from the date of

6211 dissolution.

6212 (4) A transferable interest may be evidenced by a certificate of the interest issued by

6213 the limited liability company in a record, and, subject to this section, the interest represented by

6214 the certificate may be transferred by a transfer of the certificate.

6215 (5) A limited liability company need not give effect to a transferee's rights under this

6216 section until the limited liability company has notice of the transfer.

6217 (6) A transfer of a transferable interest in violation of a restriction on transfer contained

6218 in the operating agreement is ineffective as to a person having notice of the restriction at the

6219 time of transfer.

6220 (7) Except as otherwise provided in Subsection 48-3-602(4)(b), when a member

6221 transfers a transferable interest, the transferor retains the rights of a member other than the

6222 interest in distributions transferred and retains all duties and obligations of a member.

6223 (8) When a member transfers a transferable interest to a person that becomes a member

6224 with respect to the transferred interest, the transferee is liable for the member's obligations

6225 under Section 48-3-403 and Subsection 48-3-406(3) known to the transferee when the

6226 transferee becomes a member.

6227 Section 231. Section **48-3-503** is enacted to read:

6228 **48-3-503. Charging order.**

6229 (1) On application by a judgment creditor of a member or transferee, a court may enter  
6230 a charging order against the transferable interest of the judgment debtor for the unsatisfied  
6231 amount of the judgment. A charging order constitutes a lien on a judgment debtor's  
6232 transferable interest and requires the limited liability company to pay over to the person to  
6233 which the charging order was issued any distribution that would otherwise be paid to the  
6234 judgment debtor.

6235 (2) To the extent necessary to effectuate the collection of distributions pursuant to a  
6236 charging order in effect under Subsection (1), the court may:

6237 (a) appoint a receiver of the distributions subject to the charging order, with the power  
6238 to make all inquiries the judgment debtor might have made; and

6239 (b) make all other orders necessary to give effect to the charging order.

6240 (3) Upon a showing that distributions under a charging order will not pay the judgment  
6241 debt within a reasonable time, the court may foreclose the lien and order the sale of the  
6242 transferable interest. The purchaser at the foreclosure sale only obtains the transferable  
6243 interest, does not thereby become a member, and is subject to Section 48-3-502.

6244 (4) At any time before foreclosure under Subsection (3), the member or transferee  
6245 whose transferable interest is subject to a charging order under Subsection (1) may extinguish  
6246 the charging order by satisfying the judgment and filing a certified copy of the satisfaction with  
6247 the court that issued the charging order.

6248 (5) At any time before foreclosure under Subsection (3), a limited liability company or  
6249 one or more members whose transferable interests are not subject to the charging order may  
6250 pay to the judgment creditor the full amount due under the judgment and thereby succeed to the  
6251 rights of the judgment creditor, including the charging order.

6252 (6) This chapter does not deprive any member or transferee of the benefit of any  
6253 exemption laws applicable to the member's or transferee's transferable interest.

6254 (7) This section provides the exclusive remedy by which a person seeking to enforce a  
6255 judgment against a member or transferee may, in the capacity of judgment creditor, satisfy the  
6256 judgment from the judgment debtor's transferable interest.

6257 Section 232. Section **48-3-504** is enacted to read:

6258 **48-3-504. Power of personal representative of deceased member.**

6259 If a member dies, the deceased member's personal representative or other legal  
6260 representative may exercise the rights of a transferee provided in Subsection 48-3-502(3) and,  
6261 for the purposes of settling the estate, the rights of a current member under Section 48-3-410.  
6262 Section 233. Section **48-3-601** is enacted to read:

6263 **Part 6. Member's Dissociation**

6264 **48-3-601. Member's power to dissociate -- Wrongful dissociation.**

6265 (1) A person has the power to dissociate as a member at any time, rightfully or  
6266 wrongfully, by withdrawing as a member by express will under Subsection 48-3-602(1).

6267 (2) A person's dissociation from a limited liability company is wrongful only if the  
6268 dissociation:

6269 (a) is in breach of an express provision of the operating agreement; or

6270 (b) occurs before the termination of the limited liability company and:

6271 (i) the person withdraws as a member by express will;

6272 (ii) the person is expelled as a member by judicial order under Subsection 48-3-602(5);

6273 (iii) the person is dissociated under Subsection 48-3-602(7)(a) by becoming a debtor in  
6274 bankruptcy; or

6275 (iv) in the case of a person that is not a trust other than a business trust, an estate, or an  
6276 individual, the person is expelled or otherwise dissociated as a member because it willfully  
6277 dissolved or terminated.

6278 (3) A person that wrongfully dissociates as a member is liable to the limited liability  
6279 company and, subject to Section 48-3-901, to the other members for damages caused by the  
6280 dissociation. The liability is in addition to any other debt, obligation, or other liability of the  
6281 member to the limited liability company or the other members.

6282 Section 234. Section **48-3-602** is enacted to read:

6283 **48-3-602. Events causing dissociation.**

6284 A person is dissociated as a member from a limited liability company when:

6285 (1) the limited liability company has notice of the person's express will to withdraw as  
6286 a member, but, if the person specified a withdrawal date later than the date the limited liability  
6287 company had notice, on that later date;

6288 (2) an event stated in the operating agreement as causing the person's dissociation  
6289 occurs;

- 6290 (3) the person is expelled as a member pursuant to the operating agreement;  
6291 (4) the person is expelled as a member by the unanimous consent of the other members  
6292 if:  
6293 (a) it is unlawful to carry on the limited liability company's activities with the person as  
6294 a member;  
6295 (b) there has been a transfer of all of the person's transferable interest in the limited  
6296 liability company, other than:  
6297 (i) a transfer for security purposes; or  
6298 (ii) a charging order in effect under Section 48-3-503 which has not been foreclosed;  
6299 (c) the person is a corporation and, within 90 days after the limited liability company  
6300 notifies the person that it will be expelled as a member because the person has filed a  
6301 certificate of dissolution or the equivalent, its charter has been revoked, or its right to conduct  
6302 business has been suspended by the jurisdiction of its incorporation, the certificate of  
6303 dissolution has not been revoked or its charter or right to conduct business has not been  
6304 reinstated; or  
6305 (d) the person is a limited liability company or partnership that has been dissolved and  
6306 whose business is being wound up;  
6307 (5) on application by the limited liability company, the person is expelled as a member  
6308 by judicial order because the person:  
6309 (a) has engaged, or is engaging, in wrongful conduct that has adversely and materially  
6310 affected, or will adversely and materially affect, the limited liability company's activities;  
6311 (b) has willfully or persistently committed, or is willfully and persistently committing,  
6312 a material breach of the operating agreement or the person's duties or obligations under Section  
6313 48-3-409; or  
6314 (c) has engaged in, or is engaging, in conduct relating to the limited liability company's  
6315 activities which makes it not reasonably practicable to carry on the activities with the person as  
6316 a member;  
6317 (6) in the case of a person who is an individual:  
6318 (a) the person dies; or  
6319 (b) in a member-managed limited liability company:  
6320 (i) a guardian or general conservator for the person is appointed; or

- 6321 (ii) there is a judicial order that the person has otherwise become incapable of  
6322 performing the person's duties as a member under this chapter or the operating agreement;
- 6323 (7) in a member-managed limited liability company, the person:
- 6324 (a) becomes a debtor in bankruptcy;
- 6325 (b) executes an assignment for the benefit of creditors; or
- 6326 (c) seeks, consents to, or acquiesces in the appointment of a trustee, receiver, or  
6327 liquidator of the person or of all or substantially all of the person's property;
- 6328 (8) in the case of a person that is a trust or is acting as a member by virtue of being a  
6329 trustee of a trust, the trust's entire transferable interest in the limited liability company is  
6330 distributed;
- 6331 (9) in the case of a person that is an estate or is acting as a member by virtue of being a  
6332 personal representative of an estate, the estate's entire transferable interest in the limited  
6333 liability company is distributed;
- 6334 (10) in the case of a member that is not an individual, partnership, limited liability  
6335 company, corporation, trust, or estate, the termination of the member;
- 6336 (11) the limited liability company participates in a merger under Part 10, Merger,  
6337 Conversion, and Domestication, if:
- 6338 (a) the limited liability company is not the surviving entity; or
- 6339 (b) otherwise as a result of the merger, the person ceases to be a member;
- 6340 (12) the limited liability company participates in a conversion under Part 10, Merger,  
6341 Conversion, and Domestication;
- 6342 (13) the limited liability company participates in a domestication under Part 10,  
6343 Merger, Conversion, and Domestication, if, as a result of the domestication, the person ceases  
6344 to be a member; or
- 6345 (14) the limited liability company terminates.
- 6346 Section 235. Section **48-3-603** is enacted to read:
- 6347 **48-3-603. Effect of person's dissociation as member.**
- 6348 (1) When a person is dissociated as a member of a limited liability company:
- 6349 (a) the person's right to participate as a member in the management and conduct of the  
6350 limited liability company's activities terminates;
- 6351 (b) if the limited liability company is member-managed, the person's fiduciary duties as

6352 a member end with regard to matters arising and events occurring after the person's  
6353 dissociation; and

6354 (c) subject to Section 48-3-504 and Part 10, Merger, Conversion, and Domestication,  
6355 any transferable interest owned by the person immediately before dissociation in the person's  
6356 capacity as a member is owned by the person solely as a transferee.

6357 (2) A person's dissociation as a member of a limited liability company does not of itself  
6358 discharge the person from any debt, obligation, or other liability to the limited liability  
6359 company or the other members which the person incurred while a member.

6360 Section 236. Section **48-3-701** is enacted to read:

6361 **Part 7. Dissolution and Winding Up**

6362 **48-3-701. Events causing dissolution.**

6363 (1) A limited liability company is dissolved, and its activities must be wound up, upon  
6364 the occurrence of any of the following:

6365 (a) an event or circumstance that the operating agreement states causes dissolution;

6366 (b) the consent of all the members;

6367 (c) the passage of 90 consecutive days during which the limited liability company has  
6368 no members;

6369 (d) on application by a member, the entry by a district court of an order dissolving the  
6370 limited liability company on the grounds that:

6371 (i) the conduct of all or substantially all of the limited liability company's activities is  
6372 unlawful; or

6373 (ii) it is not reasonably practicable to carry on the limited liability company's activities  
6374 in conformity with the certificate of organization and the operating agreement; or

6375 (e) on application by a member, the entry by a district court of an order dissolving the  
6376 limited liability company on the grounds that the managers or those members in control of the  
6377 limited liability company:

6378 (i) have acted, are acting, or will act in a manner that is illegal or fraudulent; or

6379 (ii) have acted or are acting in a manner that is oppressive and was, is, or will be  
6380 directly harmful to the applicant.

6381 (2) In a proceeding brought under Subsection (1)(e), the court may order a remedy  
6382 other than dissolution.

6383 Section 237. Section **48-3-702** is enacted to read:

6384 **48-3-702. Winding up.**

6385 (1) A dissolved limited liability company shall wind up its activities, and the limited  
6386 liability company continues after dissolution only for the purpose of winding up.

6387 (2) In winding up its activities, a limited liability company:

6388 (a) shall discharge the limited liability company's debts, obligations, or other liabilities,  
6389 settle and close the limited liability company's activities, and marshal and distribute the assets  
6390 of the limited liability company; and

6391 (b) may:

6392 (i) deliver to the division for filing a statement of dissolution stating the name of the  
6393 limited liability company and that the limited liability company is dissolved;

6394 (ii) preserve the limited liability company activities and property as a going concern for  
6395 a reasonable time;

6396 (iii) prosecute and defend actions and proceedings, whether civil, criminal, or  
6397 administrative;

6398 (iv) transfer the limited liability company's property;

6399 (v) settle disputes by mediation or arbitration;

6400 (vi) deliver to the division for filing a statement of termination stating the name of the  
6401 limited liability company and that the limited liability company is terminated; and

6402 (vii) perform other acts necessary or appropriate to the winding up.

6403 (3) If a dissolved limited liability company has no members, the legal representative of  
6404 the last person to have been a member may wind up the activities of the limited liability  
6405 company. If the person does so, the person has the powers of a sole manager under Subsection  
6406 48-3-407(3) and is deemed to be a manager for the purposes of Subsection 48-3-304(1)(b).

6407 (4) If the legal representative under Subsection (3) declines or fails to wind up the  
6408 limited liability company's activities, a person may be appointed to do so by the consent of  
6409 transferees owning a majority of the rights to receive distributions as transferees at the time the  
6410 consent is to be effective. A person appointed under this Subsection (4):

6411 (a) has the powers of a sole manager under Subsection 48-3-407(3) and is deemed to  
6412 be a manager for the purposes of Subsection 48-3-304(1)(b); and

6413 (b) shall promptly deliver to the division for filing an amendment to the limited

- 6414 liability company's certificate of organization to:
- 6415 (i) state that the limited liability company has no members;
- 6416 (ii) state that the person has been appointed pursuant to this Subsection (4) to wind up
- 6417 the limited liability company; and
- 6418 (c) provide the street and mailing addresses of the person.
- 6419 (5) A district court may order judicial supervision of the winding up of a dissolved
- 6420 limited liability company, including the appointment of a person to wind up the limited liability
- 6421 company's activities:
- 6422 (a) on application of a member, if the applicant establishes good cause;
- 6423 (b) on the application of a transferee, if:
- 6424 (i) the limited liability company does not have any members;
- 6425 (ii) the legal representative of the last person to have been a member declines or fails to
- 6426 wind up the limited liability company's activities; and
- 6427 (iii) within a reasonable time following the dissolution a person has not been appointed
- 6428 pursuant to Subsection (4); or
- 6429 (c) in connection with a proceeding under Subsection 48-3-701(1)(d) or (e).
- 6430 Section 238. Section **48-3-703** is enacted to read:
- 6431 **48-3-703. Known claims against dissolved limited liability company.**
- 6432 (1) Except as otherwise provided in Subsection (4), a dissolved limited liability
- 6433 company may give notice of a known claim under Subsection (2), which has the effect as
- 6434 provided in Subsection (3).
- 6435 (2) A dissolved limited liability company may in a record notify its known claimants of
- 6436 the dissolution. The notice must:
- 6437 (a) specify the information required to be included in a claim;
- 6438 (b) provide a mailing address to which the claim is to be sent;
- 6439 (c) state the deadline for receipt of the claim, which may not be less than 120 days after
- 6440 the date the notice is received by the claimant; and
- 6441 (d) state that the claim will be barred if not received by the deadline.
- 6442 (3) A claim against a dissolved limited liability company is barred if the requirements
- 6443 of Subsection (2) are met and:
- 6444 (a) the claim is not received by the specified deadline; or



6445 (b) if the claim is timely received but rejected by the limited liability company:  
6446 (i) the limited liability company causes the claimant to receive a notice in a record  
6447 stating that the claim is rejected and will be barred unless the claimant commences an action  
6448 against the limited liability company to enforce the claim within 90 days after the claimant  
6449 receives the notice; and

6450 (ii) the claimant does not commence the required action within the 90 days.

