

1 **UNINCORPORATED BUSINESS ENTITIES ACT**

2 **AMENDMENTS**

3 2012 GENERAL SESSION

4 STATE OF UTAH

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

6 House Sponsor: Derek E. Brown

7

8 **LONG TITLE**

9 **General Description:**

10 This bill modifies the Unincorporated Business Entities Act and uncodified material to
11 extend the effective date of the enactment of the Unincorporated Business Entities Act.

12 **Highlighted Provisions:**

13 This bill:

- 14 ▶ amends certain dates related to the application of the Unincorporated Business
- 15 Entities Act;
- 16 ▶ extends the effective date of the enactment of the Unincorporated Business Entities
- 17 Act to July 1, 2013; and
- 18 ▶ makes technical and conforming amendments.

19 **Money Appropriated in this Bill:**

20 None

21 **Other Special Clauses:**

22 This bill takes effect on July 1, 2012.

23 **Utah Code Sections Affected:**

24 AMENDS:

25 **48-1b-1204 (Effective 07/01/12)**, as enacted by Laws of Utah 2011, Chapter 353

26 **48-1b-1205 (Effective 07/01/12)**, as enacted by Laws of Utah 2011, Chapter 353

27 **48-2d-1204 (Effective 07/01/12)**, as enacted by Laws of Utah 2011, Chapter 353

28 **48-2d-1205 (Effective 07/01/12)**, as enacted by Laws of Utah 2011, Chapter 353

29 **48-3-1405 (Effective 07/01/12)**, as enacted by Laws of Utah 2011, Chapter 353

30 **Uncodified Material Affected:**

31 AMENDS UNCODIFIED MATERIAL:

32 **Uncodified Section 311, Laws of Utah 2011, Chapter 353**



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

35 Section 1. Section **48-1b-1204 (Effective 07/01/12)** is amended to read:

36 **48-1b-1204 (Effective 07/01/12). Savings clause.**

37 This chapter does not affect an action or proceeding commenced or right accrued before
38 July 1, [2012] 2013.

39 Section 2. Section **48-1b-1205 (Effective 07/01/12)** is amended to read:

40 **48-1b-1205 (Effective 07/01/12). Applicability.**

41 (1) Before January 1, [2014] 2015, this chapter governs only a partnership formed:

42 (a) after July 1, [2012] 2013, except a partnership that is continuing the business of a
43 dissolved partnership; and

44 (b) before July 1, [2012] 2013, that elects, as provided by Subsection (3), to be
45 governed by this chapter.

46 (2) On and after January 1, [2014] 2015, this chapter governs all partnerships.

47 (3) Before January 1, [2014] 2015, a partnership voluntarily may elect, in the manner
48 provided in its partnership agreement or by law for amending the partnership agreement, to be
49 governed by this chapter. The provisions of this chapter relating to the liability of the
50 partnership's partners to third parties apply to limit those partners' liability to a third party who
51 had done business with the partnership within one year before the partnership's election to be
52 governed by this chapter only if the third party knows or has received a notification of the
53 partnership's election to be governed by this chapter.

54 Section 3. Section **48-2d-1204 (Effective 07/01/12)** is amended to read:

55 **48-2d-1204 (Effective 07/01/12). Savings clause.**

56 This chapter does not affect an action commenced, proceeding brought, or right accrued
57 before July 1, [2012] 2013.

58 Section 4. Section **48-2d-1205 (Effective 07/01/12)** is amended to read:

59 **48-2d-1205 (Effective 07/01/12). Application to existing relationships.**

60 (1) Before January 1, [~~2014~~] 2015, this chapter governs only:

61 (a) a limited partnership formed on or after July 1, [~~2012~~] 2013; and

62 (b) subject to Subsections (3) and (4), a limited partnership formed before July 1,
63 [~~2012~~] 2013, which elects, in the manner provided in its partnership agreement or by law for
64 amending the partnership agreement, to be subject to this chapter.

65 (2) Subject to Subsection (3), on and after January 1, [~~2014~~] 2015, this chapter governs
66 all limited partnerships.

67 (3) With respect to a limited partnership formed before July 1, [~~2012~~] 2013, the
68 following rules apply except as the partners otherwise elect in the manner provided in the
69 partnership agreement or by law for amending the partnership agreement:

70 (a) Subsection 48-2d-104(3) does not apply and the limited partnership has whatever
71 duration it had under the law applicable immediately before July 1, [~~2012~~] 2013.

72 (b) The limited partnership is not required to amend its certificate of limited
73 partnership to comply with Subsection 48-2d-201(1)(d).

74 (c) Sections 48-2d-601 and 48-2d-602 do not apply and a limited partner has the same
75 right and power to dissociate from the limited partnership, with the same consequences, as
76 existed immediately before July 1, [~~2012~~] 2013.

77 (d) Subsection 48-2d-603(4) does not apply.

78 (e) Subsection 48-2d-603(5) does not apply and a court has the same power to expel a
79 general partner as the court had immediately before July 1, [~~2012~~] 2013.

80 (f) Subsection 48-2d-801(3) does not apply and the connection between a person's
81 dissociation as a general partner and the dissolution of the limited partnership is the same as
82 existed immediately before July 1, [~~2012~~] 2013.

83 (4) With respect to a limited partnership that elects pursuant to Subsection (1)(b) to be
84 subject to this chapter, after the election takes effect the provisions of this chapter relating to
85 the liability of the limited partnership's general partners to third parties apply:

86 (a) before [~~July 1, 2012~~] January 1, 2015, to:

87 (i) a third party that had not done business with the limited partnership in the year
88 before the election took effect; and

89 (ii) a third party that had done business with the limited partnership in the year before
90 the election took effect only if the third party knows or has received a notification of the
91 election; and

92 (b) on and after [~~July 1, 2012~~] January 1, 2015, to all third parties, but those provisions
93 remain inapplicable to any obligation incurred while those provisions were inapplicable under
94 Subsection (4)(a)(ii).

95 Section 5. Section **48-3-1405 (Effective 07/01/12)** is amended to read:

96 **48-3-1405 (Effective 07/01/12). Application to existing relationships.**

97 (1) Before January 1, [~~2014~~] 2015, this chapter governs only:

98 (a) a limited liability company formed on or after July 1, [~~2012~~] 2013; and

99 (b) subject to Subsection (3), a limited liability company formed before July 1, [~~2012~~]
100 2013, which elects, in the manner provided in its operating agreement or by law for amending
101 the operating agreement, to be subject to this chapter.

102 (2) Subject to Subsection (3), on and after January 1, [~~2014~~] 2015, this chapter governs
103 all limited liability companies.

104 (3) For the purposes of applying this chapter to a limited liability company formed
105 before July 1, [~~2012~~] 2013:

106 (a) the limited liability company's articles of organization are deemed to be the
107 company's certificate of organization;

108 (b) for the purposes of applying Subsection 48-3-102(10) and subject to Subsection
109 48-3-112(4), language in the company's certificates of organization designating the limited
110 liability company's management structure operates as if that language were in the operating
111 agreement; and

112 (c) the limited liability company has a perpetual duration unless otherwise stated in the
113 limited liability company's articles of organization.

114 Section 6. **Uncodified Section 311, Laws of Utah 2011, Chapter 353** is amended to

115 read:

116 Section 311. **Effective date.**

117 This bill takes effect on July 1, [~~2012~~] 2013.

118 Section 7. **Effective date.**

119 This bill takes effect on July 1, 2012.