6451 (4) This section does not apply to a claim based on an event occurring after the  
6452 effective date of dissolution or a liability that on that date is contingent.

6453 Section 239. Section **48-3-704** is enacted to read:

6454 **48-3-704. Other claims against dissolved limited liability company.**

6455 (1) A dissolved limited liability company may publish notice of its dissolution and  
6456 request persons having claims against the limited liability company to present them in  
6457 accordance with the notice.

6458 (2) The notice authorized by Subsection (1) must:

6459 (a) be published:

6460 (i) at least once in a newspaper of general circulation in the county in this state in  
6461 which the dissolved limited liability company's principal office is located or, if it has none in  
6462 this state, in Salt Lake County; and

6463 (ii) in accordance with Section 45-1-101;

6464 (b) describe the information required to be contained in a claim and provide a mailing  
6465 address to which the claim is to be sent; and

6466 (c) state that a claim against the limited liability company is barred unless an action to  
6467 enforce the claim is commenced within five years after publication of the notice.

6468 (3) If a dissolved limited liability company publishes a notice in accordance with  
6469 Subsection (2), unless the claimant commences an action to enforce the claim against the  
6470 limited liability company within five years after the publication date of the notice, the claim of  
6471 each of the following claimants is barred:

6472 (a) a claimant that did not receive notice in a record under Section 48-3-703;

6473 (b) a claimant whose claim was timely sent to the limited liability company but not  
6474 acted on; and

6475 (c) a claimant whose claim is contingent at, or based on an event occurring after, the

6476 effective date of dissolution.

6477 (4) A claim not barred under this section may be enforced:

6478 (a) against a dissolved limited liability company, to the extent of its undistributed  
6479 assets; and

6480 (b) if assets of the limited liability company have been distributed after dissolution,  
6481 against a member or transferee to the extent of that person's proportionate share of the claim or  
6482 of the assets distributed to the member or transferee after dissolution, whichever is less, but a  
6483 person's total liability for all claims under this Subsection (4)(b) does not exceed the total  
6484 amount of assets distributed to the person after dissolution.

6485 Section 240. Section **48-3-705** is enacted to read:

6486 **48-3-705. Administrative dissolution.**

6487 (1) The division may dissolve a limited liability company administratively if the  
6488 limited liability company does not:

6489 (a) pay, within 60 days after the due date, any fee, tax, or penalty due to the division  
6490 under this chapter or law other than this chapter; or

6491 (b) deliver, within 60 days after the due date, its annual report to the division.

6492 (2) If the division determines that a ground exists for administratively dissolving a  
6493 limited liability company, the division shall file a record of the determination and serve the  
6494 limited liability company with a copy of the filed record.

6495 (3) If within 60 days after service of the copy pursuant to Subsection (2) a limited  
6496 liability company does not correct each ground for dissolution or demonstrate to the reasonable  
6497 satisfaction of the division that each ground determined by the division does not exist, the  
6498 division shall dissolve the limited liability company administratively by preparing, signing, and  
6499 filing a declaration of dissolution that states the grounds for dissolution. The division shall  
6500 serve the limited liability company with a copy of the filed declaration.

6501 (4) A limited liability company that has been administratively dissolved continues in  
6502 existence but, subject to Section 48-3-706, may carry on only activities necessary to wind up its  
6503 activities and liquidate its assets under Sections 48-3-702 and 48-3-708 and to notify claimants  
6504 under Sections 48-3-703 and 48-3-704.

6505 (5) The administrative dissolution of a limited liability company does not terminate the  
6506 authority of its agent for service of process.

6507 Section 241. Section **48-3-706** is enacted to read:

6508 **48-3-706. Reinstatement following administrative dissolution.**

6509 (1) A limited liability company that has been administratively dissolved may apply to  
6510 the division for reinstatement within two years after the effective date of dissolution. The  
6511 application must be delivered to the division for filing and state:

6512 (a) the name of the limited liability company and the effective date of its dissolution;

6513 (b) that the grounds for dissolution did not exist or have been eliminated; and

6514 (c) that the limited liability company's name satisfies the requirements of Section  
6515 48-3-108.

6516 (2) If the division determines that an application under Subsection (1) contains the  
6517 required information and that the information is correct, the division shall prepare a declaration  
6518 of reinstatement that states this determination, sign and file the original of the declaration of  
6519 reinstatement, and serve the limited liability company with a copy.

6520 (3) When a reinstatement becomes effective, it relates back to and takes effect as of the  
6521 effective date of the administrative dissolution and the limited liability company may resume  
6522 its activities as if the dissolution had not occurred.

6523 Section 242. Section **48-3-707** is enacted to read:

6524 **48-3-707. Appeal from rejection of reinstatement.**

6525 (1) If the division rejects a limited liability company's application for reinstatement  
6526 following administrative dissolution, the division shall prepare, sign, and file a notice that  
6527 explains the reason for rejection and serve the limited liability company with a copy of the  
6528 notice.

6529 (2) Within 30 days after service of a notice of rejection of reinstatement under  
6530 Subsection (1), a limited liability company may appeal from the rejection by petitioning a court  
6531 of appropriate jurisdiction to set aside the dissolution. The petition must be served on the  
6532 division and contain a copy of the division's declaration of dissolution, the limited liability  
6533 company's application for reinstatement, and the division's notice of rejection.

6534 (3) The court may order the division to reinstate a dissolved limited liability company  
6535 or take other action the court considers appropriate.

6536 Section 243. Section **48-3-708** is enacted to read:

6537 **48-3-708. Distribution of assets in winding up limited liability company's**

6538 **activities.**

6539 (1) In winding up its activities, a limited liability company must apply its assets to  
6540 discharge its obligations to creditors, including members that are creditors.

6541 (2) After a limited liability company complies with Subsection (1), any surplus must be  
6542 distributed in the following order, subject to any charging order in effect under Section  
6543 48-3-503:

6544 (a) to each person owning a transferable interest that reflects contributions made by a  
6545 member and not previously returned, an amount equal to the value of the unreturned  
6546 contributions; and

6547 (b) in equal shares among members and dissociated members, except to the extent  
6548 necessary to comply with any transfer effective under Section 48-3-502.

6549 (3) If a limited liability company does not have sufficient surplus to comply with  
6550 Subsection (2)(a), any surplus must be distributed among the owners of transferable interests in  
6551 proportion to the value of their respective unreturned contributions.

6552 (4) All distributions made under Subsections (2) and (3) must be paid in money.  
6553 Section 244. Section **48-3-801** is enacted to read:

6554 **Part 8. Foreign Limited Liability Companies**

6555 **48-3-801. Governing law.**

6556 (1) The law of the state or other jurisdiction under which a foreign limited liability  
6557 company is formed governs:

6558 (a) the internal affairs of the limited liability company; and

6559 (b) the liability of a member as member and a manager as manager for the debts,  
6560 obligations, or other liabilities of the limited liability company.

6561 (2) A foreign limited liability company may not be denied a certificate of authority by  
6562 reason of any difference between the law of the jurisdiction under which the limited liability  
6563 company is formed and the law of this state.

6564 (3) A certificate of authority does not authorize a foreign limited liability company to  
6565 engage in any business or exercise any power that a limited liability company may not engage  
6566 in or exercise in this state.

6567 (4) (a) The division may permit a tribal limited liability company to apply for authority  
6568 to transact business in the state in the same manner as a foreign company formed in another

6569 state.

6570 (b) If a tribal limited liability company elects to apply for authority to transact business  
6571 in the state, for purposes of this chapter, the tribal limited liability company shall be treated in  
6572 the same manner as a foreign company formed under the laws of another state.

6573 Section 245. Section **48-3-802** is enacted to read:

6574 **48-3-802. Application for certificate of authority.**

6575 (1) A foreign limited liability company may apply for a certificate of authority to  
6576 transact business in this state by delivering an application to the division for filing. The  
6577 application must state:

6578 (a) the name of the limited liability company and, if the name does not comply with  
6579 Section 48-3-108, an alternate name adopted pursuant to Subsection 48-3-805(1);

6580 (b) the name of the state or other jurisdiction under whose law the limited liability  
6581 company is formed;

6582 (c) the street and mailing addresses of the limited liability company's principal office  
6583 and, if the law of the jurisdiction under which the limited liability company is formed requires  
6584 the limited liability company to maintain an office in that jurisdiction, the street and mailing  
6585 addresses of the required office; and

6586 (d) the information required by Subsection 16-17-203(1).

6587 (2) A foreign limited liability company shall deliver with a completed application  
6588 under Subsection (1) a certificate of existence or a record of similar import signed by the  
6589 division or other official having custody of the limited liability company's publicly filed records  
6590 in the state or other jurisdiction under whose law the limited liability company is formed.

6591 Section 246. Section **48-3-803** is enacted to read:

6592 **48-3-803. Activities not constituting transacting business.**

6593 (1) Activities of a foreign limited liability company which do not constitute transacting  
6594 business in this state within the meaning of this part include:

6595 (a) maintaining, defending, or settling an action or proceeding;

6596 (b) carrying on any activity concerning its internal affairs, including holding meetings  
6597 of its members or managers;

6598 (c) maintaining accounts in financial institutions;

6599 (d) maintaining offices or agencies for the transfer, exchange, and registration of the

6600 limited liability company's own securities or maintaining trustees or depositories with respect  
6601 to those securities;

6602 (e) selling through independent contractors;

6603 (f) soliciting or obtaining orders, whether by mail or electronic means or through  
6604 employees or agents or otherwise, if the orders require acceptance outside this state before they  
6605 become contracts;

6606 (g) creating or acquiring indebtedness, mortgages, or security interests in real or  
6607 personal property;

6608 (h) securing or collecting debts or enforcing mortgages or other security interests in  
6609 property securing the debts and holding, protecting, or maintaining property so acquired;

6610 (i) conducting an isolated transaction that is completed within 30 days and is not in the  
6611 course of similar transactions; and

6612 (j) transacting business in interstate commerce.

6613 (2) For purposes of this part, the ownership in this state of income-producing real  
6614 property or tangible personal property, other than property excluded under Subsection (1),  
6615 constitutes transacting business in this state.

6616 (3) This section does not apply in determining the contacts or activities that may  
6617 subject a foreign limited liability company to service of process, taxation, or regulation under  
6618 law of this state other than this chapter.

6619 Section 247. Section **48-3-804** is enacted to read:

6620 **48-3-804. Filing of certificate of authority.**

6621 Unless the division determines that an application for a certificate of authority does not  
6622 comply with the filing requirements of this chapter, the division, upon payment of all filing  
6623 fees, shall file the application of a foreign limited liability company, prepare, sign, and file a  
6624 certificate of authority to transact business in this state, and send a copy of the filed certificate,  
6625 together with a receipt for the fees, to the limited liability company or its representative.

6626 Section 248. Section **48-3-805** is enacted to read:

6627 **48-3-805. Noncomplying name of foreign limited liability company.**

6628 (1) A foreign limited liability company whose name does not comply with Section  
6629 48-3-108 may not obtain a certificate of authority until it adopts, for the purpose of transacting  
6630 business in this state, an alternate name that complies with Section 48-3-108. A foreign limited

6631 liability company that adopts an alternate name under this Subsection (1) and obtains a  
6632 certificate of authority with the alternate name need not comply with Title 42, Chapter 2,  
6633 Conducting Business Under Assumed Name. After obtaining a certificate of authority with an  
6634 alternate name, a foreign limited liability company shall transact business in this state under the  
6635 alternate name unless the limited liability company is authorized under Title 42, Chapter 2,  
6636 Conducting Business Under Assumed Name, to transact business in this state under another  
6637 name.

6638 (2) If a foreign limited liability company authorized to transact business in this state  
6639 changes its name to one that does not comply with Section 48-3-108, it may not thereafter  
6640 transact business in this state until it complies with Subsection (1) and obtains an amended  
6641 certificate of authority.

6642 Section 249. Section **48-3-806** is enacted to read:

6643 **48-3-806. Revocation of certificate of authority.**

6644 (1) A certificate of authority of a foreign limited liability company to transact business  
6645 in this state may be revoked by the division in the manner provided in Subsections (2) and (3)  
6646 if the limited liability company does not:

6647 (a) pay, within 60 days after the due date, any fee, tax, or penalty due to the division  
6648 under this chapter or law other than this chapter;

6649 (b) deliver, within 60 days after the due date, its annual report required under Section  
6650 48-3-209;

6651 (c) appoint and maintain an agent for service of process as required by Subsection  
6652 16-17-203(1); or

6653 (d) deliver for filing a statement of a change under Section 16-17-206 within 30 days  
6654 after a change has occurred in the name or address of the agent.

6655 (2) To revoke a certificate of authority of a foreign limited liability company, the  
6656 division must prepare, sign, and file a notice of revocation and send a copy to the limited  
6657 liability company's agent for service of process in this state, or if the limited liability company  
6658 does not appoint and maintain a proper agent in this state, to the limited liability company's  
6659 principal office. The notice must state:

6660 (a) the revocation's effective date, which must be at least 60 days after the date the  
6661 division sends the copy; and

6662 (b) the grounds for revocation under Subsection (1).

6663 (3) The authority of a foreign limited liability company to transact business in this state  
6664 ceases on the effective date of the notice of revocation unless before that date the limited  
6665 liability company cures each ground for revocation stated in the notice filed under Subsection  
6666 (2). If the limited liability company cures each ground, the division shall file a record so  
6667 stating.

6668 Section 250. Section **48-3-807** is enacted to read:

6669 **48-3-807. Cancellation of certificate of authority.**

6670 To cancel its certificate of authority to transact business in this state, a foreign limited  
6671 liability company must deliver to the division for filing a notice of cancellation stating the  
6672 name of the limited liability company and that the limited liability company desires to cancel  
6673 its certificate of authority. The certificate is canceled when the notice becomes effective.

6674 Section 251. Section **48-3-808** is enacted to read:

6675 **48-3-808. Effect of failure to have certificate of authority.**

6676 (1) A foreign limited liability company transacting business in this state may not  
6677 maintain an action or proceeding in this state unless it has a certificate of authority to transact  
6678 business in this state.

6679 (2) The failure of a foreign limited liability company to have a certificate of authority  
6680 to transact business in this state does not impair the validity of a contract or act of the limited  
6681 liability company or prevent the limited liability company from defending an action or  
6682 proceeding in this state.

6683 (3) A member or manager of a foreign limited liability company is not liable for the  
6684 debts, obligations, or other liabilities of the limited liability company solely because the limited  
6685 liability company transacted business in this state without a certificate of authority.

6686 (4) If a foreign limited liability company transacts business in this state without a  
6687 certificate of authority or cancels its certificate of authority, service of process for rights of  
6688 action arising out of the transaction of business in this state shall be served in accordance with  
6689 Section 16-17-301.

6690 Section 252. Section **48-3-809** is enacted to read:

6691 **48-3-809. Action by attorney general.**

6692 The attorney general may maintain an action to enjoin a foreign limited liability



6693 company from transacting business in this state in violation of this part.

6694 Section 253. Section **48-3-901** is enacted to read:

6695 **Part 9. Actions by Members**

6696 **48-3-901. Direct action by member.**

6697 (1) Subject to Subsection (2), a member may maintain a direct action against another  
6698 member, a manager, or the limited liability company to enforce the member's rights and  
6699 otherwise protect the member's interests, including rights and interests under the operating  
6700 agreement or this chapter or arising independently of the membership relationship.

6701 (2) A member maintaining a direct action under this section must plead and prove an  
6702 actual or threatened injury that is not solely the result of an injury suffered or threatened to be  
6703 suffered by the limited liability company.

6704 Section 254. Section **48-3-902** is enacted to read:

6705 **48-3-902. Derivative action.**

6706 A member may maintain a derivative action to enforce a right of a limited liability  
6707 company if:

6708 (1) the member first makes a demand on the other members in a member-managed  
6709 limited liability company, or the managers of a manager-managed limited liability company,  
6710 requesting that they cause the limited liability company to bring an action to enforce the right,  
6711 and the managers or other members do not bring the action within a reasonable time; or

6712 (2) a demand under Subsection (1) would be futile.

6713 Section 255. Section **48-3-903** is enacted to read:

6714 **48-3-903. Proper plaintiff.**

6715 (1) Except as otherwise provided in Subsection (2), a derivative action under Section  
6716 48-3-902 may be maintained only by a person that is a member at the time the action is  
6717 commenced and remains a member while the action continues.

6718 (2) If the sole plaintiff in a derivative action dies while the action is pending, the court  
6719 may permit another member of the limited liability company to be substituted as plaintiff.

6720 Section 256. Section **48-3-904** is enacted to read:

6721 **48-3-904. Pleading.**

6722 In a derivative action under Section 48-3-902, the complaint must state with  
6723 particularity:

6724 (1) the date and content of plaintiff's demand and the response to the demand by the  
6725 managers or other members; or

6726 (2) if a demand has not been made, the reasons a demand under Subsection  
6727 48-3-902(1) would be futile.

6728 Section 257. Section **48-3-905** is enacted to read:

6729 **48-3-905. Special litigation committee.**

6730 (1) If a limited liability company is named as or made a party in a derivative  
6731 proceeding, the limited liability company may appoint a special litigation committee to  
6732 investigate the claims asserted in the proceeding and determine whether pursuing the action is  
6733 in the best interests of the limited liability company. If the limited liability company appoints a  
6734 special litigation committee, on motion by the committee made in the name of the limited  
6735 liability company, except for good cause shown, the court shall stay discovery for the time  
6736 reasonably necessary to permit the committee to make its investigation. This Subsection (1)  
6737 does not prevent the court from enforcing a person's right to information under Section  
6738 48-3-410 or, for good cause shown, granting extraordinary relief in the form of a temporary  
6739 restraining order or preliminary injunction.

6740 (2) A special litigation committee may be composed of one or more disinterested and  
6741 independent individuals, who may be members.

6742 (3) A special litigation committee may be appointed:

6743 (a) in a member-managed limited liability company:

6744 (i) by the consent of a majority of the members not named as defendants or plaintiffs in  
6745 the proceeding; and

6746 (ii) if all members are named as defendants or plaintiffs in the proceeding, by a  
6747 majority of the members named as defendants; or

6748 (b) in a manager-managed limited liability company:

6749 (i) by a majority of the managers not named as defendants or plaintiffs in the  
6750 proceeding; and

6751 (ii) if all managers are named as defendants or plaintiffs in the proceeding, by a  
6752 majority of the managers named as defendants.

6753 (4) After appropriate investigation, a special litigation committee may determine that it  
6754 is in the best interests of the limited liability company that the proceeding:

6755 (a) continue under the control of the plaintiff;  
6756 (b) continue under the control of the committee;  
6757 (c) be settled on terms approved by the committee; or  
6758 (d) be dismissed.  
6759 (5) After making a determination under Subsection (4), a special litigation committee  
6760 shall file with the court a statement of its determination and its report supporting its  
6761 determination, giving notice to the plaintiff. The court shall determine whether the members of  
6762 the committee were disinterested and independent and whether the committee conducted its  
6763 investigation and made its recommendation in good faith, independently, and with reasonable  
6764 care, with the committee having the burden of proof. If the court finds that the members of the  
6765 committee were disinterested and independent and that the committee acted in good faith,  
6766 independently, and with reasonable care, the court shall enforce the determination of the  
6767 committee. Otherwise, the court shall dissolve the stay of discovery entered under Subsection  
6768 (1) and allow the action to proceed under the direction of the plaintiff.

6769 Section 258. Section **48-3-906** is enacted to read:

6770 **48-3-906. Proceeds and expenses.**

6771 (1) Except as otherwise provided in Subsection (2):

6772 (a) any proceeds or other benefits of a derivative action under Section 48-3-902,  
6773 whether by judgment, compromise, or settlement, belong to the limited liability company and  
6774 not to the plaintiff; and

6775 (b) if the plaintiff receives any proceeds, the plaintiff shall remit them immediately to  
6776 the limited liability company.

6777 (2) If a derivative action under Section 48-3-902 is successful in whole or in part, the  
6778 court may award the plaintiff reasonable expenses, including reasonable attorney fees and  
6779 costs, from the recovery of the limited liability company.

6780 Section 259. Section **48-3-1001** is enacted to read:

6781 **Part 10. Merger, Conversion, and Domestication**

6782 **48-3-1001. Definitions.**

6783 As used in this part:

6784 (1) "Constituent limited liability company" means a constituent organization that is a  
6785 limited liability company.

- 6786 (2) "Constituent organization" means an organization that is party to a merger.
- 6787 (3) "Converted organization" means the organization into which a converting  
6788 organization converts pursuant to Sections 48-3-1006 through 48-3-1009.
- 6789 (4) "Converting limited liability company" means a converting organization that is a  
6790 limited liability company.
- 6791 (5) "Converting organization" means an organization that converts into another  
6792 organization pursuant to Section 48-3-1006.
- 6793 (6) "Domesticated company" means the limited liability company that exists after a  
6794 domesticating foreign limited liability company or limited liability company effects a  
6795 domestication pursuant to Sections 48-3-1010 through 48-3-1013.
- 6796 (7) "Domesticating company" means the limited liability company that effects a  
6797 domestication pursuant to Sections 48-3-1010 through 48-3-1013.
- 6798 (8) "Governing statute" means the statute that governs an organization's internal affairs.
- 6799 (9) (a) "Organization" means:
- 6800 (i) a general partnership, including a limited liability partnership;
- 6801 (ii) a limited partnership, including a limited liability limited partnership;
- 6802 (iii) a limited liability company;
- 6803 (iv) a business trust;
- 6804 (v) a corporation; or
- 6805 (vi) any other person having a governing statute.
- 6806 (b) "Organization" includes a domestic or foreign organization regardless of whether  
6807 organized for profit.
- 6808 (10) "Organizational documents" means:
- 6809 (a) for a domestic or foreign general partnership, its partnership agreement;
- 6810 (b) for a limited partnership or foreign limited partnership, its certificate of limited  
6811 partnership and partnership agreement;
- 6812 (c) for a domestic or foreign limited liability company, its certificate or articles of  
6813 organization and operating agreement, or comparable records as provided in its governing  
6814 statute;
- 6815 (d) for a business trust, its agreement of trust and declaration of trust;
- 6816 (e) for a domestic or foreign corporation for profit, its articles of incorporation, bylaws,

6817 and other agreements among its shareholders which are authorized by its governing statute, or  
6818 comparable records as provided in its governing statute; and

6819 (f) for any other organization, the basic records that create the organization and  
6820 determine its internal governance and the relations among the persons that own it, have an  
6821 interest in it, or are members of it.

6822 (11) "Personal liability" means liability for a debt, obligation, or other liability of an  
6823 organization which is imposed on a person that co-owns, has an interest in, or is a member of  
6824 the organization:

6825 (a) by the governing statute solely by reason of the person co-owning, having an  
6826 interest in, or being a member of the organization; or

6827 (b) by the organization's organizational documents under a provision of the governing  
6828 statute authorizing those documents to make one or more specified persons liable for all or  
6829 specified debts, obligations, or other liabilities of the organization solely by reason of the  
6830 person or persons co-owning, having an interest in, or being a member of the organization.

6831 (12) "Surviving organization" means an organization into which one or more other  
6832 organizations are merged whether the organization preexisted the merger or was created by the  
6833 merger.

6834 Section 260. Section **48-3-1002** is enacted to read:

6835 **48-3-1002. Merger.**

6836 (1) A limited liability company may merge with one or more other constituent  
6837 organizations pursuant to this section, Sections 48-3-1003 through 48-3-1005, and a plan of  
6838 merger, if:

6839 (a) the governing statute of each of the other organizations authorizes the merger;

6840 (b) the merger is not prohibited by the law of a jurisdiction that enacted any of the  
6841 governing statutes; and

6842 (c) each of the other organizations complies with its governing statute in effecting the  
6843 merger.

6844 (2) A plan of merger must be in a record and must include:

6845 (a) the name and form of each constituent organization;

6846 (b) the name and form of the surviving organization and, if the surviving organization  
6847 is to be created by the merger, a statement to that effect;

6848 (c) the terms and conditions of the merger, including the manner and basis for  
6849 converting the interests in each constituent organization into any combination of money,  
6850 interests in the surviving organization, and other consideration;

6851 (d) if the surviving organization is to be created by the merger, the surviving  
6852 organization's organizational documents that are proposed to be in a record; and

6853 (e) if the surviving organization is not to be created by the merger, any amendments to  
6854 be made by the merger to the surviving organization's organizational documents that are, or are  
6855 proposed to be, in a record.

6856 Section 261. Section **48-3-1003** is enacted to read:

6857 **48-3-1003. Action on plan of merger by constituent limited liability company.**

6858 (1) Subject to Section 48-3-1014, a plan of merger must be consented to by all the  
6859 members of a constituent limited liability company.

6860 (2) Subject to Section 48-3-1014 and any contractual rights, after a merger is approved,  
6861 and at any time before articles of merger are delivered to the division for filing under Section  
6862 48-3-1004, a constituent limited liability company may amend the plan or abandon the merger:

6863 (a) as provided in the plan; or

6864 (b) except as otherwise prohibited in the plan, with the same consent as was required to  
6865 approve the plan.

6866 Section 262. Section **48-3-1004** is enacted to read:

6867 **48-3-1004. Filings required for merger -- Effective date.**

6868 (1) After each constituent organization has approved a merger, articles of merger must  
6869 be signed on behalf of:

6870 (a) each constituent limited liability company, as provided in Subsection 48-3-203(1);  
6871 and

6872 (b) each other constituent organization, as provided in its governing statute.

6873 (2) Articles of merger under this section must include:

6874 (a) the name and form of each constituent organization and the jurisdiction of its  
6875 governing statute;

6876 (b) the name and form of the surviving organization, the jurisdiction of its governing  
6877 statute, and, if the surviving organization is created by the merger, a statement to that effect;

6878 (c) the date the merger is effective under the governing statute of the surviving

6879 organization;

6880 (d) if the surviving organization is to be created by the merger:

6881 (i) if it will be a limited liability company, the limited liability company's certificate of  
6882 organization; or

6883 (ii) if it will be an organization other than a limited liability company, the  
6884 organizational document that creates the organization that is in a public record;

6885 (e) if the surviving organization preexists the merger, any amendments provided for in  
6886 the plan of merger for the organizational document that created the organization that are in a  
6887 public record;

6888 (f) a statement as to each constituent organization that the merger was approved as  
6889 required by the organization's governing statute;

6890 (g) if the surviving organization is a foreign organization not authorized to transact  
6891 business in this state, the street and mailing addresses of an office that may be used for service  
6892 of process under Subsection 48-3-1005(2); and

6893 (h) any additional information required by the governing statute of any constituent  
6894 organization.

6895 (3) Each constituent limited liability company shall deliver the articles of merger for  
6896 filing in the division.

6897 (4) A merger becomes effective under this part:

6898 (a) if the surviving organization is a limited liability company, upon the later of:

6899 (i) compliance with Subsection (3); or

6900 (ii) subject to Subsection 48-3-205(3), as specified in the articles of merger; or

6901 (b) if the surviving organization is not a limited liability company, as provided by the  
6902 governing statute of the surviving organization.

6903 Section 263. Section **48-3-1005** is enacted to read:

6904 **48-3-1005. Effect of merger.**

6905 (1) When a merger becomes effective:

6906 (a) the surviving organization continues or comes into existence;

6907 (b) each constituent organization that merges into the surviving organization ceases to  
6908 exist as a separate entity;

6909 (c) all property owned by each constituent organization that ceases to exist vests in the

6910 surviving organization;

6911 (d) all debts, obligations, or other liabilities of each constituent organization that ceases  
6912 to exist continue as debts, obligations, or other liabilities of the surviving organization;

6913 (e) an action or proceeding pending by or against any constituent organization that  
6914 ceases to exist may be continued as if the merger had not occurred;

6915 (f) except as prohibited by other law, all of the rights, privileges, immunities, powers,  
6916 and purposes of each constituent organization that ceases to exist vest in the surviving  
6917 organization;

6918 (g) except as otherwise provided in the plan of merger, the terms and conditions of the  
6919 plan of merger take effect; and

6920 (h) except as otherwise agreed, if a constituent limited liability company ceases to  
6921 exist, the merger does not dissolve the limited liability company for the purposes of Part 7,  
6922 Dissolution and Winding Up;

6923 (i) if the surviving organization is created by the merger:

6924 (A) if it is a limited liability company, the certificate of organization becomes  
6925 effective; or

6926 (B) if it is an organization other than a limited liability company, the organizational  
6927 document that creates the organization becomes effective; and

6928 (j) if the surviving organization preexisted the merger, any amendments provided for in  
6929 the articles of merger for the organizational document that created the organization become  
6930 effective.

6931 (2) A surviving organization that is a foreign organization consents to the jurisdiction  
6932 of the courts of this state to enforce any debt, obligation, or other liability owed by a constituent  
6933 organization, if before the merger the constituent organization was subject to suit in this state  
6934 on the debt, obligation, or other liability. A surviving organization that is a foreign  
6935 organization and not authorized to transact business in this state may be served with process at  
6936 the address required in the articles of merger under Subsection 48-3-1004(2)(g).

6937 Section 264. Section **48-3-1006** is enacted to read:

6938 **48-3-1006. Conversion.**

6939 (1) An organization other than a limited liability company or a foreign limited liability  
6940 company may convert to a limited liability company, and a limited liability company may



6941 convert to an organization other than a foreign limited liability company pursuant to this  
6942 section, Sections 48-3-1007 through 48-3-1009, and a plan of conversion, if:

6943 (a) the other organization's governing statute authorizes the conversion;

6944 (b) the conversion is not prohibited by the law of the jurisdiction that enacted the other  
6945 organization's governing statute; and

6946 (c) the other organization complies with its governing statute in effecting the  
6947 conversion.

6948 (2) A plan of conversion must be in a record and must include:

6949 (a) the name and form of the organization before conversion;

6950 (b) the name and form of the organization after conversion;

6951 (c) the terms and conditions of the conversion, including the manner and basis for  
6952 converting interests in the converting organization into any combination of money, interests in  
6953 the converted organization, and other consideration; and

6954 (d) the organizational documents of the converted organization that are, or are  
6955 proposed to be, in a record.

6956 Section 265. Section **48-3-1007** is enacted to read:

6957 **48-3-1007. Action on plan of conversion by converting limited liability company.**

6958 (1) Subject to Section 48-3-1014, a plan of conversion must be consented to by all the  
6959 members of a converting limited liability company.

6960 (2) Subject to Section 48-3-1014 and any contractual rights, after a conversion is  
6961 approved, and at any time before articles of conversion are delivered to the division for filing  
6962 under Section 48-3-1008, a converting limited liability company may amend the plan or  
6963 abandon the conversion:

6964 (a) as provided in the plan; or

6965 (b) except as otherwise prohibited in the plan, by the same consent as was required to  
6966 approve the plan.

6967 Section 266. Section **48-3-1008** is enacted to read:

6968 **48-3-1008. Filings required for conversion -- Effective date.**

6969 (1) After a plan of conversion is approved:

6970 (a) a converting limited liability company shall deliver to the division for filing articles  
6971 of conversion, which must be signed as provided in Subsection 48-3-203(1) and must include:

- 6972 (i) a statement that the limited liability company has been converted into another  
6973 organization;
- 6974 (ii) the name and form of the organization and the jurisdiction of its governing statute;  
6975 (iii) the date the conversion is effective under the governing statute of the converted  
6976 organization;
- 6977 (iv) a statement that the conversion was approved as required by this chapter;  
6978 (v) a statement that the conversion was approved as required by the governing statute  
6979 of the converted organization; and
- 6980 (vi) if the converted organization is a foreign organization not authorized to transact  
6981 business in this state, the street and mailing addresses of an office that may be used for service  
6982 of process under Subsection 48-3-1009(3); and
- 6983 (b) if the converting organization is not a converting limited liability company, the  
6984 converting organization shall deliver to the division for filing a certificate of organization,  
6985 which must include, in addition to the information required by Subsection 48-3-201(2):
- 6986 (i) a statement that the converted organization was converted from another  
6987 organization;
- 6988 (ii) the name and form of that converting organization and the jurisdiction of its  
6989 governing statute; and
- 6990 (iii) a statement that the conversion was approved in a manner that complied with the  
6991 converting organization's governing statute.
- 6992 (2) A conversion becomes effective:
- 6993 (a) if the converted organization is a limited liability company, when the certificate of  
6994 organization takes effect; and
- 6995 (b) if the converted organization is not a limited liability company, as provided by the  
6996 governing statute of the converted organization.
- 6997 Section 267. Section **48-3-1009** is enacted to read:
- 6998 **48-3-1009. Effect of conversion.**
- 6999 (1) An organization that has been converted pursuant to this part is for all purposes the  
7000 same entity that existed before the conversion.
- 7001 (2) When a conversion takes effect:
- 7002 (a) all property owned by the converting organization remains vested in the converted

7003 organization;

7004 (b) all debts, obligations, or other liabilities of the converting organization continue as  
7005 debts, obligations, or other liabilities of the converted organization;

7006 (c) an action or proceeding pending by or against the converting organization may be  
7007 continued as if the conversion had not occurred;

7008 (d) except as prohibited by law other than this chapter, all of the rights, privileges,  
7009 immunities, powers, and purposes of the converting organization remain vested in the  
7010 converted organization;

7011 (e) except as otherwise provided in the plan of conversion, the terms and conditions of  
7012 the plan of conversion take effect; and

7013 (f) except as otherwise agreed, the conversion does not dissolve a converting limited  
7014 liability company for the purposes of Part 7, Dissolution and Winding Up.

7015 (3) A converted organization that is a foreign organization consents to the jurisdiction  
7016 of the courts of this state to enforce any debt, obligation, or other liability for which the  
7017 converting limited liability company is liable if, before the conversion, the converting limited  
7018 liability company was subject to suit in this state on the debt, obligation, or other liability. A  
7019 converted organization that is a foreign organization and not authorized to transact business in  
7020 this state may be served with process at the address required in the articles of conversion under  
7021 Subsection 48-3-1008(1)(a)(vi).

7022 Section 268. Section **48-3-1010** is enacted to read:

7023 **48-3-1010. Domestication.**

7024 (1) A foreign limited liability company may become a limited liability company  
7025 pursuant to this section, Sections 48-3-1011 through 48-3-1013, and a plan of domestication,  
7026 if:

7027 (a) the foreign limited liability company's governing statute authorizes the  
7028 domestication;

7029 (b) the domestication is not prohibited by the law of the jurisdiction that enacted the  
7030 governing statute; and

7031 (c) the foreign limited liability company complies with its governing statute in  
7032 effecting the domestication.

7033 (2) A limited liability company may become a foreign limited liability company

7034 pursuant to this section, Sections 48-3-1011 through 48-3-1013, and a plan of domestication,  
7035 if:

7036 (a) the foreign limited liability company's governing statute authorizes the  
7037 domestication;

7038 (b) the domestication is not prohibited by the law of the jurisdiction that enacted the  
7039 governing statute; and

7040 (c) the foreign limited liability company complies with its governing statute in  
7041 effecting the domestication.

7042 (3) A plan of domestication must be in a record and must include:

7043 (a) the name of the domesticating company before domestication and the jurisdiction of  
7044 its governing statute;

7045 (b) the name of the domesticated company after domestication and the jurisdiction of  
7046 its governing statute;

7047 (c) the terms and conditions of the domestication, including the manner and basis for  
7048 converting interests in the domesticating company into any combination of money, interests in  
7049 the domesticated company, and other consideration; and

7050 (d) the organizational documents of the domesticated company that are, or are  
7051 proposed to be, in a record.

7052 Section 269. Section **48-3-1011** is enacted to read:

7053 **48-3-1011. Action on plan of domestication by domesticating limited liability**  
7054 **company.**

7055 (1) A plan of domestication must be consented to:

7056 (a) by all the members, subject to Section 48-3-1014, if the domesticating company is a  
7057 limited liability company; and

7058 (b) as provided in the domesticating company's governing statute, if the limited  
7059 liability company is a foreign limited liability company.

7060 (2) Subject to any contractual rights, after a domestication is approved, and at any time  
7061 before articles of domestication are delivered to the division for filing under Section

7062 48-3-1012, a domesticating company may amend the plan or abandon the domestication:

7063 (a) as provided in the plan; or

7064 (b) except as otherwise prohibited in the plan, by the same consent as was required to

7065 approve the plan.

7066 Section 270. Section **48-3-1012** is enacted to read:

7067 **48-3-1012. Filings required for domestication -- Effective date.**

7068 (1) After a plan of domestication is approved, a domesticating company shall deliver to  
7069 the division for filing articles of domestication, which must include:

7070 (a) a statement, as the case may be, that the limited liability company has been  
7071 domesticated from or into another jurisdiction;

7072 (b) the name of the domesticating company and the jurisdiction of its governing  
7073 statute;

7074 (c) the name of the domesticated company and the jurisdiction of its governing statute;

7075 (d) the date the domestication is effective under the governing statute of the  
7076 domesticated company;

7077 (e) if the domesticating company was a limited liability company, a statement that the  
7078 domestication was approved as required by this chapter;

7079 (f) if the domesticating company was a foreign limited liability company, a statement  
7080 that the domestication was approved as required by the governing statute of the other  
7081 jurisdiction; and

7082 (g) if the domesticated company was a foreign limited liability company not authorized  
7083 to transact business in this state, the street and mailing addresses of an office that may be used  
7084 for service of process under Subsection 48-3-1013(2).

7085 (2) A domestication becomes effective:

7086 (a) when the certificate of organization takes effect, if the domesticated company is a  
7087 limited liability company; and

7088 (b) according to the governing statute of the domesticated company, if the  
7089 domesticated organization is a foreign limited liability company.

7090 Section 271. Section **48-3-1013** is enacted to read:

7091 **48-3-1013. Effect of domestication.**

7092 (1) When a domestication takes effect:

7093 (a) the domesticated company is for all purposes the limited liability company that  
7094 existed before the domestication;

7095 (b) all property owned by the domesticating company remains vested in the

7096 domesticated company;

7097 (c) all debts, obligations, or other liabilities of the domesticating company continue as  
7098 debts, obligations, or other liabilities of the domesticated company;

7099 (d) an action or proceeding pending by or against a domesticating company may be  
7100 continued as if the domestication had not occurred;

7101 (e) except as prohibited by other law, all of the rights, privileges, immunities, powers,  
7102 and purposes of the domesticating company remain vested in the domesticated company;

7103 (f) except as otherwise provided in the plan of domestication, the terms and conditions  
7104 of the plan of domestication take effect; and

7105 (g) except as otherwise agreed, the domestication does not dissolve a domesticating  
7106 company for the purposes of Part 7, Dissolution and Winding Up.

7107 (2) A domesticated company that is a foreign limited liability company consents to the  
7108 jurisdiction of the courts of this state to enforce any debt, obligation, or other liability owed by  
7109 the domesticating company, if, before the domestication, the domesticating company was  
7110 subject to suit in this state on the debt, obligation, or other liability. A domesticated company  
7111 that is a foreign limited liability company and not authorized to transact business in this state  
7112 may be served with process at the address required in the articles of domestication under  
7113 Subsection 48-3-1012(1)(g).

7114 (3) If a limited liability company has adopted and approved a plan of domestication  
7115 under Section 48-3-1010 providing for the limited liability company to be domesticated in a  
7116 foreign jurisdiction, a statement surrendering the limited liability company's certificate of  
7117 organization must be delivered to the division for filing setting forth:

7118 (a) the name of the limited liability company;

7119 (b) a statement that the certificate of organization is being surrendered in connection  
7120 with the domestication of the limited liability company in a foreign jurisdiction;

7121 (c) a statement that the domestication was approved as required by this chapter; and

7122 (d) the jurisdiction of formation of the domesticated foreign limited liability company.

7123 Section 272. Section **48-3-1014** is enacted to read:

7124 **48-3-1014. Restrictions on approval of mergers, conversions, and domestications.**

7125 (1) If a member of a constituent, converting, or domesticating limited liability company  
7126 will have personal liability with respect to a surviving, converted, or domesticated

7127 organization, approval or amendment of a plan of merger, conversion, or domestication are  
7128 ineffective without the consent of the member, unless:

7129 (a) the limited liability company's operating agreement provides for approval of a  
7130 merger, conversion, or domestication with the consent of fewer than all the members; and

7131 (b) the member has consented to the provision of the operating agreement.

7132 (2) A member does not give the consent required by Subsection (1) merely by  
7133 consenting to a provision of the operating agreement that permits the operating agreement to be  
7134 amended with the consent of fewer than all the members.

7135 Section 273. Section **48-3-1015** is enacted to read:

7136 **48-3-1015. Part not exclusive.**

7137 This part does not preclude an entity from being merged, converted, or domesticated  
7138 under law other than this chapter.

7139 Section 274. Section **48-3-1101** is enacted to read:

7140 **Part 11. Professional Services Company Act**

7141 **48-3-1101. Title.**

7142 This part is known as the "Professional Services Company Act."

7143 Section 275. Section **48-3-1102** is enacted to read:

7144 **48-3-1102. Definitions.**

7145 As used in this part:

7146 (1) "Professional services" means a personal service provided by:

7147 (a) a public accountant holding a license under Title 58, Chapter 26a, Certified Public  
7148 Accountant Licensing Act, or a subsequent law regulating the practice of public accounting;

7149 (b) an architect holding a license under Title 58, Chapter 3a, Architects Licensing Act,  
7150 or a subsequent law regulating the practice of architecture;

7151 (c) an attorney granted the authority to practice law by the:

7152 (i) Utah Supreme Court; or

7153 (ii) one or more of the following that licenses or regulates the authority to practice law  
7154 in a state or territory of the United States other than Utah:

7155 (A) a supreme court;

7156 (B) a court other than a supreme court;

7157 (C) an agency;

- 7158            (D) an instrumentality; or
- 7159            (E) a regulating board;
- 7160            (d) a chiropractor holding a license under Title 58, Chapter 73, Chiropractic Physician
- 7161 Practice Act, or any subsequent law regulating the practice of chiropractics;
- 7162            (e) a doctor of dentistry holding a license under Title 58, Chapter 69, Dentist and
- 7163 Dental Hygienist Practice Act, or a subsequent law, regulating the practice of dentistry;
- 7164            (f) a professional engineer registered under Title 58, Chapter 22, Professional
- 7165 Engineers and Professional Land Surveyors Licensing Act;
- 7166            (g) a naturopath holding a license under Title 58, Chapter 71, Naturopathic Physician
- 7167 Practice Act, or a subsequent law regulating the practice of naturopathy;
- 7168            (h) a nurse licensed under Title 58, Chapter 31b, Nurse Practice Act, or Title 58,
- 7169 Chapter 44a, Nurse Midwife Practice Act;
- 7170            (i) an optometrist holding a license under Title 58, Chapter 16a, Utah Optometry
- 7171 Practice Act, or a subsequent law regulating the practice of optometry;
- 7172            (j) an osteopathic physician or surgeon holding a license under Title 58, Chapter 68,
- 7173 Utah Osteopathic Medical Practice Act, or a subsequent law regulating the practice of
- 7174 osteopathy;
- 7175            (k) a pharmacist holding a license under Title 58, Chapter 17b, Pharmacy Practice Act,
- 7176 or a subsequent law regulating the practice of pharmacy;
- 7177            (l) a physician, surgeon, or doctor of medicine holding a license under Title 58,
- 7178 Chapter 67, Utah Medical Practice Act, or a subsequent law regulating the practice of
- 7179 medicine;
- 7180            (m) a physical therapist holding a license under Title 58, Chapter 24b, Physical
- 7181 Therapy Practice Act, or a subsequent law regulating the practice of physical therapy;
- 7182            (n) a podiatric physician holding a license under Title 58, Chapter 5a, Podiatric
- 7183 Physician Licensing Act, or a subsequent law regulating the practice of podiatry;
- 7184            (o) a psychologist holding a license under Title 58, Chapter 61, Psychologist Licensing
- 7185 Act, or any subsequent law regulating the practice of psychology;
- 7186            (p) a principal broker, associate broker, or sales agent holding a license under Title 61,
- 7187 Chapter 2f, Real Estate Licensing and Practices Act, or a subsequent law regulating the sale,
- 7188 exchange, purchase, rental, or leasing of real estate;



7189 (q) a clinical or certified social worker holding a license under Title 58, Chapter 60,  
7190 Part 2, Social Worker Licensing Act, or a subsequent law regulating the practice of social  
7191 work;

7192 (r) a mental health therapist holding a license under Title 58, Chapter 60, Mental  
7193 Health Professional Practice Act, or a subsequent law regulating the practice of mental health  
7194 therapy;

7195 (s) a veterinarian holding a license under Title 58, Chapter 28, Veterinary Practice Act,  
7196 or a subsequent law regulating the practice of veterinary medicine; or

7197 (t) an individual licensed, certified, or registered under Title 61, Chapter 2b, Real  
7198 Estate Appraiser Licensing and Certification Act, or a subsequent law regulating the practice of  
7199 appraising real estate.

7200 (2) "Professional services company" means a limited liability company organized  
7201 under this part to provide professional services.

7202 (3) "Regulating board" means the entity organized pursuant to state law that licenses  
7203 and regulates the practice of the profession that a limited liability company is organized to  
7204 provide.

7205 Section 276. Section **48-3-1103** is enacted to read:

7206 **48-3-1103. Application of this part -- Application of Part 12.**

7207 (1) If a conflict arises between this part and another provision of this chapter, this part  
7208 controls.

7209 (2) Notwithstanding the other provisions of this part, on and after January 1, 2012:

7210 (a) a professional services company may not designate series of members, managers, or  
7211 interests; and

7212 (b) a limited liability company may not form a professional services company as a  
7213 series of the limited liability company.

7214 Section 277. Section **48-3-1104** is enacted to read:

7215 **48-3-1104. Additional requirements for certificate of organization.**

7216 The certificate of organization of a professional services company shall:

7217 (1) comply with Section 48-3-201; and

7218 (2) contain the following:

7219 (a) a name consistent with Section 48-3-1105;

7220 (b) a description of the profession to be practiced through the professional services  
7221 company; and

7222 (c) notwithstanding Section 48-3-201, the name and street address of each member or  
7223 manager of the professional services company.

7224 Section 278. Section **48-3-1105** is enacted to read:

7225 **48-3-1105. Name limitations.**

7226 (1) The name of a domestic professional services company and of a foreign  
7227 professional services company authorized to transact business in this state, in addition to  
7228 complying with Sections 48-3-108, 48-3-802, and 48-3-805:

7229 (a) may not contain language stating or implying that it is formed for a purpose other  
7230 than that authorized by:

7231 (i) its certificate of organization; or

7232 (ii) Section 48-3-1106;

7233 (b) must conform with any rule made by the regulating board having jurisdiction over a  
7234 professional service described in the professional services company's certificate of  
7235 organization; and

7236 (c) in lieu of the requirement of Subsection 48-3-108(1), must contain the words  
7237 "professional limited liability company" or the abbreviations "P.L.L.C." or "PLLC" in:

7238 (i) its certificate of organization; and

7239 (ii) a report or document filed with the division.

7240 (2) Notwithstanding Subsection (1)(c), a professional services company may hold itself  
7241 out to the public under a name that does not contain the words "professional limited liability  
7242 company" or the abbreviations "P.L.L.C." or "PLLC" if that name complies with Subsection  
7243 48-3-108(1).

7244 (3) Sections 48-3-108, 48-3-802, and 48-3-805 do not prevent the use of a name  
7245 otherwise prohibited by those sections if the name is:

7246 (a) the personal name of an individual member or individual former member of the  
7247 professional services company; or

7248 (b) the name of an individual who was associated with a predecessor of the  
7249 professional services company.

7250 Section 279. Section **48-3-1106** is enacted to read:

7251 **48-3-1106. Providing a professional service.**

7252 (1) A professional services company may provide a professional service in this state  
7253 only through an individual licensed or otherwise authorized in this state to provide the  
7254 professional service.

7255 (2) Subsection (1) does not:

7256 (a) require an individual employed by a professional services company to be licensed  
7257 to perform a service for the professional services company if a license is not otherwise  
7258 required;

7259 (b) prohibit a licensed individual from providing a professional service in the  
7260 individual's professional capacity although the individual is a member, manager, employee, or  
7261 agent of a professional services company; or

7262 (c) prohibit an individual licensed in another state from providing a professional  
7263 service for a professional services company in this state if not prohibited by the regulating  
7264 board.

7265 (3) A professional services company may not provide a professional service other than  
7266 the professional service authorized by its certificate of organization.

7267 Section 280. Section **48-3-1107** is enacted to read:

7268 **48-3-1107. Limit of one profession.**

7269 (1) A professional services company organized to provide a professional service under  
7270 this chapter may provide only:

7271 (a) one specific type of professional service; and

7272 (b) a service ancillary to the professional service described in Subsection (1)(a).

7273 (2) A professional services company organized to provide a professional service under  
7274 this chapter may not engage in a business other than to provide:

7275 (a) the professional service that it was organized to provide; and

7276 (b) services ancillary to the professional service described in Subsection (2)(a).

7277 (3) Notwithstanding Subsection (1) or (2), a professional services company may:

7278 (a) own real and personal property necessary or appropriate for providing the type of  
7279 professional service it was organized to provide; and

7280 (b) invest the professional services company's money in one or more of the following:

7281 (i) real estate;

7282 (ii) mortgages;

7283 (iii) stocks;

7284 (iv) bonds; or

7285 (vi) another type of investment.

7286 Section 281. Section **48-3-1108** is enacted to read:

7287 **48-3-1108. Activity limitations.**

7288 A professional services company may not do anything that an individual licensed to

7289 practice the profession that the professional services company is organized to provide is

7290 prohibited from doing.

7291 Section 282. Section **48-3-1109** is enacted to read:

7292 **48-3-1109. Part does not limit regulating board.**

7293 This chapter does not restrict the authority or duty of a regulating board to license an

7294 individual providing a professional service or the practice of the profession that is within the

7295 jurisdiction of the regulating board, notwithstanding that the individual:

7296 (1) is a member, manager, or employee of a professional services company; and

7297 (2) provides the professional service or engages in the practice of the profession

7298 through a professional services company.

7299 Section 283. Section **48-3-1110** is enacted to read:

7300 **48-3-1110. Member or manager of a professional services company.**

7301 A professional services company organized to provide a professional service:

7302 (1) may include a member, manager, or employee who is authorized under the laws of

7303 the jurisdiction where the member, manager, or employee resides to provide a similar

7304 professional service;

7305 (2) may include a member who is not licensed or registered by the state to provide the

7306 professional service to the extent allowed by the applicable licensing or registration act relating

7307 to the professional service;

7308 (3) may render a professional service in this state only through a member, manager, or

7309 employee who is licensed or registered by this state to render the professional service; and

7310 (4) as a power provided under Section 48-3-105.

7311 Section 284. Section **48-3-1111** is enacted to read:

7312 **48-3-1111. Restriction on transfer by member.**

7313 (1) Except as provided in Subsection (2), a member of a professional services company  
7314 may sell or transfer the member's interest in the professional services company only to:

7315 (a) the professional services company; or

7316 (b) an individual who is licensed or registered by this state to provide the same type of  
7317 professional service as the professional service for which the professional services company is  
7318 organized.

7319 (2) (a) Upon the death or incapacity of a member of a professional services company,  
7320 the member's interest in the professional services company may be transferred to the personal  
7321 representative or estate of the deceased or incapacitated member.

7322 (b) The person to whom an interest is transferred under Subsection (2)(a) may continue  
7323 to hold the interest for a reasonable period, but may not participate in a decision concerning the  
7324 providing of a professional service.

7325 Section 285. Section **48-3-1112** is enacted to read:

7326 **48-3-1112. Purchase of interest upon death, incapacity, or disqualification of**  
7327 **member.**

7328 (1) Subject to this part, one or more of the following may provide for the purchase of a  
7329 member's interest in a professional services company upon the death, incapacity, or  
7330 disqualification of the member:

7331 (a) the certificate of organization;

7332 (b) the operating agreement; or

7333 (c) a private agreement.

7334 (2) (a) In the absence of a provision described in Subsection (1), a professional services  
7335 company shall purchase the interest of a member who is deceased, incapacitated, or no longer  
7336 qualified to own an interest in the professional services company within 90 days after the day  
7337 on which the professional services company is notified of the death, incapacity, or  
7338 disqualification.

7339 (b) If a professional services company purchases a member's interest under this  
7340 Subsection (2), the professional services company shall purchase the interest at a price that is  
7341 the reasonable fair market value as of the date of death, incapacity, or disqualification.

7342 (3) (a) If a professional services company fails to purchase a member's interest as  
7343 required by Subsection (2)(a) at the end of the 90-day period described in Subsection (2)(a),

7344 one of the following may bring an action in the district court of the county in which the  
7345 principal office or place of practice of the professional services company is located to enforce  
7346 Subsection (2):

7347 (i) the personal representative of a deceased member;

7348 (ii) the guardian or conservator of an incapacitated member; or

7349 (iii) the disqualified member.

7350 (b) A court in which an action is brought under this Subsection (3) may:

7351 (i) award the person bringing the action the reasonable fair market value of the interest;

7352 or

7353 (ii) within its jurisdiction, order the liquidation of the professional services company.

7354 (c) If a person described in Subsection (3)(a)(i) through (iii) is successful in an action

7355 under this Subsection (3), the court shall award the person reasonable attorney fees and costs.

7356 Section 286. Section **48-3-1113** is enacted to read:

7357 **48-3-1113. Conversion to nonprofessional company.**

7358 (1) A professional services company subject to this part converts into a limited liability  
7359 company subject to this chapter, but not subject to this part on the day on which:

7360 (a) no member of the professional services company is licensed or registered for the  
7361 professional service for which the professional services company is organized; or

7362 (b) members holding at least two-thirds interest in the profits of the professional  
7363 services company vote to not be subject to this part.

7364 (2) A professional services company converted as provided in Subsection (1) shall  
7365 upon the event described in Subsection (1) operate as and be treated as a limited liability  
7366 company subject to this chapter, but not subject to this part.

7367 (3) A limited liability company converted under this section may reconvert to a  
7368 professional services company:

7369 (a) upon a member of the professional services company being licensed or registered  
7370 for the professional service for which the professional services company is organized; or

7371 (b) by the vote of members holding at least two-thirds interests in the profits of the  
7372 professional services company, if at least one member of the professional services company is  
7373 licensed or registered for the professional service for which the professional services company  
7374 is organized.

7375 (4) If a professional services company is converted or reconverted under this section,  
7376 the professional services company shall file a certificate of amendment to the certificate of  
7377 organization with the division within a reasonable time after the conversion or reconversion to  
7378 reflect the changes.

7379 Section 287. Section **48-3-1201** is enacted to read:

7380 **Part 12. Limited Liability Company Series Act**

7381 **48-3-1201. Title.**

7382 This part is known as the "Limited Liability Company Series Act."

7383 Section 288. Section **48-3-1202** is enacted to read:

7384 **48-3-1202. Application of this part.**

7385 If a conflict arises between this part and another provision of this chapter, this part  
7386 controls.

7387 Section 289. Section **48-3-1203** is enacted to read:

7388 **48-3-1203. Series of members, managers, or limited liability company interests.**

7389 (1) (a) An operating agreement may establish or provide for the establishment of one or  
7390 more designated series of members, managers, or interests in the limited liability company that  
7391 have separate rights, powers, or duties with respect to specified property or obligations of the  
7392 limited liability company or profits and losses associated with specified property or obligations.

7393 (b) An operating agreement shall identify a separate right, power, or duty of a series  
7394 described in Subsection (1)(a).

7395 (c) Notwithstanding the other provisions of this part, on and after January 1, 2012:

7396 (i) a professional services company may not designate series of members, managers, or  
7397 interests; and

7398 (ii) a limited liability company may not form a professional services company as a  
7399 series of the limited liability company.

7400 (2) A series may have a business purpose or investment objective different from the  
7401 limited liability company.

7402 (3) (a) If the conditions of Subsection (3)(b) are met, a series' debts, liabilities,  
7403 obligations, and expenses:

7404 (i) are enforceable only against the assets of that series; and

7405 (ii) may not be enforced against the assets of the limited liability company generally or

7406 another series.

7407 (b) This Subsection (3) applies if:

7408 (i) the operating agreement provides for separate treatment of the series;

7409 (ii) separate and distinct records are maintained concerning the series;

7410 (iii) the assets associated with the series are held and accounted for separately from the

7411 other assets of the limited liability company and any other series; and

7412 (iv) notice of the limitation on liability of a series is included in the limited liability

7413 company's certificate of organization in accordance with Section 48-3-1204.

7414 (4) A debt, liability, obligation, or expense incurred, contracted for, or otherwise

7415 existing with respect to the limited liability company generally or another series may not be

7416 enforced against the assets of a series if:

7417 (a) the operating agreement provides for separate treatment of the series;

7418 (b) separate and distinct records are maintained concerning the series;

7419 (c) the assets associated with the series are held and accounted for separately from the

7420 other assets of the limited liability company and any other series; and

7421 (d) notice of the limitation on liability of a series is included in the limited liability

7422 company's certificate of organization in accordance with Section 48-3-1204.

7423 (5) A series may contract on its own behalf and in its own name, including through a

7424 manager.

7425 (6) Notwithstanding other provisions of this section:

7426 (a) property and assets of a series may not be transferred to the limited liability

7427 company generally or another series if the transfer impairs the ability of the series releasing the

7428 property or assets to pay its debts existing at the time of the transfer unless fair value is given to

7429 the transferring series for the property or assets transferred; and

7430 (b) a tax or other liability of the limited liability company generally or of a series may

7431 not be assigned by the series against which the tax or other liability is imposed to the limited

7432 liability company generally or to another series within the limited liability company if the

7433 assignment impairs a creditor's right and ability to fully collect an amount due when owed.

7434 Section 290. Section **48-3-1204** is enacted to read:

7435 **48-3-1204. Notice of series -- Certificate of organization.**

7436 (1) Notice in a limited liability company's certificate of organization of the limitation



7437 on liabilities of a series, as required by Section 48-3-1203, is sufficient whether or not the  
7438 limited liability company has established a series at the time the notice is included in the  
7439 certificate of organization.

7440 (2) The notice required by Section 48-3-1203:

7441 (a) is not required to reference a specific series; and

7442 (b) for a certificate of organization or an amendment to a certificate of organization  
7443 made to include notice of series that is filed on or after May 11, 2010, notice in a company's  
7444 certificate of organization is sufficient for purposes of Subsection (1) only if the notice of series  
7445 appears immediately following the provision stating the name of the company.

7446 (3) The filing of the notice required by Section 48-3-1203 with the division constitutes  
7447 notice of the limitation on liability of a series.

7448 Section 291. Section **48-3-1205** is enacted to read:

7449 **48-3-1205. Agreement to be liable.**

7450 Notwithstanding Section 48-3-304, a member or manager may agree to be obligated  
7451 personally for any or all of the debts, obligations, and liabilities of one or more series.

7452 Section 292. Section **48-3-1206** is enacted to read:

7453 **48-3-1206. Series related provisions in operating agreement.**

7454 (1) An operating agreement may provide for classes or groups of members or managers  
7455 associated with a series with separate rights, powers, or duties as provided in Subsection  
7456 48-3-1203(1).

7457 (2) An operating agreement may provide for the future creation of one or more  
7458 additional classes or groups of members or managers associated with a series that have the  
7459 rights, powers, and duties that as may from time to time be established, including a right,  
7460 power, or duty that is senior to an existing class or group of members or managers associated  
7461 with the series.

7462 (3) An operating agreement may provide for the taking of an action without the vote or  
7463 approval of any member or manager, or class or group of members or managers, including:

7464 (a) an action to create a class or group of a series of interests in the limited liability  
7465 company that was not previously outstanding; and

7466 (b) amending the operating agreement.

7467 (4) An operating agreement may provide that a member or class or group of members

7468 associated with a series has no voting rights.

7469 (5) (a) An operating agreement may on any matter grant to all members or managers, a  
7470 specific member or manager, or a specific class or group of members or managers associated  
7471 with a series, the right to vote separately or with all or any class or group of the members or  
7472 managers associated with the series.

7473 (b) Voting by members or managers associated with a series may be on any basis  
7474 including:

7475 (i) a per capita basis;

7476 (ii) a number basis;

7477 (iii) on the basis of a financial interest; or

7478 (iv) by class or group.

7479 Section 293. Section **48-3-1207** is enacted to read:

7480 **48-3-1207. Management of a series.**

7481 (1) (a) Unless otherwise provided in an operating agreement, the management of a  
7482 series is vested in the members associated with the series in proportion to the percentage or  
7483 other interest of members in the profits of the series owned by all of the members associated  
7484 with the series at the time of the management action.

7485 (b) Unless otherwise provided in an operating agreement, the decision of members who  
7486 own more than 50% of the percentage or other interest in the profits at the time of the decision  
7487 controls.

7488 (2) (a) Notwithstanding Subsection (1), if an operating agreement provides for the  
7489 management of a series in whole or in part by a manager, the management of the series is  
7490 vested in the manager to the extent provided for in the operating agreement.

7491 (b) A manager is to be chosen in the manner provided in the operating agreement.

7492 (c) A manager of a series holds an office and has the responsibilities vested in the  
7493 manager under the operating agreement.

7494 (d) A series may have more than one manager.

7495 (e) Subject to a manager's resignation, a manager ceases to be a manager with respect  
7496 to a series as provided in the operating agreement.

7497 (3) Except as otherwise provided in an operating agreement, an event under this  
7498 chapter or in an operating agreement that causes a manager to cease to be a manager with

7499 respect to a series does not, by itself, cause the manager to cease to be a manager of the limited  
7500 liability company or with respect to another series.

7501 Section 294. Section **48-3-1208** is enacted to read:

7502 **48-3-1208. Distribution concerning a series.**

7503 (1) Subject to an operating agreement, at the time a member associated with a series is  
7504 entitled to receive a distribution with respect to the series, with respect to the distribution, the  
7505 member has:

7506 (a) the status of a creditor; and

7507 (b) a remedy available to a creditor.

7508 (2) An operating agreement may provide for the establishment of a record date for an  
7509 allocation or distribution concerning a series.

7510 (3) Notwithstanding Section 48-3-405, a limited liability company may make a limited  
7511 distribution with respect to only a series.

7512 (4) A limited liability company may not make a distribution under this section with  
7513 respect to a series if, after giving effect to the distribution:

7514 (a) the series would not be able to pay its debts as the debts become due in the usual  
7515 and regular course of the series' business; or

7516 (b) the value of the series' total assets would be less than the sum of:

7517 (i) the series' total liabilities; and

7518 (ii) unless the certificate of organization or the operating agreement permit otherwise,

7519 the amount that would be needed, if the series were to be dissolved and wound up at the time of  
7520 the distribution, to satisfy the preferential rights upon dissolution and winding up of members  
7521 whose preferential rights are superior to the rights of members receiving the distribution.

7522 (5) A limited liability company may base a determination that a distribution is not  
7523 prohibited under Subsection (4) on:

7524 (a) a financial statement prepared on the basis of accounting practices and principles  
7525 that are reasonable in the circumstances; or

7526 (b) a fair valuation or other method that is reasonable in the circumstances.

7527 (6) For purposes of this section, the following do not constitute a distribution:

7528 (a) reasonable compensation for present or past services; or

7529 (b) a reasonable payment made in the ordinary course of business pursuant to a bona

7530 vide retirement plan or other benefit program.

7531 (7) A member who receives a distribution in violation of this section is liable to the  
7532 series for the amount of the distribution.

7533 (8) Subject to Section 48-3-406, this section does not affect an obligation or liability of  
7534 a member under an agreement or other applicable law for the amount of a distribution.

7535 Section 295. Section **48-3-1209** is enacted to read:

7536 **48-3-1209. Member removal from a series -- Effect.**

7537 (1) Unless otherwise provided in the operating agreement, a member ceases to be  
7538 associated with a series and to have the power to exercise a right or power of a member with  
7539 respect to the series upon the assignment of all of the member's interest in the limited liability  
7540 company with respect to the series.

7541 (2) Unless otherwise provided in an operating agreement, an event under this chapter  
7542 or the operating agreement that causes a member to cease to be associated with a series does  
7543 not, by itself:

7544 (a) cause the member to cease to be associated with another series;

7545 (b) terminate the continued membership of a member in the limited liability company;

7546 or

7547 (c) cause the termination of the series, regardless of whether the member is the last  
7548 remaining member associated with the series.

7549 Section 296. Section **48-3-1210** is enacted to read:

7550 **48-3-1210. Termination of series.**

7551 (1) Subject to Section 48-3-701, except to the extent otherwise provided in the  
7552 operating agreement, a series may be terminated and its affairs wound up without causing the  
7553 dissolution of the limited liability company.

7554 (2) The termination of a series does not affect the limitation on liabilities of the series  
7555 under Section 48-3-1203.

7556 (3) A series is terminated and its affairs shall be wound up:

7557 (a) upon the dissolution of the limited liability company under Section 48-3-701; or

7558 (b) upon the first to occur of the following:

7559 (i) the time specified in the operating agreement;

7560 (ii) the happening of an event specified in the operating agreement;

7561 (iii) unless otherwise provided in the operating agreement, the affirmative vote or  
7562 written consent of:

7563 (A) the members of the limited liability company associated with the series, or if there  
7564 is more than one class or group of members associated with the series, by each class or group  
7565 of members associated with the series; and

7566 (B) members associated with the series who own more than two-thirds of the  
7567 percentage or other interest in the profits of the series owned by all of the members associated  
7568 with the series at the time of the vote or consent, or the members in each class or group of the  
7569 series, as appropriate; or

7570 (iv) the termination of the series under Section 48-3-1211.

7571 Section 297. Section **48-3-1211** is enacted to read:

7572 **48-3-1211. Court-decreed termination of series.**

7573 On application by or for a member or manager associated with a series, the district court  
7574 may order that a series terminates if the court finds that it is not reasonably practicable to carry  
7575 on the business of the series in conformity with an operating agreement.

7576 Section 298. Section **48-3-1212** is enacted to read:

7577 **48-3-1212. Participation in winding up.**

7578 (1) Notwithstanding Section 48-3-702, unless otherwise provided in the operating  
7579 agreement, the series' affairs may be wound up by the following:

7580 (a) a manager associated with a series who has not wrongfully terminated the series; or

7581 (b) if there is no manager under Subsection (1)(a):

7582 (i) (A) the members associated with the series who own more than 50% of the  
7583 percentage or other interest in the profits of the series owned by all of the members associated  
7584 with the series at the time of dissolution; or

7585 (B) a person approved by the members described in Subsection (1)(b)(i)(A); or

7586 (ii) if there is more than one class or group of members associated with the series, each  
7587 class or group of members associated with the series that own more than 50% of the percentage  
7588 or other interest in the profits of the series owned by all of the members in each class or group  
7589 associated with the series at the time of dissolution.

7590 (2) (a) The district court may wind up the affairs of the series upon:

7591 (i) cause shown; and

7592 (ii) application of:  
 7593 (A) a member associated with the series;  
 7594 (B) the member's personal representative; or  
 7595 (C) the member's assignee.  
 7596 (b) If the district court winds up the affairs of a series under Subsection (2)(a), the  
 7597 district court may appoint a liquidating trustee.

7598 (3) (a) A person winding up the affairs of a series may, in the name of the limited  
 7599 liability company and on behalf of the limited liability company and the series, take an action  
 7600 with respect to the series that is allowed by Part 7, Dissolution and Winding Up.

7601 (b) A person winding up the affairs of a series shall comply with Part 7, Dissolution  
 7602 and Winding Up.

7603 (c) The winding up the affairs of a series in accordance with this section does not:  
 7604 (i) affect the liability of members; or  
 7605 (ii) impose liability on a liquidating trustee.

7606 Section 299. Section **48-3-1213** is enacted to read:

7607 **48-3-1213. Foreign limited liability company -- Series.**

7608 (1) If a foreign limited liability company that is registering to do business in the state is  
 7609 governed by an operating agreement establishing or providing for the establishment of a series,  
 7610 the foreign limited liability company shall state that fact on the application for authority to  
 7611 transact business in the state.

7612 (2) (a) A foreign limited liability company shall identify on an application for authority  
 7613 to transact business in the state which of the protections for the series and foreign limited  
 7614 liability company found in Section 48-3-1203 apply to a series.

7615 (b) If different protections found in Section 48-3-1203 apply to different series of a  
 7616 foreign limited liability company, the application for authority to transact business in the state  
 7617 shall identify:

7618 (i) the protections that apply to each existing series; and  
 7619 (ii) the protections that will apply to any series after registering to do business.

7620 Section 300. Section **48-3-1301** is enacted to read:

7621 **Part 13. Low-profit Limited Liability Company Act**

7622 **48-3-1301. Title.**

7623 This part is known as the "Low-profit Limited Liability Company Act."

7624 Section 301. Section **48-3-1302** is enacted to read:

7625 **48-3-1302. Application of this part.**

7626 If a conflict arises between this part and another provision of this chapter, this part  
7627 controls.

7628 Section 302. Section **48-3-1303** is enacted to read:

7629 **48-3-1303. Requirements.**

7630 (1) To be a low-profit limited liability company, a limited liability company shall:

7631 (a) contain in its name the abbreviation "L3C" or "l3c";

7632 (b) state in its certificate of organization that it is a low-profit limited liability  
7633 company;

7634 (c) organize under this chapter; and

7635 (d) be organized for a business purpose that satisfies, and at all times operates to satisfy  
7636 each of the requirements under Subsection (2).

7637 (2) A low-profit limited liability company:

7638 (a) shall significantly further the accomplishment of one or more charitable or  
7639 educational purposes within the meaning of Section 170(c)(2)(B), Internal Revenue Code;

7640 (b) shall demonstrate that it would not be formed but for the limited liability company's  
7641 relationship to the accomplishment of a charitable or educational purpose;

7642 (c) subject to Subsection (3), may not have as a significant purpose the production of  
7643 income or the appreciation of property; and

7644 (d) may not have as a purpose to accomplish one or more political or legislative  
7645 purposes within the meaning of Section 170(c)(2)(D), Internal Revenue Code.

7646 (3) Notwithstanding Subsection (2), if a low-profit limited liability company produces  
7647 significant income or capital appreciation, in the absence of other factors, the fact that the  
7648 low-profit limited liability company produces significant income or capital appreciation is not  
7649 conclusive evidence of a significant purpose involving the production of income or the  
7650 appreciation of property.

7651 Section 303. Section **48-3-1304** is enacted to read:

7652 **48-3-1304. Ceasing to be a low-profit limited liability company.**

7653 (1) If a company that is a low-profit limited liability company at its formation at any

7654 time ceases to meet a requirement to be a low-profit limited liability company under Section  
7655 48-3-1303, the limited liability company:

7656 (a) ceases to be a low-profit limited liability company on the day on which the limited  
7657 liability company no longer meets the requirement; and

7658 (b) if it continues to meet the requirements of this chapter to be a limited liability  
7659 company, continues to exist as a limited liability company that is not a low-profit limited  
7660 liability company.

7661 (2) A low-profit limited liability company's failure to meet a requirement of Section  
7662 48-3-1303 may be:

7663 (a) voluntary, in order to convert to a limited liability company that is not a low-profit  
7664 limited liability company; or

7665 (b) involuntary.

7666 (3) If a low-profit limited liability company ceases to be a low-profit limited liability  
7667 company in accordance with this section, the limited liability company shall:

7668 (a) change its name to conform with Section 48-3-108; and

7669 (b) amend its articles of organization in accordance with Section 48-3-202.

7670 Section 304. Section **48-3-1305** is enacted to read:

7671 **48-3-1305. Conversion or merger of a low-profit limited liability company.**

7672 A low-profit limited liability company may engage in the following to the same extent  
7673 as a limited liability company that is not a low-profit limited liability company may do so under

7674 Part 10, Merger, Conversion, and Domestication:

7675 (1) convert to another subject entity;

7676 (2) convert from another subject entity; or

7677 (3) participate in a merger.

7678 Section 305. Section **48-3-1401** is enacted to read:

7679 **Part 14. Miscellaneous Provisions**

7680 **48-3-1401. Uniformity of application and construction.**

7681 In applying and construing this chapter, consideration must be given to the need to  
7682 promote uniformity of the law with respect to its subject matter among states that enact the  
7683 uniform act.

7684 Section 306. Section **48-3-1402** is enacted to read:



7685           **48-3-1402. Relation to Electronic Signatures in Global and National Commerce**  
7686 **Act.**

7687           This chapter modifies, limits, and supersedes the federal Electronic Signatures in  
7688 Global and National Commerce Act, 15 U.S.C. Sec. 7001 et seq., but does not modify, limit,  
7689 or supersede Section 101(c) of that act, 15 U.S.C. Sec. 7001(c), or authorize electronic  
7690 delivery of any of the notices described in Section 103(b) of that act, 15 U.S.C. Sec. 7003(b).

7691           Section 307. Section **48-3-1403** is enacted to read:

7692           **48-3-1403. Severability clause.**

7693           If any provision of this chapter or its application to any person or circumstance is held  
7694 invalid, the invalidity does not affect other provisions or applications of this chapter which can  
7695 be given effect without the invalid provision or application, and to this end the provisions of  
7696 this chapter are severable.

7697           Section 308. Section **48-3-1404** is enacted to read:

7698           **48-3-1404. Savings clause.**

7699           This chapter does not affect an action commenced, proceeding brought, or right accrued  
7700 before this chapter takes effect.

7701           Section 309. Section **48-3-1405** is enacted to read:

7702           **48-3-1405. Application to existing relationships.**

7703           (1) Before January 1, 2012, this chapter governs only:

7704           (a) a limited liability company formed on or after January 1, 2011; and

7705           (b) except as otherwise provided in Subsection (3), a limited liability company formed  
7706 before January 1, 2011, which elects, in the manner provided in its operating agreement or by  
7707 law for amending the operating agreement, to be subject to this chapter.

7708           (2) Except as otherwise provided in Subsection (3), on and after January 1, 2012, this  
7709 chapter governs all limited liability companies.

7710           (3) For the purposes of applying this chapter to a limited liability company formed  
7711 before January 1, 2011:

7712           (a) the limited liability company's certificates of organization are deemed to be the  
7713 company's certificate of organization; and

7714           (b) for the purposes of applying Subsection 48-3-102(10) and subject to Subsection  
7715 48-3-112(4), language in the company's certificates of organization designating the limited

7716 liability company's management structure operates as if that language were in the operating  
7717 agreement.

7718 Section 310. Section **53C-1-201** is amended to read:

7719 **53C-1-201. Creation of administration -- Purpose -- Director.**

7720 (1) (a) There is established within state government the School and Institutional Trust  
7721 Lands Administration.

7722 (b) The administration shall manage all school and institutional trust lands and assets  
7723 within the state, except as otherwise provided in Title 53C, Chapter 3, Deposit and Allocation  
7724 of Revenue from Trust Lands, and Sections 51-7a-201 and 51-7a-202.

7725 (2) The administration is an independent state agency and not a division of any other  
7726 department.

7727 (3) (a) It is subject to the usual legislative and executive department controls except as  
7728 provided in this Subsection (3).

7729 (b) (i) The director may make rules as approved by the board that allow the  
7730 administration to classify a business proposal submitted to the administration as protected  
7731 under Section 63G-2-305, for as long as is necessary to evaluate the proposal.

7732 (ii) The administration shall return the proposal to the party who submitted the  
7733 proposal, and incur no further duties under Title 63G, Chapter 2, Government Records Access  
7734 and Management Act, if the administration determines not to proceed with the proposal.

7735 (iii) The administration shall classify the proposal pursuant to law if it decides to  
7736 proceed with the proposal.

7737 (iv) Section 63G-2-403 does not apply during the review period.

7738 (c) The director shall make rules in compliance with Title 63G, Chapter 3, Utah  
7739 Administrative Rulemaking Act, except that the administration is not subject to Subsections  
7740 63G-3-301(6) and (7), and the director, with the board's approval, may establish a procedure  
7741 for the expedited approval of rules, based on written findings by the director showing:

7742 (i) the changes in business opportunities affecting the assets of the trust;

7743 (ii) the specific business opportunity arising out of those changes which may be lost  
7744 without the rule or changes to the rule;

7745 (iii) the reasons the normal procedures under Section 63G-3-301 cannot be met without  
7746 causing the loss of the specific opportunity;

7747 (iv) approval by at least five board members; and

7748 (v) that the director has filed a copy of the rule and a rule analysis, stating the specific  
7749 reasons and justifications for its findings, with the Division of Administrative Rules and  
7750 notified interested parties as provided in Subsection 63G-3-301(10).

7751 (d) (i) The administration shall comply with Title 67, Chapter 19, Utah State Personnel  
7752 Management Act, except as provided in this Subsection (3)(d).

7753 (ii) The board may approve, upon recommendation of the director, that exemption for  
7754 specific positions under Subsections 67-19-12(2) and 67-19-15(1) is required in order to enable  
7755 the administration to efficiently fulfill its responsibilities under the law. The director shall  
7756 consult with the executive director of the Department of Human Resource Management prior  
7757 to making such a recommendation.

7758 (iii) The positions of director, deputy director, associate director, assistant director,  
7759 legal counsel appointed under Section 53C-1-305, administrative assistant, and public affairs  
7760 officer are exempt under Subsections 67-19-12(2) and 67-19-15(1).

7761 (iv) Salaries for exempted positions, except for the director, shall be set by the director,  
7762 after consultation with the executive director of the Department of Human Resource  
7763 Management, within ranges approved by the board. The board and director shall consider  
7764 salaries for similar positions in private enterprise and other public employment when setting  
7765 salary ranges.

7766 (v) The board may create an annual incentive and bonus plan for the director and other  
7767 administration employees designated by the board, based upon the attainment of financial  
7768 performance goals and other measurable criteria defined and budgeted in advance by the board.

7769 (e) The administration shall comply with Title 63G, Chapter 6, Utah Procurement  
7770 Code, except where the board approves, upon recommendation of the director, exemption from  
7771 the Utah Procurement Code, and simultaneous adoption of rules under Title 63G, Chapter 3,  
7772 Utah Administrative Rulemaking Act, for procurement, which enable the administration to  
7773 efficiently fulfill its responsibilities under the law.

7774 (f) (i) The board and director shall review the exceptions under this Subsection (3) and  
7775 make recommendations for any modification, if required, which the Legislature would be asked  
7776 to consider during its annual general session.

7777 (ii) The board and director may include in their recommendations any other proposed

7778 exceptions from the usual executive and legislative controls the board and director consider  
7779 necessary to accomplish the purpose of this title.

7780 (4) The administration is managed by a director of school and institutional trust lands  
7781 appointed by a majority vote of the board of trustees with the consent of the governor.

7782 (5) (a) The board of trustees shall provide policies for the management of the  
7783 administration and for the management of trust lands and assets.

7784 (b) The board shall provide policies for the ownership and control of Native American  
7785 remains that are discovered or excavated on school and institutional trust lands in consultation  
7786 with the Division of Indian Affairs and giving due consideration to Title 9, Chapter 9, Part 4,  
7787 Native American Grave Protection and Repatriation Act. The director may make rules in  
7788 accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, to implement  
7789 policies provided by the board regarding Native American remains.

7790 (6) In connection with joint ventures for the development of trust lands and minerals  
7791 approved by the board under Sections 53C-1-303 and 53C-2-401, the administration may  
7792 become a member of a limited liability company under Title 48, Chapter [~~2c, Utah Revised~~] 3,  
7793 Uniform Limited Liability Company Act, and is considered a person under Section [~~48-2c-102~~]  
7794 48-3-102.

7795 Section 311. Section **61-2b-25** is amended to read:

7796 **61-2b-25. Other law unaffected.**

7797 This chapter may not be considered to prohibit a person approved, licensed, certified, or  
7798 registered under this chapter from engaging in the practice of real estate appraising as a  
7799 professional corporation or a limited liability company in accordance with:

7800 (1) Title 16, Chapter 11, Professional Corporation Act; or

7801 (2) Title 48, Chapter [~~2c, Utah Revised~~] 3, Uniform Limited Liability Company Act.

7802 Section 312. Section **61-2f-401** is amended to read:

7803 **61-2f-401. Grounds for disciplinary action.**

7804 The following acts are unlawful for a person required to be licensed under this chapter:

7805 (1) (a) making a substantial misrepresentation;

7806 (b) making an intentional misrepresentation;

7807 (c) pursuing a continued and flagrant course of misrepresentation;

7808 (d) making a false representation or promise through an agent, sales agent, advertising,

- 7809 or otherwise; or
- 7810 (e) making a false representation or promise of a character likely to influence,  
7811 persuade, or induce;
- 7812 (2) acting for more than one party in a transaction without the informed consent of all  
7813 parties;
- 7814 (3) (a) acting as an associate broker or sales agent while not affiliated with a principal  
7815 broker;
- 7816 (b) representing or attempting to represent a principal broker other than the principal  
7817 broker with whom the person is affiliated; or
- 7818 (c) representing as sales agent or having a contractual relationship similar to that of  
7819 sales agent with a person other than a principal broker;
- 7820 (4) (a) failing, within a reasonable time, to account for or to remit money that belongs  
7821 to another and comes into the person's possession;
- 7822 (b) commingling money described in Subsection (4)(a) with the person's own money;  
7823 or
- 7824 (c) diverting money described in Subsection (4)(a) from the purpose for which the  
7825 money is received;
- 7826 (5) paying or offering to pay valuable consideration, as defined by the commission, to a  
7827 person not licensed under this chapter, except that valuable consideration may be shared:
- 7828 (a) with a principal broker of another jurisdiction; or
- 7829 (b) as provided under:
- 7830 (i) Title 16, Chapter 10a, Utah Revised Business Corporation Act;
- 7831 (ii) Title 16, Chapter 11, Professional Corporation Act; or
- 7832 (iii) Title 48, Chapter ~~[2c, Utah Revised]~~ 3, Uniform Limited Liability Company Act;
- 7833 (6) being incompetent to act as a principal broker, associate broker, or sales agent in  
7834 such manner as to safeguard the interests of the public;
- 7835 (7) failing to voluntarily furnish a copy of a document to all parties before and after the  
7836 execution of a document;
- 7837 (8) failing to keep and make available for inspection by the division a record of each  
7838 transaction, including:
- 7839 (a) the names of buyers and sellers or lessees and lessors;

- 7840 (b) the identification of real estate;
- 7841 (c) the sale or rental price;
- 7842 (d) money received in trust;
- 7843 (e) agreements or instructions from buyers and sellers or lessees and lessors; and
- 7844 (f) any other information required by rule;
- 7845 (9) failing to disclose, in writing, in the purchase, sale, or rental of real estate, whether
- 7846 the purchase, sale, or rental is made for that person or for an undisclosed principal;
- 7847 (10) being convicted of a criminal offense involving moral turpitude within five years
- 7848 of the most recent application:
  - 7849 (a) regardless of whether the criminal offense is related to real estate; and
  - 7850 (b) including:
    - 7851 (i) a conviction based upon a plea of nolo contendere; or
    - 7852 (ii) a plea held in abeyance to a criminal offense involving moral turpitude;
  - 7853 (11) advertising the availability of real estate or the services of a licensee in a false,
  - 7854 misleading, or deceptive manner;
  - 7855 (12) in the case of a principal broker or a licensee who is a branch manager, failing to
  - 7856 exercise reasonable supervision over the activities of the principal broker's or branch manager's
  - 7857 licensed or unlicensed staff;
  - 7858 (13) violating or disregarding:
    - 7859 (a) this chapter;
    - 7860 (b) an order of the commission; or
    - 7861 (c) the rules adopted by the commission and the division;
  - 7862 (14) breaching a fiduciary duty owed by a licensee to the licensee's principal in a real
  - 7863 estate transaction;
  - 7864 (15) any other conduct which constitutes dishonest dealing;
  - 7865 (16) unprofessional conduct as defined by statute or rule;
  - 7866 (17) having one of the following suspended, revoked, surrendered, or cancelled on the
  - 7867 basis of misconduct in a professional capacity that relates to character, honesty, integrity, or
  - 7868 truthfulness:
    - 7869 (a) a real estate license, registration, or certificate issued by another jurisdiction; or
    - 7870 (b) another license, registration, or certificate to engage in an occupation or profession

- 7871 issued by this state or another jurisdiction;
- 7872 (18) failing to respond to a request by the division in an investigation authorized under  
7873 this chapter, including:
- 7874 (a) failing to respond to a subpoena;
- 7875 (b) withholding evidence; or
- 7876 (c) failing to produce documents or records;
- 7877 (19) in the case of a dual licensed title licensee as defined in Section 31A-2-402:
- 7878 (a) providing a title insurance product or service without the approval required by  
7879 Section 31A-2-405; or
- 7880 (b) knowingly providing false or misleading information in the statement required by  
7881 Subsection 31A-2-405(2);
- 7882 (20) violating an independent contractor agreement between a principal broker and a  
7883 sales agent or associate broker as evidenced by a final judgment of a court;
- 7884 (21) (a) engaging in a foreclosure rescue if not licensed under this chapter;
- 7885 (b) engaging in an act of loan modification assistance that requires licensure as a  
7886 mortgage officer under Chapter 2c, Utah Residential Mortgage Practices and Licensing Act,  
7887 without being licensed under that chapter;
- 7888 (c) requesting or requiring a person to pay a fee if:
- 7889 (i) the person is required to pay the fee before entering into a written agreement  
7890 specifying what one or more acts of foreclosure rescue will be completed if the fee is paid; or
- 7891 (ii) in a case when the financing that is the subject of the foreclosure rescue is  
7892 foreclosed within one year from the day on which the person enters into a written agreement,  
7893 the person is required to forfeit the fee for any reason;
- 7894 (d) inducing a person who is at risk of foreclosure to hire the licensee to engage in an  
7895 act of foreclosure rescue by:
- 7896 (i) suggesting to the person that the licensee has a special relationship with the person's  
7897 lender or loan servicer; or
- 7898 (ii) falsely representing or advertising that the licensee is acting on behalf of:
- 7899 (A) a government agency;
- 7900 (B) the person's lender or loan servicer; or
- 7901 (C) a nonprofit or charitable institution; or

7902 (e) recommending or participating in a foreclosure rescue that requires a person to:

7903 (i) transfer title to real property to the licensee or to a third party with whom the

7904 licensee has a business relationship or financial interest;

7905 (ii) make a mortgage payment to a person other than the person's loan servicer; or

7906 (iii) refrain from contacting the person's:

7907 (A) lender;

7908 (B) loan servicer;

7909 (C) attorney;

7910 (D) credit counselor; or

7911 (E) housing counselor; or

7912 (22) for an agreement for foreclosure rescue entered into on or after May 11, 2010,

7913 engaging in an act of foreclosure rescue without offering in writing to the person entering into

7914 the agreement for foreclosure rescue a right to cancel the agreement within three business days

7915 after the day on which the person enters the agreement.

7916 Section 313. Section **75-7-1011** is amended to read:

7917 **75-7-1011. Interest as general partner.**

7918 (1) Except as otherwise provided in Subsection (3) or unless personal liability is

7919 imposed in the contract, a trustee who holds an interest as a general partner in a general or

7920 limited partnership is not personally liable on a contract entered into by the partnership after

7921 the trust's acquisition of the interest if the fiduciary capacity was disclosed in the contract or in

7922 a statement previously filed pursuant to Title 48, Chapter [~~2a, Utah Revised~~] 2d, Uniform

7923 Limited Partnership Act.

7924 (2) Except as otherwise provided in Subsection (3), a trustee who holds an interest as a

7925 general partner is not personally liable for torts committed by the partnership or for obligations

7926 arising from ownership or control of the interest unless the trustee is personally at fault.

7927 (3) The immunity provided by this section does not apply if an interest in the

7928 partnership is held by the trustee in a capacity other than that of trustee or is held by the

7929 trustee's spouse or one or more of the trustee's descendants, siblings, or parents, or the spouse

7930 of any of them.

7931 (4) If the trustee of a revocable trust holds an interest as a general partner, the settlor is

7932 personally liable for contracts and other obligations of the partnership as if the settlor were a



- 7933 general partner.
- 7934 Section 314. **Repealer.**
- 7935 This bill repeals:
- 7936 Section **48-1-1, Definition of terms.**
- 7937 Section **48-1-2, Interpretation of knowledge and notice.**
- 7938 Section **48-1-3, "Partnership" defined.**
- 7939 Section **48-1-3.1, Joint venture defined -- Application of chapter.**
- 7940 Section **48-1-4, Rules for determining the existence of a partnership.**
- 7941 Section **48-1-5, Partnership property.**
- 7942 Section **48-1-6, Partner agent of partnership as to partnership business.**
- 7943 Section **48-1-7, Conveyance of real property of partnership.**
- 7944 Section **48-1-8, Partnership bound by admission of partner.**
- 7945 Section **48-1-9, Partnership charged with knowledge of or notice to partner.**
- 7946 Section **48-1-10, Partnership bound by partner's wrongful act.**
- 7947 Section **48-1-11, Partnership bound by partner's breach of trust.**
- 7948 Section **48-1-12, Nature of partner's liability.**
- 7949 Section **48-1-13, Partner by estoppel.**
- 7950 Section **48-1-14, Liability of incoming partner.**
- 7951 Section **48-1-15, Rules determining rights and duties of partners.**
- 7952 Section **48-1-16, Partnership books.**
- 7953 Section **48-1-17, Duty of partners to render information.**
- 7954 Section **48-1-18, Partner accountable as a fiduciary.**
- 7955 Section **48-1-19, Right to an account.**
- 7956 Section **48-1-20, Continuation of partnership beyond fixed term.**
- 7957 Section **48-1-21, Extent of property rights of a partner.**
- 7958 Section **48-1-22, Nature of a partner's right in specific partnership property.**
- 7959 Section **48-1-23, Nature of partner's interest in the partnership.**
- 7960 Section **48-1-24, Assignment of partner's interest.**
- 7961 Section **48-1-25, Partner's interest subject to charging order.**
- 7962 Section **48-1-26, "Dissolution" defined.**
- 7963 Section **48-1-27, Partnership not terminated by dissolution.**

- 7964 Section **48-1-28, Causes of dissolution.**
- 7965 Section **48-1-29, Dissolution by decree of court.**
- 7966 Section **48-1-30, General effect of dissolution on authority of partner.**
- 7967 Section **48-1-31, Right of partner to contribution from copartners after dissolution.**
- 7968 Section **48-1-32, Power of partner to bind partnership to third persons after**
- 7969 **dissolution.**
- 7970 Section **48-1-33, Effect of dissolution on partner's existing liability.**
- 7971 Section **48-1-34, Right to wind up.**
- 7972 Section **48-1-35, Rights of partners to application of partnership property.**
- 7973 Section **48-1-36, Rights where partnership is dissolved for fraud or**
- 7974 **misrepresentation.**
- 7975 Section **48-1-37, Rules for distribution.**
- 7976 Section **48-1-38, Liability of persons continuing the business in certain cases.**
- 7977 Section **48-1-39, Rights of retiring or estate of deceased partner when the business**
- 7978 **is continued.**
- 7979 Section **48-1-40, Accrual of actions.**
- 7980 Section **48-1-41, Title.**
- 7981 Section **48-1-42, Registration of limited liability partnerships.**
- 7982 Section **48-1-43, Scope of chapter -- Choice of law.**
- 7983 Section **48-1-44, Foreign limited liability partnerships.**
- 7984 Section **48-1-45, Name of registered limited liability partnership.**
- 7985 Section **48-1-46, Professional relationship -- Personal liability.**
- 7986 Section **48-1-47, Regulatory agency or board authority -- Prohibitions on**
- 7987 **individuals apply.**
- 7988 Section **48-1-48, Limited liability partnerships providing professional services.**
- 7989 Section **48-2a-101, Definitions.**
- 7990 Section **48-2a-102, Name.**
- 7991 Section **48-2a-103, Reservation of name.**
- 7992 Section **48-2a-103.5, Limited partnership name -- Limited rights.**
- 7993 Section **48-2a-105, Records to be kept.**
- 7994 Section **48-2a-106, Nature of business.**

- 7995 Section **48-2a-107, Business transactions of partner with partnership.**
- 7996 Section **48-2a-108, Conversion of certain entities to a limited partnership.**
- 7997 Section **48-2a-109, Articles of conversion.**
- 7998 Section **48-2a-110, Effect of conversion.**
- 7999 Section **48-2a-111, Approval of conversion.**
- 8000 Section **48-2a-112, No limitation on other changes.**
- 8001 Section **48-2a-113, Approval of limited partnership conversion to subject entity.**
- 8002 Section **48-2a-201, Certificate of limited partnerships.**
- 8003 Section **48-2a-202, Amendment to certificate.**
- 8004 Section **48-2a-202.5, Actions not requiring amendment.**
- 8005 Section **48-2a-203, Voluntary cancellation of certificate.**
- 8006 Section **48-2a-203.5, Involuntary dissolution of certificate.**
- 8007 Section **48-2a-204, Execution of certificates.**
- 8008 Section **48-2a-205, Execution by judicial act.**
- 8009 Section **48-2a-206, Filing with the division.**
- 8010 Section **48-2a-207, Liability for false statement in certificate.**
- 8011 Section **48-2a-208, Scope of notice.**
- 8012 Section **48-2a-209, Delivery of certificates to limited partners.**
- 8013 Section **48-2a-210, Annual report.**
- 8014 Section **48-2a-301, Admission of additional limited partners.**
- 8015 Section **48-2a-302, Voting.**
- 8016 Section **48-2a-303, Liability to third parties.**
- 8017 Section **48-2a-304, Person erroneously believing himself to be a limited partner.**
- 8018 Section **48-2a-305, Inspection of records -- Right to information.**
- 8019 Section **48-2a-401, Admission of additional general partners.**
- 8020 Section **48-2a-402, Events of withdrawal.**
- 8021 Section **48-2a-403, General powers and liabilities.**
- 8022 Section **48-2a-404, Contributions by general partners.**
- 8023 Section **48-2a-405, Voting.**
- 8024 Section **48-2a-501, Form of contribution.**
- 8025 Section **48-2a-502, Liability for contribution.**

- 8026 Section **48-2a-503, Sharing of profits and losses.**
- 8027 Section **48-2a-504, Sharing of distributions.**
- 8028 Section **48-2a-601, Interim distributions.**
- 8029 Section **48-2a-602, Withdrawal of general partner.**
- 8030 Section **48-2a-603, Withdrawal of limited partners.**
- 8031 Section **48-2a-604, Distribution upon withdrawal.**
- 8032 Section **48-2a-605, Distribution in kind.**
- 8033 Section **48-2a-606, Right to distribution.**
- 8034 Section **48-2a-607, Limitations on distributions.**
- 8035 Section **48-2a-608, Liability upon return of contribution.**
- 8036 Section **48-2a-701, Nature of partnership interest.**
- 8037 Section **48-2a-702, Assignment of partnership interest.**
- 8038 Section **48-2a-703, Rights of creditor.**
- 8039 Section **48-2a-704, Right of assignee to become limited partner.**
- 8040 Section **48-2a-705, Power of estate of deceased or incompetent partner.**
- 8041 Section **48-2a-801, Nonjudicial dissolution.**
- 8042 Section **48-2a-802, Judicial dissolution.**
- 8043 Section **48-2a-803, Winding up.**
- 8044 Section **48-2a-804, Distribution of assets.**
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- 8048 Section **48-2a-904, Name.**
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- 8054 Section **48-2a-1002, Proper plaintiff.**
- 8055 Section **48-2a-1003, Pleading.**
- 8056 Section **48-2a-1004, Expenses.**

- 8057 Section **48-2a-1005, Security and costs.**
- 8058 Section **48-2a-1006, Indemnification of a general partner.**
- 8059 Section **48-2a-1101, Construction and application.**
- 8060 Section **48-2a-1102, Short title.**
- 8061 Section **48-2a-1103, Severability.**
- 8062 Section **48-2a-1104, Effective date -- Extended effective date -- Applicability of**
- 8063 **former law.**
- 8064 Section **48-2a-1105, Rules for cases not provided for in this chapter.**
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- 8066 Section **48-2a-1107, Fees.**
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- 8149 Section **48-2c-801, Management structure.**

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- 8151 Section **48-2c-803, Management by members.**
- 8152 Section **48-2c-803.1, Individual profits interest.**
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- 8200 **up.**
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- 8203 Section **48-2c-1401, Conversion of certain entities to a domestic company.**
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- 8213           Section **48-2c-1411, Conversion or merger of a low-profit limited liability**
- 8214 **company.**
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- 8218           Section **48-2c-1504, No limits on regulating board.**
- 8219           Section **48-2c-1505, Name limitations.**
- 8220           Section **48-2c-1506, Activity limitations.**
- 8221           Section **48-2c-1507, Limit of one profession.**
- 8222           Section **48-2c-1508, Members and managers restricted to professionals.**
- 8223           Section **48-2c-1509, Additional requirements for articles of organization.**
- 8224           Section **48-2c-1510, Restrictions on transfers by members.**
- 8225           Section **48-2c-1511, Purchase of interest upon death, incapacity, or disqualification**
- 8226 **of members.**
- 8227           Section **48-2c-1512, Conversion to nonprofessional company.**
- 8228           Section **48-2c-1513, Application of Part 15.**
- 8229           Section **48-2c-1601, Law governing foreign companies.**
- 8230           Section **48-2c-1602, Authority to transact business required.**
- 8231           Section **48-2c-1603, Consequences of transacting business without authority.**
- 8232           Section **48-2c-1604, Application for authority to transact business.**
- 8233           Section **48-2c-1605, Amended application for authority to transact business.**
- 8234           Section **48-2c-1606, Effect of filing an application for authority to transact**
- 8235 **business.**
- 8236           Section **48-2c-1607, Company name and assumed company name of foreign**
- 8237 **company.**
- 8238           Section **48-2c-1608, Registered name of foreign company.**
- 8239           Section **48-2c-1609, Amendment of articles of organization of foreign company.**
- 8240           Section **48-2c-1610, Merger of foreign company authorized to transact business in**
- 8241 **this state.**
- 8242           Section **48-2c-1611, Withdrawal of foreign company.**

- 8243 Section 48-2c-1612, Grounds for revocation.
- 8244 Section 48-2c-1613, Procedure for and effect of revocation.
- 8245 Section 48-2c-1614, Appeal from revocation.
- 8246 Section 48-2c-1615, Actions to restrain transaction of business in state.
- 8247 Section 48-2c-1701, Right of action.
- 8248 Section 48-2c-1702, Proper plaintiff.
- 8249 Section 48-2c-1703, Pleading.
- 8250 Section 48-2c-1704, Stay of proceedings.
- 8251 Section 48-2c-1705, Expenses.
- 8252 Section 48-2c-1706, Security and costs.
- 8253 Section 48-2c-1801, Definitions.
- 8254 Section 48-2c-1802, Authority to indemnify.
- 8255 Section 48-2c-1803, Mandatory indemnification of managers.
- 8256 Section 48-2c-1804, Advancement of expenses.
- 8257 Section 48-2c-1805, Court-ordered indemnification.
- 8258 Section 48-2c-1806, Determination and authorization of indemnification.
- 8259 Section 48-2c-1807, Indemnification of members, employees, fiduciaries, and
- 8260 **agents.**
- 8261 Section 48-2c-1808, Insurance.
- 8262 Section 48-2c-1809, Limitations on indemnification.
- 8263 Section 48-2c-1901, Legislative intent -- Freedom of contract.
- 8264 Section 48-2c-1902, Transitional provisions.
- 8265 Section 315. Effective date.
- 8266 This bill takes effect on January 1, 2012.

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**Legislative Review Note**  
as of 1-24-11 3:36 PM

**Office of Legislative Research and General Counsel**

# FISCAL NOTE

S.B. 131

SHORT TITLE: **Unincorporated Business Entity Uniform Acts**

SPONSOR: **Hillyard, L.**

2011 GENERAL SESSION, STATE OF UTAH

## STATE GOVERNMENT (UCA 36-12-13(2)(b))

Enactment of this legislation will increase annual Commerce Service Fund revenues by \$87,800 and annual expenditures (by \$78,200 (plus \$9,600 one-time in FY 2012)). Commerce Service Fund revenue and expenditures affect the annual transfer to the General Fund.

### STATE BUDGET DETAIL TABLE

	FY 2011	FY 2012	FY 2013
<b>Revenue:</b>			
General Fund	\$0	\$0	\$9,600
Commerce Service Fund	\$0	\$87,800	\$78,200
Total Revenue	\$0	\$87,800	\$87,800
<b>Expenditure:</b>			
Commerce Service Fund	\$0	\$78,200	\$78,200
Commerce Service, One-time	\$0	\$9,600	\$0
Total Expenditure	\$0	\$87,800	\$78,200
Net Impact, All Funds (Rev.-Exp.)	\$0	\$0	\$9,600
Net Impact, General/Education Funds	\$0	\$0	\$9,600

## LOCAL GOVERNMENTS (UCA 36-12-13(2)(c))

Enactment of this bill likely will not result in direct, measurable costs and/or benefits for local governments.

## DIRECT EXPENDITURES BY UTAH RESIDENTS AND BUSINESSES (UCA 36-12-13(2)(d))

General partnerships, limited partnerships, and some limited liability companies will be required to pay new filing fees. An estimated 2,000 general partnerships will pay a \$37.00 filing fee. 150 limited partnerships will pay the \$70.00 reinstatement filing fee and 50 will pay a \$37.00 filing fee for a merger, conversion, or domestication. An estimated 20 limited liability companies will also pay the \$70.00 filing fee. Individuals involved in these partnerships will be affected by the filing fees.